

THE SIXTH MINISTERIAL CONFERENCE OF THE WORLD TRADE ORGANISATION: HOW FAR IS HONG KONG FROM DOHA?

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1. The World Trade Organisation's fourth Ministerial Conference in Doha (Qatar) in November 2001 resulted in the launch of a new round of trade negotiations -the Doha Development Agenda (DDA)- with a view to a further liberalisation of world trade as well as to the elimination of trade-distortions in particular sectors which may hinder the economic growth of developing countries. The broad agenda focussed on development, mandating negotiations, *inter alia*, on agriculture, industrial products, services, intellectual property (notably the relationship between the Agreement on Trade Related Aspects of Intellectual Property Rights and the protection of human health), the "Singapore Issues" (investment, competition, government procurement and trade facilitation) and trade and the environment (relationship between WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs), procedures for regular information exchange between MEA Secretariats and the relevant WTO committees and the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services).

The way to the Hong Kong Ministerial Conference was paved by the decision adopted in the previous days on the TRIPs Agreement and Public Health. With General Council Decision of 06/12/2005, the waiver according to General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration was transformed into a permanent amendment of the TRIPs agreement. In this way any member country will be allowed to export pharmaceutical products made under a compulsory licence to countries lacking production capacity. At present ratification from two thirds of WTO Members is needed, and in the meantime the waiver remains in force until 1 December 2007.

The Hong Kong Ministerial Declaration opens with the reaffirmation of member states' full commitment to complete the Doha Work Programme fully and to conclude the negotiations launched at Doha successfully in 2006.

Some specific decisions on certain issues as they emerge from the Ministerial Declaration (Doha Work Programme) deserve special attention and will be considered hereinafter.

2. AGRICULTURE (paras 4-10)

One of the most sensitive issues on the agenda are negotiations on agriculture, and particularly the need to eliminate all kind of support for farmers from developed countries, in order

to enhance trade opportunities for products originating from developing and least-developed countries (LDCs). Agriculture negotiations are centred on three main areas: domestic support, market access and export subsidies.

As far as domestic support is concerned, the idea is to divide countries into three different bands, according to their levels of support to agricultural products. The higher the band, the higher the linear cuts required for the total aggregate measurement of support (AMS), i.e. a single figure including all support for both specific and non-specific products. This will result in more stringent commitments for the EU (top band), followed by the USA and Japan (middle band), and eventually by the rest of the members (bottom band).

Market access negotiations are based on tariff cuts, taking into account the special situation of developing countries. As a consequence, developing country members “will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development” (see para. 7). Precise details on a “Special Safeguard Mechanism based on import quantity and price triggers”, to which developing states will have a right to recourse, will be further defined.

But the most important breakthrough is definitely the agreement on a precise date for the elimination of all forms of export subsidies and export measures having equivalent effect. Even though the final date is the end of 2013, not surprisingly coincident with the budget period just agreed upon within the EU after long and difficult negotiations, the elimination will be achieved in a progressive and parallel manner, in such a way as to realise a substantial part “by the end of the first half of the implementation period” (see para. 6). The concrete modalities of this progressive elimination will be specified and completed by 30 April 2006, together with the disciplines on export credits, export credit guarantees or insurance programmes, exporting state trading enterprises and food aid. In this respect, member states reaffirmed their commitment to maintain an adequate level of food aid, taking into consideration the interests of food aid recipient countries. This will result in the provision of a “safe box” for *bona fide* food aid, in order to deal with emergency situations. It is important to highlight that the date for the elimination of all forms of export subsidies will be confirmed only upon the completion of the modalities, and in any case, developing country members will continue to benefit from the provisions of Article 9.4 on the Agreement on Agriculture for five years after the end-date for elimination of all forms of export subsidies.

3. COTTON (paras 11-12)

If negotiations on the elimination of different kinds of agricultural subsidies put pressure on the EU, on the specific issue of cotton the USA were required to make stronger efforts, in order to alleviate the difficulties of West Africa’s cotton producers. General Council Decision adopted on 1

August 2004 established to address cotton “ambitiously, expeditiously and specifically”, in all three pillars of market access, domestic support and export competition. A sub-committee on Cotton has already been established, and WTO Members reaffirmed in Hong Kong their commitment to have a specific decision on cotton, providing for the elimination of all forms of export subsidies by developed countries in 2006, as well as for the grant of duty and quota free access for cotton exports from LDCs from the beginning of the implementation period. The objective is to reduce trade distortions in the cotton market more ambitiously and over a shorter period of time compared to agriculture negotiations.

4. MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS (paras 13-23)

WTO members reaffirmed the elements contained in the Non-Agricultural Market Access (NAMA) Framework, adopted by the General Council on 1 August 2004 (the so-called “July-package”), in light of the progress made by the negotiating group on Market Access since 2004. The compromise is based on the reduction of tariffs according to a so-called *Swiss Formula*; while its exact structure and details are still to be finalised, the underpinning idea is to conceive an efficient way to address tariff peaks, tariff escalation and high tariffs, according to para.16 of the Doha Ministerial Declaration. The concrete outcome should be a higher reduction for higher tariffs compared to lower tariffs. Members are furthermore making efforts to convert non *ad valorem* duties to *ad valorem* equivalents, as an element of harmonisation of the system. Other important aspects of these negotiations are on the one hand the special and differential treatment, and on the other hand the issue of non-tariff barriers. The importance of special and differential treatment is reflected in the hypotheses of more favourable levels of coefficients in the formula for poorer Countries, but the concrete measure of non-reciprocity in reduction commitments is still under debate. Some members have raised the issue of non-tariff barriers to trade, which can be more restrictive than tariffs. Some initiatives have already taken place, with various approaches, namely bilateral (between trading partners) vertical (concerning specific sectors such as, for instance, automobiles, electronic and wood products) as well as horizontal (in relation to State measures applicable to all sectors, such as export taxes and export restrictions). This aspect is crucial for meaningful market access, and Members, recognising that a lot remains to be done in order to conclude the negotiations, are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

