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## **The twists and turns of the Doha talks and the WTO**

**Below are the remarks of South Centre Executive Director Martin Khor at the session on Doha and the Multilateral Trading System, at the WTO Public Forum on 26 September.**

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### **By Martin Khor**

Welcome to this session on Doha and the Multilateral Trading System – From Impasse to development? which the South Centre is pleased to co-organise.

This session aims to look at what the future holds for the WTO, in particular in relation to the development dimension, and the interests of the developing countries.

After the Uruguay Round, the developing countries went into a mood of reflection because many of them were not active in the negotiations and did not fully understand what they had signed on to or the implications. So for a number of years after 1995, for the developing countries, their priority in the WTO was to understand the obligations they had entered into and the problems of implementation, particularly in new issues such as TRIPS, Services, TRIMS which they had been obliged to take on as new obligations, in exchange for the re-entering of agriculture and textiles into the GATT system. And to get the WTO to review and possibly reform its rules.

Under the GATT system, the developing countries had in fact given a massive concession to the developed countries which pleaded that they needed a little time for structural adjustment and asked for exceptions to the trade rules in the huge areas of agriculture and textiles which were sectors of comparative advantage to developing countries. The developing countries agreed but the requested few years of exception turned into three or four decades, during which the developing countries suffered major losses. This great concession was in fact the giving of massive "special and differential treatment" to developed countries.

Agriculture and textiles should have been brought back into the system much earlier and without asking developing countries anything in return. But in fact, in exchange for the return of these two issues into the trading system, the developed countries demanded that developing countries agree to totally new issues TRIPS and services as new treaties (as well as TRIMS) in the new WTO, as well as new tariff reducing obligations for them in agriculture and industrial goods. It was a heavy price to pay.

The developing countries were still recovering from and reviewing the Uruguay Round, but the developed countries having tasted the fruits of their efforts wanted to expand the mandate of WTO into yet more new issues such as investment, competition, government procurement, labour standards, and "environment-related trade measures." Thus started the clash of paradigms and approaches between a review and reform of the imbalanced system versus retention of the rules and pushing for more issues and authority for the WTO. This clash has been taking place since (or even before) the birth of WTO.

The clash was evident in the first WTO Ministerial in Singapore in 1996, on the issue of the future direction of the WTO. Should the members review the WTO and reorient it towards development objectives, or push and expand the WTO into yet more new issues and territory? The compromise then was that labour standards would not be in the system but the three Singapore issues (investment, competition, government procurement) would enter but in an educational mode, without any commitment to negotiations for new treaties.

At the next Ministerial in Geneva in 1998, the problems of implementation were formally introduced as an issue. Developing countries, especially a Like Minded Group, pushed that further with many concrete proposals, outlining the problems they face in implementing the WTO rules and giving concrete proposals for reforming various WTO agreements. However, developed countries instead continued to push to convert the Singapore issues from the educational mode to a negotiating mode towards new treaties. The US also attempted in a big way to re-insert labour standards into the negotiating agenda. This led to the battle in the Seattle Ministerial in 1999 which ended in collapse, first because of the substantive clash on issues and secondly because of the extremely untransparent and non-inclusive nature of the negotiating process, that caused outrage among many developing country Ministers and delegations.

In the aftermath of the Seattle debacle, the developing countries were able to project the implementation issues and the strengthening of the existing special and differential treatment (SDT) provisions as development issues that needed priority. Concrete implementation proposals were discussed regularly in the WTO including the General Council as part of the rebuilding of confidence in the WTO after Seattle. However the developed countries again pushed for the Singapore issues, as well as new industrial tariff cuts, to be launched in a new Round. Developing countries including the LDCs rejected a new Round of new issues and instead demanded a Development Agenda to reform existing rules as well as push ahead with new liberalization of developed countries' agriculture that had only started at the Uruguay Round but did not yet have real positive effect.

So this conflict between review and reform of WTO to make it more development friendly versus "let us push ahead into new issues and expand the mandate and power of WTO" continued. In Doha it was evident again with developing countries having implementation issues and SDT strengthening as their priority, while the developed countries pushed for the Singapore issues into a negotiation mode.

Because of the untransparent procedures, including the very controversial way in which the conference was extended by another day at 5 pm of the last day when many Ministers had already gone home as well as the organizing of an exclusive and small all-night Green Room meeting (involving only about 30 Parties), the Conference was able to pass through the Doha Ministerial Declaration and the launching of a Doha Work Programme. This DWP was then given a nickname of the "Doha Development Agenda" to avoid calling it a Round because the developing countries had refused to have a new round. This is ironic because the term Development Agenda had been originally used by the LDC Group to counter the launch of a new Round with new issues, which is what the Doha decision actually did.

