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A review of the results of the 6th WTO Hong Kong Ministerial Conference – Considerations for African, Caribbean and Pacific (ACP) Countries

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January 2006 **Calvin Manduna**[1]

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Executive summary

This paper provides a broad assessment of the results of the Hong Kong Ministerial Conference from the perspective of African, Caribbean and Pacific (ACP) countries. What emerges is that although developing countries achieved marginal gains, they also suffered a number of setbacks. The major developed countries, and even some of the major developing countries, have dubbed the Ministerial Decision as a relatively respectable outcome under the circumstances. But is it? The final text of the Ministerial Decision contains crucial omissions on agriculture, reflecting the insignificant offers by developed countries (in particular, the EU) and fails to address the concerns of developing countries with developed countries' agricultural support programmes. Demands by developed countries that developing countries (especially the major developing countries) should make real concessions in industrial goods (NAMA)[2] and services, constitute an attempt to raise the threshold above what is acceptable for many developing countries, and thus disproportionately shifting the burden of concessions and adjustments from this Round from the major providers of agricultural support to the developing countries. Moreover, concessions required from developing countries in NAMA and services come with no commensurate gain for them in these areas or in agriculture. Ultimately, the Ministerial postponed many of the hard decisions to be taken in April 2006 in Geneva. It remains to be seen whether some of the seemingly unattainable deadlines for full modalities in agriculture and NAMA can be achieved by April 2006, and the subsequent country schedules by July 2006. At the time of writing, what looked likely to emerge at best was a framework agreement by 30 April 2006. This paper analyses the expectations of the ACP countries prior to the Hong Kong Ministerial Conference as expressed in their various Declarations. It then assesses whether the final text of the Ministerial Conference meets these expectations. It concludes that it does not. There now remains a formidable political task ahead to attain some of the deadlines set by the Ministerial Decision and also to fulfil the development promise of the Doha Declaration. This requires renewed political will from the major developed countries as well as increased focus on precise 'numbers' on market access and tariff cuts. In the absence of a significant effort from the major developed countries, a satisfactory bargain is not likely to materialize. It is also cautioned that a number of political events outside the multilateral process might divert the attention of key Members, and further delay the conclusion of this Round. It is therefore, critical that significant progress be achieved in the Doha Round in 2006.

Introduction

The 6th WTO Hong Kong Ministerial Conference concluded in December 2005 sparking mixed responses from various stakeholders. For most observers and participants at the Conference, there appears to be near universal consensus that a great deal still needs to be done if the real "development" elements of the Doha Round are to emerge and, indeed, if the Doha Round itself is to be successfully concluded.[3] This paper briefly analyses the

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[2] The negotiations on Non-Agricultural Market Access (NAMA) deal with market access for a wide range of non-agricultural products, essentially those products that are not covered by the agriculture or the services negotiations. NAMA products include fish and fishery products, wood and forestry products, electronics, manufactures, automotive products, machinery, textiles, clothing, leather, chemical products, and mining products. See http://www.namawatch.org/docs/basics/TILS_NAMA_english.doc last viewed 26/01/06.

[3] Bhagirath Lal Das. 2006. **Analysis on Imbalances in the Hong Kong Ministerial Outcome**, 13 February, Available Online at http://www.twnside.org.sg/title2/twninfo361.htm

results of the recent Hong Kong Ministerial Conference.[4] It considers the question whether the Conference succeeded in bringing to the fore key developmental issues which are of great concern for developing countries. It also looks at some of the implications for African, Caribbean and Pacific (ACP) countries and what lies ahead in the negotiations in 2006.

Measuring the success or otherwise of the Hong Kong Ministerial Conference requires, first, consideration of the historical objectives and the expectations that Members had, especially developing-country Members, when commencing the Doha Round. Second, one has to consider what the ACP countries' aspirations were prior to the start of the Ministerial Conference itself. The change in the negotiating 'climate' during the course of the Round and the pessimism that prevailed going into the Ministerial Conference needs to also be taken into account.

The success of the Hong Kong Ministerial Conference and indeed the Doha Round itself means different things to different Members. In part, the major developed countries have a strong interest in gaining access into overseas markets for their services suppliers and industrial goods. Developed countries would like to see the reduction of industrial tariffs and greater liberalization commitments on services by developing countries. Many developing countries on the other hand have a strong interest in securing market access for their agricultural products into developed-country markets, and ensuring that tariff and non-tariff barriers for these products are substantially reduced if not completely removed. Moreover, they also want to ensure that an early date is fixed for when the massive subsidies provided by developed countries to their farmers are to be removed. These subsidies are a major constraint to exports of farmers from the ACP and other developing countries. They result in oversupply, which in turn causes serious market distortions and depresses world market prices for agricultural products.

Some observers take the view that the prospects of a pro-development outcome from the Round and significant gains in areas of key interest to developing countries have become increasingly dim, especially given the experience of the last four years of negotiations (Newfarmer, 2005: 33-35). The early momentum has disappeared somewhat and the fact that a series of important interim deadlines have been missed and extended has fuelled doubts on the future of the round. It is also becoming less certain that the Round will be completed before mid-2007—when the US Trade Promotion Authority expires. A number of observations lend support to this grim outlook. First, some would argue that it was premature to enter a new round of negotiations (i) before the Uruguay Round agreements were completed, (ii) before the results of the Uruguay Round had been

[4] A number of analyses of the Hong Kong Ministerial Conference are available, and provide a variety of perspectives on the Conference and the Doha Round. For a useful collection of materials assessing the Hong Kong Ministerial see also the Initiative for Policy Dialogue. 2006. **Trade Meeting: An Assessment of the Hong Kong Round**, Available online at http://www0.gsb.columbia.edu/ipd/programs/item.cfm?prid=24&iyid=5&itid=795 last viewed 26/03/06. See also South Centre. 2006. **South Centre Analysis of the Hong Kong Ministerial Declaration**. Available online at http://www.southcentre.org/tadp_webpage/SCAnalysisOfHongKongMinDeclaration.pdf last viewed 25/03/06.

assessed and (iii) before developing countries were afforded an opportunity to overcome some of their implementation difficulties. In fact, many Members were reluctant to commence a new round of negotiations at Doha for these very reasons. Many developing countries also doubted that the major developed countries would be willing to extend significant concessions in the form of tariff cuts in sensitive sectors. Second, some commentators have questioned the ability of the multilateral trading system to deliver the hoped for development outcomes. It has been argued that expectations ran too high at the start of the "Development Round" and these were encouraged by the Doha Declaration's repeated reference to development, increasing technical assistance, reducing developed countries' subsidies, dealing with special and differential treatment (S&DT) concerns and providing duty and quota-free access to exports from LDCs.

When the Doha Round was launched there was no common understanding as to what was meant by a "development round" and what type of new concessions this would translate into for both developed and developing-country Members. Members' views were widely divergent, and this simply served to complicate and slow down the negotiations. A key problem is that development issues under the WTO have mostly been restricted to providing flexibilities for developing countries and LDCs, for example, by exempting them from having to make concessions or allowing them to make fewer concessions and providing them with longer implementation periods. However, this 'soft' approach to development is very limited. Development issues are broader than this, and Members should approach the negotiations with proposals that will have a significant impact on development.

The contribution of the major developed countries in the Round has so far been disappointing. The United States, for example, has not provided the same leadership in this Round as it did in the Uruguay Round. Instead, it appears to be more committed to pursuing bilateral trade agreements with selected partners. The EU in turn seems to be devoting considerable energy to its internal affairs, most notably, enlargement and domestic reforms.

Finally, some commentators[5] have criticised the trade and development framework pursued by the WTO as problematic in that it is based on an export-led growth paradigm which has been prevalent over the last two decades. According to these commentators, it is doubtful whether all developing countries can grow by focusing on exports of manufactures and agri-products. The fact that the global market is limited can only result in a race to the bottom as countries crowd each other out and drive down the prices of the goods in which they compete. Many developing countries would, therefore, be wise to also promote the development of domestic and regional markets. Indeed, increased domestic and regional commerce results in deeper development linkages as opposed to

[5] See Blecker, R.A. and A. Razmi. 2005. **Moving Up the Ladder to Escape the Adding-Up Constraint: New Evidence on the Fallacy of Composition**. Unpublished. Available online at http://www.american.edu/cas/econ/workingpapers/2005-08.pdf last viewed 31/01/06. See also Palley, T.I. 2003. *Export-Led Growth: Is There Any Evidence of Crowding-Out?* In Arestis et al (eds) **Globalization, Regionalism and Economic Activity** (Cheltenham, UK: Edward Elgar). Available online at http://www.thomaspalley.com/docs/articles/economic_development/crowding_out.pdf last viewed 31/01/06.

export-led growth which has a propensity to encourage ‘shallow enclave-type’ development that is reliant on imported inputs and which involves very little, if any, domestic distribution, marketing, retailing and servicing since the market is off-shore. As a result, these domestic linkages and related industries may have little opportunity for growth under an export-led growth paradigm.[6]

Background to the Doha Round

Many poor countries, in particular in Africa, have so far failed to effectively harness trade as a tool for growth and as a result they have received little benefit from the multilateral trading system. On the one hand, many of these countries lack the required infrastructure, institutions and appropriate policy framework to facilitate greater trade and bring their products to the market efficiently. Yet on the other hand, the rules of the multilateral trading system themselves can sometimes frustrate the ability of poor countries to engage in more and beneficial trade. Certain domestic trade policies pursued by mostly developed countries have put poor countries at a disadvantage, in terms of their ability to access developed-countries’ markets competitively.

Following the conclusion of the Uruguay Round and the establishment of the WTO, it was soon clear that the existing agreements did not clearly espouse a development component. Many poor countries felt they had not fully participated in the negotiation of the Uruguay Round of agreements, and that the resultant agreements were skewed in favour of developed countries’ interests. As a result, many poor countries perceived little benefit from the multilateral trading system in its post-Uruguay Round form.

