Free-Trade Rhetoric and Reality

The Doha Round of Multilateral Trade Negotiations: Rhetoric and Reality

Dilip K. Das*

The Fifth Ministerial Conference of the World Trade Organization (WTO) was held during 10 to 14 September 2003, in Cancún, Mexico. One of its objectives was to review the progress, or lack thereof, made in the Doha Round of multilateral trade negotiations (MTNs) so far. Its end without an agreement had little element of surprise for the cognoscenti in the area of international trade. Its successful conclusion would, indeed, have been astounding. Other than being a tough grind, such negotiations are strongly failure prone. Although this failure was indeed a setback to the trade liberalization efforts of the global community, such failures had occurred in the past. According to one observer, of the nine Ministerial Conferences under the aegis of the GATT and the WTO, four were considered complete failures. The debacle in Seattle (1999) is fresh in our memories. The Uruguay Round (1986 to 94) of MTNs collapsed and had to be pulled back on its feet by the erstwhile Director General[1] of the General Agreement on Tariffs and Trade (GATT). Originally, it was to be completed in three years, but its deadline had to be extended several times, and it took seven-and-a-half years to be completed. The fate of the Doha Round of MTNs seems to be going the same way. It was originally scheduled to be completed in January 2005. It was apparent early on during the negotiations, however, that the probability of its concluding on schedule was remote, if not non-existent.

While the Doha Round running into the sand in Cancún is a setback to the global trading system, it would be wrong to conclude that this failure would undermine the legal and organizational foundations of the world trading system embodied in the WTO. The flip side of this coin is that, following Cancún, the penchant towards bilateral trade agreements among the WTO members increased.[2] Such bilateral deals are based on narrow national interests of the partner economies and have been on the rise. Although the United States was endeavoring to restart the MTNs, it has announced that it is preparing to enter into a bilateral free trade agreement (FTA) or regional integration agreement (RIA) with Thailand. However, bilateral FTAs are not an easy way out of the MTNs. This was demonstrated by the recent failure of negotiations between Japan and Mexico to form an FTA. The two potential partners disagreed on several substantive issues and eventually abandoned the idea.

The objective of this article is to examine whether the progress in the Doha Round of MTNs has so far progressed in merely rhetorical manner or whether it has made some substantive achievement. To this end, I first analyze the intransigence of the participating WTO members during the negotiations, followed by adoption of flexibility on the salient issues and putting together the so-called "July Package" or the framework agreement in August 1, 2004 (WTO 2004). This was a critical – and long awaited – step in the Doha process.

Setback in Cancún due to North-South divide

The principal causes of the setback in Cancún were disagreements and conflicting positions among the 146 participating members of the WTO, which were divided into four main negotiating blocs: The U.S., the European Union, the so-called Group-of-Twenty-One (G-21) developing economies and the Group-of-Ninety (G-90) which included small and low-income developing economies and the least-developed countries (LDCs). The disagreements

[1] Arthur Dunkel, a former member of the Swiss trade delegation, was the Director General of the GATT between 1980 and 1992.
[2] The United States Trade Administration (USTA) signed eight bilateral trade agreements between September 2003 and May 2004.

* Dr. Dilip K. Das was educated at the Graduate Institute of International Studies, University of Geneva, Switzerland. A professor of international trade and international finance and banking, he was associated with Webster College Geneva; ESSEC, Paris; INSEAD, Fontainebleau, France; Australian National University, Canberra; Graduate School of Business, University of Sydney, Sydney. He has published extensively on international trade, international finance, international business and globalization related issues in the recent past.

were primarily in two areas of international trade, that is, agriculture, which is an age old chestnut and the so-called Singapore Issues. Preceding the Third Ministerial Conference in Seattle, disagreements among the WTO members were on all sides, that is, they took north-south, east-west, north-north and south-south axes (Das 2001). However, this time the disagreements among the members followed a clear north-south axis.