In the Doha Declaration, implementation and S&D issues were given the most prominence in terms of their placement in the text and the sequencing of the negotiations. The negotiations on these two issues would be completed first, and then there would be completion of the in-built issue of agriculture as well as services, and finally the status of the Singapore issues would be changed from educational mode (in working groups) to negotiating mode (in negotiating groups) and only after the launching of negotiations (on the basis of explicit consensus) at the next Ministerial in 2003 in Cancun.

It should be noted that with or without a DWP or a Round, agriculture would have had to be negotiated because it was the major part of the in-built agenda embedded in the Uruguay Round agreements. It was understood by the Uruguay Round negotiators that although the framework had been created in the Agriculture Agreement to bring agriculture back into the trade system, in fact there was little real retreat from protectionism in the developed countries' agricultural tariffs and subsidies. This was why a new round of agriculture liberalization was on the table, as a post-Uruguay Round in-built agenda.

However, the developed countries insisted that they would not negotiate agriculture by itself, but would only do so in a package in which the developing countries would have to take on more obligations, including the

four Singapore issues as well as new industrial goods tariff reductions (which in fact would mainly affect developing countries, even though many had already experienced de-industrialisation resulting from steep applied tariff cuts under structural adjustment) and rapid tariff cuts or elimination in “environmental goods.”

This Doha package was unfair and would have made the WTO even more imbalanced. The developing countries were asked once again to pay for new agriculture actions by developed countries, something that they had already agreed to do anyway, since they had been given the big concession of exception for many decades. Instead, in having agriculture re-introduced in the system, the developing countries had to pay a very heavy price in the Uruguay Round. And to deepen the developed countries’ agriculture commitments, the developing countries were asked to pay another heavy price in the Doha Round. The irony is that today, 18 years after the Uruguay Round’s conclusion, we still don’t have a solution to agriculture. The high tariffs remain. The huge subsidies remain, although the categories may change.

Between the launching of the Doha Round and today, there have been many more twists and turns. One twist came at the 2003 Ministerial in Cancun. Three of the Singapore issues were dropped after Cancun because the ACP, LDCs, and Africa Group together with others such as India, Malaysia, Indonesia decided these issues were inappropriate and also would have damaging effects on their development, and that they should be removed from the Doha negotiating agenda. The Cancun Ministerial itself collapsed without any decisions. Besides the big clash on Singapore issues, there was also no agreement possible on agriculture, on cotton and other issues. The withdrawal of the three Singapore issues (investment, competition, government procurement) formally took place in Geneva at the General Council in December 2003, as a follow up to what happened at Cancun.

But the post-Cancun process also went into a narrow agenda with the focus eventually on modalities for agriculture and NAMA. The SDT and implementation issues took a backseat. At a mini-Ministerial in July 2004, attended by only a few Ministers, a decision was reached in a Green Room and through a non-inclusive process, and then that decision was adopted by the General Council that was hastily assembled for that purpose. The July/August 2004 package had heavy focus on modalities of agriculture and NAMA. These two issues also became the centerpiece in the 2005 Hong Kong Ministerial. The implementation and S&D issues had been lost between Cancun and Hong Kong and their extreme marginalization was also evident in the small place and low-priority sequencing (in terms of deadlines) they were given in the Hong Kong Ministerial Declaration, in contrast to their high status in the Doha Declaration.

After 2005 there were two attempts in July 2006 and July 2008 to repeat the successful conclusion of the Mini-Ministerial of July 2004. By then the holding of Mini-Ministerials inside the WTO itself had become the method of having decisions made for the whole membership. This was perhaps because of the success of the July 2004 meeting. Both the 2006 and 2008 Mini-Ministerials went a step further in restricting real participation by being essentially meetings of only 6 or 7 Parties, with the Director General. The meetings focused almost exclusively on agriculture and NAMA modalities and aimed at getting these modalities finalized, with the expectation that a larger group of 20-30 Ministers would endorse what the 6 or 7 decided, and that the entire membership would then adopt the decisions. However, both meetings ended in failure, as even the 6 or 7 could not agree on the modalities. These failures led to the present impasse in the negotiations.

