

# The WTO: Present Challenges and Perspectives

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**At our recent RIETI BBL seminar, Alejandro Jara, Deputy Director General of WTO, discussed the state of trade and trade policy responses to the current crisis. Although many countries continue to conclude free trade agreements (FTAs), measures that restrict trade have also been applied. Also, despite rumors to the contrary, Mr. Jara says that the Doha Round is still active and moving forward, although slowly, as negotiating a multilateral trade agreement is fundamentally different from a bilateral trade agreement. Mr. Jara offers some proposals for concluding the Doha Development Agenda (DDA), as doing so is essential for enhancing competitiveness, innovation, and facilitating job creation.**

## **The state of trade and trade policy responses to the current crisis**

Trade last year fell by 12% in volume, which is huge, and in a synchronized manner around the world, which shows the integration of economies and the production chains.

Economists will, in the future, look at the facts and the sequencing that determined the impact of this crisis and the

drop in trade. For now, we know that the drop was caused by the contraction of economic activity around the world, thus leading to less demand and less trade. Trade financing dried up very quickly, as did most of the credit around the world. Banks, in their preoccupation to not be seen as exposed in terms of liability, were forced to cut back on trade financing, even though letters of credit are virtually risk free.

In spite of the crisis, many countries have in fact liberalized their trade, for example Malaysia, Mexico and Canada. Many countries are also continuing to conclude FTAs, thus opening more of the markets to trade. But, measures that restrict trade have also been applied, though not at the level of past crises, like the depression of the 1930s.

The WTO began issuing quarterly reports on trade measures at the beginning of the crisis, mainly drawing on information from the press. Although governments were not happy to be exposed, they soon saw the value of having nearly complete and up-to-date information of trade measures around the world. Other sources include the OECD, UNCTAD and the Global Trade Alert ([globaltradealert.com](http://globaltradealert.com)).

There are reasons to be concerned with the trade measures applied in this crisis. Most of the measures applied are foreseen in the agreements of the WTO. These include anti-dumping, countervailing duties, subsidies, safeguards, sanitary/phytosanitary regulations, standards, etc. The

circumstances in which certain measures can be applied are defined and are, for the most part, transitory. They can be challenged in the dispute settlement mechanism, as indeed and some have been, successfully.

The size of some of these measures may be a problem because of the impact in markets. For example, measures such as the bailouts of the automobile and banking industries. Also of concern is whether these measures will be permanent. And if not, how and when they will be rolled back. Other measures are subject to little or no WTO disciplines at all, for example, measures on investment or export duties. When rules are weak, insufficient or non-existent, protectionism slips through.

Overall, there is greater awareness than in the 1930s that in the context of a world with more flexible exchange rates, it does not make much sense to adjust via restrictions on trade. This would only make things worse. At the same time, because a multilateral trading system plus bilateral free trade agreements are in place, governments know that restricting trade will lead to retaliatory measures, which will then bring about a drop in their exports. Finally, in many countries, though not all, international obligations are incorporated into domestic legislation as international treaties. It thus makes it very difficult for a government to breach its own laws by breaking the terms of a trade agreement.

Furthermore, in certain countries, some measures are on "auto-pilot." For example, the law concerning anti-dumping duties in the United States; if an investigation finds dumping, injury and the causal link between the two, then the duty must be imposed, leaving the Executive with no choice or political control, even if a duty is ostensibly against the public interest.

Much research will be done in the future to shed light on the weaknesses of WTO rules, and/or what new rules are required as perhaps is the case of investment.

### **The Doha Round of trade negotiations**

In spite of rumors to the contrary, the Doha Round is still active and moving forward, although slowly. Negotiating a multilateral trade agreement is fundamentally different from a bilateral trade agreement. At the center of Doha Round lies, for the first time, an attempt to effectively liberalize trade in agriculture, including eliminating export subsidies and reducing trade distorting domestic support. This implies

important changes to agricultural policies—a multilateral disarmament—that cannot be dealt with in bilateral or plurilateral trade accords. The political economy of these changes is such that a huge amount of political energy and capital must be spent to achieve limited success in this objective. The problem is not the number of WTO Members—there are 153. That we have not been able to conclude the negotiations is an issue of a few Members in whose hands lies the solutions.

