Nothing to Gain, Everything to Lose

Developing Country Prospects at the Hong Kong WTO and Beyond

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The negotiations leading up to the World Trade Organization (WTO) Ministerial in Hong Kong are apparently getting nowhere. The draft ministerial reports on the state of negotiations in agriculture, non-agricultural market access, and services are out, and while all try to put a positive spin that there is a movement toward "convergence" there is very little of that. A close examination of the document shows that there is agreement only, on at the most, 10 per cent on key negotiating points and divergence, indeed, wide divergence on 90 per cent. When the draft ministerial declaration does come out, it is likely to be what the WTO secretariat calls a "heavily bracketed" document like the draft declaration for the Seattle ministerial.

_Defensive Warfare

Since the "July Framework" was rammed through at the General Council meeting in late July 2004, the developing countries have been engaged in what might be characterized as defensive warfare at the WTO. In the three key negotiating areas, services, non-agricultural market access (NAMA), and agriculture, they have had to defend their markets from aggressive efforts to further liberalize them by the developed countries led by the United States and the European Union. In two of these, NAMA and services, owing to their much higher tariff levels than developed countries in manufacturing and industry and preferential treatment for local service providers, they had everything to lose and little to gain by liberalizing. In agriculture, they were also on the defensive but at least they could relieve pressures for further liberalization of their markets by mounting a counterattack on the massive agricultural subsidies that have enabled European Union and United States agricultural interests to dominate and distort global markets.

In the three sectoral negotiations, the most immediately threat, from the point of view of developing countries, is the services negotiations. Here, there has been a strong move on the part of the developed countries to replace the flexible request-offer approach with one that has a mandatory

element. Let me explain briefly: the negotiating practice in the General Agreement on Trade in Services (GATS) is that a government is free to request another to open up several service sectors but the requested government is also free to offer only those it is willing to open up or even not to make any offers at all. In the current negotiations, “complementary approaches” such as “benchmarking” and “numerical targets” have been introduced to force developing countries to “improve the quality” of their offers, meaning they must agree to open up more services than they have so far put on the table in the current negotiations.

In the current draft ministerial text issued by the chair of the Council on Trade in Services, while the more threatening approaches of “benchmarking” and “numerical targets” are not mentioned, at least explicitly, the text endorses a complementary approach whereby one government or a group of governments may make a specific request to another government or group of governments to open up one or several service sectors and the latter would have to “enter into plurilateral negotiations to considers such requests.” As developing countries have rightly perceived, mandatory negotiations is the first step on the slippery slope to mandatory liberalization.

In NAMA, there has been wide divergence, and the Chairman’s Progress Report on the negotiations issued 22 November, 2005, reflects this. Neither a formula for liberalizing non-agricultural tariffs nor the differential coefficients for developed and developing countries to plug into such a formula (that would take into account the underdeveloped status of the industrial and manufacturing sectors of the developing countries) has been agreed. One disturbing note in the text, however, is its implying that members have agreed on a “Swiss Formula” for cutting tariffs, that is one that would require higher proportional cuts from higher tariffs rather than a “Uruguay Round” formula that would mandate an average tariff cut but leave a member with the flexibility to spread that average cut discriminately across the tariff lines, with tariff cuts for sensitive products being less than for others. Since many developing countries maintain higher tariffs on many manufactured and other non-agricultural imports than developed countries, they would be the main losers whichever Swiss formula is adopted. And this is the reason why, contrary to the impression left by the text, many are resisting a Swiss or any Swiss-type formula.

As we have noted, in services and NAMA, it has been largely defensive warfare for developing countries, with few handles for an offensive strategy except perhaps for mode 4 in services, which has to do with the movement of “natural persons” that provide services, like highly skilled professionals. But even with mode 4, the position of the developed country governments that they have hardly any “flexibility” for political reasons (read anti-immigrant sentiment) has severely limited the possible gains in this area.

EU and US Intransigence in Agriculture

In the agricultural negotiations, however, it has been a different story. Despite the advantage given to them by the terms of the July Framework, differences in offers of subsidy reduction among the developed countries and the ability of the developing countries to keep the focus on developed country subsidies and market protection have put the EU and the US on the defensive.

