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AFTER five days of intense negotiations, Mr. John Tsang, Hong Kong's Commerce Secretary pounded the gavel in the highly choreographed final plenary meeting[2] and declared the 6th Ministerial Conference of the World Trade Organization (WTO) in Hong Kong closed. The Ministerial Declaration was approved practically uncontested, except for the intervention of Mari Pili Hernandez of Venezuela, who took the floor to reiterate Venezuela's reservation on the text. The declaration embodies consensus on a number of critical areas of the negotiations and outlines the clear direction or road map for the conclusion of the Doha Round by 2006.

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A MIS-DEAL IN HONG KONG

The continuing story of acquiescence and resistance in the WTO

Anti-WTO protesters stage a die-in to dramatize the devastating effects of the new trade deal. WWW.INFOSHOP.ORG

Outside however, the situation was a little more intense. Just a day prior, thousands of protesters marched to the convention center and managed to break through the police barricades. The demonstration turned violent as protesters clashed with the police in one of the most militant expressions of dissent and opposition to the WTO. If acquiescence was the name of the game inside, outside it was resistance. And by the time Tsang pounded the gavel to close the ministerial conference, the people's judgement on the WTO had already been made as shouts of "Down, Down WTO" continued to echo in the empty streets of Wan Chai.[3]

Battle of interpretations

Similar to previous WTO ministerial meetings, a battle of

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Fierce opposition to the WTO negotiations from peasant and fisherfolk delegations.

interpretations has ensued over the outcome of the conference in Hong Kong. Both proponents and opponents of the WTO have come out with their own accounts and their own scorecards on the results of the talks. Was it a success or a failure? Was it a step forward or a setback for the world's poor?

WTO Director General Pascal Lamy called the meeting a success. In his own assessment, with the gains achieved in Hong Kong, both in terms of what he called the "right negotiating attitude" among members and the consensus in some technical areas of the negotiations, the Doha Round is now 60% complete.[4] And with a road map in hand, the negotiations now have enough steam to continue on to Geneva towards the conclusion of the round in 2006 as scheduled.

In contrast, civil society groups and social movements around the world are dismayed over the outcome of the talks. In all the critical areas of negotiations—agriculture, non-agricultural market access (NAMA), services, and the issue of development, the text locks in very critical and highly contentious areas like the ambitious tariff reduction formula in NAMA and the plurilateral approach in services while glossing over the divergent views that have already been expressed by countries in the course of the negotiations and especially in the last few days of the Ministerial in Hong Kong.

So the question is: what happened? What sort of magic was Lamy and his cohorts able to conjure to forge the consensus behind the Hong Kong text? To understand the outcome of the Hong Kong talks we have to go back to what was at stake there to begin with.

Merry new round: From Doha to Hong Kong

Four years ago, member countries gave the go-signal to start negotiations for new trade agreements that would replace the existing set of agreements collectively called the Uruguay Round Agreements. Because the mandate to begin negotiations was an outcome of the 4th Ministerial Meeting in Doha, Qatar in November 2001, the ongoing negotiations are referred to as the Doha Round.

The Doha Round is supposed to be a development round. It aims to address the implementation issues that were raised by poor countries at the Seattle Ministerial Meeting in 1999 and in the process put their developmental concerns at the heart of new negotiations. It was this promise of development that served as the enticement for the developing countries, most especially those coming from Africa, to give their reluctant nod to the launch of new trade negotiations.

The meeting in Cancun in 2003 was supposed to be a stock-taking exercise for the members. It was supposed to assess how far the Doha negotiations have gone. But because it became too obvious that the trade superpowers wanted to ram their agenda for faster and deeper liberalization down the throats of everybody else, the Cancun talks collapsed, effectively sidetracking the Doha negotiations. We saw at Cancun the emergence of various developing country groupings that seemed able and willing to challenge the agenda of the two most powerful members of the WTO – the United States and the European Union.

The negotiations however were quickly put back on track. A consensus was reached at the General Council Meeting in July 2004 over "the July Framework", which became the basis for continuing negotiations. The July Framework was hailed by then US Trade Representative Robert Zoellick as a road map to prosperity.

While representatives of the world's governments negotiated tariffs and trade rules, cry: *No to WTO* (above and below).

Developing countries like the Philippines joined in the celebratory chorus. The forging of the consensus over the framework was a testament in large part to the negotiating tactics of the US and EU and the co-optation of India and Brazil, the erstwhile leaders of the G20 – a grouping of developing countries pushing for the elimination of domestic support and export subsidies in the North. For all intents and purposes, the agriculture framework (also referred to as Annex A)[5] was a product of negotiations among (what came to be known as) the Five Interested Parties or the FIPS, which include the US, the EU, Australia, India and Brazil.