Similarly, we face a dramatic situation surrounding fisheries, where 80% of the fish stocks in the world are in a critical condition. In order to deal with this, certain subsidies granted by some countries must be eliminated and this will reduce the number of vessels chasing a dwindling stock of fish.

In order to make such changes in agriculture and fisheries politically palatable, ambitious results must be reached in other fields, like services and non-agricultural market access. This, in turn, presents sensitivities to others. For example, some fear that reducing tariffs on industrial goods will open their markets to a flood of Chinese manufactures.

Some governments and business have mistakenly made an issue of the insufficiency of the concessions of many emerging markets. Since 1990 until 2005, figures of the World Bank indicate that developing countries have greatly liberalized their trade—65% of it unilaterally, 25% multilaterally (Uruguay Round or accessions) and 10% bilaterally. It is a mistake not to give value to the fact that these countries are willing to lock-in the liberalization they have undertaken. In other words, many developing countries autonomously opened their markets, without asking for anything in return, as if they had anticipated the results of this Round.

Another problem lies in the organization of the negotiations. It was agreed that a first step would be to achieve modalities in agriculture and non-agricultural market access. Modalities mean the level of ambition both in terms of tariff and subsidy reduction or elimination. The next step is for countries to reflect the modalities in their individual schedules. Since the modalities have flexibilities, how these will be used will only be known after the schedules are submitted, long after modalities have been agreed. To ask governments to agree to something like modalities without knowing the full impact makes an agreement much more difficult.

After a failed attempt to devise a package in agriculture and non-agriculture in July 2008, political momentum to ensure a high probability of success has not been found.

In the light of the context of the crisis, there is increased awareness that to agree to the Doha round would create an effective stimulus package for the world economy, and would probably be the cheapest possible stimulus. In addition, more and deeper international cooperation is required in many areas such as financial regulation, nuclear proliferation, organized crime, climate change, among others.

It is difficult to envisage that countries agree to move forward on all fronts except trade. The G20 has shown political leadership. Their meeting in Toronto was the first time a discussion on trade and Doha has been held by world leaders. They mandated their officials to work on the trade dossier and agreed to revisit this issue at the next meeting in Seoul.

The role of the U.S. is vital to generate leadership and engagement. Their internal politics is not always favorable to liberalization, but there is no doubt that to enhance competitiveness and innovation and to create more and better jobs, the conclusion of the DDA is essential, to the U.S. and to other countries as well.

### Future challenges

Regarding the future, it is evident that hard questions need to be asked. Are the rules and disciplines currently in place enough? Do they make economic sense? What rules and disciplines are being elaborated in FTAs that need to be brought into the multilateral system such as investment? Overall, more rule making is necessary.

Methods of liberalizing services through trade negotiations must be generated. There has been little or no liberalization of services based on trade agreements thus far, with the exception of WTO accessions. Regulators need to engage in trade negotiations, since they are the only ones with the knowledge and expertise in the public policies of their respective fields. The negotiations must be organized by sector.

Another area that the WTO wants to develop is to measure trade in terms of its value added. For example, when a product assembled in one country reaches its destination country, the value is calculated as a whole, rather than

taking into account the value that was added by other countries in the production chain. The current calculation of value added gives a distorted picture of reality. Accurate calculation requires massive data collection and that poses huge logistical difficulties. Japan External Trade Organization (JETRO) has been very helpful in working with the WTO and academics to create a methodology to measure value added. I also think that more impact analysis of measures is needed. Governments should try to create independent institutions that analyze the impact of measures that they plan to apply so that consumers, unions, NGOs and politicians can act or react to different proposals with full knowledge of what the impact will be. This will lead to much better governance. The Productivity Commission in Australia is a good example of what I think is needed on a national and international basis. Finally, another challenge is what to do with the numerous FTAs being signed and implemented around the world. These agreements are very much a struggle against discrimination, but these agreements come at a cost. They are not as efficient as multilateral liberalization, but they do point in the right direction by putting into place rules and disciplines that are stricter than WTO standards. These rules must be constructed in a way that is compatible with the idea of their convergence and eventual absorption into a multilateral trading system.

