

JAGDISH BHAGWATI

PRESENTS

WTO and India: An Agenda for Action in Post Doha Scenario

by Pradeep S Mehta

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कट्स ✕ CUTS

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Published by:

कट्स CTS

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Layout by:

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CUTS, Jaipur

Printed by:

Jaipur Printers P. Ltd.
Jaipur 302 001

ISBN 81-87222-60-3

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** Secretary General of CUTS*

#0214 SUGGESTED CONTRIBUTION Rs.200/\$20 +20% Packing/Postage

About CUTS

Established in 1983, Consumer Unity & Trust Society (CUTS) is now at the cutting edge of the consumer movement in India as well as across the globe. CUTS has since then been working on several issues of public interest simultaneously at the grassroot levels and the international levels. Its mission is to be an organisation for innovative services and act for achieving Consumer Sovereignty based on social justice and economic equality within and across the borders.

The major operational areas of CUTS are trade and development including investment and competition policies, consumer protection, women empowerment and sustainable production and consumption. It works through the tools of research, training, capacity building, dialogue, outreach, representations, advocacy and networking.

CUTS Centre for International Trade, Economics & Environment (CITEE) is working and participating in global debates on the effectiveness of the multilateral trading system and economic issues affecting the lives of common people. It is actively pursuing its agenda for better economic co-operation among South Asian countries.

CUTS Centre for Consumer Action, Research and Training (CART) is functioning as a dynamic centre for pursuing issues of better economic governance in India through its intervention in the process of regulatory reforms in utilities. It has involved grassroot social action groups in the process.

CUTS Centre for Human Development (CHD) is working on issues of women's empowerment and reproductive health at the grassroot level and also on implementation of rural empowerment programmes and other field related projects.

CUTS Centre for Sustainable Production and Consumption (CSPAC) is making efforts to encourage people to recognise their rights to a healthy environment. It is playing an active role in generating awareness on environment-friendly goods and services. In other words, the Centre is a catalyst in the quest for a better environment.

In the year 2001, CUTS became international with the set-up of a Resource Centre in Lusaka, Zambia. The objective is to promote South-South civil society co-operation on trade and development. CUTS Africa Resource Centre (ARC) is a big step towards the development of a closer and more intense relationship between the two developing regions, viz. Africa and South Asia. To consolidate this, we are in the process of setting up a centre in Nairobi, Kenya. Similarly, CUTS is working towards bridging the gap between North and South and pursuant to this, a formal resource centre in London, UK will shortly start its operations.

In this capacity, CUTS is affiliated to Advisory Group on World Trade and Related Issues, Ministry of External Affairs, Advisory Committee on International Trade, Ministry of Commerce and Industry, Central Consumer Protection Council, Ministry of Consumer Affairs, and Investor Protection Forum of the Securities and Exchange Board of India etc. nationally.

It is also represented on the Executive Boards of the International Centre for Trade and Sustainable Development, Geneva and the South Asia Watch on Trade, Economics and Environment (SWATEE), Kathmandu. CUTS is also a member of the UN Conference on Trade and Development; UN Environment Programme; UN Commission on Sustainable Development; CIVICUS, Washington DC, USA; Consumer Choice Council, Washington DC, USA; Consumers International, London, UK and Environment Liaison Centre International, Nairobi, Kenya.

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Foreword

Pradeep Mehta is a remarkable man. He has long enjoyed a reputation in India as one of the country's leading consumer advocates. He then expanded his range to international issues, turning CUTS into one of the earliest "globalized" NGOs, long before these became a fashion on the world scene. Indeed, I first met him in Midrand, South Africa in 1996 when I was giving the Raul Prebisch Lecture at UNCTAD's IXth Congress. I can add, without hesitation, that Mehta has become a leading Third-World NGO spokesman by now, overtaking even the formidable Martin Khor of Malaysia in terms of his presence and impact.

But, this collection of his writings on broader globalization issues, as also the narrower trade questions, reveals yet another dimension of his talents and achievements. He has become a fine writer whose insightful and timely thoughts grace the pages of *The Financial Times* and the leading newspapers in India.

The wide range of his interests and the competence he reveals in discussing them evokes our admiration. Notable also is his daring, and the attendant courage, as when he breaks ranks with many globalized NGOs to argue that we must support, not oppose, a new Multilateral Trade Negotiation, thus coming out on the side of those who backed the launch of a new Round at Doha. Having heard some prominent NGO leaders say that they could not sign on to a document or a position because they would "lose their standing in the NGO community", I can only applaud Mehta's toughness of mind and spirit in going alone, if need be, if that is the right thing to do.

I also admire him because, as these essays demonstrate, he rarely takes the easy and populist road that some NGOs and their supporters among the intellectuals do. Thus, he has courageously opposed the Social Clause at the WTO even though that means he (along with the Indian trade/labour unions who uniformly oppose the Social Clause as well) has become the target of the ICFTU and the AFL-CIO. Nor does he take the easy and erroneous line that Oxfam has embraced, under bad advice, that while trade is good for the poor countries, the onus for trade liberalization lies in the rich countries and not in

the poor countries, a self-defeating but pleasing position that can only harm the poor countries. In short, Mehta stands for courage and reason, not for popularity and an easy life.

In the end, it is people like him who will transform the world, by focusing on unpleasant truths rather than following the populist paths. These essays reveal, at several places, these admirable traits of Mehta's work and ideas. It is good that he has brought them together for the benefit of us all.

New York
July, 2002

Jagdish Bhagwati

Arthur Lehman Professor of Economics and
Professor of Political Science, Columbia University,
USA; Andre Meyer Senior Fellow at the Council on
Foreign Relations, USA; and External Advisor to the
Director General of World Trade Organisation

Preface

One of the major recommendations of the Brandt Commission in 1979 was that an “international trade organisation incorporating both UNCTAD and GATT is the objective towards which the international community should work.” Subsequently the 8th Round of talks under the General Agreement on Tariffs and Trade (GATT), which ran through 1986 to 1994, known as Uruguay Round, led to the birth of World Trade Organisation (WTO).

The GATT was founded in 1948 by 23 countries including India, primarily, as an arrangement to govern trade relations between member countries. India also happens to be a founding member of the WTO, which was established in 1995.

The WTO is not only about tariffs and trade. Two new areas, which were added to the GATT discipline in 1994, are agriculture, and textiles and clothing, both very important for countries like India. In addition to it, three new issues—which are entirely new to the GATT discipline—are Trade Related aspects of Intellectual Property Rights (TRIPs), Trade Related Investment Measures (TRIMs) and the General Agreement on Trade in Services (GATS).

The WTO regime provides for a biennial ministerial meeting to review the progress in the past and to consider new issues. The first review meeting was held in Singapore in December 1996, which threw up several ‘new’ issues for being examined by the members. The meet deliberated whether there is a need to incorporate them into the WTO acquis: investment policy, competition policy, transparency in government procurement and trade facilitation. These continue to remain on the agenda of WTO’s expansion in terms of its coverage of issues.