The WTO 4th Ministerial which took place in Doha, Qatar, 2001, set out the so-called Doha Development Agenda (DDA) that provided the basis for the Doha Round. The Doha Ministerial Declaration recognises:

> “…the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration…we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development.. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play” (para. 2).

The Declaration commits WTO Members to address the marginalization of least developed countries in international trade. This includes improving their effective

[6] See further Thomas I. Palley. 2006. **Thinking Outside the Box About Trade, Development, and Poverty Reduction**, Silver City, NM & Washington, DC: *Foreign Policy In Focus*, January 18, available online at http://www.fpif.org/fpiftxt/3050 last viewed on 26/01/06.

participation and providing for more beneficial and meaningful integration into the multilateral trading system (para. 3). The negotiations and other aspects of the Work Programme should take full account the principle of special and different treatment for developing and least-developed countries and the objective of sustainable development shall be appropriately reflected in each respective negotiating area (paras. 50-51).

The Declaration, therefore, recognizes the challenges that impede the improved participation of developing countries in the multilateral trading system, as well as the steps needed to address these. The Declaration also commits Members to find appropriate solutions to concerns raised with respect to implementation issues as part of the Work Programme.[7]

Agriculture is at the heart of the Doha Round

Agriculture is at the heart of the Doha Round.[8] This is the area where most developing countries perceive real development gains if their comparative advantage to produce and export is unfettered by distortions that arise from developed countries' policies. Apart from the traditional issues of domestic support, export subsidies and market access, developing countries like the ACP, have also been focused on a number of other issues in agriculture. These are:

(i) Erosion of preferences, in particular into the EU market. This problem is exacerbated by both multilateral tariff reductions and bilateral free trade agreements (FTAs) concluded by the EU. Moreover, on-going reforms to the EU's Common Agricultural Policy (CAP) have reduced EU prices (and prices received by ACP exporters) towards world market prices, most notably for beef and sugar. At the same time, complex rules of origin related to preferential market access have in some instances resulted in ACP countries finding it more favourable to export under the General System of Preferences (GSP) framework.[9]

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[7] Roughly 100 implementation issues were raised just prior to the Doha Ministerial Conference. Paragraph 12 of the Doha Declaration and the "implementation decision" provide a two-track solution: About 40 items under 12 headings were settled for immediate delivery at or before the Doha Conference; and many of the remaining items became the subject of negotiations. See the *Decision on Implementation-Related Issues and Concerns*, WTO Document WT/MIN(01)/17, 20 November, 2001 and www.wto.org .

[8] Vincent Fautrel and Carl B. Greenidge. 2005. **ACP States on the Approach to Hong Kong – An Analysis of Some Key Agricultural Issues in the light of the 31st July WTO Package**. CTA Discussion Paper (January), Available online at http://agritrade.cta.int/DP_WTO_VFA+CBG.pdf last viewed 13/02/06.

[9] The GSP is a formal system of exemption from the most-favored nation (MFN) obligation of the General Agreement on Tariffs and Trade (GATT). The MFN obligation requires WTO Members to treat the imports of other WTO member countries no worse than they treat the imports of their "most favored" trading partner. The GSP allows WTO Members (typically the OECD countries) to lower trade barriers for developing countries (without having to do so for other developed countries). The exemption came into being in the 1960s following complaints by major developing countries that the GATT was disproportionately benefiting richer countries and that the MFN was discouraging the major developed countries from reducing and eliminating tariffs and other trade restrictions with enough speed to benefit developing countries. Today, nearly all OECD countries operate some form of GSP program. These programs have been a mixed success for developing countries. For examples, a number of developing

(ii) Tariff escalation which is often cited as a major reason why non-LDC ACP countries (which do not benefit from the Everything But Arms Initiative) that export under the Cotonou Agreement fail to break out of the commodity trap.[10]

(iii) Non-tariff barriers, including food safety issues that have become an increasing concern for the ACP for whom agriculture forms a significant share of exports[11] and, especially as the EU has adopted and imposed stricter food standards, sanitary and phyto-sanitary measures. An increasing number of these standards are those set by large retail chains in developed countries, and these often go beyond ordinary health and safety concerns to include social and environmental issues, thereby adding to the costs of compliance for developing countries. Thus, apart from technical compliance with these standards, ACP countries also need to overcome institutional capacity constraints for the certification and verification of compliance (Fautrel & Greenidge, 2005: 4).

(iv) A final major problem for ACP and other developing countries has been addressing supply-side constraints that affect production capability, competitiveness and even exporters' bottom line. In agriculture, these constraints are well documented, and for the ACP, developing local markets (to promote intra-regional trade), measures like aid for trade and even bilateral arrangements like the Economic Partnership Agreements (EPAs) under negotiation with the EU, have important implications on ACP countries' ability to address some of these constraints.

The leading voices from the developing countries, Brazil and India, have so far decided to make progress on agriculture a *sine qua non* for progress on NAMA and services. This has put the major developed countries on the defensive as they now need to develop meaningful proposals that can move the negotiations forward.

World Bank Economists estimate that full liberalization could generate an annual global income of anything between US$290–US$520 billion (Newfarmer, 2005:16). A less ambitious conclusion to the Doha Round could still realise a part of this, with the potential to lift millions of people from poverty. For many poor countries, the predicted income gains would be particularly visible in agriculture. According to some commentators (Newfarmer, 2005: 77), agriculture accounts for almost two-thirds of the

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countries in East Asia have been able to develop their exports significantly as a result, while others like the ACP countries have generally not been able to benefit as much from the GSP as would have been desired. The problem for the ACP is that every GSP program imposes some restrictions and most programs, by design, do not appear to include many of those products of export interest to them. See http://en.wikipedia.org/wiki/Generalized_System_of_Preferences

[10] See E. Chevassus-Lozza & J. Gallezot. 2003. **Preferential Agreements – Tariff Escalation: What are the Consequences of the Multilateral Negotiations for the Access of Developing Countries to the European Market**. Paper presented at the International Conference on Agricultural Trade Policy Reform and the WTO: Where are we heading? Capri, June 23-26, Available online at http://www.ecostat.unical.it/2003agtradeconf/Contributed%20papers/Chevassus-Lozza%20and%20Gallezot.pdf last viewed 10/02/06.

[11] For a number of ACP countries, a significant share of their exports are concentrated in areas that are most likely to be subject to SPS measures, in particular, fisheries and horticultural products.

economic gains that could be realized if existing barriers to trade and farm subsidies where removed.[12] Many poor countries have focused their attention on the agricultural policies, especially export subsidies and domestic support, of OECD countries which are rightly blamed for distorting world prices. Many poor countries believe that they did not benefit much, if at all, from the Uruguay Round agreements, which did not result in meaningful changes to developed countries' agricultural policies. Developing countries are now resolute on securing greater concessions from developed countries in the current round, especially on agriculture, before they will allow further access to their own markets.

Yet at the same time, some officials from developing countries and several commentators have long questioned the purported gains from trade.[13] Some projections conclude that almost half of the developing country benefits from changes in agriculture will go to just eight countries: Argentina, Brazil, China, India, Mexico, Thailand, Turkey and Vietnam. Proponents of greater trade liberalization are keen to emphasize the potential benefits. However, there are also costs for developing countries that come with extending market access (in agriculture, NAMA and services) and that concern the implementation of intellectual property obligations. These costs involve loss of policy space in a legally binding fashion and also significant economic cost, for example, through costs of compliance with trade rules, loss of tariff revenue for governments, de-industrialization and other welfare costs. For individual countries these costs could exceed both the potential economic and related benefits of liberalization.

The writing on the wall in Cancun

The initial end date for the Doha Round was 1 January 2005. However, this date came and went without Members coming close to an agreement. Some commentators[14] have since suggested that there will be some intervening events that will distract key Members' attention from the Doha Round negotiations. In particular, the US Trade Promotion (Fast-Track) Authority is set to expire in July 2007 and indications are that bi-partisan support for further trade liberalization has been declining in the US over the last

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[12] See Anderson. K and W. Martin. 2005. *Agriculture: The Key to Success of the Doha Round*, in **Trade, Doha and Development: A Window into the Issues**, Richard Newfarmer (Ed), World Bank, Washington, DC; Anderson. K and W. Martin. 2005. **Agricultural Trade Reform and the Doha Development Agenda**. Policy Research Working Paper 3607, World Bank, Washington, DC. May. And in The World Economy 28:9:1301-27 (Sept. 2005). See also Achterbosch, T et al. 2003. **Trade Liberalization Under the Doha Development Agenda: Options and Consequences for Africa**, African Trade Policy Centre (UNECA), available online at http://www.uneca.org/eca_programmes/trade_and_regional_integration/documents/TradeLiberalization.pdf last viewed on 30/01/06.

[13] See, for example, Palley, T.I (2006); see also Wise, T. A and Gallagher, K.P. 2005. **Doha Round's Development Impacts: Shrinking Gains and Real Costs**, RIS Policy Brief No. 19, available online at http://www.globalexchange.org/campaigns/wto/PolicyBrief.pdf last viewed 30/01/06. The authors observe that the promise made prior to the Cancun Ministerial in 2003 to lift 144 million people out of poverty has been scaled down to 66 million people under a full liberalization scenario.

[14] Evenett, Simon.J. 2006. **The WTO Ministerial Conference in Hong Kong: What Next?** University of St. Gallen and CEPR. Available online at http://www.evenett.com/working/dohaprospects.pdf last viewed on 25/01/06.

few years. US Congress elections in 2006, and presidential elections in France and the US in 2007 and 2008 respectively, raise serious doubts on these Members' ability to make any meaningful concessions in politically-sensitive sectors before the elections. Thus, in the estimation of some, the next possible opportunity to conclude the Doha Round will likely be in 2009.

