

The Crisis of the WTO

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Introduction

The disastrous results of World War II and the breakdown of the communist regime were two historical global events that forced international statesmen firstly to install in 1947 and secondly to improve in 1995 the structures of the world trade system and the World Trade Organisation (WTO). The question is whether we lack such historical events in the present time to solve the current problems of the Doha Round negotiations in order to improve the WTO system, or are there other reasons impelling us to talk about the crisis of the WTO?

The following article begins with a short overview of world trade after World War II until the Uruguay Round and from there to the Doha Development Agenda (DDA). After that I will discuss the current situation of the state of play of the negotiations, and will follow this with an analysis of difficulties of the present WTO system. Finally I will come to the conclusion: The crisis of the WTO results in the lack of commitment on the part of politicians.

The organisation of world trade after World War II until the Uruguay Round

After World War II international statesmen agreed to secure global peace not just through the democratisation of the defeated, formerly fascist or dictator-ruled countries but also by introducing structures to guarantee rule of law and market economy. This would help create long term employment and prosperity, which in turn would further stabilise the peace process. It soon became apparent that constitutionally guaranteed freedom within countries required a corresponding international framework so as to finally close the chapter on the disastrous consequences of past trade wars and the associated periods of economic depression in the post war period. This necessitated not just the creation of an international peace order but also of a multilateral trading system.

In 1947 about 20 trade ministers from western countries met at a first world trade conference intending to make a start at progressively dismantling the trade barriers for goods built up in the aftermath of World War II. As a result the General Agreement on Tariffs and Trade (GATT) emerged. It was decided that this agreement on goods and tariffs would be reviewed and improved upon at regular intervals at world trade rounds in order to achieve, for example, further reductions in duties or the like.

This laid the foundations for the unparalleled reconstruction of the destroyed economies in Europe and Asia. It also marked the beginning of a steady growth in world trade, which was responsible for the economic miracle in exporting countries like Germany, Japan or Taiwan. There was acknowledgement of the fact that successful trade under observance of fair rules leads to more orders for companies, inflation-free growth and creates incentives for quality, technical innovation, new products and services as well as greater competitiveness. This process benefits all – consumers and producers, employers and employees.

After 30 years of regular GATT rounds it was felt that the rapid growth and expansion of world trade required a larger framework than merely agreements on tariffs. At a meeting of trade ministers – now numbering over 100 – in Punta del Este (Uruguay) in 1986 it was agreed that new trade negotiations would be held. The hopes pinned on the improvement of the trade regime, which involved the most comprehensive and complex negotiations in history, were so high that, by the end of the Uruguay Round, which was formally concluded in Marrakech (Morocco) in April 1994, over 125 countries became signatories to the agreement on a new World Trade Organization (WTO).

After a furious start the negotiations stopped for over one year but were re-kindled by the fall of the iron wall in 1990, which previously had divided the world in two political and economic blocks. At that time the developing countries and the former centrally planned economies, which were in a phase of transition from a state-administered to a market economy, were also undertaking large scale reform, deregulation and liberalisation programmes. They recognised how valuable it was to belong to a club of countries that observed fair but strict and reliable rules and a system that limited the power of the big countries (one country, one vote) and protected the smaller and developing countries. Just like nuclear weapons were being phased out during the same period, the new World Trade Organisation and its dispute settlement body (DSU) were expected to reduce the number of trade wars, rein in protectionism and put an end to retaliatory measures.

The implementation of the WTO in Geneva, the most significant development of the Uruguay Round, marked the creation of a permanent forum with a permanent structure for the changed GATT system. Simultaneously, international trade in services was included in the multilateral process for world trade liberalisation for the first time through the General Agreement on Trade in Services (GATS). Finally, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was established for protecting patents internationally and to better combat copying. This covered practically all aspects of world trade at that time. Countries

such as China and Russia have since been attempting to become members of WTO. China was accepted in 2001 and globalisation received an additional push. Russia is still on the way to get acceptance.

From the Uruguay Round to the Doha Development Agenda

Integration in the world economy and international competitiveness cannot be achieved by protectionism but rather by opening up markets. This in turn requires painful structural adjustments which drastically affect the living conditions of people.

For developing and emerging countries the efforts required are enormous, possibly exceeding their capacities. All of a sudden, the issue becomes not just world trade but also development policy and other basic factors such as good governance – allowing the private sector to develop alongside the state. There are social issues like labour, education and training for men and women as well as environmental aspects like energy, natural resource scarcity or climate change. The inclusion of these issues in world trade has been rejected by the majority of the developing countries as an interference in their internal matters and as a form of hidden protectionism.

