



Cordell Hull Institute

# Trade Policy Analyses

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Reproduced here is the paper by **John M. Weekes** (above).

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Before that, Ambassador Weekes was Canada's chief NAFTA negotiator, after being heavily involved in the Uruguay negotiations.

#### Trade Policy Roundtable

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#### PAUSE FOR REFLECTION...

## What Happened in Cancún and the Implications

John M. Weekes

On Sunday, September 14, the Fifth WTO Ministerial Conference ended without agreement on the proposed declaration. This outcome clearly represents a setback for the Doha Development Agenda and, indeed, for trade liberalization and rule making in the WTO more generally. However, it would be a mistake to exaggerate the damage that might have been done; and there are even some positive conclusions that can be drawn from the experience. This initial analysis of what happened, and its implications, will be updated when participants and observers have an opportunity to reflect in more depth on the situation and the prospects for restoring momentum to the Doha Round negotiations.

#### Encouraging Developments

The draft chairman's text prepared by WTO General Council's chairman, Carlos Perez del Castillo, was an excellent document to serve as a basis for the ministerial deliberations. It reflected real progress over recent months and showed that the "Geneva process" was capable of producing results. The recent outcome on TRIPs and health also demonstrated this positive development. We do not mean to suggest that everything can be done in isolation in Geneva, but it is a good omen that the group of ambassadors, with appropriate guidance from senior officials and ministers, can cooperate creatively to deliver.

It is also important to recall what everyone said going into this meeting. It was not a meeting to launch a round, nor one to conclude it. It was a mid-term review giving ministers an opportunity to take stock and provide direction to the negotiators. While agreement was never reached on the declaration under discussion, the work done by ministers and their officials did go some way to clarify how best to move the negotiations forward. In this regard it is worth looking carefully at the short ministerial statement agreed at the closing session of the conference on

Sunday. We quote the four key paragraphs of the "Derbez text" arising from the Cancun meeting and highlight some of the key portions:

3. All participants have worked hard and constructively to make progress as required under the Doha mandates. *We have, indeed, made considerable progress.* However, more work needs to be done in some key areas to enable us to proceed towards the conclusion of the negotiations in fulfilment of the commitments we took at Doha.

4. We therefore instruct our officials to continue working on outstanding issues with a renewed sense of urgency and purpose and *taking fully into account all the views we have expressed in this Conference.* We ask the Chairman of the General Council, working in close co-operation with the Director-General, to coordinate this work and to convene a *meeting of the General Council at Senior Officials level no later than 15 December 2003* to take the action necessary at that stage to enable us to move towards a successful and timely conclusion of the negotiations. *We shall continue to exercise close personal supervision of this process.*

5. *We will bring with us into this new phase all the valuable work that has been done at this Conference. In those areas where we have reached a high level of convergence on texts, we undertake to maintain this convergence while working for an acceptable overall outcome.*

6. Notwithstanding this setback, we reaffirm all our Doha Declarations and Decisions and recommit ourselves to working to implement them fully and faithfully.

This text is significant because it reflects an agreed willingness to carry forward the work accomplished in Cancun and an undertaking to maintain the convergence that had been achieved in the draft text in a number of areas. It is also important that the ministers have committed to exercise close personal supervision of the process. Of course, the negotiations have lost momentum and it is no longer possible to expect them to be concluded by the deadline of the end of next year set in Doha. Many observers, however, have considered for sometime this objective to be unrealistic and have thought the real deadline would be related to the expiry of the U.S. fast track negotiating authority in July 2007 (assuming a two-year extension).

Perhaps the most significant positive development this year has been the new cooperation between the U.S. and the E.U. There is now a clear perception that these two key partners recognize they have a common stake in trying to make the negotiations succeed. Most notable has been the effort to produce a joint text on agriculture as requested by those WTO ministers present at the Mini-

Ministerial in Montreal at the end of July. Ambassador Zoellick has portrayed this as a joint effort to translate the late June reform of the E.U.'s common agricultural policy into the context of the WTO negotiations. While the resulting paper was criticized by countries favoring more ambitious results, it clearly jump-started a constructive negotiating process in Geneva during August. For the first time in this round there was a real sense that negotiations had started.

