

Laying the Groundwork For Cancun: Another Doha ‘Success’?

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The Heat Is On . . .

Despite the fact that the Cancun WTO ministerial is twelve months away, the influential members of the WTO have already started their work in ensuring that the configuration of factors which made Doha a ‘success’ for them can be repeated.

While Doha initiated negotiations in a few sectors, Cancun could well expand it into a full round and also endorse further liberalisation in key sectors, such as agriculture and services. On the table in Cancun will be the new issues of investment, competition policy and transparency in government procurement. Here, an explicit consensus by the membership will be needed to decide whether or not negotiations on these issues will be launched.

The stakes are very high for the developed countries suffering from a long drawn recession. They are also bent on ensuring that the WTO liberalisation bicycle, which collapsed in Seattle and was put back on its tracks in Doha, is given added momentum in Cancun. For developing countries, more liberalisation of agriculture and services and expansion of the

WTO mandate through new agreements will further tighten the economic noose around their necks and is predicted to prove more damaging for them than even the infamous Uruguay Round.

Recreating The Doha Configuration Of Factors Which Led To ‘Success’

The particular combination of factors that were created by the major powers, which led to Doha ending successfully for the US and EU, included:

- Ambassador Harbinson as chair of the general council managed to produce an unbracketed text indicating that a consensus existed when there was none
- A series of mini-ministerials and Green Room meetings of about 23 countries which excluded the majority
- ‘Flexibility’ in process, that is, breaking of procedural rules in order to manufacture a consensus
- Carefully times and well-placed doses of bilateral pressures. This included the post September 11 ‘with us or against us’ threats
- Breaking down the coalition of developing countries and isolating ‘hard liners’ such as India.

While still one year to Cancun, these configuration of factors are now systematically being put in place.

Harbinson

It is no surprise that ex-Hong Kong’s Ambassador, Stuart Harbinson was elected this year as Chair of the Agriculture Committee (the most controversial and sensitive issue at the WTO) while he was still representing Hong Kong. On 10 September he took up a new position as the right hand man / chef de cabinet of the new Director General, Supachai. Developing countries opposing his continuation as agriculture chair as he takes on the Secretariat position have come under bilateral pressures or have found themselves isolated on this issue.

Harbinson’s style is "to construct a balance of interests in which everybody gives something and everybody gets something . . ." except that developing countries end up paying a very heavy price and receive nothing that is even distantly meaningful.

Mini-Ministerials

The major powers organised pre-Doha two mini-ministerials when they realized that the Geneva process was hitting the brick wall. Mini-ministerials can be useful in terms of getting ministers of a core group of countries in line by making bilateral deals on the side. The process is continued during the Ministerial, where the same core group is called upon in the Green Room and the package is knocked together. This has the effect of marginalizing those that are excluded. The package is then presented to the rest (that is the majority) on a take-it-or-leave it basis, with the underlying threat that any country opposing such a consensus package will pay the price (in terms of termination of preferential trading arrangements etc).

After Doha, Ambassador Boniface Chidyausiku of Zimbabwe recounted his experience of the pre-Doha process: 'The major countries realized they could not beat the Geneva process. Developing countries had built capacity in the Geneva process. Realising that they could not put their agenda through Geneva, they started to have meetings amongst a small group of members.'

The meeting that changed things was the one held in Mexico (at the end of August). After Mexico, people started to see things differently. It was again a selected group. The follow-up to that meeting was Singapore, even though the DG said it was not a WTO meeting. However, both the chair of the general council and the DG were present. They also asked the Singapore ambassador to give a brief to the entire membership. According to press reports, what transpired in Singapore is very close to what was agreed in Doha.

This method lacks transparency and is a relic of the GATT, where countries that were strong trading nations came together and tried to push their agenda on to others'.

The Sydney Mini-Ministerial

A mini-ministerial has already been planned for November 14-15 in Sydney. Only 23 countries have been invited but the line-up of countries is significant.

The 'strident' voices of any weight are of course included, such as India. Also included are representatives of African countries that for some years now have been under the influence of the major powers and have been groomed to break the African Group coalition at strategic points.

Apart from the host, Australia, the 23 countries invited are:

- Quad countries: US, EU, Canada, Japan
- Other Developed Countries: Korea, New Zealand, Switzerland
- Asian: China, India, Indonesia, Malaysia, Singapore, Thailand
- Latin America and Caribbean: Brazil, Colombia, Mexico and 1 Caribbean representative
- Africa: Egypt, Kenya, Lesotho, Nigeria, Senegal, South Africa

This is not very different from the usual 25 or so Green Room participants, with a few, important changes. For one, it is very significant that Pakistan has not been invited, an illustration of their weakened role since September 11 and the removal of their well-known and out-spoken Geneva ambassador, Munir Akram, earlier this year.

