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Becalmed: The World Trade Organization at Not Yet Thirty

William A. Kerr

Associate Member, College of Law, University of Saskatchewan, Canada

Abstract

The primary objective of the World Trade Organization (WTO) is to provide a venue for, and to foster, the further liberalization of global trade. In the early years after 1995 and the establishment of the WTO, it appeared to be following in the trade liberalizing tradition of its predecessor – the General Agreement on Tariffs and Trade (GATT). To have a new round of negotiations – *the Doha Round* – was agreed, a negotiating agenda was set, and negotiations commenced in 2001. After seven years of difficult negotiations the *Doha Round* collapsed in 2008 without any agreement. The *Doha Round* was approached as a *single undertaking* whereby nothing was agreed until the entire *round* was agreed. After the collapse, the WTO has been, essentially, becalmed without any momentum for movement toward further liberalization. Subsequently, the *single undertaking* was abandoned a *piecemeal* approach tried. It had only limited success. Thus, for two thirds of its existence the WTO has not been able to garner any momentum toward its primary objective, the further liberalization of trade. This paper explores the reason for the inability to make progress and assess the prospects for an organization that lacks an accepted objective.

Keywords: becalmed, Doha Round, piecemeal, single undertaking, trade liberalization, WTO

Introduction

Day after day, day after day,
We stuck, nor breath nor motion:
As idle as a painted ship
Upon a painted ocean

The Rime of the Ancient Mariner
Samuel Taylor Coleridge, 1798

Becalmed - If a ship with sails is becalmed, it cannot move because there is no wind.
Cambridge Dictionary

When a ship was becalmed,... a ship's boat allowed the ship to be kedged or warped ahead. The ship's anchor and cable would be rowed a distance from the ship before being laid, the crew would then man the ship's capstans to haul the ship forward, repeated as many times as needed. Multiple ship's boats could also be manned to physically tow the ship.

Ship's Boat
Wikipedia

In 1995 the World Trade Organization was launched with great fanfare and optimism. It was like a newly refurbished ship – updated with new powers and a somewhat updated set of international trade rules encompassing not only in the renegotiated General Agreement on Tariffs and Trade (GATT-1994) but also in two new agreements – The General Agreement on Trade in Services (GATS) and the Agreement on Trade Related Aspects of Intellectual Property (TRIPS). It was endowed with a binding dispute settlement mechanism overcoming a major deficiency in the previous GATT (GATT-1947) (Kerr, 2018a). Even the pesky topic of trade in agricultural products had been dealt with, although not resolved, with a GATT-94 sub-agreement – the Agreement on Agriculture – whereby it was agreed that negotiations would re-commence in 1999 (Gervais et al., 1999). There were, of course, many as yet unresolved issues but that was the norm and considered to be the purview of future negotiations.

After the launch, the next three Director Generals - Renato Ruggiero, Mike Moore and Supachai Panitchpakdi oversaw the design of the new architecture for the rules of international trade and shepherded obtaining agreement to have a new round of negotiations – the Doha Round. All of this appeared to be fulfilling the promise of the WTO. It looked like forward progress toward further trade liberalization. Although there were some delays along the way – it was hoped that the new *round* of negotiations would be launched at the Ministerial meeting in Seattle in 1999 but

resistance from developing countries meant getting agreement on a new round required further negotiations (Gervais et al., 1999). These negotiations conceded that developing countries would not have to progress toward liberalization at the same pace as developed member states and tied economic development formally to the WTO – the Doha Development Round (Kerr, 2002; Kerr, 2005a).

The other major expansion of liberalization in the early days was the accession of China to the organization in 2001. In the era of Mao Zedong China eschewed trade to the greatest degree possible in favour of autarchic development. After his death China began to take tentative steps toward engaging in international trade but the risks were high in the absence of the protection provided by the WTO's rules of trade such that trade was considerably inhibited (Hobbs and Kerr, 2000a). Having China accept the liberalization leaning WTO rules paved the way for its twenty percent of the global labour force to be integrated into the global economy (Kerr and Hobbs, 2001, Ceko and Kerr, 2000). In fact the entire process of accession with additional countries constantly seeking to join the WTO was one of the often-overlooked facets of trade liberalization (Kerr, 2010).