What was at stake in HK

With the revival of the talks in July 2004, the Doha negotiations seemed poised for completion. Reflecting this level of optimism, then Agriculture Committee Chair, Tim Grosser, targeted 'first approximation' of modalities in agriculture by 2005. Two successive General Council Meetings in July and October 2005 however failed to produce the much sought-after consensus on the modalities[6]. In the words of then Director General Supachai Panitchpakdi, the negotiations were "in trouble". With no consensus on even the first approximations on the modalities in sight, the objective of achieving full modalities at Hong Kong became more and more unlikely.

For this reason, the expectations for Hong Kong were quickly downplayed. By October 2005, that aim was reduced to securing an agreement on at least half of the modalities. The clear objective was to prevent the monumental collapse of the ministerial reminiscent of Seattle and Cancun and to keep the momentum going. At stake in Hong Kong was not only the future of the Doha Round but the very legitimacy of the WTO. From the maneuverings by the Chairs in the negotiations at the committee level to the choreography at the final plenary, it was clear that the unspoken marching order was to prevent collapse at all costs.

representatives of basic organizations negotiated the streets of Hong Kong with one

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If acquiescence was the name of the game inside, outside it was resistance.

The deal in HK

The 'Hong Kong deal' is highly reminiscent of the flawed and undemocratic 'July Framework' that put the negotiations back on track in 2004. The Ministerial Declaration, while conveniently vague in most of the contentious areas, nevertheless ensures, through carefully crafted language, some space for negotiations to move forward. On the other hand, the text projects explicit consensus already in certain areas like the formula for tariff reduction and approaches to the negotiations.

Illusory gains

In agriculture, what was achieved in Hong Kong was consensus on the banded or tiered approach[7] to the reduction of tariffs and domestic support. The relevant thresholds however still need to be agreed upon.

In the area of Special Products[8] and Special Safeguard Mechanisms[9] (SP/SSM), which is foremost in the agenda of developing countries like the Philippines because of the flexibilities and protection that these provisions offer to certain products, what came out in the declaration was a note on the movements on the designation and treatment of SPs and elements of SSM and the recognition of the flexibility for developing countries to self-designate number of tariff lines under SP. Precise arrangements however still need to be further defined.

The declaration also sets clear timelines already to establish modalities by April 30, 2006 and comprehensive draft schedules by July 31, 2006.

But perhaps what was central to the deal in agriculture was the agreement on an end date of 2013 for the elimination of export subsidies and disciplines on export measures like food aid.

A closer reading of the outcome in agriculture would reveal that the supposed gains are in fact illusory. As noted by Aileen Kwa of Focus on the Global South, "export subsidies account for only a small part of the large proportion of EU supports to subsidizing exports. Most fall into the WTO-legal "Green Box" which has escaped disciplines in the current negotiations.[10] Furthermore, the commitments made by the US and the EU to reduce domestic support would actually amount to very minimal cuts on actual levels of support. In the end, the US and the EU would still be able to maintain their high levels of

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subsidies of around 90 billion euros for the EU and around 74 billion dollars for the US.[11]

Formula for de-industrialization

In Non-Agricultural Market Access (NAMA), the major coup was the adoption of the Swiss Formula (with coefficients) for tariff reduction. The Swiss Formula[12], which was pushed aggressively by the United States and the EU, is an ambitious formula that calls for greater cuts for products with higher tariffs. With the adoption of the Swiss formula, the negotiations would now shift towards debate over the relevant coefficient levels. The EU proposes for instance a coefficient of 15% for developing countries. The coefficient also represents the ceiling for bound tariffs, meaning with a coefficient of 15, no tariffs would be higher than 15% for industrial and other non-agricultural products.

On the average, the bound rates for industrial products in developed countries is lower compared to rates in developing countries. Industrial tariffs in developed countries range from 4-5%, while in Latin America it ranges from 25-50%[13]. India's bound rates for non-agricultural products for example range from a high of 100% (fish and fishery products) to a low of 22% (for transport equipment). The average bound rate for manufactures is at 48.8%, and 34.2% for industrial goods.[14]

A formula aimed to harmonize rates therefore would affect countries like India and would favor countries like the United States who are pushing for harmonization, where average bound and applied rates are already quite low at 3.9% and 4.3%, respectively[15].

Unlike the language on the formula, flexibilities[16] for developing countries were not given equal emphasis and weight. The text practically ignores the demand made by developing countries [17] that flexibilities be treated as a stand-alone provision that should be de-linked from the discussions on the formula.

