

The End of an Illusion: WTO Reform, Global Civil Society and the Road to Hong Kong

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Summary: The “July Framework Agreement” is the last nail in the coffin of the illusion that the WTO can somehow be reformed, either piecemeal or comprehensively, to serve the interests of developing countries. More than ever, the Framework and its aftermath have revealed the WTO to be an iron cage that traps developing countries in a negotiations game that is systematically skewed in favor of the big trading powers of the North.

With even greater intransigence on the part of the trading powers of the North today, it is difficult to elaborate any other strategy to protect the interests of the developing countries and global civil society than the one that was developed for Cancun—that is, derailment of the Ministerial.

Essentially, derailment involves zeroing in on the key point of vulnerability of the WTO: its consensus system of decision-making. Concretely, it means working to prevent consensus from emerging in any of the key negotiating areas prior to and during the Sixth Ministerial in Hong Kong.

A strategy of derailment, to be successful, must, in the months leading up to the Sixth Ministerial, be able to articulate mass work and lobby work, and lobbying and mass pressure in Geneva with national mass campaigns directed at specific governments, culminating in a coordinated program of civil society mass actions and lobby pressure work in Hong Kong and globally on D-Day in the middle of December 2005.

See-saw Struggle

The last few years have seen a see-saw struggle between the World Trade Organization and global civil society. In Seattle, big power disagreements, the revolt of the developing countries, and massive civil society mobilization brought down the bicycle of liberalization, to borrow C. Fred Bergsten’s description of the WTO as being able to remain balanced only if it is moving forward with its free-trade agenda.(1)

The bicycle was set upright in Doha, when the absence of civil society mobilization allowed the big trading powers to bamboozle developing countries to sign on to the so-called Doha Development Agenda to expand the ambit of the WTO. Then in Cancun, in September 2003, a better organized South cum civil society mobilizations inside and outside the Cancun Convention Center, the tragic climax of which was the suicide of Korean farmer Lee Kyung Hae, brought the bicycle of liberalization down again.

Our victory was short-lived, for the equivalent of a coup was mounted at a General Council meeting in late July in order to restart the stalled “Doha Round” of trade negotiations on terms favorable to the North. The WTO is upright again and is moving with momentum towards the 6th Ministerial in Hong Kong in mid-December 2005.

That the WTO is an institution that can be reformed to serve as a vehicle of a more benign kind of globalization is one of the illusions that has been left behind by these developments. The one positive element in the 2001 Doha Declaration—the clear statement that public health concerns take precedence over “intellectual property rights”—was nullified by Big Pharma’s successful effort to make well nigh impossible the export of generic life-saving drugs from developing countries with manufacturing capacity to developing countries with none by imposing onerous stipulations on both importers and exporters. So unacceptable and cumbersome were the conditions imposed by the drug companies in the decision adopted in August 2003 that no developing country facing an HIV AIDS emergency took advantage of the temporary waiver from Article 31 (f) of TRIPs provided for by the decision.

That reform is mission impossible was underlined by the Cancun ministerial in September 2003, when the EU and the US provoked the collapse of the ministerial rather than significantly reduce their high levels of support for their agricultural interests or retreat in their effort to expand the WTO’s jurisdiction to investment and other economic activities beyond trade. The historic walkout from the Green Room led by African delegates was the only appropriate response to the intransigence of the North.

The so-called July Framework adopted at the WTO General Council meeting in Geneva in the late summer of 2004 is another glaring example of stonewalling by the developed countries. Practically all the key concerns of the South were subordinated to the industrial countries’ agenda of defending their high levels of agricultural subsidization, bringing down non-agricultural tariffs, pushing the so-called “New Issues” agenda, and pressing developing countries to make offers for the liberalization of services. In contrast to more optimistic earlier assessments of the possibilities of advancing developing country interests in the WTO via a strategy of reform, Oxfam International, for instance, bleakly characterized the July Framework as “a minimal agreement that keeps talks and the WTO afloat, but fails to bridge continuing stark disagreements between developing and developed countries, let alone guarantee a pro-development outcome.”(2)

Not surprisingly, there is little talk these days about “social clauses,” “environmental clauses,” measures to institutionalize the priority of public health concerns over patent rights, or agricultural market access reforms as the key demands of a reform agenda that civil society should push for in the Hong Kong Ministerial. In the months leading up to the Cancun meeting, civil society, operating under the principle that no deal is better than a bad deal, eventually coalesced around a strategy of derailing the ministerial. If anything, the prospects of a good deal are even more distant as we move towards Hong Kong. If anything, the strategy of derailing the ministerial is even more relevant today.

The July Framework's key agreements illustrate why reform of the WTO is a dead end as a strategy for developing countries and global civil society.

