



## International Trade

November 2009

### World Trade Organization: Doha Round of Trade Negotiations

The “Doha Round”<sup>1</sup> of negotiations at the World Trade Organization in Geneva has the potential, directly or indirectly, to affect business around the world. At stake are not only possible new market opportunities but also, perhaps more importantly, changes to the rules that govern international trade. Companies can prepare themselves for the future – and maybe even help shape it – by plugging in to these negotiations, which are now at a significant crossroads.

#### *Isn't the Round dead?*

No. It's true that some observers have been pessimistic because the negotiations have dragged on for so long and seem so complicated. But this is not unusual for complex international negotiations. In the current economic environment, political leaders at the highest levels right around the world see the need to strengthen international trade rules, and also see the potential that the Round has to make a significant contribution to recovery.

Leaders of the G8 countries meeting in Italy in July 2009, along with their counterparts in major developing countries such as China, India, Brazil and South Africa, committed themselves to seeking an ambitious and balanced conclusion to the Round in 2010. This was reconfirmed by the September 2009 meeting of the G20 leaders in Pittsburgh.

The problem is how to translate these top level political pledges into concrete progress at the negotiating table. In a major effort to address that challenge, World Trade Organization Director-General Pascal Lamy has set out a grueling program of meetings for the negotiators in Geneva. Lamy's political shrewdness, technical mastery and determination are such that his ability to conjure a result should not be underestimated. He claims that 80 percent of the work needed to complete the Round has already been done. But it is the WTO member countries and economies that ultimately have to take the decisions.

#### *What is involved in the negotiations?*

The Round involves eight core areas<sup>2</sup>:

- **Agriculture.** At issue are improvements in market access, reductions in subsidies and phasing out of export subsidies.

<sup>1</sup> So called because the negotiations were launched at a WTO Ministerial Conference in Doha, Qatar in late 2001.

<sup>2</sup> Separately but in parallel, there are also negotiations to clarify and improve the WTO's Dispute Settlement Understanding, the agreement which governs the settlement of international trade disputes between countries. However these negotiations are not part of the Doha package.

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- **Non-Agricultural Market Access (known as “NAMA”).** Discussions center on reductions in WTO-bound industrial tariffs and how to handle “non-tariff barriers” to internationally traded goods.
- **WTO Rules.** How to clarify and improve existing WTO rules relating to anti-dumping, subsidies (including fisheries subsidies) and countervailing measures, and regional trade agreements.
- **Trade in Services.** Negotiations aim to deepen Members’ commitments in terms of various forms of market access (such as cross border supply, investment and movement of professionals) and to develop better international rules.
- **Intellectual Property.** The core issue is development of a register of geographical indications (GIs) for wines and spirits. Other important issues have however been attached to this – whether to extend protection of GIs to other products and how to protect “traditional knowledge” in developing countries.
- **Trade and Environment.** The main issue in this context is reduction or elimination of tariff and non-tariff barriers to environmental goods and services.
- **Trade Facilitation.** Negotiations focus on improvements in three main areas: freedom of transit, fees and formalities at borders, and publication and administration of trade regulations. Emphasis is also placed on technical assistance for developing countries to implement agreed improvements.
- **Special and Differential Treatment.** The GATT and WTO have long recognized the importance of special treatment for developing and least-developed countries. It was agreed in Doha that there should be a review of these provisions to make them more effective.

These eight areas are bound together in the Round so that “nothing is agreed until everything is agreed.” The underlying idea is that countries should be able to find an overall balance in a broad agenda, whereas it might be impossible for them to see a balance in individual subjects.

In terms of mechanics, the negotiations on agriculture and industrial tariffs have focused on the establishment of “modalities.” This catchphrase means agreeing on templates and formulae according

to which countries will reduce their bound tariffs, cut subsidies, conform with new rules and have access to special provisions (such as a proposed Special Safeguard Mechanism for developing countries in agriculture).

### *Is it worth the effort to complete the Round?*

A recent study by the Peterson Institute<sup>3</sup> provides various measurements of the economic benefits of concluding the Round. The most conservative of these, based on the current modalities in agriculture and NAMA alone, estimates over \$65 billion of world exports and roughly \$100 billion in annual world GDP gains. If potentially achievable gains from industry-sectoral initiatives, services liberalization and meaningful improvements in trade facilitation are added, these numbers increase substantially. Overall, the authors of the study estimate that the boost to global exports from concluding the Doha round could range between \$180 billion and \$520 billion annually, depending on the level of ambition. The potential GDP gains could be significant, between \$300 billion and \$700 billion annually, and well balanced between developed and developing countries.