Thus, in the first five or six years of the new WTO's existence, there was forward momentum toward further liberalization – in the tradition of the GATT. Of course, the expectation was that the negotiations would be hard – as they always had been – but it was expected that the WTO would continue on course (Hobbs and Kerr, 2000b; Kerr, 2000).

The WTO's Voyage

The course for the multilateral international trade system was laid out succinctly in the prologue to the GATT in 1947:

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce (GATT 1947),

Although no endpoint is specified, likely a recognition by the negotiators that the achievement of “free trade” is unattainable, progress is defined in terms of the reduction in trade barriers. The method by which progress is expected to be achieved is first obtaining agreement to have a *round* of negotiations and then to undertake negotiations under the umbrella of the *round*. Progress was achieved when agreement was reached and the *round* concluded. Backsliding was prohibited, at least for tariffs, by it having been agreed that rates were *bound* meaning they could not be raised during future negotiations. This had been the *modus operandi* from 1947 until the conclusion of the Uruguay Round in 1994 and led to eight successful GATT *rounds*. The negotiators of the WTO saw no need to alter this successful route for achieving progress. It was noted that the time it took to achieve a successful conclusion to a *round* was increasing with each round, but this was put down to the growing membership and the rising complexity of the agenda as non-tariff barriers were increasing in importance relative to the high tariffs that had dominated early *rounds* of negotiations.

The new WTO appeared to be following the expected pattern. At the Doha Ministerial in 2001 agreement was reached to have a new *round*. The parameters of the negotiations were set out with some areas not opened for re-negotiation such as the TRIPS. Other areas such as the Rules topic which contained contingency protection measures including *dumping* were opened only after difficult negotiations with the United States and with strict boundaries on what could be negotiated (Kerr, 2006). The re-commenced negotiations on agriculture to start in 1999 agreed in the Uruguay Round were rolled into the Doha Round agenda. As with previous GATT *rounds*, negotiations commenced.

Hard Bargaining

The early sessions of the Doha Round were characterized by hard bargaining. The Uruguay Round had been dominated by bargaining between the US and the EU with other parties such as major agricultural trading countries working to achieve a compromise on, for example, the contentious issues surrounding agricultural trade. The actual negotiations were facilitated by the use of so-called *Green Rooms*, whereby a subset of *interested* countries would negotiate without being encumbered by having to deal with the entire membership. Only once agreed compromises were achieved in a *Green Room* were the deals presented to the broader membership – largely as a *fait accompli*.

The use of *Green Rooms* was a contentious issue at the Seattle Ministerial because developing countries were no longer content to allow developed countries such as the United States and the European Union to determine between themselves the trade rules

they had to live by (Jones, 2009). The continued attempt to use *Green Rooms* was one of the contributing factors to the failed Ministerial in Cancun, Mexico in 2003 (Jones, 2009). No acceptable alternative to *Green Rooms* was, however, put forward. This meant that negotiations could only officially be conducted among the assembled Member States which had grown to over 150 – and thus was very unwieldy. Of course, unofficial meetings among smaller numbers of members could take place but they lacked the gravitas of *Green Rooms*.

A major problem for the WTO was that developing countries were no longer content to simply enjoy the prestige of being a member of the WTO – i.e., garnering the prestige associated with membership of a *club* without actually taking an active part in its rule making. It is a bit like other clubs – such a golf clubs – which allow members not interested in golf to belong and enjoy the prestige of belonging as well as access to the club’s social amenities but only allow active golfers into the club’s decision-making regarding the golf course (Kerr, 2002). By the onset of the Doha Round the WTO was no longer that type of club.

The concessions granted by developed countries to get agreement to have the Doha “Development” Round were taken seriously by developing countries. In the beginning, it is clear that developed countries did not take those to be actual constraints – rather simply window dressings – and expected negotiations to continue in their previous fashion. That expectation proved false.