The second ministerial meeting was held at Geneva in May 1998 to coincide with the golden jubilee of the multilateral trading system. It did not throw up any new issue, except the members agreed to an understanding on studying e-commerce while agreeing to a freeze on any new taxes on it. Subsequently the third ministerial meeting was held at Seattle, in November-December 1999. The meeting proved to be a fiasco; it ended without any formal concluding session amidst disagreement between developed and developing countries on various issues, including agriculture, environment and social clause. The draft Ministerial Declaration ran into several pages with a large amount of square brackets (text not yet agreed upon).

In the fourth ministerial meeting held at Doha in November 2001, India secured major gains in several areas of the hard fought agenda. A dispassionate analysis of the Ministerial Declaration from the perspective of India's basic trade interests reveals that India bargained hard on agriculture, implementation, TRIPs and trade & transfer of technology among other areas and got a fair amount of success.

Why this book?

CUTS has been involved in the WTO process and has participated in every ministerial meeting since Marrakesh in April, 1994. At other meetings, in Singapore, Geneva, Seattle and Doha, CUTS has also organised fringe meetings on crucial issues.

We have been following the Doha ministerial conference very closely and contributing to different leading newspapers on related issues. These include articles written before the Doha meeting; despatches sent from Doha during the conference for the Financial Express; and follow up analytical articles written after the conference. In the post Doha scenario a series of articles was published in the Financial Express covering the international as well as the domestic agenda for India on most important WTO issues.

Many friends advised us that a collection of these articles would become a useful and handy referencer for readers providing them with a set of practical recommendations. More particularly for the civil servants, who are new to the Trade Policy Division in the Commerce Ministry.

Our government follows a 'conveyor belt' policy for all civil servants. After a period of time they get transferred from one post to another absolutely dissimilar activity. That is from trade policy division of the Commerce Department they may go back to their state government posted in the women and child department. The rule is that they get transferred every five years or on promotion to another department, thus we lose all the capacity that we may have built up in them. Then all the newcomers have to learn the ropes on a fast learning curve. Where they are not arrogant they learn faster, including not hesitating in asking people like me about the meaning of various GATTese terms. For example a joint secretary once asked me what is a non-paper? Another bureaucrat, a deputy secretary, called me to ask what does 'acquis' mean. Unfortunately these words/phrases are not available in any dictionary, but used liberally in the Geneva circuit. Most of the civil servants have been very good, and fast learners. If only our civil service allowed them to choose a ministry for good after few years of service, it would make more sense. Of course the policy has its advantages too, because then they don't grow moss or become a pain. They are all very bright,

and come into the service through a very tough competitive exam. Most of them retain and polish their intellect over time, though some do atrophy.

Therefore the decision to publish this book. I hope that this will help many to understand the scenario and how we can turn the Doha Development Agenda into a truly development agenda. Many have rightly argued that the agenda has no development dimensions by any stretch of imagination, while some argue that it has a development potential, if the parties concerned are honest and serious.

The book has covered all this in three parts, covering the pre and post Doha analysis, the international agenda for India, and most crucially the domestic agenda.

The gist of these articles suggests that India will have to undertake some major restructuring in current trade policy formulation process, as it is an integral component of the overall economic policy of any government. We will have to give equal importance and pursue both international as well as the domestic agenda. The international agenda essentially talks about what India should do at the international fora, in the best interest of its people and other developing countries in the context of the WTO.

While the domestic agenda outlines the set of actions which are required to be taken by the Government at domestic level for implementing our commitments under the WTO as also to make the best out of it.

We hope this book serves as a handy reference for our readers and the policymakers will make use of the analyses presented in the specific articles. At CUTS we will all be grateful if this is done. One may not necessarily agree with all that we have written, but it is a viewpoint, which we feel is important in our national interest to be examined seriously and imbibed wherever suitable.

Acknowledgements etc

I must acknowledge the valuable assistance provided by the CUTS trade and economics team in helping me write these articles. They are: Bipul Chatterji, Olivia Jensen, Pranav Kumar, Nitya Nanda and Sandeep Singh. Acknowledgement is also due to research assistants: Purnima Purohit and Seshanwita Roy for providing the critical research assistance as well as maintaining the huge documentation. And finally to my friend: Ratnakar Adhikari, General Secretary of SAWTEE, Kathmandu for assisting me in writing the article on LDCs (Ch-11).

I would fail in my duty if I did not acknowledge the support extended by Sanjaya Baru, Editor of The Financial Express, who asked me to write for them before, during and after Doha, and for the recognition they accorded.

Furthermore, my gratitude to The Economic Times for also having published my articles in the newspaper on a regular basis.

Lastly, my gratitude to the noted trade economist and our mentor: Professor Jagdish Bhagwati, for his extremely encouraging foreword. Personally, I am very grateful for his generous comments. Perhaps I may not deserve the compliments in their entirety, but that I leave to the posterity to decide.

With this book, we are also publishing a speech by Robert Zoellick, the USTR, which he delivered at New Delhi on 9th August, 2001 (See Ch-1). He was visiting India to lobby the Government to support the launch of a new round at Doha. It is a brilliant, sincere, heart warming and forward looking speech. On hearing and reading the speech, one of India's brilliant economists and Secretary of the Congress Party's Economic Cell, Jairam Ramesh said to me: "Zoellick is more bullish about India than all the 100 million Indians combined".

I am also extremely happy to publish an essay by my dear friend and guide: Arvind Panagariya, Professor of Economics and Co-Director of the Center for International Economics, University of Maryland, USA: "India at Doha: Retrospect and Prospect", originally published in the Economic & Political Weekly (January 26, 2002). This masterpiece, being published as an Epilogue to this book, deserves to be read by every reader to understand what type of changes one needs in the way India has been performing at the WTO, and what should be our strategy in future.

For readers' perusal, we publish the Statement by Youssef Hussain Kamal, Qatari Finance, Economy, and Trade Minister and the Chairman, Doha Ministerial Conference at the Closing Plenary Session, clarifying the contentious issue of 'explicit consensus' in the area of the new issues and the submission of the three Ministerial Declarations, on 14th November 2001. This statement was made by the Minister in his capacity as the Chairman of the Conference on the demand of India and other developing countries.

