

## An Appraisal of the Hong Kong Ministerial Meeting

by Ivan Mbirimi\*

### Success or Failure?

Does it matter that the Hong Kong Ministerial meeting did not make measurable progress towards the fulfilment of the objectives of the Doha Development Round? How one answers this question largely depends on one's view of the prospects of the Doha development Agenda (DDA) in the period leading to the meeting. According to one school of thought, the meeting should be judged a success because it kept the ball rolling. In other words, judged against a background of intractable issues, on which little progress had been made, the best that could be hoped for was keeping the show on the road. However, there are others, who, while they share this view, believe that the real problem is that many countries never really wanted this negotiating round. While the EU pushed it, the US was lukewarm and developing countries on the whole were more concerned about correcting or removing perceived imbalances in the outcome of the Uruguay Round. To those who take this view, the current problems of low ambition and lack of political will are an inevitable consequence of embarking on a Round that had limited support.

This policy brief examines the outcome of the sixth WTO Ministerial Meeting held in Hong Kong in December 2005 and assesses the challenges faced by members in concluding the Round within the time frame they have set for themselves. Assessing challenges to be overcome requires an understanding of the major controversies and the role of key players in the negotiations. This is the focus of the policy brief. One obvious constraint is time. Negotiators have to reach agreement on issues that have proved intractable for more than four years, in less than four months. Another constraint is the apparent lack of political will. While all countries were keen to avoid failure at Hong Kong, none of the major players were willing to take the political risks necessary to nudge the negotiations forward. The negotiating context is therefore far from propitious.

### Major Controversies

#### *Agriculture*

Agriculture has sometimes been described as the "gateway issue" in the DDA, because without progress on agriculture, there is unlikely to be movement on other key issues. This linkage is explicitly

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stated with respect to progress on agriculture and non-agricultural market access (NAMA). Paragraph 24 of the Hong Kong Ministerial Declaration specifically instructs negotiators to “ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA.” A number of developing countries pushed for this linkage in response to what they saw as attempts to set a higher level of ambition on NAMA, while resisting progress on agriculture.<sup>1</sup>

Aside from the agreement to fix the end date for the elimination of export subsidies, little discernible progress was made in other areas of negotiations related to agriculture. Thus, on market access, the adoption of four bands for structuring tariffs, with bigger tariff cuts on higher tariffs represented no more than a formalisation of what the Chair of the agriculture negotiating group termed “working hypothesis”. On domestic support the Ministerial Declaration also formalises the “working hypothesis” of three bands for overall cuts in the Aggregate Measure of Support by developed countries, with the EU in the top band, US and Japan in the second band, and all other developed countries at least in the third band.

Of the “three agricultural pillars” (market access, domestic support and export competition) market access remains the most difficult area of negotiations. The EU has continued to argue that it will not improve its offer unless others, especially key players among the G-20 (Brazil, India, South Africa) put something on the table on issues such as NAMA and services.<sup>2</sup> On the other hand, the US, G-20 and other agricultural exporters want to see further movement from the EU on market access.

How can this wide gulf between the EU and others be narrowed? It seems clear that finding an accommodation will require clarity and movement on at least two issues. First, agreement is required on the types and levels of market access flexibilities to be incorporated in the final agreement. On flexibilities, the issue is how much flexibility and how it is to be administered. Discussion has centred on two issues – the level and depth of tariff cuts and the treatment of “sensitive products”.<sup>3</sup> In regard to tariff cuts, the issue has been whether there should be differential treatment of products or members within a tariff tier or whether all products within a tariff tier should be subject to the same tariff cuts? The major players have lined up on different sides of the argument. EU has been the main proponent of flexibility within tariff tiers, while others want to limit this kind of differential treatment because it reduces the scope of genuine liberalisation. The treatment of sensitive products has provoked the most controversy. As things stand now, the EU wants members to be allowed to designate 8 percent of their products as sensitive. Empirical evidence suggests this is too high. Others, want a much lower percentage, for example the US is proposing a limit of 1 percent. Another area of controversy is the proposal by the G-20 to impose a 100 percent tariff cap on tariffs of developed countries.