Special and differential treatment was thought by developed countries to mean that developing countries would have to reduce tariffs to a lesser degree and at a slower rate than those which developed countries agreed (Kerr, 2005a). The position taken by developing countries, however, was that developed countries should offer concession to developing countries without any concessions by developing countries. For developed countries, trade negotiations were about reciprocity, and they could not offer concession without providing something in return to their industries and voters. This difference over *special and differential* treatment became a major impasse. Beyond this, agriculture remained a major area of disagreement (Gaisford and Kerr, 2001). Further, new and apparently intractable issues were arising in agriculture such as trade in genetically modified foods (Perdikis and Kerr, 1999; Isaac and Kerr, 2003).

To shepherd the negotiations through to a successful conclusion, a heavy-weight political operator was drafted in to be the organization’s next Director General – Pascal Lamy. He was a veteran French government official with a reputation for toughness and getting results. He had also had considerable experience at the European Commission in Brussels and had recently been the EU’s Trade Commissioner for five years, so he was no neophyte in terms of international trade. Despite his deep European affiliation,

he was an acceptable candidate for the United States. He was a high-profile Director General and worked tirelessly to bring about a successful conclusion to the Doha Round. He was Director General from 2005 and was elected to a second term ending in 2013.

Lamy was a proponent of the multilateral negotiations being approached as a *single undertaking*. In essence this meant that nothing was agreed until everything was agreed. As a result, any progress on *low hanging fruit* where agreement could be reached were not claimed until even the most difficult topics were resolved. While this tactic put the entire negotiations at risk, it was hoped this would put pressure on the negotiators to deal with the difficult issues so that the benefits brought from the progress that had already been made could be reaped.

In Lamy's capable hands considerable progress was made. The Members, however, could not find the will to compromise on the issue of a *special safeguard* for developing countries. On July 29, 2008 the talks collapsed. Lamy announced: "It is no use beating around the bush. This meeting has collapsed. Members have not been able to bridge their differences" (WTO News, July 29). The WTO was officially becalmed.

In the Doldrums

If there is no wind, for a sailing ship progress in a voyage ceases. After the collapse of the Doha Round in 2008, the WTO could find no new wind. The major traditional supplier of the WTO's progress toward liberalization was the United States. While the United States was not the only positive force for liberalization, it was the most consistent. Other countries waxed and waned on liberalization, but the US consistently fostered liberalization, albeit on its own terms. Certainly, different US administrations varied in their enthusiasm for the WTO but they never wavered in their support for the trade liberalization paradigm that developed in the wake of the disastrous protectionism of the Great Depression of the 1930s and its aftermath (Kerr and Viju-Miljusevic, 2019). One of the ways the United States promoted the WTO was by not entering into negotiations leading to regional trade agreements.¹ In effect, this meant that countries wishing improved access to the lucrative US market had to belong to the WTO and seek liberalization through its negotiations. This changed late in the administration of President Clinton and was enthusiastically embraced by the administration of President George W. Bush. The United States became open to negotiating regional trade agreements following a three-pronged approach to international trade relations – bilateral, regional and multilateral. The effect of this policy change meant that countries had an alternative to the WTO forum to gain improved access to the US market through the negotiation of regional/bilateral agreements. Given limited negotiating resources in

the United States this meant a queue formed of countries wishing to negotiate regionally, or bilaterally (Kerr, 2005b). Both the United States and queuing countries had less energy to put into the WTO, and less need to (Kerr and Hobbs, 2006). While a global enthusiasm for regional trade agreements followed, in the end they have been of limited effect as they seldom dealt with the difficult issues the WTO struggled with, largely by simple not including the topics in their negotiating agendas. As such, they had limited ambition. They were, however, sometimes able to deal with new issues that the WTO had yet to consider.

