

# trade hot topics

## To Have or Not to Have a Round: WTO at Crossroads

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### Background

The ten-year long saga of the World Trade Organization (WTO) Doha Round continues. The longest ever multilateral round of trade negotiations has seen many twists and turns in the fortunes including missed deadlines, solemn commitments from world political leaders, suspensions of negotiations and one failed WTO ministerial conference, and several agreements that are close to final. While some claim that the Round is practically dead and hence should be buried,<sup>1</sup> others remain optimistic. There is also a growing recognition that continued viewing of the WTO through the prism of a stalled Doha Round will irrevocably damage the credibility of the multilateral trading system.<sup>2</sup> Views and analysis also abound on the reasons for failure to conclude the Doha Round and many suggestions are on hand to address these.<sup>3</sup> This issue of *Commonwealth Trade Hot Topics* aims to present a broad assessment of the situation in relation to the WTO and Doha Round with a view to making some recommendations in preparation for the forthcoming WTO Ministerial Conference (MC) scheduled to be held in Geneva, Switzerland, from 15 to 17 December 2011.

### Lest we forget

Some of the points being made now, for example, regarding the single undertaking, balance between ambition and timeframes, and the primary role and responsibility of the WTO, are like 'déjà vu' for many of us who had seen and participated in many debates on these very issues before the launch of Doha Round. To recap:

- From the first WTO MC in Singapore in 1996 until the adoption of the Doha Ministerial Declaration launching the Round in December 2001, many developing countries were against the launch of the Round. They argued that the

<sup>1</sup> See, for example, Jean-Pierre Lehmann in the *Financial Times* of 24 August 2011.

<sup>2</sup> For example, see a statement by Pradeep S Mehta, Secretary-General, CUTS International, at [http://www.cuts-citee.org/press\\_release-Separate\\_WTO\\_and\\_the\\_Doha\\_Round\\_for\\_Plan\\_B\\_to\\_work-CUTS.htm](http://www.cuts-citee.org/press_release-Separate_WTO_and_the_Doha_Round_for_Plan_B_to_work-CUTS.htm).

<sup>3</sup> See, for example, a recent Briefing Paper by CSEND titled 'Doha stalemate: Implications and ways forward' at <http://www.diplomacydialogue.org/publications/trade-diplomacy/105-doha-stalemate-implications-and-ways-forward-csend-policy-brief-geneva-august-2011>; Bhagwati and Sutherland Report (2011), 'The Doha Round: Setting a deadline, defining a final deal', available at <http://www.bis.gov.uk/assets/biscore/international-trade-investment-and-development/docs/w/11-964-world-trade-and-the-doha-round.pdf011.pdf>; Patrick Messerlin's 'Polly Wants a Doha deal' available at [http://www.cuts-citee.org/pdf/Polly\\_wants\\_a\\_Doha\\_Deal.pdf](http://www.cuts-citee.org/pdf/Polly_wants_a_Doha_Deal.pdf); and Ambassador Ujal Bhatia's note available at [http://www.cuts-citee.org/pdf/WTO\\_Role\\_in\\_the-21st\\_Century.pdf](http://www.cuts-citee.org/pdf/WTO_Role_in_the-21st_Century.pdf).

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so-called built-in agenda of the WTO (negotiations on agriculture and services from 2000 and several reviews of other agreements already mandated) was enough to keep all 'busy' and to keep the liberalisation agenda moving forward. Furthermore, the WTO was a permanent institution with its clear mandate including on negotiations, unlike its predecessor the GATT which was a provisional arrangement and hence required a mandate of its Contracting Parties to launch any negotiations. Even the USA was not initially interested in starting a full Round of negotiations on many issues: the sectorals (for example on information technology) and built-in agenda negotiations seemed to serve its interests quite fine. The main *demandeurs* were the agriculture-centric countries — on the one hand the European Union, supported by some other European countries and Japan, which wanted addition of other issues to sweeten the bitter pill of agriculture in the built-in agenda, and on the other hand the main agricultural exporters of the Cairns group who apprehended only marginal improvements in agricultural trade reform if other issues were not added to make it palatable to the EU, Japan, *et al.*

