THE COLLAPSE OF THE DOHA ROUND OF THE WTO AND THE DEVELOPING COUNTRIES[1]

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The General Agreement on Tariffs and Trade (GATT) of 1947, like other international organizations such as the World Bank, the International Monetary Fund (IMF) and the Organization of the United Nations (UN), was formatted with a view of promoting the perceived interests of a cluster of developed countries, in accordance with the economic and political doctrines of the so-called neo-liberalism prevalent at the time of their inception in the United States of America (USA) and in the United Kingdom (UK).

In the days following the end of the Second World War (1937-1945), a polarization of forces took place between the USA and its supporters, on the one side, and those of the Union of the Soviet Socialist Republics (USSR), on the other, in the cold war. This situation left the developing countries, which comprised then, as now, the vast majority of the world's population, as pawns of the two blocks.

In the area of international trade, the diktat of the USA in the development of the multilateral system, through the rounds of negotiations based on the most-favored nation clause (MFN), had been absolute until 1979, with the conclusion of the Tokyo Round of the GATT.

By the early 80s, however, the economies of the countries of the now European Union (EU) and of Japan had fully recovered from the devastating effects of the Second World War. As a result, these countries became gradually more internationally competitive and, accordingly, the US participation in world trade fell dramatically. The share of US products in world exports fell from 17 percent in 1950 to 11 percent in 1980.

Accordingly, the USA resorted to a series of unilateral measures and protectionist actions, all against the legal order of the multilateral trading system it had inspired, with a view to minimizing its huge trade deficits. In 1985, the US Congress started working on a new trade bill looking for "fair" trade rather than free trade.

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[1] Basic text of the presentation made for the post-graduation students of the Central University of China, Beijing, People's Republic of China, November 6, 2008.

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Japan, in particular, became together with developing countries in general, the greatest victim of the truculence of US trade policy. One example in particular well illustrates the pressures of the times. Unable to impose quotas against Japanese imports, as quotas were deemed to be illegal under GATT rules, the USA, with a view to circumventing such impediments, bullied Japan to imposing on itself the “voluntary” export restraints, by which Japan would “voluntarily” limit its access to the “open” US markets[3].

That explained why Japan was then the first country other than the USA, since the beginning of the multilateral trade system in 1947, to have asked for a new round of trade negotiations of the GATT, in an attempt to increase the juridicity in commercial relations.

Undisturbed, the USA, rather than feeling intimidated by the initiative, decided very expediently to co-opt the opportunity for its own benefit. The US economy had become increasingly dependent on services, which represented, in the early 80s almost 70 percent of the country’s GDP. In addition, the country was the world’s largest investor abroad and its companies owned the majority of the extant intellectual property rights.

Accordingly, the USA supported the idea of a new round of negotiations and proposed the inclusion of the so-called ‘new areas’: services, investments and intellectual property. The EU followed suit supporting the US view and the Japanese concurred. Thus, the Uruguay Round of the GATT was launched in September 1986, in Uruguay, by 72 countries.

However, sudden opposition came from unsuspected quarters. A group of 10 developing countries led by Brazil and India (the Group of 10) objected to the inclusion of the new areas into the multilateral trade system whilst agriculture and textiles remained excluded. This exclusion was caused by the USA in 1947 because its negotiators believed that the country would lose its comparative advantage in those sectors very shortly.

The Group of 10 made the following arguments concerning the inclusion of the ‘new areas’ in the multilateral trade system:

a) No new areas should be added whilst agriculture and textiles remained excluded;
b) Developing countries would become buyers and not sellers of services; and
c) Developing countries would become forced recipients of inadequate technologies.

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[3] Durval de Noronha Goyos, ARBITRATION IN THE WTO, Legal Observer, INC., 2003, Miami, Florida, page 27 *et seq.*

Great acrimony ensued and progress on the talks was stalled. The resistance posed by the Group of 10 lasted until 1991, when they succumbed to the very many pressures put against them by the USA and its allies, unrestrained now after the collapse that year of the USSR. In the efforts to destabilize the developing countries, the USA had the assistance of the IMF and of the World Bank.

The Uruguay Round was closed in April of 1994, with the execution of the relevant treaties, by representatives of the 125 countries which participated in the negotiations. The treaties governed regulation of all the new areas, in accordance with the wishes and drafting of the hegemonic powers.

