

Comments on the WTO's Geneva "July 2004 Package"

by Martin Khor

INTRODUCTION

Agreement was reached on the night of 31 July-1 August at the World Trade Organization in Geneva on the "July package" after a week of intense meetings. The WTO adopted frameworks for how to move ahead on trade in agriculture and non-agricultural market access (NAMA, involving mainly industrial goods), and on the so-called Singapore issues, services trade and the "development issues".

These will be the basis for the next stage of negotiations. On agriculture and NAMA, the next phase will focus on finalizing "modalities" (principles and figures, for example, on how much to reduce tariffs). The negotiations are under the work programme agreed to at the WTO's Ministerial Conference at Doha in 2001.

A first reading of the July package shows a few significant gains for the developing countries, but these are more than offset in other areas where they have lost ground.

Also, the Geneva meeting and its outcome again showed up how the WTO's decision-making process is generally controlled by the big countries and how developing countries' positions are generally not properly reflected.

At a press conference, the WTO Director-General Supachai Panitchpakdi said the WTO had now achieved what it failed to do in Cancun last September (when the Ministerial Conference ended without any decision). "Multilateralism has made a minor triumph," he said, adding that some people had predicted that the Geneva meeting would be another Cancun. "This

agreement has strengthened belief in the multilateral trading system."

The fear of being blamed for another Cancun-like collapse caused many developing countries to be extra cautious and to eventually accept a deal of which they had been critical. When the first draft of the framework text came out on 16 July, it was severely criticized by many developing countries. The second draft on 30 July was also criticized. Some, but only some, of the concerns were dealt with, and some of the countries decided to compromise and "live with the text" for fear they would be blamed if another WTO meeting failed and the system were to suffer another blow.

Besides the "fear of blame" factor, different groups of developing countries also felt they were getting at least a minimum of what they were seeking, even as they had to give up ground in other areas. There was also a serious lack of time for the developing countries to seriously consider the drafts and the final text, and the absence of ministers of most developing countries also meant that immediate political decisions were difficult to take. In contrast, the ministers of most of the developed countries were present at the WTO or in Geneva. "Although this was meant to be a General Council meeting, it took on the atmosphere of a mini-ministerial [meeting] with decision-making powers, and most of our ministers were not present," said a leading developing-country diplomat.

A. A FEW SIGNIFICANT GAINS

There are two significant gains from the Geneva decision for developing countries in general: a commitment to eliminate export subsidies in agriculture, and the

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placing of three “Singapore issues” outside the negotiating agenda of the Doha work programme.

A.1 Commitment to eliminate export subsidies

The developed countries have agreed in principle to eliminate agricultural export subsidies. Export credits, export credit guarantees or insurance programmes with repayment periods beyond 180 days will also be eliminated and those of 180 days and below will be disciplined.

Thus, for the first time, elimination of export subsidies has been committed. When it takes place, this will get rid of some of the most trade-distorting of the rich countries’ subsidies that have enabled the dumping of their agriculture exports (including to the South) and unfairly kept out the developing countries’ farm products. However, the July package has not fixed an end date or a roadmap for this elimination, so what will really happen here (and when) remains to be seen.

However, there are also some unsatisfactory results in other parts of the agriculture decision (see below).

A.2 Three Singapore issues put on the backburner

Secondly, three of the unpopular “Singapore issues” (investment, competition and transparency in government procurement) have now been dropped from the WTO’s negotiating agenda, at least during the period of the Doha programme. Developing countries had opposed these issues, which they believed would interfere with their national policies and hinder their economic development. The attempts by the rich countries to set up new agreements on these issues had generated heated controversy for years and were a major factor in derailing the Cancun meeting.

The July decision now says “no work towards negotiations on any of these issues will take place within the WTO during the Doha Round.” It has thus left it vague as to whether discussions (as contrasted to negotiations) would continue even now at the WTO, through a revival of a study process in the working groups. It has also left open the possibility of these issues making a comeback as negotiating topics after the Doha programme is finished.