Lastly, we publish a comparative statement of the three draft and the final versions of the main Doha Ministerial Text, without any comments. We are not presenting any analysis merely because, it will be quite subjective and all the inside facts may not have been evident in its full splendour. However, the statement would indeed help many readers to understand on how the negotiations progressed over the five eventful days at Doha. We do this more particularly because of the small controversy, which raged in India, that the 13th November draft on the new issues (investment, competition et al) was better than the final one which was signed on 14th November. One may not agree with it

Jaipur
August, 2002

Pradeep S. Mehta
Secretary General

Acronyms and Abbreviations

ACP	African, Caribbean and Pacific
AD	Anti-dumping
AFL-CIO	American Federation of Labour & Congress of Industrial Organizations
AIDS	Acquired Immune Deficiency Syndrome
AMS	Aggregate Measurement of Support
AoA	Agreement on Agriculture
ASEAN	Association of South East Asian Nations
ASFI	Association of Synthetic Fibre Industry
CAP	Common Agriculture Policy
CTE	Committee on Trade and Environment
DPGs	Domestically Prohibited Goods
DSB	Dispute Settlement Body
EBA	Everything But Arms
EPZs	Export Promotion Zones
EU	European Union
EXIM	Policy Export-Import Policy
FDI	Foreign Direct Investment
FIPB	Foreign Investment Promotion Board
G-77	Group of Developing Countries
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GNP	Gross National Product
GPA	Government Procurement Agreement
GSP	Generalized System of Preferences
ICFTU	International Confederation of Free Trade Unions
ILO	International Labour Organisation
IMF	International Monetary Fund
IPRs	Intellectual Property Rights
IT	Information Technology
ITO	International Trade Organisation

LDC	Least Developing Country
MAI	Multilateral Agreement on Investment
MFA	Multifibre Arrangement
MFN	Most Favoured Nation
MNP	Movement of Natural Persons
MRTP	Monopolies and Restrictive Trade Policies
NCAER	National Council of Applied Economic Research
NGO	Non Government Organisation
NTBs	Non Tariff Barriers
OECD	Organization for Economic Cooperation and Development
PPMs	Process and Production Methods
PSF	Polyster Staple Fibres
QRs	Quantitative Restrictions
R&D	Research and Development
RTAs	Regional Trading Arrangements
S&D	Special and Differential
SAARC	South Asian Association for Regional Cooperation
SEBI	Securities and Exchange Board of India
SEZs	Special Economic Zones
SMEs	Small and Medium-sized
Enterprises SPS	Sanitary and
Phytosanitary Measures TBT	Technical
Barriers to Trade	
TNCs	Transnational Corporations
TRIMs	Trade Related Investment Measures
TRIPs	Trade Related aspects of Intellectual Property Rights
TWIN-SAL	Third World Intellectuals and NGOs Statement Against Linkages
UNCTAD	United Nations Conference on Trade and Development
USTR	US Trade Representative
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

Part I

**PRE AND POST DOHA
ANALYSIS**

1

Why India should Support A New Round of Negotiations

WHEN Thiru Murasoli Maran talks to Robert Zoellick this week, the best thing he can do is be positive. He should say 'Yes' to a new round of trade talks at the WTO, not because of hard sell by the US and EU in their door-to-door sales push for the round in the world's capitals, not because other key developing countries such as Brazil, Mexico and South Africa, and even China, favour a new round, but because it is the best thing for India to move forward the implementation concerns in the current context.

No one is under any illusion that the bargaining by national delegations at the WTO is as tough as any in Chandni Chowk and India needs to be ready to give as well as to take. But this is not something it can do standing at the Red Fort.

It's not clear at the moment, what issues will be on the table for the November Ministerial. Some of the most contentious issues are already there in the 'built-in' agenda, notably agriculture and implementation.

But without an agreement on a broader overall package, the arduous but ultimately beneficial process of hammering out trade-offs cannot even begin. Negotiators should never compromise key national interests.

As far as the US is concerned, not all issue areas are up for barter. On anti-dumping and TRIPs, the US position might as well be set in stone. The domestic corporate lobbies are too strong for the US administration to engage in negotiations.

The US is also very unlikely to reduce its high tariffs on clothing and textiles on which so many jobs depend. In the area of TRIPs due to all the noise on public health, the US will not go hammer and tongs after countries, which are failing in implementation.

No Linkages on Labour Standards

In its turn, India should dig in its heels on linkages between trade and labour standards. Such a linkage would undermine India's key advantage in international trade, its plentiful labour force.

The protectionist motivations for the linkage are barely disguised by US unions who are happy to flex their political muscle through Democrats in a finely balanced Congress.

If India and other developing countries give in on this issue, they will be abandoning millions of their own people for the sake of a few thousand jobs in the southern United States.

In this resistance movement, governments have the support of some of the world's most respected US-based trade economists: Jagdish Bhagwati, Jeffrey Sachs, T N Srinivasan, Arvind Panagariya, and many others.

If any more proof of the legitimacy of that position is needed, it can be found in the TWIN-SAL statement of 1999.

In the run up to Seattle, 103 people from all over the world signed on to the Third World Intellectuals and NGOs Statement Against Linkage (TWIN-SAL). The statement called for the Linkage between trade and labour standards to be buried. Two years on, experience has only fortified their arguments.

Of course, Zoellick faces a precarious position at home on introducing labour standards into the WTO framework. Most Democrats, and a number of Republicans, have stated this as the price of their support for the President's fast track (trade promotion) authority.

But a handful of Democrats do understand developing countries' objections. A clear and reasoned rejection of the linkage by India will help strengthen Zoellick's bargaining position when he returns home to face Congress.

Development Agenda

The US and India share common ground in several areas. On agriculture, both countries would like to see the EU reduce its enormous subsidies to farmers.

On tariffs, too, they both have an interest in seeing their trading partners reduce their dirty tariffs. On environment too, both India and US share the same concerns.

Many in the US are becoming as suspicious as India that rules would be another form of protectionism.

Resistance may be called for on labour standards, but in other areas India should be taking a positive approach. EU leaders have been liberal with their rhetoric on making the new round of trade talks a 'Development Round'.

If that's the case, then let India turn its list of action areas into a Development Agenda. It should, after all, be the developing countries that define this 'development', that others are so happy to talk about.

A real Development Agenda would prioritise implementation, reform TRIPs and make Special and Differential treatment and technical assistance operative realities.

It would also include a genuine approach to the movement of labour. If developed countries are really committed to the multilateral trading system and getting the developing countries on board, then accepting a Development Agenda is their only option.

If this commitment is hollow, then let India's positive engagement reveal it for what it is.

(The Economic Times, 06.08.01)

Moralists do not Make Great Diplomats

THE Government has finally recognised that the country needs a negotiating strategy at the WTO. At the Cabinet meeting last week, ministers agreed to work on a so-called 'fall-back' position in case India's strong stance in opposition to negotiating a new round in the absence of progress on implementation is undermined.

The US and the EU have been relentless in their efforts to push and cajole developing countries. The events of September 11 have had surprisingly little impact on the pushes and pulls at the WTO in the build up to the ministerial. Perhaps the only effect has been to make countries like Pakistan that little bit more pliable to US demands.

But in general, national governments have been behaving according to their accustomed patterns. Most of all India, which has developed a habit of waiting to the last minute before finally deciding that it doesn't want to be left out.

The damage done by this delay has not been critical — yet. But the failure to think through the longer term objectives of India's trade diplomacy and devise a realistic path to achieving those ends leaves India always on the receiving end of proposals. Successful negotiators put almost all their time and effort into building coalitions.

In the past, India has found allies in large and influential developing countries like Egypt, Malaysia and Pakistan. Many other smaller developing countries have looked to India to provide leadership on issues of key importance to them. However, for this ministerial as for previous ones, India's allies have slipped away, tempted by lures from the US and EU, directed at these countries.