The WTO Ministerial Conference held in Cancun in September 2003, was supposed to be a "mid-term review" that would produce a framework to guide Members on how to advance the negotiations in key areas. However, the Conference collapsed due to disagreement over the treatment of the four Singapore issues (investment, competition, trade facilitation and transparency in government procurement), and what developing countries perceived as weak proposals by the major developed countries to cut subsidies, provide market access and remove export subsidies. The plight of the four West African cotton producers, Benin, Burkina Faso, Chad and Mali (known as "the C4"), was a rallying point for developing countries, as it highlighted the damaging impact of billions of dollars of developed-country support on millions of poor farmers. The C4's proposal that cotton subsidies be eliminated and that a fund be established to compensate them did not find support among developed countries. With respect to the Singapore issues, the EU's offer to unbundle the issues, and focus on trade facilitation at the last minute came too late, and was not coupled with sufficient concessions in agriculture for developing countries to accept any agreement—leading to the failure of that Conference.

Recognising that the Round was in danger of collapse, and following the finger-pointing after Cancun, the negotiations reconvened in Geneva in 2004. Members adopted a decision on 1 August 2004[15] (the "July Package") providing a framework for proceeding with the negotiations. The framework dealt with reform of agriculture (with a final date for elimination of export subsidies to be negotiated), NAMA, services, development issues and modalities for negotiations on trade facilitation. However the July Package left several critical issues open to debate. The exact elements of the tiered formula (specifying the number of bands, reductions in the respective bands and flexibilities for developing countries) to be used for cutting tariffs in agriculture and removing non-tariff barriers were to be decided in the future phase of the negotiations. With respect to NAMA, a non-linear formula would be the basis for tariff cuts, and on services, a new deadline of May 2005 was set for submitting new and revised offers.

Developing countries criticise the July Package

After being negotiated in atmosphere resembling a mini-Ministerial Conference (with Ministers from a number of developed countries present in Geneva), the July Package was hailed by some for providing the much-needed breakthrough and avoiding a repeat collapse of Cancun. However, it also drew varied criticism from both developing

[15] Decision adopted by the General Council on 1 August 2004. WTO Document No.WT/L/579 (2 August, 2004).

countries and non-governmental organizations (NGOs).[16] It was argued that some developing countries, despite their reservations, had signed up to the July Package for fear of being blamed for a Cancun-type collapse. The framework was criticized for its inbalance in favor of developed countries' interests yet falling short of the Doha mandate and ignoring key development issues such as commodities; trade, debt and finance; trade and technology transfer and TRIPs issues with respect to public health. Some of the criticisms levelled at the July Package is listed below:

- There were concerns about the new "blue box" domestic subsidies presented by the US, that were seen as a way to protect some of its own industries while also allowing more economic dumping, contrary to the notion of globally fair trade. Moreover, a continued and disturbing development has been the objective of the EU to ensure that criteria for disciplining blue box support would not undo its on-going CAP reforms (which involve shifting support into blue and green boxes), thereby protecting CAP reform from challenge within the WTO.
- There was a low priority on issues of implementation (e.g. anti-dumping, investment (TRIMS), sanitary measures (SPS) and technical barriers to trade) because of the reluctance of developed countries to deal with them;
- Para 44 in Annex A of the decision recognized the importance of long-standing preferences but provided no indication as to how preference erosion would be addressed. While developing countries might have been interested in *inter alia* monetary compensation for loss of their preferences, the EU, for example, had long taken the position that for least-developed ACP Members, compensation at a multilateral level should be made available through improved 'multilateral EBA-like' market access to developed countries. This position appeared to be entrenched in the July package.
- Although the July Package noted the issue of tariff escalation, the exact formula for addressing this was left for future agreement (para 36). Likewise, details of a special agricultural safeguard mechanism (para 38) and the criteria and treatment of special products (para 41), both issues of interest to developing countries, would be further specified during the negotiation phase.
- Certain aspects of the outcome on cotton were a major disappointment for both the cotton-producing West African countries, and also the African Group and the ACP who had supported their position. The initial request by the cotton producers that cotton be regarded as a stand-alone issue did not find universal approval and it was agreed that cotton would be dealt with within the context of the agricultural negotiations—a major setback for the *demandeurs*. The African Group had proposed *inter alia* the elimination of all forms of export subsidies for cotton by the date of implementation of the Doha results, total elimination of all forms of trade distorting support on cotton at a specified date, and the reduction of domestic support above the general average. These proposals to expedite a framework for cotton were absent from the final text of the Decision. Rather, the

[16] See, for example, **Third World Network's comment on WTO's July Framework Decision** and **Critical Comments on Revised Text by Developing Countries**, available online at http://www.twnside.org.sg/trade_11.htm

text provided that cotton would be dealt with 'ambitiously, expeditiously and specifically, within the agricultural negotiations'.

- Several elements of the NAMA framework[17] were seen as detrimental to developing country industries and interests, in particular, the continued advocacy of a 'non-linear' formula that would result in steep tariff cuts for higher industrial tariffs (typically those maintained by many developing countries); and there were concerns that existing flexibilities for developing countries would be eroded as the text called for no *a priori* exclusions in terms of product or sectoral coverage. The African Group's proposed amendments to Annex B were not received favourably by developed countries, and neither were similar proposals by the African, Caribbean and Pacific (ACP) countries and the LDC group on an identical previous incarnation of the Annex B text (under the Derbez text[18]);[19]
- Annex C on services was criticized for containing, what has been said to have been an arbitrary deadline of May 2005, for Members to submit their initial offers if they had not already done so. This deadline placed considerable pressure on developing countries, the majority of whom had not submitted initial offers. It was also felt that this pressure was unfair given that earlier deadlines for addressing special and differential treatment and implentation issues (of interest to developing countries) had come and gone without result.
- The few gains for developing countries in the text were offset by losses in other areas. Moreover, the WTO negotiating and decision-making process was criticized for producing an outcome that did not properly reflect the positions of developing countries. Some developing country delegates complained of not having enough time to study proposals, obtain input and instructions from capital and to react to such proposals.

However, the July Package did contain a general commitment to eliminate export subsidies and to tighten disciplines on other forms of export subsidization, but did not specify any end-dates.[20] However, the risk is always that whatever benefits accrue from the removal of export subsidies could be nullified if domestic support is not dealt with in parallel. Another positive note for developing countries was the removal of the three controversial Singapore issues from the Doha work programme,[21] although it remained uncertain whether discussion on these issues would still continue elsewhere within the WTO. The prioritization of the cotton issue, at best gave the proponents of the cotton

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[17] See Annex B of the Decision adopted by the General Council on 1 August 2004. WTO Document No.WT/L/579 (2 August, 2004).

[18] The Derbez Text was the text circulated at the Cancun Ministerial in September 2003. See http://www.wto.org/english/thewto_e/minist_e/min03_e/draft_decl_rev2_e.htm

[19] The NAMA negotiations almost derailed the July 2004 negotiations and developing countries reluctantly agreed to Annex B without modifications, but with the preface in para. 1 that: "This Framework contains the initial elements for future work on modalities by the Negotiating Group on Market Access. Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs …, the flexibilities for developing-country participants, the issue of participation in the sectorial tariff component and the preferences".

[20] See Annex A of the Decision adopted by the General Council on 1 August 2004. WTO Document No.WT/L/579 (2 August, 2004).

[21] See para. 1g of the Decision adopted by the General Council on 1 August 2004. WTO Document No.WT/L/579 (2 August, 2004).

initiative space through which to continue their efforts for a permanent favourable outcome in the Round.

The launch of negotitiations on trade facilitation, one of the controversial four Singapore issus, was initially opposed by many developing countries at the Cancun Ministerial Conference. Most developing countries were concerned about the possibilty of incurring high implementation costs, and needed a commitment from developed countries that they would provide financial assistance towards such costs. Some developing countries also felt it unwise to create binding disciplines for trade facilitation which would be subject to WTO dispute settlement. Rather than commencing with negotiations on this issue, these countries preferred to continue with clarificatory work and developing modalities. However, a compromise was reached whereby negotiations on trade facilitation would be launched in line with the modalities agreed to in Annex D. The modalities incorporated some of the major concerns registered by developing countries and LDCs, for example, by stating that support and assistance should be provided to developing countries with respect to the cost implications of the proposed measures. Where the required assistance was not forthcoming, implementation would not be required (para 6 of Annex D). LDCs will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities (para 3 of Annex D). The ACP countries in a proposal submitted to the Negotiating Group on Trade Facilitation in February 2006, indicated that development must be the main objective of the negotiations on trade facilitation.

What were some of the developing countries' expectations going into the Hong Kong Ministerial Conference?

The expectations of developing countries, and in particular the ACP and LDCs, can be gleaned from various declarations that these country-groupings made just prior to the Ministerial Conference reflecting their common positions. These declarations discussed specific details on various negotiating areas and issues. Many of these issues are overlappping and will be mentioned here collectively.

First, the LDCs produced a document in Zambia reflecting their common position on the LDC Agenda for the Hong Kong Ministerial Conference known as the Livingstone Declaration of 26 June 2005.[22] Second, the African Group meeting from 8-9 June 2005 produced the Cairo Declaration[23] highlighting a number of issues of critical importance to the development of Africa in the current Round. Third, the African Group meeting in Arusha, Tanzania from 21-23 November 2005, issued the Arusha Declaration and Plan of Action on African Commodities.[24] Finally, the G-90 (a group of developing countries within the WTO that includes the ACP Group, the African Group and LDCs) issued a

[22] Available online at www.integratedframework.org/files/Livingstone%20Declaration_final.doc
[23] Available online at http://www.uneca.org/eca_programmes/trade_and_regional_integration/meetings/cairo/cairo_declaration.pdf
[24] Available online at http://www.uneca.org/atpc/arusha_decla_commo.pdf

Declaration[25] on 5 December 2005 that outlined their expectations from the Ministerial Conference and the Doha Round as a whole.[26]

What were the main points arising out of these various declarations?