However, doing away with negotiations on these issues for the time being is a big relief for developing countries and also a significant gain, since it had seemed that the battle was almost lost at the Doha Ministerial Conference of 2001, which mandated the launching of negotiations on the four Singapore issues on the basis of explicit consensus on the modalities of negotiations.

Although the three issues have been put on the backburner, the developing countries had to make the concession of agreeing to launch negotiations on the remaining Singapore issue, i.e., trade facilitation (see below).

B. MAJOR LOSSES AND SOME NEGATIVE OUTCOMES

Against these positive developments are some major setbacks and other negative outcomes for the developing countries.

B.1 Unfair adoption of a damaging NAMA framework

By far the worst decision is the adoption of a framework on NAMA (trade mainly in industrial goods), which could worsen the threat in many developing countries of cheap industrial imports overwhelming local goods and industries.

There are at least three elements of the NAMA framework (contained in Annex B of the July package) that will have serious negative effects on development. Firstly, it advocates a “non-linear” formula which is aggressive in sharply reducing tariffs, with steeper cuts for higher tariffs. For example, under a variation of this formula, a 40% tariff on a product would have to be reduced to 7%. Many developing countries have relatively high bound industrial tariffs to protect their local industries, and thus they will be much harder hit.

In the history of GATT and the WTO, the developing countries have never had to come under a “formula approach”, let alone an aggressive non-linear formula, not even during the Uruguay Round. Given the above, it will be crucial, when the negotiations continue, for the developing countries to prepare their case on the type of approach or formula and the parameters that are more appropriate for them, in order to avoid the more damaging situation.

Secondly, the NAMA framework calls on developing countries to give up the WTO’s present flexibilities for countries to choose how many of their industrial products’ tariffs they would like to bind and at what rate. The July decision advocates at least 95% of their tariff lines will have to be bound, many at very low rates.

The reason is that to calculate the new bound rates, the applied tariff rates of the presently unbound products will be taken and multiplied by two (this figure is mentioned within brackets) and then subjected to the harsh non-linear formula. The new bound rates could end up significantly lower than the present applied rates. There would also, in these cases, no longer be a gap (as now exists) between applied and bound rates, and thus the developing countries would lose having a “safety zone” where they can choose to raise the applied rates towards the bound rate in the event of serious difficulties arising from import competition. As many developing countries have low applied rates for many products (as a result of structural adjustment loan conditionalities), the result of the NAMA exercise may be to depress their industrial tariffs (both bound and applied) to unbearably low levels.

Thirdly, there is a “sectoral tariff component” in which many sectors (an earlier draft mentioned seven) would be slated for fast-track total elimination of tariffs. The

text says participation by all will be important, implying that the sectoral component could be compulsory. If sectors are selected that are important in a developing country's domestic production, then the risks to its domestic industries will be heightened.

If the negotiations that follow are not handled properly and these measures are accepted, they could threaten the share and the very survival of many local firms and industries in developing countries. They may not be able to compete with imports if tariffs are brought down to zero or to low levels. Many developing countries (in Africa, Latin America and the Caribbean) have already suffered from a deindustrialization process as cheap imports overwhelmed the local firms as a result of rapid liberalization under structural adjustment.

Most developing countries (especially from Africa and the Caribbean) had opposed the annex for many months, as it had been recycled from the same NAMA draft (known as the Derbez text) presented at the Cancun meeting of September 2003. It had been criticized at Cancun and in the post-Cancun period. Many developing countries had submitted their own proposals for a NAMA framework, which were radically different from the Derbez text. The African, Caribbean and Pacific (ACP) countries and the group of least developed countries (in the G90 ministerial meeting on 12 July) had criticized the Derbez text on NAMA for its potential for causing deindustrialization, unemployment and poverty in their countries. They protested against the plan to include this text, unchanged, into the July package.

Many developing countries were thus outraged that the Derbez text popped up again unmodified in the first July package draft of 16 July. The African Group proposed amendments to Annex B. But any amendment to the text was said to be unacceptable to the developed countries. At one stage, it looked as if the Geneva meeting would collapse on the NAMA issue. Negotiations then focused on a "vehicle" or explanatory paragraph that would state that more negotiations would be needed on some elements of Annex B. The location and thus legal status of this "vehicle" became a subject of controversy.