5. SERVICES (paras 25-27)

According to para. 15 of the Doha Declaration, “the negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries”. Negotiations in this field need to be

intensified, taking into account some basic objectives and principles, reaffirmed in Hong Kong (Annex C): flexibility in the commitments is of paramount importance and, especially for developing countries, is reflected in the different objectives for each of the four modes of service-supply (for instance, the removal or substantial reduction of economic needs tests is specified for modes 3 and 4); the most-favoured nation exemptions should be removed or substantially reduced, or clarified, in cases where they are maintained, in terms of scope of application and duration; the scheduling and classification of commitments should be granted clarity, certainty, comparability and coherence¹; in consideration of the particular economic situation and difficulties of LDCs, they are not expected to undertake new commitments; the request-offer approach shall remain the main method of negotiation, although it should be pursued on a plurilateral basis, and of course extended on a most-favoured nation treatment basis; an efficient timeline is necessary to achieve a successful conclusion of the negotiations, and the different steps of the process should consequently end by 31 October 2006, with the submission of the final draft schedules of commitments.

6. SPECIAL AND DIFFERENTIAL TREATMENT AND LEAST DEVELOPED COUNTRIES

(paras 35-38 and 47)

Members renewed their determination to fulfil the mandate contained in para. 44 of the Doha Ministerial Declaration, according to which “all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational”. Particular attention is paid to the situation and needs of LDCs, which enjoy a special status both as for the level of commitment required and for the increased opportunities offered.

Developed-country members shall “provide duty-free and quota-free market access on a listing basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability” (Annex F, 36.a.i). If members may face difficulties, duty-free and quota-free market access shall be granted for at least 97% of products originating from LDCs, within the same time-framework (Annex F, 36.a.ii). This commitment is open also to developing countries willing to undertake it, with all the flexibility they may need. It is surely an important result, but in academic opinion concerns have been raised on the possibility for developed countries to use the 3% quota to block imports in crucial sectors such as textiles or leather. Additional provisions in favour of LDCs concern the border or otherwise measures to provide effective market access, including preferential rules of origin, which shall be simplified and transparent in order to favour exports from LDCs, and the negotiations in the service sectors, with the priority to be accorded to the sectors and modes of

¹ See *inter alia* the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001.

supply of export interest for LDCs, particularly with regard to movement of service providers under mode 4.

The preferential treatment for LDCs is reflected also in the limited commitments they are required to undertake, to the extent consistent with their individual development, financial or trade needs, or their administrative and institutional capacities. LDCs are furthermore allowed to maintain on a temporary basis or to introduce new measures derogating from the Trade-Related Investment Measures Agreement (they shall be phased out by year 2020), and are not subjected to conditionalities on loans, grants and official development assistance that are inconsistent with their rights and obligations under the WTO Agreements.

7. ACCESSIONS (para. 59)

Three new States have completed their accession processes: Nepal, Cambodia and Saudi Arabia, so that the number of member states now amounts to 149. Tonga has completed its accession negotiations and 29 ongoing accessions are given priority so as to conclude them as soon as possible.

CONCLUDING REMARKS

As we have seen, some decisions have been taken, and although they need to be better specified both in the contents and in the time-framework, at least some important principles eventually reached consensus among member states. The decision to eliminate all forms of export subsidies and export measures with equivalent effect in agriculture has to be hailed as a positive step forward in the implementation of the Doha Development Agenda. Even though some commentators tend to minimise the beneficial effects that such a decision might have on global commerce², it is nonetheless fundamental that in Hong Kong the talks did not collapse because of irreconcilable contrasts on this controversial issue, as happened two years ago in Cancun. Developing states wanted a clear sign from the rich part of the world, before starting a serious discussion on reductions of tariffs on industrial products as well as further liberalisation of services. A lot still has to be done, and in several areas (for instance on the Singapore issues or the relationship between trade and the environment) further negotiations are to be carried out, particularly within relevant WTO committees. Highlighting, as the WTO director-general did, how the Doha round is now 60% complete, in comparison with the pre-Hong Kong 55%, is probably the best way to show the difficulties in reaching the ambitious objectives decided in 2001, and may lead to conclude that, however modest, the agreements reached at the Sixth Ministerial Conference should be welcomed, as a whole, as a positive result. After the failure of Cancun, in Hong Kong the process has been revitalised, and the targets set out in Doha are now a bit closer.

² See the Economist, Dec 19th 2005.

BASIC REFERENCES

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- Doha Declaration:
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- General Council Decision of 01/08/2004 (July-package):
http://www.wto.org/english/tratop_e/dda_e/draft_text_gc_dg_31july04_e.htm#par1b
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