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**Arrested Development? WTO July framework agreement leaves much to be done**

**Oxfam Report**

An agreement reached at the World Trade Organisation in July this year on how to move forward in the Doha Development Round of trade talks does not offer any cast iron guarantees that poor countries will get the reforms they so badly need. After months of informal negotiations failed to resolve basic disagreements, the talks – which collapsed in Cancun in September 2003 – were pulled back from the brink at the eleventh hour in Geneva. This was hailed as a great leap forward. There was – and rightly so - a palpable sense of relief that the round had not collapsed. However, beyond the avoidance of outright failure, the agreement offers few causes for celebration. **While there are some small wins for poor countries, overall the July framework is a minimal agreement that keeps talks and the WTO afloat, but fails to bridge continuing stark disagreements between**

**developing and developed countries, let alone guarantee a pro-development outcome.**

Stronger language on agricultural export subsidies and an agreement to drop three out of the four so-called Singapore Issues are two positive outcomes for developing countries. However, these were offset by a bad deal on non-agricultural market access, a dangerous agreement that potentially allows rich countries to redefine certain farm payments as acceptable under WTO rules (broadening of the blue-box). The Council meeting was also characterised by a non-transparent, non-inclusive process, dominated by big trading powers and characterised by brinkmanship and power-play. On cotton, an issue of fundamental importance to West Africa in particular, very little progress was made. In future, cotton will be folded into general agriculture negotiations, a decision that explicitly goes against poor country requests. The Council agreement leaves members with an enormous amount to do if the round is

to be completed and achieve its stated aim of making trade work for development.

That poor countries settled for such a minimal deal is a testimony to the psychological war that preceded the General Council. Enormous political pressure was placed on them to be “reasonable” and give up on most of their development demands to avoid a re-run of Cancun. Developed countries were not ready to make any meaningful concessions and many poor countries felt they had to accept this, or face blame for the collapse of talks. Immediately before the Geneva meeting, US Trade Representative, Robert Zoellick, specifically warned the G-90 group of developing countries to be flexible, issuing the barely veiled threat that he ‘did not know if the round could be revived’ if negotiations were to fail again. Such political pressure forced developing countries to adopt a defensive strategy of damage limitation rather than anything more ambitious.

Moreover, developing countries went into the actual negotiations from a highly disadvantaged position. The draft agreement that was presented on 16 July was unbalanced, taking great pains to accommodate the specific concerns of the developed countries while leaving open or ambiguous many of the issues of great importance to developing countries<sup>[1]</sup>. As a result, developing country negotiators concentrated their energy in reversing the most damaging parts of the draft text, realising real progress was already out of reach.

The continued unity and assertiveness of developing countries rescued the deal from being worse than it was, with poor country members managing to claw back some concessions at the last minute. This, and the fact that the deal is better than the one rejected in Cancun, form a thin silver lining to what is overall a disappointing result. Rich countries must demonstrate greater ambition, a more enlightened self-

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<sup>[1]</sup> Also see Oxfam Briefing paper 65: “One Minute to midnight; will WTO negotiations in July deliver a meaningful agreement?”.

interest and a genuine willingness to respect the multilateral system if the round is to deliver the potentially enormous gains for poverty reduction and global prosperity. A successful trade round would make great inroads into achieving the UN’s Millennium Development Goals. A failed round would be a devastating step backwards.

### **Trade-offs in Agriculture**

After three years of negotiations, the results fall far short of what is needed to reform agricultural trade rules so that they work for the poor. Ninety-six per cent of the world farmers –approximately 1.3 billion people - live in developing countries and their livelihoods depend on the outcome of the WTO talks. But the current agreement still reflects the vested interests of rich countries.

**Export competition:** the clearer language on the elimination of European export subsidies is a welcome first step and the EU did well not to renege on its promise to eliminate export subsidies, despite the absence of reciprocal action from the US. However, a clear time schedule for the elimination is still missing and there is a continuing imbalance between the treatment of export subsidies and other instruments with similar effects used by the United States, such as export credits and the commercial use of food aid.