In the end, the developing countries agreed to accept the disputed annex with no modification, except that it be prefaced with a first paragraph explaining that the annex contains "the initial elements" for future work, and that "additional negotiations are required to reach agreement on the specifics of some of these elements." These relate to the formula, treatment of unbound tariffs, flexibilities for developing countries, participation in the sectoral component, and preferences.

This paragraph has given the developing countries a space from which to continue to battle for a better framework. But since the Derbez text forms the rest of Annex B and will be the basis for negotiations, it will be an uphill task for the developing countries to put forward their own versions of modalities that are suited

to their industrial development.

The unjust process of placing an unagreed and contentious text as the framework, and then asking countries to work with it as the basis, has placed the developing countries at a grave and unfair disadvantage. It will be an uphill battle for them to limit the damage, and a more than Herculean task to succeed in putting in place an alternative set of modalities.

Thus, the July decision on NAMA is extremely damaging to development and poses a grave danger to the survival of industries in many developing countries. Much work has to be done to at least limit the more damaging aspects of the framework in the post-July negotiations.

B.2 Agriculture

As pointed out above, a positive point in the agriculture framework (which is set out in Annex A of the July decision) is the commitment to end export subsidies and to tighten disciplines on other forms of export subsidization. However, the all-important end date will be fixed later. And the positive effects in this area could be offset if subsidies in another pillar of agriculture trade reform, domestic support, are not adequately curbed or are allowed to increase. Moreover, small farmers in developing countries could be further hurt if the parameters in the market-access pillar mandate further tariff reductions for imports competing with their products. In this context, the outcome in the domestic-support and market-access pillars is unsatisfactory and potentially damaging.

A loud complaint from developing countries during the negotiations leading up to the July decision was over the double standards that emerged in the agriculture text. The developed countries had their way when relatively new concepts or issues (an expanded Blue Box, and "sensitive products") important to their interests were fast-tracked into the text, whereas the developing countries' longstanding problems (cheap imports overwhelming their farmers) and their demands for instruments to deal with these ("special products" (SP) and "special safeguard mechanism" (SSM)) made relatively little or no headway.

Domestic support

The developed countries, especially the US, pushed for a change in the WTO rules to allow them to use new kinds of domestic farm subsidies categorized under the "Blue Box" (in WTO jargon). Subsidies under the Green Box do not have to be reduced, unlike those in the Amber Box, and up to now there is also no reduction required of the Blue Box. The US has some types of subsidies, particularly counter-cyclical direct payments to farms under its Farm Bill, which it would like to transfer to the Blue Box so that they can be maintained at the scheduled levels. The attempt to "expand" the Blue Box to incorporate these types of subsidies (which otherwise would have to be disciplined) lay behind the proposals.

The developing countries were generally against the expansion of the Blue Box, which they believed would be a loophole allowing subsidies to shift from box to box, thus enabling the developed countries to maintain their high domestic subsidies or even increase their overall level (as happened after the Uruguay Round), thereby making a mockery of the oft-stated WTO aim of domestic-support reduction. This issue split the meeting and also threatened to derail it.

To break the impasse, it was agreed that Article 6.5 of the WTO Agreement on Agriculture on the Blue Box would be reviewed so that members may have recourse to direct payments, with indications that these will include new criteria that would allow for new kinds of subsidies within it. The text now does say that the criteria “will be negotiated” and will have to be less trade-distorting than the Amber Box. But it seems to pave the way for the kind of counter-cyclical payments of the US to be eventually accommodated.

The Blue Box support will also not exceed 5% of agricultural production value of a period to be established. Since the US presently has no Blue Box subsidies, it can increase up to the 5% level. The EU makes significant use of Blue Box subsidies above the proposed 5% limit but has already planned to transfer a large part of these to the Green Box, and therefore should be able, without pain, to reduce to meet the target.

The Green Box is already the category in which the US puts most of its domestic support, and the EU is in the process of transferring much of its domestic support to the Green Box as well. Although this Green Box is said to be not (or minimally) trade-distorting, it is increasingly realized that Green Box subsidies can also distort by boosting farm revenues and assisting farms to remain in business which would otherwise not be in business.