Mechanics of the Failure of Cancún

The Singapore Issues: A roadblock

The publicized objective of the Fifth Ministerial Conference was to "take stock of the progress in negotiations, provide any necessary political guidance, and take decisions as necessary".[3] As ministers could not agree on the negotiating framework and future agenda, the future of many relevant issues of negotiations seemed uncertain. A valid apprehension was that the Cancún setback is not only likely to make the round lose its momentum but also bring it to a grinding halt. For these reasons, the outcome of the Fifth Ministerial Conference became a disappointment to the global trading community. In the end, the participating trade ministers could not summon the necessary flexibility, adaptability, accommodation and political will to bridge the gaps that separated their respective positions. They could not agree in Cancún *inter alia* on whether to launch negotiations on the four Singapore Issues, namely, (i) trade and foreign investment, (ii) trade and competition, (iii) transparency in government procurement, and (iv) trade facilitation. Developing economies felt that the Singapore Issues were primarily going to further the interests of the industrial economies in the multilateral trading system, which was not entirely correct because the fourth Singapore Issue was going to benefit all the WTO members. Many developing countries believed that Singapore Issues not only did not benefit them but also amounted to an incursion into their domestic economic affairs and infringed on their sovereignty. This was becoming a throwback to the Uruguay Round era, when developing economies believed that they accepted restricting policies to be a part of the multilateral regulatory discipline without any tangible gain to their domestic economies.

The concern of the developing countries regarding an oppressive burden on the administrative capacity was valid. Creation of a new institutional regime and its enforcement has high costs, particularly in areas like competition policy, investment regulation, and trade and customs procedures. The developing economies are concerned about these costs because many of them failed to meet their Uruguay Obligations for this very reason. An estimate of the cost of three Uruguay Round agreements (customs reforms, trade-related intellectual property rights (TRIPS), and sanitary and phytosanitary Measures) that called for institutional creation and regulatory developments revealed that the average cost of restructuring domestic regulation in 12 developing economies could be as high as $150 million (Finger 2000). It is indeed a large burden on the small budgetary resources of a developing economy.

The level of political sensitivity varied widely on Singapore Issues, causing serious disagreements among the members. The EU – the principal *demandeur* – and within it the United Kingdom, insisted that the decision to launch negotiations on the Singapore Issues was taken in Doha, but the G-21 and other developing economies held the view that this was not the agreement. They asserted that these issues were to be addressed *after* the Cancún Ministerial Conference not *during* the conference. In June 2003, the developing countries were becoming ncreasingly opposed to the Singapore Issues. At this point, 77 developing economies, that is, more than half of the WTO membership, publicly expressed their aversion to the inclusion of Singapore Issues in the Doha Round. They made it clear that these issues were nowhere on their priority list. Objectively viewed, in a round of MTN basically intended for development, the first three Singapore Issues were completely incongruous. This complete inability to agree and compromise in the global trade forum was likely to affect the poorest G-90 countries most. A more open and equitable trading system would provide them with an important tool in alleviating poverty and raising their levels of economic development (Panitchpakdi 2003).

Even after eight rounds of MTNs under the GATT, some of the most illiberal policies in agricultural trade, protection in the form of tariff peaks and continuing protection of markets in services still persist in the industrial economies. The developing economies, however, have their own set of protectionist measures, limiting trade among them, which imposes a large cost on domestic consumers and developing economies in general. Elimination of trade distorting

[3] See paragraph 45 of the Doha Ministerial Declaration, 14 November 2001.

policies in both industrial and developing economies can lift millions out of absolute poverty. Therefore, the Doha Ministerial Declaration promised to "place the needs and interest (of the developing economies) at the heart of the Work Program adopted in this Declaration."[4] Successful conclusion of the Doha Round would go towards reaching the Millennium Development Goal of cutting down income poverty by half by 2015 (Winters 2002). Therefore, disagreement in Cancún on negotiating "modalities" and framework, and subsequent failure, was a pernicious development for the developing economy first and the global economy second. Evidently, the Doha Round was not living up to its name of being a development round. Also, until well after the failure in Cancún, the Doha Round was reduced to the WTO members talking endlessly at cross purposes, without achieving any meaningful progress.

Seeds of failure in Cancún were sown in Doha. The launch of the round was marked by acrimonious disagreements between the developing and industrial economies. The impressive launch rhetoric promised to reduce trade-distorting farm support, slash tariffs on farm goods, cut industrial tariffs in areas that developing countries cared about (such as agriculture and textiles and apparel), free up trade in services, negotiate global trade rules in the four Singapore Issues. Was so much achievable? After the launch of the Doha Round, country groups began disowning important parts of the Doha Development Agenda (DDA). For instance, the EU denied ever having promised elimination of export subsidies in agriculture. Similarly, the developing economies denied ever having agreed to talks on the Singapore Issues. The majority of the low-income G-90 and some lower middle-income countries (like the Philippines) still complained about their grievances over the Uruguay Round and felt absolutely no need to launch a new round of MTNs. This kind of posturing meant that a brisk progress in negotiations could not be realistically expected. Countries and country groups continued their intransigence and grandstanding in Cancún, instead of working towards compromises on which MTNs are squarely based (*The Economist* 2003). In addition, the domestic and bilateral action of several industrial economies soon after the Doha Ministerial led to questions about their commitment to the Doha Development Agenda (Stiglitz and Charlton 2004).[5]

[4] See WTO (2001a), Paragraph 2.

