

The Doha Work Programme: Still the Development Agenda?

María Julia Oliva LL.M., Director of Intellectual Property and Sustainable Development, Centre for International Environmental Law, Geneva, Switzerland

The focus of the World Trade Organization's Doha Work Programme has long been surrounded by controversy. This article examines the approach to certain key issues that made the Doha Declaration come to be known as the "Development Agenda". It will also compare the language of the Doha Declaration with that of the July framework, to evaluate the degree to which development concerns still constitute part of the negotiations, and discuss how best to move forward.

Nowhere does the Doha Ministerial Declaration declare a "Development Agenda." The promise of a systemic correction to the multilateral trading system, to make it more relevant to the economies and people of developing countries however, permeates the Declaration. The World Trade Organisation (WTO) in the Declaration expressed its determination to play a full role in promoting growth and development, and its intention to place the needs and interests of developing countries at the heart of Doha Work Programme. Moreover, it reaffirmed its commitment to the objective of sustainable development, stating its conviction that the multilateral trading system and the protection of the environment can and must be mutually supportive.

Three years on from the Doha Ministerial Declaration, we must ask what has become of this promise? The development potential of the Doha Round seemed to rapidly diminish. By the Fifth Ministerial Conference in Cancun, severe rifts between developed and developing countries resulted in a complete breakdown of talks. After almost a year of stalled negotiations however, a negotiating framework package agreed in July is expected to revive the Round. The Director General of the WTO, Dr. Supachai Panitchpakdi, believes the July framework will sharpen the focus of the Doha round. But is the focus still development?

The Doha Development Agenda

The November 2001 declaration of the WTO's Fourth Ministerial Conference in Doha, Qatar, mandated negotiations on a range of subjects, as well as other work geared towards analysing, monitoring, and facilitating the implementation of present agreements

and for the design of rules and principles in a manner consistent with the economic, social and developmental objectives of the Global South. Though not all of the issues responded to the needs and interests of developing countries, many of them were indeed the result of increasing demands for the correction of imbalances in existing trade rules. As Ambassador Ali Mchumo, Permanent Representative of Tanzania to the United Nations in Geneva during the Doha Ministerial Conference stated, the "Development Agenda" could be defined as prioritising the concerns of developing countries without denying

The Doha Ministerial Declaration confronted another issue fundamental to the ability of the multilateral trade system to provide lasting, sustainable benefits for all members: the links between trade and environment.

the possibility of negotiating on the issues of interest to the developed countries.

In this regard, the Doha Ministerial Declaration emphasised three clusters of issues crucial for trade rules to effectively promote development and enable developing countries to share the benefits of trade liberalisation.

Firstly, it acknowledged the need to solve imbalances in areas of interest to developing countries. In agriculture, for example, where developing countries hold comparative advantages and where there is elevated and concentrated protection, the Doha Declaration reaffirmed a "fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets."

Secondly, the Doha Ministerial Declaration recognised the need to provide binding and meaningful content to special and differential (S&D) treatment i.e. exemptions for developing countries. Whereas traditional trade theory assumed that reciprocal liberalisation would benefit all trading partners, globalised trade today must acknowledge an uneven playing field. Therefore, in the negotiations of any new trade commitments, S&D provisions are critical to overcoming the asymmetries arising from different levels of development: they grant developing countries the time, policy space, and necessary tools to develop and diversify their productive capacity and ability to export.

Thirdly, the Doha Ministerial Declaration acknowledged the challenges faced by developing countries in the implementation of the last round of agreements, the Uruguay round, possibly the largest ever set of trade negotiations that took place over seven and a half years. Addressing the difficulties and imbalances that developing countries faced in the global trading system had been on the agenda of most developing countries since the early 1980s, but it was only in Doha that a negotiating mandate on outstanding implementation issues was put in place.

In addition to these clusters the Doha Ministerial Declaration confronted the links between trade and environment. Nevertheless, the desire on the part of developing countries to maintain a focus on development priorities, and the reticence of other members to negotiate on trade and environment resulted in a restrictive and ambiguous mandate. Despite this, the Declaration did put on the table such important issues as the relationship between multilateral environmental agreements (MEAs) and existing WTO rules.

The Development Agenda from Doha to the July Framework

Redressing imbalances in the WTO System: Agriculture

Mainstreaming agriculture in the WTO is at the core of the development dimension in the Doha Work Programme. The Agreement on Agriculture, although bringing the issue into the multilateral trading system for the first time, granted developed countries important loopholes, including the possibility of continuing significant domestic support and export subsidies. A fundamental reform to prevent distortions thus constitutes a systemic priority. Moreover, given the importance of agriculture for economic growth and poverty alleviation, it is also a make-or-break issue for developing countries.