Against this backdrop, what was the "valuable work" done in Cancún and the areas where ministers "reached a high level of convergence on texts"? Obviously such words can be open to subjective interpretation, but, following discussion with a number of participants in the meeting, we highlight the following points:

### **Agriculture**

The Doha Ministerial Declaration provided for the establishment of "modalities for the further commitments" by March 31, 2003. The failure to meet this deadline was seen by many as a lack of political will. We tend to a somewhat different interpretation. A number of knowledgeable insiders consider that while the objectives of the Doha declaration were ambitious and sound, the procedural program agreed for the conduct of the negotiations was "an exercise in political fantasy". By that was meant that it was totally unrealistic to expect something as vital and detailed as the modalities for agriculture to be agreed so early in the negotiations, and even more so in isolation from the other components.

But once discussions on non-agricultural market access were seriously engaged, and once the U.S. and the E.U. began work on their joint modalities paper, the dynamic was much more constructive. Then we saw a proliferation of developments. The joint paper was the catalyst for the formation of the G21 comprising a number of developing countries under the leadership of Brazil, India and China. This Group, while somewhat unwieldy in terms of its objectives, succeeded in producing its own draft, which acted as an important counterweight to the US-EU draft. In turn this facilitated the drafting of the chairman's text that was forwarded to ministers in Cancún. And then in Cancún, following many meetings, the chairman of the conference, Ernesto Derbez, with the assistance of the "facilitator" for agriculture appointed to assist Secretary Derbez at the meeting, Singapore minister Yeo, proposed some additional amendments. This text created a good basis for the negotiations in Geneva to determine the modalities. Among other things it provided for:

- On Domestic Support
  - Significant reductions in the AMS (the aggregate measurement of support and protection in the agriculture sector)
  - Capping the AMS for specific products
  - Reducing so-called *de minimis* support

- Reducing “blue box” support after some initial adjustment to take account of reform by the E.U.
- Reviewing criteria for the “green box”
- On Market Access
  - A workable framework for determining the specific magnitude of tariff reductions by both developed and developing countries
- On export subsidies
  - A combination of eliminations and reductions with “an end date for phasing out all forms of export subsidies” remaining under negotiation
  - Important parallel disciplines on export credits
  - Extension of the “peace clause” by a number of months to be determined

While much remained to be negotiated, the declaration would have established a framework that would have permitted the negotiation of a very ambitious set of objectives indeed. Our information suggests that this draft declaration had a large measure of acceptance from key delegations in Cancún. The pressure for the G21 had a real impact in moving the center of gravity towards a more ambitious outcome. It was never really discussed before the meeting ended.

### ***Non-Agricultural Market Access (Industrial Products)***

This part of the text did not undergo much evolution in Cancún. However, a lot of work had been accomplished in Geneva during August. Again our information suggests that this text commanded a wide measure of support. Among other things it provided:

- Tariff reductions by both developed and developing countries on a tariff line basis through use of a “non-linear formula” – the precise formula to be negotiated subsequently
- Recognition that a “sectoral tariff component, aiming at elimination or harmonization is another key element”
- Consideration of the elimination of low duties
- Intensification of work on NTBs with a view to negotiations

### **The Singapore Issues**

*Trade Facilitation, Transparency in Government Procurement, Investment and Competition Policy*

On these controversial issues the conference chairman, on the recommendation of the facilitator appointed for these issues, Canada’s International Trade Minister Pettigrew, proposed unbundling which had been strongly opposed by the E.U. and Japan. Before the meetings ended, the E.U. had agreed to drop its insistence that negotiations be initiated in Cancún on investment and competition policy. This was a remarkable development

through which the E.U. was, in effect, agreeing that the real focus of the round would be on market access and related rules issues.

Ironically it was on these issues that the negotiations broke down. As described below, it appears that member countries (particularly the least developed-country delegations) did not (or could not) react quickly to the turnaround in the E.U. position.

### **Geographical Indications (GIs)**

While the E.U. continued to insist on its position regarding a compulsory registry for wines and spirits and, too, on extension of geographical indications to other products, there was no change made in the text of the draft declaration to respond to this. There was some suggestion behind the scenes that the E.U. might offer to agree to a firm date to end export subsidies in exchange for something on GIs.

### **What Went Wrong?**

To some extent the conference was the victim of bad timing. If the E.U.'s CAP reform had come earlier there would have been more time to try to factor this positive development into the negotiating dynamic.

