



TRADE AND DEVELOPMENT SYMPOSIUM

Perspectives on the Multilateral Trading System

A Collection of Short Essays

Towards “plurilateral plus” agreements

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Introduction¹

Three stylized facts describe the present WTO conundrum.

First, while most analysts would agree that a broadly-based multilateral regime is the best mechanism to manage the coordination problems posed by an increasingly connected world trade regime, many of them would also acknowledge that the political underpinnings of such arrangement (at least as we know it today) have been shaken by relative power shifts, the emergence of new actors and a more complex and sensitive negotiating agenda.

Second, many observers have taken the fact that the Doha Development Round (DDR) has dragged for over a decade as an indicator of institutional crisis. By measuring success by the outcome of negotiations, the WTO risks to become characterized as an increasingly irrelevant (or ineffective) institution. The “bicycle theory” has provided a familiar parable to this view in a sort of self-fulfilling prophecy: if concluding negotiations is to be taken as the indicator of institutional success, failure to conclude them would be a signal of institutional failure. This biased evaluation has become widespread despite the fact that the WTO has continued to perform other key functions, such as the provision of a forum for deliberation and dispute settlement and the deterrence of protectionism in the middle of the worst financial crisis in nearly a century.

Third, many analysts agree on the fact that the negotiating agenda of the WTO has become outdated and fails to pay adequate attention to what will be the important issues of the future (Mattoo and Subramanian, 2008). The result is an ever-growing list of topics that the WTO would have to address in order to recover a more pivotal role in the world trading system, from climate change mitigation to currency misalignments and security concerns. In the present context, this ever-expanding list reminds of Albert Hirschmann’s characterization of the logic behind Latin American policy-makers: if you cannot reach your target then raise the bar, make the challenge even harder and forget about your original problem. Are we facing a “Latin Americanization” of the world trade regime?

In my opinion the overlapping of these three facts has created a political hurdle. Most pundits favor a multilateral approach, but at the same time admit that the political underpinnings required to make such arrangement work have been seriously weakened. Similarly, while the WTO has continued to provide useful services to the world trading system, many fear that the DDR stalemate threatens its legitimacy and future prospects. Finally, despite the growing evidence of institutional paralysis as a negotiating forum, many demand a broadening of the WTO agenda and point out at an ever-expanding list of challenges.

The WTO: one junction and three paths.

This paper argues that the WTO has reached a point where a decision about three alternative paths ought to be taken. The stylized options are the following:

- (a) to continue on a “business as usual” course,
- (b) to broaden and deepen to embrace the “trade” agenda of the future,
- (c) to pursue a strategy of “damage control” by re-focusing on some core functions and take note of existing political constraints.

It should be clear from the start-out that option (b) would be superior to all others, provided it could effectively materialize. But this paper is not about what should ideally be done (there is a chorus of very influential voices claiming for that) but about what could be done given the prevailing constraints. The functional demand for enhanced international cooperation is an important consideration. But unfortunately the coin has two sides, the other one being the political pre-requisites to make that cooperation happen. In the present context of power diffusion and political disfunctionality (Barton et al, 2006), “damage control” may be a more appropriate (albeit certainly less inspiring) option than ambitious plans to broaden and deepen the WTO. In what follows I briefly discuss the pros and cons of the three paths.

Option (a): “business as usual”

The Doha Round negotiations have been dragging for over a decade, making them the longer negotiating process in the GATT-WTO’s history. This is not the place to examine in any detail the reasons for such lack of success. However, it may be helpful to point out a number of features of the process. First, the DDR was decisively motivated by political (rather than economic reasons). Second, the price paid to embark many developing countries in a new negotiating round was to formally focus the negotiations on developmental issues. The idea of a “development round” was a compromise to try to compensate for the perceived imbalanced outcome of the Uruguay Round (UR) and its implementation. Third, in contrast to the allegations that a broader agenda (as the one which emerged in the UR) would increase the scope for mutually beneficial trade-offs, the Doha Round has remained stuck around quite traditional issues. Moreover, the abandonment of the so-called Singapore issues during the DDR negotiations has made no contribution to overcome divergent national positions on traditional issues such as agriculture and NAMAs. In sum, the impasse in the negotiations can be accounted for by two major facts: (a) pending issues of the traditional trade agenda are the hardest bones to bite following half a century of liberalization, and (b) the mix of consensus and coercion that moved the GATT forward for half a century is no longer working as a result of large shifts in the structure of power (Barton et al, 2006).