**Domestic support:** double standards abound as rich countries will keep a sizable portion of their subsidies, while developing countries are being pushed to reduce theirs in spite of clear development needs. Developing countries are obliged to prove that subsidies are going to poor, subsistence farmers, but the United States and the European Union are under no such constraint and can continue to give 80% of their subsidies to the 20% richest farmers.

At this stage, it is very difficult to foresee whether real cuts in domestic support will be achieved during this round as the percentage cuts have not yet been negotiated. Furthermore, the deeply flawed system of boxes, which classifies

subsidies according to the alleged effects, will be maintained despite its fundamental flaws. This is not a good omen. Much has been made of the “down payment” of 20% for reductions in trade-distorting domestic support in the first year of implementation. However, the head negotiator of the United States, Robert Zoellick, has already told the US Senate that “this will not require cuts in farm programs” as the US is already fulfilling this commitment. This could also be the case for the EU after its CAP-reform. What will be much more decisive will be the size of cuts *after* the down payment.

Another cause for concern is that new loopholes have been opened up for rich countries. The text allows for a review of the so-called blue box, which would enable more subsidies to be de-linked from production, and therefore rendered acceptable under WTO rules. This could allow the United States to maintain its counter cyclical payments by reclassifying them in this new box, despite the fact that they are highly trade-distorting. In the case of cotton, this could allow the United States to avoid implementing the findings of the recent cotton panel, which ruled that these subsidies had to be removed due to their damaging effect.

**Market access (agriculture):** continuing disagreement meant that the negotiation of a formula for tariff reduction was further postponed. Developed countries, led by the United States, are still pushing for across-the-board and rapid liberalisation in developing countries, despite the catastrophic impact this would have on the world’s poorest farmers. Provisions on special and differential treatment still remain vague, including on special products and a special safeguard. At the same time, the framework takes great pains to allay fears of developed countries about further opening their own markets. Developed and developing countries’ sensitivities are treated in similar ways, despite the different economic realities. While agriculture provides more than 50% of employment in developing countries, it only amounts to 7% in developed

countries.<sup>2[2]</sup> Similar treatment also contravenes the mandate and spirit of the Doha Development Round. For instance, the framework introduces a new category of “sensitive products” for developed countries- for which less tariff cuts have to be made - a category that was never envisaged in the Doha mandate. This was a key demand of the EU and others like Switzerland, Japan and Norway. In the end, developing countries might be asked to further open their borders to dumped products, financed by subsidies, while industrial countries’ markets would remain shut thanks to loopholes like sensitive products and a raft of technical barriers. This would be a travesty of a development round.

Cotton is a ‘litmus test’ for the Doha Development Agenda’s capacity to deliver on promises to end dumping, which threatens the livelihoods of hundreds of millions of farmers in the developing countries. Disappointingly, the framework fails to include a strong commitment that trade-distorting subsidies on cotton will be drastically reduced on an early harvest basis. Contrary to developing country requests, cotton has been folded into the overall agricultural negotiations, with the only mechanism envisaged to ensure specific treatment for cotton being the creation of a cotton subcommittee. The disappointing result for cotton gives little hope that developed countries will indeed fulfil their promises of agricultural reform. As a result of political pressure by developed countries in the months leading up to July, West African governments bowed to the hard line position taken by the United States. The US government indicated that, even within the agricultural negotiations, cotton was a ‘red line’ not to cross, threatening West African countries that a step too far might lead to the collapse of the whole July framework. This intransigent position of the United States government resulted from their decision to satisfy their cotton lobby –

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<sup>2[2]</sup> Percentage of economically active population in agriculture in total economically active population in 2000. FAO statistical databases.

25,000 farmers - at the expense of millions of cotton farmers in Africa.

