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WTO Negotiations reach an Impasse

*A Weighty Agenda Succumbs To
Misguided Rich Country Strategies*
Riaz Tayob

The World Trade Organisation's second highest decision making body met at the end of July in preparation for the 6th Ministerial Conference in Hong Kong in December. Earlier this year the then WTO Director-General Supachai Panitchpakdi said "these negotiations are in trouble." With countries no closer to agreement even after the General Council meeting he said the outcomes are "disappointing but not disastrous."

Aggressive negotiation tactics by developed countries over the past few years have now sharpened disagreements and resulted in an interdependent and contested negotiations agenda. The Northern developed countries have repeatedly added issues and audacious demands onto the agenda. With this constant shifting of the goal posts, developing countries have been complaining that their interests are marginalised in the negotiations. The ambitious North strategy is now a seemingly an unmanageable list of

negotiating issues intertwined with rivalry between rich countries and the poorer developing countries. The divides are generally along North/South lines but there are considerable differences within each group. The negotiating agenda is immense, involving industrial goods, forestry and fisheries, services, agriculture, rules and development.

There different layers of differences of varying complexity within each of these issues. After all, reaching consensus amongst approximately 140 countries cannot be easy. Yet in the past developed countries have been able to achieve their objectives so remarkably that the current lack of progress may only be a small reality check for them. Progressive civil society in the North and South have been integral in monitoring and analysing the WTO negotiations and have shown the consistency with which the rich North have continually pursued their goals at the expense of the poorer South. Developing countries are now better able to engage and have been able to withstand enormous diplomatic pressure to sharpen the disputes resulting in a stalemate. Unlike other times, it is rich country intransigence mainly on Agriculture that has brought the

negotiations to this impasse. For years developing countries have wanted improved disciplines on Agriculture and the rich countries employed tactics to divert attention from this issue. Now it has taken centre stage. Developing countries, like India and Brazil, have made it clear that progress in other areas of the negotiations depends on the outcome in the Agriculture negotiations.

The last big WTO Ministerial meeting held in September 2003 in Cancun, Mexico, ended without any agreement being reached. Developed countries were quick to point out that the developing countries lost out on an opportunity to promote economic development by securing a new trade deal. The mainstream media showed clear bias to the Northern agenda compromising their objectivity contributing to the misrepresentation of legitimate developing country concerns. Even the usually respectful *Economist* joined in the lambasting of the developing countries with the cover page displaying a Mexican cactus shaped as an unsavoury “up yours” sign to the rich world courtesy of the developing countries rejection. The developing countries and southern civil society replied with a common sense view that “no deal is better than a bad deal.” The Africa Group and the then new political configuration known as the Group of 20 (G20) coalesced to oppose the Northern countries alliance at Cancun.

Notwithstanding the heightened focus on the WTO issues, the rejected Cancun draft agreement was in large part accepted by all countries at the July 2004 General Council meeting of the WTO. This text became known as the July Approximation and narrowed down the scope of the negotiations. Up to then talks were still being conducted under the 2001 Doha Ministerial meeting mandate. In the fluid and untransparent negotiation processes of the WTO, the July Approximation secured its right of passage through a deal brokered between the Five Interested Parties (FIPs)--the United States, the EU, Brazil, India, and Australia. Developed countries and the WTO Secretariat hailed this as a breakthrough because it reflected

progress from the Doha Ministerial agreement. Incredibly the FIPs were able to push forward the stalled negotiations. Subsequently, the initial configuration of the FIPs negotiating club has lost a great deal of credibility and has been restructured to lend credibility to unrepresentative negotiating processes. Besides the original club, the new extended FIPs now include Japan, Switzerland, Canada, Malaysia, China, Argentina and Indonesia. The unrepresentative nature of this grouping is apparent and it is still unclear whether Korea and Benin were also present at one of the recent extended FIPs meetings. These meetings were intended to reach agreement on a text that can be agreed to at the General Council. The Least Developed Countries (LDCs) have complained that positions discussed during this time without them even being invited to meetings.

