



THE LISBON TREATY AND THE DOHA DEVELOPMENT AGENDA

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The rejection of the Treaty of Lisbon by Irish voters in June 2008 was another blow for the widening and deepening of the European Union. This rejection was, among other reasons, linked to the position of the EU on trade on entering WTO negotiations due to take place the following month. In particular, the focus rested on the position of the Irish farming lobby which, although ultimately supported a 'Yes' vote, had initially backed the 'No' campaign. The subsequent failure of WTO Members to reach a successful conclusion to the Doha talks was an equally dismal failure in respect of trade liberalisation. This short paper attempts to shed light on the perceived linkages between the Treaty and the Doha talks and why the Doha negotiations failed again.

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1. INTRODUCTION

The original three treaties that founded the European Communities were:

- The Treaty establishing the European Coal and Steel Community (1951);
- The Treaty establishing the European Community (1957); and
- The Treaty establishing the Atomic Energy Community (1957).

A fourth treaty, the Treaty of Maastricht (1992) established the European Union.

These treaties have all been amended by subsequent treaties:

- The Single European Act (1986);
- The Treaty of Amsterdam (1997); and
- The Treaty of Nice (2001), which has been in force since 1 February 2003.

The “Treaty establishing a Constitution for Europe” (Constitutional Treaty) was generally seen as the basis by which Europe would conduct its affairs in the future and had the overall aim of streamlining these disparate existing treaties. In effect it would have become the single legal text on which Europe would be recognised as a single legal personality under domestic and international law¹.

It addressed what some perceived as the democratic deficit in Europe by enhancing the role of the democratically elected Parliament in a number of areas. It also proposed changes to streamline the legislative process and to change the decision-making procedures to provide a greater balance in the voting rights between the EU countries. However, the Constitutional Treaty was rejected in referenda by both Dutch and French voters in referenda in 2005.

Following a further two years of discussion an Inter-governmental Conference was convened on the basis that the concept of establishing an EU constitution had been abandoned. A new way forward had to be found. Under the leadership of the German Presidency an agreement was finally reached and the Treaty of Lisbon was signed on 13 December 2007. This was an ‘amending’ treaty i.e. one that would *update* the existing Treaty on the European Union and the Treaty establishing the European Community.

1.1 THE OUTCOME OF THE IRISH REFERENDUM ON THE LISBON TREATY

As with the proposed Constitutional Treaty voters, this time Irish voters, rejected the Lisbon Treaty in June 2008. The opposition to the Treaty came from a wide-range of groups including, initially at least, the Irish Farmers Association (IFA). While originally in favour of a ‘No’ vote in the Irish referendum on the Treaty of Lisbon the IFA did a *volte face* only 10 days prior to the vote citing reassurances from the Taoiseach about his preparedness to use the veto if there was an unfavourable WTO deal for Ireland. The position of the Irish Farmers Association (IFA) indicates the perceived linkages between the Lisbon Treaty and possible reform of the Common Agricultural Policy (CAP) in the context of WTO negotiations during the Doha round of talks which were scheduled to take place late that summer. Indeed after the Irish rejection of the Treaty the French President, Nicolas Sarkozy, also appeared to link the result with the position taken on agriculture by the then EU Trade Commissioner,

Peter Mandelson, during the revived in July 2008¹. The fear that the EU Trade Minister's position in WTO talks would reduce subsidies to farmers and open European markets (and so Irish markets) to cheaper imports was voiced by the 'No' campaign during the referendum campaign. However, the IFA's late turnaround to support a 'Yes' vote may have largely neutralised these fears but a consideration of the perceived linkages between proposals contained in the Lisbon Treaty and the EU position in WTO Trade talks deserves attention.

This short paper considers whether the Lisbon Treaty had any further *real* implications in respect of agriculture. It also provides a brief overview of the Doha Development Round and expectations for its successful conclusion.

2. THE LISBON TREATY AND AGRICULTURE

Following its rejection last year by Irish voters there has been concern about how the Treaty, or an amended version of the Treaty, is to be taken forward. At a December summit in 2008 the Taoiseach announced that a second referendum would most likely take place in late 2009 but on the basis that a number of legal guarantees are upheld. These include recognition and maintenance of Ireland's neutrality, taxation issues, ethical issues such as abortion, and assurances that every member state will have a commissioner². However, given the impact of the recession on the Irish economy there are signs that a re-run of the Treaty might take place in June 2009². This argument is supported by a recent Irish Times/TNS mrbi poll which indicated that 51% of voters would now vote 'Yes', with 33% saying they would vote 'No'- up 8 points and down 6 points respectively from the last Irish Times poll in November 2008³. There is still 16% of voters in the 'Don't know' category.

