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The WTO Cancún Ministerial

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Summary

The Cancún Ministerial Conference of the World Trade Organization (WTO) broke up without reaching agreement on the course of future multilateral trade negotiations. Negotiations on the Doha Development Agenda have proceeded at a slow pace since the launch of the new round in November 2001. The immediate cause of the collapse of talks was disagreement over launching negotiations on the Singapore issues, but agriculture and industrial market access issues were also sources of contention. Reaction from the United States has been to focus on regional and bilateral talks, while the European Union has undertaken a policy review of its position towards the WTO. The talks were characterized by the emergence of the G-20+ group of developing nations that sought deep cuts in developed country agricultural subsidies. This report will not be updated.

The 5th Ministerial Conference of the World Trade Organization (WTO) took place in Cancún, Mexico on September 10-14, 2003. At this meeting, trade negotiators were unable to reach agreement on the course of future multilateral trade negotiations. Negotiations at Cancún were particularly stymied over agriculture and the “Singapore issues” of investment, government procurement, competition policy, and trade facilitation. The breakdown of the Ministerial has led to some recriminations over blame for the negotiating deadlock, but it also provoked trade officials to reflect on how to get the talks moving again, and it has cast doubt over the ability of negotiators to meet the January 1, 2005 deadline to complete the current round of negotiations. For some, the outcome has called into question the future of multilateral trade negotiations and of the WTO itself.

Background

The new round of trade negotiations, the Doha Development Agenda (DDA), was launched at the 4th WTO Ministerial at Doha, Qatar in November 2001. It is known as the Doha Development Agenda because of its emphasis on integrating developing countries into the world trading system. Many developing countries believed they have received little or no benefit from those trade negotiations over the years. The work program for DDA folded in continuing talks (the built-in agenda) on agriculture and services. Other negotiations were launched on the reduction or elimination of non-agricultural (industrial) tariffs, clarification and improvement of disciplines for existing

WTO agreements on antidumping and subsidies, and topics relating to special and differential (S&D) treatment for developing countries and assistance to developing countries with the implementation of existing WTO commitments. Trade ministers at Doha agreed to continue discussions on whether to launch negotiations “by explicit consensus” on the “Singapore issues” at the 5th Ministerial at Cancún. The Doha Ministerial declaration also directed negotiators to resolve a dispute related to the ability of least developed countries to access generic medicines for HIV/AIDS and other epidemics. Trade ministers at Doha directed that the negotiations conclude not later than January 1, 2005 with a mid-term review at the 5th Ministerial.

Negotiations proceeded at a slow pace. Several deadlines for agreement on negotiating modalities (i.e., methodologies by which negotiations are conducted) were missed in the agriculture and industrial market access talks. Without agreement, negotiators looked toward the Cancún Ministerial to resolve the modalities. In the weeks before Cancún, negotiating documents to achieve this resolution were criticized by all sides, and expectations of the Ministerial were reduced to achieving an agreement on the framework for the modalities to be used in future negotiations.

Access to Medicines. Negotiators did resolve the access to medicines dispute just prior to the beginning of the Ministerial. On August 30, 2003, the Trade Related Aspects of Intellectual Property Rights (TRIPS) Council agreed on a mechanism to allow poor developing countries to issue a compulsory license to a third-country producer to manufacture generic drugs to combat HIV/AIDS, malaria, tuberculosis, and other epidemics. While the agreement contained several restrictions to protect the patent rights of pharmaceutical manufacturers, the agreement was designed in part to reaffirm the importance of developing country issues to the WTO in time for Cancún.¹

At the Cancún Ministerial, negotiators became embroiled in disputes over agriculture and the Singapore issues. The negotiations were characterized by the emergence of the G-20+, an informal group of developing countries² which demanded substantial concessions from developed countries in the agriculture negotiations. Some developing countries also refused to countenance the beginning of negotiations over the Singapore issues, which had been championed by the European Union (EU). In the end, the Singapore issues broke up the talks before agriculture issues were even formally discussed.