At the ministerial conferences taking place every two years after the conclusion of the Uruguay Round conflicts broke out among the rich industrialised nations on the one side and the emerging economies as well as the poorest of the poor, the developing countries, on the other. This led to the failure of the liberalisation negotiations in Seattle (USA) 1999. The conference was abandoned without arriving at any outcome. Against the backdrop of experiences with the Uruguay Round it was agreed at the ministerial conference in Doha (Qatar) in 2001 that not only would the world trade system be further liberalised, but also that special assistance would be provided to the developing and emerging countries during the adjustment process to facilitate their integration in world trade. The Doha Development Agenda (DDA) was born.

A worldwide discussion regarding a millennium conference began and inspired many politicians to work for solutions for these countries which seemed to be the losers of globalisation. These solutions were meant to let them participate in the benefits of international trade. Compared with the beforehand cited historical events of World War II and the fall of the iron curtain – as a motivator for improvement of the WTO – the turn of the millennium was of course a much

weaker impetus. To include all aspects of trade in this development agenda it was decided to create pressure on the negotiators to achieve results. There would be parallel negotiations across the board and the outcomes would all be signed simultaneously (single undertaking).

What were the negotiation objectives?

- Dismantling of trade distorting agricultural subsidies and the opening up of agricultural markets for developing countries. The United States and the EU provide the heaviest subsidies and need to make the maximum concessions.
- Further reduction of duties on goods and enhanced market access for non-agricultural products (NAMA). Here it is the emerging and developing economies that are finding it difficult and hindering the necessary south-south trade. The EU has offered to totally eliminate duties for developing countries.
- Opening up of the services market in member states, removal of barriers to cross-border trade in services and in the movement of personnel, lifting of restrictions on business activities. An open market for services offers immense advantages not just for the industrialised countries but also for the developing countries.
- Improvement in rules for trade defence instruments (TDI), such as the Anti Dumping Agreement and the elimination of subsidies; creation of transparency with regard to a majority of instruments.
- Creation of trade facilitation measures by dismantling bureaucracy in customs procedures.
- TRIPS flexibility for public health and access to medicines, biological diversity and geographical indications.
- Reform of the dispute settlement mechanism

Apart from these liberalisation measures a development dimension will also be incorporated with the intent of benefiting the least developed countries and enabling them to successfully participate in world trade. This includes programmes such as:

- Special and Differential treatment (S+D) for developing countries, e.g. through duty free and quota free (DFQF) market access for all products from these countries.
- Expansion of the Doha Development Agenda Global Trust Fund (DDAGTF) beyond the regular WTO budgets for technical support for the countries.

- Strengthening of trade-related development cooperation (Aid for Trade, Aft) by supporting trade-relevant supply infrastructure in developing countries.

These negotiation objectives in fact represent a reduced list which was finally agreed in July 2004 by dropping controversial issues („Singapore issues“) after resistance from the developing countries at the failed first ministerial conference in Cancun (Mexico) in 2003. However, even these objectives, according to many experts, are far more ambitious than the Uruguay Round in their liberalisation targets and developmental guidelines for the developing countries. Studies have shown that a successful conclusion of this round can generate additional income of up to USD 600 billion worldwide if just a third of the existing trade barriers are dismantled. It would consequently be heartbreaking for all countries involved in world trade if the outcomes of the WTO Round that are within grasping distance continue to remain elusive.

Snapshot: Is the end of the game finally in sight?

For a current snapshot of the WTO negotiations in the course of the DDA, subsequently referred to as the Doha round, at the end of 2007 one really needs to rewind to 2006, or more precisely 26 July 2006, which marked at least the temporary end of the WTO negotiations.

It was on this day that WTO Director General Pascal Lamy recommended to the WTO General Council that negotiations shall be suspended indefinitely as he saw no possibility of forging the required compromise between the diverse interests of the member countries. It appeared that the goal of successfully concluding the negotiations that were initiated in Doha, Qatar, in 2001 by the end of 2006 was no longer achievable in view of various deadlocks. Moreover, the US Trade Promotion Authority (TPA), which grants the American president the right to participate in and conclude negotiations, was to expire by the end of July 2007. Thus, even if wildly optimistic scenarios of arriving at a settlement were feasible, it seemed that no sufficient time would be left to ratify the outcomes. The world trade round appeared since then in serious danger of collapsing. There has been an impasse in the negotiations in Geneva ever since. But the history of the Uruguay Round shows that suspension of negotiations was not unusual.

