

# REFORM PAPERS



## *Stakeholder Forum for a Sustainable Future*

### Report

## **REPORT ON THE 6<sup>TH</sup> MINISTERIAL CONFERENCE OF THE WORLD TRADE ORGANISATION HONG KONG, 13-18 DECEMBER 2005**

The 6th Ministerial Conference of the World Trade Organisation was held in Hong Kong from the 13-18 December. The Hong Kong Conference is the third Conference of the Doha Round of trade negotiations, which was launched in Doha, Qatar in 2001. The Doha Ministerial Declaration reaffirmed the commitment of member countries to the overarching objective of sustainable development, and mandated a round of negotiations that would promote economic growth and the alleviation of poverty. However, the collapse of the Cancun Ministerial Conference in 2003 – which ended without consensus – has cast a dark shadow over the past two years of world trade negotiations and the Doha Development Round as a whole. As a result, the pressure on negotiators at Hong Kong to deliver an outcome that would promote the development concerns of the world's poorest countries was immense.

Following the Cancun Ministerial, WTO members in Geneva began efforts to put the negotiations and the rest of the Doha work programme back on track. The result was the 'July Package,' which emphasized progressing negotiations in five key areas, namely agriculture, non-agricultural market access (NAMA), development issues, trade facilitation and services. The document provided negotiators with instructions on the work to be completed either by the Hong Kong Ministerial Conference or intermediate deadlines. The following year and a half of trade negotiations, however, failed to deliver on the promise of the July Package to ensure that the Doha Round was kept on track. In the run-up to the Ministerial Conference, member countries admitted to significant divergences in their positions on many issues, particularly agriculture and NAMA. The original goal of agreeing 'full modalities' for the Doha negotiations was thus scaled back to agreeing 'partial modalities' and a date for finalizing full modalities.

As a result, the Hong Kong Ministerial Conference opened on Tuesday 13 December 2005 to low expectations. The depth of divisions between member countries became very apparent in the initial days of the Conference, as negotiators held firm to their negotiating positions and gave few hints of willingness to compromise. An impasse on agriculture and controversy over services negotiations made consensus at Hong Kong look unlikely.

In light of these obstacles, that the Conference was not a complete failure has itself been touted as a success. However, given that negotiations are part of the 'development' round, celebration of the outcome is indeed misplaced. The end result is a disappointing text that offers little in the way of promoting poverty alleviation and sustainable development. Agreements made by key developed countries reflected pre-existing national plans and included few concessions. In contrast, developing countries were forced to curtail their demands, thus undermining potential development gains.

## OUTCOMES

**Agriculture:** Progress in the area of agriculture was key to a successful Ministerial Conference at Hong Kong and Doha Round as a whole: the July Package acknowledges that “agriculture is of critical importance to the economic development of developing country Members.” Members had hoped to come up with a ‘first approximation’ on agricultural modalities by the end of July 2005, with actual modalities to be completed at the Ministerial. With the scaling back of expectations in the run-up to the Hong Kong Conference, however, members acknowledged that an agreement on full modalities for agriculture would not be possible in Hong Kong. Rather, members committed to agreeing a deadline for establishing modalities and for submitting comprehensive draft schedules based on these modalities. Members also aimed to agree a date for eliminating export subsidies.

Not surprisingly, agriculture became the focus of much of the negotiations at the Ministerial Conference, with the EU considered to hold the key to unlocking the deadlock that had emerged. However, the EU maintained the position that its 28 October proposal was its final offer on agriculture and that responsibility lay with other member countries to come forward with similar proposals. On agricultural export subsidies, the EU resisted the widely-supported deadline of 2010 for elimination of export subsidies and disciplines. The agreed date, 2013, is consistent with its 2003 commitment to reform its Common Agricultural Programme and thus does not represent a significant concession on the part of the EU. The scaling back of ambitions meant that other important agricultural issues, such as domestic support, were largely left for future negotiations.

**Cotton:** The July package committed WTO members to deal with cotton issues ambitiously, expeditiously, and specifically within the agriculture negotiations. At Hong Kong, the C4 – a group of African cotton producing countries – called for an ‘early harvest’ agreement that would specify an end to cotton subsidies ahead of the deadline for other obligations that emerge from the Doha Round. The C4 had a strong case to back up such demands. American cotton subsidies have been declared illegal by the dispute settlement panel in a case brought forward by Brazil. The panel gave a deadline of July 2004 for the United States to comply with the ruling by abolishing its subsidies. In addition to being illegal, cotton subsidies are creating artificially low prices that are destroying the otherwise competitive African cotton industries on which millions of African farmers rely. Though cotton has become a symbol for the potential unfairness of the world trade system, discussions in Hong Kong fell short of an agreement to rectify this situation. Negotiators agreed to eliminate export subsidies in 2006 and grant unrestricted access for cotton exports from West African producers and other Least Developed Countries (LDCs). Regarding domestic support, the agreement delayed the decision on the depth and speed of domestic cotton subsidy cuts (which make up 80-90% of total US support for cotton). This was a disappointing outcome, demonstrating little concessions on the part of developed countries beyond current commitments.

**Services:** Services became one of the most contentious issues at Hong Kong, with Annex C at the heart of this controversy (See “Governance & Process” for further information). In the draft text that preceded the conference, Annex C detailed approaches to services liberalization that included strong language about plurilateral modalities. Many developing countries considered that these proposals would seriously erode the current flexibilities embodied in the GATS Agreement and force developing countries to enter liberalization negotiations in certain sectors, thus undermining their capacity to ensure that the process of services liberalization is in line with national development objectives. The final agreement was a watered down version of Annex C which removed prescriptive language of concern, such as members “shall enter into plurilateral negotiations...”