Intransigence in the developed countries’ negotiating positions helped sink the Cancún ministerial in 2003. It has now become the main sticking point in the lead-up to Hong Kong. Although the EU is a bad boy — as the US tried very hard to get other governments to believe at the recent Asia Pacific Economic Cooperation (APEC) summit in Busan, Korea - it is not the only one. The US’s much publicized offer to cut its overall subsidization of agriculture by 60 per cent was all smoke and mirrors. It was a cut from allowable levels of support, not from actual, current levels. It would not

only have allowed the current level of government support to continue but provided space for it to rise!

Moreover, the US proposal would leave the system of subsidization virtually untouched, if not expanded. There were no concrete commitments to cut food aid, which is really a dumping mechanism; reduce export credits, which are really a form of export subsidy; or to significantly trim the "green box" subsidies. And, indeed, the US continues to press for the expansion of its "blue box" to accommodate the new round of subsidies for farming interests legislated by the Bush administration under the 2002 US Farm Bill. These two "boxes", which were institutionalized during the Uruguay Round, exempt-for specious reasons—various kinds of dumping-promoting subsidies from elimination or significant reduction.

Why are the US and the EU finding it so hard to make serious offers? Because the Agreement on Agriculture (AOA) was never meant to promote fair trade in agriculture but to regulate the monopolistic competition between the US and the EU to dump their goods in third country markets while making cosmetic cuts in domestic support to legitimize the process. The main aim was to open up and regulate dumping in developing country agricultural markets, never to end developed country subsidies. So even if the US and EU were now to make "better" offers than those they have tabled, it is very unlikely that these would make any but the slightest dent on their systems of massive subsidization.

Kabuki?

So with no movement in agriculture, are we caught in a stalemate leading up to Hong Kong? I wish this were so. But what many fear, in fact, is that the EU-US competition on who can make a better offer is nothing but a finely choreographed kabuki play that will end with them coming up with a compromise formula at the last minute. The parallel some draw is with the agricultural negotiations in the last phase of the Uruguay Round when the US and EU went to the brink, from which they drew back at the last minute by coming up with the current Agreement on Agriculture, which they then tossed to other countries. Take it or leave it, they said, but if you refuse it, you'll be responsible for scuttling the round.

A similar scenario can unfold, warns economist C.P. Chandrasekhar:

"It is precisely [the same] act that is being replayed. Expectations that the EU would move a little further from its second offer are high. However, this would ensure that its agricultural interests would be well looked after and still further demand that developing countries make major concessions in non-agricultural market access (NAMA) and services. If they resist the latter demand, the burden of wrecking the round would be shifted at the last moment onto the shoulders of developing countries."

And the danger, he notes is that "in the scramble to get as much as they can without being forced to shoulder that responsibility, countries like India and Brazil would make large concessions that hurt not just their own producers but those in Africa and elsewhere." Indeed, many are worried that the Brazilians could sell the store with a commitment from the EU on an explicit schedule to phase out export subsidies and the Indians for a commitment from the US to marginally increase HB1 work visas for Indian high-tech specialists.

There is, in fact, now talk of stretching the deal-making process beyond Hong Kong to ensure that there will be an agreement and a triumphant conclusion to the so-called Doha Round. As Celine Chevariat of Oxfam describes it, what influential actors are talking about is a "one-third of an

agreement in HK and four month postponement for final conclusion of modalities" in another ministerial before the middle of 2006. In my view, the "one third" agreed in Hong Kong could well be a services agreement that endorses the "plurilateral" approach, with the two thirds, mainly agriculture and NAMA, concluded later in the second ministerial.

Indeed, even if the only outcome of Hong Kong or a "Hong Kong Plus" process is an agreement based on the current services draft, that would already be a big win for the trading powers and a big setback for the developing countries. Aileen Kwa of Focus on the Global South warns that the plurilateral approach legitimized by a services agreement could be easily turned into formal sectoral negotiations with a strong momentum for liberalization that could begin immediately after Hong Kong, much like the negotiations on telecommunications and financial services were quickly formalized into sectoral negotiations after talks on a plurilateral basis in these sectors were endorsed in 1997.