Massive protests followed. International trade councils such as the International Service Coalition (ISC) or the International Chamber of Commerce (ICC) and European business associations such as BUSINESSEUROPE (formerly UNICE), the European Services Forum (ESF) or national umbrella organisations like the BDI

(Federation of German Industries) raised a storm and demanded resumption of the negotiations in the interests of world trade. Across the world, prominent figures from the scientific and business communities and society at large joined in the chorus of protest and warned against the negative consequences for global growth and prosperity. CEOs of many European companies, e.g. TUI AG, lent their voice to the protests. Lamy, too, embarked on a persuasion campaign, travelling among others to the US Chamber of Commerce in Washington and the International Monetary Fund (IMF), where he persistently advocated the resumption of negotiations in the interests of the developing countries. Fortunately, these efforts paid off.

On 7 February 2007 Lamy confirmed the official resumption of negotiations to the WTO General Council. Prior to this about 30 trade ministers had participated in a ministerial meeting on the sidelines of the World Economic Forum in Davos on January 27 where they declared their readiness to resume substantive negotiations.

At the same time, the need to achieve parallel progress in all areas of negotiations was highlighted. Apart from the contentious negotiations on agriculture, especially between the EU and USA, even industrial goods, services, trade facilitation and trade rules needed to move ahead. Lastly, the actual objective, i.e. the development dimension of the Doha Round in terms of opening world trade particularly for developing countries was emphasised. By mid February the shape that the negotiations would take began to emerge. Initially the major WTO partners would attempt to find a breakthrough during informal discussions, the results of which would then be transmitted to a transparent multilateral negotiation process involving all (currently 151) WTO members.

Substantial breakthroughs of this nature would require new offers to be made by the negotiation partners. Since March and April, therefore, G4 (EU, USA, Brazil, India) and since the end of June G6 (+ Australia, Japan) discussions have been taking place. Parallel to this, meetings of the negotiators were resumed in Geneva. „Fireside chats“ with selected group delegations are being cautiously taken up in addition to „transparency rounds“ to discuss the modalities for resumption of substantive negotiations. But everything really depends on the big players who were ultimately responsible for the failure of the negotiations in 2006. Initially, the agreement of the G4 on at least a part of the modalities (partial convergence) was targeted for end April 2007. A meeting of the G6 in New Delhi from April 10-12 resulted in the G4/G6 resolving to intensify their negotiations in the coming weeks with the objective of concluding the Doha Round by the end of 2007.

But suddenly just before the summer break in 2007 ministerial meetings of the G4 and G6 collapsed again notably in June in Potsdam and in July in Geneva. Pascal Lamy, Director-General to the WTO, saw the process in great danger. This breakdown meant that the negotiations trying to achieve modalities by bilateral or pluri-lateral talks like G4, G6 or G20, in groups or rounds like the Friends of Services had come to an end.

In this situation multilateral working recommenced and the Chair of the Committee of Agriculture, Ambassador Falconer and the Chair of the negotiation Group on Market access, Ambassador Stephenson presented new draft modalities, which signified a breakthrough and reopened the ways for multilateral talks. Lamy summarized the situation with the words: "The hour of truth is rapidly approaching. We are moving incrementally in the right direction, albeit three years later than we should have. The round is now not only technically possible but also a political must. The question is, whether there will be a text for services and the other topics, which can be presented and whether it is possible to bring all the elements of the round together as it is to be done under the single undertaking."

Why are the Doha Round talks at risk?

There are a lot of reasons why the DDA process could fail. As it is very easy to find out, the great denominator is that the WTO members are not willing to commit themselves. Everybody is finger pointing, expecting the other to go first, which is shown by the following examples.

First: There is no real deal between NAMA and agriculture. The developing and emerging countries have opened their markets for NAMA already by the unilateral dismantling of trade barriers and lowering tariffs and duties within the official structures of the WTO regime. But in the DDA process the WTO members only offer to cut their legal ceilings but not the much lower duties they actually apply. That means there is no real offer to the other members. Especially India, Brazil and South Africa are the leading Third World nations in this context. On the other hand the EU and the US are under pressure to cut farm subsidies as part of the deal, but they don't want to disarm unilaterally.

Second: Developing countries want to receive something in return for reducing tariffs or consolidation of tariff rates. The return can be not alone in the agricultural sector but also in the service sector. They aim to sell their concessions for the highest price possible. But unfortunately the service negotiations came to an

end in June 2006. So they behave like people who say: Take part in the negotiations but don't commit.

Third: The poorest developing countries enjoy tariff free market access to the EU and partially to the US as well following the motto "everything but arms". Hence they have relatively little to gain in tariff negotiations. In particular, they have no economic interest in a general tariff reduction that would improve in relative terms market chances for more developed countries.

Fourth: In this context the interests of WTO members are not necessarily split along North-South lines. For example, if we take the EU offer for sugar market liberalisation, Mauritius had to accept substantial losses while on the other hand, Brazil is a winner.