Negotiations on agriculture started in early 2000, but were only launched in earnest by the Doha Ministerial Declaration. Without prejudging the outcome, WTO Members committed themselves to comprehensive negotiations around three pillars:

- 1) Substantial improvements in market access;
- 2) Reductions of, with a view to phasing out, all forms of export subsidies;
- 3) Substantial reductions in trade-distorting domestic support.

They also recognised S&D treatment as an integral part of the negotiations. However questions remained regarding both the meaning of the commitments made and the general direction the reform process should follow, and positions in the negotiations continued to be sharply divided.

In this case the July framework provides few answers. The general and ambiguous text of Annex A of the July framework, entitled *Framework for Establishing Modalities in Agriculture*, leaves many key variables open. Nevertheless, the July framework does establish certain parameters for negotiations to come, which from a development perspective has both good and bad points. In market access, the absence of any formula for tariff reductions is of particular concern for developing countries, as most of their products will be affected. The European Union (EU) and the United States, which have lower tariffs overall, achieved flexibilities for their tariff peaks through the figure of “Sensitive Products”. Notwithstanding, substantial improvements in market access will also be required for sensitive products. Moreover, flexibilities for developing countries include “Special Products,”

eligible for particular treatment on the basis of food security, livelihood security and rural development needs, and the establishment of a Special Safeguard Mechanism.

Another positive element of the framework is the reaffirmation of the elimination of export subsidies. Subsidies are categorised into what are known as “boxes”. Green boxes indicate that the subsidy is permitted; amber, that it is reduced and red that it is forbidden. The blue box is for subsidies attached to programmes which limit production. Encouragingly the blue box of domestic support measures has been capped. However, the ceiling will not necessarily entail further reduction. The EU is already shifting most payments to the green box in light of its internal reforms. The United States is similarly seeking to circumvent reductions by proposing a new category of blue box payments. Bearing in mind that much is still uncertain in Annex A, and looking beyond the recognition of some victories, it is concerning that negotiations are moving away from substantial reform to solely pursue the accommodation of policies of developed countries.

The need to recognise and overcome asymmetries: NAMA, services, and the Singapore issues

Non-Agricultural Market Access (NAMA)

Many of the issues included in the Doha Ministerial Declaration have the potential to create more challenges than opportunities for developing countries. Tariffs on industrial goods, for example, tend to be higher in developing countries, and thus the mandate to “reduce or as appropriate eliminate” them would benefit mostly developed countries. Indeed, unless asymmetries are recognised and addressed, NAMA negotiations could lead to the domestic industrial output of developing countries encountering difficulties when competing with imported industrial products. Thus, the Doha Declaration stated that “negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments.”

The NAMA framework established in July, however, is not characterised by a consideration of developing countries’ concerns. Developing countries had in fact already rejected, in Cancun, the text that formed the basis of negotiations in July and was largely adopted unchanged. Nevertheless, paragraph one of Annex B does recognise, albeit in ambiguous

terms, that the document is not based on consensus, stating it contains “initial elements for future work” and it requires “additional negotiations... to reach agreement on the specifics.” In addition, paragraph one refers back to the mandate in the Doha Ministerial Declaration and the “overall balance therein.” Finally, paragraph (d) on development issues states that the “particular concerns of developing countries, including those relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations.”

Services

Negotiations on services began, as in agriculture, before the launch of the Doha Round and were later integrated into the Doha Work Programme. The General Agreement on Trade in Services (GATS) foresaw the process of progressive liberalisation, also stating that it should promote “the interests of all participants on a mutually advantageous basis” and secure “an overall balance of rights and obligations.” It also envisioned “appropriate flexibility for individual developing country Members,” for instance through the opening of fewer sectors and liberalising fewer types of transactions. The Doha Ministerial Declaration reaffirmed these objectives and the July framework endorses the Doha mandate.

The challenges for developing countries in the liberalisation of services arise more from how the process is taking place than from the legal structure of the GATS. The decision to adopt “request-offer” as the main negotiating approach, for instance, has not provided the envisioned flexibility but rather subjected developing countries to increasing bilateral pressure. Finally, mounting pressure to move the process forward – liberalisation of trade in services contains one of the few timeframes of the July framework – raises a number of concerns. It ignores the need of developing countries for time to identify and assess the liberalisation requests they receive from their trading partners in their areas of interest as well as to develop their negotiating positions. Secondly, it disregards the need for market access negotiations to remain parallel to rules negotiations, which include important development issues such as emergency safeguard mechanisms, subsidies, government procurement and domestic regulation.