The text presents no details yet on flexibilities for developing countries and simply reaffirms the importance of these flexibilities as they relate to the principle of special and differential treatment and less-than-full reciprocity in reduction commitments.

In agriculture, full modalities are expected by April 30 this year, with draft schedules by July 31, 2006.

GATS pressure cooker

In services, the highly controversial and contested Annex C has now been recognized as an integral part of the GATS[18] negotiations. Annex C outlines the objectives, approaches and timelines for the GATS negotiations. It mandates higher levels of services liberalization through the pursuit of qualitative targets and benchmarks, as well as the plurilateral request and offers process.

These so called complementary approaches are obviously a way to skirt around the flexibilities inherent in the request and offers process and a tool to pressure developing countries to commit to deeper liberalization and to open up more sectors.

Annex C also sets forth the following timelines: Plurilateral requests by February 28, 2006, a second round of revised offers by July 31, 2006, and final draft schedules of commitments by October 31, 2006.

Implications for the Philippines

So what does all this mean for the Philippines?

"The preservation of the remaining 'policy space' and the creation and enhancement of 'offensive space' for exports" is how Undersecretary Segfredo Serrano, our chief agriculture negotiator, describes the Philippine negotiating framework in the WTO. By policy space, government refers to the difference between our applied tariff rate (or the actual duties levied on imports) and the bound rate (which is our commitment to the WTO as far as tariff ceilings are concerned).

Our agricultural tariffs are quite low already. Our average bound rate is at 34 - 35% with around 90% of these falling between the 0-40% range. Our applied rates are even lower, averaging only around 10% (87% of which fall within the 0-30% range).

Following the logic of policy space, our agricultural products therefore have on the average a 20-25% allowance between applied and bound rates. Following the US proposal, tariff lines falling between 0-40% would have to be subjected to anywhere between 36-50% (allowing for 2/3 proportionality) cuts over a ten-year period. This means that our average bound rates would fall to as low as 17-22% (or a 35-50% erosion of policy space).

It is for this reason that the Philippines has been aggressively pushing the agenda of special products and special safeguards mechanism through the G33[19]. By securing a high enough number of products in the SP category, it hopes to shield these products from the devastating effects of further tariff reductions mandated by the WTO. While there may have been a recognition of the right of developing countries to self-designate the number of tariff lines, the actual percentages are still to be negotiated.

From music to masks: creative expressions of dissent during the Hong Kong Ministerial Conference. WWW.INFOSHOP.ORG

The Philippines is working within the range of 10-20% of agricultural tariff lines that could be designated as SP and it is banking on SP/SSM provision as the major tool to protect policy space. But we have seen in the course of the negotiations that the SP provision is constantly being watered down. From a very strong position pushed by G33 for no-tariff reductions to SPs and even the reinstitution of quantitative restrictions (QRs), there now seems to be an acceptance that a certain percentage of products within SP would be subjected to less than formula tariff cuts. In other words, SP would no longer be a complete shield or exemption from tariff reduction.

The concessions that were made in NAMA and services also constitute a clear erosion of policy space. In NAMA for instance, the Philippines would be forced to now bind more than 39% of its products that were previously outside the ambit of the WTO. This would include 95% of tariff lines for fisheries that are still unbound.

Our average bound rate for non-agricultural products is 26% and our average applied rate is 9.5%. The proposals now on the table are calling for reduction coefficients of anywhere between 15-30 for developing countries.

Computations done by DTI show that with a coefficient of 30%, bound rates for non-agricultural tariffs would approximate but still be slightly above our applied rates. According to Tariff Commission Chairman Edgardo Abon, "at 30% we can maintain most of our policy space except for all but 5% of our products. [20] A coefficient lower than 30 however would eat into our applied rates already.

In our unbound products, the only recourse it seems now is to push for exemptions. Unfortunately, those exemptions contained in Paragraph 8 of the Annex B of the NAMA text remain

Water cannons greet Korean protesters. WWW.INFOSHOP.ORG

bracketed. So far the numbers in brackets are 10% of tariff lines for less than formula cuts and 5% of tariff lines

Defensive stand in HK?