In short, to sum up the state of play in the WTO, developing countries have everything to lose and nothing to gain with a new WTO deal, whether that deal is concluded in Hong Kong or a more protracted, extended "Hong Kong Plus" process.

The Bigger Problem

But the problem lies not only with the current negotiating process that has been imprisoned within the so-called July Framework. The problem is more fundamental: the WTO's structure, rules, and processes are systematically biased against the interests of developing countries. It has taken developing countries 10 years to learn them, but there are four reasons why the WTO, to borrow the title of the Focus on the Global South video, is really bad for the global South:

First, trade liberalization is the raison d'etre of the WTO and it is increasingly evident that greater economic liberalization has had exactly the opposite results to those predicted by free traders.

After 20 years of structural adjustment and other radical pro-market policies in the developing countries, there are more poor people in the world today than in 1985. There is much more inequality both within and among countries. The areas of the world that adopted pro-market policies most wholeheartedly-Latin America and the Caribbean, sub-Saharan Africa, and Central and Eastern Europe-saw their numbers of poor people increase significantly. Indeed, massively in the case of the former poster boy of neoliberalism, Argentina, where 53 per cent tumbled below the poverty line, with 25 per cent defined "indigent", following the economic collapse of 2002.

A reduction in poverty was mainly registered in East Asia, where integration into the global market was managed by strong states like China and South Korea that, in most instances, applied an anti-free trade formula protectionism at home and mercantilism abroad. But even in this region, there were countertrends, as in Thailand and Indonesia, where International Monetary Fund (IMF)-supported capital account liberalization provoked the massive Asian financial crisis that drove more than one million Thais and more than 21 million Indonesians below the poverty line in the space of a few weeks in the summer of 1997.

Second, the rhetoric of the WTO may be free trade, but its key agreements promote corporate monopoly.

If negotiations in agriculture have ground to a halt, it is because, as we have detailed above, the AoA was never meant to liberalize global agricultural trade, but to allow the EU and US to manage their

monopolistic competition to dump highly subsidized goods on third country markets while conceding cosmetic cuts in subsidies to gain legitimacy for the arrangement.

Like the AoA, there is nothing faintly connected to free trade in the WTO's centerpiece accord, the Trade Related Intellectual Property Rights Agreement (TRIPs), which is meant to give US and other high tech corporations monopoly over technological innovations through the imposition globally of draconian patent laws patterned after those of the United States. Indeed, so brazenly monopolistic in intent is TRIPs that the free-trade partisan Jagdish Bhagwati has questioned its inclusion in the WTO. This is not to say that we prefer corporate free trade to monopolized trade (for free trade is also profoundly subversive of developing country interests), but to make the point that this fundamental contradiction between ideological principle and corporate interest that runs like a fissure through the WTO has been a central reason for its loss of legitimacy among developing countries.

Third, the WTO is anti-development.

Stampeded into signing on the dotted line in 1994, it took some time for the developing countries to realize that the TRIPs agreement practically guaranteed that the traditional route to industrialization, industrialization-by-imitation, is a thing of the past; and that the Trade Related Investment Measures (TRIMs) Agreement, by outlawing development tools such as local content policy, made it well nigh impossible to use trade policy as an instrument of industrialization. For most developing countries, the "Doha Development Round" is a malicious misnomer since it marginalizes the negotiating areas of greatest concern to the developing countries: reconciling trade and development, implementation of trade liberalization commitments made during the Uruguay Round, and special and differential treatment for developing countries.

Fourth, global trade does not need the WTO.

The indispensability of the WTO to the expansion of global trade is one of those lies that, as the Nazi propagandist Goebbels put it, takes on the status of truth when repeated often enough. A corollary to this is the claim that global trade would fall into anarchy were the WTO to cease to exist.