Intransigence in Agriculture

In Cancun, the firm stand adopted by the Group of 20 and Group of 33 against the demands of the United States and the European Union for more access to their markets while maintaining the high levels of subsidization of American and European agriculture prevented the initiation of negotiations for a new Agreement on Agriculture that would be detrimental to the interests of the South. Also key in frustrating the agenda of the North was the tough stand of four West African cotton producers—Benin, Burkina Faso, Chad, and Mali—who demanded elimination of US cotton subsidies that were ruining their production as well as compensation for their losses.

Yet the “Framework for Establishing Modalities in Agriculture” that emerged out of the late July meeting produced agreements that were clearly detrimental to the developing countries. Essentially, the Agricultural Framework 1) either maintains or expands the key mechanisms of “domestic support” or subsidization of EU and US agriculture, the so-called Blue Box and Green Box; 2) creates a new restrictive category—that of “sensitive products”—to hamper market access for developing country products; while 3) making conditional commitments to eliminate export subsidies; and 4) paying lip service to the developing countries' demands for the designation of “special products” and other forms of special and differential treatment.

- The July Framework did not provide caps or upper limits to the Green Box, which is used by the developed countries to channel their subsidies for their farmers—in the case of the US, some 70 per cent of its total subsidies to farming interests. Moreover, it expands the Blue Box, which tied direct income support for farmers to production limiting programs, to encompass direct payments not tied to such programs. This was done to accommodate a considerable portion of the \$190 billion in farm agricultural subsidies legislated under the US Farm Bill of 2002.
- The July Framework introduced the new category of “sensitive products,” largely to accommodate the European Union, which may be able to use it to exempt some 20 to 40 per cent of its products from significant tariff cuts.
- While the July text calls for the elimination of export subsidies, it does not set a deadline for this, nor does it provide the concrete steps to achieve this.
- The text provides for the establishment of the category of “special products” for developing countries that would be subjected to lower tariffs and recognizes their demand to impose “special safeguard mechanisms” that would protect them from dumping of subsidized developed country products. However, the details are left for negotiations. On the other hand, the use of the existing agricultural safeguard (SSG) that developed countries have frequently resorted to limit the entry of developing country products has not been banned, despite the demand of developing countries.

The balance of gains and losses was clearly on the side of the trade superpowers of the North, particularly the United States. On top of this, developed countries rejected the demand of the West African cotton producers that the elimination of cotton subsidies and compensation for damages to their production be treated as a separate, stand-alone item of negotiations. Instead, the issue would be subsumed under the general agricultural negotiations, thus guaranteeing that its resolution would be hostage to progress in these talks. This underlined how eliciting the slightest concession on an issue that involved a relatively small amount coming to several hundred million dollars paid out to a relatively minuscule number of US farmers—about 25,000--was next to impossible, even if that item had been a central factor contributing to the collapse of the Cancun Ministerial.(3)

Non-Agricultural Market Access and the Specter of De-industrialization

The give-no-quarter posture of the trade superpowers was evident as well on the issue of market access for non-agricultural commodities (NAMA). The agreement on NAMA was based on the so-called “Derbez Text” floated during the Cancun ministerial (after then Mexican Foreign Minister Luis Derbez, who was chairing the ministerial), which was rejected by many developing countries. The key reasons for the rejection were a non-linear formula for tariff reduction, sectoral negotiations, and weak special and differential treatment. The non-linear formula, notes UNCTAD, would require “deeper cuts for higher tariffs,” so that it “would result in greater tariff cuts for many developing countries because they generally maintain higher bound tariff structures.”(4) This would be contrary to the provision of “less than full reciprocity” for developing countries under the principle of Special and Differential Treatment. Despite this concern, the July Framework provides for continuation of work on a non-linear formula.

Developing countries with already relatively low tariffs on non-agricultural products also expressed concern over the “sectoral initiative” that proposed deep tariff cuts on 100 per cent of all categories of imported commodities falling under a designated industrial sector such as, for instance, “electrical and electronic products” or “textiles and garments.” As UNCTAD has noted, “Many developing countries and LDCs have already liberalized unilaterally, including under structural adjustment programs, and their applied rates are often low. Binding those rates close to applied rates may thus limit their policy space for industrial development purposes.” Indeed, de-industrialization, which began under structural adjustment programs, is feared to accelerate under NAMA. On the other hand, the US National Association of Manufacturers saw the July Framework’s provisions on NAMA as “a huge accomplishment, and a big win for the WTO, the United States, and the World economy. The really big accomplishment is that all countries have accepted the principle of big tariff cuts and sectoral tariff elimination.”

Trade Facilitation: the Opening Wedge

Trade facilitation is the only one of the so-called Singapore issues that has been included in the negotiations. A number of developing countries have raised concerns about the costs, such as those incurred for more complex data processing, that would be added to their already stretched government budgets by the requirements of trade facilitation. However, the main threat posed by the inclusion of trade facilitation in the negotiations is that it serves as the opening wedge for the other, more threatening issues of investment, competition policy, and government procurement, which the Group of 90 has adamantly refused to bring into the WTO's jurisdiction. Indeed, while the trade superpowers have dropped them from the negotiations of the ongoing Doha Round, the Framework text does not provide for the disbanding of the work groups on these issues nor does it indicate that they are excluded from future negotiations after the Doha Round.