- The declarants recognized the July Package as a relevant milestone in the progress of the Doha Work Programme.
- Concern was raised about the lack of progress and poor reflection of development and implementation issues in the Doha Work Programme. The G-90 demanded the settlement of outstanding implementation issues and concerns as a pre-condition for taking on new commitments.
- There was disappointment with the slow progress on S&DT. Under the Doha mandate, Members agreed to strengthen S&DT provisions, and make them more precise, effective and operational. A call was made to address the remaining agreement specific proposals prior to July 2006. For developing countries, tangible development outcomes in each negotiating area and in the overall outcome remain the *raison d'etre* of the Round. The scaling back of the level of ambition for the Hong Kong Ministerial Conference should not lead to a reduction in the level of ambition of the development objectives of the Doha Round. The priority development benchmarks for the G-90 were stated as follows:
    - Improved market access for products of export interest to G-90 Members;
    - Obligations to be undertaken by G-90 Members should be commensurate with their respective levels of development;
    - Ensuring balanced rules that provide developing countries the policy space to pursue development policies most suited to their needs;
    - Increased financial assistance (in the form of grants and concessional loans) for countries to address adjustment costs and diversify their exports. There should be greater provision of technical assistance to address competitiveness issues and supply constraints. The aid for trade programme should be comprehensive and holistic in nature (without being conditional upon the adoption of increased liberalization commitments) focusing on supply-side constraints. Thus it is imperative to agree in Hong Kong to develop an aid for trade package by July 2006.
- For LDCs, developed countries and developing countries in a position to do so, should enter binding commitments on duty-free and quota-free market access to all products from all LDCs to be granted and implemented immediately, on a secure, long term and predictable basis, without restrictions. LDCs, small and vulnerable economies should be exempt from tariff reduction commitments, and there should be a moratorium by developed countries on taking contingency measures, such as, anti-dumping actions againts LDCs' exports. LDCs should

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[25] Available online at http://www.acpsec.org/en/declarations/g90_declaration_e.pdf

[26] Other relevant Declarations by the various G-90 Member-groupings include the Declaration on the 5th Ministerial Conference of the WTO (WT/MIN(03)/4); the G-90 common negotiating position in Cancun set out in the Consolidated African Union (AU), ACP and LDC Position on Agriculture (WT/MIN(03)/W/17), Non-Agricultural Market Access (WT/MIN(03)/W/18), Development Issues (WT/MIN(03)/W/20), and on the Singapore Issues (WT/MIN(03)/W/19). These documents are available online at www.wto.org

receive support to address supply constraints and to meet SPS and other standards.

- A call on the WTO to address the special problems of small economies and landlocked developing countries.
- With respect to sector-specific initiatives:
    - A call was made to totally eliminate export subsidies for cotton by 31 December 2005 and substantially reduce domestic support through phases ending in January 2009. Moreover, Member countries should provide improved market access for cotton, an emergency fund and technical assistance in favour of African cotton producers and exporters to support the sector and contribute to value addition.
    - Concerns were raised with the EU's response to a WTO arbitration award,[27] which was to announce a new single tariff as of 1 January 2006 that would seriously threaten the existence of ACP banana industries. Members would aim to ensure that the 'treatment' given to ACP bananas will ensure the continued sustainability of ACP banana exports.
    - The disproportionate burden of EU sugar reform falling on the ACP sugar suppliers was heavily criticized. Sugar should be classified as a sensitive product and the lowest possible tariff cuts implemented in instalments over 8 years.
    - G-90 countres should be allowed flexibility to utilize fisheries subsidies to promote and enhance their under-developed fisheries industries (especially with respect to artisanal and small-scale fisheries).
- The conduct of NAMA negotiations should be sensitive to the developmental needs of the G-90 countries. The negotiations on tariff reductions should be based on bound rates and less than full reciprocity as an ambitious formula with drastic cuts would place a serious strain on the industrialization efforts of the G-90 countries. A sectoral approach on products of export interest to the G90 would simply accelerate the erosion of preferences, therefore the modalities should contain appropriate flexibility to mitigate this problem and there should be special treatment for products that are likely to be affected by preference erosion. The negotiations need to address non-tariff barriers, (including, technical barriers to trade, rules of origin, anti-competitive market structures). Members should provide immediate and binding duty and quota free market access for all products from LDCs on a secure, long-term and predictable basis, without any restrictive measures.
- The G-90 re-affirmed its commitment to progressive services liberalization in line with the principles of GATS Articles IV and XIX:2, the GATS negotiating guidelines and the modalities for the special treatment of LDCs.[28] The services negotiations modalities and the request-offer approach should be maintained and the G-90 rejected all new modalities, be they plurilateral approaches to the negotiation or other complimentary or benchmarking approaches as these undermine the principles and objectives of the GATS.

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[27] WTO Document WT/L/625. Available online at www.wto.org

[28] WTO Documents TN/S/13 and S/L/93 respectively.

- Concern was raised about the lack of progress in finding a permanent solution through amendment of the TRIPS Agreement to enable countries with no or insufficient manufacturing capacity to access pharmaceutical products and affordable prices.
- A call on WTO Members to address the crisis that persists due to instability and the secular decline in commodity prices (see Arusha Declaration).
- The negotiations on rules should recognize the principle of S&DT and integrate flexibilities for developing countries in the final outcome. This includes avoiding unnecessarily complex rules on anti-dumping and countervailing duties which would prove difficult for developing countries to implement and enforce (noting that many G-90 countries do not yet have in place any anti-dumping or countervailing legislation).
- A call for the revision of the GATT Article XXIV (dealing with regional trading arrangements) so as to explicitly include S&DT and asymmetry. Improvements and clarifications to disciplines on RTAs should take into account differing levels of development and should address *inter alia* the meaning of 'substantially all trade' and transitional time frames having regard to developing countries interests.
- The WTO Working Group on Trade, Debt and Finance was called upon to review relevant WTO Agreements with a view tro examining their causal relationship with *inter alia* the problems of financial instability, exchange rate volatility and external indebtedness.
- The negotiation process, preparatory meetings of the Hong Kong Ministerial and the outcome should be transparent and inclusive.
- Concern was expressed concerning the slow and onerous process of WTO accession. The G-90 called on the Ministerial Conference to review the Decision on the Accession of LDCs *inter alia* enabling acceding LDCs to benefit from existing S&DT provisions and those to be developed in the future. Provision should be made for targeted technical assistancefor acceding developing countries in order to address the costly and complex accession process.

Having noted the above expectations and concerns of the African and other developing countries going into the Hong Kong Ministerial Conference, the key question, is to what extent did the Ministerial meeting meet these expectations?

What happened in Hong Kong?

Some insights into the Ministerial process

In terms of process, WTO ministerials can only be described as 'chaotic', with thousands of delegates running from one meeting room to the next, conducting technical consultations, media briefings, consulting amongst the various country groups, and a great deal of confusion as to what is the latest news, whether positions have changed, rumors of a deal and countless meetings on the sidelines between countries and also between country-delegates and interest groups. At the same, at an adjacent venue, there were thousands of NGO delegates engaged in thematic seminars and also trying to keep abreast and influence, where they can, the formal negotiations in the Ministerial meeting. The formal negotiations themselves carry on into the early hours of the morning. In the past, restricted 'green room meetings' involving a few select countries were criticized by some developing countries, civil society and NGOs for lacking transparency and inclusiveness in the negotiating and decision-making process. Moreover, this process was divisive and attracted suspicion from those Members not included in the green rooms. It was, therefore, without doubt that a result achieved through such a process attracted some disaffection from Members who felt excluded.

The Hong Kong Ministerial Conference witnessed a break from this tradition as the WTO Director General, Pascal Lamy, and the Chair of the Ministerial Conference, Mr John Tsang of Hong Kong, China, who both played a pivotal in the meeting, were mindful of previous criticisms and strived to ensure a bottom-up approach. The actual negotiations themselves took place through a green room-type process—which was referred to as the 'Chairman's Consultative Group' (CCG), comprising about 30-40 delegations representing all Members' alliances and interest groups. The CCG met in regular sessions, first to discuss issues of process and subsequently focused on substance. Developing countries were represented by the G-20[29] at the CCG which provided feed-back on the latest developments on a daily basis to their coalition partners.[30] Daily Heads-of-Delegations meetings were also held by the Chair (and his facilitators)[31] in order to receive reports from Members and to establish areas where progress had been made or was lacking. In this way, all Members were able to stay abreast of developments in the Ministerial Conference as they unfolded. There was also a greater amount of time allowed for Members to analyse the draft text as it evolved, although this grew increasingly less so in the final stages of the meeting.

Interestingly, the Hong Kong Ministerial Conference also witnessed the emergence of a 'grand-coalition'known as the G-110, consisting of the G-20; G-33; G-90; the African Group; LDCs and the ACP. Despite the initial enthusiasm that greeted the establishment of the group, its constituents were sober enough to realise that there were inherent and

[29] The G-20 came to the fore at the Cancun Ministerial meeting spear-headed by Brazil and India. The Group set up to put pressure on the major developing for ambitious agricultural reform, whilst maintaining some flexibility for developing countries. For a description of the other country groupings in the negotiations and their membership see:
http://www.wto.org/english/thewto_e/minist_e/min05_e/brief_e/brief25_e.htm

[30] Other key players at the CCG were Mauritius (on behalf of the ACP countries), Zambia (on behalf of LDCs), Egypt (on behalf of the African Group), Jamaica, Ghana, Barbados, Nigeria, Guyana and Kenya.