It may also be opportune given the controversy over the leading anti-treaty group Libertas. Libertas has attempted to establish itself as a European political party but to achieve this, and to subsequently receive EU funding, it needs supporting signatures from elected officials in 7 different member states. The European Parliament is to launch an investigation into the signatures used to try to establish Libertas as a European political party given that two of the seven signatories required³ have since denied ever backing the group. Libertas claims this is part of a smear campaign in the run-up to a second referendum⁴. However, recent further accusations have been levelled at Libertas for allegedly offering money to a Swedish eurosceptic party Junilistan (The June List), to merge with it and change its name to Junilistan-Libertas⁵.

Regardless of when a second referendum is held it is not apparent what the negative impacts of the Treaty on the agriculture industry might be. The decision-making process as it relates to the CAP will be changed with decisions taken on the basis of the co-decision procedure. That is, the co-decision procedure would become the 'ordinary legislative procedure' between the European Parliament and the Council of Ministers.

However, in principle the move to a co-decision procedure would give the European Parliament and its Agriculture Committee *an increased role* in decision-making; on

¹ Nicolas Sarkozy: I blame Peter Mandelson for Irish No vote
(<http://www.timesonline.co.uk/tol/news/world/europe/article4178046.ece>)

² Under the original Lisbon Treaty Ireland would lose its automatic right to a commissioner.

³ Bulgarian MP Mincho Hristov and Estonian MP Igor Grazin

the face of it making the EU's decisions, in respect of the CAP, more democratic. If anything this would be advantageous to agriculture interests given the generally accepted pro-farming stance of the Parliament's Agriculture Committee and the more reform-oriented Council. As the Chairman of the Committee on Constitutional Affairs of the European Parliament stated⁶:

In future, the European Parliament will have powers equal to the Council of Ministers in many areas. Even regarding agricultural policy, which accounts for almost 40% of the EU budget, the European Parliament will be able to participate in the decision-making process.

The National Farmers Union in its evidence to a House of Lords inquiry into the Lisbon Treaty welcomed the new voting system as "*simpler, fairer and more transparent*"⁷.

It would seem therefore that the suggested negative impact of the Lisbon Treaty on agriculture has no real basis in fact and the link between it and the negotiating position assumed by the then European Trade Minister on entering WTO talks were at best weak.

3. THE DOHA DEVELOPMENT AGENDA (DDA)

Negotiations on agriculture began in early 2000 under Article 20⁴ of the WTO Agreement. Importantly, in Doha in 2001, Ministers agreed to the Single Undertaking. This means that nothing is agreed until everything is agreed. The principle behind this is that it should help provide the basis for consensus by creating a situation where an agreement has something for everybody.

The Doha Declaration commits member governments to comprehensive negotiations aimed at:⁸

- Market access: substantial reductions;
- Export subsidies: reduction of, with a view to phasing out, all forms of these⁵; and
- Domestic support: substantial reductions for supports that distort trade⁶.

Since 2001 there has been a series of meetings to agree the way forward including talks in Cancún in 2003, Geneva 2004, Paris and Hong Kong in 2005, Geneva in 2006, Potsdam in 2007 and finally the failed talks again in Geneva in 2008. The reasons for lack of progress over this period have been varied and the recent failure was over issues relating to agricultural trade between a new trade bloc of developing and industrialised countries, the G20, and developed countries.

⁴ The Original Mandate: Article 20 of the Agriculture Agreement, Continuation of the Reform Process.

⁵ Members agreed in the 1 August 2004 "framework" to eliminate export subsidies by a date to be negotiated.

⁶ Again in the 1 August framework 2004 countries agreed to cut these by 20% from the first day any Doha Agreement is implemented.

4. WHY DID DOHA NEGOTIATIONS FAIL (AGAIN)?

When WTO members met in July 2008 the immediate aim was to agree the “modalities”⁷ in agriculture and non-agricultural market access (NAMA) and to consider the next steps to conclude the Doha round of negotiations. Once modalities have been agreed it would allow countries to apply the formula to tariffs on potentially thousands of products. However, the focus was to address issues related to agricultural trade and this proved to be the stumbling block yet again.

At the 2008 talks the USA, India and China failed to agree on issues; specifically, on the continuation of a special safeguard mechanism. These are contingency restrictions to temporarily deal with unusual circumstances in the market. At the Geneva talks in 2008 India took the position that this was required to protect poor farmers e.g. to have the facility to impose a tariff⁸ on imports of agricultural goods if there was a surge of imports or if the price fell. An agreement could not be reached between the three countries on the level at which these should be set with the USA reportedly advocating an increase in these duties under SSM when import surges exceeded 40% over an agreed base period while India believed this trigger should be much lower – at 15%⁹.

It may be the case that resolution of the Doha negotiations may not be possible given the current economic crisis where countries move to protect their economies by becoming more protectionist, not less, by raising tariffs. Pascal Lamy in a recent speech¹⁰ to the Lowy Institute for International Policy in Australia said

if all WTO members raised their currently applied tariffs to today's WTO ceilings, tariffs worldwide would double. A recent study estimates that world trade could then shrink by up to 8 per cent, reducing global welfare by up to US\$ 350 billion. Conversely, with what is currently on the table in the Doha negotiations, tariff ceilings would be halved and the savings for economic operators could amount to over US\$ 150 billion annually.