Reaction. Subsequent to the collapse of the talks, U.S. and EU negotiators criticized both the substance and tactics of the G-20+ group. A U.S. negotiator claimed that developing country rhetoric was more suited to the United Nations, while others claimed that the G-20+ lacked a negotiating strategy other than making demands on developed countries. However, one G-20+ trade minister has suggested that the position of the G-20+ merely represented the paramount interest of its members in breaking down the agricultural barriers and subsidies in the United States and the EU.

¹ See CRS Report RS21609, *The WTO, Intellectual Property Rights, and the Access to Medicines Issue*, by (name redacted).

² The G-20+ group claims a varied number of adherents. At its peak, it included Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, and Venezuela .

U.S. reaction to the collapse of the talks has been to give increased emphasis to the negotiation of bilateral and regional free trade agreements (FTA). U.S. Trade Representative Robert Zoellick said that the United States would negotiate with what he called “can-do” countries rather than “won’t-do” countries.³ There were also calls by some Members of Congress to oppose bilateral or regional negotiations with countries of the G-20+, leading some G-20+ participants negotiating FTAs with the United States, including Guatemala, Costa Rica, Peru, Colombia, and Thailand, to dissociate themselves from their G-20+ activities.⁴

The European Union has undertaken a review of its policy towards the WTO and multilateral trade negotiations. One issue that may be discussed in this review is the future emphasis that the EU places on the Singapore issues. While EU negotiators agreed to drop demands that negotiations proceed on all but the trade facilitation issue at Cancún, the lack of agreement on that agenda may result in renewed EU insistence on the full Singapore agenda. The EU may also decide to play the regional card by placing renewed emphasis on ongoing negotiations with Mercosur or with former colonies in the African, Caribbean and Pacific Group. EU officials have also made public statements on the need to reform various aspects of the WTO’s decision-making process.⁵

Some participants from G-20+ countries returned from Cancún claiming the outcome was a victory for developing countries. To them, the lack of agreement was evidence that they had successfully defended their national interests in demanding changes in the agricultural policies of developed countries. However, many of these countries have subsequently expressed an interest in returning to WTO negotiations. Some G-20+ members, possibly under pressure from the United States, have announced that they will no longer attend G-20+ meetings. These defections have called into question the future of this group as a negotiating entity, as well as underlying differences between the trade policies of some of its members, most notably Brazil and India.

The Derbez Draft. During the course of the Cancún Ministerial, a draft declaration⁶ was written by the Ministerial Chairman, Luis Ernesto Derbez, the Mexican Foreign Minister. Crafted as a framework for future negotiations to which all parties could agree, it was criticized by most parties and was not adopted at the Ministerial. The Derbez text principally modified the agricultural language of a draft negotiating text circulated, and widely criticized, prior to the negotiations. It did call for the start of negotiations on two of the Singapore issues, trade facilitation and government procurement, while relegating the issues of investment and competition policy to further “clarification.” In the aftermath of the Conference, however, the Derbez text has reemerged as a possible negotiation vehicle to restart the negotiations. It has been

³ Robert B. Zoellick, “America Will Not Wait for the Won’t Do Countries,” *Financial Times*, September 22, 2003.

⁴ “Three More Latin Countries Defect from G-21 Alliance on Farm Trade,” *International Trade Reporter*, October 16, 2003.

⁵ “Lamy says Collapse in Cancún May Divert EU Members Toward Bilateral Negotiations,” *Daily Report for Executives*, September 16, 2003.