Laying The Groundwork For Bilateral Deals With Strategic Developing Countries

Also interesting are the selected African countries. At Doha, it was the representatives of the African Group (Nigeria), and the LDCs (Tanzania) that were brought into the Green Room meetings. These countries came under pressure and this led to carefully negotiated group positions collapsing at the Ministerial.

Of the African countries on the Sydney invitation list, it is well-known that South Africa and

Egypt (to a large extent) sing the tune of the US and EU. Kenya and Nigeria have also been frequently accosted by the US. In Doha, Kenya was leading the ACP countries and its Minister Biwott was the one responsible for putting the ACP waiver on the table, clearly after having been manipulated by the influential members. Kenya is currently leading the African Group in the WTO and unfortunately, because it has succumbed to pressures by the big countries, has not provided strong leadership to date.

It is likely that either Kenya or Nigeria will be again representing the African Group in Cancun. Their invitation to Sydney shows that the majors are already starting to build an understanding with their Ministers and to commence negotiations with them. Of the LDCs, only Lesotho and Senegal have been invited. Already, Lesotho has shown signs that it often acts under the influence of South Africa (more on Lesotho in the later section).

All ministers invited have already signaled that they will attend the mini-Ministerial (as of mid-September) with the exception of China. According to an Indian official, their preference would be that such an exclusionary meeting does not take place, but as long as it does, it's better to be there.

Agriculture Will Take Centre-Stage

So far there is no formal agenda for Sydney, but it does not take great imagination to figure that agriculture will take center-stage. The meeting takes place just a month before the secretariat's chef de cabinet cum chair of the agriculture committee, Stuart Harbinson, releases his draft new agriculture agreement.

Agriculture is also turning out to be the most contentious issue in the run-up to Cancun. The majors in the agriculture negotiations (US, EU and Australia) will have to come to an agreement but the task before them, to be addressed in Sydney, would be for Australia and US to mend the splits within the Cairns Group and bribe or pressure countries, such as Indonesia, to remain on board. (See article above.) Their other critical task is to sell their position to those outside the Cairn Group, such as India and the African representatives.

There are also some very entrenched differences between the EU and the Cairns position, including the formula for tariff cuts and the extent of domestic support reductions. Various package deals will no doubt have to be made between EU and the various Cairns members.

Breaking All Procedural Rules! 'Flexibility' In Process

Breaking the procedural rules was a major factor leading to Doha's outcome. Vagueness of procedures provided developed countries the space to manipulate the negotiating process in order to suit their interests. It also gave them the opportunity to marginalize or subvert the views of developing countries, for instance, by picking chairpersons who were 'friends of the round' and by holding all night Green Room meetings of 20 or so countries in Doha.

Like-Minded Group (LMG) Proposal

So bad was the pre-Doha and Doha process, that it led 15 developing countries, spearheaded by India, to submit a paper to the General Council in April this year on what should be an appropriate process. Some key concerns they highlighted were based on what should have, but did not take place:

- Preparatory Process in Geneva:
 - a. Consultations should be transparent and open-ended.
 - b. Draft ministerial declaration should be based on consensus. Where this is not possible, such differences should be fully and appropriately reflected. If the majority of the membership has strong opposition to the inclusion of any issue in the draft ministerial declaration, then such an issue should not be included.
 - c. A draft ministerial declaration can only be forwarded to the Ministerial Conference by the General Council upon consensus to do so.

- Process at Ministerial Conferences:
 - d. The chairpersons including facilitators . . . should be identified by consensus in the preparatory process in Geneva, through consultations among all Members.
 - e. Consultations by chairperson / facilitator should be at open-ended meetings only. The chairperson / facilitator could convene meetings of proponents and opponents on the subject assigned and any other interested Member should be free to join such meetings . . . the schedule of each meeting shall be announced at least a few hours before the meeting.
 - f. All negotiating texts and draft decisions should be introduced only in open-ended meetings.
 - g. Any new draft on specific issues should be circulated to all Members well in advance so that Members have sufficient time to consider them.

Such reasonable suggestions, were met by tremendous opposition by some countries in June.

Process Proposal Led By Australia

A grouping of eight countries -- Australia, Canada, Hong Kong China, Korea, Mexico, New Zealand, Singapore and Switzerland -- replied with their own process paper. Their position, contrary to the LMG paper said that, "In a Member-driven organization processes need to be kept flexible. We need to avoid rigidities."

They emphasized instead, that "Prescriptive and detailed approaches to the preparatory processes are inappropriate and will not create the best circumstances for consensus to emerge in the Cancun meeting."