Common Position on Overlapping Interest

Indian negotiators should be devoting much more time to developing strong common positions with other countries where their interests overlap. Moralists do not make great diplomats, and in seeking to identify and woo coalition members, India needs to have a clear idea of where interests do and do not overlap.

Of course, this will vary across issue areas and negotiators should not be afraid to work with different groups with regard to agriculture and implementation, for example. Crucially, India should look to alliances with one or other member of the Quad to put pressure on the more recalcitrant of the major trading powers.

The long delay in coming round to a sensible 'nuanced' position at the WTO has created other problems. One is that it has shortened the time for the vital research, consultations and preparation that feeds into the formulation of the Indian position on the issues.

The able officials under minister Maran have been caught in a trap: they could not prepare for negotiations because the government was adamant that it would not negotiate. Now, with only a couple of weeks to go, they are expected to provide effective support to the delegation that will visit Doha. To expect this is to expect the impossible.

Perhaps the most harmful effect of delay is the impression that this gives to the general public. The Indian public tends to be sceptical, to put it mildly, of the benefits of the WTO.

All the government's criticism of the WTO and its avowed refusal to take part in negotiations have deepened their distrust. The government's modified stance comes after an intense period of one-to-one discussions with the US. To the outsider, it certainly seems as if India was pushed into acceptance of US demands.

If this was an intentional tactic of the government, then it's one that will almost certainly backfire. Domestic resistance to any and everything related to the WTO will tie negotiators' hands, making it more difficult for them to achieve what is in the national interest.

Inform not Delude

The government's duty is to inform and enlighten the public rather than delude them. This should apply as much to the benefits that trade liberalisation under the WTO brings to the country as it does to the problems that this creates for certain economic sectors and groups.

Forming a strategy for India's position and goals in WTO negotiations will mean drawing together these threads: shaping public opinion, building knowledge and expertise on the issue areas and building a coalition with those who are genuinely like-minded. Not an easy task, but such strategic thinking is long overdue.

(The Economic Times, 02.11.01)

3

On India's Stand at Doha

INDIA'S stance against the new round of WTO talks is seen by some as the righteous action of an independent nation. But the risk is that in defending its principles, India could end up sacrificing its interests.

And if the new round is launched at Doha, many will say that we buckled under US pressure, as they did when we invited the Pakistani dictator, General Pervez Musharraf, to India.

The multilateral trading system under the GATT and WTO has been shaped by rich countries, but these countries have failed to deliver on their commitments and the promised benefits to developing countries have not materialised.

Furthermore, India is one of the few developing countries with the size and influence to attract the attention of the world when it raises the flag. The prospect of new markets in the growing Indian middle-class market is making the US and the EU much more sensitive to India's trade concerns.

But, with a slightly more than half a percent share of world trade, India is not so powerful that it can put trade liberalisation on hold single-handedly.

Even if we manage to stall the launch of a new round, the rich countries will pour their energies into bilateral and regional agreements. Regionalism will almost certainly be more damaging for India than multilateralism – it diverts trade.

More importantly, these deals are being used as templates to widen the scope for the inclusion on non-trade issues like labour and environmental clauses.

Shaky Alliances

The recent agreement between Jordan and the US, whose trade is less than a decimal of a percent, is testament to this. In international trade negotiations, other countries are driven by the single-minded pursuit of selfish interests.

India may want to highlight the fundamental injustice in the system, but the risks of taking this path are very real. In the realpolitik of international economic relations, India's views are much more likely to get heard if we are on the negotiating table as deals are hammered out.

The EU, US and Japan are seasoned participants in multilateral negotiations. They have committed to an 'ambitious' new round and have already been trading rewards and concessions for the last few months.

Other developing countries are very unlikely to stand with India when targeted offers are put before them. Looking at past experience, we can see that with the right incentives, even the most vociferous objectors can succumb.

At the 1996 Singapore Ministerial, to take just one example, Malaysia agreed to discuss investment in exchange for an Information Technology Agreement (because of a big and growing IT industry). Similar deals are bound to be struck in the run up to Doha.

Progress on India's key interest — the implementation of existing agreements — may also require negotiations, i.e., trade offs. In these circumstances, India has to be realistic rather than idealistic. If we are to see any progress in the areas that really matter to India, we must acknowledge the need for some reciprocity.

On the contrary, we would only be agreeing to start talking. These talks can be dragged out virtually indefinitely. Witness the performance of the WTO study groups on investment and competition, set up in 1997, which are yet to come up with any concrete proposals.

Favour New Round

Arguments for India to participate in a new round are appreciated by many of India's influential figures. Like me, they are not saying that India has to agree to anything at the WTO, just that she should be prepared to start talking.

This view has been expressed by T N Srinivasan, B K Zutshi, Anwarul Hoda, Jairam Ramesh, T N Ninan, Sanjaya Baru and other experts in a joint statement, with other noted economists like Arvind Panagariya and Jagdish Bhagwati writing on the same lines in newspapers.

Recently in the USA, the leader of the opposition, Sonia Gandhi, has supported such an approach, while even the finance minister Yashwant Sinha has advocated the same.

At a recent conference in New Delhi, our prime minister has showed maturity by not ruling out a new round, but stating that we are open to discussions. Nobody can doubt that these people have India's interests in their hearts when they call for engagement at the WTO.

(The Financial Express, 12.11.01)

Why India should Support A New Trade-Negotiating Round

THE reverse countdown to the fourth World Trade Organisation (WTO) Ministerial Conference has begun without any agreement on the agenda.

Even the European Union and the United States, the world trading giants, have not been able to overcome their major differences over the Agreement on Agriculture. Already a sense of panic seems to be taking grip on the international trading community.

Before the summer break, Mike Moore, director-general of WTO, urged members “to get real” on agreeing the agenda. A second failure to launch a global trade round, he said, following the failure in Seattle in 1999, “would certainly condemn us to a long period of irrelevance”.

Though India’s share in global trade is slightly over half-a-percent, it has emerged as an influential voice in the international trading community. What is India’s latest stand vis-a-vis the agenda? “No” to a new round unless implementation issues are resolved satisfactorily, and “No” to negotiations on the so-called ‘new’ issues, i.e., competition, investment, trade facilitation and government procurement.

However, different shades of opinion are becoming apparent among Cabinet members. The entire world is looking to India as a leader of the developing world and a major potential force in future global trade. India must realise that it is now time to take concrete steps rather than engaging in set-piece rhetorical exchanges.

The WTO is a forum to bargain and negotiate. In this environment, principles take a back seat to a realistic assessment of what is best for the country. Yet India’s steadfast resistance over the two years since the Seattle Ministerial has hardly softened, leaving no room for the give and take that trade talks necessarily involve. This is hardly the realistic approach that a successful trade negotiator requires. Indian policy-makers need to weigh up carefully the potential gains and losses of this approach to key groups—consumers, farmers, manufacturers etc. The opposition may sound better than it actually is, given the alternative.