⁶ “Draft Cancún Ministerial Declaration”, WTO Document JOB(03)/150/Rev.2, September 13, 2003.

endorsed by leaders of the Asia-Pacific Economic Cooperation (APEC) nations, including the United States, Canada and Japan. Brazil has also indicated that it could work from the text, although it disagrees with certain language in the draft. The European Union has not taken a formal position on the Derbez draft, although EU Trade Representative Pascal Lamy wondered in a recent speech in London, “what magic dust has been shaken over a text so roundly rejected in September, to find it so roundly endorsed in November.”⁷ Only India has rejected the text outright as a basis for negotiation.⁸

While the Derbez draft provides the advantage of a ready-made template to restart the negotiations, this approach also has potential shortcomings. As a compromise text that essentially revised a previous compromise text, the language is highly general, and in many respects represents a lowest common denominator of agreement. Many of the previous disagreements could reemerge if negotiations commence based on this text. The Derbez text also reflects the joint negotiating positions worked out between the United States and the EU in agriculture and industrial market access. Post-Cancún, some U.S. commentators have suggested that these positions do not serve U.S. interests, and that the United States would be better served by reverting to its previous, more ambitious, negotiating proposals.

Sectoral Perspectives

Agriculture.⁹ Agriculture negotiations are part of the ongoing negotiations, a built-in agenda of talks that were incorporated into the launch of the Doha round. The negotiations involve the “three pillars” of agriculture support: market access (tariffs), export subsidies, and production subsidies. The emphasis of the U.S. negotiating position has been market access. The initial U.S. agriculture proposal included significant tariff reduction based on a non-linear formula that would cap individual tariff lines at 25%. The proposal also called for a complete elimination of export subsidies and a harmonization of trade-distorting domestic support to 5% of a country’s total agricultural product.

The initial European Union proposal adopted a linear formula approach to tariff reductions and subsidies used in the Uruguay Round. The linear approach would reduce tariffs and subsidies by a fixed percentage cut, thus leaving the relative subsidy and tariff rates unchanged between trading partners. The EU also sought to trade concessions on export subsidies, which it heavily utilizes, for concessions on export credit and food aid programs, which are utilized by the United States. In June 2003, the EU announced a series of reforms to its Common Agricultural Policy (CAP) including the partial decoupling of most production from subsidies by 2007. However, the EU did not revise its agriculture offer based on these reforms.

⁷ “The EU, Cancún, and the future of the Doha Development Agenda,” speech of Pascal Lamy to the Journal of Common Market Studies, October 28, 2003. [http://europa.eu.int/comm/commissioners/lamy/speeches_articles/spla195_en.htm]

⁸ “WTO Says Key Members Back Derbez Draft for Post-Cancún Ag Talks,” *International Trade Reporter*, October 30, 2003.

⁹ For in depth discussion of these issues, see CRS Report RL32053, *Agriculture in WTO Trade Negotiations*, by (name redacted).

In August 2003, the United States and the EU adopted a joint negotiating framework to spur negotiations in the lead-up to the Cancún Ministerial. The compromise text blended various aspects of the U.S. and EU proposals. It provides for a combination of harmonized and linear tariff reduction formulas. Trade-distorting domestic support would be reduced by a percentage formula, and production-limited support would be allowed up to 5% of the value of the country's total agricultural production. Export subsidies would be phased out for products of interest to developing countries, and WTO disciplines would be developed for state trading enterprises, export credits, and food aid programs. special and differential treatment (S&D) was recognized for developing countries, but not necessarily for developing countries that are net food exporters. Some observers have criticized the United States for moving away from its initial trade liberalizing stance to compromise with the EU, claiming that the initial U.S. position had been more compatible with certain developing country proposals.¹⁰ However, others contend that a coherent U.S.-EU position would help facilitate negotiations.

In response to the U.S. - EU proposal, the G-20+ group advocated a proposal to cut U.S. and EU domestic subsidies more drastically than the U.S.-EU proposal, to eliminate export subsidies, and to provide S&D treatment for all developing countries in terms of tariff reduction and other market access. In addition, a group of four African nations, Benin, Burkina Faso, Chad, and Mali proposed the elimination of trade-distorting domestic support and export subsidies for cotton coupled with a transitional compensation mechanism for cotton exporters affected by the subsidies. In response, the United States proposed a WTO sectoral initiative to examine trade distortions for cotton, man-made fibers, and textile and apparel with multilateral assistance to help these countries diversify their economies away from cotton. African countries refused to negotiate on this basis.

