AN OVERVIEW OF THE DOHA DEVELOPMENT AGENDA (DDA):
THE ROAD SO FAR AND THE CHALLENGES AHEAD

BY

YONO V FRED AGAH
DIRECTOR, EXTERNAL TRADED DEPARTMENT
FEDERAL MINISTRY OF COMMERCE

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INTRODUCTION

One of the major outcomes of the 4th WTO Ministerial Conference, held in Doha, Qatar, from 10th – 14th November, 2001 was the decision to launch a new round of multilateral trade negotiations. However, just before the Conference, a highly controversial draft Ministerial Declaration was produced in Geneva and transmitted to the Doha Conference, without duly reflecting the various concerns and views of members, including the inherent differences on very important topics. Many developing countries, in particular, felt marginalized in that process. The final negotiation of some parts of that Declaration by a chosen group of countries during an all-night marathon session also further heightened the fears of those that felt clearly sidelined, leading to increased frustration.

Another important aspect of controversy surrounding the draft Ministerial Text in Doha related to its treatment of the Singapore issues. In spite of opposition by a large number of developing countries during the preparatory process in Geneva, these were deliberately ignored and not duly reflected. It was this development therefore that led to the insistence by some developing countries that commitment to negotiate the Singapore issues be removed from the text. The resulting compromise was to allow discussions on these issues to continue until the 5th Ministerial Conference, when an explicit consensus would be needed before negotiations could proceed. We shall return to this very important point and understanding later during our discussion.
Despite the controversial nature of the Doha preparatory process and the conduct of the Conference, three major documents emerged as part of the final outcome: a general Ministerial Declaration; a Decision on TRIPs and Public Health; and a Decision on Implementation-related Issues and Concerns. These documents basically provided the framework for the very heavy work programme in the WTO that emerged from the Doha Ministerial Conference. Specially, the work programme involves negotiations in several areas, namely, the mandated negotiations in agriculture and services and the mandated reviews of TRIPs and TRTIMsS, as well as new negotiations relating to market access in non-agricultural products, some aspects of trade and environment, the set of implementation issues and concerns, and clarification of certain rules, (antio-dumping, subsidies and countervailing measures) and of the dispute settlement system. The post-Doha work programme also included more focused discussions on the four Singapore issues (trade and investment, trade and competition policy, transparency in government procurement and trade facilitation), electronic commerce, capacity building, Least Developed Countries (LDCs), small economies, and the examination of the issues of trade, debt and finance, and trade and technology transfer in two new working groups.

In view of the substantive issues to be covered in the other technical working sessions of this workshop, our discussion in this paper will remain exploratory with a view to providing a deepened understanding of the more detailed analysis that would follow. It would also place us in a better position to appreciate the progress
that has been so far made in the Doha Development Agenda (DDA) negotiations and the challenges ahead.

**OVERVIEW OF DEVELOPMENTS FROM DOHA TO CANCUN**

In view of the agreement and decisions taken at Doha, the post-Doha work programme has been extremely heavy, as it includes several key elements, each of which is complex and difficult and involves much time, human resources and technical expertise, which many developing countries do not have. The negotiations are being supervised by a Trade Negotiations Committee (TNC) and are expected to be concluded by 1\(^{st}\) January, 2005. The outcome of the negotiations shall be treated as part of a “single undertaking”. Das (2002) points out: “it is a programmemuch heavier than that of the Uruguay Round of Multilateral Trade Negotiations (MTN). Almost all the major items of the Uruguay Round like agriculture, services, subsidies, anti-dumping, regional trading arrangements, dispute settlement, industrial tariffs and some aspects of TRIPs, from part of the negotiations in the work programme. Environment has also been included in the subjects of negotiations. Besides, intense work is envisaged on Singapore issues ..., as well as in the area of electronic commerce. The short time span of three years set for this work makes the task particularly arduous for the developing countries”.

Since Doha, the work programme has experienced significant setbacks due to the inability of members to meet scheduled deadlines. Indeed, this remains one of the major concerns for lack of progress up to the 5\(^{th}\) WTO Ministerial Conference in Cancun,
Mexico. Highlight of developments relating to the key elements in the DDA negotiations confirm this perception. We shall attempt an assessment of most of these issues.

