

Keeping the WTO busy while the Doha Round is stuck

Patrick A Messerlin, 29 Jul 2012

Should we give up on the Doha Round and leave the WTO standing still? This column argues that such stalemate is dangerous – the WTO needs to be kept busy.

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There are two reasons for a long coma of the Doha Round: international and domestic.

The international problem is that the American and Chinese views on what the WTO should be and on how its large members should behave are irreconcilable.

- For the US, WTO rules should be made stricter and emerging economies should not receive any special treatment (Bergsten 2011).
- China feels that a huge share of its population has not yet benefited from its open economy policy, hence that it still deserves some special treatment under current WTO rules.

As a result, the US has embarked on a remake of the 1995 exodus of all the countries from GATT to the WTO. The US wants to bypass the WTO's consensus structure and write the rules of 'WTC version 2.0'. The strategy rests on a 'mega regional' trade in services agreement and a 'mega regional' trade deal known as the Trans-Pacific Partnership – both of which would encompass the lion's share of trade but would not include China. The idea is to use these mega regionals to force China and other emerging countries to adopt the new rules.

Meanwhile, China is realising that becoming the world's largest exporter has a price. It is a slow and difficult process. After all, it took the first 50 years of the 20th century shaken by two World Wars for the US to go through a similar process, shifting from indifference to world affairs to benevolent leadership.

- The second reason – often neglected though at least as crucial – is domestic.

The old-time WTO leaders – the US and the EU – are very different democracies but they face the same problem when it comes to trade. Since the early 1990s, elections have given only a tiny majority (if any) to the governing party. In trade matters, this is a recipe for troubles. It means that tiny vested interests can be powerful enough to derail or greatly delay trade agreements. This is

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best illustrated by the time and energy needed by the US for ratifying preferential trade agreements with countries, like Colombia, that are so small that they could not have a noticeable impact on the US economy as whole. All the problems stems from defensive vested interests. What we know from China's transition to the new Central Politburo Standing Committee suggests that China faces a similar fragmentation of decision making.

This second reason explains why the G20 Heads of State and governments have been unable to get their trade ministers fulfilling their repeated pledges to conclude the Doha Round. Even today WTO ambassadors quarrel over the so-called trade facilitation issue that their trade ministers thought to have settled two months ago during their G20 and OECD meetings.

This second reason is all the more important because it is an obstacle to any effort to create multilateral institutions or maintain the ones we have. The problem reaches far beyond – think of how much cooperation we've seen on climate change, oceans, or water.

What should be done?

Should we then give up, leave the WTO as a sleeping beauty for decades, rely on preferential trade agreements as the exclusive source of new market access and possibly rules, and count on the WTO Dispute Settlement mechanism to maintain some activity in Geneva?

This would be dangerous. After a few years, WTO members may increasingly relax about a dispute settlement regime, which could be increasingly far away from the rules written in the regional trade agreements.

We need a busy WTO, and there are many things to do at the WTO, as I argue below.

- Get the GATT reflex: Avant-garde groups taking the lead

The fact that there is (almost) no hope of getting a full WTO-type agreement (a final legal text ratified by the whole membership) even for trade facilitation and, to a lesser extent, the 'duty-free quota-free' treatment for the least developed countries leaves one goal within reach for these two issues.

This goal is to get WTO texts with a minimal number of brackets on these two topics and then to the 'willing' WTO members go ahead – that is, to drop the brackets in the WTO texts they feel inappropriate and to start to implement the 'clean' texts.

This may look awful because we have been spoiled by 20 years of (largely illusory, as it happens to be) 'consensus'. But, it is just a coming back to the origins, a remake of the shift from the Havana Charter to the GATT text. As in 1948, there are good reasons to believe that the willing 'avant-garde' will enjoy benefits from enforcing well-written texts, slowly forcing the today reluctant countries to join them – on the basis of the 'avant-garde' texts.

- Use the WTO as a 'think tank' on negotiating techniques

Negotiating market access in the WTO may be currently impossible, but the WTO remains the best place in the world to collect and develop the knowledge on good and bad negotiating techniques. One should never forget the huge debt that GATT (its multilateral, non-discriminatory and binding principles) owed to the long and painful trial-and-error process of the bilateral trade negotiations between the mid-19th century and the mid-20th century.

It is time to accumulate and disseminate such knowledge on the many trade topics that are a source of troubles for all the current PTAs' negotiators around the world – as illustrated by two examples.

First, how to negotiate on regulation-intensive issues – technical barriers in industrial products, or sanitary and phytosanitary measures in farm and food products, or market regulations in services. For instance, the 1998 Australia-New-Zealand Trans-Tasmanian Agreement on mutual recognition has developed an original approach based on the 1979 European Court of Justice 'Cassis de Dijon' ruling – a good illustration of the competitive interactions between PTAs. The Australian-New Zealand Agreement sets the principle of “unconditional mutual recognition” combined with negotiated lists of exceptions and their reviews. Echoing this, the 2006 EU “Services Directive” adopts the same principle that it combines with “mutual evaluation” (a checking exercise made by negotiating countries before granting unconditional mutual recognition). Why not ask the relevant WTO Committees to work on such identifying the appropriate negotiating techniques for their areas of expertise? Such an approach has the additional merits to start a substantial review of the existing PTAs, and to make future PTAs more similar.

Second, trade negotiators face totally new topics – as best illustrated by the business demand to take into account ‘supply chains’ in trade negotiations. Why not create a WTO committee with the mandate of examining what would be the appropriate negotiating techniques? A much desirable feature of this committee would be to have a notable number of participants coming from the business community. Such participation will re-energise the loose links between businesses and the WTO, and will force the businesses to go out of their cosy trenches of the last decade (‘nothing can be done in the WTO’).

- Use the WTO as a key host for thinking about multilateral governance

Despite all its shortcomings, the WTO legal framework is by far the most advanced piece of multilateral governance. The world trade regime is not the only multilateral regime in danger. The whole idea of ‘global governance’ is in deep troubles, and the trade regime is only one casualty among others. Very little progress has been achieved in climate change issues, and this is not due to doubts on climate change in the officialdom. And there is very little progress on water (farm production) despite droughts, and on oceans (fisheries) despite risks of depletion of some species.

Trade negotiators should thus take the initiative to invite members of the climate, water, ocean communities to discuss jointly these common issues. The current centrality of the WTO forum makes it a natural place to initiate discussions on what means a “multilateral governance” beyond the narrow trade issues, when large countries are paralysed by domestic politics and when emerging countries are not ready to pay for leadership.

Indeed, there is a demand from the ‘climate community’, which realises that a major source of its failures comes from its too weak institutional framework. There is a demand from the “ocean communities” which followed the Doha Round negotiations on fisheries subsidies. The demand from the ‘water community’ is less audible simply because, at this stage, the worldwide aspect of what is often seen as a local public good problem (but which is a worldwide public good problem because of trade in agriculture) is hard to see.

The WTO is the only institution that has the capacity (from logistics to substance) to develop a series of worldwide, totally open-minded conferences on all these related themes, hence to reveal the deep similarities and the converging interests among all these world communities struggling f

a functioning multilateral governance. It is puzzling that such initiatives have not yet become a routine component of the WTO work programme.

References

Bergsten, Fred (2011), "[US trade policy and the Doha Round: An alternative view](#)", VoxEU.org, 18 May.

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