**Development Package:** The Hong Kong agreement fell short in delivering a meaningful development package to benefit the poorest members of the WTO. Elements of the package to be agreed on in Hong Kong included duty free quota free access to industrialized countries markets for LDC exports, agreement on LDC proposals to amend SDT provisions in WTO agreements, and a strong aid for trade package to strengthen developing countries' participation in the WTO as well as their capacity to trade. The agreement on duty-free, quota-free access for least developing country exports was severely weakened by the inclusion of a caveat that enables developed countries to provide access for only 97 per cent of tariff lines. This 3 per cent leeway for developed countries is considered to be sufficient to ensure that their sensitive products, such as sugar and textiles, can be protected from competitive industries in developing countries. As for an aid for trade package, developed countries such as Japan, US and EU did pledge finances. However, it was unclear whether the money was available to support the pledges and whether money promised was indeed 'new money' that had not been pledged in the past. In Japan's case, the money was promised in the form of loans, which can hardly be considered aid! Finally, Members were unable to agree on special and differential agreement.

**Environment:** Environmental issues were largely absent from negotiations at Hong Kong, with the exception of environmental goods or services (EGS). Eliminating barriers to trade in EGS is key to improving environmental protection. The challenge for trade negotiators is how to define EGS. The draft text of the Hong Kong conference contained two options for moving forward on EGS negotiations. Unfortunately, however, negotiators failed to reach an agreement on either, calling instead for members to "expeditiously complete the work." Other environment-related issues contained in Paragraph 31 of the Doha mandate have been left for negotiation at a later date. Based on this poor progress made on environmental issues, one minister is reported by *Bridges Trade BioRes* to have suggested that countries for now do not seem ready to add the element of sustainability to their work.<sup>1</sup>

## GOVERNANCE & PROCESS

As in the past, the negotiation process of the Hong Kong Ministerial Conference was repudiated for lack of transparency and fairness. Outrage was particularly acute in relation to the services text negotiations and the treatment of the controversial Annex C. It was widely felt that efforts had been made to marginalise the alternative text to Annex C presented by the G90 and that the status of Annex C had been misrepresented as "closed," when in fact the text did not enjoy the consensus of the members. In response, African Members of Parliament issued a strongly worded statement on services, "condemning the deliberate disinformation aimed at creating despondency and mistrust with the aim of breaking up developing country groupings." Similarly, 85 civil society organisations sent an open letter to Secretary John Tsang, Chairman of the Ministerial, protesting the "unacceptable process" in services talks.

Surprisingly, controversy around the so called 'Green Rooms' seemed to be muted, suggesting Green Rooms have become a more accepted way of moving forward the negotiations. Developing country alliances enable developing countries to have their interests defended even if they themselves are not in the Green Room. Rather, concern and outrage was directed at the power politics of key players, both inside and outside the Green Room. Kamal Nath, India's Minister of Commerce and Industry, noted that "we have been seeing an amazing development in the discussions in Hong Kong whereby the developed countries talk in the plenary halls of a Round for Free for developing countries. Then they move into the Green Room and continue to ask for a Round for Free, this time for themselves." Similarly, African parliamentarians condemned the divide-and-rule tactics that they felt were being used against them. They claimed that their trade Ministers and Heads of State were being subjected to intense pressure and lobbying, much of which linked agreement in Hong Kong with outside issues unrelated to trade.

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<sup>1</sup> Bridges Trade BioRes, Volume 6, Number 1. <http://www.ictsd.com/biores/06-01-20/index.htm>

It seems clear that the governance processes and politics of the WTO remain inherently unfair and continue to threaten the legitimacy of the institution. The emergence of a new developing country alliance and the increased role of civil society actors are two promising developments which could help to level the playing field. The Hong Kong Ministerial Conference witnessed the formation of the Group of 110 (G110) – a new developing country alliance “representing 4/5 of humanity.” This demonstrated a clear intention on the part of developing countries to defend the development mandate of the Doha Round. Civil society actors have also been playing an increased role in trade negotiations, particularly in providing support and advice to developing country alliances. NGOs have been at the forefront of the cotton issue and have done much to highlight the unfairness of the current situation and support the C4 in negotiations. The G110 also noted the support it had received from Oxfam.

## CONCLUSIONS: WHERE NEXT FOR THE WTO?

Because the outcomes of the Hong Kong Ministerial Conference were modest, much work has been left for future negotiations, with talk of second Ministerial-level meeting to take place. Negotiators at Hong Kong missed an important opportunity to deliver a fair and equitable agreement that would address both social and environmental concerns. As a result, the outcomes and processes of the Hong Kong trade negotiations delivered little evidence that the promotion of sustainable development is indeed the primary objective of world trade negotiations, as stated in the WTO’s founding documents. The integration of all three pillars of sustainable development – economic and social development and environmental protection – has yet to be reflected in the outcomes of the WTO.

An awareness of the WTO’s inability to deliver outcomes that promote social and environmental concerns pervaded the atmosphere both inside and outside of the Hong Kong Conference Centre. The violent protests on the streets of Hong Kong and the emergence of the G110 alliance are both manifestations of the emerging dissatisfaction with a system that enables the agenda to be set by developed countries, at the expense of sustainable development. While consensus at Hong Kong has temporarily delayed a crisis for the WTO, it seems clear that calls for reform will only get louder.

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