## Question and Answer Session

**Q1** Some say that the package in the Doha round should be minimized so that everyone can agree to it more easily. What is your opinion on this approach? Secondly, please elaborate on your statement that future negotiations on services need to be organized by sector.

**A** Passing a "light" Doha package would not work because it would be politically difficult. There are basic things that need to be solved at this Round, and for many developing countries, there is a point below which a result does not work. Agriculture will continue to be an area in which developing countries are discriminated against because they do not have the financial resources to provide their farmers



with the kind of assistance available in the developed world. Mediocre results in agriculture will make it politically impossible to do more in services commitments, concessions in manufacture, etc.

Regarding the negotiations of services, negotiating tariffs is based on numbers, whereas negotiations on services are about words. Thus, in services, negotiations end up being more complicated and sensitive. For highly regulated sectors, public policies will also be up for negotiation and these policies are very often competition rules. Thus, tradeoffs between different service sectors are extremely difficult because they belong to different worlds and are not measurable. Therefore, the most efficient manner of organizing services negotiations is on a sectoral basis, and in this way, appropriate safety values can be tailor-made for each area.

## **Q2 How probable do you think a collapse of the Doha round is?**

**A** Like any negotiation, an adjustment of expectations is required. You need high levels of ambition, but it is also true that countries will not get everything that they are asking for and they will have to pay more than they expected. I do believe that politically, below a certain level of ambition, this round will fail. Many countries, particularly the poorer, are waiting anxiously for the results of the Doha Round: they stand much to gain in terms of new investments and markets. It is a matter for the few to determine the outcome—not more than 10 or 15 countries, counting the EU as one, because they are the ones that have to do the tradeoffs.

## **Q3 Do you think it is a good idea to expand the agenda of the WTO into competition law, currency intervention or tax issues such as transfer pricing?**

**A** The World Trade Report of the 60 years of the multilateral trading system, explained that there is no objective way to have a set of criteria spelling out whether something is trade-related or not and therefore whether it should be in the trade system or not. For example, some say that investment should have been in the system long before intellectual property. Thus, the expansion of the WTO agenda is dependent on political outcomes. It is

clear that more international cooperation is needed in the field of competition policy, be it through the WTO or other means. Currency is already under the jurisdiction of another international agency. The WTO looks at long-term issues and not short-term fluctuations or manipulations. In that case, because of the specialization of another international agency, it would not be a good idea to bring currency into the fold of the WTO. Plus, traditionally speaking, the people who work with monetary issues have a high disregard for trade negotiators.

## **Q4 How do you see the balance of the three pillars of the WTO—rule making, dispute settlement and monitoring—in the future?**

**A** Regarding monitoring, countries provide as little information as possible, and if they feel uncomfortable, they will delay the notification as much as necessary. Countries dislike answering questions. Little by little, a system must be put in place where if a government does not provide the information in a timely manner, this information will be provided by the Secretariat, and it will be up to the government to correct and/or validate it. This would be one effective way to hold them accountable. It may sound a little far-fetched, but I think monitoring should evolve in this direction.

As to dispute settlement, this is working well. The process takes longer than necessary, but this is the fault of the Members. The quality is good and perhaps over time permanent panelists will be necessary. Also, the system needs to be changed at the point of implementation. Basically, the price of non-compliance must increase as time passes so as to generate incentives to derogate or amend a measure found in breach of WTO obligations.

Finally, regarding rule making, many in-house processes and procedures must be updated. The fact that different kinds of safeguards are being negotiated means that the current system of safeguards is not enough. Most of the time, if a problem persists for more than three or four years, it is not an emergency situation; it is a structural problem that should be addressed in another way, but not by restricting trade through a safeguard. In other words, bring back sound economies to our disciplines.