Ratcheting up the Pressure in Services

The Framework Agreement eliminates the room for maneuver of developing countries in the negotiations on the General Agreement on Trade in Services (GATS), which were previously pursued on a separate track from the Doha Round negotiations in the other areas.⁽⁵⁾ By formally including them in the Doha Round, thus effectively making them part of the "single undertaking," the Agreement increases the pressure on developing countries to open up their services. Indeed, the text calls for governments to submit initial or revised offers of services to be opened up by May 2005. To date only about 32 developing countries have submitted offers owing to technical difficulties assessing which service sectors to open up owing to great uncertainty as to how liberalization would affect these sectors.⁽⁶⁾

By formally tying the services negotiations to the negotiations in other areas, the Framework allows the EU and US, in particular, to hold the negotiations in agriculture hostage to the services negotiations, and vice versa, by conditioning their "concessions" in one area dependent on their gains in the other.

With 50 per cent of the GDP of developing countries now accounted for by services, access to this market is the dominant concern of the Framework. In contrast, lip service is paid to addressing the movement of natural persons (Mode 4), which is the main concern of the developing countries. Here commitments by developed countries are murky and confused at best, with a group of 18 developing countries criticizing the "ambiguity and the lack of predictability of offers with regard to the definition of natural persons, as well as over the substantial restrictions and requirements attached to the offers."⁽⁷⁾ Economic needs tests are emphasized, while lack of clarity surrounds the granting of visas and work permits. Moreover, the offers of developed countries cover mainly skilled workers and largely leave out semi- and less-skilled workers.

Placing the Development Agenda on the Backburner

Like the Doha Declaration of 2001, the July Framework gives short shrift to the main concerns of developing countries.

- There are outstanding issues related to the Trade Related Intellectual Property Rights Agreement (TRIPs) such as the revising Article 27.3 (b) to prohibit the patenting of life; the relationship between TRIPs and the Convention on Biodiversity; and the protection of traditional knowledge and folklore. However, there is simply an affirmation in the July Framework to move ahead in the negotiations with no specific goals, except for members to submit new or revised offers by May 2005. Neither are there guidelines to revise TRIPs Article 31 (f) to institutionalize the Doha Declaration's putting public health concerns over intellectual property rights.

- The institutionalization of Special and Differential Treatment, a key principle of development, remains as distant as ever, with the Agreement simply providing for work to continue to outstanding issues. The reason for the lack of movement here is that "developed countries refuse to make Special and Differential Treatment (SDT) operational and effective until the more advanced developing countries are graduated out of SDT. This premise is fundamentally flawed, as all developing countries need special and differential treatment, given widespread poverty and the need to protect infant industries in the developing world. Denying them SDT would amount to kicking away the ladder."(8)

- Implementation issues have been on the frontburner for most developing countries owing to the cumbersome process and, for many, high costs of making their trade policies, regulations, and laws "WTO –consistent." Yet the July Framework does not mention any implementation issue of significance to the developing countries. In contrast, the one implementation issue it explicitly addresses is one that is of concern mainly to the developed countries: the extension of additional protection on geographical indications (GI) on commodities other than wines and spirits

Process: Intimidating and Outmaneuvering the South

How could such an Agreement come about after Cancun, when the developing countries appeared to have come some way towards altering the balance of power?

The answer is by regaining control of the negotiating process via divide and conquer tactics, unfair negotiating tactics, and, most important, an institutional coup. As Oxfam International saw it, "The Council meeting was...characterized by a non-transparent, non-inclusive process, dominated by big trading powers and characterized by brinkmanship and power play."(9)The lesson: the procedures of the WTO are heavily weighted against the South.

Dividing and Neutralizing the G 20

The G 20 formation of big developing countries “broke the monopoly over trade negotiations formerly enjoyed by the US and the EU,” according to Brazilian Ambassador Clodualdo Hugueny of Brazil during the Mumbai Social Forum in January 2004. The G 20 was not alone, however, with the G 33, which was formed mainly by smaller agricultural countries, and the G 90, which formed in opposition to the new issues, playing important roles.(10)

The US response was initially to pursue a unilateralist course outside the WTO via a dual strategy of sewing up bilateral and multilateral free trade agreements, while at the same time destroying the G 20.(11) By the spring of 2004, however, Washington’s two-track strategy was running into trouble. The Free Trade Area of the Americas (FTAA) that it wanted failed to materialize in the ministerial summit in Miami in November 2003, and it also began to realize that bilateral agreements could complement but never substitute for a comprehensive, multilateral free trade framework to promote corporate trade interests. At the same time, the G20, despite the initial defections, held firm.