- The primary role and responsibility of the WTO, it was stated repeatedly, was to provide a stable, predictable and conducive environment for the conduct of international trade. Hence, the critical role of its regular Councils and Committee to monitor the implementation of existing agreements, of Trade Policy Review Body (TPRB) to periodically conduct a comprehensive peer review of trade and related policies of its members, of the Dispute Settlement Body (DSB) to adjudicate disputes among members and ensure compliance with the agreements, and of the two-yearly ministerial conferences to debate WTO performance as well as any other emerging issues requiring their attention and to provide guidance. Negotiations for further liberalisation and updating the WTO rule book were only means to strengthen this primary function.
- There was also some disquiet regarding the concept of a single undertaking (SU). Introduced during the Uruguay Round, the concept institutionalised the old negotiating principle of 'nothing-is-agreed-unless-everything-is-agreed'. Its practical implication, however, was that all members, big or small, were required to

participate in all WTO discussions and negotiations, and undertake commitments. While conceptually sound and a bulwark against free-riding by some, it was difficult to imagine how such a principle could operate without either everyone agreeing to move at the pace of the slowest member or messy and prolonged negotiations among all.

The above recap is not intended to take a higher moral ground by asserting 'we told you so'. Instead, it aims to link the current debate with a longer and complex history. It is true that some objective conditions have changed since the 1990s. It is also true that the decade-long Doha Round negotiations offer invaluable experience and lessons which should be weaved with history to guide a better way forward.

### Doha Round pay-offs

The Doha Round may have been through torturous ups and downs, and will not conclude in the way expected at its launch. But this has not been a wasted effort. There are valuable achievements, experiences, and lessons which must be acknowledged and capitalised on.

It may not be common knowledge but there are areas in which Doha Round has already yielded some concrete negotiated results, although some of them may not have been fully implemented yet. A non-exhaustive list of these positive outcomes includes:

- General Council Decision of 30 August 2003, and the subsequent amendment in the TRIPS Agreement under a 6 December 2005 Decision related to flexibilities to deal with public health issues.
- In principle, agreement to establish a Monitoring Mechanism for special and differential treatment provisions in favour of developing countries and least developed countries (LDCs).
- A Transparency Mechanism for regional trade agreements (RTAs) established through a General Council Decision of December 2006 that has been operationalised on a provisional basis.
- Agreement at the Hong Kong MC in 2005 to ensure parallel elimination of all forms of agricultural export subsidies and disciplines on all agricultural export measures with equivalent effect to be completed by the end of 2013.

To the above must be added that more than 80 per cent work has been completed in all areas of negotiations, with some areas being quite close to a final deal but for the application of the single undertaking principle. One must, however, go beyond the number of 80 per cent to get a fuller picture of the achievements. The painstaking negotiations have dealt with a number of new concepts, built an impressive inventory of technical work, and have already led to many political compromises. The knowledge and shared understandings thus created are valuable assets. There are examples of such achievements in all areas of negotiations: Special Products (SPs) and Special Safeguard Mechanism (SSM) in agriculture, hybrid approach to identify environmental goods and services in trade and environment, mandatory technical and financial assistance in trade facilitation, measures to deal with preference erosion in agriculture and non-agricultural market access (NAMA), and special provisions for small vulnerable economies (SVEs) in agriculture and NAMA, to name some. All these required a lot of substantive work as well as political compromises many of which were not even on the table when Doha Round was launched.

Another important lesson from the negotiations should also be mentioned when listing Doha Round pay-offs thus far. One, while adhering to the principle of single undertaking, the diversity in the needs and capabilities of various members has been taken into account through differentiated proposed treatment for various groups of countries (and even individual members in some cases) in various draft modalities. This practical approach allowed movement instead of being dogmatic about single undertaking. It can be regarded as a key departure from earlier practice and its importance for the future cannot be belittled.