While movement toward trade liberalization was becalmed, globalization continued and gained momentum. This led to disequilibrium in the global economy with changes in relative comparative advantage and the creation of *losers* and well as *winners*. Those who lost their jobs, for the most part due to technological change, but also changing international comparative advantage were designated as those *left behind* and are a political problem. Those *left behind* became an important group in, for example, the vote for Brexit in the United Kingdom and the election of President Trump (Kerr, 2016a; Kerr, 2018b). While the issue of those *left behind* did not come to a head until later elections, enthusiasm for further trade liberalization and potentially additional *left behind* individuals dampened any enthusiasm for new trade deals.

Contributing to the cohort of those *left behind* was the need for the global market to make room for the China's entry. Once China had joined the WTO and the resulting reduction in the risks associated with investing in international trade activities, China began exporting on a massive scale. The disequilibrium of integrating the productive capacity of one fifth of the world's labour force into international markets caused major re-alignments in trade flows and the location of production. As the rate at which China could integrate into international markets was not instantaneous, and is still not complete, disequilibrium and the disruptions associated with it continue to this day (Kerr, 2022). The displacement of workers in developed countries, particularly in manufacturing, ignited protectionist pressures as countries tried to slow the disruptions in their domestic industries. The costs of adjustment were simply too high for politicians to ignore (Kerr, 2018b).

One of the problems for those wishing to implement protectionist policies against Chinese imports was that the Chinese government largely lives within the WTO rules including those negotiated at its time of accession (Kerr, 2019). There were no major violations of WTO law that could justify wholesale imposition of tariffs and other trade barriers. There were Chinese commercial practices that the United States considered *unfair trade* related to mandatory technological transfers, violations of intellectual property and opaque subsidies to state owned enterprises, but these were not dealt with

in WTO law (Kerr, 2020). Further, when the United States tried to impose tariffs on China for the commercial practices it considered *unfair*, China brought cases against the United States through the WTO disputes system. The United States had already neutralized the WTO disputes system by refusing to allow the appointment of new appellate judges as their fixed terms lapsed. It was then convenient to ensure that the dispute settlement system was no longer binding so that pressure could be put on China through what would not be WTO compliant tariffs and other trade barriers (Kerr, 2021). Rendering the WTO disputes system ineffective reduced the organization's appeal to other countries and meant there was less urgency to revitalize the entire organization. It was simply left to wallow in the doldrums.

Attempts to Warp Ahead

With the WTO still becalmed in the second decade of the 21st century, something new needed to be tried. Just as the officers and crews of sailing vessels attempted to warp or kedge their ships forward to provide some semblance of progress, so to did WTO officials. In 2013 Roberto Azevêdo was selected to replace Pascal Lamy. Unlike Lamy who had international trade experience but not with the WTO, Azevêdo had a long history with the WTO and Brazil's trade related diplomacy. He was the ultimate insider.

It was clear that no progress could be made as long as the *single undertaking* remained a constraint on the negotiation process. Director General Azevêdo thought progress might be made using a *piecemeal* approach. The Director General and the WTO staff began testing the waters to determine where some progress could be made. In the absence of a renewed interest in broad-based liberalization, this was similar to warping a becalmed ship. Some initial progress was made using this piecemeal approach. In the Bali Ministerial in December 2013 an Agreement on Trade Facilitation was reached along with a number of smaller issues being resolved. The results of the Ministerial were widely touted as a major breakthrough. On closer examination, they were quite modest in their impact (Kerr, 2014).

At the Nairobi Ministerial in 2015 the piecemeal approach led to an important breakthrough. A Ministerial Decision was reached on export competition (or export subsidies) in agriculture (Kerr, 2016b). Export subsidies were part of the unfinished business of the Uruguay Round negotiations on agriculture. The agricultural negotiations in the Uruguay Round had been particularly acrimonious and, to save the *round*, it was agreed in the Agreement on Agriculture, that negotiations would recommence in 1999 (Gaisford and Kerr, 2001). Export subsidies, along with market access restrictions and domestic subsidies, greatly distort trade in agricultural products. Developing countries wanted developed countries to eschew the use of export subsidies,

to remove barriers to access for agricultural products from developing countries (without offering reciprocity) and to reduce the subsidies they paid to their farmers.

