

Crisis at the WTO –What Options Exist?

By Terence P. Stewart

“This could be the most serious situation that this organization [the WTO] has ever faced. I have warned of potentially dangerous situations before, and urged Members to take the necessary steps to avoid them. I am not warning you today about a potentially dangerous situation – I am saying that we are in it right now.”¹

The World Trade Organization (“WTO”), which came into existence in 1995 with great expectations, has been adrift for years and has failed to make progress in its Doha Round multilateral negotiations to liberalize trade and establish updated multilateral rules for trade. The WTO has 160 Member countries and autonomous customs territories and represents 97% of global trade.

While the WTO has other functions (its webpage shows three others – implementation and monitoring, dispute settlement and building trade capacity), in a fast-changing global economy the ability to review and address changing needs of the global community in terms of trade rules and permit expanded trade opportunities through reduced barriers (tariff and non-tariff) is critical if the WTO is to serve its core function. Absent an ability to update rules and liberalize trade within the WTO, trading nations are increasingly looking to bilateral and regional agreements to achieve change – albeit partial – to address the concerns and needs of their constituents.

In December 2013, the WTO achieved a breakthrough of sorts at the 9th WTO Ministerial meeting in Bali, Indonesia. WTO Members agreed to a package of measures, including an agreement on trade facilitation, with a set of implementation timelines. The package was welcomed with a large collective sigh of relief that the negotiating function of the WTO was still capable of delivering results. WTO Members returned to work in Geneva with a renewed sense of potential progress.

The hope of December was replaced with the keen disappointment of summer as efforts by some to change a part of the Bali package resulted in an inability to meet the first implementation deadline adopting a decision to add the Trade Facilitation Agreement to the WTO package of agreements and open it for formal adoption.

Director-General Azevêdo raised concerns at the end of July of potential adverse consequences to other areas of the WTO’s ongoing negotiations and the risk to the institution as a whole of having an unusable negotiating function. Today’s WTO Trade Negotiations Committee meeting confirmed that the organization’s negotiating function is in paralysis. And the Director-General’s summing up of the situation underlines the seriousness of the crisis.

¹ World Trade Organization, Trade Negotiations Committee: Formal Meeting, *Azevêdo says Bali impasse paralyzing WTO work, chairs report no progress in consultations*, Oct. 16, 2014, http://www.wto.org/english/news_c/news14_c/tnc_stat_16oct14_e.htm .

There will be another opportunity at the WTO General Council meeting on October 21st to evaluate what, if anything, can be done to resolve the impasse that has developed and that has stopped meaningful work on all areas of negotiations. In a member driven organization, the solutions at the end of the day rest with the membership and the structure of decision making in the WTO – consensus is the normal approach to decisions.

The change in economic power within the WTO over the last 20 years has not yet been matched with a consensus among the major players of the shared responsibilities for moving the system forward. The structure of the WTO complicates this fundamental problem by having the status of developing country be unitary, self-selecting and not subject to automatic graduation in total or in areas of global competitiveness. Moreover, when negotiations were largely among the willing (most of the GATT days), consensus worked reasonably well. That is less true with an expanded membership (with dramatically different economic situations). There is the core issue of whether trust can be maintained in working through negotiations if agreements, when reached, are not honored – a fact that has led to at least some WTO Members being unwilling to engage elsewhere until the agreed upon package from Bali is implemented. And there is the issue of whether a dispute settlement system that permits Members to achieve through litigation that which has never been negotiated reduces the incentives for Members to engage in negotiations. Finally, some Members of the WTO have seemingly preferred to have no new rules or new negotiations and simply permit reform to occur at the pace deemed appropriate by individual Members.

Whatever the reason or reasons for the crisis, the relevance of the WTO as a forum for multilateral negotiations to establish rules of the road is at risk. The race by larger trading countries to bilateral and plurilateral agreements will undoubtedly continue. While such agreements can be useful places to explore some 21st century issues and increase liberalization to discrete markets, for many businesses and their workers, a spaghetti bowl of agreements does not promote simplicity, consistency or global integration where the WTO is not functioning.

While one may hope for brighter days in the future, the raging storm within the WTO membership at the moment suggests it will be a very long time before WTO Members can restore the negotiating function of the organization. Some, like the United States, the EU, China and others, can find alternatives to the WTO, however imperfect. The same is not true for the least developed countries and many of the smaller developing countries whose voices are best heard in a multilateral forum. The WTO is indeed in crisis with no solution in sight.