Moreover, the Doha Round has contributed to the capacity of developing countries to deal with trade policy issues both at the national and multilateral levels, including negotiations. Developing countries together have presented more proposals in Doha Round than developed countries. Generally speaking, developing countries have also improved their national trade policy-making including through more inclusive trade policy-making processes.<sup>4</sup> These improvements in capacity have resulted from greater investment in trade-related capacity-building by both the developing countries and their development partners, often in the context of Doha Round.

The above is not to claim that Doha Round has been a success. Instead, it is an effort to point out the valuable substantive, political and capacity improvements that are either directly or indirectly a result of the Doha Round. These are valuable assets that have relevance beyond Doha Round and should be capitalised to strengthen the multilateral trading system.

### Multilateral trading system *sans* Round

A successful conclusion of the Doha Round with development-friendly outcomes certainly would have been a boon for the multilateral trading system (MTS). But the MTS and Doha Round are not one and the same. The two are institutionally linked though the perception of that link has undergone a dramatic change in the last ten years. At the time of the launch in 2001, the MTS as represented by WTO was the main enterprise with Doha Round being one of its most important initiatives. Ten years down the line, the roles seem to have been reversed — with Doha Round now being perceived as the main *raison d'être* of the WTO. This is elevating the Doha Round to a position that is neither true nor desirable. As briefly outlined earlier in this article, WTO as an international organisation has several important functions including providing a permanent forum for negotiations among its members for mutually advantageous outcomes. The WTO framework also provides sufficient flexibility and room to deal with new situations. For example, the Trade Policy Review Mechanism mandate relates to the periodic, peer review of WTO members' trade and related policies, but it has been innovatively and effectively used to provide a means to monitor members' 'protectionist' responses to the economic crisis since 2008. Rounds of negotiations can support these functions but should not be allowed to supplant them.

At least two reasons can be offered for the perceived reversal of roles. One, the normal work of the WTO is not 'exciting' enough to merit headlines and hence catch the attention of the general public and their political leaders. Two, there are very, very few negotiators in Geneva — either from developed or developing countries — that have experienced WTO *sans* Round. The normal tenure of a WTO Geneva negotiator is 3—4 years. Hence, there are at

<sup>4</sup> For example, see CUTS 2009, 'Towards More Inclusive Trade Policy Making: Process and Role of Stakeholders in Select African Countries', available at [http://cuts-grc.org/pdf/FEATS-Research\\_Report-Trade\\_Policy.pdf](http://cuts-grc.org/pdf/FEATS-Research_Report-Trade_Policy.pdf).

least three generations of negotiators whose focus has been the Doha Round. That should explain why it is so difficult for some to imagine the MTS without Doha Round or to insist continuation with Doha Round as originally conceived.

Admittedly, the world has changed in many ways since 2001. Two examples are offered to illustrate this point. One, the share of developing countries in world trade has increased by about 10 per cent in the last decade. Similarly, while the combined share of the European Union and the USA in world trade has declined by about 7 per cent, the combined share of Brazil, China and India has increased by about the same percentage since 2000. This has necessitated a change in the structure of negotiations in the WTO. But effecting such a profound change is not easy for either side.

Two, RTAs of various kinds (from bilateral to regional and from free trade areas to common markets) are now an important part of the international trade landscape. The claim that the Doha stalemate is responsible for mushrooming RTAs has some merit though it does not tell the full story. A quick examination of the number of RTAs entering into force during various five-year periods starting from 1990 reveals an interesting picture. One would clearly find the increase in the period 2006—2011, that is, the period when Doha Round lurched from one missed deadline to another. However, equally instructive are the number of RTAs entering into force in the earlier periods. For example, the number of RTAs that entered into force in the periods immediately preceding and following the establishment of the WTO is almost the same. It seems as if the unprecedented strengthening of the MTS through the establishment of the WTO in 1995 had no impact on RTAs. Similarly, the increase in RTAs in the first five years of this century coincided with the launch of Doha Round. This pattern of growth gives credence to the view that RTAs are not driven solely by the failure of the MTS to conclude a Round.