To get the WTO restarted, Washington, working closely with Brussels, shifted gears. Instead of trying to destroy or undermine the G20, they moved to make its leaders, Brazil and India, a central part of the negotiations in agriculture, which was the key obstacle to any further moves at liberalization. Thus was formed in early April the informal grouping called the Five Interested Parties (FIPS or G5), composed of the US, EU, Australia, Brazil, and India. The ostensible aim of this move was to organize the discussion with close to 100 developing countries by having India and Brazil “represent” them. The FIPS, in short, was intended as some sort of Green Room, except the representation of developing countries in it was far more limited than in the regular Green Room. It was in close consultation with this exclusive grouping that WTO Agriculture Committee Chairman Tim Groser produced the proposed agriculture text of the July Framework.

The US-EU strategy was apparently to bring Brazil and India into the core group of the negotiations, then accede to these countries’ core demands in order to detach them from the rest of the developing countries. India’s key concern was to avoid the so-called “Swiss Formula” for cutting tariffs that would require deeper cuts on its highest agricultural tariffs relative to other tariffs, something on which it saw eye to eye with the European Union. According to one developing country negotiator, India’s main focus for the General Council was protecting its tariffs and it was not going to push hard on the issue of eliminating agricultural subsidies so as not to endanger the EU’s support for its position on tariffs.(12) Both the EU and India were comfortable with a “Uruguay Round” approach to tariff cuts that would focus on a average cut across all agricultural lines and not “discriminate” against their highest agricultural tariffs. Such a formula, they felt, would allow them to maintain tariff levels that would be high enough for their most protected commodities to survive another round of cuts. There were developing countries, however, for which even a Uruguay Round approach would be too drastic, for example Honduras, Sri Lanka, Indonesia.

On the other hand, removing agricultural subsidies was Brazil's concern, and here it got its way—or thought it did. The final text affirmed the phase-out of export subsidies as well as certain categories of export credits. The big winner with the phase-out of subsidies is said to be Brazil, with some estimates placing its gains as some \$10 billion. According to Brazilian Foreign Minister Celso Amorim, the July decision marked the “beginning of the end” of export subsidies. Yet, as noted earlier, the Brazilian “gains” are not secure unless locked in by the modalities of the negotiations. A specific end-date for the elimination of export subsidies will only be clinched in the next phase of discussions. Moreover, even when elimination has supposedly taken place, the EU has been known to replace export subsidies with indirect export subsidies by way of direct payments to farmers under the Green Box. This is, in fact, the intention of the current Common Agricultural Policy (CAP) reform. Furthermore, the framework left untouched the Green Box, which houses up to 70 per cent of US' total subsidies. Even the most optimistic analysts cannot say for certain that overall levels of support from the two agricultural giants will be brought down. In fact, it is predicted that subsidy levels will be maintained if not increased.

It was not that India and Brazil were not sensitive to the demands of other developing countries. In fact, they were given high marks for consulting the different developing country groupings. It was simply that by becoming central actors in the elaboration of the proposed framework, they had painted themselves into an impossible situation. And the more meeting their own interests began to diverge from a strategy of promoting the interests of the bulk of the developing countries, the more they trumpeted the claim that the July Agreement on agriculture was a victory for the South. It is testimony to the prestige of India and Brazil among other countries in the South that it was only belatedly, a few weeks after the July Accord that the reality began to sink in among many developing countries that they had been outmaneuvered.

With a framework agreement on agriculture--the most decisive negotiating area for most developing countries--in place, the trade superpowers rode the momentum to pressure development countries into agreements on NAMA, services, trade facilitation and other areas.

Wily Negotiating Tactics

In addition to veiled threats and power plays, wily negotiating strategy on the part of the EU and the US was another reason for the developing country setback. The moves of the trade superpowers were calculated to put the developing countries on the defensive. Often, working together in a coordinated fashion, they had the negotiating advantage vis a vis a much larger set of countries whose many interests had to be reconciled with much effort into common negotiating positions.

One example of the Washington's skillful exploitation of its negotiating advantage was its strategy on the Blue Box in the agricultural talks. To get a new, expanded Blue Box, Washington distracted the developing countries' attention by putting forward the demand that they reduce their *de minimis* domestic supports, that is the allowable rate of

subsidization of their production. Thrown on the defensive, these governments spent so much energy justifying their subsidies, so that they were only too relieved when the US stepped back to compromise on the issue in return for their agreeing to the expansion of the Blue Box.

Similarly, just before the General Council meeting, the European Union suddenly introduced the proposal for “sensitive products” to protect some 20-40 per cent of its products from significant tariff cuts. Worried that the EU might put blocks to their demand for protecting “special products” or commodities essential to their food security, the developing country negotiators acquiesced.

Institutional Coup

But probably the most important process or procedural victory registered by the trade superpowers was to be able to shift the effective locus of decisionmaking to the General Council from the ministerial—though this was, of course, accomplished with the support of influential governments like India and Brazil.