A number of ministers spoke of the difficulty of reaching agreement in such an unwieldy environment. Clearly USTR Zoellick considered that a large part of the blame should be assigned to Brazil, which he considered had aroused unrealistic expectations among many developing countries and then couldn't turn them around when it came time to really negotiate. Commissioner Lamy reflected on the problems of decision-making in the WTO, repeating his comment made first in Seattle that the WTO is a medieval organization. Canadian Minister Pettigrew said he detected a disconnect between the WTO as a Bretton Woods institution, with a precise focus, and the sort of debates that had occurred in the Heads of Delegation meeting on Saturday evening. Chairman Derbez said in his concluding remarks that members have to learn from the lack of consensus, that business as normal will not succeed, and that some soul-searching is needed. He blamed part of the deadlock on a failure to move away from rhetoric — no one can live off rhetoric, he added. In discussions with delegates, it was evident that these concerns about the rhetoric overwhelming substance were directed mainly at African, Caribbean and least developed members. Perhaps the time has come to reflect on the governance structure and methods of the WTO, but such a process would be very divisive and politically explosive.

The first priority of governments should be to restore momentum to the Round and the best way to do so will be for ministers to signal to senior officials that they expect them to make real



The **mockingbird** is the state bird of Tennessee. Cordell Hull represented a district of Tennessee in the Congress of the United States, and was elected a senator from there, before becoming U.S. Secretary of State (1933-44).

"The mockingbird is known for fighting for the protection of his home – falling, if need be, in its defense. Mockingbirds are not intimidated by animals larger than themselves and have been known to attack eagles"

– Diana Wells, 100 *Birds and How They Got Their Names* (Chapel Hill, NC: Algonquin, 2002)

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The Institute's purpose is to promote independent analysis and public

progress in advance of the WTO General Council meeting now scheduled to be held in Geneva on 15 December.

Secretary Derbez took the decision to conclude the conference when it appeared that, even with the revised E.U. position, it would be impossible to reach agreement on the Singapore issues. After the circulation of his revised draft there was no focused negotiation on agriculture or non-agricultural market access. Given the atmosphere, this may have been a good decision, for the progress that had been registered on those issues may well have begun to erode.

There were also serious differences among developing countries.

Those WTO members with preferences into the EU under the Cottonou Agreement (nearly half of the WTO membership) do not really want the EU to liberalize its import regime for the agricultural products they produce. On the other hand, those developing countries that do not benefit from these preferences have a completely different set of objectives. This rift may well continue to deepen because it reflects a real difference of national interest. Perhaps it also gives a glimpse of the future if we have more regional and more bilateral agreements.

Brazil could clearly have accepted much of the chairman's text on agriculture, whereas India was strongly resisting the sort of improvements in market access it would require from developing countries. From an Indian perspective, it was lose on agriculture and lose, again, on the Singapore issues.

If Secretary Derbez moved the discussion back to agriculture, it might well have exposed some of these differences and changed the perception about a uniform view among developing countries. It is interesting to note in retrospect that both the EU and Brazil seemed surprised the chairman called it quits when he did. This shows a further problem. Different delegations had made different assumptions about when the real endgame would begin. The game was over before all the cards were played. This again showed the danger of applying UN-type tactics in the WTO.

What is needed now in the run up to the December 15 meeting of the WTO General Council at senior official level is a lot of hard work and creative effort to try to build on what is a pretty solid base for moving forward. Ministers will need to maintain their commitment to maintain close personal supervision of the effort. Perhaps the impending expiry of the peace clause on December 31 will provide a catalyst to get things going.

This setback must not prevent further progress toward goals agreed in Doha. Indeed, it is even possible that what has happened may generate greater resolve to get on with the real tasks. Certainly the run up to Cancún showed the level of

discussion of issues in international economic relations.

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ambition to be very high among a broad spectrum of WTO members. For the moment, those ambitions are on hold and the desired reforms a bit more distant. That is not in the interest of any business or government with a real commitment to the benefits of trade. Ambassador Zoellick's comments recalling the policy of "competitive liberalization" and making clear that the U.S. was prepared to pursue bilateral and regional alternatives may cause some of those who were recalcitrant to become more forthcoming. Commissioner Lamy made clear his view that the negotiations were in trouble, but emphasized the importance of the multilateral system for the EU.

Regular WTO activities will proceed and many are of significant import. There are several major dispute-settlement proceedings now in progress that could have a real bearing on the negotiations. The Brazilian complaint against the U.S. on cotton is one. There are also some two-dozen countries, including important economies like Russia and Saudi Arabia, negotiating their accession to the WTO. But the system needs the injection of fresh liberalization and improved rules, which will result from the successful conclusion of the round. Absent new agreements among members, the WTO will lose momentum and credibility.