Some of the influential developing countries like South Africa and Egypt have shifted camps from the no-round camp to yes-round camp. Some are crediting the shift to arm-twisting by the US or EU, but it may also be the result of a reassessment of their national interests.

Target the End Objective

One of the main reasons for opposing the new round is non-implementation of Uruguay Round Agreements. The logic sounds fine: you should not give away more until you get what you were promised. But what is our end objective? The successful resolution of implementation issues. Progress outside the context of a round of trade talks has been limited.

Recently, the least developing countries (LDCs) have won duty and quota-free access for an extended range of products to the EU under the Everything But Arms (EBA) proposal, but three of the most important items (rice, sugar and bananas) have been excluded.

The strategy of resisting a new trade round has yielded some results, too, at least in terms of attracting attention. Robert Zoellick, the US Trade Representative, probably would not have visited India had she been supporting the new round. He has offered some concessions to India within the unilateral Generalised System of Preferences (GSP) programme. Duty-free access to the US market under GSP is to be restored on 42 products including carpets, jewellery and leather. This decision by the US government is almost certainly intended to convert India into a supporter of the new round. However, there are no guarantees under this system—the privileges can be withdrawn as quickly as they were granted.

Another reason behind the resistance to the new round was to stop the US and others pushing labour standards onto the agenda.

However, it looks increasingly likely that this highly contentious issue will not be included in the talks. Developing countries have made a strong case against the linkage at the WTO and dug their heels in.

Cost-Benefit Analysis Necessary

India needs to assess what there is to gain from holding its ground at this stage. Can any more concessions be wrung from the developed countries? What kind of pressure will India be able to exert if other influential countries are all in support? In theory, the agreement of all the members of the WTO is needed to start a new round and, even alone, India would be able to put on the brakes.

In practice, countries which see gains from trade liberalisation will find ways to move forward, inside or outside the WTO. Isolation is not the issue; results are. China, for example, was able to develop very successfully outside the WTO.

China stood apart when it served the national interest. Now, it is willing to accept the conditions for joining.

India needs to conduct the same clear-headed analysis with regard to the new round. Indian policy-makers should also develop maximalist and minimalist positions on all of the issues that might arise. Even if a new round is not launched, mandated reviews of agriculture, TRIPs, services etc. will have to go ahead. A more flexible approach would allow negotiators to respond better to the situation as country coalitions shape up at WTO.

India should approach the Doha meeting as an opportunity. It has a renewed strength in the international community. Perhaps it is for the first time India's voice is being given a significant weight in international trading community. This will allow Indian negotiators to bring home real benefits for the country if they are given the flexibility to engage in agenda formulation and to engage actively in any subsequent negotiations, right from the beginning.

(The Financial Express, 06.09.01)

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WTO: Why All the Fuss Over the Doha Ministerial?

THE hype in India over the ministerial meeting of the World Trade Organisation (WTO), scheduled to begin this week at Doha, can only match the Niagara Falls in its fury, but in substance it is as nonsensical as an elephant climbing the Mount Everest.

Indeed, the WTO is an unequal treaty, but that truth applies to all countries, including the rich. If one looks at the hype in the United States over WTO it is about the same level as that in India. But, we are a tiny economic player against what the US is, despite the current downturn in the latter.

In this scenario, basically there are three issues before the international community: whether Doha is a safe place to meet at this juncture; whether the draft text of the ministerial declaration is acceptable to all, and lastly, in the unfair international trading system, whether the poor are going to get the short end of the rod once again.

Doha, Safe or Unsafe

Doha is as safe or unsafe as any other place in the world today. A huge collection of important economic decision makers at one place could attract a terrorist action through whatever means, anywhere in the world. If the World Trade Centre or the Pentagon could be attacked, so could the Convention Centre in Singapore. And the action could be through chemical or biological means as well, however, that is a remote possibility in the present circumstances.

The likely attackers are under siege, and Doha is not the best place for them to carry out an adventure knowing that it would alienate the Arab community, thus losing the polarising advantage.

Second, as many of us know, the international community could not have pulled out from Doha at this critical juncture for both political and economic reasons. It would have alienated the Arabs to quite an extent. After all, Qatar offered its capital to host the meeting at a juncture when no other country was willing and has spent a considerable amount in ensuring that it is held in a proper manner. Also, people don't want a second Seattle.

On economic grounds, postponement of the meeting could have lead to a lull in the possible recovery that the world is desperately looking for.

Investment, Competition and Environment

Now to the document which is causing much heartburn, because it seeks to continue to deepen the WTO's involvement with non-trade issues such as investment, competition, environment etc. Are these non-trade issues in the realpolitik sense? They are not.

The Uruguay Round, itself, had brought them in, and the first ministerial meeting at Singapore in December 1999 ensured that they are on the WTO's agenda and work programme. Investment and competition have been discussed in a structured manner over the last four plus years, while environment has been discussed in a committee since the beginning of the WTO.

Investment is already there under the General Agreement on Trade in Services (GATS), while negative investment measures have been outlawed under the agreement on Trade-Related Investment Measures (TRIMs). It is the TRIMs accord which requires further work on investment and competition.

Despite, the US recalcitrance on both investment and competition, the subjects are there for being adopted for negotiations. That means that the US is acceding to the European Union (EU), for getting them to agree to reduce its subsidies in agriculture. The EU would like to show some achievement at Doha if it has to carry along members such as France to cut subsidies.

Tactically, the EU has drummed up storm on environment to create further non-tariff barriers for agro goods. That is also another bugbear for the US, considering the dispute over the beef hormone case etc. Environment of itself has been discussed inconclusively over the last five years. In this, there are issues for India as well as other developing countries, such as biodiversity, TRIPs, transfer of technology, domestically prohibited goods etc.

So, there exists a balanced agenda under this too. The problem areas are labelling, and the manifest PPM issue under it. But, it is not so difficult for the negotiations, if any, to be carried on for another few years. If one looks at investment and competition, negotiations will only be launched at the next ministerial. Here too, countries will be allowed to opt out if they are uncomfortable.

The situation is not so bad as it was under the Uruguay Round. Developing countries, including India, are better equipped with even the US as a strong ally, that one needs to be afraid of negotiations. Besides, we have smart negotiators who can drag the issue for years and years without any conclusion. In the end, there may not be any agreement at all. Perhaps, only good practice codes maybe agreed which will not be justiciable.

In any such comprehensive negotiations, inevitably there are trade-offs. As issues to be gained from, India will have enough to push its own agenda: traditional knowledge and geographical indications under the TRIPs agreement, movement of natural persons under the GATS and so on.

The only problem that we have in India, and perhaps few other developing countries, is that civil servants are the negotiators. By the time they learn the ropes, they get shunted out to another job. If only the government can think of a better arrangement, we may ultimately lose out.

Issues Beneficial for India

On the matter of transparency in government procurement and trade facilitation, we have nothing to lose. On the contrary, we have everything to gain. First, it will lead to better governance and reduction of barriers, which can be helpful both domestically and for our export markets. The only fuss is that we have limited capacity to negotiate at Geneva. That can be resolved quite easily, if sufficient resources are devoted, which a country like India can afford.