In this context, the “business as usual” scenario would entail extending the present stalemate into the future hoping that some kind of agreement (minimalist or otherwise) is eventually reached. A minimalist agreement anytime soon may enable to focus on the institutional challenges faced by the WTO. However, since the chance that even a minimalist agreement is reachable in a reasonable period of time is low, the prospect of a continuing impasse in the negotiating role of the WTO remains a distinct possibility. Even if the WTO continues to perform other

¹ This text draws extensively from an article published by the author and Marie Wilke, Revisiting the Single Undertaking - Towards a More Balanced Approach to WTO Negotiations, in Making Global Trade Governance Work for Development.

roles effectively (as it has done in recent years), stalled negotiations will remain a source of attrition and will trigger dissent and acrimony among its members, giving ground to allegations of institutional failure. Considering the adverse economic environment that is likely to prevail in the short and medium-term, “business as usual” seems a path towards seriously undermining the legitimacy of the WTO.

Option (b): broaden and deepen

The UR brought a significant broadening and deepening of the “trade” agenda. Apart from the treatment of non-border issues affecting goods’ trade (a quite controversial issue by and for itself), the UR included an ambitious (and arguably poorly designed) agreement on trade in services and an agreement on trade-related aspects of intellectual property rights (docked in the WTO for political economy reasons). The so-called Singapore agenda incorporated new issues to the trade debate, although they were temporarily abandoned during the DDR negotiations. There is no doubt that the broadening and deepening of the trade agenda mirrors the growing interdependence of national economies and the inclusion of new policy areas into the domains of international regulation. The ever growing fragmentation of production and the emergence of new global challenges (such as global warming mitigation) have added further dimensions to the regulatory agenda of the WTO.

It thus looks like common sense that the WTO should accommodate these new functional demands to stay tuned to the times. As Baldwin and Evenett (2011) argued, the Doha Development Agenda (DDA) contains a list of topics agreed ten years ago and initially identified during the negotiations of the UR. If the WTO is to stay tuned and relevant to the international trading system of the next quarter of a century, it needs to update its agenda accordingly. This may well be the case. But how is that going to be made?

First, the proposition that broadening the agenda would increase the potential for trade-offs has not been confirmed, since the DDR has got stuck around quite traditional issues. Moreover, in the only historical precedent so far, the UR was able to successfully broaden the agenda in a tour de force that left developing countries with no alternative but to accept the inclusion of new agreements or risk losing the benefits negotiated since GATT-47. For sure, the perception that the UR outcome was imbalanced is not independent from this fact.

Second, broadening and deepening the agenda is also likely to be impossible without a major institutional reform that introduces new procedures, such as ending the single undertaking, implementing “critical mass” methodologies or multiplying plurilateral agreements. But it is unclear why many developing countries will accept these institutional innovations, which they may perceive as going against their own interests. By the same token, it is hard to understand why key developed country players will invest political resources in such institutional reforms when they could move forward in the same direction through probably more convenient substitutes, such as preferential trade agreements (PTAs). The fact that the WTO disciplines on PTAs are at best feeble and that member states have shown little interest in strengthening

them, suggests that they prefer to maintain their leeway to move forward picking up partners, issues and opportunities as they see fit. For sure, PTAs cause inefficiencies and are a relatively costly way to move forward even for individual countries. However, the balance of concessions obtained by developed country partners in PTAs are considerably more favorable than what they would be able to obtain multilaterally. In addition, the counterfactual against which to measure the results of PTAs may not be an effective multilateral trade regime but, for the time being, the “business as usual” option examined in section (a).

The development of international regimes in other critical areas for international cooperation (such as climate change) also illustrates the limited scope for meaningful progress along the multilateral path. In particular, the world climate change regime has gradually evolved from a multilateral top-down approach towards a more decentralized bottom-up scheme. While this evolution will pose new challenges to the international trading regime (decentralized national or regional mitigation policies will most likely collide with existing trade rules), it also illustrates the lack of inclination for meaningful multilateral deals.

In sum, deepening globalization of production and growing and more complex global externalities demand more effective global governance, at least in some policy domains. The rationale for this demand has been aptly justified by numerous analysts. However, when account is taken of the political constraints to enhanced global cooperation, the demand for more effective international regimes may sound like a “shout in the desert”.