### **Heightened risk of de-industrialisation?**

Despite the repeated opposition of developing countries to a framework based on the Cancun text, enormous pressure from developed countries, especially the Quad, led to the adoption of a framework potentially adverse to development. Negotiations on industrial goods have been an uphill battle for developing countries right from the start of the round. For the past three years, developed and developing countries have been unable to reach agreement on crucial elements of industrial negotiations, especially the formula for tariff reductions. In Cancun, developing countries had clearly rejected the proposed text (the so-called "Derbez" text), which could potentially lead to further de-industrialisation, unemployment, and poverty by opening vulnerable, nascent industries to world competition.<sup>3[3]</sup> In spite of this clear opposition, negotiations in July started on the exact same basis. Worse, the US and the EU were adamant that nothing in this text should be changed. In the end, developing countries were put in a position where they had to agree to the text or risk the collapse of negotiations. The only redeeming feature is that developing countries managed to negotiate the inclusion of an extra paragraph that "recognises" that "additional negotiations" are required on "specific elements". In the end however, the adoption of the Derbez text constitutes a diplomatic "fudge" that resolves none of the substantive issues at stake in these negotiations. There is a clear danger that unless the Quad starts listening to legitimate developing country concerns, negotiations will continue to be blocked after July.

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<sup>3[3]</sup> For instance, the text puts developing countries which have undergone structural adjustment at a clear disadvantage by proposing to use as a basis for tariff cuts twice the applied rate in the case of tariffs currently unbound.

### **Three Singapore Issues dropped from the Doha round: a victory for developing countries**

Dropping three of four of the Singapore Issues - Investment, Competition and Transparency in Government Procurement- from the Doha agenda with the explicit agreement that negotiations will not take place during this round is a significant achievement for developing countries showing that strong unity and resolve can modify the organisation's agenda. The framework also precludes plurilateral negotiations on these issues. With this decision, the agenda of the round will be much more focused on core trade issues, which is a positive development. These three Singapore issues had been highly controversial since their first inclusion onto the WTO's agenda at the 1996 Singapore Ministerial, because of their complexity and the absence of a development component in proposed negotiations.

Under pressure from developed countries, developing countries did concede to the launch of negotiations on Trade Facilitation- the fourth of the Singapore Issues. It remains to be seen whether the legitimate concerns voiced by many developing countries regarding possible costs of the implementation of trade facilitation rules and the use of the Dispute Settlement Understanding will be effectively addressed.

### **Process**

In contradiction with promises made in the immediate aftermath of Cancun that WTO process would be made more transparent and inclusive, the General Council was marked by a chaotic process which often resembled that of Cancun. In fact, there was no process, just ad hoc arrangements that were constantly revised as negotiations proceeded.

The fact that two developing countries, Brazil and India, were included in the NG-5 is a clear recognition that the old system, driven by the Quad, is no longer able to deliver any agreement, at least in

agriculture. This is a positive development. However, the fact that the NG-5 process completely overshadowed the normal negotiation process is cause for great concern. It led to the exclusion of most members of the WTO from the “meat” of negotiations, condemning them to a position of tinkering at the edges of an agreement whose ground principles had been set by others. This model should not be replicated in the future, as it excludes the poorest members of the WTO, which have the greatest development needs.

Another major problem was that this General Council was transformed into a “hybrid” meeting, with even fewer rules and procedures than in a ministerial conference, mixing ministers with ambassadors, making decisions of a ministerial nature and restricting access to civil society. A bad precedent has been set in the name of political expediency. The search for better process is now urgent.

#### **In the run-up to the Hong Kong Ministerial**

Even though this framework unlocks the talks, the final text is disappointing and does too little to guarantee the creation of fair trade rules that enable poverty reduction. The majority of the work still remains to be done, including very hard political decisions that must be made at the highest level. The risk is that changes in leadership in the EU and elections in the United States will be conveniently used as an excuse to postpone these difficult decisions, putting enormous pressure on the next ministerial conference, scheduled for December 2005 in Hong Kong to resolve outstanding issues in agriculture and NAMA. This would be the recipe for another failure. WTO members must use the next 15 months to put the round back on track by resolving, for instance, the following issues:

- Political leadership is needed in the European Union and the United States to put an **end to dumping** once and for all. This would entail the following elements:
  - A credible end date for export subsidies must be agreed to by the

European Union as expeditiously as possible. The United States should not use smokescreens to refuse elimination of subsidized export credits and the introduction of disciplines on the commercial use of food aid.

