

brevíssimos cindes 03

Brazil and the multilateral trade system

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January 2009

Throughout the Doha Round, Brazil became one of the leading actors in the negotiations alongside the United States, the European Union, India and China. Consequently, there is greater expectation – and even greater demand – from the other partners for the country to take an active part in the debates on the governance of the multilateral trade system and the institutional reform of the WTO.

On the other hand, the difficulties in making advances in the trade liberalization on multilateral terms and the simultaneous proliferation of regional/bilateral low-quality trade agreements – which generate distortions caused by complex and varied rules of origin and long exception lists to liberalization – have been fostering debates about multilateral trade governance. Initiatives like the Sutherland Report (2004) sponsored by the WTO to debate its future, and the Warwick Commission Report (2007) present challenges and recommendations to the reform and strengthening of the global multilateral trade system.



* From CINDES - Centro de Estudos de Integração e Desenvolvimento

This text is a summary of the results and conclusions selected from the corresponding complete article published, in Portuguese, in *Breves* 12, available at www.cindesbrasil.org

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Direction du développement et de la coopération DDC
Swiss Agency for Development and Cooperation SDC
Agencia Suiza para el desarrollo y la cooperación COSUDE

Amongst the themes brought forward as relevant by these initiatives and other scholars in recent publications are: (i) the decision-making process at the WTO; (ii) the principle of single undertaking; (iii) the principle and mechanisms of the special and differentiated treatment (S&D)); (iv) the dispute-settling mechanism; (v) the rules for disciplining preferential trade agreements; and (vi) the scope of the WTO agenda.

- **the decision-making process at the WTO**

Decision by consensus is the tradition at the GATT/WTO, and many hold it to be one of its main pillars. Nevertheless, the evident difficulties of this decision-making system in the context of the growing number of members and changes in the configuration of world trade have strengthened views that new methods are necessary to achieve progress in multilateral negotiations.

For the Brazilian government, preserving consensus as a method of making decisions is inevitable and still a priority. According to this view, articulating in blocs is the natural way to gradually build consensus. Participation in smaller groups such as the G-4 should obey criteria of economic power, representativeness and capacity to contribute constructive proposals.

According to interviews held with Brazilian authorities involved in the negotiations, the proliferation of coalitions that appeared throughout the current round of negotiations contributes to different interests being represented when smaller groups are formed. The coalitions formed at the Doha Round are more stable and structured and Brazil has participated actively in several of them (the G-20, NAMA-11 and Friends of Anti-dumping, for example). Brazil's participation in these coalitions has facilitated its access to the groups relevant to the decision-making process and enabled the country to exercise a leading role amongst developing countries, even though in order to do so it has had to relinquish many of its economic interests in these negotiations.

- **the principle of single undertaking**

The principle of single undertaking combined with a sufficiently broad agenda facilitates establishing trade-offs so that countries can see their interests represented in some way in the final agreement. Given the difficulties in making progress with an agenda as large as that agreed upon at Doha, throughout the negotiating process member countries began to concentrate on the themes considered to be fundamental - agriculture and industrial goods - in the Round. Introducing sectoral agreements to eliminate tariffs as the central modality for freeing the trade of industrial goods, and accepting that adhering to the negotiation and the results of these agreements would be voluntary, was another demonstration of the concept of single undertaking being made more flexible during the Round.

Brazil still defends preserving the concept of single undertaking and adopting wide-ranging agendas that allow a balance between benefits and concessions. Abandoning this principle and accepting to negotiate multilateral sectoral agreements would make it difficult to establish the trade-offs necessary for balanced results, thereby making it less likely to obtain relevant gains for the country in terms of opening the agricultural markets of the developed countries.

- **special and differentiated treatment (S&D)**

During the Doha Round, Brazil found itself confronted with growing pressure from the developed countries for the country to “graduate” and consequently cease benefiting from the special treatment provided for developing countries in terms of less ambitious commitments regarding tariff reduction, among others. The increasingly greater participation of some developing countries in international trade has sharpened the perception of developed countries that it was necessary to introduce modu-

lations to the S&D instruments so as to adapt them to the diversity of situations in which the candidates to these benefits find themselves. Throughout the Round, different informal categories of developing countries were created, and Brazil gradually adopted pragmatic positions to deal with the matter.

