



# Briefing Paper

## Twenty Years Down the Line: A re-look at the Doha Development Agenda

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### Summary

This briefing paper summarises a study by CUTS International Geneva on “The WTO Doha Development Round: From Doha in 2001 to Nur Sultan in 2020” authored by Felix Maonera. The study discusses the twenty years old negotiation impasse in the World Trade Organisation Doha Work Programme adopted at the 4th WTO Ministerial Conference in November 2001.

## Background: the Doha agenda from optimism to deadlock

The World Trade Organisation (WTO) Doha Development Agenda (DDA) was launched in Doha, Qatar, in November 2001 amid a lot of optimism. It set out a broad work programme which acknowledged that international trade can play a major role in the promotion of economic development. The programme incorporated both an expanded negotiating agenda and other important decisions that Members believed would address the challenges facing the multilateral trading system.

With this programme, WTO Members committed to place the needs and interests of developing countries at the heart of the WTO, and to continue to make positive efforts to ensure that developing countries secure a share in the growth of world trade commensurate with the needs of their economic development. They also recognized the special structural difficulties the least-developed countries face in the global economy and committed to improving their effective participation in the multilateral trading system. This meant acknowledging that enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes, have important roles to play.

In the run up to Doha, and even at Doha, developing countries expressed their reluctance to join in the launch of a new Round of negotiations. Most developing countries were still struggling with implementing some of the Uruguay Round outcomes and had serious implementation concerns. But it was difficult for them to refuse to join a round that Members decided to give the tag of “development” by calling its work programme, the “Doha Development Agenda”. Also, the packaging of the round became attractive, when Members

adopted a Decision on Implementation-Related Issues and Concerns in which they agreed that those issues were to be an integral part of the work programme.

But one cannot rule out that political pressure was applied on some developing countries to get them to go along with the launch of a new Round. Speaking about a year before the Doha Ministerial Conference in an attempt to explain the reasons why Members failed to launch a new round in Seattle in 1999, the then WTO Director General Mike Moore’s statement is revealing;

*“My conclusion is that launching a new round, while by no means impossible, is certainly going to be difficult. It will not happen by default. It will only happen if sustained pressure on governments produces the political will needed to adopt more flexible positions in sensitive areas. Narrow interests must be examined in the context of pursuing the greater good.”*

Since Doha, WTO Ministerial Conferences have been held at Cancun, Hong Kong, Geneva, Bali, Nairobi and Buenos Aires, with ministerial conference number twelve set to be held in Nur Sultan, Kazakhstan, in June 2020. Previous ministerial conferences have witnessed very few outcomes from the packed Doha Work Programme. Developing countries have called dishonest the current state of the negotiations, as the focus has shifted from issues of interest to developing countries to others where some developed countries are looking to secure greater access to the markets of developing countries.

At the 10th WTO Ministerial Conference in Nairobi in 2015, the Ministerial Declaration had recorded for the first time Members’ divergent views with regard to an issue<sup>1</sup>. The Ministerial Declaration recognized that while many Members (read that to mean developing countries) reaffirm their commitment to conclude the DDA, other Members (read that to mean some developed

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<sup>1</sup> The usual practice had been that where members could not find agreement on an issue, that issue would not find its way into the Declaration.

countries) believe new approaches are necessary to achieve meaningful outcomes. One can interpret such a formulation as an implicit adoption of some developed countries' view that the Doha Work Programme is no longer doable.

This briefing paper summarises a study by CUTS International Geneva on “The WTO Doha Development Round: From Doha in 2001 to Nur Sultan in 2020” authored by Felix Maonera. In his study, Maonera seeks answers to why the DDA witnessed no progress while it is an agenda put together by all WTO members and backed with their commitment and promise to put developing countries' interests first. He starts by outlining the original intention of the Doha Work Programme for all peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system can generate, taking into account the fact that the majority of WTO Members are developing countries. He follows this with a close-up of the current state of play in some of the areas under negotiation. Then he outlines some insights with regard to the main drivers leading to the impasse. Finally he extracts some prospects with regard to the next Ministerial Conference scheduled to take place in June 2020 in Nur Sultan. His findings are summarized in the following sections.

## Current State of Play

In this section Maonera gave a panorama of the issues on the Doha Work Programme that Members continue to negotiate in their regular meetings and special sessions, despite the noticeable lack of progress.

### Agriculture

The objective of the WTO Agreement on Agriculture (AoA) is to establish a fair and market-oriented agricultural trading system by correcting and preventing restrictions and distortions. At Doha, Members committed themselves to negotiations aimed at reforming the existing rules while placing Special and Differential Treatment (S&DT) for developing countries at the core of all

the elements. Today agriculture remains at the centre of developing countries' interests in the DDA negotiations. The list of issues under negotiation includes domestic support, public stockholding for food security purposes, market access, and a special safeguard mechanism, among others.