After the collapse of the Cancun ministerial, the developed country governments apparently realized that the ministerial, the prime decisionmaking mechanism of the WTO, is also its key point of vulnerability. The WTO Consensus rule—a process that, as WTO partisan Fred Bergsten says, has been managed by the so-called Quad, composed of the US, EU, Japan, and Canada(13)--works best in smaller, more non-transparent settings. In a larger, more open meeting, it can become a disaster.

Ministerials, the trade superpowers realized, invite a debacle for several reasons:

- They attract citizens and citizens’ groups, thus subjecting negotiators to popular pressure.
- They ensure the presence of the press, thus forcing the proceedings to be less non-transparent than usual.
- They highlight the contradiction between formal sessions, which are reserved for speechmaking, and informal meetings where the real decisions are made, thus exposing the organization to the charge of being non-transparent and non-democratic.
- They bring representatives of national governments, such as trade ministers and environmental ministers, many of whom are more sensitive than Geneva-based negotiators to popular pressure and are not socialized into the Geneva culture of negotiations.

The of these elements produced the collapse of the third ministerial in Seattle and the fifth ministerial in Cancun, with the role of civil society mobilizations being clearly most decisive in Seattle. The absence of one vital element—civil society mobilizations—in

authoritarian Doha, Qatar, *contributed to* a manageable, successful ministerial that was a disaster for the developing countries.

Learning from Doha, the trade superpowers, with the acquiescence unfortunately of influential countries like India and Brazil, maneuvered to push the General Council, which meets in Geneva, to make the major decisions that traditionally belonged to a ministerial. The Council meeting in Geneva at the height of summer consisted mainly of professional negotiators and other governmental representatives of non-ministerial rank. Indeed, there were said to be only around 40 ministerial level representatives out of 147 present. Equally important, there was but a sprinkling of civil society organizations, and those who were present were prevented from demonstrating by the Swiss police. Many of them were also procedurally banned from being present at the WTO proceedings, thus severely restricting their interaction with delegates.

In a very real sense, then, the July General Council meeting was an institutional coup, one that could provide a precedent for future decision-making. UNCTAD warns that:

The fact that the 1 August Framework Agreement was decided at the GC level with some Ministerial participation raises interesting questions with regard to the relative role of Ministerial Conferences. Taking into account the setbacks at Seattle and Cancun, the future role of Ministerial Conferences may be increasingly geared towards stocktaking, the injection of momentum, and putting a political seal on deals already worked out in the GC.(15)

There is then the very real possibility that the Sixth Ministerial in Hong Kong will be transformed into a stocktaking session, with real decisionmaking transferred to a General Council meeting taking place shortly before or after the Ministerial.

A Derailment Strategy for Hong Kong

The dynamics of the July Framework make it highly unlikely that the developing countries will get a ministerial decision the key components of which would serve their interests. The psychological war that was so prominent in the leadup to the July Agreement is already being put into motion. Already, developed country groups have warned that unless the poorer countries make better offers on their services, “Hong Kong will fail.”(16) Likewise, at a recent meeting in Mombasa, Kenya, developing country demands for movement on Special and Differential Treatment met with the same response: the more advanced developing countries should be graduated out of SDT.(17) Also, there is as yet no sign that the EU is prepared in Hong Kong to set a specific date for the ending of export subsidies.(18) And the US has reiterated that it is no mood to make concessions on Mode 4 of GATS.(19)

The US-EU “psywar,” unfortunately, is taking its toll on the South. Instead of standing up to pressure from the North, the G 20 in its final declaration after its meeting in New Delhi on the third week of March stated that an agreement on modalities in the Hong

Kong ministerial must be compatible with the July Framework and in line with the Doha Declaration; that negotiations on agriculture must be “intensified to stimulate progress in all other areas of negotiation” (a persistent demand of the EU and US); and that a first “approximation” of modalities must be ready for the General Council meeting in July 2005.

With little chance of getting a conclusion to the Doha Round that would be beneficial to the interests of developing countries, the only viable strategy is to prevent a ministerial agreement that would simply perpetuate the inequities of the current system. In Cancun, the developing countries and civil society ultimately came around to the position that no deal was better than a bad deal. With the July Agreement already serving as a framework for the Hong Kong Ministerial document, a strategy to derail the Ministerial is even more valid today. No deal is better than a bad deal since the only possible deal is one that would further consolidate the underdevelopment, marginalization, and immiseration of the South.

Weaknesses on our Side

To effect such a strategy successfully, however, we first of all need to take to heart the weaknesses displayed by pro-development forces.

First, the fragile state of unity among developing countries, which the US and EU were able to exploit by coopting Brazil and India into the FIPs or G 5.

Second, while international civil society coordination during ministerials is impressive, there is a lack of follow-through in between, and this lacuna will be especially worrisome in the leadup to Hong Kong. The reason for this is that WTO-related national civil society formations and campaigns that can consistently pressure their governments are still very few in number.

Third, the negotiations on the July Framework showed the worrisome absence of civil society mobilizing capability in Geneva that can be articulated with lobby efforts there. Filling this lacuna will be very important during the key committee negotiations that will unfold in Geneva to flesh out the July Framework with concrete targets and substantive clarifications before Hong Kong.