The mainstream media relied on the title of the Doha Ministerial mandate, the Doha Development Agenda, to presume, that its contents were indeed development orientated. Developing countries refused to call the outcome of the meeting the “Doha Round” because they felt that their interests were not fully taken into account and claimed a pyrrhic victory by securing a different name. According to mainstream accounts, because of the failure of developing countries to advance their own development interests it is therefore implicitly justified for the rich North to do what is best for the developing countries, even if it involves some crude tactics. Paternalism is a major feature of the negotiations and often finds expression in bullying tactics that are now characteristic of the WTO negotiations. The attempts at saving the talks like the exclusive extended FIPs meetings and the mini-Ministerial conference in Dalian, China have gone some way to providing space for discussions but there has been little progress.

The major issues in contention at present are:

- Agriculture,

- Non-Agricultural Market Access (NAMA),
- Services,
- Development
- Rules on Anti-Dumping
- Trade Facilitation.

In addition there are a host of unresolved issues that are also being negotiated including Trade Related Intellectual Property Rights (TRIPs) and access to medicines for countries with limited or no local production capacity, implementation issues (issues outstanding since 1995) and demands for a just system of dispute settlement.

The Agriculture negotiations have been contested by the poorer countries ever since the WTO was established. The WTO Agreement on Agriculture has legalised the subsidies and other measures used by rich countries in maintaining a system of production that is neither free nor efficient. There are clear double standards in the North's position, they preach free trade while protecting their agricultural markets where developing countries clearly have a comparative advantage.

In the Agreement on Agriculture, trade distorting measures are prohibited. However, the definition of trade distortion is specialised – it does not have an ordinary meaning. While it refers to certain measures as illegal, it also legalises a range of other measures that in practice are trade distorting but not treated as illegal under the WTO. In other words, the WTO allows for subsidies in agriculture based on a legalist definition of “trade distortion.” Developing countries seek agreement to remove these subsidies because they are trade distorting in the ordinary sense of the term.

Negotiations on agriculture cover three key areas market access, domestic support and export competition. Market access concerns tariffs that countries maintain on agricultural imports. Proposals are being considered on cutting tariffs for agricultural products. Domestic support is subsidies that are paid for agriculture in the domestic market. Discussions are also

investigating a way of cutting this type of support. Subsidies that effect export competition are also to be looked at, because they affect the pricing of goods in the international market, and because supportive measures are used to promote agricultural goods exports. Proposals here are considering the regulation or elimination of unfair export competition practices. There are a number of configurations amongst countries representing different interests.

On Market Access for Agriculture different tariff cutting formulae are being considered. The EU and US have managed to secure an exclusion for their “sensitive products”, which can be subject to lesser disciplines under the agreement. The formula for tariff reduction of agricultural tariffs was linked to the formula to be used in the Non-Agricultural Market Access (NAMA) negotiations. There is a refinement in the negotiations on the formula. The G20 to push for market access with reduction formulas. Discussions on the formula for reduction include differentiation between developed and developing countries, the use of different bands for reductions and the staggered implementation for developing countries.

The G33, Indonesia, Philippines, *et al* are still pushing for protection of their Special Products, which they can protect from tariff reductions. The variables used for selecting Special Products to promote food security, livelihood and rural development needs. Also proposed is a Special Safeguard Measure to protect their local producers if there is a price drop or an import surge. This proposal is meeting some resistance.

The G90 continues to insist upon protection of their agricultural sector and seeks a reduction in subsidies and preferential treatment.

Despite the rhetoric, amplified a hundredfold by their mainstream press lackeys, the EU and US have resisted moves to cut in subsidies and any changes in the configuration “trade distorting” categories. While clearly stating a

commitment to reduce subsidies and to be open on negotiating them, the EU and US have been unable to make any meaningful commitments. Developing countries as a collective have been clear in demanding a time line for the subsidy cuts. The repeated accusation levelled at developing countries for being obstructive and not willing to engage is now applicable to the EU and US whose petulant blame shifting reply about committing to reduce subsidies has been, "I will if you will!"

Discussions have moved with the EU compromising on a way to convert their non-tariff measures on agriculture to ad valorem equivalents. Besides this, little movement has been forthcoming. The mainstream media, in classic biased style, was quick to report this as progress when there was only a budge, not a shift, in the negotiations. Recent developments show that a deal between the rich countries and the G20 may be possible. The EU and the US have been praising the middle ground solution offered by the G20 – a middle ground that undermines other countries interests substantially. The solutions that may be brokered within the parameters of these negotiations with the G20 may limit the more comprehensive interests of the G33 and G90.