However, in this game there are elements within our country, who would be happy to continue to bask in a protectionist framework, as it suits them. They are not lobbying for the economy, but for their narrow goals and they need to be checked if India has to push its reforms agenda.

One good example of this is in the move to enact a new and better competition law. One of the main reasons for this is the discussions at the WTO. The proposed bill is already facing opposition from the same protectionist elements.

India is neither a small country nor a weak one, that one needs to be afraid about the agenda at Doha. After all only a road map will be adopted, and not the final destination. We have enough capacity and gumption to take on what will come out of it. We already have our own road map, which will need to be worked upon in times to come.

(The Financial Express, 06.11.01)

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Arm-twisting and Horse Trading Gain Momentum

DESPITE all the howling, countries are engaged in specific talks on the controversial text of the draft ministerial declaration being negotiated here. Arm-twisting and horse trading tactics are accelerating as the D-Day approaches. Countries are reexamining their positions as any trader would, when selling or buying.

China, which was formally admitted into WTO on Saturday, has already sounded its support for a new round. Till a few weeks back, it was part of a G-77 statement opposing a new round. That appears to be an example of what countries can do, when carrots (or sticks) are offered. With a 4 percent share of the world trade, China is looking at doubling its share over the next ten years, and that is the main reason behind its progressive rather than a defensive stance. How much of this has sunk into the traditional allies of China, if there are any, will be seen over the next two days.

India, which is otherwise on a sustained offensive, had signaled a change, a very small one, that it was ready to look at issues as a package in spite of its disappointment.

This was stated by commerce minister Murasoli Maran, in his speech at the opening plenary in the context of implementation issues. Whether India will change its hard line position remains a million dollar question. Pundits feel it won't and in that process may get isolated.

Maran is confident that it is not losing the support that it has been enjoying from the African Group and the Like Minded Group, but he appears to be naive that they will not change their position quietly when offered incentives, lures and threats.

Malaysia's Changed Stand on Singapore Issues

At Singapore ministerial conference, from where a lot of troublesome baggage comes, Malaysia was a strong supporter of India, that there was no need to even discuss investment and competition. However, when it came to signing on the dotted line, its stand changed. Malaysia explained to India that it

was only a study process and so one need not worry and secondly words: 'explicit consensus' were added as a part of the language for the purpose of negotiations.

India continues to harp that there is no explicit consensus on negotiating investment and competition therefore the study process should continue for some more time. With a fresh onslaught by Malaysia the position of the European Union on investment and competition has also softened, and perhaps there may not be any agreement to negotiate them over time.

The USA was in any case not a demandeur for both the issues, but was willing to go along as a trade-off with EU to get its hands onto its agricultural subsidies. That leaves EU with a little room to maneuver.

Under the present situation, EU is now harping on getting a better deal on environment so that it can a) carry its members and the civil society along, and b) create more rules-based barriers for agricultural imports into its domain.

The USA is not too happy about it, as much as many developing countries, and we will see how things move in this complex game of trade-offs only by Monday.

(Reporting from Doha, The Financial Express, 12.11.01)

Six Chairs in Search of an Agenda

UNLIKE Seattle there are no street demonstrations happening here, but some of the southern delegates, including India, are as angry as they were with the process. The 4th ministerial conference of the WTO maybe a success or a failure. Clearly it is quite early to say what is likely to happen at the end of the day, but there is a desperate desire of many to arrive at a consensus and go home without an en'core of Seattle.

The proponents will make all efforts to ensure that there is least resistance in moving forward an agenda even if some countries are not happy. To begin with the process problem arose when the chair set up six working groups with unelected chairs to handle the contentious issues. Mexico would chair the group on TRIPs and public health; Switzerland on implementation; agriculture by Singapore; environment by Canada; new or Singapore issues by Chile, and rule-making by South Africa.

The chairs are all from countries which are in favour of a new round. They did not wish to select India or Malaysia or Pakistan or from any African country, South Africa being an exception. Pakistan too may change its spots, though they continue to be belligerent.

Participants at each of these six groups will include the heads of delegations—in most cases the trade minister—accompanied by only two officials. But this process will not preclude the chairs from conducting informal meetings to steer the working groups, and that is one strong bone of contention.

For the Latin Americans, the text has little technical problems, but certainly political. They feel that this can be improved if there is some more give and take, and the difficult ones are handled bilaterally.

At Seattle the African unity was a major factor, though not as the most important one. Thus the powerful are working to break the unity, and also succeeding at it. Already Kenya has stepped down from the leadership that it had provided at Seattle with a demand on improving the TRIPs text. Now it wants that other countries in Africa should take the lead. Another influential African country, Tanzania, the spokesman for least developed countries, has come out in favour of a work programme which would have a development

agenda, as the only way forward for the improvement of the lot of the poor. Indeed there is the refrain of negotiating any of the new issues: investment, competition etc.

Agriculture the Deal Breaker

Both the USA and the European Union have held press conferences announcing that a deal is necessary otherwise they would go their own ways, which would be worse for the poor, than for themselves, that is having an effect. It would now depend on how many of the recalcitrant countries fall in. Things will start getting warmer over the next two nights.

Agriculture can be the deal-breaker. Indeed the US has agreed to the new issues being pushed by the EU and Japan, if the EU will agree to cut back its agriculture subsidies. The EU has expressed its dislike for the text on agriculture, but perhaps that may be public posturing. In his press conference, the USTR Robert Zoellick admitted that it may not be easy to push for its demands. The EU's agriculture commissioner, Franz Fischler rebutted, that the US itself gives huge export credits which will not remain unchallenged if the EU has to come down. The US subsidies are cleverly disguised and WTO-compatible.

Some of the developing countries, grouped under the name of Friends of Development Box have put forward a proposal for a development box to be included in the agreement on agriculture. Their concern is that the Indian proposal for 'food security' can cut both ways. After all the contentious European Common Agriculture Policy is based upon the concept of food security for Europe.

These Friends include Pakistan, Cuba et al who are all a part of the Like Minded Group of Countries who had been leading the opposition brigade at Geneva, and somewhat at Doha. How will they continue to hold on to their unity and be able to influence the outcome, can only be seen over the weekend.

The outcome could be a sanitised version of the declaration without any mandate, which is what India will be happy with. The second option is a declaration with a mandate to set up a preparatory committee to design the contours of an expanded work programme, as happened at the time of the Tokyo Round. The third option is the current Harbinson draft (with little changes), which has something in it for every one but not everything for everyone.

(Reporting from Doha, The Financial Express, 12.11.01)

Who's Going Home Naked?

TRADER ministers are still trying to find the right words to paper over the wide cracks in different countries' views on the Ministerial Declaration. They need to reach some kind of consensus before the day is out or deal with the probably more painful consequence of another failed WTO Ministerial.