The second issue on which clarity and movement are required is the treatment of special products on which developing countries will benefit from “more flexible treatment”. The Ministerial Declaration states that “Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development.” Unlike sensitive products which are available to all WTO members, special products are reserved only for developing countries. In addition, to protect developing countries from a surge in imports or a collapse in import prices, developing countries will also have the “right to have recourse to a Special safeguard Mechanism based on import and price triggers”.

On domestic support, the concern among developing countries is that the magnitude of overall cuts in trade-distorting domestic support may not be large enough to result in effective cuts in trade-distorting domestic support. To avoid this, loopholes in the Agreement on Agriculture as well as those likely to arise during the course of implementation must be closed. This requires among other things, ensuring that: (a) cuts in trade distorting domestic support are deep enough to have an effect not only on bound levels of support but on actual applied levels of support;<sup>4</sup>

(b) disciplines on blue box and de minimis support are tight enough to prevent “box shifting”; and (c) there is limited or no room for Members to increase or retain protection of their agricultural sectors through other means as happened during the Uruguay Round. Understanding the motivations of key

players is crucial to getting to grips with the problem of closing loopholes in the Agreement. In the case of the EU, the main imperative is not offer concessions that go beyond the changes they have made under the Fischler reforms of the Common Agricultural Policy (CAP). For the US, the objective is to ensure that Congress's room for manoeuvre is not curtailed by agreements reached under the Doha development Agenda (DDA). Members have tried to deal with this by requiring that "overall reduction in trade-distorting domestic support will still need to be made even if the sum of the reductions in Final Bound Total aggregate measure of support (AMS)<sup>5</sup>, de minimis and Blue Box payments would otherwise be less than that overall reduction."

If one were to rank these issues in terms of the priority they should be accorded in resolving existing differences, there is no doubt market access flexibilities and within it, the treatment of sensitive products deserve highest priority. As has been pointed out by some commentators, sensitive products present a major challenge in that exempting as little as 2 percent of tariff lines from formula based cuts could substantially reduce the expected gains from opening up agricultural markets. However, without some sense of the level of protection being sought for individual commodities by the key players, one cannot get a sense of the likely compromises. This therefore is an area where movement is essential if progress is to be made.<sup>6</sup> For least developed countries (LDCs) and preference-dependent economies progress a deal on special products is vital as is agreement on a mechanism for compensating them for preferences. The latter is likely to be tied to developments on the proposed Aid for Trade package. On domestic support, the priority must be achieving real meaningful cuts to trade distorting support, which means cuts that equal or exceed the gap between bound levels of support and applied levels. On export competition, elaboration of action required on other forms of export subsidies is required.

### ***Cotton***

Following the July Framework Agreement of 2004, cotton acquired its own specificity within the agricultural negotiations. Members agreed then to address it "ambitiously, expeditiously, and specifically within the agriculture negotiations". Thus, cotton would receive priority in the Special Session of the Committee on Agriculture. That sub-committee was charged with the responsibility of addressing "all trade-distorting policies affecting the sector" in all three pillars of the agriculture negotiations.

The Hong Kong Ministerial Meeting made progress in the following areas: (a) all forms of export subsidies for cotton will be eliminated by developed countries in 2006; (b) developed countries will give duty free and quota free access for cotton exports from LDCs from commencement of the implementation period; and (c) reaffirmation of the objective that, as an outcome of the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable.