The continued legality and defence of these agricultural policies is presented as though it is a necessary measure to protect rich country farmers when the research indicates that the benefits of subsidies actually go to a few select agri-business corporations. The difficulty the rich countries have with even seriously negotiating on the removal of subsidies has met with uncompromising resistance from domestic agricultural lobbies. The inability of the rich countries to move on Agriculture is a case of regulatory capture by agribusiness at the highest levels of decision making in the rich world at the expense of the developing world's progress and studies show that liberalisation and subsidies cost the developing countries far more than they receive in aid.

The North has been able to use these moments to promote division amongst the developing countries and to use "carrot and stick" tactics. Building on the differences between larger and smaller developing countries, the EU Agriculture Commissioner Mariann Fischer-Boel has stated that if the EU moves on Agriculture then the larger developing countries like India and Brazil must grant large concessions in NAMA and financial services under GATS. The US Agriculture Secretary Mike Johanns was more explicit saying that in "If we do not (complete Doha) a new farm bill will be set in place for a number of years and we will have lost the opportunity quite literally into the next decade." The intended impact of these statements is that, "even a bad deal is better than no deal," an undisguised inversion of reality. In contrast to the rich countries, agriculture is the major economic activity in developing countries. In rich countries agriculture comprises less than 10 % of their economies compared to more than 70% in some developing countries.

A simmering tension amongst northern and southern civil society members is becoming evident in the Agricultural negotiations. There are competing views on whether a common position is possible between the north and the south on agriculture. The debate is postulated in terms of protection of subsistence, small and family farmers irrespective of where they are, north or south. Proponents of this view argue that agriculture is capable of being regulated in a way that protects the interests of farmers, especially small and family farmers. Southern CSOs who differ are of the view that solidarity between the North and South is possible but only on a limited list of topics because developing countries also have an offensive export interest in Northern markets. This limitation exists for a few reasons. Most of the economic activity in developing countries is in agriculture and so meaningful market access and subsidies elimination is critical. Developed countries whose economies are less dependent on agriculture and who have comparative advantages in other sectors should

specialise in these sectors and not agriculture. The *realpolitick* at the WTO prevents full solidarity on negotiation issues because the outcome of the negotiations is a function of power and not rationality. A rational enlightened and mutually beneficial solidarity position is not proscribed by virtue of an intrinsic distrust between the people of the North and South, but by the politics of trade and how it plays out in the negotiations. So while consensus on an ideal reform package is possible, the articulation of those ideals in the negotiations is more difficult.

Negotiations on Non Agricultural Market Access (NAMA) cover industrial goods, fisheries, forestry and mining products. The initial proposals by the US on NAMA sought to have zero % tariffs by the year 2015 on manufactured goods, fisheries and forestry products and some mining resources. The reductions would be undertaken using a formula. Some developed countries propose the “Swiss formula” which cuts tariffs in a straight line based on a single coefficient. The coefficient in the formula will be the highest allowable tariff after the cuts. The US is open to a different coefficient being used for developed countries and developing countries. In a bid to increase the size of the coefficient and reduce the tariff cuts, Argentina, Brazil and India have countered this proposal with a “Swiss-type formula” by weighting in the average tariffs applied in the country. The Caribbean have added their proposed formula which seeks to reduce the tariff cut even further based on a country’s dependency on tariff revenue, the need to protect infant industries, preference erosion and vulnerability to external shocks.

Differences still exist the whether tariffs which are not bound (have a maximum) should be cut or whether binding them to a maximum is sufficient. Countries with less than 35% bindings are excluded from tariff cuts but will be expected to bind all of their tariffs, a true case of nothing for free. Other countries like Kenya are concerned about Non-Tariff Barriers and

preference erosion. Preference erosion is a major worry for African countries, many of who have low levels of industrialisation and development. The Swiss formula favours developed countries by giving more than reciprocal treatment from the developing countries to them. This is contrary to the requirements in the Doha Mandate.

A concern about the Swiss formula and the Swiss Type formula is that it would limit countries ability to use tariffs as a future tool of industrial policy. By reducing and binding tariff cuts, a country may not be able to raise those tariffs to nurture and protect industries it may need to develop in the future. The current proposals therefore present only static options and preclude dynamic options like average tariff cuts that may provide more flexibility for their future industrialisation needs. The process of negotiations on NAMA has also been fraught with bully tactics. On more than three occasions, developing countries had to complain that their interests were not reflected in the negotiations text.

