



TRADE AND DEVELOPMENT SYMPOSIUM

Perspectives on the Multilateral Trading System

A Collection of Short Essays

There is Nothing Wrong With the WTO

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WTO's current institutional arrangements are essentially sound. The organization remains an effective instrument of international cooperation and a guarantor of the rule of law. Its alleged institutional challenges reside in the inability of member countries to reconcile their diverging interests to conclude the DDR within a defined time frame. These challenges are not entirely those of the WTO as an organization. Accordingly this note suggests: a) avoiding mixing up the issues and placing the responsibility of the stalling of the DDR where it lies and not with the WTO that should be allowed to continue performing its functions, and b) developing alternative approaches that maintain the DDR momentum and safeguard the objective of progressive trade liberalization. For the latter, the note offers three suggestions namely a "Blair House" type of agreement, an approach similar to that of the standards and codes used for harmonization of financial systems policies, and a revisit of the DDR issues on a non binding time frame. These suggestions may be developed within the current WTO's institutional arrangements.

The Institutional Challenges of the DDR are Not Exclusively WTO's

The institutional challenges of the DDR, which have led to its effective impasse, can be attributed to lack of political will and absence of leadership. But, also to the growing frustration with the apparent negligence of developed countries in the ongoing negotiations, feeling that it is after all only a development round and hence little to expect from it for their stakeholders. Today's world financial and economic crisis exacerbates the situation further. Undeniably this structural impasse has impacted on the WTO - at least for an outside observer tending to see the DDR and the WTO as one and the same. For insiders, however, the WTO has strongly maintained its ranking.

There are positive signs that the WTO continues to foster cooperation on international trade issues and operate effectively. It needs to build on its strength to be able to better promote the trade agenda in world governance.

Countries continue to see the usefulness of the WTO, reflected in the increase in the number of members and the intention of others to join. The organization's membership increased from 86 in 1994 at the conclusion of the Uruguay round to 158 members by 2008. In addition a number of countries maintain observer status reflecting a keen interest on WTO's deliberations and interest in eventual membership. Member countries see also the WTO as the natural forum to which to bring their trade disputes. They do also value the TPRM process that provides cooperative peer reviewing. Also, and not least, the organization's mobilization of resources to deliver technical assistance to developing countries and LDCs is perceived essential to establish a more effective base for cooperation.

Moreover, there are recent important achievements. Most prominent are: the working party's sealed deal on Russia's membership in October 2011, continued TPRM regular reviews as well as the annual trade report, and the Dispute Settlement Mechanism that has recently issued its panel report in favor of Canada and Mexico in their complaint against the US regarding the dispute on country of origin labeling (COOL). In addition, the WTO is the symbol of cooperation and the rule of law against a recurrence of beggars thy neighbor policy and an ambiguous trading system. Moreover the organization is a safeguard against backtracking of members on their commitments. However, the pace for the way forward remains the prerogative of the members. "To be or not to be" is not the issue at stake here; as the WTO is here to stay for good reasons most notably the well-functioning, predictability and security of the international trading system.

Notwithstanding the foregoing, the position of the WTO as neither a UN body nor a Bretton Woods associate gives it strength and weakness. The WTO idiosyncratic position allows it to follow independent policies that do not emerge from UN economic policies. It is also not bound to follow policies set in the Bretton Woods Institutions for which WTO should be the reference point on trade matters. WTO has not sufficiently made use of this implicit strength. It needs to capitalize on it and more definitely establish its rightful independent place vis-à-vis the UN system and Bretton Woods institutions. The WTO needs to be clearly seen as the authority on all international trade related issues, including agenda setting and deferred to accordingly. However, the WTO needs to be mindful that this very position offers an opportunity to be seized to build up its international role. WTO should be cognizant of its intrinsic potential. Whereas the Bretton Woods, financial and development institutions have an established and recognized role, the WTO has strength most notably as a legal organization with its Dispute Settlement Understanding.