This is the area in which the dilemma experienced by Brazil in terms of its relative position in the WTO is seen most intensely: the ambition of a role as protagonist in multilateral negotiations reinforced by the exporting boom in the middle of the current decade has become more and more incompatible with Brazil's remaining in the category of "developing countries" and especially with its aspiration to remain as representative of the developing countries in multilateral forums.

- **the dispute-settling mechanism**

Many have seen the mechanism for settling disputes at the WTO as one of the main reasons for Brazil to privilege multilateral negotiations as the number-one priority of its trade policy. The idea remains that the mechanism has been relevant to defending the country's trade interests, which would otherwise be liable to unequal negotiations with the developed countries. The Brazilian government has insisted on dialogue as the most effective way of dealing with the non-compliance of trade partners with decisions resulting from trade disputes within the WTO.

- **rules for disciplining preferential trade agreements**

In addition to the numerous distortions to world trade, many have seen the proliferation of bilateral/regional trade agreements (RTAs) as one of the causes of WTO members becoming distracted from the objectives of freeing multilateral trade.

Although it is provided that the agreements are to be submitted to examination by the other members and although most of the notified agreements present some conflicts with the established rules, there is no effective effort to call for change to these agreements.

Brazil is a country with an obvious preference for multilateralism and in the last few years has been facing difficulties in maneuvering in the world of regional agreements. Besides this, Brazilian exports have been suffering the costs of trade deviation caused by the considerable growth in the number of agreements involving on the one hand countries with relevant markets and on the other hand countries that compete with Brazilian products.

Despite all that, the Brazilian government has shown no interest in defending the adoption of stricter rules at the WTO for treating the RTAs. Brazil clearly prefers preserving levels of freedom that enable the country to continue negotiating not very profound regional agreements as regards coverage of products and treatment of trade rules.

- **the scope of the WTO agenda**

The discussion concerning the limits of the thematic agenda of the WTO regained space with the impasse reached in the negotiations of the Doha Round in July 2008 and the realization that resuming understandings could take some years. Some feel that the agenda of the current Round includes only those themes considered to belong to "the past". According to this view, when negotiations are resumed, these themes will be of little relevance, since the non-trade concerns of the North countries are already resulting in the introduction of new unilateral trade barriers, which makes eliminating tariffs not quite enough to guarantee satisfactory access to markets.

Just as with the Singapore issues, developing countries also tend to reject this new agenda. Besides concerns with the possible increase of non-tariff barriers (NTBs), the fear exists that difficulties in complying with new rules in areas where enforcement is difficult will heighten the vulnerability of developing countries to the dispute-settling mechanism.

Here too the position of the Brazilian government has been opposed to changes. Although Brazilian negotiators admit that the agenda changes according to circumstances, they claim that the new themes should be restricted to specific aspects related to the need to resolve problems that arise in the negotiating process (for example, creating the mechanism of special safeguards in agriculture).

Even though Brazilian exports are affected by new governmental regulations or new requirements imposed by the private import sector, introducing labor, social, environmental or climate-change themes into the WTO agenda is perceived as a risk

by the Brazilian government. Two types of concern seem to inform this position. Firstly, preoccupations with Brazil's conditions for compliance with whatever is negotiated. Although the country enjoys relatively advanced legislation in these areas, it has difficulty in enforcing the laws. Secondly, accepting the treatment of these themes means establishing a distance from the position of most developing countries, which continue oppose this possibility.

The failure of the mini-Ministerial Meeting of the WTO in Geneva during the month of July 2008, following seven years of negotiations, has stimulated debates on the need to review the governance of the multilateral trade system and to promote an eventual institutional reform of the organization. Here is an opportunity for Brazil to influence the future configuration of the system. However, the country appears hesitant to give up its traditionally defensive and cautious position on most of the themes that make up the agenda of debates in this sphere.