Finally, Hong Kong will need, probably more than other ministerials, maximum coordination of inside lobby pressure on delegations, protests within the ministerial site, and external street protests. Failure to coordinate among some of the grassroots networks of the host country was a disturbing element during the mobilizations in Cancun, though fortunately, it was not a bar to unified action on the ground.

No to a “Stock-Taking Ministerial

If derailing the ministerial is the key strategic objective, then it is important first of all to make sure that the ministerial is a decision-making ministerial and is not converted by the developed countries into a stocktaking exercise whose input would feed in to a General Council Meeting like the July 2004 meeting. This danger must not be underestimated since, as noted earlier, the big trading powers have become very paranoid about the way large mobilizations can interact in unmanageable ways with the postures of the developing countries at the height of negotiations..

Preventing Consensus

Assuming that the ministerial remains a decision-making ministerial, the movement must focus on the key point of vulnerability of the WTO decisionmaking process: the consensus rule. Concretely, it will mean preventing consensus from emerging either before or during Hong Kong in any of the key negotiating areas. The earlier gridlock can be brought to prevail in the negotiations the better it will be for the developing consensus.

Suggested Slogans and Themes

The strategy to derail the ministerial by preventing consensus will involve many levels of work, levels which need to be articulated with one another. Thus the importance of slogans that synthesize the campaign objectives. The following might serve this function:

- Derail the Doha anti-development Round
- Derail the anti-development Hong Kong Ministerial
- Dump the anti-development WTO July Framework
- No more Negotiations for an Agreement on Agriculture
- No to the WTO’s anti-democratic and non-transparent Decisionmaking Processes

Themes elaborate or provide the rationale for slogans. They should cogently synthesize what is objectionable in the July Agreement, which will frame both the continuing committee and mini-ministerial discussions leading up to Hong Kong and the ministerial business in Hong Kong itself. Based on the foregoing analysis, the following themes are suggested:

- The Framework Agreement for Agriculture is nothing but a massive dumping enterprise aimed at developing countries that will exacerbate the massive displacement of small farmers taking place under the current Agreement on Agriculture.
- NAMA (Non-Agricultural Market Access) is a prescription for the deindustrialization of developing countries, increased unemployment, and bankruptcy of small, medium, and even big national enterprises.
- The July Framework creates unwarranted pressure on developing countries to open up their services to transnational corporate control.
- Trade facilitation negotiations are mainly the opening wedge for the other, more threatening New Issues (investment, competition policy, government procurement)
- The July Framework prioritizes the agenda of the developed countries and disregards the primary concerns of developing countries, which are special and differential treatment and implementation issues.

Sites of struggle

Derailing the ministerial will be a complex operation that will involve articulating mass campaigns at the national level, Geneva-based lobbying and mobilization, leading up to coordinated lobby work and mass work in Hong Kong and elsewhere during the mid-December ministerial.

Geneva

The Geneva-based work is mainly lobby and pressure work directed at negotiators and the WTO secretariat, though the importance of grassroots pressure must not be discounted, especially at strategic moments during the negotiations. The following are recommended as the principal lobby and pressure tactics:

- Raise the process and democracy issue strongly by denouncing the General Council as usurping the functions of the Ministerial. Denounce and oppose efforts to make Hong Kong a “stock taking session: rather than a decision-making session.
- Stalemate discussions in the General Council and different key committees (Agriculture, NAMA, Trade Facilitation, and GATS) as negotiations unfold. This must, of course, be done in coordination with mass campaigns at the national level designed to pressure negotiators to not move the process forward by conceding on either substantive or procedural points.

- Pressure India and Brazil to leave FIPS (Five Interested Parties) and put pressure on all parties (e.g., G 20 and EU) to dissolve FIPS. To achieve this, other developing countries should be encouraged to openly speak up against FIPS as the main negotiating forum for the agricultural interests of all developing countries. This is rather urgent since the FIP process has resumed following the mini-ministerial in Kenya in early March, with much the same dynamics. As a TIP/IATP update on events in Geneva warns, the process has dangerous implications not only for the agricultural negotiations: “Some sources in Geneva say this type of process—possibly with the addition of a few more key countries—is considered as a possible model for other areas of negotiations, such as NAMA. This approach to negotiations shows the continued tendency for WTO Members to conduct negotiations that claim to be on behalf of everyone, yet only reflect the interests of the biggest powers.”(20)

- Oppose the holding of more “mini-ministerials” and other informal decision-making processes. Justified as necessary to facilitate the negotiation process, WTO mini-ministerials, where a few handpicked countries are invited to attend, are informal processes that have actually been used to undermine the formal decisionmaking process of the WTO based on majority rule. Not surprisingly, miniministerials are often used to reach decisions unfavorable to the South.(21) Already, in 2005, mini-ministerials have been held in Davos, Switzerland, in late January, and Mombasa, Kenya, in early April. A miniministerial on NAMA is slated for Tokyo on April 10 and another for Paris on May 3-4.