On the services negotiations under the General Agreement on Trade in Services (GATS), the EU and US have also tried sophistry to stir up a crisis. They have described the requests and offers made for the liberalisation of service sectors as poor and urge countries to make more meaningful offers. Brazil and India have contested that there is a crisis and state the developed countries have also failed to come up with meaningful offers of interest to developing countries. India particularly is interested in mode 4 liberalisation, the temporary movement of natural persons across borders.

The EU has heightened the tempo of the negotiations by seeking to change the negotiation modalities in the GATS to improve the offers on the table. The GATS states that countries have the flexibility to liberalise service sectors based on their interests and priorities. The EU seeks to remove this flexibility by demanding benchmarks to evaluate the quality of the offers on the table and to ensure that all

countries make commitments. This is contrary to the flexibilities in the GATS and is not the only occasion where the EU has proposed tried to subvert the GATS agreement. In its requests to countries it includes issues that are essentially of a multilateral nature and tries to sneak them in through the bilateral request and offer process.

Substantially though, the GATS severely limits countries abilities to regulate their service sectors and the committee on domestic regulation has not concluded its work. Without rules on domestic regulation, it is unclear what countries are committing to when they make offers. There is a need for caution as the complexity of the GATS was made apparent in two recent cases before the WTO Court, the Dispute Settlement Body (DSB). In the Mexico/ US Telmex case the DSB found that Mexico's domestic regulations promoting the development of their communications infrastructure were not WTO compliant. In the Antigua/ US Gambling case the US had difficulty finding the legal basis for its right to regulate gambling. While regulating gambling may not be as important as other services, many developed countries do not intend to liberalise their essential services but will nevertheless actively pursue their liberalisation in poorer countries. Venezuela stated at the Trade Negotiations Committee that the text drafted by the Chairman was not an objective reflection of the discussions at previous meetings, intimating that Chairpersons of the various negotiations use their "personal authority" to push a consensus text in the absence of consensus.

On Trade Facilitation discussions, countries agreed to discuss transit of goods, fees and transparency. A core group of developing countries were seeking to ensure that these obligations were not obligatory or operate as a system of incentives and that they would get technical assistance to address their interests.

Martin Khor calls trade facilitation one of the "un-dropped" issues from the Cancun

Ministerial conference. He questions the way EU first dropped the issue and then successfully lobbied for its re-inclusion despite widespread condemnation from developing countries previously. This is a telling example showing developed country cunningness to pursue national interests, while resistance from developing countries is regarded as disruption.

Development is a dimension that is missing putting paid to the label Doha Development Agenda of 2003. The EU has been trying to create a wedge between the developing countries by demanding that the richer developing countries become more open to other developing countries. Washington Trade Daily reported, "Brazilian foreign minister Celso Amorim attacked the [EU] Mandelson proposal, arguing that advanced developing countries need not be preached to by the Northern industrial states about how they should conduct trade among developing countries... Instead of addressing the developmental issues that are the core of the Doha agenda, the EU commissioner is trying to create new divisions among developing countries..." The EU seeks to limit the proposals for special and differential treatment (affirmative action for poorer countries) to the proposals made before the 2003 Cancun Ministerial meeting. Developing countries currently mainly only enjoy longer implementation times as advantages. They have made a wide range of proposals for improvements in their treatment and have not made progress in the negotiations which are also at an impasse.

The North strategies and opportunities to divide the South, developing countries, have found good footholds in this Committee. Divisions abound on the specific proposals versus the cross-cutting issues and whether these apply to all developing countries or just to Least Developed Countries (LDCs). The latter divisive view is articulated by the EU, Canada and Norway – countries that pride themselves on their more humanist approaches to development.

On access to medicines, the failure to reach agreement has put discussions back to the time of the Doha Ministerial. At Doha ministers agreed to seek a solution to developing countries that could not access medicines because they lacked local production capacity. It allows countries to export products to countries with little or no production capacity. A temporary agreement, a waiver, was reached before the 2003 Cancun Ministerial conference but which has now lapsed. The temporary agreement was so cumbersome that no country actually used it. The North say that the appended Chairman's statement to the agreement, explaining some issues, was part of the August 2003 deal. The Africa Group, on the other hand, is proposing a deal in accordance with the Doha mandate, and that is also practical. Rich Northern countries are opposing the changes, charging that the proposals do not comply with the Doha mandate. The US, EU and Switzerland stated that the Chairman's statement is part of the Agreement, a charge contested by the WTO itself. The inclusion/exclusion of the Chairman's statement revolves around the status of a footnote. This footnote debate continues unresolved in what is in reality a "life and death" issue.

