The View from Europe
By David Jessop

Bali, trade liberalisation and the Caribbean

Seemingly out of the blue, trade ministers, meeting just over a week ago in Bali, formally agreed for the first time in nearly 20 years a new multilateral trade agreement.

What was announced at the World Trade Organisation (WTO) gathering in Indonesia fell far short of the comprehensive trade round envisaged when the Doha Round negotiations were launched in 2001. However, it did address some of the easier to resolve trade liberalisation issues and propose that more difficult matters start to be addressed next year; possibly in new ways.

The final outcome in Bali, after five days of intense and sometimes overnight discussion, was an agreement on trade facilitation aimed at making cross border commerce less subject to bureaucracy; declarations on four agricultural issues; and an agreement on a number of development focussed provisions of relevance to the world's poorest in the least developed countries (LDCs).

Of those aspects touching the Caribbean, potentially the most significant is the agreement on trade facilitation. All WTO members agreed to simplify customs procedures by reducing costs and improving the speed and efficiency of customs clearance. The agreement, once ratified locally and by two-thirds of WTO members, will be legally binding and will have to be implemented. The agreement also involves a related provision for assistance for developing and least developed countries to update their infrastructure, train customs officials, and to cover costs associated with implementing the agreement.

In Bali one Caribbean issue almost halted the final agreement when, in the closing stages of the negotiations, Cuba, together with Bolivia, Venezuela and Nicaragua, withheld consensus until their demands were met for language that would prevent countries applying discriminatory measures to goods in transit.

Cuba argued that its objection was aimed at counteracting US legislation that prevents ships that enter Cuban ports from entering or unloading cargo in the US for 180 days thereafter; a reference to the 1992 US Toricelli Act.

After an all night session involving the WTO Director-General, Roberto Azevedo, and the US and Cuban delegations, the two sides agreed politically to an alternative compromise text.

According to the US think tank, the Cato Institute, quoting the specialist trade publication, Inside US Trade, the compromise language agreed consisted of one sentence appearing immediately after that adopting the trade facilitation deal, and states: 'In this regard, we affirm that the non-discrimination principle in Article V of the [General Agreement on Tariffs and Trade] 1994 remains valid.'

According to the Cato Institute, Cuba was not looking for an end to the embargo but recognition that this 'one small component of the embargo violates the new, US approved, WTO rules'. Although the compromise text remains relatively obscure in its implications, it would seem to allow for a WTO challenge if the US embargo were to be extended in future in respect of goods in transit or if in future vessels entering Cuban ports continue to be restricted in entering US ports.

In Bali there was also an interim agreement that shields public programmes for food security in developing countries from any legal complaint, even if a country's agreed limits for trade-distorting domestic support were breached.

A further area of agreement of relevance to the Caribbean relates to situations where a tariff quota is persistently under-filled. WTO members agreed on a combination of consultation and information provision when this occurs, but some countries – Barbados, the Dominican Republic, El Salvador, Guatemala and the US – reserved the right not to apply the system after six years.

Another aspect of the agreement touches Haiti, the only LDC in the region. Here WTO members agreed that wealthier nations that have duty-free, quota-free access for LDCs but have so far not increased this to 97 per cent of products 'shall seek to' improve the number of products covered. It was also agreed that there should be preferential rules of origin for LDCs, making it easier for them to identify products as their own; and a services waiver, allowing them preferential access to richer countries' services markets.

Separately from the multilateral trade agreement in Bali, and of some importance, Ministers agreed to give special consideration to issues of small vulnerable economies, instructing the Committee on Trade and Development to consider proposals and make recommendations to the General Council.

But beyond the detail, what the meeting in Bali achieved was a sense that the there is still life in the WTO process when as recently as six months ago it had seemed that the multilateral trade negotiating process was on life support.

That said and despite the new found optimism, what will happen next is not clear. Although there is clearly a desire on the part of WTO members to address other more difficult issues next year, what form the negotiations will take has yet to be decided.

The final Ministerial Declaration contains language that suggest that the WTO's future work programme may be developed 'in a way ....that may allow members to overcome the most critical and fundamental stumbling blocks'. What this means has so far not been defined. It could mean pursuing plurilateral initiatives that could later be multilateralised, or alternatively might involve seeking further small packages of agreement of the kind reached in Bali.

What seems certain is that it is unlikely to slow the negotiation of the preferred approach of major powers for bi-regional agreements such as the Trans-Atlantic Trade and Investment Partnership or the Trans-Pacific Partnership, or remove the continuing inability of developed and advanced developing nations to achieve consensus on trade issues that touch the still changing balance of global economic power.

Despite this, there remains some justification in the language used after the event hailing the agreement as historic, if what was agreed genuinely stimulates global trade and results in renewed interest using the organisation's ability to find further ways to do so.

Above all the sense emerging from the meeting in Bali is that it has provided a systemic boost to the WTO and has begun to restore confidence in a body that had every sense of just idling or even becoming an irrelevance in relation to trade liberalisation.

David Jessop is the Director of the Caribbean Council and can be contacted at
david.jessop@caribbean-council.org
Previous columns can be found at www.caribbean-council.org

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