- As a sign of good faith, the US and the EU should agree to fully implement the findings of the cotton and the sugar panels in a way that benefits developing countries. This would send a positive signal about their willingness to reduce trade-distorting domestic support substantially within this round. This would also help respond to the legitimate demands put forward by West African countries about cotton. Ambitious figures for the reduction of domestic support must be negotiated, addressing all instruments and commodities, so that dumping effectively disappears.

- The question of **agricultural market access**, which remains the biggest stumbling block on the road to an agreement, must be resolved by accepting once and for all that developing countries should not be asked to open their markets in a way that threatens the food security and rural livelihoods of the 1.3 billion of farmers living in developing countries. This entails far greater flexibility for developing countries in the formula, special products and a special safeguard to establish the level of liberalisation which is acceptable to them.

- Provisions in the **NAMA** text that were forced upon developing countries despite their anti-development impact, such as the non-linear formula and sectoral negotiations, must be fully renegotiated before any progress can be made in the NAMA negotiations.

- **Process:** The NG-5 should not become a permanent feature of WTO negotiations. Instead, there should be a renewed effort to ensure inclusiveness and transparency, a

pre-condition for achieving a legitimate, meaningful agreement.

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## **Comments on the WTO's July Decision**

By Martin Khor,

### **INTRODUCTION**

An agreement was reached on 1 August night at the World Trade Organisation (WTO) in Geneva on the "July package" after a week of intense meetings. The WTO adopted frameworks for how to move ahead on trade in agriculture and non-agriculture market access (NAMA, involving mainly industrial goods), and on the so-called Singapore issues, services, and the "development issues".

The frameworks will be the basis for the next stage of negotiations. In agriculture and NAMA, the next phase will focus on finalizing "modalities" (principles and figures, for example on how much to reduce tariffs). The negotiations are under the work programme agreed to at the WTO's Ministerial meeting at Doha in 2001.

A first reading of the results shows a few significant gains for the developing countries, but this is more than offset in other areas where they have also lost ground.

Also, the meeting and its outcome again showed up how the WTO's decision-making process is generally controlled by the big countries and how developing countries' positions are generally not properly reflected.

The fear of being blamed for another Cancun-like collapse caused many developing countries to be extra cautious and to eventually accept a deal of which they had been critical. When the first draft came out on 16 July, it was severely criticized by many developing countries. The second draft on 30 July was also

criticized. Some, but only some, of the concerns were dealt with, and some of the countries decided to compromise and "live with the text" for fear they would be blamed if another WTO meeting failed, and the system were to suffer another blow.

Besides the "fear of blame" factor, different groups of developing countries also felt they were getting at least a minimum of what they were seeking, even as they had to give up ground in other areas. There was also a serious lack of time for the developing countries to seriously consider the drafts and the final text, and the absence of Ministers of most developing countries also meant that immediate political decisions were difficult to take. In contrast, the Ministers of most of the developed countries were present at the WTO or in Geneva. "Although this was meant to be a General Council meeting, it took on the atmosphere of a Mini-Ministerial with decision-making powers, and leading developing-country diplomat.

### **A FEW SIGNIFICANT GAINS**

There were two significant gains from the Geneva meeting for developing countries in general: a commitment to eliminate export subsidies, and the placing of three "Singapore issues" outside the negotiating agenda of the Doha work programme.

#### **Commitment to eliminate export subsidies**

The developed countries agreed in principle to eliminate agricultural export subsidies. Export credits, export credit guarantees or insurance programmes with repayment periods beyond 180 days will also be eliminated and those of 180 days and below will be disciplined. Thus, for the first time, elimination of export subsidies has been committed. When it takes place, this will get rid of some of the most trade distorting of the rich countries' subsidies that have enabled the dumping of rich-country agriculture exports (including to the South) and unfairly kept out the developing countries' farm

products. However, the July package has not fixed an end date or a road-map for this elimination, so what will really happen here (and when) remains to be seen.