Also to be opposed are informal group decision-making meetings such as “Senior Officials Meetings” (SOM), one of which will be hosted by Canada in Geneva on April 18-19, where about 30 countries are expected to attend.

This proliferation of informal meetings dominated by the North reveal that as Hong Kong approaches, the decisionmaking process is becoming more informal and non-transparent to conceal the escalation of pressure on the developing countries to make concessions.

- Pressure Brazil and India not to take any more unilateral initiatives and to carefully coordinate their moves not only with other members of the G 20 but also with other blocs, such as the G 33 and the G 90.

- Pressure the G 20 to push a strong collective stand, especially against the Agriculture Framework and NAMA.

- Pressure G 33 to strongly protest and resist efforts by the EU to impose the category of sensitive products and expose the lack of real commitment of developed countries to special safeguard mechanisms and special products.

- Pressure G 90 especially to stymie negotiations on trade facilitation by portraying this as really an opening wedge for other, more threatening New Issues.

- In view of the centrality of Geneva-based negotiations, build up a local mobilization committee/network that can also draw on Europe-based groups for mass demonstrations and other mass actions in Geneva as well as Brussels.

National Mass Campaigns

At this level, the priorities should be to:

- Expose the transnational corporate agenda behind the AOA, NAMA, and GATS.
- Concentrate on building up comprehensive national mass campaigns against the July Framework. This will mean getting NGO's working on the WTO to work more closely with trade unions, farmers' groups, and other social movements.
- Create or consolidate lobby work on legislators and trade bodies, and coordinate this with national mass campaigns.
- Coordinate national level lobby work and national mass campaigns with pressure work on government negotiators in Geneva at critical junctures.
- Work closely with media in order to get them to report more critically on WTO processes.

Hong Kong, D-Day, December 2005

Hong Kong must be seen not as the start but as the culmination of an international process that began months before.

- As in Cancun, numbers will make a difference. Thus no effort must be spared to draw thousands of demonstrators from all over the world, but particularly from North and Southeast Asia and from Hong Kong itself. Mobilizing the numbers for Hong Kong must be a central part of the agenda of the national mass campaigns, especially those in Northeast and Southeast Asia. Mass demonstrations should be staged in other parts of the world, along with acts of civil disobedience, and these actions should be synchronized with the Hong Kong actions.
- We must prepare not only for demonstrations and teach-ins but also for massive civil disobedience. In this regard, organizers must be prepared to appeal to Hong Kong authorities' rhetoric about respecting individual and civil rights (in contrast to China) to create maximum space for different varieties of mass action.

- Drawing from the successful tactics of Our World is not for Sale in Cancun, there must be effective but flexible coordination of lobby strategy within the ministerial, civil protest within the ministerial premises, and mass protests and civil disobedience outside the ministerial meetings.
- The Hong Kong People's Alliance on the WTO must be promoted as the coordinating center for major activities.
- Broad unitary coordination with tactical flexibility should be the principle of the mass/lobby actions.

Don't Forget the Second Front

While making the Hong Kong ministerial a major objective, we should not lose sight of the fact that the WTO is one of two fronts where the trade superpowers are pursuing their trade liberalization agenda. The other is regional and bilateral agreements such as the Free Trade of the Americas and the US-Thailand Free Trade Agreement. The trend is disturbing. There are 215 regional trade agreements in force today and the number is expected to exceed 300 by 2007.(22) Many of these are North-South RTA's where "negotiations tend to result in deeper market access and higher regulatory standards than negotiations at the multilateral level."(23) Thus even as we focus on the WTO, we must not let down our guard against developed country initiatives to corral developing countries into FTA's and RTA's.

At the same time, we should not be fooled into believing that the WTO is more acceptable than FTA's and RTA's because it is a multilateral forum with "universal rules" that every country, big and small, is supposed to comply with. If recent US and EU diplomacy is any indication, FTA's and RTA's are seen as complementary, not contradictory to the WTO, in pushing the interests of the trading powers. The WTO sets an initial level of mandatory liberalization that RTA's can build on for more thoroughgoing liberalization.

Alternatives

Following a derailment strategy will bring up the inevitable question about what the alternative is. This is, of course, a work in progress, although many of us may already have tentative strategies to propose. If we are engaged on this issue, it is probably important to stress the following lines along which the elaboration of alternatives is unfolding:

- that the WTO is a relatively new organization, and world trade functioned pretty well without a centralized institution and system of rules before its establishment in 1995;

- that the alternative to a centralized global institution like the WTO is not “chaos,” as the big trading powers would like to paint it, but more space that would enable countries to adopt diverse national strategies that respond to the values, priorities, and rhythms of different societies (as opposed to the neoliberal, one-shoe-fits-all model imposed by the WTO);
- that the interests of developing countries can best be served by a pluralistic system of global economic governance in which many institutions such as the United Nations Conference on Trade and Development, International Labor Organization, multilateral environmental agreements, regional economic blocs, and a radically scaled down and disempowered WTO check and balance one another and thus provide countries with “developmental space”;
- that regional economic blocs formed on the principle of subordinating trade to development needs and coordinating economic activities other than trade while respecting the principle of subsidiarity (that is, that production should, as much as possible, be locally based) may be an important component of the alternative to the WTO-centered governance of neoliberal globalization.

