



WTO talks in “crisis”, Lamy says

Informal WTO ministerial meeting fails to break deadlock

Time is running out on WTO trade talks after ministers gathering in Geneva last month failed to reach a crucial agreement on tariff and subsidy reductions for agricultural and industrial goods.

“I will not beat around the bush,” WTO Director General Pascal Lamy said after the 3-day meeting. “We are in a crisis.”

Mr. Lamy said the failure to reach a deal on agriculture and non-agricultural market access (NAMA) threatens to de-rail the entire Doha development round of trade talks.

“This is serious, not only for the agriculture and industrial tariffs, but also for the round as a whole if we want to conclude it by the end of this year,” he added.

The Doha round of WTO talks, which started in the capital of Qatar in 2001, has already missed several important deadlines and was initially scheduled to end in 2004. Members are now aiming to conclude a comprehensive agreement by the end of this year.

The latest talks in Geneva highlighted the deep divisions between rich and poor countries, as well as among the wealthy.

The Indian minister of industry, Kamal Nath, returned home without waiting for the final outcome, saying the Geneva meeting “has been a failure.”

Similarly, South Africa’s chief trade negotiator, Xavier Carim, accused the United States and the European Union of being “anti-developmental” and out of touch with the agreement reached at Doha that poorer countries should benefit from the round.

In a last ditch attempt to revive the talks, however, Ministers authorized Mr. Lamy to step up the negotiating efforts by conducting “intensive and wide-ranging consultations” over the next two weeks.

EU hosts meeting on GATS

While the focus of the informal ministerial was on agriculture and NAMA, EU trade commissioner Peter Mendelson used the occasion to schedule a brief meeting on the state of services talks that also form part of the Doha Round.

The meeting was largely a stock-taking exercise, but also signalled the intention of the EU and other developed countries to continue to link concessions on agriculture and NAMA directly to negotiations on the General Agreement on Trade in Services (GATS). Many countries, however, remain reluctant to make any offers on services until there is an agreement on agriculture and NAMA.

EI lobbies WTO delegations in Geneva

During the informal ministerial meeting, EI organized a lobby of key WTO delegations to raise concerns about the impact of GATS on education. Meetings were held with representatives of Australia, Brazil,

the EU and Mexico. The EI delegation, led by Elie Jouen Deputy General Secretary, included representatives of affiliates from NTEU (Australia), CAUT (Canada), DM (Denmark) and Monique Fouilhoux, EI's education and employment coordinator

Both Brazil and Mexico reported that so-called "plurilateral" negotiations that began following the Hong Kong Ministerial meeting have achieved little progress since the first round of discussions in March. Consequently, negotiators are now planning no further plurilateral meetings and are instead returning to one-on-one bilateral negotiations.

While the Australian official indicated a positive response to the collective request on private higher education services his country is supporting, the request has received only a luke-warm response from the countries targeted. Brazil again indicated that it had no intention of making any commitments on education services. Mexico and the EU reiterated their position that they consider their existing commitments on education to be sufficient. To date, only Malaysia and Thailand seem to be indicating any interest in making commitments on private higher education as outlined in the collective request.

Talks proceeding on GATS domestic regulation rules

Prior to the Geneva meeting, WTO members discussed new GATS rules on domestic regulation. These discussions are part of the so-called 'rules-based' aspect of services negotiations intended to develop disciplines to ensure that domestic regulatory measures affecting technical standards and qualification or licensing requirements and procedures do not constitute unnecessary barriers to trade in services. Talks are well advanced and disciplines are scheduled to be finalized before the end of the Doha Round.

EI has expressed serious reservations about the domestic regulations rules, par-

ticularly as they might apply to education services. In a previous meeting with EI delegates, the WTO Secretariat confirmed that these rules could apply to school licensing and accreditation, as well as to quality assurance standards. Similarly, qualification requirements could have an impact on universities and vocational schools which are often responsible for recognizing qualifications. As well, rules developed on professional licensing procedures could apply to teaching training.

WTO negotiators confirmed with EI that in recent weeks developed and developing countries have submitted a number of formal and informal proposals on domestic regulation. While all the submissions stress the need to strike a balance between respecting a Members' right to regulate while curbing regulatory measures that could undermine trade, serious disagreements have emerged.

One area where differences of opinion are particularly evident is in the debate over the so-called "necessity test" for regulatory measures. While the GATS mandate for the development of new rules on domestic regulation stipulates that qualification and licensing requirements should not be "more burdensome than necessary to ensure the quality of a service," some countries are concerned that such a test may constrain their ability to regulate in sectors like education to meet national policy objectives.

A number of developing countries including Brazil and the Philippines have argued that regulatory measures in pursuit of national policy objectives should be deemed 'necessary' and thus permissible under any new rules. The group of African, Caribbean, and Pacific countries have similarly proposed eliminating the necessity test entirely and exempting least-developed countries from any new rules. On the other hand, Hong Kong, Chile, Korea, Australia, Mexico, New Zealand and Switzerland are arguing for some version of a "necessity" or

What are the proposed GATS domestic regulation rules?

- ▶ *The rules on domestic regulation, being negotiated now, are intended to ensure that certain types of regulatory measures taken by governments or delegated authorities are not unnecessary barriers to trade.*
- ▶ *The rules would apply to regulations adopted with respect to qualification requirements and procedures, technical standards, and licensing requirements and procedures.*
- ▶ *The scope of the proposed rules on domestic regulation is very broad. Many types of government measures covering education and other public services could be affected.*

“relevance” test. Without this, they say, any new disciplines will prove largely “toothless” in ensuring that regulations do not unduly restrict trade.

In meeting with EI delegates, Brazil reiterated that it considers a necessity test a “non-starter”. The Brazilian representative reported that the United States is also opposed to the necessity test, in response to pressure it is receiving from its domestic regulators and from NGOs.

A so-called compromise position, favoured by the EU, would see some reference to “necessity” placed in the preamble of the new domestic regulation rules. Countries in favour of a necessity or “relevance” test, like Australia, are worried that this would weaken the new rules. Others, however, including Brazil, are opposed to including a reference to a necessity test even in the preamble as this would still

have some legal force that could potentially be used to constrain the legitimate regulatory authority of governments.

The chair of the Working Party on Domestic Regulation, Peter Govindasamy of Singapore, has been authorized to draft a consolidated text of the proposed disciplines by July 10th. WTO negotiators told EI that they expect the chair to produce draft language on issues where there is apparent consensus or broad support, and then present Members with all the “options” available on the more contentious issues.

GATS lobbying to continue

The talk of “crisis” in WTO negotiations, while real, does not mean the fight is over, says EI’s deputy general secretary Elie Jouen.

If anything, Jouen says, EI and its affiliates need to step up the pressure, particularly as the July 31st deadline for new GATS offers looms and as negotiations on domestic regulation press ahead.

“We’ve had an important impact on GATS negotiations with respect to education,” said Jouen. “Let’s not forget that that at the beginning of the round, education was clearly a targeted sector for further trade liberalization.”

Jouen says that today, in part because of the lobbying efforts of EI and its affiliates, fewer and fewer countries are planning to open up the sector.

“There is a crucial month ahead of us and we will continue our work at both the national and international level to protect education from the dangers of GATS and from domestic regulation rules.” ■

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