**AGRICULTURE**

Agriculture is one of the areas where negotiations on further trade liberalization are mandated in the WTO Agreements themselves. Indeed discussions within those parameters commenced on schedule in 2000 but without much progress until the broader negotiations were launched in November 2001. At Doha, attempt was made to find a compromise acceptable to all WTO members who to date remain divided over the general direction to be taken in the agriculture trade reform process. The key questions include: whether export subsidies should be phased out; whether in return other forms of trade distorting export supports such as export credits and food aid should also be discipline; and whether domestic subsidies provided under the Green Box should be capped.

The Doha Declaration also states an intention to “enable the developing countries to effectively take account of their development needs, including food security and rural development. It specifies that special and differential treatment for the developing countries “shall be an integral part of all elements of the negotiations” and shall be “operationally effective” by embodying it both in the rules and in the schedules of members’ commitments. The declaration also accepted the non-trade concerns reflected in members’ proposals and confirmed that they will be taken into account in the negotiations.
Apart from the 1t January, 2005 deadline for the conclusion of the negotiations, as part of the single undertaking agreed in Doha all the other mandated deadlines have been missed. In particular, members were expected to submit comprehensive draft schedules by the 5th Ministerial Conference. However, even modalities could not be agreed on in Cancun. The revised Chairman’s text also was and remains unsatisfactory to most delegations. The quest for an early harvest decisions in Cancun on cotton subsidies based on the sectoral initiative by four West and Central African LDC was also an elusive effort.

SERVICES

The General Agreement on Trade in Services (GATS) contains a built-in-agenda, mandating members to initiate market access liberalization negotiations on services by 1st January, 2000. Members had duly adopted negotiating guidelines and procedures for this negotiation. These guidelines later constituted the basis for continuing the negotiations under the DDA, which are aimed at achieving progressively higher levels of liberalization of trade in services through the reduction or elimination of adverse effects on trade in services of measures as a mean of providing effective market access. The negotiations also aim to increase the participation of developing countries in trade in services, and provide appropriate flexibility for individual developing country members.

Since Do, virtually all WTO members have received initial requests from some 62 mainly developed and larger developing countries. However, the debate on assessment has witnessed
sharp disagreement between developed country members and several developing countries. While developing country members have consistently called for an overall assessment to be carried out before the start of new market access negotiations, some developed countries argue that the guidelines provide for national assessments to be conducted by members themselves. They also maintain that the data available is insufficient for an overall assessment. To date, nothing significant has been achieved with regard to an overall assessment of services liberalization at the multilateral level.

**INDUSTRIAL PRODUCTS**

Reducing tariffs and non-tariff barriers (NTBs) on industrial goods was the core of the multilateral trade negotiations under the GATT, and remains central to the negotiations agreed in Doha under the WTO. This mandate was generally supported by most countries. However many developing countries and in particular, small economies are concerned about loss of government revenue, the potential weakening of their competitiveness, and the expected

**INTELLECTUAL PROPERTY RIGHTS (TRIPs)**

TRIPs Council, at the instance of the African Group supported by many developing countries, took up the issue of intellectual property rights and access to medicines in the 2001 at a time when the WTO was under severe criticism for allegedly impeding developing countries access to life-saving medicines. However, the issue that remained unresolved at Doha was, how to address the problems countries may face in making use of
compulsory licensing if they have insufficient or no pharmaceutical manufacturing capacity. Members were expected to conclude negotiations under paragraph 6 of the Doha Declaration on TRIPS and Public Health by 31st December, 2002. In spite of long and intense negotiations, members were unable to reach consensus on the “expeditious solution” by this deadline. However, as at the time of the deadline, only the U.S. opposed the adoption of a draft decision put forward by TRIPS Council. Agreement was only reached after two extensions of the deadline.

According to the new agreement, all-least developed countries would automatically be eligible as importers, while all other members would be eligible following a once-off notification to the WTO. The text includes a list of countries namely, the US, New Zealand, Australia, Switzerland and EC Member States, that have signaled their willingness not to use the system. The decision also notes that other members have said that, if they used the system, “it would be in no more than situations of national emergency or other Conference ended the way it did when the main pre-condition of explicit consensus on modalities could be reached.