The Geneva package does not place a cap on these subsidies, nor include a reduction commitment. It only says that the Green Box criteria will be reviewed and clarified to ensure they have no or minimal trade-distorting effects. In fact, such a review should lead to action to discipline and reduce Green Box subsidies, but there is no mention in the text for such action to be taken or contemplated. The Geneva decision thus allows a big loophole for domestic subsidies to be expanded under the Green Box, even if other subsidies are reduced. Overall, the domestic support can thus still increase.

The decision also obliges members to reduce their *de minimis* domestic support. At present, 5% (for developed countries) and 10% (for developing countries) of the value of production is exempted from reduction of domestic support, under the *de minimis* provision.

A battle was fought by developing countries to be exempted from the reduction of *de minimis* support in the Geneva decision. They rightly argue that they do not have huge subsidies (unlike the developed countries) and yet they are bound not to increase their presently low levels of domestic subsidies; for many of these countries, they can only increase their Amber Box sub-

sidies in future through the use of the *de minimis* provision up to the permitted level. If the permitted level were to be reduced, that would limit their possible use of domestic subsidies further. Thus, it is only fair that they should not have to reduce their *de minimis* support. But some of the developed countries were adamant in not giving the developing countries such blanket exemption from reduction.

In the end, only developing countries that allocate “almost all *de minimis* support for subsistence and resource-poor farmers will be exempt.” This restrictive language may mean that several developing countries that do allocate a lot but not “almost all” of their subsidies to poor farmers would have to reduce the level of their permitted *de minimis* support.

The Geneva decision also calls for substantial reduction in the overall level of trade-distorting domestic support from bound levels. The final bound total AMS and permitted *de minimis* levels will be substantially reduced; and the Blue Box will be capped (i.e., will not exceed 5% of agricultural production). (The AMS or Aggregate Measurement of Support is the amount of domestic support considered trade-distorting and subject to reduction commitment. It is usually termed the Amber Box.)

The overall base level of all trade-distorting domestic support will be reduced according to a tiered formula, in which members with higher support will make greater overall reduction. As a first instalment of the overall cut, in the first year (and throughout), the sum of all trade-distorting support will not exceed 80% of the sum of final bound total AMS plus permitted *de minimis* plus Blue Box (at the 5% level).

This, on the surface, may appear to be moving in the direction of the Doha principle of “substantial reductions in trade-distorting domestic support.” However, as some commentators have pointed out, the devil is in the details of this complex decision. The overall base level of all trade-distorting support, on which calculations for reduction will be based, is to be measured by a combination of bound/permitted and existing levels of support. Whether or not the exercise will result in actual substantial reductions in each item and overall will depend on many factors, such as the difference between the bound or permitted level and the existing level, the choice of using bound/permitted or existing levels as the base level from where required reductions are calculated, the choice of base period, etc. The result may also be different for different countries.

Given these factors, some commentators doubt that there will be genuine reductions (or significant reductions) in existing levels beyond what exists or what is already planned by some of the developed countries. Moreover, many developed countries (e.g., the EU) are already in the process of shifting a lot or much of their domestic support to the Green Box, and thus are prepared to reduce their support in other boxes.

A key follow-up question would thus be whether there will be adequate disciplines in the Green Box as well

as action (such as capping and reduction). The Geneva decision does not require capping or reduction of the Green Box. The Green Box subsidies could thus be increased, thereby offsetting the decrease in other categories of domestic subsidies and resulting in little or no overall reduction in domestic support (or possibly even a net increase). The Geneva decision therefore is no guarantee that the eventual result will be a substantial decline in domestic support overall, and actually allows continued flexibility, especially through the undisciplined Green Box.

The loophole of the Green Box was left in the WTO rules perhaps because the implications were not clear to the developing countries at the time the rules were adopted. Now, however, the serious implications are clearer. Yet this potentially wide loophole has not been closed, and that is a cause for concern in future. The task in future negotiations therefore is to make the criteria so clear and enforceable that the loophole is blocked.