Option (c): re-focusing the WTO

Re-focusing the WTO taking stock of prevailing political constraints will not be an easy option, not least because the existing package of agreements has been the result of a political equilibrium that will be hard to change. But if the counterfactual of re-focusing the WTO is “business as usual” rather than “broadening and deepening”, re-focusing may bring some benefits to all parties involved, at least as a transitory response.

The attractiveness of re-focusing will very much depend on the assessment that one makes of the results of the broadening and deepening exercise undertaken during the UR. My own perspective is that the UR agreements overstretched the regulatory ambitions of the WTO, consolidating a vision that the path towards liberalization and international disciplines was a linear one. In my view, the idea that the WTO should lead this process lacks a solid political basis and has had unfortunate consequences for the institution.

The UR not only ended with an imbalanced deal between developed and developing countries (a major issue in itself), but some of its major innovations were over-ambitious, poorly designed (such as the GATS) or simply opportunistic (such as the TRIPs agreement). This is not the place to go into any detailed discussion over the shape and content of these agreements, but both seem the result of a political economy dynamics combined with a bout of enthusiasm with the enforcement of universal rules. It seems that in these areas (as it was the case in others such

as financial deregulation), ideas (or ideology) moved faster than reality, losing touch with the underlying political requirements for regulatory design.

The re-focusing option may come in different sizes and colors. My own favorite would be to re-focus the WTO on its regulatory and deliberative (as opposed to negotiating) roles. As far as negotiations are concerned, ambitions should be reduced and re-focused on disciplines affecting trade in goods, including non-border trade measures that will continue to grow in importance in the future. Even though this may reduce the potential for trade offs offered by a broader agenda, practice has shown that such possibility has been only that (a notional possibility) that has failed to materialize. Reducing the scope for trade offs may be a temporary price reasonable to pay in exchange for preserving other key roles of the WTO. Re-focusing the negotiating agenda on goods' trade may also enable to discuss more openly the developmental aspects of trade policy interventions.

What would be the implications of re-focusing for GATS and TRIPs? My own favorite would be to keep GATS under the umbrella of the WTO, but subject negotiations to a set of rules different from those of GATT and its associate agreements. First, negotiations on goods and services should be delinked from one another and proceed along different paths. Second, GATS should evolve towards sector agreements with selective participation, effectively implementing plurilaterals on a sector basis. Third, the reach and ambition of general disciplines in the services area should be given a second thought.

The TRIPs agreement poses a different kind of problem. The reason why the TRIPs agreement is in the WTO is opportunistic and explained by political economy considerations. Presently this is more widely recognized than two decades ago, when the agreement was signed. As far as the TRIPs agreement is concerned, my favorite option would be to examine alternatives to locate the TRIPs agreement outside the regulatory reach of the WTO. Although this will do nothing to reduce differences over the TRIPs agenda, it would eliminate a source of institutional tension.

What would be the advantages of an approach that downsizes the WTO and makes few inroads into dealing with the issues of the future? Mainly to reduce the burden falling upon the institution in a period of significant political constraints, and to reintroduce some balance to the UR package given the evidence that the DDR is

unlikely to deliver significant results. This is far from a heroic scenario, but may contribute to damage control. Overloading the WTO with new tasks and responsibilities has added little to the effective governance of the world trading system. At the same time, it has endangered the patiently sown results of five decades of international cooperation.

Conclusion

This paper does not propose a great leap forward for the WTO. That would be most desirable from the point of view of an increasingly globalised economy. However, political constraints make such step highly unlikely. There is no clear candidate to provide hegemonic stability and the structure of power is in a state of flux. Under such conditions it seems unlikely that a cooperative approach for deeper integration will succeed in the near future. If this scenario is correct, the WTO should focus on damage control.

This short paper has not provided a detailed road-map for the WTO. Rather, it has proposed a new (albeit more modest) look at the institution, its role and its agenda. In practical terms, member states should set a date to close (as soon as possible) the DDA on whatever basis is agreed (including the possibility of no new agreement) and re-focus on the deliberative and oversight roles of the WTO, as well as the core functions of GATT. I am fully aware that this is not an inspiring scenario for the WTO, but there are times when it may be wiser to keep what has been achieved than to make great plans that end up undermining both institutional efficiency and legitimacy.

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