There are two problems with the Hong Kong decisions. First, the US is already committed to removing export subsidies for cotton in 2006, largely in response to the dispute settlement finding against it, in the case brought to the WTO by Brazil. The offer to eliminate export subsidies in 2006 is therefore somewhat redundant, given that the US was the main user of export subsidies. Second, and more importantly, the main problem for African cotton producers is trade distorting domestic subsidies. On this, no substantive result was achieved – only a reaffirmation of the commitment to act ambitiously. It is also now clear that an early harvest on this aspect of the cotton problem is no longer envisaged because progress is linked to "whatever general formula is agreed" on reduction of trade distorting domestic subsidies in the agricultural sector as a whole.

In light of the above, developing countries should continue to argue for an early harvest on the removal of trade distorting domestic subsidies for cotton. This means pressing the case for de-linking the outcome on cotton from the outcome on domestic subsidies for agricultural products in general. The argument for de-linking can be justified on two grounds: (a) removal of these subsidies is vital to the development of the African cotton producers. In this connection, it is worth pointing out that, while the

discussions in the WTO have so far focused on four West African countries, there are in fact a lot more African cotton producers and exporters (Cameroon, Uganda, Tanzania, Sudan, Zambia); (b) whatever general formula is agreed on reduction of trade distorting domestic support for agricultural products, it does not preclude provisions for dealing with specific agricultural commodities. In the final phase of the negotiations, negotiators will inevitably address problems of specific agricultural commodities or how to apply the agreed formula to specific commodities. To this end, there should be no let-up on the pressure being exerted on the US and developing country producers of cotton should be prepared to engage in this final phase of the negotiations.

### ***Market Access for Non-agricultural Products (NAMA)***

By adopting “a Swiss formula with coefficients”, the Ministerial Declaration took matters a stage further than the draft Declaration prepared for the Conference. The Chairman’s report attached to the draft Declaration merely referred to a “working hypothesis”. However, as the Ministerial Declaration recognizes, much remains to be done in order to establish modalities and to conclude the negotiations. The most difficult issue to be resolved concerns the structure and details of the formula. The details relate to issues like the number of coefficients and the levels at which they will be set, whether applied or bound tariff rates are used as the basis for treating unbound tariffs and the flexibilities to be incorporated to take account of the importance of special and differential treatment and “less than full reciprocity in reduction commitments”.

While the Declaration points to agreement on a Swiss formula with more than one coefficient, the determination of the actual number of coefficients is likely to prove difficult. Leading players like the US and EC are against the adoption of many coefficients (they have even advocated one coefficient). It is up to developing countries to press for more coefficients. This is important because one coefficient restricts their room for manoeuvre in negotiating and policy terms.

Issues concerning the levels at which the coefficients are set, turn on two considerations: the need for deep tariff cuts, large enough to have a significant impact on tariff peaks and escalation and how to take into account the special needs of developing countries. There is of course a linkage and tension between the two because those who advocate steep tariff cuts base their argument in part on the impact this would have on tariff peaks and tariff escalation, but those who advocate flexibilities and special and differential treatment for developing countries worry that deep tariff cuts may mean less protection for their fragile industries. The challenge is therefore how to reconcile these divergent objectives. An additional challenge arises from the need to give meaning to the concept of “less than full reciprocity”.

### ***Duty-free and Quota-free Market Access for LDCs***

The commitment to duty-free and quota-free (DFQF) market access for LDCs was first included in the 2001 Doha Ministerial Declaration. Members also undertook to consider additional measures for progressive improvements in market access for LDCs. These commitments were reaffirmed in the July Framework Agreement of 2004. With the Everything-But-Arms (EBA) initiative, the EU largely opened its market to LDCs. However, the US, while agreeing in principle to DFQF market access for LDCs, has always sought special exemptions to limit some imports, especially textiles from Bangladesh and Cambodia. Japan has had similar concerns in regard to imports of rice, fishery products, sugar and leather products.

The decision on measures in favour of LDCs adopted at Hong Kong had four elements:

- The provision of DFQF market access (on a lasting basis) for all products originating from LDCs by 2008 or no later than the start of the implementation period, in a way that ensures stability, security and predictability;
- DFQF market access will be made available for at least 97 per cent of products originating in LDCs by 2008 or no later than the implementation period. In addition, members shall take steps to

progressively achieve compliance with the agreed obligations, taking into account the impact on other developing countries;

- Developing-country members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage;
- Rules of origin applicable to imports from LDCs to be transparent, simple, and contribute to facilitating market access.