Market access

The developed countries have succeeded in having an "appropriate number" of their heavily protected farm goods categorized as "sensitive products" which would enjoy special treatment in relation to the standard tariff-cutting formula. This concept of "sensitive products" had made a sudden appearance in the draft text just a fortnight before adoption, without its having been extensively discussed.

Thus, developed countries are given some significant protection for their high-tariff products. (Although the "sensitive products" category can be used by all members and thus by developing countries as well, it is understood that this category was devised for the developed countries, which are unable to make use of the "special products" category which falls under special and differential treatment for developing countries.) There is concern that the "sensitive products" concept would continue to prevent or limit access of developing-country agricultural exports and potential exports to the developed-country markets.

In contrast, the developing countries have been pushing for years for a decision that farm products on which their food security, farmers' livelihoods or rural development depend should be exempted from further tariff reduction. The Geneva decision now states that developing countries will have the flexibility to designate an appropriate number of products as "special products", based on criteria of food security, livelihood security and rural development needs, and these products are eligible for "more flexible treatment." The criteria and treatment will be specified during the negotiations.

In discussions before the adoption of the decision, Indonesia (the coordinator of the G33 group of developing countries) had a hard time insisting on removing the words "under conditions to be agreed in the negotiations" which had been placed after "flexibility to designate" (products as special products). This was op-

posed especially by the US, but Indonesia finally succeeded.

Although these "special products" have received slightly better recognition after the Geneva meeting, the exemption from tariff reduction that the G33 asked for is still not provided. Moreover, in a major step backwards, the statement in the first Geneva draft of 16 July that "there will be no requirement to expand tariff rate quotas on SP products" has been removed, implying that SPs will also be subjected to tariff rate quota expansion.

The paragraph on special products is thus weak, but from here the battle will have to continue for protection of small farmers in developing countries. There will be tough talks ahead on how to define these products, what special treatment they will get, etc.

The Geneva decision also states that a special safeguard mechanism will be established for use by developing countries. A good development is that the qualifying phrase in the 16 July text, "under conditions to be agreed", has been removed.

The decision has agreed to a "single approach" for developed and developing countries of a "tiered formula" for tariff reductions, with "deeper cuts in higher tariffs, with flexibilities for sensitive products." There will be special and differential treatment for developing countries, but they (other than the least developed countries, which are exempted) will be subjected to the tiered formula. The number of bands, thresholds for defining the bands and type of tariff reduction in each band, will be negotiated. Though not mentioned in the Geneva decision, it is understood that the tiered approach will have a number of bands, with each band specifying the tariff range (e.g., 1-10%, 11-30%, 31-50%, etc), and presumably the bands with higher tariffs will be subjected to deeper cuts. What kind of formula to use within each band is to be discussed.

It is clear that with this kind of "tiered approach", there will be much less flexibility for developing countries than in the Uruguay Round approach (which had a guideline for developing countries of an overall average reduction of 24% and a minimum reduction of 10% in each tariff line). For developing countries, generally, tariffs will have to be reduced and probably by more than during the Uruguay Round, and especially affected would be the products with higher tariffs.

The grave and growing concerns that import liberalization has led to a significant increase in import surges, displacement of local farm products and great difficulties for small farmers in developing countries, have not been addressed in the Geneva decision on market access, which, through its "tiered formula", instead increases these concerns. It remains to be seen, in the negotiations ahead, whether the worsening of the situation can be partially offset through the special products and SSM mechanisms, and to what extent.

B.3 Cotton

Another negative development resulting from the July package is the poor outcome on the cotton issue. Cotton-producing West African countries, backed by the African Group and ACP Group, have highlighted their plight, which stems from how billions of dollars of cotton subsidies (mainly in the US) have hampered their own cotton production and trade, affecting the incomes and lives of many thousands of African farmers.