Export subsidies were easier to negotiate by 2015 because, first developing countries had so few of them and thus there was no need to offer reciprocity and, second, because developed countries were moving away from export subsidies in their domestic policies. Non-actionable – Green Box – subsidies could not be countervailed and countries were moving their agricultural subsidies into payment schemes that were compliant with the Green Box criteria, which did not include export subsidies. As they were scaling back their export subsidies, developed countries could agree to limit their use at the WTO.

Subsequent WTO Ministerials have not, however, yielded similar progress, although some minor issues have been resolved through the piecemeal approach. Difficult issues remain at an impasse.

Being Useful So As Not To Be Forgotten

The results of the piecemeal approach were disappointing although not a total failure in terms of garnering a degree of forward momentum toward further liberalization through the WTO. The strategy was not abandoned when Director General Azevêdo decided to step down in 2020 before the end of his second term but expectations regarding its efficacy were scaled back.

Replacing Director General Azevêdo proved difficult, however, and underscored the lack of interest in the WTO playing a major role in trade liberalization – in particular, by the United States. There was a distinct preference by the Member States for the next Director General to be from a developing country and that it should be a woman. A consensus but one eventually formed around Dr. Ngozi Okonjo-Iweala from Nigeria. Dr. Okonjo-Iweala was impressive in her qualifications having had a long and successful career at the World Bank and a two-time Minister of Finance in Nigeria. She had a reputation as a consensus builder and for getting things done – in particular, given the challenges associated with being Minister of Finance in Nigeria. Although she had no real experience in international trade, it was felt by some that she might be the only type of person that could re-invigorate enthusiasm for further trade liberalization through the WTO.

Given the consensus-based decision making at the WTO, the United States was able to hold up the appointment of Okonjo-Iweala by continuing to support an alternative candidate from South Korea - Yoo Myung-Hee. The impasse continued until Yoo Myung-Hee withdrew her candidacy and the hostile Trump administration left

office. The administration of President Biden joined the consensus for the selection of Dr. Okonjo-Iweala.

It became clear relatively early that despite her dynamism and consensus building abilities, Dr. Okonjo-Iweala could not generate enthusiasm for progress toward liberalization. The world was also distracted by the Covid-19 pandemic and latterly by the Russian invasion of Ukraine. In the absence of movement toward trade liberalization, the Director General has been busy trying to make the WTO relevant and useful. Covid-19 brought up the issues of the protection of intellectual property, the global distribution of vaccines and export limitations of vaccine shipments. These were problems where the WTO forum could be used to discuss the issues and where negotiations could take place. Both Covid-19 and the war in Ukraine brought food security issues to the fore and the Director General's deep development experience assisted in giving food security a higher profile. She has been successful at showing that the WTO is a useful international organization even if it remains becalmed. One wonders, however, if the WTO will be able to attract such desirable candidates in future searches for new Directors General.

Conclusions

The primary purpose of the WTO when it was negotiated almost 30 years ago was to continue the forward movement towards the liberalization of trade that had begun under the GATT. The fact is, however, that the organization has been becalmed for approximately two-thirds of its existence. It has made almost no progress in fulfilling its primary mission. This may not matter because the international community and the Member States find the WTO useful in a variety of ways. Alternatives such as preferential trade agreements have not been found to be particularly effective alternatives. Living within the WTO rules is better than the likely chaotic alternatives. No country has left the WTO and countries are still engaging in the processes pertaining to acceding to the organization – although the set of countries remaining outside is now very small and they are inconsequential for international trade.

The reason for the lack of progress in trade liberalization may be that there is no longer a consensus that trade liberalization contributes to realizing the multilateral organization's objective as set out in the prologue to the GATT 1947:

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods (GATT 1947).

Until a consensus returns regarding the positive role trade liberalization can play in the global economy, progress on the WTO's mission should not be expected. The WTO will continue to be a useful multilateral organization but one without an accepted objective. What that means for the organization, and the global economy remains to be seen.

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Endnotes

¹ The United States did have trade agreements with Israel as well as Canada and Mexico in the North America Free Trade Agreement (NAFTA), but these were exceptions based on particular circumstances (Kerr, 2005b).