Meetings were taking place with gathering pace in various forms—one to one, one to many—until midnight of Monday, and the tension rose palpably. One example of unexpected tension is the African group threatening a walk out over the refusal by some Latin American and other countries to accept the Cotonou waiver. These countries are the Philippines, Thailand, Colombia, Honduras etc.

The Cotonou Agreement is an extension of the Lome Convention which offered preferential tariffs to the former European colonies in Africa, Caribbean and the Pacific (ACP). The issue was not to be on the official agenda but after the challenge to the banana regime, the ACP countries do not wish to take chances. Therefore, they pushed the issue to be included in the Doha declaration for a sort of validation.

Officials are still holding out hope for a solution as the prospect of failure pushes them towards compromises against which they have been swearing for months. Seasoned negotiators say that this is a familiar pattern, with achievements in the last few hours greater than in the first four and a half days.

However, all the sides are very reluctant to be the first: as long as the EU stands firm on agriculture, the developing countries will not make the concessions that they can easily afford to make in other areas. Still there has been some progress on access to drugs, which could be the key to unlocking a series of deals in other areas. More importantly, the US is at least listening to some demands on the textiles front.

EU in a Difficult Position

However, the real sticking point is agriculture for the EU, as its representative Pascal Lamy is in a very difficult position. The EU already seems to have lost two of their most important issues, investment and competition, that they were hoping would help them to distract the public back home from concessions on

agriculture. Without some kind of deal on their third issue: environment, Lamy is in danger of “going home naked.”

EU's allies are slipping away as the crunch point draws in. Japan, Norway and South Korea have now agreed to the language of the draft text on agriculture, which calls for the gradual phase-out of export subsidies.

It's not hard to imagine the tension there must have been in the room as EU's trade ministers met together Monday night. The hard bargaining outside is also creating tensions inside, as the French are increasingly isolated from the rest of the EU delegation who think time has come to show good will in return for progress across the board.

Another contentious issue is anti-dumping. The US is relenting from its tough positions and that can help in reaching some sorts of consensus on rules and negotiations. Another potential danger which, can break a deal is EU's softening of its position on environment. Developing countries, US and Canada are opposing the EU's approach to environment.

Of the three major issues, as pushed forward by the EU, eco-labelling will likely succeed, but the relationship between multilateral environment agreements and the WTO will remain, whereas consensus is still elusive on precautionary principle.

The US insists on formalising links between secretariats of MEAs and the WTO, not considering any legal language or issues clarifying legal precedence.

Hard Bargaining

Meanwhile, the US and the EU are doing each other no favours. While a united front between the two would be formidable enough to break down the defences of the developing countries, they are badly divided. The Americans would be very happy to see that the EU was forced to reduce its farm subsidies, while the EU would be as happy to see the Americans rein in their anti-dumping regime.

Therefore, at the end of the fourth day of the ministerial, four deal-breakers have appeared: two from the developing world and two from the developed world (two-against-two).

Textiles and access to cheap drugs are pitted against agriculture and environment. On textiles, US and Canada have declined to make any concessions beyond their Uruguay Round commitments, but the developing countries, led by Pakistan, are urging to accelerate the pace of liberalisation commitments.

On TRIPs and public health, amendments to the draft Ministerial Declaration went mostly in favour of the Third World. According to the new text, WTO Members may enact intellectual property rights legislation that permit them to

import medicines from third countries rather than purchasing them directly from the manufacturer or its local licensee. “India today achieved a major breakthrough”, screamed an Indian government release.

On other issues, labour standards are nowhere on the scene. On Sunday, the EU, backed by Norway, Switzerland and South Africa, was calling for changes in the draft declaration to incorporate stronger language on labour standards. A day after, Mr. Lamy was forced to say: “We’re nowhere. We will push it, but for the moment there’s nothing more than the Harbinson text on the table.” Perhaps, the EU’s push was to satisfy its domestic constituencies for the time being and its subsequent retreat may broker a deal on other areas, notably agriculture and textiles.

Thus, of this two-against-two deal-breaking situation, its one-all between the developing and developed world. Developing countries got what they wanted in TRIPs and public health, while the EU was successful in pushing forward its agenda on environment (at least partially). The US is mostly playing off-the-ball game and trying to mediate between these two blocks. This leaves two issues (textiles and agriculture) without some sort of an agreement.

However, deals are always multi-faceted and within apparently cohesive blocks there is more interplay. If the Ministers come out with a declaration today, this in itself will be a major achievement, considering that a couple of months ago many people thought the meeting would not go ahead at all.

In the end, the September 11 effect seems to have sensitised the rich countries a little more to the plight of the poor, and the developing countries have not lost the spirit of unity that they achieved in Seattle. This is a heartening news for the world trading system. Now all that is required is the courage to give a little ground in the knowledge that giving a little means gaining a lot.

(Reporting from Doha, The Financial Express, 14.11.01)

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So far So Good and Kudos to Maran, But What Next?

WE did quite well at Doha. Maran and company deserve our congratulations for putting up a strong fight and succeeding in doing better than what most pundits, including this writer, had forecasted. Also the developing countries as a whole, who stood steadfast, rather than buckle under pressure. But to assume that this position will remain the same over time will be a mistake. After all none wanted a Seattle encore, which would have been bad for the WTO and the world economic system.

There will be a new round, in spite of the civil society, developing world and India's opposition. If some would like to call it a development round, then it will be in India's interest to take stock of its gains and losses, and draw up a long term plan for development.

This will require an immediate and serious effort for developing a plan for the next two years. Two years is a very small period in time and will fly past before we can utter the words: Murasoli Maran. The tough issues of investment and competition will be on the table at the next ministerial, in spite of the 'explicit consensus' required to launch negotiations.

It will be well worth taking stock of the positions of various countries, and how they moved from time to time, and how they would shift again, given newer lures and incentives. The rich know how to divide and rule, and the poor will put forward issues of their self-interest as the quid pro quo. This was evident when at the last moment, the 78 African, Caribbean and Pacific (ACP) countries pushed for an explicit waiver of the WTO rules to the Cotonou accord, though it was not on the agenda. The waiver secured the ACP countries' support leaving India isolated.

Issues of Self interest

At a panel discussion on trade and competition organised by CUTS at Doha, the EU representative stated quite candidly that if they don't get competition and investment now, they will use such regional trade agreements to push for the same. Similarly, though not a demandeur for investment and competition,

the USA will use the Africa Growth and Opportunity Act, the FTAA and the Caribbean Basin Initiative to push for labour standards and environment standards.

Though labour standards have been thwarted once again, in spite of hectic lobbying by the protagonists: the International Federation of Free Trade Unions, environment has crept in as a negotiating issue. India has always recognised that environment is already there. But it's a great pity that India and other developing countries did not push for issues of their interest such as domestically prohibited goods, transfer of environmentally sound technology (not transfer of technology, which is there for being discussed), the relationship with the TRIPs agreement, technical and financial assistance in the context of the Agenda 21 commitments etc.