However, there were also some unsatisfactory results in other parts of the agriculture decision (See Section C2).

### **Three Singapore issues put on the back burner**

Secondly, three of the unpopular "Singapore issues" (investment, competition, and transparency in government procurement) have now been dropped from the WTO's negotiating agenda, at least during the period of the Doha programme. Developing countries had opposed these issues which they believed would interfere with their national policies and hinder their economic development. The attempts by the rich countries to set up new agreements on these issues had generated heated controversy for years and were a major factor in derailing the Cancun meeting.

The decision says "no work towards negotiations on any of these issues will take place within the WTO during the Doha Round." It has thus left it vague as to whether discussions (as contrasted to negotiations) would continue even now at the WTO, through a revival of a study process in the working groups. It has also left open the possibility of their making a comeback as negotiating topics after the Doha programme is finished.

However, doing away with negotiations on these issues for the time being is a big relief for developing countries, and also a significant gain, since it had seemed that the battle was almost lost at the Doha Ministerial of 2001 which mandated the launching of negotiations on four Singapore issues, on the basis of explicit consensus on the modalities of negotiations. Although the three issues have been put on the back burner, the developing countries had to make the concession of agreeing to launch

negotiations on the remaining Singapore issue, i.e. trade facilitation (see below).

### **MAJOR LOSSES, AND SOME NEGATIVE OUTCOMES**

Against these positive developments were some major setbacks and other negative outcomes for the developing countries.

#### **Unfair adoption of a damaging NAMA framework**

By far the worst decision was the adoption of a framework on NAMA (trade mainly in industrial goods), which could worsen the threat in many developing countries of cheap industrial imports overwhelming local goods and industries.

There are at least three elements of the NAMA framework (contained in Annex B) that will have serious negative effects on development. First, it advocates a "non-linear" formula which is aggressive for its sharply reducing tariffs and with steeper cuts for higher tariffs. For example, under a variation of this formula, a 40% tariff on a product would have to be reduced to 7%. Many developing countries have relatively high bound industrial tariffs to protect their local industries, and thus they will be much harder hit.

Second, it calls developing countries to give up the WTO's present flexibilities for countries to choose how many of their industrial products' tariffs they would like to bind and at what rate. The July decision advocates at least 95% of their tariff lines will have to be bound, many at very low rates. The reason is that to calculate the new bound rates, the applied tariff rates of the presently unbound products will be taken and multiplied by two (this figure is mentioned within brackets) and then subjected to the harsh non-linear formula.

Third, there is a "sectoral tariff component" in which many sectors (an earlier draft mentioned seven) would be slated for fast-track total elimination of tariffs. The text says participation by all will be important, implying the sectoral component could be compulsory. If

sectors are selected that are important in a developing country's domestic production, then the risks to its domestic industries will be heightened. If the negotiations that follow are not handled properly, and these measures are accepted, they could threaten the share and the very survival of many local firms and industries in developing countries. They may not be able to compete with imports if tariffs are brought to zero or to low levels. Many developing countries (in Africa, Latin America and the Caribbean) have already suffered from a de-industrialisation process as cheap imports overwhelmed the local firms as a result of rapid liberalization under structural adjustment.

### **Agriculture**

As pointed out in Section B, a positive point in the agriculture framework (in Annex A) is the commitment to end export subsidies and to tighten disciplines on other forms of export subsidization. However, the all-important end date will be fixed later. And the positive effects in this area could be offset if subsidies in the other pillar, domestic support, is not adequately curbed or is allowed to increase. And small farmers in developing countries could be further hurt if the parameters in the market access pillar mandate further tariff reductions for imports competing with their products. In this context, the outcome in the domestic support and market access pillars was unsatisfactory and potentially damaging.

### **Cotton**

Another negative development was the poor outcome on the cotton issue at the meeting. Cotton-producing West African countries, backed by the Africa Group and ACP Group, have highlighted their plight, on how billions of dollars of cotton subsidies (mainly in the US) have hampered their own cotton production and trade, affecting the incomes and lives of many thousands of African farmers.