These commitments fell short of expectations in several important respects. The 97 per cent product coverage in practice means important export commodities from LDCs (textiles, clothing, rice, etc) will be excluded from DFQF market access. The offer may therefore amount to little in terms of real market access for LDCs. Some of the language is vague (lasting basis for example, is not defined) and in the form of best endeavours (e.g. while movement to 100 percent coverage is envisaged, there is no end date – the expectation is that members shall take steps to progressively achieve compliance). In fact the whole decision is more of a political commitment than binding obligation in the WTO. The US also managed to preserve the right to base LDC access on its own preferential rules of origin, which in the case of textiles and clothing, generally require the use of some US yarn and fabrics. The US had opposed language in earlier texts, which referred to “transparent and simple” rules of origin because it feared that this would open its market to apparel assembled in LDCs from Chinese fabrics.

The US and Japan are unlikely to accept 100 percent product coverage, without some political pressure. But for that to work, some analytical work is required to demonstrate the inadequacy of the current offer of 97 percent product coverage. Besides, the WTO has other ways of dealing with sensitive products, which generally follow the non-discriminatory principle. In addition, the concerns of non-LDC developing countries must be recognised if the case for DFQF market access for LDCs is not to be undermined.<sup>7</sup>

### ***Small Economies***

At the Doha Ministerial Meeting, Members agreed to examine issues relating to small economies, in particular, they agreed “to frame responses to trade-related issues identified for the fuller integration of small and vulnerable economies into the multilateral trading system and not to create a sub-category of WTO members.” The Hong Kong Ministerial Declaration confirmed this commitment and urged members to adopt specific measures that would facilitate the integration of these countries into the multilateral trading system.

In their Valletta Statement on Multilateral Trade (November 2005), Commonwealth Heads of Government drew attention to the consequences of the development and trade challenges being faced by vulnerable states, including small states. Two key challenges faced by these countries are: the loss of trade preferences consequent upon multilateral trade liberalisation; and the absence of a meaningful capacity to handle costs of adjustment. These problems were highlighted in a statement made to the Ministerial meeting on behalf of the small and vulnerable states of the Commonwealth.

Both challenges have been the subject of substantive analytical work by among others, the Commonwealth Secretariat, some of which has been fed into proposals tabled at the WTO. But progress remains very slow. The Hong Kong Ministerial Declaration merely instructs the Trade and Development Committee to continue work to monitor small and vulnerable economies in the negotiating bodies, with the aim of providing responses to trade-related issues of small economies, as soon as possible, but not later than 31 December 2006.

### ***Aid for Trade***

An important outcome of the G-8 Heads of Government meeting held in Gleneagles, Scotland in 2005, is their commitment to increase aid to developing countries to build physical, human and institutional capacity to trade, and to provide additional support for trade capacity building. This “Aid for Trade”

package is aimed at helping developing countries, particularly LDCs, to build their supply-side capacity and trade-related infrastructure so that they are in a position to implement and benefit from WTO Agreements and more broadly to expand their trade.

The Hong Kong Ministerial Declaration invites the Director-General “to create a task force that shall provide recommendations on how to operationalize Aid for Trade. The Task Force will provide recommendations to the General Council by July 2006, on how Aid for Trade might contribute most effectively to the development dimension of the DDA. We also invite the Director-General to consult with Members as well as with the IMF and World Bank, relevant international organisations and the regional development banks with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans.”