To a large extent, the deadlock on the Singapore issues is very evident for a number of reasons. First, discussions after Doha could not agree on the exact meaning and implication of the term. Second, the EC which considered the issues ad part of the bargaining chip and therefore part of the overall balance, took the position that the Singapore issues were actually part of the single undertaking. It therefore remained unamendable to any unbundling of the four issues, in spite of the fact that many delegations ad considered such a scenario as part of their overall
negotiation strategies. Third, a link was drawn between the issues and negotiations in other bodies, notably agriculture and other important development issues on which there has been no progress to date. Finally, there were fears of the possibility of agreement on discrete sets of modalities for each of the four issues. Since many delegations have expressed willingness to consider the merit of the Singapore issues individually, this and movement in key areas may perhaps, be the key to resolving the present impasse and returning the negotiations back on track.

TRADE AND ENVIRONMENT

The inclusion of negotiations on environmental issues in the Doha Ministerial Declaration was at the instance of the European Commission, supported by Japan, Norway and Switzerland however, since the great majority of other members opposed such negotiations, the compromise was a restricted mandate that limited negotiations to existing WTO rules and specific trade obligations in the Multilateral Environment Agreements (MEAs). The scope of the negotiations is further restricted by the explicit injunction that they shall not “prejudice the WTO rights of any member that is not a party to the MEA in question “or” add to or diminish the rights and obligations of members under existing WTO Agreements”.

The conduct of the negotiations is subjected to specific deadlines in the Doha Ministerial Declaration. The committee on Trade and Environment (CTE) was expected to report with recommendations on future action during the 5th WTO Ministerial Conference, including the desirability of negotiations and the need to clarify relevant WTO rules with regard to the effect of
environmental measures market access, as well as other related issues. The CTE was further mandated to also present a report on technical assistance and capacity building on trade and environment, and on environmental reviews at the national level.

While countries have deepened their analysis of the relationship between MEAs and WTO rules, concrete decisions on information exchange between WTO and MEA Secretariats and the criteria for observer status are yet to be taken. Members have also agreed to shift the mandate on liberalizing environmental goods and services to the Negotiating Group on Non-Agricultural Market Access and the Council for Trade in Services, respectively. Discussions of the three main areas of the non-negotiating Doha mandates in paragraph 32 of the Declaration, namely market access, relevant provisions of the TRIPs Agreement and labeling for environmental purposes, have also not evolved the required consensus to advanced to the negotiating level.

Despite the multifaceted Doha environment mandate most issues therefore remain at the discussion or analysis stage. However, political will is necessary to move some of the difficult issues forward, particularly due to the desire of developing countries to keep the negotiating agenda focused on development priorities. Confidence is also required to overcome fears, that the EC may use the environmental mandate to slowdown agricultural subsidy reform, or to further restrict entry of agricultural products, including GMOs, via eco-labeling or the precautionary principle.
TRADE, DEBT AND FINANCE

In demanding for work in this area, developing countries were seeking for ways to reduce their public debt burden in the context of the multilateral trading system. However, to many developed countries such an exercise is of little or no use due to the limitations of the trading system in addressing international debt and finance problems. In that context, even though the Doha Declaration introduces a binding mandate for members to examine the relationship between trade, debt and finance in the WTO, it further recognizes that the “challenges members face in a rapidly changing international environment cannot be addressed rough measures taken in the trade field alone”. It therefore supports continued work with the Bretton Woods institutions for greater coherence in global economic policy-making.

The agenda of the working Group on Trade, Debt and Finance (WGTDF) has comprised three issue clusters: the relationship between trade and finance; the relationship between trade and debt; and greater policy coherence between relevant institutions. It is important to observe that the Working Group, after some discussion sessions in 2002 and 2003, has completed its progress report which was considered by Ministers in Cancun the report identifies eight themes, and it appears that the WGTDF will continue with its work based on these themes. In view of the development character of the DDA, as well as the relevance of these issues for the future of the multilateral trading system significant progress would need to be made in order to reassure developing countries so that mutual confidence and trust is maintained.
TRADE AND TRANSFER OF TECHNOLOGY

The DDA introduced a binding mandate for WTO members to examine the relationship between trade and technology transfer. A Working Group on the Relationship between Trade and Transfer of Technology (WGTTT) has been established under the post-Doha work programme, to operate within the permanent structure of the WTO. Like the issue of Trade Debt and Finance, developing countries are the main *demandeurs* for this subject. This is response to their quest for the full implementation of existing technology transfer clauses in all WTO Agreements, and possible the development of a new agreement to facilitate the transfer of technology.