The countries had been persuaded to give up their original demand that cotton be treated as a stand-alone issue and agreed

that it could be treated within the agriculture negotiations. However they had maintained their key positions, that within the agriculture negotiations, cotton be given a special status, with its own measures and time-table so that it would not merely be subjected to what happens generally in agriculture. The Africa Group put forward its proposal at the heads-of-delegation meeting of 19 July, that included the following measures: all forms of cotton export subsidies are eliminated by date of implementation of the Doha results; more than average reductions in domestic support on cotton, and complete elimination of all forms of trade distorting support on cotton by a specific year; a cotton agreement shall be implemented on an early harvest basis starting in 2005, and a date for total elimination of cotton subsidies shall be determined by the next Ministerial irrespective of progress in the rest of agriculture negotiations; technical and financial assistance to meet the needs of cotton developing-country producers; a working group on cotton to be established.

### **Trade facilitation**

There was a decision to launch negotiations on "trade facilitation", one of the four Singapore issues. Such a launch had been opposed by most of the developing countries at the Cancun Ministerial meeting, and for a long period after Cancun many of them had maintained their reluctance for launching negotiations, preferring to continue to clarify the issues and work on the modalities. Among the points raised by developing countries (including the African and ACP Ministers at their meetings) were the fear that there would be high costs of implementation, the need for assurance that such costs would be met by financial assistance from developed countries, and the issue of whether it is appropriate to involve the WTO dispute settlement system (as non-binding guidelines may be more suitable).

### **Services**

Services is dealt with by a separate sentence in the main text and an Annex.

The main text, besides adopting the Annex, states that revised offers should be tabled by May 2005. It was reported that this deadline was proposed at the end of the Green Room meetings by the US and EU when participants were leaving or about to leave, and there was no adequate opportunity to discuss it. During the final heads-of-delegation session, some developing countries, which were concerned about the extra pressure generated by the deadline, reportedly expressed reservation on this deadline, questioning how it was set and its appropriateness.

### **“Development issues”**

On the "development issues" (special and differential treatment for developing countries and issues relating to implementation of WTO agreements), the Geneva meeting again failed to agree on concrete measures to strengthen existing SDT measures or to provide new measures; or to take decisions on resolving specific problems of implementation of the existing WTO rules. The Geneva decision only sets new deadlines (since the old deadlines have long past) for the issues to be considered and for reports on these issues to be submitted.

On SDT, the Committee on Trade and Development is asked to complete its review of all outstanding agreement-specific proposals and report by July 2005; all other outstanding work will be reported "as appropriate"; and all WTO bodies dealing with Category II proposals are to report to the Council by July 2005. On implementation, the Director General is requested to continue with his consultative process and report to the Trade Negotiating Committee and General Council by May 2005 for a Council decision by July 2005.

In fact the Geneva meeting marked another sad step in the steady decline in status and action on these "development issues". There has been hardly any concrete results on them. The Doha Declaration had accorded priority status for these issues, and deadlines for results

on them were also given priority status. But now there are far behind the deadlines, whilst progress in other areas has been faster. When the Doha negotiations were launched in 2001, it was with a lot of rhetoric on the need to put developing countries' interests at the center. The resolution of the SDT and implementation issues was in turn at the centre of development issues, and was to be the test of the seriousness with which development is pursued in the Doha work programme. Sadly, the negative aspects far outweighed the positive developments at the Geneva meeting last week. And thus development remains rhetoric, whilst some of the new decisions (especially on industrial tariffs) are potentially threatening to development prospects.