Under Domestic Support, the negotiations seek to ensure that subsidies, financial and other support provided by governments to their local farmers do not distort trade in agricultural products, by reducing the allowed amounts of support. The negotiations involve complicated details related to identifying members who should make cuts, others who should be excluded and finally the developing countries that should benefit from S&DT.

Another key issue is the public stockholdings which are considered to distort trade when they involve purchases from farmers at 'supported' or 'administered' prices. A proposal by a group of developing countries and supported by many others, especially those vulnerable to the adverse impact of climate change, aims to shield their public stockholding programmes for food security purposes in case their agreed limits for trade-distorting domestic support were breached. Arguing that an existing Decision on Public Stockholding as well as the existing flexibilities in the AoA are sufficient, this proposal is met with a push back from mainly developed and some developing countries.

The proposed Special Safeguard Mechanism aims to enable developing countries to deal with import surges of certain agricultural products on their markets posing the risk of depressing local prices. Some members, mainly developed, believe the idea of a special safeguard mechanism goes against the core purpose of the WTO which is liberalisation of trade.

### Fisheries Subsidies

Members agreed at Doha to clarify and improve WTO disciplines on fisheries subsidies with the aim to prohibit certain forms of subsidies that

contribute to overcapacity and over-fishing. This objective was declared in 2015 as one of the United Nations Sustainable Development Goal (SDG) 14.6 looking to eliminate subsidies that contribute to illegal, unreported and unregulated (IUU) fishing by 2020. Members had set a deadline to reach agreement by December 2019, but because of the slow progress in the negotiations Members could not meet the deadline and agreed to aim to reach an agreement by MC12.

The fact is that developing countries do have an interest in subsidizing their small-scale and artisanal fisheries sectors and to protect their waters against illegal and overfishing foreign fleets.

## Services

The discussions mainly aim to promote the economic growth of all trading partners, and to support the development of developing and least-developed countries through gradual liberalisation of trade in services. They have so far covered issues of market access and domestic regulations (discriminatory licensing requirements, qualification requirements and procedures as well as technical standards). In 2011 WTO Members also adopted a waiver to allow preferential treatment for services and service suppliers from least-developed countries, and have been working since on taking steps to encourage use of this waiver.

While the discussions on Domestic Regulations are still on-going, another track of informal negotiations outside the WTO Working Party on Domestic Regulations was initiated by a group of countries through an issued joint statement at the 11th WTO Ministerial Conference

## Special and Differential Treatment

Special and differential treatment (S&DT) was incorporated into the WTO rules out of a recognition by all Members that the circumstances of poor economic growth of developing and least developed countries

requires that they be accorded certain flexibilities to enable them to develop and embark on a path of sustainable development.

Members at Doha agreed that all S&DT provisions were to be reviewed with a view to strengthening them and making them more precise, effective and operational. Members in 2003 identified eighty-eight agreement-specific S&DT provisions, (from a total of one hundred and twenty-nine) which developing countries considered important for their industrialization and for their integration into the multilateral trading system.

A push against the proposals is currently concerted by mainly developed countries, calling for a differentiation of developing countries on the basis of predefined indicators, and to then have S&DT attributed on a case-by-case basis in response to specific needs, such that large developing countries or emerging economies do not benefit from the same special and differential treatment accorded to smaller developing countries. Maonera explains that differentiation is actually not a new concept in the WTO. The non-agricultural market access (NAMA) negotiations and the resultant texts provided country-specific and groups of countries-specific flexibilities taking into account their specific situations. The same approach was also adopted by the Trade-related Intellectual Property Rights (TRIPS) Amendment, related to public health and adopted in 2005 (where some developing country members who felt they had no need of S&DT chose to step aside). However, this approach is not the same as what some developed countries are proposing, as they seek to impose differentiation on developing countries.

Developing countries have rejected this approach, and asserted their right to S&DT and to self declare their developing country status. Thus, the negotiations are at impasse. Despite all, as Members head for the 12th WTO Ministerial Conference, a group of developing countries is pushing the negotiations over ten proposals related to S&DT provisions.

## WTO Reform

Developed countries, led by the EU, the US and Canada have laid out proposals to ‘reform’ and ‘modernise’ the work of the WTO. Such an agenda, was not foreseen at Doha. The agenda is quite broad, with many interlinked negotiations and noticeable pressure from developed countries. Maonera expects that it is quite likely that the reform agenda will soon hit the same deadlock as the DDA.

In the reform agenda, developed countries are pushing for greater transparency and notification requirements with envisaged punitive actions for non-compliance under the WTO’s monitoring and surveillance function. Many developing countries reject this approach and demand for more technical assistance to enable them to comply with those obligations. Developed countries have also restated their approach to differentiation in S&DT as part of the reform agenda.