The argument they use is that "in processes of this sort much depends on members' level of ambition and the force with which they pursue individual objectives. Ultimately consensus will be achievable only if members are prepared to moderate these objectives and take a wider view of what their interests require. Restraint and flexibility will be essential."

Clearly, the strategy for how the Quad countries and allies want Cancun played out has been laid down. The same breaking of rules should be allowed in the interests of achieving 'consensus'. For an organization that is supposedly 'rules-based' it is rather shocking that procedural rules, because they work against the interests of the influential, are so flagrantly broken.

The LMG had submitted their paper in conjunction with the request that procedural guidelines should be established. The Chair of the General Council promised to convene consultations after the August break on this issue. It is not surprising that already one month after the summer break, no consultations have been held on this matter.

One developing country ambassador post-Doha puts these issues in perspective, "the informality of the process means that, in fact, it is a process of consultation and discussion behind closed doors. In that process, it means that those with clout will carry the most weight. There are few countries that would challenge a decision that has been put forward as a done deal."

Bilateral Pressures

Doha would also not have 'succeeded' without the bilateral pressures that were exerted in capitals. As the Ministerial approached and Geneva-based ambassadors remained intransigent, more attention was put in capitals. EU trade commissioner Pascal Lamy, US trade representative Robert Zoellick, the DG at the time, Mike Moore and various US trade representative officials worked hard criss-crossing the world courting strategic developing country ministers. The ambassadors of the US, based in the capitals of developing countries, also visited ministers and officials. Bilateral pressures were also intense during the Ministerial itself.

This has again taken place. For example, US missions based in the developing countries have been selling its agriculture position to officials of these countries. This has had quite a significant impact on agriculture negotiations in Geneva -- as previously bold positions put forward by developing countries are now under attack and are being watered down. For example, El Salvador, who was part of the 'Development Box' coalition of countries (asking for protection of their agricultural sector), announced in the market access agriculture session in early September that they supported the position of the United States advocating drastic tariff reductions.

Also, before Doha, ambassadors based in Geneva who pursued positions contrary to those of the majors and who refused to be silenced were targeted - and complaints about them were made to their bosses -- ministers, even heads of states of their country.

This year, the same pressures have continued. The determined Ambassador of the Dominican Republic Federico Cuello was removed at the end of August because of his active role in the Like Minded Group Coalition. Likewise, the outspoken Ambassador of Pakistan was given a promotion and sent to New York earlier this year.

Breaking The Coalition Of Developing Countries

The divide and rule strategy was another crucial factor in the 'success' of Doha. At this juncture, similar strategies are being used to make coalitions of developing countries impotent, in particular, the Like Minded Group and the African Group.

One example is the African Group position on finding an expeditious solution to the TRIPS and health issue. The Doha TRIPS and Public Health Declaration noted that Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing. A solution to this problem is to be reported to the General Council by end 2002.

The African Group position calls for a variety of elements to be used in order for countries to find a solution that best addresses the public health crisis in their country when manufacturing capability does not exist. Their position is that an authoritative interpretation of Article 30 dealing with exceptions to the exclusive rights conferred by a patent is insufficient. Amending Article 31 dealing with compulsory licensing is also insufficient. The EU position is that Article 31 should be amended, but in the interim, a waiver should be allowed until such an amendment is agreed to at the ministerial level. In contrast, the African Group is asking for all of these measures to be allowed, and that the waiver should be accepted as an interim, not a final solution.

Quite unexpectedly, in the last TRIPS Council meeting, Lesotho, without prior consultation with the African Group, presented a proposal stating that the waiver would be a sufficient solution, hence breaking the ranks of the African Group.

The fact that Lesotho clearly towing the line of certain influential countries has been invited to the Sydney Mini-ministerial, is not good news for either the African Group or the LDC coalition.

Short Term Pain Or Long Term Loss

This configuration of factors, when brought together, make it quite difficult for developing country officials to effectively oppose an agenda that does not serve their interests. Opposition in WTO negotiations, taken to its conclusion, means igniting real possibilities of facing severe censure of one form or another. The circumstances and choices put before Southern governments are indeed treacherous. It does not bode well that even the best intentioned government officials usually come pre-programmed to be pragmatic to the point of being myopic, since they tend to agree to long-term devastating losses in order to avoid short-term pain. Add to this the post-September 11 political climate, governments of the South seem to be quickly losing their ground.

Unless groups can exert enough political pressure at the national level on their to stand by certain positions -- such as no more liberalisation in agriculture and services and no new agreements on investment -- we may well spend the next twenty years righting the wrongs of Cancun.

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