### Let December 2011 make a difference

The above has highlighted many issues, each of which requires much greater and detailed analysis. The objective here is only to highlight that the Doha Round and the MTS are not the same and the latter certainly is of primary importance. The main point of this article, built through the discussion in earlier sections, is that when ministers meet at WTO MC8, they should not focus exclusively on reviving the Doha Round (as was the case at all MCs

since 2001 except in Geneva in 2009). Nor should they pretend to ignore Doha Round (as was attempted at the last WTO MC in December 2009). Instead, a balanced and calibrated approach is needed, primarily to strengthen the MTS with or without Doha Round as originally conceived. Viewed from this perspective, the following issues should be on the agenda of the MC8:

- **Regular WTO Work:** Informed and structured discussion of the regular work of the WTO with a view to giving it more prominence and substance. As argued in the article, this work is valuable and must be put to the forefront.
- **Doha Round:** Identification of negotiated outcomes from the Doha Round with a focus on development that can be accepted by all for implementation (with particular emphasis on issues of interest to LDCs); and identification of issues where negotiated outcomes can be expected in the near future. This should be complemented with guidelines on a methodology that is derived from the experience of Doha Round.
- **Systemic Strengthening of MTS:** Inventorisation of important outputs, outcomes and lessons — including both the technical substance and political compromises — from the Doha Round. This will preserve the achievements and allow for appropriate capitalisation to strengthen the MTS at an appropriate time. This agenda item should also include identification of systemic issues of relevance to MTS, with a mechanism to debate these in the WTO.

The period between now and December 2011 should be well spent preparing on the above lines.



# Recent publications from the Commonwealth Secretariat



## **Catching Up: What LDCs can do, and how others can help**

Paul Collier

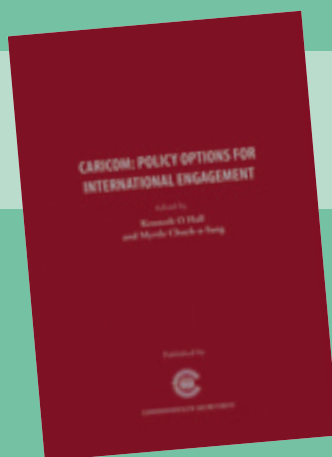
ISBN No: 978-1-84929-051-7

Despite solid gains made during the last decade, the Least Developed Countries (LDCs) are not keeping pace with other countries and the gap between them and the rest of the developing world has in fact widened. This means that LDCs will have to progress even faster to avoid being left further behind.

In this publication, economist and award-winning author of *The Bottom Billion*, Paul Collier, suggests a menu of strategic policies around which governments might rally that could help LDCs to reduce this differentiation. He argues that the only actors who can lead this process are the governments of LDCs themselves working together towards clear and well-founded goals.

He emphasises the need for effective change and highlights potential future problems associated with the management of natural resources and the threat of climate change. Implementing the right policies, he argues, is essential if LDCs are to catch up and not become detached from the rest of mankind.

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## **CARICOM**

### **Policy Options for International Engagement**

Kenneth Hall, Myrtle Chuck-A-Sang

ISBN: 978-976-637-413-6

CARICOM's success in navigating the global environment calls for a paradigm shift in diplomatic initiatives from a bi-lateral platform towards a collective and synchronised effort at the regional, hemispheric and global levels. The development of a cohesive CARICOM foreign policy would provide a more structured foundation for maximising the collective efforts, resources and gains.

In *CARICOM: Policy Options for International Engagement*, the contributors bring a wealth of experience and knowledge in putting forward the critical questions policymakers must consider and answer, in charting the course and laying the framework for this coordinated structure and foreign policy plan. Divided into four sections, the volume firstly presents the perspectives that corroborate the need for collective action. The second section focuses on the emerging powers and the need for South to South Cooperation while the third section discusses the external trade negotiations and the impact of the loss of EU preferences and subsidies; the EPA and trade negotiations in the WTO; and the new CARICOM-US trade relations. In the fourth and final section, the volume is rounded out by an examination of the kind of cooperation that is needed first at the regional level to sustain economic development. The need for harmonisation of fisheries policies and the prevention of maritime degradation; the preservation of the environment and the need to reverse the effects of climate change; the need for a cohesive regional security policy and a viable air transportation industry as well as the legal framework to implement multilateral treaties are all examined as imperative to CARICOM's development of a coordinated regional foreign policy plan.