The discussion on Aid for Trade so far has emphasised two aspects: (a) removal of supply side constraints in developing countries (maximisation of benefits from trade liberalisation) and (b) assisting developing countries cope with the adjustment costs of trade liberalisation, which is assumed to be transitional (minimisation of adjustment costs). The discussion has also touched on what the key elements of the package might be, and this includes: (i) technical assistance; (ii) capacity building; (iii) institutional reform; (iv) investment in trade-related infrastructure; and (v) assistance to mitigate adjustment costs. The first four elements broadly deal with removal of supply constraints, while the fifth relates to adjustment costs. There has also been some discussion of what might be the basic principles of an Aid for Trade package. Principles that could be taken into account include: support should: take the form of grants; be credible and predictable; cover more countries than just the LDCs; be based on a process of identification of trade capacity needs that is truly country driven and owned; and have its processes and outcomes independently monitored.

The above is a large agenda that must be analysed and thought through in order to produce an appropriate and effective Aid for Trade Package. This requires thorough analysis of proposals on the table, leading to a detailed outline of an effective Aid for Trade instrument. This work should be guided by the following objectives: an Aid for Trade package should not be deployed as tool to entice developing countries to accept an outcome that is not compatible with their development priorities (i.e. used as bargaining chip) – it cannot be a replacement for a truly development outcome to the DDA; and its implementation should not involve imposition of unrealistic conditions on beneficiaries. Therefore an important decision that must be made concerns the vehicle through which the Aid for Trade money is channelled.

## **Services**

Negotiations on trade in services have taken place at two broad levels: market access and rule-making. At both levels, negotiations have proceeded according to the Guidelines and Procedures for Negotiations on trade in services adopted in 2001. Key components of those guidelines include: commitment to achieve progressively higher levels of liberalisation and increased participation of developing countries in services trade; respect for national policy objectives, the level of development and size of economies of individual members; special attention to sectors and modes of supply of export interest to developing countries; recognizing the right of members to regulate and introduce new regulations; and special treatment for LDCs in terms of depth and coverage of commitments. More specifically, on market access, the negotiating guidelines specify the request-and-offer approach as the main negotiating method.

When Ministers met in Hong Kong in December 2005, little headway on both market access and rule-making had been made. Thus, on market access, only 69 members (counting EU as one) had submitted offers, including 30 revised offers. On rule-making, considerable divergencies among members meant that virtual no progress had been made.<sup>8</sup>

The absence of substantive progress led some developed and developing countries to call for a broadening of the negotiating approaches and less reliance the bottom-up approach, which is an intrinsic part of the General Agreement on Trade in Services (GATS) architecture and is also envisaged in the current negotiating guidelines. This was strongly opposed by the African Group, the ACP and several ASEAN countries. These countries were especially opposed to the prescriptive language contained in earlier drafts of the Ministerial declaration, in particular the suggestion that Members would be obliged to enter into plurilateral market access negotiations. The final draft stipulates that Members “shall consider such requests”. This compromise is unlikely to mean that the pressure on developing countries to open up at a pace they are not comfortable with will disappear. This makes protection of existing flexibilities in the GATS an important negotiating objective for developing countries.

## **Conclusion**

How then should we interpret the outcome of the Hong Kong Ministerial meeting? Overall, it is fair to say that progress was minimal, with the most contentious parts of the negotiations still unresolved. These relate mainly to the modalities (time period, formulae and principles for reduction of tariffs) on agriculture and NAMA.

On development issues, progress was more apparent than real and developed countries as usual remained non-committal or merely pledged to do their best on the critical issues for LDCs, small and vulnerable economies. In fact, some observers would argue that over the period the DDA has been under negotiation, there has been an inexorable dilution of the development mandate.

Quite what should be done to achieve an ambitious outcome to the Doha Round remains the big question with no clear-cut answers. Most observers agree that there is virtually no chance of this happening unless there is movement by the major players on the key issues of agriculture and market access for industrial products. There seems to be a broad understanding that: (a) the EU has to move or offer more than what is on the table on market access for agricultural products; (b) the US has to move too on domestic support; and (c) the larger developing countries must give some indication of how far they are prepared to go especially on industrial market access and to some extent on services. There is also scope for improving the package adopted on market access for least developed countries as well as on cotton.