The impasse was caused by the conflicting paradigms of developed versus most developing countries. Most of the developing countries were concerned about the development dimension of the Round, which to them meant firstly a result in the direct development issues of implementation and SDT and secondly a strong SDT or development component in the agriculture, NAMA and services outcomes. However the preliminary outcomes were unsatisfactory because of the poor or non-results in the direct development issues and the absence of a real development dimension in the agriculture and NAMA modalities as well as a non-satisfactory result in the services negotiations (especially on Mode 4 on labour movement). In fact, on NAMA there is a great imbalance in developed and developing countries’ tariff-cutting obligations in the latest draft modalities which would make it an anti-development outcome, while in agriculture, there is little gain in real liberalization of developed countries. Many developing countries wanted at least a special safeguard mechanism (SSM) as a tool of defence when they face potential import surges, similar to the present measure that most developed countries now enjoy under the Agriculture Agreement. But the terms

and conditions of the use of this SSM were made very restrictive in the course of negotiations.

In the meanwhile, the developed countries had abandoned any pretense that what they launched in Doha had anything to do with a “development agenda.” The US in particular was clear in its objective of obtaining “new trade flows” and used that as a criterion of whether to accept proposals and draft modalities in all three sectors. The major developed countries formed a front that indicated that the new trade flows would come mainly from developing countries, or at least those that are not LDCs.

Several developing country Ministers at the failed July 2006 and July 2008 negotiations made clear that there was this clash of paradigms, with developing countries sticking with the development dimensions, while the developed countries were now adopting a very narrow “market access” approach, intent on opening the markets of developing countries.

In July 2006, the talks among the six Parties collapsed when the United States was unable to make an offer on agriculture subsidies, and the process closed without other Members even taking part in any negotiation. In July 2008, the obvious major issue on which the talks among the seven Parties failed was special safeguard mechanism in agriculture for developing countries, when the US rejected a compromise on the terms for the use of the SSM. However, an equally or more contentious issue, deeper cuts than average in cotton subsidies, had not yet been discussed, and some felt that the SSM was placed in deadlock to avoid an embarrassing failure for the US based on the cotton issue.

After the collapse of the July 2008 Mini-Ministerial in Geneva, the Chairs of the agriculture and NAMA negotiating groups in December 2008 produced new papers on modalities for these issues. The “exchange rate” between NAMA (seen as a sector in which developing countries would take on more commitments) and agriculture (seen as the sector in which developed countries would make their deepest new commitments) was perceived by many developing countries as being grossly imbalanced and unfair. The developing countries had very little if any real benefits from the new agriculture commitments of developed countries, but they themselves under the draft NAMA modalities had to make deep cuts in industrial tariffs as well as give up tremendous policy space which now exists in several ways.

Even with these imbalanced texts and with the Doha Round having become so devoid of development content, there was a possibility of concluding the Doha negotiations on the basis of the December 2008 texts. However, from 2009 onwards, new demands were made particularly by the United States. These were mostly on sectoral initiatives in NAMA in which the developing countries were asked to have zero or near-zero tariffs in three major and sensitive sectors. These demands went beyond the December 2008 modalities and far beyond the original NAMA mandate and principles in the Doha Declaration. The US also made it clear that their demands were not confined to NAMA, and that they also have more market access demands on developing countries in agriculture and services.

At this stage, key developing countries could not afford to give up more than they already have in the draft modalities, and did not agree to the US demands.

The last two years have seen attempts or rather statements of various political leaders on the need to conclude the Round, to little effect. There are now new attempts by major developed countries to select issues to their liking, and asking that negotiations on these be concluded first instead of their being part of a single undertaking. However these lack legitimacy. Firstly, the attempt to have an “early harvest” for LDCs at the Geneva Ministerial of 2011 did not succeed, mainly because the US did agree to an outcome on cotton subsidies and on implementing duty free quota free access for LDC products along improved lines of the Hong Kong Ministerial. Secondly, the key issue of agriculture has not been settled. It would be unfair to leave out key issues of interest to developing countries, and select issues of interest to developed countries, such as trade facilitation.

Attempts to revive the Singapore issues especially investment have also not been accepted by developing countries. The focus on “global value chains” as an advocacy for developing countries to agree to trade facilitation, investment and services commitments, has also been facing criticisms by some major developing countries. There are now attempts by some WTO members to negotiate a plurilateral “international services agreement”, but major developing countries have not agreed to be part of it, and it is

still not clear whether and how such a plurilateral agreement would or can interface with the WTO.

The present impasse is a reflection of the conflict of paradigms and approaches that have been at the heart of negotiations at the WTO since its birth, and even before its birth when the Uruguay Round negotiations also faced this conflict. The developing countries by and large want the multilateral trading system to be oriented to their development needs. The developed countries want to count on the WTO negotiations to continue to produce outcomes in their favour, as they did at the Uruguay Round, with greater and greater access to developing countries' markets, but without they themselves having to make genuine commitments in areas where they are protectionist, especially agriculture. It is difficult to see how the impasse will be broken unless this conflict is recognised and hopefully resolved in favour of development.

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