These countries had been persuaded to give up their original demand that cotton be treated as a standalone issue and agreed that it could be treated within the agriculture negotiations. However, they had maintained their key positions, that within the agriculture negotiations, cotton be given a special status, with its own measures and timetable so that it would not merely be subjected to what happens generally on agriculture. The African Group put forward its proposal at a 19 July meeting that included the following measures: all forms of cotton export subsidies are eliminated by the date of implementation of the Doha results; more than average reductions in domestic support on cotton, and complete elimination of all forms of trade-distorting support on cotton by a specific year; a cotton agreement shall be implemented on an early-harvest basis starting in 2005, and a date for total elimination of cotton subsidies shall be determined by the next Ministerial Conference irrespective of progress in the rest of the agriculture negotiations; technical and financial assistance to meet the needs of developing-country cotton producers; and a working group on cotton to be established.

In the week leading up to the adoption of the July package, US Trade Representative Robert Zoellick held a marathon all-night 12-hour meeting with some of the West African countries on the cotton issue. Eventually, the specific proposals for special treatment for cotton, aimed at eliminating cotton subsidies on a fast-track basis, were not included in the text.

In the main text of the decision, there is only a general reaffirmation of the importance of the cotton initiative, the importance of the development aspects and the complementarity between the trade and development aspects. In Annex A on agriculture, a paragraph on cotton states it will be addressed "ambitiously, expeditiously and specifically, within the agriculture negotiations" and that the agriculture talks will ensure "appropriate prioritization" of the cotton issue independently from other sectoral initiatives. A subcommittee on cotton will meet periodically and report to the agriculture special session to review progress, and work will encompass trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export subsidies as specified in the Doha text and the framework text.

From this, it would appear that the cotton issue is meant to be dealt with within the framework and parameters of the Doha mandate and the Geneva decision. Although there is mention of "prioritization" of the cotton issue "from other sectoral initiatives", it should be

noted that there are no other sectoral initiatives (at least at present). There is no specific mention that there will be prioritization as against other aspects of the agriculture negotiations or prioritization in terms of higher commitments to eliminate cotton subsidies at a faster rate than generally, or that there be a separate timetable than the general one. Thus there does not appear to be a commitment to any effective special or specific treatment for cotton in the text.

However, the text does provide special mention of the cotton issue, and thus gives a handle to the proponents of the "cotton initiative" to continue to pursue their cause. It remains to be seen to what extent the issue will be kept alive, through the cotton subcommittee and the efforts that the cotton-producing developing countries may continue to exert.

B.4 Trade facilitation

There is a decision under the July package to launch negotiations on "trade facilitation", one of the four Singapore issues. Such a launch had been opposed by most of the developing countries at the Cancun ministerial meeting, and for a long period after Cancun many of them had maintained their reluctance to launch negotiations, preferring to continue to clarify the issues and work on the modalities. Among the points raised by developing countries (including the African and ACP ministers at their meetings) were the fear that there would be high costs of implementation, the need for assurance that such costs would be met by financial assistance from developed countries, and the issue of whether it is appropriate to involve the WTO dispute settlement system (as non-binding guidelines may be more suitable).

The developing countries that had such strong reservations made a concession at the Geneva meeting to agree to the launch of negotiations, after they came to an agreement on modalities (listed in Annex D of the July package) which incorporated several of their main points. Paragraph 4 of Annex D states that members shall address the concerns of developing and least developed countries related to the cost implications of the proposed measures on trade facilitation. Paragraph 6 says that support and assistance should be provided to help developing countries implement the commitments resulting from the negotiations. The text recognizes that commitments may also involve infrastructure development, and developed countries will make every effort to provide assistance; where the required assistance is not forthcoming, implementation will not be required. Least developed countries are only required to undertake commitments to the extent consistent with their individual needs and capabilities.

B.5 Services

The area of trade in services is dealt with by a separate sentence in the main text of the Geneva decision and an annex (Annex C). The main text, besides adopting the annex, states that revised offers (of services liberalization) should be tabled by May 2005. It was reported that this deadline was proposed at the end of the "Green

Room” meetings by the US and EU when participants were leaving or about to leave, and there was no adequate opportunity to discuss it. During the final heads-of-delegation session, some developing countries, which were concerned about the extra pressure generated by the deadline, reportedly expressed reservation on this deadline, questioning how it was set and its appropriateness.