Failure as opportunity

Failure is an opportunity to identify errors and learn lessons. Members grew painfully aware of the fact that the rhetoric of the Doha Round should be made into some sort of tangible reality, a meaningful achievement for the multilateral trading system. Several serious and avoidable errors were committed in Cancún that led to failure.

Retreat from intransigence

As members realized that both the EU Commission and the US presidential elections were scheduled for November 2004, it was assumed that the EU and the United States would ignore vital multilateral issues, like the Doha process, and defer them to the following year. However, July 31, 2004 was a self-imposed deadline for agreeing to a negotiating framework and an agenda for the Doha Round. As it drew near, the leading players and negotiating blocs became concerned about a stalemate in the MTNs. The ambiance of criticism and recrimination gradually gave way to grudging compromises and eagerness to break the impasse. The four principal negotiating blocs began to chip away at their old Cancún positions and switched to conciliatory stances. Deliberations among the four blocs began again, albeit *in camera*. The changes in past positions and compromises that were on offer in mid-2004 vividly indicated a strengthening of the political will to restart the stalled Doha process.

Greater willingness to compromise

Much to the chagrin of the French, the EU made a fresh proposal on agriculture in May 2004, which was quite different from the one made in August 2003.[6] This time, export subsidies were not treated as a holy cow and their elimination was proposed. The developing economies welcomed this because export subsidies in the industrial economies do enormous damage to farmers in the developing economies. Also, it was the first time that the EU agreed that they are unfair and therefore must go. If one takes a good look at it, this EU offer was not as dramatic as it appeared at first sight, because export subsidies accounted for a mere €3 billion ($3.6 billion). The EU does, however, lavish €45 billion a year on sub-

[5] For instance, the US Farm Bill of 2002, (or the Farm Security and Rural Investment Act of 2002) promised larger domestic support to farmers. Like wise, the European Commission's Luxembourg reform of the Common Agricultural Policy (CAP) declared in June 2003 failed to reduce the total level of European agricultural support. Japan also announced a program of increased self sufficiency in agriculture, implying higher production subsidies and trade barriers.

[6] Jacques Chirac, the French president, declared that the draft framework was "profoundly unbalanced".

sidizing its protected farmers. The EU offer was conditional upon Australia, Canada and the U.S. eliminating their own equivalents of export subsidies (*The Economist* 2004).

The EU also proposed that the G-90 economies be exempted from the requirement of lowering their trade barriers. According to this proposal, all the G-90 countries should be offered greater access to the non-G-90 markets. Many countries in this sub-group had recorded a decline in their trade over the last two decades. Some developing economies dismissed this EU proposal as divisive, while others regarded it as a noteworthy move towards a promising consensus. To break the impasse, the EU modified its stand on the Singapore Issues as well, realizing that excessive emphasis causing a complete collapse was a strategic mistake. The modified stand of the EU was to take up the Singapore Issues one at a time and to include them in the DDA only after a consensus had been arrived among the members, not otherwise (*The Economist* 2004). However, the EU pressed for trade facilitation to be retained in the DDA, without making it a sticking point. To be sure, there was a lot of wisdom in the modified stance of the EU.

The Derbez Text contained more ambitions proposals

At a time when the key players on the global stage were demonstrating flexibility and far-sightedness as the July 2004 deadline approached, some small, low-income, members of the African, Caribbean and Pacific (ACP) country group took a recalcitrant, aggressive and short-sighted stand. These small economies had disparate demands that could potentially stall the progress of the Doha Round once again. Small West African economies demanded that cotton subsidies in the industrial economies must be negotiated as a separate issue, outside the agricultural trade negotiations. Reasons for this demand were far from convincing. Small economies of the ACP group that enjoyed preferential market access in the industrial economies wanted to ensure that a successful Doha Round would not reduce their preferential market access. Some of the delegations of the ACP countries were vocal in expressing their concern, taking a myopic view and almost wishing the MTNs to fail, an ignoble wish to say the least. The sugar and banana exporters in this country group reckoned that they were better off having preferential market access in a distorted global trading system. It would have been perverse and ironic if they had succeed in retarding, or stalling, the Doha Round because the DDA has been designed to benefit the developing economies.