In spite of pressures by developing countries for the adoption of practical recommendations on how to increase technology flows, some developed countries perceive this mandate as an academic exercise and remain unwilling to deepen the work towards the implementation of technology transfer changes, or to move into discussions that might facilitate changes, or to move into discussion that might facilitate substantive negotiations aimed at increasing technology transfer. Under these circumstances, members have failed to agree on steps that could be taken within the DDA mandate, although some have identified some particular themes for discussion and put forward possible recommendations. These is also the desire to extend the mandate of the WDTTT for two more years.
S&D TREATMENT AND IMPLEMENTATION-RELATED ISSUES AND CONCERNS

These are subjects that accord the Doha Round its development orientation and character. While the concept of favourable treatment for developing countries has a long history in the GATT/WTO, and has continuously changed with developments in international economic relations, S&D has progressively evolved from an instrument for making trade liberalization supportive of development of its current manifestation as an instrument for helping developing countries develop the legal and institutional capacity to undertake their trade liberalizations. The Doha mandate therefore represented an attempt to redeploy some of the 155 S&D provisions as tools that would better confer the benefits of their original intent. This is to be achieved by strengthening and making them more effective and operational, and if necessary, by turning some *best-effort* clauses into firm obligations.

After extensive discussions and missed deadlines in a mandate that was supposed to last for only nine months, the lack of progress in the review to strengthen S&D provisions remains yardstick of whether the DDA negotiations truly live up to the much touted *development agenda*. In the aftermath of Cancun, the key question persists as to how members will proceed, and in accordance with what timelines, in the mandate to consider the incorporation of S&D into the architecture of WTO rules. Also to be addressed are the remaining agreement – specific proposals by members on the controversial crosscutting issues and the monitoring mechanism.
In dealing with implementation issues which developing countries fell have hindered the realization of meaningful gains from the new system of rules that emerged from the Uruguay Round Agreements, the Doha mandate attempted to address the imbalances include the difficulties encountered by developing countries as a result of implementing their new obligations, as well as the developed countries failure to implement certain commitments. Since Doha, the work programme in this area has also encountered several stumbling blocks. Not only are the implementation issues likely to constitute an integral part of the new negotiations, but developing countries are also likely to provide trade-offs for anticipated gains before any meaningful progress may be made.

Out of the about 95 issues raised in the preparatory process for the Seattle Ministerial Conference, at least 40 are touched upon in the Decision on Implementation and nearly 50 in the Compilation on Outstanding Implementation issues to be resolved post-Doha had experienced any forward movement. Most deadlines have either been postponed or missed outright. While debate between members continue to reflect very clear and divergent opinions, it is also increasingly obvious that developing countries do not intend to accept any early harvest with respect to S&D and implementation issues that have been resolved, for the fear that outstanding issues may subsequently be relegated to the background.
THE CHALLENGES AHEAD

The aim of the 5th WTO Ministerial Conference held in Cancun, Mexico, from 10 – 14th September, 2003 was to take stock of progress achieved half way through the DDA. Amidst the frustrations and lack of progress in many areas of the negotiations, the outcome of the Cancun Ministerial Conference was easily foreseeable. To many people Cancun was a failure. Others, however, are modest enough to consider it as a setback only. These are also those who remain optimistic and see Cancun as a success due largely to the opportunity it provided for the members of the organization to appreciate each other’s sensitivities. However, in spite of all viewpoints, the bottom line is that the WTO Ministerial Conference in Cancun ended without consensus among the organisation’s 146 members.