In addition to that, the global trading system would be strengthened by an agreement. The pronounced trend of recent years for the system to fragment into a labyrinth of complex overlapping bilateral and regional trade deals, creating a regulatory nightmare for many exporters and importers, might be dampened or even reversed.

Improvements in WTO rules – whether in terms of trade facilitation, subsidies or services trade – will be a further step towards leveling the playing field and will also increase predictability in international trade.

### *The Way Ahead*

Participants still disagree on the depth of liberalization commitments they should make in the two gateway issues of agriculture and non-agricultural market access (NAMA).

The great majority of WTO Member governments want to continue and complete the Round on the basis of the positions reached and methods used to date. One major participant – the United States – has signaled that it is dissatisfied with the positions, and to some extent the methodology, in these two key areas. It wants some, as yet unspecified, adjustments before proceeding, as well as a clearer picture of the future commitments of major developing countries like China, India and Brazil.

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<sup>3</sup> Working Paper 09-6 : “What’s on the Table ? The Doha Round as of August 2009”

Whereas the Doha negotiations have, from the beginning, always taken their pace from agriculture and, to a lesser extent, NAMA, there is now also a concerted move to advance across a broader front and to bring other subjects, such as WTO Rules, up to a similar level of development. This creates new challenges for the negotiators (as well as for those wishing to keep track of events).

Despite the evident difficulties, there is still a chance that the Round can be finished next year. To do so, the “modalities” in agriculture and NAMA would need to be established in the first part of 2010, and other subjects would have to be brought to a new level of preparedness. This would pave the way for a final phase of tabling “schedules of commitments” in agriculture and NAMA, and finalizing legal texts in other areas.

A possibly more likely scenario, given that the outstanding issues are the tough ones, and that President Obama is otherwise occupied at present, is that the negotiations will spill over into 2011. However, the Round won't go away and it can't go on forever. So we are probably approaching the endgame. This is the right time strategically for companies and business groups to engage in a process of monitoring, analysis and articulation of views.

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Clients, and others, who are interested in tracking the Doha negotiations, or in receiving detailed briefing, intelligence and analysis either overall or in specific areas of the negotiations, are invited to contact any of the following Winston & Strawn International Trade practice team members:

#### **Geneva**

Stuart Harbinson	<a href="mailto:sharbinson@winston.com">sharbinson@winston.com</a>	+41 (0)22 317 7582
Brooks E. Allen	<a href="mailto:ballen@winston.com">ballen@winston.com</a>	+41 (0)22 317 7559

#### **Washington D.C.**

William H. Barringer	<a href="mailto:wbarringer@winston.com">wbarringer@winston.com</a>	(202) 282-5864
Daniel L. Porter	<a href="mailto:dlporter@winston.com">dlporter@winston.com</a>	(202) 282-5763
James P. Durling	<a href="mailto:jdurling@winston.com">jdurling@winston.com</a>	(202) 282-5701

#### **Hong Kong**

Ben Fishburne	<a href="mailto:bfishbur@winston.com">bfishbur@winston.com</a>	+852-2292-2121
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#### **Beijing**

Xiang Yang Ge	<a href="mailto:xge@winston.com">xge@winston.com</a>	+86-10-5825-9611
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#### ***Winston & Strawn's services and resources***

Our offices in Geneva, the headquarters of the World Trade Organization, and around the world will be monitoring these Doha developments closely. Our Senior Trade Policy Advisor based in Geneva, Stuart Harbinson, has a wealth of experience as a high level negotiator, as someone who played a key part in launching the Round and in chairing some of the negotiations, and as a former senior official in the WTO Secretariat. Our International Trade practice as a whole has a wealth of experience in many of the key subject areas of the negotiations.

With our on-the-ground presence and global reach, we will be able to follow the negotiations closely and then analyze and interpret events to give clients a unique “inside” perspective.

We also have the capability to focus in on specific aspects of the negotiations and to provide detailed briefing, intelligence and analysis, tailored to clients' needs.

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