### **Decision Making Process**

The Geneva process again showed up the WTO's unsatisfactory and flawed decision-making process. The draft texts were issued very late, giving little or no time for delegations to study them, send them back to capitals for instructions, and to respond adequately to them. The first draft came out only on 16 July, giving little time for the process of response, consultations within the country delegation and within groupings. The meeting started on 27 July and was supposed to end on 29 or 30 July. The first revised text appeared only on 30 July morning, and a heads of delegation informal meeting was held at 10am the same day to discuss it, giving delegations hardly any time to study it properly or to consult their capitals, or to propose changes. The final draft of 31 July came out in the afternoon and a meeting to adopt it was held that night. The extremely rushed circumstances placed the developing countries at great disadvantage, especially those with few personnel and with no access to the Green Rooms and informal consultations. The lack of time for the developing countries to seriously consider the drafts and the final text, and the absence of Ministers of most developing countries also meant that immediate political decisions were difficult for them to take.

Key decisions were made by a few countries. In particular, the "five interested parties" or the FIP (comprising US, EU, Brazil, India, Australia) spent time among themselves for a long period during the week, and every other delegation was left waiting for news and for the results. There were bitter complaints from developing countries and even from developed countries like Switzerland and Canada for being left out of the main agriculture talks, and thus of being put in a position where they were pressurized (including by time if not anything else) to accept the main decisions of the FIP meeting, with only some minor changes possible.

Developing countries in general came under pressure to accept a package, even if it was not to their liking, under the fear that if they objected to any part of it, they would most likely carry the blame for the collapse of the talks and for striking a blow to the multilateral trading system. An atmosphere had been generated for weeks, including through some articles in major mainstream Western media, that the position of some groups of developing countries could threaten the Geneva talks and that a collapse would hurt the poorer developing countries more than any others.

Besides the "fear of blame" factor, different groups of developing countries also felt they were getting at least a minimum of what they were seeking, which made the final text more acceptable. Most developing countries were, however, very dissatisfied with the outcome on NAMA.

The most obvious form of pressure and unfair process was over the text on NAMA. The NAMA Annex, much liked by the developed countries, had been rejected by many developing countries in its earlier form before Cancun, and then when it became the Derbez text it had been opposed in Cancun and after Cancun. Many developing countries insisted that at best it could be one of the main documents used as a reference point in the negotiations, whilst other proposals

(especially those from the developing countries) should also be referred to in the negotiations. Yet the Derbez text was included unchanged as the NAMA Annex. The Africa Group protested against the decision to do so when the Chairman of the NAMA negotiations indicated his intention in early July and the African, ACP and G90 Ministers proclaimed themselves against it in May and July in their various conference declarations. And yet a decision was made by the NAMA chair, the General Council chair and the Director General to incorporate this disputed text in the overall July package as the Annex on NAMA.

The only concession the developed countries were willing to make was to create a "vehicle" to indicate that further negotiations are required on some aspects of the Annex, and after another big battle it was agreed to place the "vehicle" in the body of the Annex. It is incredible how such an important text as a Framework for modalities on such an important subject as NAMA could be adopted without any changes whatsoever, even though its most important elements had been opposed by so many members; and that many members who object to it find themselves in a situation where they had to agree to adopting it, with only an inadequate "chapeaux" or paragraph 1 to indicate that they can re-open some aspects of it, and with no guarantee that the re-opening can be to an adequate extent. It is improbable that the NAMA Annex would have been adopted if there had been a fairer decision-making process.

The manner in which the Chairman of the NAMA negotiations put the annex in the text (thus placing the developing countries in an extremely vulnerable position during the negotiations) shows in a stark way how unfairly the WTO negotiating process functions at present. Also, the fact that the developing countries did not reject the NAMA text outright shows their weakness in the WTO system.

The Green Room meetings again brought up renewed charges of lack of transparency and questions about

representativeness. It was never announced to the members that there would be exclusionary Green Room meetings to go through the draft and decide the final text. It was not made known who were invited, and on what basis.

There was an additional complication in that this was a General Council meeting, where the main players were supposed to be Ambassadors, and the WTO leadership made known that it was not necessary or advisable for delegations to ask their Ministers to come. Yet Ministers from almost all the developed countries came (either to the WTO or at least to Geneva). In the end, the USTR and the European Trade Commissioner played the most active roles in the outcome. In contrast, Ministers from only a few developing countries came. Prominent among them were the Brazil and India Ministers who played important roles in the agriculture negotiations. But the absence of Ministers of most developing countries meant that immediate political decisions were difficult for these countries to take. "Although this was meant to be a General Council meeting, it took on the atmosphere of a Mini-Ministerial with decision-making powers, and most of our Ministers were not present" said a leading developing-country diplomat.