Singapore Issues

The 1996 Singapore Ministerial Declaration mandated the establishment of working groups to analyse issues related to investment, competition policy, transparency in government procurement, and trade facilitation. Despite developing-country concern as to the necessity or value of negotiating multilateral rules on these issues, particularly in light of so much pending on other WTO disciplines, the Doha Ministerial Declaration reaffirmed the mandate of the working groups and opened the possibility of launching negotiations after the Fifth Session of the Ministerial Conference if explicit consensus was reached.

Given the failure of the Fifth Ministerial to achieve this explicit consensus, Singapore issues were legally no longer considered as "outstanding issues," though the EU, as the main demandeur, remained ambiguous in its statements. The confirmation by the July framework that three of the Singapore issues (trade and investment, trade and competition policy, and transparency in government procurement) are not part of the Doha Work Programme is a great achievement for developing countries in their preservation of fundamental policy space for development. Negotiations on trade facilitation will commence on the basis of the modalities set out in Annex D of the July framework.

The need to make development sustainable: Trade and environment

In Doha, WTO Members agreed to negotiations without prejudging their outcome, on:

- 1) The relationship between existing WTO rules and specific trade obligations set out in MEAs
- 2) Procedures for regular information

exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status

- 3) The reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

As mentioned, the introduction of these negotiations on the links between trade and environment were highly

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controversial and to a large extent resisted by developing countries.

During the Doha Round however, developing countries have increasingly recognised the importance of trade and environment issues and engaged constructively in negotiations. The focus of discussions at the Committee on Trade and Environment (CTE) was, in particular, the relationship between WTO rules and certain trade-related measures established by MEAs. There is growing awareness among developing countries that many MEAs were specifically established to respond to their needs and concerns and that trade-related measures are an integral part of some of these MEAs. Although the July framework merely reaffirms the Doha mandate with respect to trade and environment, it may, by having progressed some of the core development issues, provide the opportunity to advance these other important negotiations.

Hopes for the future

After the Doha Ministerial Conference, the then Secretary General of the

United Nations Conference on Trade and Development (UNCTAD), Rubens Ricuperro, affirmed the development content of the agreed Work Programme was in "the form of potentiality" because "all negotiations are potentialities." As the Doha Round forges ahead on the basis of the July framework, there are still challenges as well as opportunities.

In agriculture, whether a balance is reached will depend largely on the formula for market access, where developing countries have both offensive and defensive interests. It will also depend on the targets for reduction of domestic support, an issue that must not be overlooked. The pace of progress in agriculture should impact negotiations on other issues, such as NAMA and services, that primarily interest developed countries. Moreover, market access negotiations both in NAMA and services should remain linked to negotiations of rules and flexibilities appropriate for developing countries. Development concerns should also be kept in the spotlight by progression on issues such as implementation. Finally, topics where the links to development are increasingly being recognised, such as trade and environment, are equally important.

The challenges and opportunities to come are not just for developing countries. The Millennium Development Goals commit the international community to a global partnership for development. In that regard, a trading system with a commitment to good governance, development, and poverty reduction is crucial for us all.

The author would like to thank Luisa Bernal, Martine Julsaint-Kidane, and Nathalie Bernasconi for their helpful comments. The views expressed in this article are the personal views of the author and do not necessarily reflect those of CIEL.

ABOUT THE AUTHOR



Maria Julia Oliva is the Director of the Intellectual Property and Sustainable Development Project at the Centre for International Environmental Law (CIEL) in Geneva. She also follows other issues within CIEL's Trade and Sustainable Development Programme, including trade and environment, biotechnology and biosafety issues, and WTO negotiations generally. Ms. Oliva holds a Law Degree from the University of Mendoza, Argentina, and an LLM in Environmental Law from Northwestern School of Law at Lewis and Clark College, Portland, Oregon, USA.

ABOUT THE ORGANISATION

The Centre for International Environmental Law (CIEL) is a public interest environmental law organisation founded in 1989. Its mission is to protect the global environment and human health while promoting sustainable development. CIEL's Trade and Sustainable Development Programme works to reform global economic laws and institutions so that they promote positive human development and a healthy environment. As experts in international law, CIEL's trade team conducts policy research and publishes papers, provides legal advice and advocacy, offers education and training, and supports institution building and skill sharing.

ENQUIRIES

Maria Julia Oliva
The Centre for International Environmental Law (CIEL)
15 Rue des Savoises
1205 Geneva
Switzerland

Tel: +41-22 789-0738
E-mail: joliva@ciel.org
Web site: www.ciel.org