Annex C contains the recommendations of the WTO’s Services Council, which, among other things, states that: members who have not yet submitted their initial offers must do so as soon as possible; a date for submitting revised offers should be established (it now has been); members shall strive to ensure a high quality of offers, especially in sectors and modes of supply of export interest to developing countries; and members shall aim to achieve progressively higher levels of liberalization with no *a priori* exclusion of any service sector or mode of supply and shall give special attention to sectors and modes of supply of export interest to developing countries, noting mode 4 (*viz.*, movement of natural persons).

The deadline for revised offers places heavy pressure on developing countries to submit commitments on opening up their services markets, which many are reluctant to. The deadline is also very stringent, given that many countries have yet to submit even their initial offers, and also given that the original deadlines for resolving the development issues (special and differential treatment, and implementation) were set for far earlier than the services deadlines. Yet the deadlines for development have passed without results and new deadlines on development issues have now been set for the same months or later than the revised offers for services (see below). Thus the pressures for meeting commitments on services have become far heavier than those for development issues.

B.6 “Development issues”

On the “development issues” (special and differential treatment (SDT) for developing countries, and issues relating to the implementation of the WTO agreements), the Geneva meeting again failed to agree on concrete measures to strengthen existing SDT measures or to provide new measures, or to take decisions on resolving specific problems of implementation of the existing WTO rules. The Geneva decision only sets new deadlines (since the old deadlines have long expired) for the issues to be considered and for reports on these issues to be submitted.

On SDT, the WTO Committee on Trade and Development is asked to complete its review of all outstanding agreement-specific proposals and report by July 2005; all other outstanding work will be reported “as appropriate”; and all WTO bodies dealing with Category II proposals are to report to the General Council by July 2005. On the implementation issues, the WTO Director-General is requested to continue with his consultative process and report to the Trade Negotiations Committee and General Council by May 2005 for a Council decision by July 2005.

In fact the Geneva meeting marked another sad step in the steady decline in status and action on these “development issues”. There have hardly been any concrete results on them. The Doha Declaration had accorded priority status for these issues, and deadlines for results on them were also given priority status. But now progress is far behind the deadlines, whilst progress in other areas has been faster.

When the Doha negotiations were launched in 2001, it was with a lot of rhetoric on the need to put developing countries’ interests at the centre. The resolution of the SDT and implementation issues was in turn at the centre of development issues, and was to be the test of the seriousness with which development is pursued in the Doha work programme. Sadly, the negative aspects far outweighed the positive developments at the Geneva meeting. And thus development remains at the level of rhetoric, whilst some of the new decisions (especially on industrial tariffs) are potentially threatening to development prospects.

C. DECISION-MAKING PROCESS

The Geneva process again showed up the WTO’s unsatisfactory and flawed decision-making process.

The draft texts were issued very late, giving little or no time for delegations to study them, send them back to their capitals for further instructions, and respond adequately to them. The first draft came out only on 16 July, allowing little time for the process of response and consultations within the country delegation and within groupings of countries. The General Council meeting started on 27 July and was supposed to end on 29 or 30 July. The first revised draft appeared only on 30 July morning, and an informal meeting of heads of delegation was held at 10am the same day to discuss it, giving delegations hardly any time to study it properly or to consult their capitals or propose changes. The final draft of 31 July came out in the afternoon and a meeting to adopt it was held that night itself.

The extremely rushed circumstances placed the developing-country delegations at a great disadvantage, especially those with few personnel and with no access to the Green Room meetings and informal consultations. The lack of time for the developing countries to seriously consider the drafts and the final text, and the absence of ministers of most developing countries, also meant that immediate political decisions were difficult for them to take.

Key decisions were made only by a few countries. In particular, the “five interested parties” (FIPs, comprising the US, EU, Brazil, India and Australia) spent time among themselves for a long period during the week of 27 July, and every other delegation was left waiting for news and for the results. There were bitter complaints from developing countries and even from developed countries like Switzerland and Canada over being left out of the main agriculture talks, and thus being put in a position where they were pressurized (including by exigencies of time if nothing else) to accept the main decisions of the FIP meeting, with only some minor changes possible.