In many ways, Cancun was qualitatively different from Seattle in Cancun, the deep difference between the developed countries and the developing countries was partly responsible for the outcome of the Conference, whereas the chaos at Seattle was due to various other reasons. Though the developing countries, particularly those of Latin America and the African Caribbean Pacific Group publicly expressed frustration and disgust at the Seattle process, the final failure was because of other factors like handling of the Conference by the Chairperson, public insistence of the host country on some new issues like social clause, deep differences between the two majors viz, the US and the EU and the chaotic atmosphere outside the venue due to several demonstrations. There was really no intense engagement among the countries at the negotiating table. In contrast, there was
engagement of the countries in Cancun, but there were great differences among the membership.

Taking into account the experience of the Doha Ministerial Conference, the outcome could be attributed to the deliberate strategy that may have been employed by delegations but for different purposes. The U.S. and EU were clearly not ready to negotiate any elimination or substantial reduction of their agricultural subsidies while demanding that developing countries cut their tariffs in agricultural products significantly. The EU was also insistent, until the near end, that negotiations should start on the Singapore issues as a single undertaking leaving other members in doubt as to what they stood to benefit at the end of the process.

It should also be observed that over the years, the major developed countries have persistently followed the strategy of squeezing maximum concessions from the developing countries, but this cannot continue indefinitely. Pressures on the developing countries before and during Cancun were no less than at the time of Doha. However, the imperatives on the developing countries gave them strength to resist these pressures. This situation also worked as a cementing factor in the cohesion of some groups of developing countries. Moreover, the developing countries are also fast improving their understanding of the WTO and its processes. While reflecting on the outcome of Cancun, in order to correctly evaluate the Conference, there is need to consider the issues of process and of substance as well.

To start with, failure to meet important deadlines in the work programme of the DDA was an important contributor to the lack of
preparedness for Cancun. The DDA work process was finely balanced – Development issues first (S&D, Implementation, TRIPs and Public Health) – then Agricultural modalities – then Non-Agricultural Market Access – and then only a decision to be taken on the Singapore issues. The inadequate and slow pace of agricultural reform by the EC largely contributed to this. As far as the substance is concerned, the EU – U.S. Joint Text, in reaching a bilateral compromise that strengthened each others protectionist policies, threatened the continued commitment of the two major members to the high ambitions set by Ministers in Doha. This, no doubt, obviously threatened to undermine the fundamental development promise of the DDA for developing countries. In fact, it was this promise of development that led many developing countries to agree to the launch of the Doha Round of negotiations on a comprehensive agenda.

Under these circumstances, developing countries have every justifiable reason to ensure that the Doha Round succeeds in achieving this objective. Arising from the events that characterized the Cancun Ministerial and its aftermath, there is urgent need to create necessary consensus to restart the negotiations. Agriculture remains the core market access issue for Africa and most developing country members. Therefore, the cotton initiative should be accorded topmost priority. Also, the strong pro-development components of the DDA should receive more attention from members, particularly in view of their implications for the long-term interest of developing countries in achieving a greater integration into the global trading system. Furthermore, delay and uncertainty may also only play into the hands countries and
interest that prefer protectionism or unilateralism and bilateralism over the multilateral, rules-based approach to international trade founded on the WTO.

For Nigeria, the way ahead is to remain engaged and ensure that the country’s overall objectives in the Doha work programme are reasonably realized. Some of these major objectives may be summarized as follows:

(i) To achieve maximum market opening for Nigerian exports;

(ii) To tailor Nigerian marketing opening to the pace necessary to achieve sustained economic growth and development, specifically by securing lower tariff cuts than those required for developed countries and to ensure negotiations on new rules reflect Nigeria’s strategy for development targeted at achieving benefits for the poorest;

(iii) To tie the Ministerial Declaration to the Doha Development Agenda with the focus on development;

(iv) Secure commitments from developed countries on the provision of technical assistance, not only to understand the WTO, its rules and negotiations but to help build the necessary Nigerian institutions and capacity to take advantage of the WTO rules.

(v) To avoid tariff cuts and rules which require greater market opening than is compatible with Nigeria’s development strategy.

Indeed, these broad objectives should provide the pillars around which the Nigeria’s specific sectoral interest can be properly located. In doing this, it will be possible to remain focused no matter how long the DDA negotiations eventually last, or whether it
continues to experience other temporary setbacks like the one that was witnessed in Cancun.
REFERENCES


ICTSD, Doha Round Briefing Series, Vol. 2. No. 1-13


WTO, Doha Declarations.