Conclusion

The stakes are high as we approach Hong Kong. One outcome could be that the WTO finally gets to be consolidated as the engine of liberalization of trade and other key dimensions of economic activity such as investment. Another is that it unravels a third time and becomes permanently crippled as an agent of the global neoliberal agenda. Hong Kong could be the Stalingrad of the WTO, its high water mark, when the drive to roll it back gets the upper hand and gains an unstoppable momentum. The outcome, to a great extent, depends on us—our determination, our strategy, our tactics.

1. C. Fred Bergsten, Director of Institute of International Economics, Testimony before US Senate, Washington, DC, Oct. 13, 1994.
2. Oxfam International, “Arrested Development? WTO July Framework Agreement Leaves Much to be Done,” August 2004, p. 1.
3. Many civil society organizations see the problem with the AOA as going beyond the US and EU’s efforts to retain their subsidies. Even if the EU and US were to do away with their subsidies, they argue, the resulting global free trade framework would be detrimental to smallholder peasant agriculture, which would be forced to turn from serving the domestic market to competing as well in the international market. In this process, economies of scale, capital needs, and effective market penetration would unleash a process of concentration that would lead to the displacement of small farmers and to concentration of production under agribusiness. Under a WTO framework, small farmers would also continue to be subject to a patent

regime serving not their interests but those of northern agribusiness. For these reasons, many farmers' organizations such as Via Campesina no longer see the WTO as a suitable framework within which to promote the interests of small farmers, both in the South and in the North.

4. United Nations Conference on Trade and Development (UNCTAD), "Review of Developments and Issues in the Post-Doha Work Program of Particular Concern to Developing Countries: a Post-UNCTAD XI Perspective," Note by the UNCTAD Secretariat, Aug. 31, 2004, p. 12.

5. Alexandra Strickner, IATP, Personal Communication, Porto Alegre, Jan. 29, 2005.

6. Estimated from UNCTAD, p. 13, and "Countries Warn on Services Market Access, Fear Hong Kong Failure," *Inside US Trade*, Dec. 10, 2004

7. UNCTAD, p. 14.

8. Oxfam International, "One Minute to Midnight: Will WTO Negotiations in July Deliver a Meaningful Agreement?," Oxfam Briefing Paper, No. 65, July 2004, p. 8

9. Oxfam International, "Arrested Development....," p. 1

10. See fuller account of this in Walden Bello and Aileen Kwa, "G 20 Leaders Succumb to Divide and Rule Tactics: the Story Behind Washington's Triumph in Geneva," Focus on the Global South website, posted Aug. 10, 2004: [http://www.focuweb.org/main/html/Artcile 408.html](http://www.focuweb.org/main/html/Artcile%20408.html)? In fact, as Dot Keet reminds us, it was the G 90, not the G 20, that started the walkout that brought down the Fifth Ministerial. Statement at Seminar on G 20, Porto Alegre, Jan 30, 2005.

11. Walden Bello and Aileen Kwa.. A longer account of this is given in Walden Bello, *Dilemmas of Domination: the Unmaking of the American Empire* (New York: Metropolitan, 2005), pp. 179-192

12. The Indian government's position on subsidies had been watered down by its informal alliance with the EU on the tariff issue after the Doha Ministerial before the EU abandoned the Indians to align themselves to a common position with the US in the period leading up to Cancun.

13. Bergsten.

14. It must also be pointed out that there was one other contextual factor working to the disadvantage of the developing countries: the post-Sept. 11 atmosphere, which the US exploited by claiming that failure of the developing countries to move forward on multilateral negotiations was tantamount to abetting terrorism.

15. UNCTAD, p. 7

16. "Countries Warn on Services Market Access....," *Inside US Trade*, Dec. 10, 2004

17. *Washington Trade Daily*, March 7, 2005.

18. Owing to strong reactions from developing countries, however, the EU may set a phase-out date before or during the Hong Kong Ministerial. Nonetheless, as we have pointed elsewhere, subsidization will continue via other channels, like the Blue Box or the Green Box.

19. "Countries Warn on Services Market Access..." *Inside US Trade*, Dec. 10, 2004

20. Carin Smaller, "Too Much, Too Fast: What Happened to the Doha Development Agenda," Trade Information Project/Institute for Agriculture and Trade Policy Geneva Office, March 24, 2005.

21. See Fatoumata Jawara and Aileen Kwa, *Behind the Scenes at the WTO* (London: Zed, 2003), p. 280.

22. UNCTAD, p. 19

23. *Ibid.*

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