There is a wide range of topics that are being discussed in the present negotiations. The developed countries have continuously sought to deflect the agenda away from their positions on Agriculture. They have made progress in undermining the outstanding issues of interest to developing countries but now have also inherited a complex web of interlinked negotiations. Increasingly, developing countries are linking all other negotiations with movement on agriculture. NAMA, GATS and rules negotiations have also been met with better developed alternative proposals from developing countries whose previously weak ability to engage cannot be exploited in full with the ease up to now. Even the untransparent negotiating processes and bullying has been opened up to show the embarrassingly cunning tactics of the rich countries.

The prospect of a meaningful narrowing down of issues is diminishing as the December Ministerial meeting approaches. This can lead to an intensification of the negotiating process before Hong Kong with a great deal of pressure being put on all countries. Alternatively it could lead to a process where the excessive ambitions of the current negotiations are tempered to define success in Hong Kong with small and limited outcomes.

The ever present danger of skulduggery still exists in these negotiations and we can expect the rich countries to use more of their carrot and stick tactics through their Aid Agencies and proxy International Financial institutions. The pressure will also be kept up on bilateral and regional trading agreements. The US is negotiating a host of agreements in Asia, South America and carries 37 African countries along in its AGOA pack. The sword of Damocles also hangs over the world with the US authority of the Trade Representative up for review in 2007. The EU has the trump card of the Economic Partnership Agreements (EPA's) which can pressure the Africa – Pacific and Caribbean region. These free trade area negotiations exceed the disciplines of the WTO and developing countries are weaker politically in these negotiations. Agreements at a regional level that exceed WTO disciplines will have the effect of weakening resistance to them at the multilateral level. The rich countries are impatient but capable of waiting to push their agenda forward however incrementally. Also they have been dynamic in being able to shift disputes from one terrain to another to secure their interests. Developing countries need to be vigilant and clear about what they want in order to prevent further erosion of their policy flexibility in trade and trade related matters.

TRADE: A Bitter Pill for the WTO and Activists to Swallow

Gustavo Capdevila

GENEVA, Jul 29 (IPS) - WTO authorities played down the significance of the new stalemate in the Doha Round of talks and

the threat hanging over the sixth ministerial conference in Hong Kong. But civil society organisations see the multilateral trade system's latest fiasco in a much more serious light.

Amina Mohamed, chair of the WTO General Council and currently the multilateral trade organisation's top authority, said "there is not a 'crisis' in the negotiations - we need not 'press the panic button'."

However, the Kenyan negotiator admitted that nearly four years after the Doha Round of talks was launched in the Qatari capital, "It would certainly be fair to say that we aren't where we wanted to be," and "The progress we have made has been slow - much too slow."

The resistance of the countries of the industrialised North to dismantling protectionism in agriculture is the chief hurdle to progress in the talks.

Mohamed summed up the outcome of the latest phase of the talks at a General Council session of the representatives of the 148 WTO member states that was also held to say farewell to outgoing director-general Supachai Panitchpakdi and welcome his successor, Pascal Lamy.

The negotiators are now setting their sights on the Hong Kong conference, with the hope of making up for lost time and adopting in that meeting the set of rules or "modalities" needed to reach a final Doha Round agreement by 2007.

With that aim, Mohamed recommended avoiding informal mini-ministerial meetings outside Geneva - where the WTO is based - "to make the most efficient, rational use of time" from here to the December meeting in Hong Kong.

But she added that "It may be useful to provide a stocktaking session in the fall for ministers to assess whether progress is being made."

With regard to a touchy issue, transparency in the negotiations,

Mohamed promised to ensure the effective representation of the member states in all meetings.

But she noted that the key point is still the need for "real political will" to pull the talks out of the current deadlock, "not political speeches, but political action and political courage."

Mohamed confirmed that the main problem remains the "modalities for agriculture, still the engine of the Round."