Developing countries in general came under pressure to accept a package even if it was not to their liking, for fear that if they objected to any part of it, they would most likely carry the blame for the collapse of the talks and for striking a blow to the multilateral trading system. A perception had been generated for weeks, including through some articles in mainstream Western media outlets, that the positions of some groups of developing countries could threaten the Geneva talks and that a collapse would hurt the poorer developing countries more than any others.

Besides the “fear of blame” factor, different groups of developing countries also felt they were getting at least a minimum of what they were seeking, which made the final text more acceptable. Most developing countries were, however, very dissatisfied with the outcome on NAMA.

The most obvious form of pressure and unfair process was over the text on NAMA. The NAMA annex, much liked by the developed countries, had been rejected by many developing countries in its earlier form before Cancun, and then when it became the Derbez text it had been opposed in Cancun and after Cancun. Many developing countries insisted that it could at best be one of the main documents used as a reference point in the NAMA negotiations whilst other proposals (especially those from the developing countries) should also be referred to in the negotiations.

Yet the Derbez text was included unchanged (except for the new first paragraph) as the NAMA annex. The African Group had protested against the decision to do so when the chairman of the NAMA negotiations indicated his intention in early July and the African, ACP and G90 ministers proclaimed themselves against it in May and July in their various conference declarations. And yet a decision was made by the NAMA chair, the General Council chair and the WTO Director-General to incorporate this disputed text in the overall July package as the annex on NAMA.

The only concession the developed countries were willing to make was to create a “vehicle” to indicate that further negotiations are required on some aspects of the annex. After another big battle, it was agreed to place the “vehicle” in the body of the annex.

It is incredible how such an important text as a framework for modalities on such an important subject as NAMA could be adopted without any changes whatsoever, when its most important elements had been opposed by so many members. Members who objected to the text found themselves in a situation where they had to agree to its adoption, with only an inadequate “chapeaux” or paragraph 1 to indicate that they can reopen some aspects of it, but with no guarantee that the reopening can be to an adequate extent. It is improbable that the NAMA annex would have been adopted had there been a fairer decision-making process.

The manner in which the chairman of the NAMA negotiations put the annex in the text (thus placing the developing countries in an extremely vulnerable position during the negotiations) is a stark indication of

how unfairly the WTO negotiating process functions at present. Also, the fact that the developing countries did not reject the NAMA text outright shows their weakness in the WTO system.

The Green Room meetings again brought up renewed charges of lack of transparency and questions of representativeness. It was never announced to the members that there would be exclusionary Green Room meetings to go through the draft and decide the final text. Neither was it made known as to who were invited to these meetings and on what basis.

There was an additional complication in that this was a General Council meeting, where the main players were supposed to be member countries’ ambassadors, and the WTO leadership made known that it was not necessary or advisable for delegations to ask their ministers to come. Yet ministers from almost all the developed countries came (either to the WTO or at least to Geneva). In the end, the US Trade Representative and the European Trade Commissioner played the most active roles in the outcome.

In contrast, ministers from only a few developing countries came. Prominent among them were the Brazilian and Indian ministers who played important roles in the agriculture negotiations. But the absence of ministers of most developing countries meant that immediate political decisions were difficult for these countries to take. “Although this was meant to be a General Council meeting, it took on the atmosphere of a mini-ministerial with decision-making powers, and most of our ministers were not present,” said a leading developing-country diplomat.

As almost all of the meetings conducted during the week were “informal”, there will be no records of what “informal consultations” or Green Room meetings were held, who took part or said what there, or what delegations said even at the heads-of-delegation meetings to which all delegations were invited. The General Council suspended its meeting on 27 July when it came to the agenda item on these Doha negotiations, and it convened again officially only on the night of 31 July to adopt the decision and hear concluding speeches.

Finally, the already inadequate access that civil society groups have to WTO meetings was reduced even further during the week of the Geneva process. The limitation was even stricter than during Ministerial Conferences, during which many hundreds of civil society groups were accredited to be within the conference premises, attended the formal opening and closing plenary sessions (although not the closing plenary at Cancun) and were able to conduct activities. Such access, attendance at meetings and conduct of activities were not available in the Geneva process, which was thus shrouded away from the public.

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