The WTO needs to build on its strength to play its due role in global economic governance and help the international community recognize the essential role of international trade in development and stability. Members need to deliberately promote the WTO's role and avoid seeing it marginalized as it occurred in the wake of the global financial and economic crisis. Though the organization did establish agreements with the IMF and the World Bank as envisaged under the Uruguay round, these have not been effective in providing the WTO with the adequate channels to include trade concerns in the relevant agendas. WTO membership particularly developing countries were skeptical about establishing close linkages, lest the contamination of cross-conditionality would reach the WTO. At the same time, the IMF and the World Bank may not have been keen on encouraging a close relationship with a quasi novel organization not sure yet of its directions and operational power.

Alternative Approaches to The DDR

The stalling in the progress in the DDR reflects the challenge of organizing global governance and reaching deals. Though intertwined with the WTO's governance, they remain - as said - distinct from one another. It is to note that difficulties encountered in the DDR negotiations are not unusual to any other high stakes international negotiations. The following offers three suggestions. Whereas the first suggested approach is yet another attempt to reaching a successful conclusion of the DDR, the two other approaches tend to suggest shelving the DDR for few years. This is proposed in the hope that at a later stage time becomes more propitious for a 'single undertaking', which continues to present the sole option for ensuring progressive liberalization in an overall acceptable trading system. The two latter approaches have also the advantage of allowing the WTO to distance itself from the DDR log jam and to allow the organization to function in a more focused way so as to reconstitute itself as the 'trade anchor in the world economy' as put by Pascal Lamy, the incumbent DG.

The first suggestion maintains the substantive objectives of the DDR and suggests a phased decision-making that proved effective in the context of the Uruguay Round. The second suggestion consists in recalibrating the objectives of the DDR through establishing benchmarks of best practice policies. Countries would voluntarily seek to comply with these best practices in a transparent manner. This approach would be similar to the one followed in the area of financial sector policies. The third suggestion consists of engaging in more relaxed negotiations within existing institutional arrangements. This third way will give ample time to work closer together in a more lenient and congenial manner to better identify the stakes for participant countries and overcome the deeply entrenched mistrust and suspicion between the negotiators. The same current institutional set up would be used to pursue the debates in the expectation that the absence of deadline pressures may lead to a deal when the time is ripe.

Blair House Agreement

The Uruguay Round would not have been concluded had not the US and the EU sat together and reached an agreement. That became to be known as the "Blair House Agreement" which was basically a bilateral agreement between the two 'elephants' that was then multi-lateralized. Both had to make concessions to one another irrespective of the Cairns group or any other country. The direct discussions between the US and EU responded to their own needs and policies. Given their weight and stakes in global trade their deal was critical to overcome obstacles to the Round's conclusion.

The weight and corresponding assertiveness of countries like Brazil, China, and India in the trade negotiations make them critical partners for reaching a deal. Inasmuch as I believe that the US has been reluctant throughout the DDR negotiations to show leadership, which has -without any doubt- the most

negative impact on the Round, there is a growing conviction among participants that it is Brazil, China and India which represent together today's elephants in the trade negotiations. It is with this in mind that I feel that not only is there room to repeat the Uruguay round scenario; but that such a scenario may even be workable due to the immense mutual interests between the elephants of today together with the US. First there is the reciprocity in granting mutual market access between those countries. A deal on the issue could be worked out through focused discussions between them and exchange of concessions. Deals reached at the level of those heavy weights could then be submitted to the larger community of members. A global agreement could then be reached through a carrot and stick approach dealing with specific concerns and providing technical and financial support on a case by case. If China is in the deal, it will be able to draw the African countries into the Round. A weakened EU with enormous international problems as well as internal discord between its member states cannot afford to block the Round singlehandedly as it cannot continue to drag the Round with its well-known delaying tactics.

The foregoing approach entails the recognition that the stakes are not the same for all participants, a reality that cannot be swept under the carpet. It means that governance as structures and processes to reach decisions for international trade negotiations need to be sufficiently flexible across issues to factor in the diverse level of stakes between participants.

Setting Standards of Best Practice

Another approach can maintain the momentum of progressive trade liberalization without imposing deadlines for concluding the DDR. It consists of defining standards of best policy practice in the different trade areas. Countries commit themselves to work towards implementing these practices and agree on regular reviews of the progress they make and their publication. In the finance area there are a number of standards and codes of this type that include the Basel Core Principles for Banking Supervision (BCPBS) and others covering notably securities exchange, insurance, payment systems, money laundering and countering terrorism financing. Such standards are regularly reviewed and updated by standard setters. Countries progress towards compliance with the standards is regularly reviewed by assessors that can be organizations such as the World Bank or IMF, or private financial advisors.