Fifth: A process involving 151 countries and numerous negotiating topics is extremely complex and cumbersome. The conduct of the key actors G4 or G6 is significant, yet they are not capable of steering the entire process."It is like a Rubik's Cube", Lamy always is saying. The Rubik's Cube has six colours, one on each side, which is further sub-divided into nine mini-squares. When the puzzle is solved, each face of the cube is one single colour. Completing the Doha Round is like solving a Rubik's Cube – to get all colours to line-up, a particular sequence must be followed. One wrong turn and everything is in disarray. But there are three big differences: Firstly, in the Doha Round there are more than six colours to solve; secondly, there are 151 Rubik's Cube masters in the WTO who often disagree on the turns to make; and thirdly, we have a narrow window of opportunity to get the sequence right.

Sixth: The negotiation reality of the Doha Round is that agricultural subsidies, agricultural tariffs and industrial tariffs are the gateway issues to the rest of the Doha Round package. Without settling these one simply cannot progress to the final stage of the round. This does not mean that the services negotiations are not equally crucial, not least because until everything is agreed, nothing is agreed.

But negotiations on trade in services are unlikely those on agriculture and industrial goods, as there are no tariffs in services and barriers are not easily quantifiable. One cannot, therefore, use general formulae of general percentage reductions. Services negotiation is a traditional bilateral request and offer negotiation. Each member decides what it wishes to request of its trading partners in the more than 30 services sectors. It also decides in which sectors it will offer new opening commitments and on how it wishes to respond to the requests it has decided upon. Even more specifically, members decide in which of the four modes

of delivery they wish to undertake commitments: cross border supply or Mode 1; consumption abroad or Mode 2; commercial presence or Mode 3; and temporary entry of professionals or Mode 4.

All this makes the services negotiations run on a different – if even parallel – track, with their own specificities. Until now, the industrial countries have kept the brakes on in their efforts to push forward the negotiations. Neither the US, nor the EU or Japan had really brought substantial new offers in the field of services by the end of July 2006, as was declared in Annex C of the Hongkong Ministerial Declaration (2005) due to the breakdown of negotiations.

Last but not least: Trade policy interests are divided in many national interests, especially in the USA and Japan but also in other countries. These countries are pinning their hopes on bilateral negotiations. Bilateral negotiations have in any case been on the rise given the stagnation of the WTO round from time to time and the slow progress made in resumption of negotiations. The EU had earlier announced a moratorium on new negotiations when the Doha Round commenced in 2001. In an announcement in autumn 2006 the EU declared it was giving up this strategy. The EU is currently preparing for negotiations with India, South Korea, ASEAN and a number of Latin American countries. Important trade competitors of the EU such as Japan and the USA are also constantly expanding their network of bilateral agreements.

Yet, bilateral agreements are only a second best solution to WTO agreements according to representatives from the business world and academia. They are not a true substitute for multilateral liberalisation. In comparison, bilateral and regional agreements can only have a very limited impact. Moreover, a host of bilateral regulations threatens to make the world trade system more complicated than it already is.

What is at stake?

In the present situation one would be justified in asking whether Doha can still be salvaged. And if so, under what conditions, and what results can this be expected to achieve? Business federations such as the BDI have warned against trying to achieve an outcome at any cost. If, on the other hand, there is no outcome, what is at stake for world trade and e.g. for the developing countries?

A summary of what has been achieved so far, namely the Uruguay Round and the Doha objectives, which were intended to go beyond the outcomes of the

Uruguay Round, will facilitate understanding of the extent of the disaster that a failure of the Doha Round would cause. The WTO offers many advantages. The multilateral level is transparent. Trade distortions between individual countries are avoided through the most favoured nation principle. The single undertaking approach can help to achieve progress in liberalising trade in difficult or sensitive areas such as agriculture because compromises need to be reached across all areas of negotiations.

The WTO order is the legal backbone of world trade. Its rules can be implemented through a binding dispute settlement mechanism in which any member, however small, has the same rights. The WTO therefore provides an indispensable foundation and is the most important economic regulatory system for world trade. If all the current 151 members of WTO were to liberalise simultaneously, the economic impact on growth and employment and the consequent rise in global prosperity would be huge. The development dimension of the Doha Round also promises an additional one-time opportunity to countries that were earlier the weaker members and losers in the world trade system. This is also a testament to the growing importance of the developing and emerging economies.

A failure of the negotiations would nullify all that has been previously achieved. It would lead to a loss of confidence not just in the politicians and diplomats involved in the negotiations but also damage the credibility and image of the WTO. It would probably also have a negative impact on adherence to WTO rules and dispute settlement, potentially leading to an erosion of the world trade system. Against this backdrop, there is too much at stake if the DDA fails. Trade policy makers therefore bear a tremendous responsibility. One can only hope that they live up to it.

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