Beyond the difficult issues on which most attention will inevitably focus, there is a range of important issues that deserve urgent attention in their own right. They include Rules, Environment, Trade Facilitation, small economies, the treatment of commodities and erosion of preferences. Progress on some of these issues remains vital, particularly if an unbalanced outcome is to be avoided. Here one simply needs to make the observation that failure to devote adequate attention to these issues increases the risk that the eventual outcome to the negotiations may be unbalanced in terms of benefits flowing to individual member countries.

Issues of strategy and tactics must also be addressed. For developing countries, this situation suggests that the best they can do is to maintain their focus on what matters most to them. Success in this phase of the negotiations depends on two things: (a) an eye for detail, necessary if commitments of an onerous nature are to be avoided; and (b) ensuring that a country’s main concerns are not squeezed out of the negotiations by the inevitable focus on the “deal breakers”. This is particularly relevant to the way they approach and respond to the Aid for Trade initiative.

Once modalities on agriculture and NAMA are agreed, negotiations will inevitably move to product or sector-specific issues. Developing countries have to be prepared for this phase of the negotiations to avoid losing what they might appear to have gained at the general level.

Developing countries must also recognise the subtleties of negotiating tactics in order to gauge the likely implications of positions taken by others. The major developed countries approached Hong Kong

determined to give the appearance of firm commitment to a development round. Unfortunately that commitment was skin deep. To convey this impression they ensured that each developing country grouping with an issue was given a hearing. Thus, the cotton group was given audience by the US; the least developed countries' concerns were highlighted all the time, with the EU making it their business to champion the LDC cause. The organisers had even made arrangements for adequate office accommodation for office, an important consideration in meetings of this size, where difficulties in arranging meetings for consultation may mean countries fail to get their concerns known.

## Notes:

1. See Statement by Celso Amorim on Behalf of the G-20 to the meeting of Heads of Delegation Meeting on 17 December 2005, in which he states clearly that their concern in NAMA is the balanced treatment of this subject (NAMA) and agriculture.
2. In a speech on 23 January 2006, EU Trade Commissioner argued that the onus for saving the Doha Round lay not with Europe, but its negotiating partners, who, he claimed still had to make offers that matched those made by Europe
3. All countries will be allowed to designate "an appropriate number" of tariff lines to be treated as sensitive. For these products, although tariff reductions will be lower than for other products, "substantial improvement" in market access must still be provided through a combination of tariff quota commitments and tariff reductions. To a large extent, sensitive products reflect pressures from developed countries to exclude key products from the Doha Round liberalisation effort.
4. In Hong Kong, Sri Lanka and Pakistan made a formal presentation to the Ministerial Conference calling for certain textile products to be exempted from the LDC initiative. This is part of the reason why the final Ministerial Declaration says that members seeking to move to comprehensive product coverage should take into account "the impact on other developing countries at similar levels of development."
5. Just as with tariffs, the single most important variable here is the applied level of trade distorting subsidies. Thus, commitments undertaken must be measured against this rather than bound levels. Capping the levels of support may also help because this removes the option of raising support in future.
6. The aggregate measure of support was created and defined in the WTO Agreement on Agriculture to capture both direct and indirect supports to the agricultural sector. It includes government outlays in the form of output and input subsidies to farmers as well as revenue transfers from consumers to producers.
7. Mario Jales, Tim Josling, Andre Nassar and Ann Tutwiler: "Options for Agriculture: From Framework to Modalities in Market Access/Domestic Support/Export Competition", Trade Policy issue paper 2, International Food & Agricultural Trade Policy Council, July 2005.
8. Rule-making covers domestic regulation (Article V:4 of GATS); emergency safeguard mechanism (Article X of GATS); government procurement (Article XIII of GATS); and subsidies (Article XV of GATS).

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