Positions were revised by the other negotiating blocs as well. The developing economies tend to have a great many tariffs and non-tariff barriers in intra-developing country trade. Acknowledging this fact, in June 2004, the United Nations Conference on Trade and Development (UNCTAD) took the initiative to organize a conference for the developing economies, with the objective to reduce mutual trade barriers and thereby strengthening the negotiating position of the developing countries in the Doha process. China and Brazil were the leaders who were guiding this initiative. The developing economies reacted in two ways. Some were averse to it because they saw the UNCTAD initiative as a detracting force that could weaken the Doha process, while others believed that it would strengthen it and impart new momentum to it. This transformation in the mindset of the members and the initiatives taken started a process of rhetoric turning into reality.

Derbez Text and the state of the play

On September 13th, in Cancún, the Derbez Text was tabled by the WTO secretariat. Although prepared by the WTO secretariat, it was officially christened the Derbez Text in honor of Louis Ernest Derbez, the Foreign Minister of Mexico, who chaired the Fifth Ministerial Conference (WTO 2003b). The decision of the members to continue to negotiate around the Derbez Text was a positive one, and it became the basis for the July framework negotiations, discussed above. Tariff reductions for improving market access were larger in the Derbez Text than in the Uruguay Round Agreement on Agriculture. It also proposed to address the tariff peaks as well as to devise a formula for reining in the tariff escalation. In addition, the principle of a special safeguard mechanism was also accepted by the industrial economies.

After the Cancún failure, the issue of export subsidies was no longer taboo and those OECD economies that were either regarded as highly protectionist or middle-of-the-road were willing to discuss it in a flexible manner. This was considered a significant progress and a marked improvement over the negotiations in the Uruguay Round. Offers to phase out export subsidies on products of interest to exporters from the developing economies were being deliberated. An ambitious proposal in the Derbez Text was to negotiate a timeline and a final date for the elimination of all export subsidies. Although reasonable, this proposal was more than the Doha mandate. It was believed that the EU might not react favorably to this proposal, but it would at least be the beginning of negotiations that should have been achieved in the past (TCARC 2003).

In addition, larger reductions in trade-distorting domestic subsidies were under consideration for the first time, which included the amber box and de minimis payments. As demanded by the G-21 economies, a capping of the blue box payments was also in the cards. Special and Differential Treatment for the developing economies was reaffirmed, which included lower reductions in the amber box support for them. In keeping with the accepted practice, developing economies were to be given longer implementation periods for the agreements under the Doha Round.

Salvaging the Doha Round: The July Package

In the hope of rescuing the Doha Round after the Cancún failure, the WTO hosted a meeting of the General Council to negotiate a broad framework agreement for future MTNs in the last week of July 2004. Shotaro Oshima, the General Council chairman, prepared a draft agreement and hoped that it would be finalized before the self-imposed July 31 deadline. The initiative to formulate, negotiate and finally come to the so-called "July Package" – also referred to as the framework agreement – was taken by Australia, Brazil, the EU, India, and the U.S.. After intense all-night negotiations, a broad framework agreement was reached in principle, although a small number of finer details were left for future negotiating sessions. This is being seen as a victory for multilateralism. The July Package is a non-binding framework agreement that succeeded in reviving the stalemated MTNs. As it was negotiated in Geneva, it is also called the Geneva Agreement.

The broad framework agreement was a meaningful achievement in the life of the Doha Round. It marked the end of seemingly interminable deliberations and negotiations about what and how to negotiate in the Doha Round. Although it has its weak spots, intense negotiations around the July Package are expected that would enable members to come to a binding agreement in due course. The Zen of free trade is "quand on s'arrete, on tombe", or when one stops, one falls. The framework agreement has momentous significance; it rescued the MTNs from collapse.