Developing countries, as a rule, had been virtually forced by the main powers and the multilateral agencies controlled by them to leberalise trade unilaterally before the closing of the Road, and thus had little to gain from it. By the end of the Uruguay Round, in 1993, an ominous analysis of the World Bank had already indicated that the results of the negotiations would benefit developed countries by 64 percent and developing countries by 36 percent[4]

Reality proved much worse. In accordance with subsequent studies by the IMF and the UN, developed countries reaped 73 and 80 percent, against 27 and 20 percent respectively by developing countries. Developing countries have approximately 80 percent of the world's population.

This imbalance was more acute in the new areas and promoted a major growth of export of services by developed countries to the tune of 10 percent per year for the USA, 6 percent for the EU and 5 percent for Japan, against a modicum for developing countries. The fears of the Group of 10 were abundantly justified.

In addition, the framework of the General Agreement on Trade in Services (GATS) comprised predominantly services provided by developed countries, largely excluding those originated in developing countries, which faced draconian horizontal barriers in the movement of their service providers.

If that was not enough, the GATS did not contemplate safeguards, as in the case of trade in goods, which left the domestic service industries at the mercy of the rapacious predators from developed countries.

On the other hand, the Agreement on Trade Related Intellectual Property Rights (TRIPS) was introduced mostly as a result of the pressures from the lobby of US and European pharmaceutical

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[4] I. Goldin et al, Trade Liberalization: Global Economic Implications (1993, The World Bank and the OECD).

companies unhappy with the balanced work of the World Intellectual Property Organization (WIPO) which sought to promote the protection of the property rights together with the absorption of technology by developing countries.

Developed countries, contrarily, wanted to promote intellectual property as an absolute value and wished to have sanctions against the violations of such cannons as they would insert in the TRIPS.

Accordingly, the TRIPS enshrined intellectual property rights above those of human rights and matters of public policy. In addition, whilst the TRIPS addressed all demands from the pharmaceutical companies lobby, it failed miserably from tracking the very important issues of bio-piracy and of traditional medicine, important for developing countries, amongst others.

On the other hand, the Agreement on Trade Related Investment Measures (TRIMs) outlawed all matters of internal support for the nascent industries of developing countries. Most such measures as important substitution, commitments for export and obligations of national content had been promoted by other multilateral organizations, such as the UN.

Developing countries had put considerable hope in the reform of the dispute resolution system of the multilateral trade regime, as they had been historically the victims of unilateral arbitrary action. However, the new Dispute Settlement Understanding (DSU) drafted by Anglo American specialists failed to meet expectations because of its many short comings, including the lack of enforcement power. In addition, the operations of the system were soon to be controlled by the intelligence communities of the hegemonic powers.

It is true that the Uruguay Round succeeded in putting the end of the odious Multi-Fiber Agreement, which allowed for a system of import quotas, normally granted with a hefty political price, within sight. Accordingly, the quota system was dismantled after 10 years, in 2004. In agriculture, however, the success was very limited, as the sector was only nominally and at long last included in the multilateral trade system, by means of the Agreement on Agriculture.

However, the Agreement on Agriculture allowed for the maintenance of the vast amount of subsidies disbursed by developed countries, which were prohibited in other sectors. Furthermore, the Agreement on Agriculture failed to provide for a clause on safeguards, with a view to protecting the domestic sectors of those countries affected by loss of competitiveness from imports, especially those leveraged by subsidies.

Thus, by the end of the 90s, the conviction of international public opinion was very well both founded and established to the effect the World Trade Organization (WTO), which had been created in 1995, was an institution that promoted the economic interests of the few (developed countries) to the detriment of many (developing nations).

It was within this state of spirit that a new round of trade negotiations failed to be launched in the in the ministerial meeting of Seattle in year 2000, when the force of international public opinion alone prevented further abuses to the rights of developing countries.

The tireless strategists of developed countries, however, soon found a way to present a repackaged framework of a new process of negotiations to be called “The Development Round” which should address issues of interest to developing countries. The agenda, however, was to be that of interest to developed countries.

Accordingly in October of 2001, in Doha, Qatar, the so-called Doha Round was launched. Once again, the respective agenda had been prepared by and for the exclusive benefit of developed countries. Developing countries, once again led by the Brazilian and Indians, opposed no restrictions.