The Derbez draft tried to reconcile these different positions by advocating deeper cuts in trade-distorting domestic subsidies, bringing under review non-trade-distorting subsidies, and by negotiating a date for the elimination of export subsidies, positions that reflect previous developing country negotiating positions. It followed the U.S.-EU tariff formula, which blended harmonized and linear tariffs, but allowed developing countries to identify items for minimal tariff cuts. It also largely adopted the U.S. position paper on the cotton issue.

Singapore Issues. The Singapore issues refer to four issues (investment, competition policy, trade facilitation, and government procurement) that were offered for the negotiating agenda of the WTO by the European Union at the 1st Ministerial, held in Singapore in 1996. The 2001 Doha Ministerial declaration called for a decision on negotiating the issues "by explicit consensus" at the 5th Ministerial. The 5th Ministerial at Cancún did not provide explicit consensus to negotiate these items. According to reports, it was an impasse over these issues that finally caused the talks to collapse.

The European Union, along with Japan, South Korea, and Taiwan, have been the principal proponents of the Singapore issues. Tactically, it is generally accepted that for them, negotiation of the Singapore issues would be a quid pro quo for substantive negotiation on their agriculture policies. The United States has been ambivalent about the

¹⁰ Claude E. Barfield and James K. Glassman, "The Real Cancún," *The Weekly Standard*, October 6, 2003.

Singapore issues, recently supporting the inclusion of government procurement and trade facilitation primarily to move the negotiations along. Generally, the developing countries have been opposed to the negotiation of the Singapore issues for two reasons. First, they foresee the implementation of multilateral rules on these issues as an infringement of their sovereignty. Second, many developing countries claim not to have the institutional capacity or resources to undertake the negotiation of additional issues, whatever the merits. The Derbez text proposed the inclusion of trade facilitation and government procurement. In the final outcome, the EU was willing to drop all the issues save trade facilitation, the consideration of which was then vetoed by Botswana backed by several other African states. Before the talks broke, however, South Korea indicated that it would accept nothing less than negotiations on all four issues.

Industrial Market Access. The United States has favored an aggressive tariff-cutting negotiating strategy in the industrial market access talks. In December 2002, the United States proposed the complete elimination of tariffs by 2015. This proposal would have eliminated “nuisance” tariffs (tariffs below 5%) and certain industrial sector tariffs by 2010, and would have removed remaining tariffs in 5 equal increments by 2015. The initial EU tariff reduction proposal relied on a “compression formula,” one in which all tariffs are compressed in four bands with the highest band being 15%. Like the U.S. position, this proposal applied to all countries and did not contain S&D language. The United States generally has been opposed to weakening the concept of tariff reciprocity, maintaining that it is in the developing countries’ own interest to lower tariffs, not least to promote trade between developing countries. A paper jointly proposed by the United States, Canada, and the European Union proposed a harmonization (i.e. non-linear) formula for tariff reduction. This joint paper did contain S&D language for developing countries in the form of credits awarded for further liberalization activity.¹¹

Industrial market access did not receive the attention paid to agriculture or Singapore issues. Because there was no agreement on modalities prior to the Ministerial, the Derbez text only reaffirmed the use of an unspecified non-linear formula applied line-by-line that provides flexibilities for developing countries. The text also supported the concept of sectoral tariff elimination as a complementary modality for tariff reduction on goods of particular export interest to developing countries, but it advanced no concrete proposal.

Next Steps. Following the collapse of the Cancún talks, all negotiating group meetings were cancelled. The WTO General Council chairman Perez del Castillo has entered into discussion with national trade ministers and their Geneva representatives to try to establish a consensus on the way forward in the negotiations. To date, the United States and the EU have declined to take a leadership role in these discussions. The General Council, the WTO’s highest decision-making body, is scheduled to meet on December 15, 2003, to assess any progress resulting from these discussion and recommend further steps.

¹¹ “Communique from the United States, Canada and the European Communities,” August 11, 2003, WTO Document TN/MA/W/44.

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