It is also the case that other factors may have influenced the outcome of the Doha round. A US administration coming to the end of its term may have been reluctant to move substantially in talks while an election year in India may also have made it risk averse¹¹.

However, any suggestion that the new US administration would prove more likely to move on these issue appear to be unfounded given the comments made in the first US Annual trade report¹² since the Obama administration took up office.

"It will be necessary to correct the imbalance in the current (Doha) negotiations in which the value of what the United States would be expected to give is well-known and easily calculable, whereas the broad flexibilities available to others leaves unclear the value of new opportunities for our workers, farmers, ranchers and businesses," the report said.

It does not appear therefore that there will be a quick conclusion to this round in 2009.

⁷ The formulas and other methods to be used to cut tariffs and agricultural subsidies, and a range of related provisions

⁸ A tariff is essentially a charge placed on imported products to make them more expensive relative to domestic products. It is usually seen as a protectionist measure to protect domestic markets.

5. CONCLUSION

Whether issues relating to agriculture in WTO discussions are resolved is central to a successful outcome of the Doha talks round. The European Union's commitment to continuous reform of the CAP is undoubtedly linked to its position on opening markets to imports, including agricultural imports, but this is balanced with gaining access to more open and globalised markets for its exports; and it is a separate issue from the Lisbon Treaty. Therefore reaction to the Lisbon Treaty, however misconstrued, may stem from the perceived *risks* of more open markets. However, as Mariann Fischer Boel said recently, referring to "risks" in the context of more open and globalised markets "without mentioning the opportunities" is "an important gap".¹³

The focus of CAP reform has been to redirect money away from market-distorting policies and it is evident that this will continue. As Fischer Boel went on to say to the meeting of the Agricultural Committee "*various market instruments would remain in place – but in such a form that they would act as a genuine safety net for times of real crisis. They must not set market prices*".¹⁴

Therefore, the suggestion that the failure of the Lisbon Treaty to be ratified was somehow a victory for agriculture is not just missing the point it is failing to see the bigger picture. Similarly, while the failure of the talks in July of 2008 may also have been welcomed by some elements of the farming industry it may not necessarily be advantageous in the long run. The failure of multi-lateral discussions may encourage more bilateral agreements and Preferential Trade Agreements that do not afford the same level of balance or reciprocity if they were under the WTO umbrella¹⁵.

Agriculture policy appears to have been in continual review since the advent of the CAP. The enlargement of the European Union, the ever increasing EU agriculture budget and the expanding globalisation of trade may leave what was once a highly protectionist industry at the vagaries of market forces where only the most efficient survive.

¹ <http://www.euractiv.com/en/future-eu/constitutional-treaty-key-elements-archived/article-128513>

² Irish government considers holding Irish revote in June
<http://www.euractiv.com/en/futureeu/irish-government-considers-holding-lisbon-revote-june/article-179443>

³ MAJOR SWING IN FAVOUR OF LISBON TREATY AS 51% WOULD NOW VOTE YES
<HTTP://WWW.IRISHTIMES.COM/NEWSPAPER/FRONTPAGE/2009/0216/1233867938989.HTML>

⁴ Libertas claims EU backers 'intimidated' <http://www.rte.ie/news/2009/0219/libertas.html>

⁵ Libertas in fresh controversy over bid to recruit Swedish group
<http://www.irishtimes.com/newspaper/frontpage/2009/0305/1224242305498.html>

⁶ Lisbon Treaty: a great success for the European Parliament
<http://www.theeuros.eu/1068-The-Reform-Treaty-a-great,1068>

⁷ The Treaty of Lisbon: an impact assessment. House of Lords European Union Committee
10th Report of session 2007-2008, paragraph 4.56
<http://www.publications.parliament.uk/pa/ld200708/ldselect/ldeucom/62/62.pdf>

⁸ http://www.wto.org/english/thewto_e/whatis_e/tif_e/doha1_e.htm

⁹ India China not to blame for WTO talks collapse http://www.thaindian.com/newsportal/world-news/india-china-not-to-blame-for-wto-talks-collapse-mandelson_10077542.html

¹⁰ Protectionism cannot be 'smart'. Lamy tells Australian think tank
http://www.wto.org/english/news_e/sppl_e/sppl117_e.htm

¹¹ Doha opportunity lost <http://www.eastasiaforum.org/2008/07/31/doha-opportunity-lost/>

¹² 2009 Trade Policy Agenda and 2008 Annual Report

http://www.ustr.gov/Document_Library/Reports_Publications/2009/2009_Trade_Policy_Agenda/Section_Index.html

¹³ Mariann Fischer Boel. Meeting of the EP Agricultural Committee / National Parliaments Brussels 3 November 2008. *Perspectives for the CAP in the Health Check and after 2013*.

¹⁴ Ibid

¹⁵ WTO Talks Collapse <http://www.nfuonline.com/x29611.xml>