Let us set the record straight: global trade did not need the WTO to expand eighty six fold, from $124 billion in 1948 to $10,772 billion in 1997! That expansion took place took place under the old GATT (General Agreement on Tariffs and Trade), complemented by the United Nations Conference on Trade and Development (UNCTAD). The flexible GATT-cum-UNCTAD framework permitted the development-oriented trade policies that enabled Latin American countries to industrialize from 1950 to 1970 as well the state-led protectionist/mercantilist strategies that Newly Industrializing Countries (NICs) of East Asia used to rapidly transform their economies between 1965 and 1995. In other words, the GATT-cum-UNCTAD multilateral framework allowed developing countries a significant amount of "policy space" - a phenomenon reflected in Robert Pollin's finding that, excluding the special case of China from the equation, the overall growth rate of developing countries in the era of development (1961-80) was 5.5 per cent, compared to 2.6 per cent (1981-2000) in the neoliberal era.

So why, if it was functioning reasonably well, was the GATT-cum-UNCTAD framework superseded? The reason the WTO was established and its continuing raison d'etre has been to serve the interests of the transnational corporations (TNCs) that today dominate the global economy and are constantly seeking to open up markets. To be more specific, it was the US and its corporations that pushed the creation of the WTO. With its corporations becoming more dependent on the global economy by the 1970s, the US led the effort to replace GATT with an organization with a more formidable trade dispute-settlement mechanism to tear down protectionist policies; forged an agricultural trade

agreement with the EU that would manage their dumping in developing country markets; pushed an agreement that would open up the services of developing countries to TNC exploitation; lobbied for a TRIMs agreement that would outlaw developing countries' use of trade policy to industrialize; and rammed through a TRIPs agreement that would consolidate the US advantage in cutting-edge, knowledge-intensive industries.

Pushed by their own globalizing corporations, the EU and Japan went along with the US agenda, while the developing countries were largely bystanders, preferring as they did the relatively development friendly framework of GATTS cum UNCTAD.

Yes, the WTO is indispensable...to TNCs. For developing countries, it has been - to borrow an image from Max Weber - an iron cage that has robbed them of development space. For them, the last ten years has been a harrowing experience of being constantly on the defensive as the WTO process inexorably subordinated development to corporate trade. To defend their interests, they were forced to establish blocs such as the G20, G33, and G90, which contributed mightily to the derailment of the WTO ministerial in Cancún. If the current negotiations are stalemated, it is because the developing country blocs have successfully blocked the US's and EU's asymmetrical negotiating strategy of conceding cosmetic cuts on their massive agricultural subsidies while demanding damaging concessions from developing countries in terms of greater market access to their agricultural, non-agricultural, and service sectors.

Making a virtue out of necessity, partisans of the WTO have now seized on the emergence of these groupings to argue that that they enable countries to negotiate on more equitable terms under the WTO umbrella. The reality is that the deep anti-development bias of the WTO allows developing countries very limited space to defend their interests. Certainly, it is not a framework within which they can pursue a positive development agenda. Indeed, the one good thing to emerge from their experience of defensive trench warfare at the WTO is that the developing countries have begun to realize that they need to come together to create altogether different institutions of global trade governance from the WTO-institutions that subordinate trade to development.

The Sixth Ministerial of the WTO may well collapse in Hong Kong. This will, however, be a positive development. Contrary to the self-serving doomsday scenarios painted by its corporate supporters, there is life after the WTO. Its demise would create not anarchy but policy space for development.

Dracula and the Developing World. The Final Act?

Let me conclude by borrowing an image from one of my favorite authors, Bam Stoker. The WTO is like his immortal character Dracula. Every time you think you've killed him, he resurrects. Following the collapse of the Third Ministerial in Seattle in 1999, the WTO came back to life with its successful ministerial in Doha, Qatar, in November 1991. The Doha triumph, however, was followed by the unraveling of the Fifth Ministerial in Cancún in September 2003. Cancún was followed by the institutional coup of the WTO General Council in July 2004, which rammed through the draconian July Framework. Thus the stakes in Hong Kong are high. Hong Kong may consolidate the WTO as the engine of global trade liberalization. Or it may prove to be stake that is driven through the heart of this profoundly anti-people organization and finishes it off. Permanently.