[31] Six Ministers were invited to act as facilitators that would assist the Chair by meeting with Members on their respective negotiating issues, and attempt to establish areas of emerging consensus and those that remained problematic. The facilitators were expected to provide Members with a chance to air their views and to ensure transparency and inclusiveness. The six facilitators were: Non-agricultural market access (NAMA) – Commerce Minister Humayun Khan of Pakistan; Agriculture – Trade and Industry Minister Mukhisa Kituyi of Kenya; Development issues – Foreign Trade and International Cooperation Minister Clement Rohee of Guyana; and Trade Minister Hyun Chong Kim of Korea, Foreign Minister Jonas Støre of Norway, and Foreign Minister Ignacio Walker of Chile whose remit was to assist on services, rules and other issues.

contradictory tensions among them, especially with respect to the question of preference erosion and S&DT.

In many ways the present Round is far more complicated the ever before. The WTO membership has swelled to 150 with the recent accession of Saudi Arabia and Tonga. Having 150 countries (represented by some 6000 delegates) engaged in negotiations in Hong Kong, and the fact that decisions have to be taken by consensus, meant that all Members—some seemingly poles apart—had to be sufficiently satisfied with the proposed text to agree to move forward with the round. In this sense, whatever progress forward, however small, is considered as helpful.

A fair assessment of the Hong Kong Ministerial Conference is that it provided a 'modest but significant step in the current trade negotiations'.[32] Some observers of the Ministerial Conference feared that it would collapse as happened previously in Cancun. However, these fears did not materialize as delegates were concerned that a repeat collapse like that which occurred in Cancun would not bode well for the system. Indeed this might have dealt a fatal blow to the Doha Round itself. In particular, developing countries that had already been blamed for the collapse of the Cancun meeting did not want to be responsible for a second collapsed Ministerial Conference.

There was always an indication in Hong Kong that a 'deal' would be reached. The only question was, to what extent the final agreement would meet Members' expectations.[33] A proper analysis of the Hong Kong Ministerial Conference requires that one trace the events in the months leading up to the meeting which witnessed some frantic activity in Geneva as Members, in particular the major developed countries, tried to inject some impetus into the negotiating process. In the case of agriculture, both the EU and the United States put forward proposals on all three pillars of domestic support, market access and export competition. These proposals were criticized by some for offering too little on substance in terms of reductions in subsidies and trade barriers. Developed countries, in particular the EU, were criticized for pursuing increased market access in developing countries for their non-agricultural products and services yet putting little on the table in return.

In the case of NAMA, the negotiations stalled over differences on the type of formula to be used for tariff reductions and the nature of the flexibility to be extended to developing countries. In particular, many developing countries remained opposed to a simple Swiss[34] or non-linear formula that would result in sharp tariff reductions on industrial goods in

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[32] Fautrel, V. 2006. **Key Agricultural Trade Issues for ACP Countries: The Way Forward After Hong Kong**. Available online at http://agritrade.cta.int/Article%20post%20HK%20long_final_EN.pdf last viewed 14/02/06. See also Financial Times, 19/12/05. **Tentative Steps Forward Seen as Better Than None at all**.

[33] Martone, F. 2005. **An Assessment of the Outcome of the Hong Kong 6th WTO Ministerial Conference: Contradictions, Paradoxes and Opportunities for Social Movements**. Available online at http://www.europe-solidaire.org/article.php3?id_article=1184 last viewed 13/02/06.

[34] The Swiss formula has been advocated by the major developed countries (in particular , the ES and the EU), with some support from a number of developing countries, particularly from Latin America. Its application results in steeper cuts for higher tariffs, typically those in developing countries.

developing countries which have higher tariffs. In the case of trade in services, developed and developing-country Members had earlier traded accusations over the quality of offers and as to who needed to do what to improve the quality of offers. Developed countries were particularly dissatisfied with the quality of developing countries' offers. Proposals by the EU sought to depart from the bottom-up approach provided for in the GATS, towards a new negotiating approach of 'benchmarking' and identifying minimum sectoral commitments. Naturally, developing countries did not take too kindly to this proposal.

Delegates at the Ministerial Conference were slow to enter into meaningful discussions. Even as the negotiations began in earnest, Members struggled to move beyond long-established positions or beyond thresholds of what domestic reforms already entailed. The resulting Declaration, which was meant to provide guidelines for the next phase of the negotiations, contained a number of vague provisions and ambiguities.[35] A compromise agreement was eventually reached after the major developing countries Brazil and India threw their support behind it.

Agriculture (Paras 3-10)

For some, the major highlight of the Declaration[36] was the announcement in Para 6 of an end date for export subsidies, which the G90 had called for in their own communiqué just prior to the start of the Ministerial Conference.[37] In terms of Para 6 of the Declaration, Members agreed to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect by the end of 2013. This provision has however been criticized as a hollow victory. The date is later than what developed countries had called for—an end to export subsidies by 2010; and for the EU this could hardly be regarded as a 'concession' given that the date is consistent with its internal reforms. Moreover, export subsidies constitute a small part of the farm support provided by developed countries to their producers (less than 4% of EU farm support) which results in dumping. It will be interesting to observe whether the major developed countries attempt to backload implementation of this obligation, for example, as happened in the case of the WTO Multi-Fibre Agreement.

Para 7 affords developing countries the flexibility to self-designate an 'appropriate number' of tariff lines as special products and will also have the right to have recourse to a special safeguard mechanism. Although it is not immediately clear what will constitute an 'appropriate number' (this is to be negotiated in Geneva), these are steps in the right direction. A further step in the right direction, which admittedly attracted little controversy, is the retention of the *de minimis* subsidy of the developing countries (10%

[35] See Financial Times, 19/12/05. **WTO Deal Fails to Heal Rifts**.
[36] WTO Document No. WT/MIN(05)/DEC.
[37] See Oxfam International. 2005. **What Happened in Hong Kong? Initial Analysis of the WTO Ministerial**. Available online at http://www.oxfam.org/en/files/bp85_hongkong/download. Last viewed 18/02/06. See also IATP. 2006. **Breaking Out of the Mould: Reflections on the WTO Ministerial Conference in Hong Kong**. Available online at http://lists.iatp.org/listarchive/archive.cfm?id=117088 Last viewed 20/02/06.

of the value of production in the case of a product-specific subsidy and another 10% of the value of total agricultural production in the case of non-product specific subsidy). However, this provision may well prove to be of little value to many ACP countries given that few of them have the financial resources to pay their farmers subsidies up to these levels.

The language on domestic support is ambiguous (and particularly weak in addressing dumping and closing loopholes that allow this practice) but nonetheless more strengthened than some of the proposed wording before the meeting. Hopefully this will enable tighter disciplines on the infamous blue box measures often relied upon by developed countries. There will be three bands for reductions in Final Bound Total Aggregate Measure of Support (Para 5) (this was the position favoured by some of the major developed countries that rely heavily on domestic support) and in the overall cut in trade-distorting domestic support, with higher linear cuts for higher bands. The G-20 was in favour of four bands which would have resulted in deeper cuts. There are, however, no details provided on certain items of concern, namely, cuts to domestic support programs, blue box, amber box cuts and limits. Moreover, the problem of box-shifting, whereby the major developed countries have shifted some of their subsidies that are subject to reduction to the green box, has not been addressed. No mention is made of any elimination, reduction, standstill or capping of this practice. There is, therefore, still some way to go before it can be certain that the Round will provide an impetus of domestic reform in the major developed countries. Developing countries without AMS commitments will be exempt from reductions in *de minimis* and the overall cut in trade-distorting domestic support.

The majority of the work on agricultural issues remains to be done, before a very improbable deadline of 30 April 2006, within which Members have to establish modalities (Para 10) and submit comprehensive draft schedules based on these modalities by 31 July 2006. Thus far, various meetings after the Hong Kong Ministerial Conference have been unable to make progress in defining thresholds for the tariff reduction formula. At a G6 meeting in London (11-13 March, 2006) involving the EU, Australia, Brazil, India, the United States and Japan, the G20 proposal (which proposes 4 bands[38]) was used as a basis for discussion. However, the EU proposed a different formula,[39] and so far a comprise has proved elusive. The United States and the EU were unable to agree on mandatory cuts for amber box support with the two sides not moving from demands of 80% and 65% respectively. The United States also rejected EU proposals to define additional criteria for blue box support. On sensitive products, there is disagreement among Members on the percentage of tariff lines that would qualify as sensitive products, the types of product to be covered and their treatment, numbers notwithstanding. The EU has rejected calls to revise down its proposal that would enable each Member to define 8% of tariff lines as sensitive products. Finally, the EU, India and Brazil (on one side) and the United States (on the other side) could not agree on a base period for calculating

[38] The four tariff bands would be from (i) 0% to 20%; (ii) 20% to 50%, (iii) 50% to 75%; and (iv) tariffs higher than 75%.
[39] The four bands would be from (i) 0% to 30%; (ii) 30% to 60% and (iii) 60% to 90%; and (iv) tariffs higher than 90%.

domestic support reductions. The former want 1995-2000 to be the base period as this is when greater support was granted and thus higher reduction obligations can result. The United States, on the other hand, wants a base period of 1999-2001 when support had already been reduced, and this will result in smaller additional cuts.

Food Aid (Para 6 and Para 14 of Annex A)

International food aid refers to the provision of food commodities by one country to another, either free of charge or under highly concessional terms, in order to assist the recipient country in meeting its food needs.[40] While it is generally agreed that food aid is essential for humanitarian purposes, disagreements arise on how best to ensure that aid goes to those most in need and does not damage domestic production or cause trade distortions (especially to exports from competing suppliers) in the recipient country. Moreover, aid should not be abused for disposing surpluses in subsidizing countries or as a mechanism to avoid commitments to cut export subsidies.

Negotiations on food aid in the Doha Round offer a unique opportunity to 'disentangle' genuinely responsive food aid from the trade distorting agricultural policies of the major developed countries that affect its effectiveness and efficient delivery.[41] Although there is consensus that commercial displacement needs to be eliminated, within the WTO, Members have so far been unable to agree on a number of issues surrounding food aid. For example, there is no common understanding of what consists of and distinguishes 'emergency food aid' and 'food aid to address other situations'.[42] There is still considerable divergence between the United States and the EU positions on food aid. The United States would like to continue with the status quo under which food aid is exempt from WTO disciplines on export subsidies, while the EU would like to fully untie food aid in parallel with the reduction of other export subsidies.

