

WTO Set to Crash and Burn at Doha

By John Gershman

Amid widespread recriminations from developing countries and NGOs, the preparations for launching a new round of trade negotiations at the Fourth WTO Ministerial meeting in Doha, Qatar on November 9-13 are plunging ahead. Security concerns and restrictions on the participation of civil society organizations by the host country will insure a smaller and quieter meeting than the one held in Seattle nearly two years ago. The Bush administration has opportunistically draped its call for the launch of a new trade round in the rhetoric of the fight against terrorism. So far it appears that gambit has failed to work, with many developing countries opposed to the outlines of a new round as laid out in the revised October 27 Draft Ministerial Declaration. Particularly galling to Southern members was the failure to include brackets indicating disputed language around text that failed to present alternative or competing perspectives from Southern members. A statement from Nigeria said the draft, was “empty of content on the issues of interest to developing countries” while a coalition of 14 Southern and Northern NGOs argued that “the tone and content of the new text presumes a consensus on a future WTO agenda which does not exist.”

Nevertheless, the U.S., the European Union (EU), and the WTO Secretariat, still stung by the failure in Seattle, are pushing the draft ahead despite opposition from the overwhelming majority of the WTO’s membership. The substantive disagreements also highlight an important problem of process, namely the recurring practice of the “Quad” (U.S., EU, Japan, and Canada) to engage in exclusive negotiations among themselves, occasionally and selectively including other countries, and then presenting a draft text as a *fait accompli*.

The major bones of contention in the current situation include so-called “implementation issues,” the relationship between Trade-Related

Intellectual Property Rights (TRIPs) and Public Health, and the inclusion of the four “Singapore issues” (investment, competition, government procurement, and trade facilitation, which were introduced at the 1996 Singapore Ministerial). With respect to the Singapore issues, the revised draft is worse than the initial draft for the developing countries, according to Third World Network’s Martin Khor. For example, with respect to investment and competition issues, the first draft provided a choice between either beginning negotiations or continuing the study process in the working groups. This option no longer exists in the revised draft.

Even among those developing countries that support continued trade liberalization, the core issue remains that of implementation issues. Strategic differences exist between those countries that are willing to support a new round that gives priority to the implementation issues, and others (especially from Africa and the Least Developed Countries) that want these issues addressed prior to the launch of a new round.

Implementation Issues

The term “implementation issues” represents shorthand for fixing what isn’t working with the current agreements before moving on to negotiate new ones. The issues at stake range from the actual costs of drafting and implementing the various policies and regulations necessary to bring countries into compliance with WTO rules, participating in the ongoing negotiations at the WTO, and to the failure of many Northern countries to adhere to their own commitments under the WTO.

The costs to developing countries to comply with WTO rules can be significant with respect to other development expenditures. Technical assistance is supposed to be made available to

developing countries to help them formulate new regulations in areas of customs valuation, sanitary standards, and intellectual property rights, to cite just a few examples. But as Oxfam-Great Britain notes, "At the end of the 1990s the WTO budget for technical assistance was only \$500,000, sufficient to meet less than one-fifth of the requests made for technical assistance." There is also a major North-South gap in institutional capacity at the WTO. While the average developing country trade mission at the WTO has three people, the average developed country mission has seven. Of the 38 African countries in the WTO, 15 have no resident delegate and four maintain only one-person offices.

Finally, the Southern countries are reluctant to endorse a new trade round when Northern countries have failed to uphold their commitments under the current round. This includes failing to cut certain agricultural subsidies, maintaining barriers to exports from the least developed countries, and dramatic increases in anti-dumping actions against exports from developing countries.

TRIPS and Public Health

The bracketed text in the title of the Draft Declaration on Intellectual Property highlights the divide between the Northern and Southern countries. The U.S., Japan, Switzerland, and Canada argue that the relationship between intellectual property rights and health should be narrowly construed as access to medicines within the confines of the

TRIPs agreement, while developing countries argue that broader public health concerns are at play that may require revisions of the TRIPs accord.

Africa and the group of Like Minded Countries led by India, Pakistan, and Malaysia have been leading the critique of the U.S.-led proposals on the relationship between TRIPs and public health. A major focus is on paragraph 4 of the text, which presents two options: Option 1 reflects developing country demands that "nothing in the TRIPs Agreement shall prevent Members from taking measures to protect public health," while Option 2 presents the view advanced primarily by the U.S. and Switzerland, affirming WTO members' ability to use the provisions in the TRIPs Agreement that provide flexibility "to address public health crises such as HIV/AIDS and other pandemics," and emphasizing the right "to secure affordable access to medicines."

Southern members argue that simply reaffirming the rights under the TRIPs Agreement grants no new powers to states. Southern states desire a stronger statement that they can deploy in their defense if future disputes arise over the conflict between protection for intellectual property rights and public health objectives.

No New Round or a Development Round?

The developing country agenda has largely been framed as advocating a "Development Round," a term that foregrounds their collective concerns

while being vague enough to capture the often disparate interests of the developing countries, divisions that were acknowledged by the head of the G-77 when it released its own statement on Doha (<http://www.g77.org/Docs/Doha.htm>).

Meanwhile, under the slogans of "No new round, turnaround" and "Shrink or Sink" Southern and Northern civil society activists have called for a rolling back of the purview of the WTO and a return to a framework more akin to the WTO's predecessor, the General Agreement on Tariffs and Trade (GATT) as a framework for governing international trade. They argue that such a framework provides greater policy autonomy and room for maneuvering for developing countries. Such an agenda is reflected in the declaration signed by nearly 400 civil society organizations worldwide entitled "Our World is Not for Sale: Shrink or Sink."

Whatever their strategic differences, Southern governments and civil society groups are largely unified in opposition to the current proposed agenda as outlined in the draft declaration. In contrast to Seattle, developed country trade officials and the WTO secretariat will not be able to pit civil society activists and Southern political leaders against each other.

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Sources for More Information

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Who's Who in the Bush Administration

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