In his speech before the conference, Trade Secretary Peter Favila reiterated the Philippine position on many of the critical areas. In agriculture the emphasis was on special and differential treatment and the importance of SP, which he described as an important equalizer. In NAMA, Favila reiterated the foremost importance of Paragraph 8 flexibilities and the recognition that this is a stand-alone provision. The Philippines however conceded to the adoption of the Swiss Formula with at least 2 coefficients. In services, Favila stressed the Philippines' opposition to so-called complementary approaches that seek deeper liberalization affecting sensitive policy areas like restrictions on foreign equity and ownership and liberalization of more sectors or areas than what was originally included in the country offers. According to Favila "these new approaches are clearly opposed to the request-offer negotiating modality our officials agreed in March 2001."[21]

Secretary Peter Favila ended his speech before the Conference with the following plea to the developed world: "By your sheer size alone, you will continue to grow, but you must not forget that it is your duty to reinforce and empower the weaker economies of the world. We all came into being in this universe as one people."

The unspoken subtext of the defensive posturing of the Philippines is the admission that something is wrong with our current tariff structure. Our very low applied rates, a product of the unilateral liberalization programs in the past, narrow down our options considerably. The recalibration of our tariff structure therefore should be the foremost element of the Philippines' negotiating framework.

While Favila's speech generally reflected the defensive stand of countries like the Philippines in these negotiations, it was an affirmation as well that the Philippines continues to have faith in WTO as an arbiter of trade fairness and justice and that the multilateral trading system could still be counted upon to deliver on its promise of development.

We also have to consider that despite the seeming defensive posturing in Hong Kong or in the course of the Doha negotiations, liberalization is still the development mantra in the Philippines and this will continue to be pursued within the WTO or in bilateral or regional free negotiations on trade and investment.

Stopping the Round

The forging in Hong Kong of an 'interim deal' effectively sets the stage for the conclusion of the Doha Round negotiations by 2006.

For trade campaigners 2006 is thus a very crucial year. The WTO is aiming for new modalities in agriculture and NAMA by the end of April, draft schedules of commitments by July, and the plurilateral requests on services by end-February. The negotiations have now shifted back to Geneva at a much faster pace.

The challenge now for groups that are campaigning against the WTO and the Doha Round, like the *Stop the New Round! Coalition,* is how to step up efforts to block consensus over new modalities and prevent the conclusion of the round by 2006.

Alongside the efforts to prevent new trade agreements in the WTO, we also have to heighten the campaign against regional and bilateral trade and investment agreements that pry our economy open at a much faster pace.

The challenge before us is indeed daunting. But the resistance must continue and it must gain strength through collective and well coordinated actions in the days and months to come. Let the militancy and the solidarity among people's movements that we witnessed in Hong Kong last December fuel the campaigns and push forward the agenda for genuine development.

(Footnotes)

1 The author is a Research Associate of Focus on the Global South and Coordinator of the *Stop the New Round! Coalition* in the Philippines.

2 Martin Khor. "How the WTO's Conference Adopted it's Ministerial Declaration in Hong Kong." December 19, 2005.

3 A busy commercial and entertainment district in Hong Kong, where the HK Convention Center is located and where protesters clashed with police on the night of December 17, 2005.

4 Statement made by WTO Director General Pascal Lamy at the Press Briefing on December 19, 2005 in Hong Kong.

5 Annex A outlines the framework for establishing modalities in the agriculture negotiations.

6 "Modalities" refers to methodology and approaches to be followed in the implementation of new trade agreements including the formula for tariff and subsidies reduction

7 Tariff reduction percentages would be applied to a given tariff range, say 0-20%.

8 The concept of Special Products (SP), would allow developing countries to have the guaranteed flexibility to designate an "appropriate number" of products for less market access reduction. The operational criteria would be based on food security, livelihood security and rural development.

9 The Special Safeguard Mechanism is a proposal to allow developing countries to increase their protection in times of import surges or fluctuations in world market prices

10 Deception-Focus Press Statement on the elimination of export subsidies by 2013, December 20, 2006

11 ibid

12 The Swiss Formula is given as: $t_1=at_0/a + t_0$; where t_1 is the final tariff and t_0 is the initial tariff and a is the coefficient

13 DFID Briefing Paper, March 2003

14 UNCTAD

15 DFID Briefing Paper, March 2003

16 Flexibilities in NAMA essentially refer to either less than formula cuts for some products or outright exemption from the tariff reduction formula.

17 Paper presented by 11 countries (South Africa, Argentina, Brazil, China, India, Indonesia, Philippines, Egypt, Venezuela, Namibia, Pakistan) on flexibilities for developing countries. TN/MA/W/65, November 8, 2005

18 General Agreement on Trade in Services (GATS)

19 The Group of 33 or G33 (membership now includes around 42 countries) known as "Friends of Special Products" is the main proponent of SPs and SSM

20 Statements made at the Hearing of the House Special Committee on Globalization. February 1, 2006

21 Statement by Secretary Peter Favila at the WTO Sixth Ministerial Conference in Hong Kong. December 16, 2005