Other issues that deserve to be given priority treatment are "modalities for non-agricultural market access, a critical mass of high quality offers in services, an agreed negotiating agenda in the area of rules, including trade facilitation, and a meaningful contribution to development in all aspects of the negotiations," she added.

The WTO must shift gears and improve its performance from here to the December ministerial conference, Mohamed underlined.

Non-governmental organisations, meanwhile, reacted with greater concern to the latest WTO setback. The International Chamber of Commerce said it was "concerned and deeply disappointed with the lack of progress" in the round of talks that ended Friday.

ICC secretary general Guy Sebban called on governments "to redouble their efforts to keep the Doha Development Agenda on course towards a successful conclusion next year in the interests of global growth and job creation."

But Friends of the Earth International said that "Trade liberalisation as currently promoted by organisations like the WTO is seen by many as an aggressive attempt to open up developing countries' markets for the benefit of Western multinational corporations."

"WTO talks must be halted. There needs to be a fuller understanding of what is at stake, who will benefit and who will lose

out," said the environmental group's vice-president, Tony Juniper.

Emma Harrison, Consumers International's trade campaign manager, said "We are deeply disappointed that the WTO negotiations have not made the breakthrough decisions needed to ensure fair access to markets, reduce trade barriers and improve the lives of the poorest people. This really is the last chance for WTO governments to move matters forward so consumers can benefit."

WTO trade negotiators should eliminate all export subsidies on food products by 2010 and ensure that basic services (water and electricity) reach all consumers, said Harrison. Another priority for the ministerial conference will be to "resist pressure from business to ban eco-labeling. Consumer information is not a barrier to trade, it's a basic right," she added.

Consumers International also called for the implementation of the provisions agreed in Doha in 2001 to "enable developing countries to manufacture or import life-saving drugs at affordable prices."

Another civil society organisation, the World Development Movement (WDM) criticised the negotiating objectives set by the EU that "give little on agriculture and demand massive concessions from developing countries in talks on industrial tariffs and trade services."

"The EU must perform a 180 degree reversal of this agenda for there to be any deal that would be in the interests of the poor," said WDM head of policy Peter Hardstaff. "Failure to do this means that it would be better for the talks to collapse in Hong Kong."

The WDM noted that Jamaican Ambassador Ransford Smith said at the WTO General Council meeting that "If we would assess it now, then the development aspect is sadly lacking."

With respect to the change in leadership, Hardstaff remarked that "Rich countries have made little effort to hide their excitement at the arrival of Pascal Lamy when negotiations start in autumn."

"It is unlikely that he will do anything to stop rich countries using undemocratic and untransparent negotiating tactics, such as (closed door invitation-only) Green Rooms, to get a deal," added the activist.

Céline Charvériat, head of Oxfam International's Make Trade Fair campaign, said "There is a lack of political will and an absence of leadership" in the negotiating process.

"Without a fundamental change in attitude, the ministerial conference in Hong Kong will be a failure and the chances of developing countries benefiting from trade reform will be extinguished," she argued.

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Editorial

Chandrakant Patel

WTO's General Council's July approximations remain just that, approximations.

The General Council session at the end of last month was expected to agree on 'first approximations' of modalities to advance negotiations on NAMA and agriculture. In the event, it's inconclusive end is further indication of the fact that the Doha Round is in a state of crisis: but the reason for this impasse are not those spelled out by the WTO secretariat, namely the absence of negotiating flexibility and lack of political will to make compromises. They are, as pointed out by Riaz Tayob in the accompanying analysis of the Round so far, more to do with the surreptitious way in which the agenda was defined, driven and forced upon largely reluctant developing country Members, the manner in which the negotiations have been conducted so far and the burden of managing an overly ambitious agenda

which, despite the rhetoric of development, promises little for the South. The current indications therefore point towards a repeat of Cancun and Seattle in Honk Kong.

The reasons for the recent failure and of the likely dénouement in Hong Kong are not difficult to identify. First of all, credit must be given to developing countries negotiators for resisting the enormous pressures exerted on them in the negotiations on NAMA and Services. They have also been persuaded that the majors have little or no desire to reform the Agreement on Agriculture in the foreseeable future (see below). Then again, developing countries have also made clear their intentions to ensure an outcome that is balanced and genuinely supportive of development: accordingly, for example, improved Mode 4 Services commitments, binding S&D, special safeguards and implementation issues have become areas around which many developing country negotiators have built a strong basis for balancing concessions with commitments. Like the developed countries who have mastered the fine art of issue-linkages to promote their core agenda (access to goods and services markets of the South), developing countries in Africa and elsewhere are responding in kind with their own agenda of what should be a balanced outcome and linking issues and areas to promote their core interests.