As almost all of the meetings conducted during the week were "informal", there will be no records of what "informal consultations" or Green Room meetings were held, and who took part or said what there, or what delegations said even at the heads of delegation meetings to which all delegations were invited. The General Council suspended its meeting on 27 July when it came to the agenda item on these Doha negotiations, and it convened again officially only on the night of 30 August to adopt the decision and hear concluding speeches.

Finally, the already inadequate access that civil society groups have to WTO meetings was reduced even further during the week of the Geneva process. The limitation was even stricter than during

Ministerial conferences, during which many hundreds of civil society groups were accredited to be within the conference premises, attended the formal opening and closing plenary sessions (although not the closing plenary at Cancun) and were able to conduct activities. Access, attendance of meetings and conduct of activities were not available in the Geneva process, which was thus shrouded away from the public.

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### **Editorial: July Package a minimal agreement**

Chandrakant Patel

The previous issue of the SEATINI Bulletin July reported on the July package of agreements to jump-start the stalled Doha Round. In continuation of this analysis, the articles by the Third World Network and OXFAM provide further insights into the outcome of the General Council meeting and the challenges that lie ahead in the next, possibly more intensive (and more opaque) phase of the negotiations leading to the Ministerial meeting in Hong Kong towards the end of next year.

The last edition of the Bulletin had argued that much of the July package was negotiated among the FIPs-the five interested parties (Australia, Brazil, EU, India and the US). In consequence of the exclusion of a large number of countries from the decision-making process, the next phase of the negotiations is likely to be contentious and controversial. The tactical decision to establish this self-serving (and self-selected) group by the majors has served, above all, to undermine the potential work of Group of 20 and other similar Groups (33, LDCs, 90, ACP etc). It also left smaller countries in Africa and elsewhere vulnerable to the machinations of others, purporting to represent their interests.

Not surprising, then, according to OXFAM, that the July package is at best a

“minimal agreement”. The near-complete exclusion of smaller countries from the decision-making does not augur well for the next, more difficult, phase of the negotiations. Negotiated outcomes in areas of particular concern to Africa-NAMA and Agriculture- reflect more the interests of the larger developing countries and of the majors. As noted in the Oxfam’s analysis, developed countries will continue to keep a sizeable portion of their subsidies whereas the developing countries are committed to reduce their subsidies and / or prove that the subsidies are going to poor, subsistence farmers.

Likewise, the application of a non-linear tariff cutting formula together with provisions for giving up flexibilities that developing countries presently enjoy with respect to the share of tariff lines to be bound (and the levels at which to bind them) as well as provision for fast track removal of sector wide tariffs suggests, according to TWN that “. The July decision on NAMA is extremely damaging to development and poses a grave danger to the survival of industries in many developing countries”.

Where do trade policy-makers and negotiators in our region go from here? A first step, of course, is to continue to analyse the full implications of the July package. The package is, after all, only a

framework and much work has to be done before it provides all the necessary building blocks and related elements to provide a basis for negotiations. In this, the civil society has an important role to play; efforts by organisations in Africa and like-minded groups from other regions will no doubt continue to monitor and report on the progress in the negotiations. But by far the largest responsibility will have to be borne by the countries themselves: the commonality of interests among countries in the region through existing regional and sub regional groups such as EAC or COMESA provide an important forum for charting negotiating positions on, in particular, agriculture and NAMA.

Efforts that are currently under way to ensure the EAC countries negotiate, as a single entity in the WTO must be expedited. Success in this respect may encourage other regional and sub-regional groups in Africa to follow suit. Improved capacity at the national and regional levels to negotiate over the next phase is indispensable for safeguarding national and regional interests: they are too important to be left to others.

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