The new agenda failed to address the important and necessary reforms of the GATS, TRIPs, TRIMs, DSU, and on the Agreement on Subsidies. Therefore, the new round of negotiations of the WTO would address the following topics:

a) tariff reduction of industrialized products;
b) further liberalization of access in services; and
c) Agriculture.

Of course, developed countries had a proactive agenda in promoting further tariff reductions of industrialized products by developing countries, as well as greater market access in those markets for its service providers.

In the case of tariffs on industrialized products, developed countries already had a very low average, so that on the defensive side they had little to lose other than their tariffs peaks, which they sought to protect.

With respect to services, developed countries sought greater access for even further advantages. On the defensive side, they had only to maintain their horizontal barriers on immigration, by actually preventing the provision of services by nationals of developing countries.

In agriculture, developed countries had only a defensive agenda, in that they sought to maintain their scandalous levels of subsidies and prevent further changes in the Agreement on Agriculture which would affect the enormous imbalance in their favor.

When the People's Republic of China acceded to the WTO on the 11th December 2001, after 15 years of arduous negotiations and many concessions, its negotiations found the agenda already defined for the new round of the WTO. The interests of developing counties were now defended by the Group of 20, which had the original base of the Group of 10 of the Uruguay Round, now expanded with new members including China and South Africa, which had acceded to the WTO after democratization in 1994.

Developing countries soon realized that with the agenda agreed in 2001, they would inexorably only come out of the Doha Round, once again, as losers. Then, the traditional game of procrastination ensued in which difficulties were created to avoid the conclusion of the round, that would materialise the disadvantages enshrined in the official agenda.

Early in 2008, both the USA and EU, through the new Farm Bill and budget for the Common Agriculture Policy (CAP), respectively, sought to present a "*fait accompli*" to their trade partners, establishing the levels of agricultural subsidies for the next 5 years.

Subsequently, before the ministerial meeting of June 2008, both EU and the USA afforded small concessions in the level of agreed subsidies in exchange for the conclusion of the round. However, both developed countries demanded a reduction of agricultural tariffs from India and China, a major concession for the developing countries, as massive subsidies would continue to be disbursed by the USA and the EU.

China and India even proposed to accept such demands, in case a regime of safeguards similar to that existing for industrialized products would be put in place. This was rejected by the USA. Therefore, the negotiations collapsed as result of a failure to reach a compromise.

In the financial crisis that originated in the USA and in the United Kingdom towards September of 2008, such countries reacted to the collapse of their financial markets and of numerous financial institutions unilaterally, without recourse to any of the post-war multilateral institutions or even political co-ordination.

The measures adopted originally by the USA and the UK, and subsequently separately by other European countries, outside the framework of the EU, were inconsistent with the neo-liberal order that informed their economies and the multilateral institutions. Accordingly, governments started to buy shares in banks for prices above those of the market; to nationalize financial institutions; to buy financial assets for prices above those of the market; and to guarantee obligations which the private financial institutions could not meet.

Of course, all those measures represented not only the negation of the market economy doctrines, but were also inconsistent with the legal order of the multilateral trade regime. Therefore, a crisis of the multilateral institutions became evident, not only because of inadequate representation of the developing countries and excessive power in the hands of the irresponsible leadership of developed nations, but also for lack of an new doctrine in substitution of that of the now defunct neo-liberalism.

What is worse is that, when the financial crisis reaches the real economy, such measures of support will be also given to manufacturing companies, which will probably start a trade war of illegal subsidies and other measures inconsistent with the present legal order of the multilateral trade system.

This situation presents the risks that a hard core of developed countries will try to maneuver the international efforts to address the crisis with a view to having developing countries paying the price of the recuperation of their economies. On the other hand, the crisis brings the opportunity for developing countries to cooperate more intensively in the formatting of a multilateral system which is not only more equitable, but also more effective.

It is not to be surprising if, on the G-20 summit to be held in Washington, D.C., USA, on November 15, 2008, developed countries try to insert, amongst the recommendations to deal with the crisis, the revival of the Doha Round according to the original agenda. This should be eschewed in favor of a complete reformulation of the multilateral trade system.

Thank you very much.