It is conceivable that such an approach - all too novel to the trading system - is applicable to peer review countries independently and observe their progressive 'autonomous' liberalization and adaptation of their domestic laws and regulations. Such approach, however, does not entail any exchange of concessions that is so characteristic to the trading system and, by no means is this approach thought of as a replacement to the traditional best practices of horse trading through requests and offers, which have served the trading system well for over 60 years.

The approach's advantages are to offer a guidepost for best practice, regular reviews including by peers and disclosure. Progress is voluntary but the disclosure of the regular reviews provides implicit pressure on the laggards to seek progress. Another advantage of the approach is the common recognition of best practice and an institutionalization of the process to assess members' progress towards the goals. Over time as significant progress materializes, binding agreements can be entered into when it is timely.

The WTO could see its TPRM expanded to include standards and codes' compliance assessment and their publication. It could also see an expansion of its technical assistance role as members wishing to improve on their compliance seek its assistance to achieve it. Finally it could give a better handle to the international community to assess global progress towards the desired goals without putting any single member in a straight jacket that is not of its choice.

More Relaxed Negotiations

As for the third approach, as said earlier, it is based on congeniality that should replace mistrust and suspicion. Easing the pressures of deadlines and the frustration and fear of failure should allow a better negotiating environment. Hence, the third suggested approach, irrespective of the number of years it may take (for certain less than the expired 10 years of negotiations) will build on more positive attitudes towards one another and better engagement to move forward.

On a different note, there is hardly any sense in continuously pushing for the now often referred to as early harvests in the areas where meaningful progress can be achieved, as this only deepens the divide and raises doubt about the underlying intentions. Furthermore, it is well-known that what was meant with early harvest in the framework of the DDR was confined to the LDCs, notably regarding the duty free quota free market access for their products and not an overall bonus.

This approach will also make use of the WTO institutions to the fullest without any parallel tracks, which so far have undermined the proper functioning of the Uruguay round established mechanisms. It is, however, necessary to emphasize that such an approach does not suggest starting anew, but on the contrary is very strong in not unraveling any potential progress reached throughout the last 10 years of serious negotiations but to build on.

Conclusion

It is to note that all three approaches are based on the consensus rule, which has been a cornerstone of the trading system. Voting is the easy way out.

Consensus building, however, necessitates the continuation of negotiations until every member - no matter big or small - is relatively satisfied with the outcome and can live with it. Voting basically excludes members from being part of the decision-making and eventually the outcome is forced on them. Furthermore, if voting is considered, the chance of weighted voting in the WTO will be the reasonable option, thus totally excluding small traders from the decision-making process.¹

The order of the three approaches as put in this 'think paper' was not done haphazardly but carefully thought of. The two latter approaches are not mutually exclusive; on the contrary by implementing them together, they will strengthen one another. Furthermore, they neither disregard the progress achieved so far in the negotiations, nor do they discard the DDR. They are allowing for additional space during which the WTO should revitalize itself and the member states should work either autonomously or even within regional and bilateral FTAs - if they so wish - for progressive liberalization, that should be constantly monitored and surveyed through the mechanisms available to the WTO.

As for the first approach dealing with the Blair House-type agreement, it is more complex. It carries in it equally the seeds of success as well as failure. Going along with the Blair House-type of agreement as an institutional framework need only be considered by the four-said countries. Succeeding, however, in the negotiations on the substantive issues within such a framework is certainly more difficult. Yet, if this first tier between the elephants of today is a success, the chances are then all the more favorable for a conclusion of the DDR. If not, the two other suggestions are then validated with the advantages they offer in the prevailing circumstances.

This think piece contains few messages that should lead us - if there is a political will - to further action. The paper gives more space to the negotiations through alternative approaches that help the WTO revitalize itself and at the same time maintain the momentum towards an eventual DDR deal to seal the success of progressive liberalization.

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1 It is also perceived that the Blair House approach is a "forced consensus", where the majors have "forced" others to follow. Thus stretching the argument it may be seen as covert weighted voting.