*Available from* Ian Randle Publishers

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This Trade Hot Topic is brought out by the International Trade and Regional Co-operation (ITRC) Section of the Economic Affairs Division (EAD) of the Commonwealth Secretariat, which is the main intergovernmental agency of the Commonwealth — an association of 54 independent states, comprising large and small, developed and developing, landlocked and island economies — facilitating consultation and co-operation among member governments and countries in the common interest of their peoples and in the promotion of international consensus-building.

ITRC is entrusted with the responsibilities of undertaking policy-oriented research and analysis on trade and development issues and providing informed inputs into the related discourses involving Commonwealth members. The ITRC approach is to scan the trade and development landscape for areas where orthodox approaches are ineffective or where there are public policy failures or gaps, and to seek heterodox approaches to address those. Its work plan is flexible to enable quick response to emerging issues in the international trading environment that impact particularly on two highly vulnerable Commonwealth constituencies — least developed countries (LDCs) and small states.

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- It supports Commonwealth developing members in their negotiation of multilateral and regional trade agreements that promote development friendly outcomes, notably their economic growth through expanded trade.
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ITRC's most recent activities focus on assisting member states in the WTO Doha Round and the Economic Partnership Agreement (EPA) negotiations involving the African, Caribbean and Pacific countries (ACP) the European Union (EU), undertaking analytical research on a range of trade policy and development issues, and supporting workshops/dialogues for facilitating consensus-building on issues of Commonwealth members' interest, exchange of ideas, and disseminating results from informed analysis.

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22-24 June 2011: ACP High Level Meeting in Preparation for the 3rd Global Review on Aid for Trade held in Geneva, Switzerland

16-June 2011: Consultation meeting on the Impact of the European Parliament Resolution on the Pacific EPAs, held in London, UK

13-14 June 2011: Meeting on Climate Change Mitigation and Safeguarding the Trading Interests of Small States and LDCs held in Hampshire, UK

31-May 2011: Export Group Consultation - Trade & Climate Change held in, London, UK

9-13 May 2011: Meeting and Symposium on LDC development events at the UN LDC IV Conference held in Istanbul, Turkey

5-6 May 2011: Trade Policy Seminar for Commonwealth Parliamentarians (Southern Africa) held in Livingstone, Zambia

12-13 April 2011: Workshop on Caribbean Public Procurement held in Montego Bay, Jamaica

11-April 2011: Expert Group Meeting on The UN LDC IV Conference and the Way Forward held in London, UK

6-8 April 2011: Roundtable on Competition Law and Policy held in, Boston, USA

28-29 March 2011: OECD workshop on Aid for Trade held in Paris, France

9 March 2011: Consultative Meeting on Trade Effects of Rules on Procurement for Commonwealth ACP members held in London, UK

## Selected ITRC Publications

Collier, P. (2011). *Catching Up: What LDCs Can Do, and How Others Can Help*, London: Commonwealth Secretariat.

Calì, M., Razzaque, M. A. and Te Velde, D. W. (2011). *Effectiveness of Aid for Trade in Small and Vulnerable Economies*, Economic Paper No. 91, London: Commonwealth Secretariat.

Calì, M with Kennan, J (2010). *The Global Financial Crisis and Trade Prospects in Small States*, Economic Paper, London: Commonwealth Secretariat.

Milner, C., Morrissey, O. and Zgovu, E. (2010). *Policy Responses to Trade Preference Erosion: Options for Developing Countries*. London: Commonwealth Secretariat.

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Stevens, C et al. (2009). *The CARIFORUM and Pacific ACP Economic Partnership Agreements: Challenges Ahead?*, Economic Paper No. 87, London: Commonwealth Secretariat.

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Razzaque, Mohammad A and Laurent, Edwin (eds) (2007). *Global Rice and Agricultural Trade Liberalisation: Poverty and Welfare Implications for South Asia*. London: Commonwealth Secretariat.

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