Part of this reform agenda is also the current discussions aimed at amending some provisions of the Dispute Settlement Understanding (DSU) mainly to consider concerns raised by the U.S., who continued to block the appointment of WTO Appellate Body members leading to the inability of the Appellate Body to perform its functions from 11 December 2019.<sup>2</sup> Developing countries had expressed their willingness to engage in DSU discussions while also arguing that other issues, such as improving inclusivity, access and compliance with rulings, should be considered as well.

## Other non-DDA Issues/The New Issues

The 11th WTO Ministerial Conference in 2017 marked the announcement, by groups of a mix of developed and developing country WTO

Members, of joint initiatives in the areas of electronic commerce (Seventy one Members), investment facilitation (Seventy Members) and micro, small and medium size enterprises (MSMEs) (Eighty seven Members). These initiatives are open to all WTO members.

The electronic commerce or e-commerce initiative expressed the intention of advancing exploratory work toward future negotiations on trade-related aspects of e-commerce and recognized the particular challenges developing countries and LDCs are facing. Maonera notes that when it comes to e-commerce, a multilaterally agreed WTO Work Programme existed already since 1998. During this programme, developing countries have highlighted the challenges they face in terms of technological developments, and the lack of the necessary basic connectivity infrastructure. However, there is no agreement under the Work Programme to embark on negotiating e-commerce rules.

At the 11th WTO Ministerial Conference Members agreed to maintain the current practice of not imposing customs duties on electronic transmissions (the e-commerce moratorium) for another two years. However, some Members are beginning to challenge this moratorium arguing that it deprives them of revenues they could gain by imposing customs on electronic transmissions.<sup>3</sup>

The joint initiative on investment facilitation for development called for discussions to develop a multilateral framework that aims to improve the transparency and predictability of investment measures; speed up administrative procedures; and enhance international cooperation and information sharing with relevant stakeholders.

The MSMEs joint initiative created an Informal Working Group to discuss the following, among other issues: improved access to information;

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<sup>2</sup> On 10 December 2019, two more members of the WTO Appellate Body completed their terms, leaving AB with only one member. The AB therefore cannot function till at least two more members are appointed as a minimum of three AB members are required to hear an appeal.

<sup>3</sup> The WTO General Council agreed in December 2019 to extend the moratorium till MC12 while also agreeing to have structured discussions on the issues raised by members.



predictable regulatory environment for MSMEs; reduction of trade costs, better access to trade finance for MSMEs and capacity building initiatives.

According to Maonera, given how the discussions have witnessed good progress since 2018, these initiatives now form a new set of agenda where an agreement is easier to reach as the negotiations are among the coalitions of the willing.

## Why the Impasse?

According to Maonera the current impasse is due primarily to three reasons, among many others. The most heard reason is that everything related to those negotiations is now 'Political'. He gave an example of how negotiating removal of subsidies in agriculture can lead to rising pressure from farmers on their governments. The same political considerations are behind the call by developed countries for the differentiation of developing countries as developing countries like India, Brazil and China among others are now competing in key sectors where developed countries are at the forefront.

Maonera notes that the moment an issue becomes politically doable, Members are more able to reach agreements. For example, Members reached agreement on amending TRIPS in 2005 to make medicines more affordable to poorer populations and again in 2013 on the Trade Facilitation Agreement (TFA) with the aim to ease doing business across borders.

The other two reasons are closely related: the complex configuration of WTO membership leading to wide gaps on negotiated issues and the consensus rule. The WTO has now 164 Members with differing levels of development and interests, if only one of them objects, a decision would not see the light of the day. Maonera highlights that though the Marrakesh Agreement Establishing the WTO allows Members to take decisions through vote, voting has never been resorted to as consensus is considered to allow greater chances of implementation by the Membership.

## Nur Sultan, June 2020... Time to face the hard truth?

With only six months to the 12th WTO Ministerial Conference, Maonera believes it is quite unlikely that Members can bridge their gaps in the short remaining period to reach agreement on any of the issues of the Doha Agenda. The only possibility would be an agreement on fisheries subsidies. Also, the issues taken up in the joint initiatives are likely to fill the vacuum, especially with the increasing number of WTO members involved in the joint initiatives.

Maonera wonders, in his study, if MC12 will be the time when Members “squarely face the hard truth”, and admit that concluding the DDA after twenty years, is no longer possible. A way out he suggests, would be to determine which of the remaining issues on the DDA are still viable in the current world economy and political geography, instead of members simply walking away from their agreed mandates like in Nairobi. “The passage of time has certainly not brought Members any closer to agreement. It is unlikely that the passage of more time would change that. But whatever it is Members can congregate around in Nur Sultan it has to be pro-development in the context of the SDGs, and should remain faithful to the original intention of the Doha Work Programme for all peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system can generate, taking into account the fact that the majority of WTO Members are developing countries”, concludes Maonera.



## CUTS International, Geneva

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