The Hong Kong Ministerial Conference Declaration reconfirms Members' commitment to ensure adequate levels of food aid and to take into account the interests of food aid recipient countries. A 'safe box' for bona fide food will be provided to ensure that emergency situations can be effectively dealt with. On the other hand, to avoid commercial displacement and continuing export subsidization, disciplines will be

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[40] The aid can be classified into 3 general categories: (i) relief food aid, that is targeted and distributed free of charge to victims of various types of disasters; (ii) project food aid, that is given to improve the nutritional status and development programs of vulnerable groups; and (iii) program food aid, that is supplied directly to a recipient government for sale on its domestic market, subject to type of arrangements with the donor about the management of proceeds from such sales. For a brief background on the history of food aid and the negotiating issues surrounding food aid in the Doha Round see FAO. 2002. **Food Aid in the Context of WTO Negotiations on Agriculture**, Available online at ftp://ftp.fao.org/docrep/fao/004/Y3733E/Y3733E00.pdf last viewed 31/03/06.

[41] For a brief post-Hong Kong analysis of questions concerning food aid see Clay, Edward. 2006. **Food Aid and the Doha Development Round: Building on the Positive**, ODI Background Paper, Available online at http://www.odi.org.uk/wto_portal/post_wto/food_aid.pdf last viewed 01/04/06.

[42] One contentious issue here that has precluded agreement on disciplines on food aid is whether Members should gradually move towards untied, in-cash food aid only in non-emergency situations.

completed on in-kind food aid, monetization and re-exports. Moreover, disciplines will be completed by 30 April 2006 on export credits, export credit guarantees or insurance programs and exporting state trading enterprises. In the resumed post-Hong Kong negotiations in Geneva, the African Group and the LDCs submitted a proposal[43] on food aid disciplines and discussion on this topic during the Agriculture week from 20-24 March 2006 appeared fruitful. Some delegations even expressed optimism that the above-mentioned deadline could be met. The African and LDCs Group propose *inter alia* that the 'safe box' (for which qualifying criteria is provided) will be used for emergency food aid and this shall not be subject to any disciplines. The proposal goes on to classify non-emergency food aid as all food aid that does not fall under the 'safe box' category. Specific disciplines are listed in the proposal for this category of food aid. Lastly, the proposal recognises that transparency is paramount in the operation of food aid, and makes provision for monitoring and reporting requirements (both ex-ante and ex-post) for all non-emergency food aid. It remains to be seen whether these proposals will carry the day.

Cotton (Paras 11-12)

Since the Cancun Ministerial Conference, cotton has been the rallying point for many developing countries and NGOs as it provided a show-piece illustrating the damaging effects of the United States subsidies on West African cotton producers. The United States offered US$7 million towards the West African Cotton Improvement Program, but this is just a drop in the ocean compared to the losses suffered by the West African cotton producers as a result of United States subsidies. The final text of the Ministerial Declaration provides for the elimination of all forms of export subsidies in 2006. Developed countries will provide duty and quota-free market access for cotton exports from LDCs from the commencement of the implementation period. Trade distorting domestic subsidies for cotton production should be reduced more ambitiously than under whatever general formula is agreed for other agricultural products. It has been observed that these provisions reflect in part what the US, for example, is obliged to undertake, following the Appellate Body decision in *US-Upland Cotton.* The US was able to use this as a bargaining chip, whereas in reality it was not in fact offering a concession here.

While the elimination of export subsidies is welcome, these only constitute a fraction of US subsidies for cotton. It is US domestic support for cotton that has been most problematic and damaging for West African producers by depressing world prices. Yet the language in the final text on domestic subsidies is much weaker than that concerning export subsidies. A true development outcome on cotton would have seen much tighter language on the reduction of domestic support for cotton as well as meaningful provisions on compensation to be provided to affected cotton producers in Africa. As far as duty and quota free market access is concerned, this does not carry much value (at present) for the West African cotton producers since they do not export cotton to the US. During the Hong Kong Ministerial Conference, the United States' Trade Representative

[43] See Joint Submission by the African and LDC Groups on Food Aid. WTO Document No. TN/AG/GEN/13 (6 March, 2006).

(USTR) argued that the West African cotton industry could realise greater gains if it focused on improving competitiveness, and he cited some figures to support his claims. This is something the West African would do well to take to heart and explore various opportunities for obtaining technical assistance to improve their supply, efficiency and the quality of their product.

One notable development since discussions on cotton resumed in Geneva has been the submission by the C4 of a proposal[44] intended to put into practice Members' agreement in the July Package to treat cotton "ambitiously, expeditiously and specifically"[45] and also to operationalize the objectives that were agreed to at the Hong Kong Ministerial Conference.[46] The proposal also aims to contribute towards the search for a mechanism to deal with income declines in the cotton sector until subsidies are removed.[47] The proposal deals with "modalities", particularly, on how domestic support would be cut. It contains a formula that suggests greater cuts in cotton subsidies than is the case for agriculture as a whole. Such cuts would be even larger if the final agriculture cuts are modest. The proposed time-frame for making the cuts would be one third the time for agriculture as a whole. The proposal also suggests additional disciplines on blue box subsidies on cotton. Although several Members, including the EU[48] supported the proposal, the United States poured cold water on it. The United States contends that cotton should be discussed after the agriculture "modalities" are agreed, and that the proposal by the C4 prejudges the outcome for agricultural subsidies as a whole, and diverts attention from them. According to the United States, negotiators cannot discuss questions on "how much more ambitious" cotton will be before the overall cuts are agreed. Additionally, the United States objected to the fact that a lower ambition in general would lead to a wider gap between the cuts in agriculture and cotton. This would not result in a successful outcome as ambitious results in cotton could only be achieved as part of ambitious results for the agriculture negotiations as a whole.

Non-Agricultural market Access (NAMA, Paras 13-23)

NAMA deals with tariffs on manufactures, fisheries and mining and has been one of the contentious areas of the Doha Round. Although recognizing that negotiations entail some level of concessions on both sides, developing countries have always been concerned that overly drastic tariff cuts will leave their fledgling manufacturing industries exposed to

[44] See WTO Document No. TN/AG/SCC/GEN/4 (1 March, 2006), Available online at http://docsonline.wto.org/DDFDocuments/t/tn/ag/SCCGEN4.doc last viewed 02/0406. Although first tabled in early March 2006, Members only discussed the substance of the document at a meeting of the cotton sub-committee on 27 March, 2006, after they had time to study the proposals.

[45] Para 4 of Annex A to the July 2004 Framework Agreement.

[46] See WTO News Item. 2006. **Mixed Reception for Cotton Four Domestic Support Proposal**, Available online at http://www.wto.org/english/news_e/news06_e/cotton_27march06_e.htm last viewed 02/04/06.

[47] Para 12 of the Hong Kong Decision.

[48] The EU suggested that the proposal should go beyond domestic support and include the other two pillars of the agriculture negotiations, namely, export competition and market access. The EU also suggested that the developed countries' commitments to provide duty and quota-free access for cotton products should be extended to imports from all developing countries, not only the least developed. *Ibid.*

cheap imports. Thus, if not properly managed, the liberalization of non-agricultural products can easily lead to the decimation of certain industries. As mentioned earlier, after the July Package, there was already tension amongst Members concerning the type of formula to be used for cutting industrial tariffs. A newly established group of developing countries, the G-11, spearheaded by India, South Africa, Brazil and others, worked to maintain flexibilities for developing countries, while trying to limit tariff peaks and escalation by developed countries.

Ultimately, a Swiss Formula was adopted (Para 14), with coefficients at levels that will *inter alia* reduce or eliminate tariffs, tariff peaks and escalation, especially on products of interest to developing countries. This language leaves open the possibility of adopting coefficients that favour developing countries as proposed by Argentina, Brazil and India. It remains to be seen how this issue will be resolved in Geneva. The special needs of developing countries must also be taken into account, including, through less than full reciprocity in reduction commitments. However, the full details of the extent of 'less than full reciprocity' are still to emerge (Para 15). Para 16 recognizes that Members are pursuing sectoral initiatives with respect to certain industrial sectors (for example, forestry products, electronics, chemicals, textiles, garments, and fish products). Although the major developed countries have a key interest in these initiatives, participation is not mandatory.

The language on the problems faced by beneficiaries of non-reciprocal preferences is weak (Para 20), and only provides for the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions. The text on NAMA has left many developing country observers dissatisfied, and long-standing fears over the danger of liberalization leading to de-industrialization have not yet been allayed.

Negotiations on NAMA have since resumed in Geneva. Discussions have focused on flexibilities for developing countries,[49] the link between agriculture and NAMA negotiations, non-tariff barriers and sectoral initiatives. However, the two most important and controversial aspects of the NAMA negotiations—the tariff-reduction formula, and the treatment of unbound tariffs—did not receive much attention when negotiations resumed in February 2006. Of particular concern to the ACP countries is that they should be better organized and equipped to be in a position to undertake various simulation exercises so that they are able to understand the full implications of variations of formulae and coefficients that are being proposed on their respective tariffs and those of other Members. Thus far, this effort has been patchy and uncoordinated at best. This is in stark contrast to the major developed countries (and some of the major developing countries) that have been organizing such simulations since meeting at the Davos Mini-Ministerial in January 2006.[50] The major developed countries have suggested that the

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[49] Some of these flexibilities are highlighted in a submission from a number of developing countries to the Negotiating Group on Market Access. See WTO Document TN/MA/W/65, 8 November, 2005. Available online at www.wto.org

[50] To view two papers from the Davos Mini-Ministerial on the methodology to be used in the simulations on Agriculture and NAMA see http://www.tradeobservatory.org/library.cfm?refid=78541 and for sensitive

implementation of two coefficients would cater for the S&DT needs of developing countries.[51] However, this would only be true where there is a major difference between the two coefficients.[52]

Services (Paras 25-27)

Observers close to the negotiations process in Geneva just prior to the Ministerial Conference criticized the 'abuse of process' that took place as an Annex which many developing countries had rejected, re-emerged in Hong Kong (Oxfam, 2005: 14). Alternative proposals for Annex C on services by the G-90 and ASEAN were seemingly not taken into account although this did help to dilute some of the contentious provisions. Para 6 of Annex C recognizes that the bilateral request-offer principle will remain the main method of negotiation for services commitments. However, plurilateral negotiations are also included (Para 7 of Annex C) as a possibility and Members will be obliged to 'consider' any plurilateral requests received (Para 7(b) of Annex C). This obligation to consider has also been criticized by some commentators as weakening the original GATS flexibilities. In terms of Para 26, LDCs are not expected to undertake new commitments.