While the role of the five member countries named above was positive, the framework agreement was reached because of clear and positive thinking and responsible action by all the other leaders. The leader of G-21, Celo Amorim, the Foreign Minister of Brazil, emerged as a pivotal figure together with Pascal Lamy and Robert Zoellick. The G-21 acted firmly and refused to move forward with trade negotiations until the U.S., the EU and Japan agreed to reduce their agricultural subsidies. The G-21 blamed farm subsidies in the developed countries for stimulating overproduction of agricultural products and driving agricultural commodity prices below the cost of production, harming farmers in developing and least developed countries. Even the G-90 played a constructive role, with Rwanda taking the lead. Once again, France had sought to block the deal, claiming it was contrary to European interests, but its objections were brushed aside by the other EU countries. A lot was riding on the success of the framework agreement. Failure would have meant the end of MTNs for an indefinite period and reducing the WTO to a glorified court for resolving multilateral trade disputes. Success in reaching the framework agreement affirmed that the WTO does provide a forum for developing global trade policy for its 148 members. The Doha Round is back on the rails, although it still has a long way to go. Despite the breakthrough, the framework agreement only clears the way for the long-delayed start of a marathon to come (de Jonquieres 2004).

Finally, progress of the July 2004 meeting

The most conspicuous achievement of the Geneva Agreement, or the July Package, was a seven-page "framework for establishing modalities in agriculture", making agriculture the most important part of the July Package. According to this document, the industrial economies are to eliminate all of their export subsidies which are acknowledged to be highly trade distorting, although the date has not been finalized. The G-21 countries succeeded in persuading the industrial economies to make deeper cuts in domestic production subsidies. That a commitment to negotiate an end date for export subsides by the EU is now agreed on paper is a major achievement that will underpin multilateral trade in agriculture.

In the area of tariffs on industrial products, which were one of the most contentious areas, attempts are being made to cut tariffs drastically. Particular attention is to be paid to high tariffs and tariff spikes. The July Package text in this regard is a carryover from the Derbez Text, which was strongly opposed in Cancún by all the groups among the developing economies. In turn, they had proposed a non-linear formula for tariff reductions, sectoral negotiations and weak Special and Differential Treatment. Tariff reduction in industrial products continues to be a volatile issue even after the framework agreement and modality negotiations in 2005 may face serious disagreements and friction.

A new deadline of May 2005 was set for negotiations in trade in services in the July Package. Members have been asked to submit high quality offers to achieve progressively higher levels of liberalization with no a priori exclusions of any service sector or mode of supply. Also, new rules would be framed on the „movement of natural persons" which could affect both migrant workers' rights as well as outsourcing (WTO 2004). In a pragmatic manner, members agreed to begin reviewing „trade facilitation" with a view to fast-tracking goods across borders. The push for expedited customs procedures was led by the U.S., which revealed the trade priority agenda of the WTO. Trade facilitation has large implications for food safety issues. However, improvements in customs regulations would certainly require a whole new layer of technological infrastructure for tracking and inspection. Low-income developing economies and LDCs are sure to find it a difficult area to comply with (WTO 2004). On the behest of the developing economies, the July Package dropped the first three Singapore Issues for the present, but they will have to be taken up in the future.

Passing the framework agreement put the Doha Round back on track

To be sure, there are some loopholes like the U.S. managing to exclude its "countercyclical" payments to the farmers when prices are depressed. Exemption given to low-income G-90 economies from the requirement of lowering tariffs was well received. This country group considered it a coup that would protect its nascent industrial sector for a longer period, although consumers in these countries will be required to pay higher prices for a longer period. The framework agreement also left the door open for the rich countries to protect some "sensitive" products. No doubt, such loopholes would go a long way in slowing the MTNs down as well as in diluting the achievement of the Doha Round.

Conclusions

The Doha Round has vividly witnessed both phases, rhetoric and reality. The possibility of a north-south divide was recognized well before the Fifth Ministerial Conference started in Cancún. The sizeable divergence in positions of developing and industrial economies existed on several significant issues, and the gap could not be bridged despite endless negotiations. Eventually wisdom to learn from the failures of the past prevailed and the negotiating groups adopted much-needed flexibility in their positions in the third quarter of 2004. Because the new positions were more realistic, the framework agreement could be reached. Clear and positive thinking and responsible action of the leaders was instrumental in resolving an impasse. The so-called July Package that was the result of concerted endeavors of the Chairman of the General Council and the delegations from Australia, Brazil, the EU, India, and the U.S. has made a substantial contribution to reviving the stalemated MTNs. This achievement revived the Doha Round and helped put it back on track.

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