The General Council's deliberations late last month were meant to give substance to the so-called July framework agreement adopted last year (at the 2004 July General Council meeting) and accordingly focused on agriculture and non-agricultural market access (NAMA). It will be recalled that last year's framework agreement and the accompanying annexes had failed to resolve many basic issues on NAMA or in any of the three pillars of the Agreement on Agriculture (domestic support, market access and export subsidies).

As regards the AoA, several studies, most recently by the Institute for Agriculture and Trade Policy (see article by Fabio

Nepolitano in www.iatp.org, July 2005) show that the ambiguities in the July framework are such that the US and EC could easily manipulate their WTO notified data, to arrive at a Final Bound Total Aggregate Measure of Support' (AMS) that could be higher than the bound total AMS at end 2003 and start their new cuts from a much higher level. If the provisions of the Framework Agreement become effective then, as argued by IATP, "... the new AoA would allow domestic support to reach levels similar to or even higher than the levels permitted at present." Using data derived from most recent notifications to the WTO (it must be recalled that many domestic support measures are not even notified) IATP derives figures that show that US levels of domestic support would be allowed to reach "a ceiling of \$31.3 billion (as compared with 21.6 billion in the marketing year 2001) and the EU levels of the ceiling of Euro 81.4 billion, compared with Euro 66.6 billion in 2000-2001. Likewise, as had been pointed out in earlier SEATNI Bulletins (Volume 7 numbers 12, 13 and 14), last year's July Framework provided a carte blanche to developed countries domestic support policies to continue doing more of the same. In rewarding the country that has made the most use (or abuse) of the Blue Box subsidies, the July text avers, "some flexibility will be provided to ensure that ...a Member concerned...is not called upon to make a wholly disproportionate cut."

As regards export competition, the expectation in the Doha Declaration of phasing out of all forms of export subsidies (and measures with equivalent effect such as food aid and export credits) is unlikely to materialize during the current Round: the likely period for the elimination is now believed to be 10-12 years ahead rather than the 3-4 years considered as the "credible dates" as proposed in the Doha Declaration. Finally, with respect to the third pillar of the AoA, market access, developing countries have well understood that market access entails more than tariff reduction: it covers, among others, issues such as tariff rate

quotas and tariff escalation, rules of origin and special safeguards that protect and promote food security and special products. On each of these, there has been virtually no progress since last year's framework agreement.

The expectation of speedy conclusion of NAMA negotiations, following the adoption of the 2004 July framework has also been belied by the sharp differences that remain between developing countries and the North. One reason for impasse is that the current framework of tariff negotiations (further elaborated in Annex B to the General Council Decision of 31 July 2004) allows developing countries several options regarding issues of coverage of binding and the method of tariff reduction. In particular, the general stipulation given in paragraph 1 that "additional negotiations are required to reach agreement" in these areas has meant that developing countries, as recently as last month, (see, for example, the proposals by the Caribbean countries and Pakistan) have put forward proposals that squarely challenge the efforts to steamroll them into accepting the simple linear Swiss formula (or its US variant of two co-efficients) to enable the launch of tariff reduction process. Thus the extent of binding coverage (whether 100 percent or lower) and the method of tariff reduction (for example, whether there should be a formula for line by line reduction or whether there should be only a specified reduction of average tariff, or if

a formula is to be adopted, whether it should be linear or non-linear, etc.) are all very much open at this stage. The foregoing suggests the strong likelihood of the NAMA negotiations dragging well into Hong Kong, if not beyond.

If countries were to make concessions, why would they do so at a General Council meeting in Geneva or even later at any one of the several mini-Ministerials that are likely to take place before December? African countries go to Hong Kong better prepared and more confident of their negotiating stance than at some of the earlier Ministerial meetings: to ensure that they remain a force, it will be important to ensure that they participate in the decision making process fully. In other words, any package that emerges out of the self-selected (and appointed) "Green Room" process must be endorsed by the African Group as whole by consensus. This will serve, as it did at Cancun and Seattle, as a powerful counter-weight to the machinations of the majors and their allies.

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