In terms of time frames, Para 11 of Annex C requires that:

- Members shall submit outstanding initial offers as soon as possible;
- Plurilateral requests shall be submitted by 28 February 2006 or as soon as possible thereafter;
- A second round of revised offers shall be submitted by 31 July 2006; and
- Final draft schedules of specific commitments shall be submitted by 31 October 2006.

Although the introduction of these deadlines tries to add some impetus to the market access negotiations on services, it hardly seems possible that the few months provided by the Declaration will be sufficient for some developing countries to submit offers on time. Moreover, many developing countries are still busy with impact assessments, review of sector regulations and other preparatory work in order to fully understand their offensive and defensive interests, as well as the implications of past and future liberalization on their services sectors.

Following the resumption of the negotiations on services in 2006, the major developed countries, together with a number of developing countries, commenced plurilateral

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products see http://www.tradeobservatory.org/library.cfm?refid=78542 In agriculture, the G-20 proposal is being used as a basis while in NAMA, coefficients of 2-15 are being used for developed countries and coefficients of 15-40 are being used for developing countries.

[51] See Third World Network. 2006. **Plenty of Questions as NAMA Negotiations Resume**. 27 February, Available Online at http://www.twnside.org.sg/title2/twninfo367.htm last viewed 18/03/06.

[52] For a further analysis of some of the difficulties currently confronting the negotiators on NAMA since they resumed in 2006 see Third World Network. 2006. **Divergences Between Developed and Developing Countries at NAMA Talks**, 2 March, Available Online at http://www.twnside.org.sg/title2/twninfo368.htm

negotiations.[53] The plurilateral negotiations represent a novel approach to the negotiations aimed at ensuring greater services commitments from Members, in particular, developing countries. On 28 February, collective requests relating to at least eight sectors were presented by OECD countries[54] (and a few advanced developing countries such as Chile, Hong Kong, India, Korea, Mexico, Pakistan, Peru and Singapore) to "requested members".[55]

A typical collective request makes demands on about 20 to 25 Members,[56] targeting sectors such as finance, telecommunications, construction, energy, environment services, computer and related services, maritime transport and architectural and engineering services. All requests involve far reaching demands, especially for the Modes 1, 2 and 3. On Mode 3, Members are typically requested to permit maximum freedom to foreign firms and operators to engage in trade and investment, and afford them national treatment. The challenge now facing the ACP countries is how to address these fresh efforts at gaining entry into their services markets by developed countries.

Aid for Trade (paras 48-51, 57)

It has long been recognized that developing countries, including many ACP countries, face numerous challenges related to supply, competitiveness and efficiency that result in their inability to use trade as an engine of economic growth. In addition, fresh concerns have emerged with respect to costs arising from liberalization. These include preference erosion for the ACP countries and some net food importers are concerned about rising food prices as subsidies are gradually phased out. As an example, the GSP system and the EU's Everything But Arms Initiative were meant to increase ACP exports to the world market. However, the supposed beneficiaries have struggled, even with full market access, to access OECD markets.[57] For the ACP countries with a strong interest in

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[53] For an analysis of some of the developments following a resumption of the talks on services see Third World Network. 2006. **WTO's Plurilateral Requests Aim at Maximum Opening of South's Services**, 3 March, Available Online at http://www.twnside.org.sg/title2/twninfo366.htm last viewed 18/03/06.

[54] These requests were made by groups of WTO Members known as "interested parties" or "Friends" of particular sectors.

[55] However, the US and the EU separately announced a total of 14 sectors in which they are participating as interested parties. The US requests also cover sectors such as education and audiovisual services that the EU request does not. According to the USTR, the collective requests aim to achieve the removal of limitations on foreign investment; restrictions on the form of establishment; limitations on cross-border supply; nationality requirements, discriminatory regulatory practices and restrictions on competition (e.g. those that affect market entry). See further Third World Network. 2006**. Plurilateral Services Requests Made WTO in 14 or More Sectors**, 28 February, Available Online at http://www.twnside.org.sg/title2/twninfo365.htm last viewed 15/03/06

[56] These typically include, Argentina, Brazil, China, Egypt, India, Indonesia, Malaysia, Morocco, Nigeria, Pakistan, Philippines, South Africa and Thailand.

[57] For example, Norway has granted fairly generous preferences across most product lines since 1996, and has granted 100% market access, a zero tariff, no quotas, exceptions or transitional periods from July 2002. However, very few imports have resulted from the intended beneficiaries, despite deliberate efforts with export lines, alliances with import and marketing companies etc. See comments by Hilde F. Johnson, former Minister of International Development, Norway. **Aid for Trade: What kind of commitments should be made? Specific linkages between aid and liberalization commitments?** Available online at http://www0.gsb.columbia.edu/ipd/pub/Johnson_Reaction.pdf

agriculture and fisheries, this points in part to difficulties with meeting EU product standards that need to be addressed.

Despite the recently rising profile of aid for trade in the negotiations agenda, there are no easy solutions. Facilitating increased supply responses and exports from developing countries, as well as enabling them to penetrate foreign markets competitively (especially those of developed countries) takes time. Aid for trade hopes to address some of these concerns through the provision of and assistance with production capacity, technical assistance, capacity building, institutional reform, infrastructure (physical and institutional) and assistance with adjustment costs.[58] This is a lengthy process, which requires a coherent and coordinated partnership between the donor community and various trade capacity-building organizations. The above interventions are also linked to governance issues, multi-stakeholder involvement, efficient and effective delivery mechanisms (with minimal transaction and implementation costs) and trade-related policy reform in individual countries. Moreover, these interventions must be based on a nationally owned coherent strategy to facilitate increased trade, within which framework donors can provide the required assistance.

Paras. 48-51 of the Decision continue to attach high priority to the effective implementation of the Integrated Framework (IF).[59] A Task Force has been established by the Integrated Framework Working Group (which includes the IMF and World Bank) to assist with measures for developing supply capacity in developing countries and addressing constraints. The ACP needs to continue to be at the fore of discussions on how aid for trade can be conceptualized, put into operation and on the modalities of implementation.[60] Key considerations include the funding extent and funding mechanisms, identifying and defining the types of needs that require support, and the beneficiaries of such support.

In terms of funding, Japan, the US and the EU announced plans to spend US$10 billion, US$2.7 billion and €2 billion, respectively, up to 2010 on aid for trade grants, production and infrastructure. Many developing country observers have chosen to treat pledges of financial assistance by developed countries in this area with suspicion. Is it new money or simply a re-incarnation of old pledges? What conditions are being attached to this aid? A further question is how to secure new funds, but in a non-debt creating manner.

[58] Adjustment costs should be distinguished from 'conventional' aid for trade in that this refers to losses (which are compensated through aid) incurred as a result of the negative effects of trade rules or even the implementation of new liberalization commitments. See Nielson, J. 2005. *Aid for Trade*, in **Trade, Doha and Development: A Window into the Issues**, Richard Newfarmer (Ed), World Bank, Washington, DC.

[59] According to its website, the Integrated Framework for Trade-Related Technical Assistance to LDCs "is a multi-agency, multi-donor program that assists the least developed countries to expand their participation in the global economy whereby enhancing their economic growth and poverty reduction strategies…" See www.integratedframework.org

[60] On March 21-22, 2006, the Commonwealth Secretariat and UNCTAD jointly hosted a meeting for senior trade officials from developing countries and LDCs in Geneva to share views and expectations of the Aid for Trade initiative based on individual country experiences. To view presentations and papers from the meeting visit http://www.unctad.org//Templates/meeting.asp?intItemID=2068&lang=1&m=11650 (last viewed 28/03/06).

Moreover, developing countries are against any notion of aid being tied to their making concessions on market access. The involvement of the IMF and World Bank, both with a penchant for conditionality, has further fuelled these concerns. Developing countries also recognize that the aid for trade initiative is a complement and not a substitute for the development benefits that they should accrue from a successful conclusion of the Doha round.

In terms of the mechanism for future disbursement of aid for trade, it has been suggested to either build on already established mechanisms such as the IF[61] or alternatively, to establish a new mechanism (a possible World Trade Fund) with a specific mandate to support trade facilitation. Ultimately, there should be various options open to the beneficiaries of aid for trade depending on an individual country's circumstances. Finally, discussions and arrangements for an appropriate aid for trade mechanism must run in parallel to and be completed before the other negotiations in the Doha work programme. Otherwise, absent a satisfactory aid for trade mechanism, the ACP could well consider blocking any final consensus due to lack of commitment from more advanced Members and donors to provide the necessary trade-related assistance.

A Permanent Solution to TRIPS and Public Health? (Para 40)

Paras 17 of the Doha Declaration mentions the need to ensure that the TRIPS Agreement is interpreted in a manner that is supportive of public health, by promoting both access to existing medicines and research and development into new medicines. In Para 18 of the same Declaration, Members agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. On 6 December 2005, the WTO General Council approved an amendment to the TRIPS Agreement[62] thereby making permanent the waiver[63] that was adopted in August 2003[64] concerning the supply of generic pharmaceutical products to countries that lack adequate manufacturing capacity.[65] The amendment consists of a TRIPS Article 31 "*bis*", an annex and an appendix to the annex. Once two-thirds of the WTO membership have ratified the amendment, it will become

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[61] There is some opinion that the IF has not delivered as expected and a Task Force is currently working on recommendations, expected in April 2006, on how to strengthen and improve the IF in terms of decision-making, its management structure and creating more predictable, multi-year funding arrangements.

[62] WTO Document No. WT/L/641 (8 December, 2005)

[63] The General Council decision waives provisions of Article 31(f) of the Trips Agreement subject to certain conditions. It enables countries with production capability, to export drugs made under compulsory licence to countries that cannot manufacture them.

[64] WTO Document No. WT/L/540 (1 September, 2003).

[65] For a synopsis of the history surrounding this issue see **WTO Background Briefing Note**. Available online at http://www.wto.org/english/tratop_e/trips_e/health_background_e.htm last viewed 16/02/06, See also Avafia, Tenu. 2005. **TRIPS and Public Health: The Unresolved Debate**, Tralac Trade Brief No. 2. Available online at http://www.tralac.org/pdf/TB2Tenu_Avafia_Web.pdf and Avafia, Tenu. 2005. **The WTO Negotiations on Intellectual Property: Implications for Developing Countries Moving into Hong Kong**, paper prepared for the tralac and Commonwealth Secretariat *Africa Regional Workshop on WTO Negotiations*, 31 August – 2 September, Cape Town. Available online at http://www.tralac.org/pdf/20050830_WTO_negotiations_on_Intellectual_Property.pdf last viewed 25/03/06.

formally entrenched in the TRIPS Agreement. A date of 1 December 2007 has been set as the deadline for this ratification, and the waiver remains in force until then. Achieving an agreement on the amendment before the Ministerial Conference was crucial to prevent the TRIPS and public health issues from diverting Members' attention from other equally challenging areas of the negotiations.

What was the developing countries' perception of this particular outcome? Although developing (including African) countries were generally said to have submitted to the deal,[66] the amendment was, however, criticized by many civil society activists who argue that the procedural requirements remain too cumbersome and impractical making it very difficult if not impossible to operationalize the amendment.[67] Objections were raised to a statement read by the Chair of the General Council, as it was considered to add more cumbersome procedures and obligations to those that already existed. Critics questioned the wisdom of making permanent a mechanism (the 30 August 2003 waiver) that has so far proved ineffective and cumbersome, and is untested in practice. The amendment waives the limitation that compulsory licenses must be predominantly for the supply of the domestic market where pharmaceuticals are being exported to countries that lack production capacity. An Annex contains the terms for using the system, including issues such as notification, avoiding diversion to the wrong markets, provision of annual reviews to the TRIPS Council and developing regional systems to enable economies of scale. The appendix to the Annex makes provision for evaluating lack of manufacturing capability in an importing country. The above-mentioned criticisms are not easy to ignore. It therefore, remains to be seen, whether the Amendment, once it becomes permanent, will be more effective as compared to the temporary waiver.

The Accession of Tonga (Para 59)

On 15 December 2005, Tonga, a small and vulnerable island economy, became the 150th Member of the WTO after it successfully concluded its accession negotiations (the Working Party on Tonga's accession had been established in November 1995). The accession negotiations in the WTO have been criticized in the past, especially by NGOs, for not allowing developing countries that are negotiating accession to rely on S&DT. The major developed countries are known to exact heavy concessions as the price of accession. For example, consider the case of the Kyrgyz Republic and Moldova—two very low income countries that had to make services (GATS) commitments, far in excess of anything even some OECD members undertook. It is argued that where poor countries are involved, the role of accession negotiations should be more to ensure a smooth transition for these countries into the multilateral system, rather than exacting heavy

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[66] See Intellectual Property Watch. 2005. **African Countries Ready to Accept TRIPS and Public Health Deal**. Available online at http://www.ip-watch.org/weblog/index.php?p=166&res=1280_ff&print=0 last viewed 15/02/06.

[67] See TWN. 2005. **WTO Approves 'Permanent Solution' to TRIPS and Health**. Available online at http://www.twnside.org.sg/title2/twninfo321.htm last viewed on 15/02/06. See also Medecins Sans Frontieres (MSF). 2005. **Amendment to WTO TRIPS Agreement Makes Access to Affordable Medicines Even More Bleak**. Available online at http://www.msf.org/msfinternational/invoke.cfm?objectid=01C9A49A-E018-0C72-0921F0EF4A3E9D16&component=toolkit.article&method=full_html last viewed 20/02/06.

concessions. There is indeed, some merit in calls by the G-90 and other developing countries that Members should refrain from placing onerous demands on poor countries in the accession process.

Under its accession terms on NAMA, Tonga committed to lowering trade barriers and expanding market access for foreign goods over a one year period. By 1 January 2007, all tariff lines will be bound at 15 or 20 per cent. This is very low compared to other developing countries. Moreover, on services, Tonga also made fairly extensive commitments, including in sectors such as health, education, financial and telecoms (incorporating the telecoms Reference Paper). This raises questions over implications for access for the poor to affordable services should foreign suppliers decide to compete in the market. The entry of foreign suppliers, in the absence of appropriate regulations can well result in "cherry-picking", crowding out of local suppliers and an increase in the cost of services—formerly supplied by the government or local suppliers. Oxfam described Tonga's accession concessions as 'eye watering' and 'the worst terms ever offered to any country'.[68] Nonetheless, Tongan negotiators tried to pour water on these claims,[69] and countered that the low tariff would reduce the cost of imports for both foodstuffs and equipment, and corruption at the border. What is clear is that Tonga's policy space was severely curtailed by these terms and it remains to be seen what impact these accession terms will have on Tonga's economy and trade.

Conclusion: The road ahead

Despite the fact the Hong Kong Text did not contain much of what the developing countries may have wished for, the fear of a second Cancun-type collapse may have motivated some Members to grudgingly sign up to the deal. Certain provisions that have been trumpeted as positives in the text, however, once subjected to closer scrutiny they are revealed to be nothing more than hollow victories. The end date for export subsidies, is one such example, as is duty and quota-free market access into the United States for the West African cotton producers.

Despite many of the negative or 'empty' provisions, the Ministerial Conference did inject much needed impetus into the negotiations, although many of the hard decisions were postponed to Geneva. Is this necessarily a bad thing?[70] It is submitted here that it is not.

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[68] See South Pacific News. 16 December, 2005. **Tongans Set to Join WTO on Worst Terms Ever, says Oxfam**. Available online at http://www.matangitonga.to/article/spnews/pacificislands/wtoterms161205.shtml last viewed 18/02/06.

[69] See South Pacific News. 19 December, 2005. **Oxfam's Criticism Outrageous, says Tonga's WTO Delegation**. Available online at http://www.matangitonga.to/article/spnews/pacificislands/tongaWTO191205.shtml last viewed 18/02/06.

[70] However, this is not without some criticism. A number of developing countries within the WTO have been critical of the fact that if the direction of the negotiations is dominated by a very small group, then the negotiations become unbalanced and there is a danger of lack of ownership of the process by the majority of the WTO Membership. This could well undermine the legitimacy of any outcome. See http://www.tralac.org/newsletter/04apr2006.html

The Ministerial Conference has become an unwieldly affair. In reality most of the hard bargaining takes place within a relatively small core group of countries that represent the interests of their coalition partners. There is also not much time—especially as the Conference nears its end—to report back fully and solicit all Member's views. Moreover, Members have very little time to scrutinize the draft texts in those final moments. Thus, in our view, Geneva is the best place to continue the more difficult discussions, without too much of the 'political heat' that a Ministerial Conference generates. Even within the Geneva process itself, both before and now after the Hong Kong Ministerial Conference, much of the hard bargaining to push the talks forward takes place in mini-Ministerials and restricted meetings involving a few influential Members.

The political economy setting should not be lost sight off. Events such as the expiry of the US Trade Promotion Authority and presidential elections in some major developed countries could steal some of the steam from the negotiations, if not completely affect, the possibility to conclude the Round. Many developing countries are also engaged in bilateral negotiations, some of which, like the ACP-EU Economic Partnership Agreements (EPAs) will begin gathering steam this year, thereby, further stretching the negotiating resources of some developing counties. As matters presently stand, the round does not score very highly in terms of ensuring that a development element is at the forefront of each of the negotiations. The Director General of the WTO, Pascal Lamy, has noted this repeatedly and urged the major developed countries to make concessions if they are to fulfil their promise to boost the global economy and improve the lives of millions of poor people through trade. It has been explained above that it is proving difficult to move the talks forward. Repeated meetings between the major developed and developing countries, including a mini-Ministerial in February in Davos, a meeting in London from 11-13 March, and most recently a meeting in Rio de Janeiro at the end of March 2006, have failed to yield a significant result and the talks remain in a stalemate.[71] The key Members need to start coming forward with precise numbers on market access for industrial and agricultural goods, and on to focus on the EU's level of agricultural tariffs, the level of the U.S.'s farm subsidies and the G-20's level of industrial import tariffs. It has been cautioned that the ACP countries need to prepare themselves such that they are in a position to analyze the numbers and the implications on their respective economies. Thus far, progress on this has been disappointing. The above analysis has discussed some of the difficulties involved in removing blockages in some of the negotiating areas. It has now been hinted by some trade officials that only a framework deal could be agreed upon by the April 30 deadline.

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[71] See Business Day. 3 April, 2006. **Trade Talks Breakthrough Remains Elusive in Rio**. Available online at http://www.businessday.co.za/articles/topstories.aspx?ID=BD4A179521

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