The negotiators were able to resolve the differences over agriculture, the most potential deal breaker, but the jury will be out on the same, as the deal with France agreeing to it, was struck on the lines that there will be no 'prejudgement on the outcome of the negotiations'. The French president Jacques Chirac and prime minister: Lionel Jospin welcomed the deal with the refrain that the European Common Agriculture Policy will not be diluted. This will mean that our negotiators will have to start thinking of strategies to pre-empt any possible failure by looking at who benefits from the subsidies, the European (or French) farmer, or the middlemen.

What were India's Gains?

For India to claim that our farmers will benefit is a far-fetched story. They will certainly gain if only the tariffs and other distortions like tariff peaks, tariff escalation, tariff rate quotas and variable tariffs are attacked. Furthermore, what will be of vital importance is to find ways to attack the US farm subsidies, which are couched in a way that they cannot be challenged. For example, a CUTS study for the Indian Textile Ministry has shown that, the cotton prices in the US are buttressed over three times through indirect support to inter alia the ginner, the spinning mill, the transporter etc. Here the EU can be a strong ally. Our grain farmers cannot gain because our price support system has already made them very inefficient. They cannot compete against the Australian, Canadian and Mexican wheat farmer for example. Our farmers can gain if their non-grain produce is processed and exported, or milk products or even animal stock. But all this will require more reforms internally, including infrastructure etc.

India did gain by the understanding on TRIPs and public health. Other than its importance for our own people, the Indian pharmaceutical companies will be able to find new and expanded markets for all generic drugs which will be

required for pandemics and epidemics such as AIDS. To that extent one will have to prepare for the capability of the manufacturers to continue to make such medicines without being challenged under the TRIPs agreement.

In this area the agreement to negotiate and clarify the issue of geographical indications and convention on biodiversity will require ingenuity and lot of hard work. We did not dig in our heels on two crucial issues, which we could and should have. Firstly the whole issue of implementation which was India's main point of not agreeing to any new proposal until these are addressed. India and many developing countries had filed a proposal for a stand-alone agreement on Special and Differential Treatment, which could have really helped as a cross-cutting instrument for getting them operationalised. What was agreed was that, the SDT will be examined in depth wherever these are, so that the same can be operationalised, but that will be a Herculean task.

Perhaps as negotiations progress, the stand alone agreement can be foisted upon the table. The second issue is that on movement of natural persons. India had put forward a detailed proposal under the GATS agreement. The agreed text is much diluted from the earlier September text. We need to prepare for a stand alone agreement and use it not only as a counter to the possible negotiations on investment, but also for further liberalisation in the GATS framework.

Indeed Maran earned a reputation as a hard negotiator, and both Robert Zoellick, the USTR, and Pascal Lamy, the EU's trade supreme, could not budge him at all. Till the very end, India appeared to be the spoiler, until it was offered a side agreement on the thorny issue of textiles.

As far as negotiations are concerned, there is little to worry about, as we can hem and haw till the cows come home. There is enough on the table to ensure that new round will not be concluded for another 5-6 years, if not more. But if that would convey our opposition to further trade liberalisation, it would harm us more than it would others. The protectionist forces in India will continue to push for slow progress, and the second stage of reforms will slacken.

In the overall, this writer returned to India to a Deepawali, with a not so bright outlook. In fact everyone lost, because the negotiations were conducted without any purpose or outcomes, which could lead to global welfare. Oneupmanship and scoring brownie points was the order of the day. If the international community were worried about the impasse in the global economic scenario, and felt that a successful Doha meeting will help overcome that, it remains an untested hypothesis which will be scrutinised over time.

(The Financial Express, 16.11.01)

Win Some, Lose Some at Trade Talks

WHETHER India won or lost at Doha is the hot topic of discussion these days. India neither won nor lost; it bargained hard—and with fair amount of success—to minimise the losses and maximise the gains.

In the world of international trade, each country pursues its interests. With that in mind, commerce minister Murasoli Maran did play a bold gamble and succeeded. The strong alliance that India had built up with other developing countries had frittered on the eleventh hour, and if Maran had not played the gamble, India would have had to give more than what it would have been ready for.

One important area of perceived gain is that negotiations, if any, on the new issues — investment, competition, trade facilitation and transparency in government procurement — have been postponed by another two years. To me it is but a pyrrhic victory.

During the Uruguay Round (UR), the United States stopped short of demanding a full scale investment agreement under the Agreement on Trade Related Investment Measures (TRIMs) in order to wrap up the talks as well as ensure the closure of the Trade Related Intellectual Property Rights (TRIPs). In the current drama, it was the EU which was a demandeur for the new issues to offset perceived losses in its agreeing to negotiate (but not ‘reduce’, as some newspapers have mistakenly reported) agriculture subsidies. Meanwhile, horse-trading will continue, and the EU will pursue its non-trade agenda as vigorously as before, if not with greater vengeance.

We have been shouting for quite some time that non-trade issues should be kept out of the WTO. Therefore, investment and competition should be out, but it is during the UR that we have agreed to examine them under the TRIMs agreement for being possibly adopted as a part of the WTO agenda. It was a built-in agenda, like in agriculture or services. Thus, we could not have said these issues should not be there at all, otherwise we would have run the risk of losing the issues we wanted the trade community to discuss.

TRIMs remains in the WTO agenda. It would have been a significant gain if only we could have gotten the international community to begin examining the validity of the existing non-trade issues already in the WTO such as TRIMs and

TRIPs, the root of most problems. We did not pursue this line as we were afraid that we will not be taken seriously.

Not All the Singapore Issues are Against the Developing Countries

I have always argued that the so-called Singapore issues are not entirely against our or any developing countries' interest. Except perhaps the issue of investment, as there is no evidence to show that an international agreement on investment can facilitate investment flows, or vice versa. However, if there is a trade off with whatever else, then we can negotiate an investment agreement subject to getting an agreement on the movement of labour.

As far as a multilateral competition policy is concerned, we have been asking for it ever since 1948 under the Havana charter. It is required to balance the producer bias of the WTO, to be a bulwark against cross-border mergers and acquisitions, and to regulate international cartels.

Two years will whiz by so fast that we will get caught napping again. We need to take an active part in each of the four working groups and guide the agenda. For all this much homework will need to be done from today.

As regards TRIPs and public health, the ET reported on November 16 that the power of a country to import such life-saving drugs from any other country, when it doesn't have its own manufacturing capacity, is suspect. This is not exactly correct. Indeed the declaration has asked the TRIPs council to find a solution to this problem before the end of 2002. However, IPR pundits have interpreted the TRIPs flexibilities to include imports where it is not possible to manufacture the same locally. It is quite commonsensical and precedented as well. During the recent crisis in the AIDS drug, AZT, it was Indian pharmaceutical manufacturers who were exporting to South Africa, Kenya, etc.

As regards cashing in on the gains in the WTO talks, we have to attend to a huge domestic agenda before we can reap any of the perceived gains that future negotiations can throw up. Maran said this clearly, and that is his most statesmanlike statement after the Doha ministerial.

(The Economic Times, 21.11.01)

Declaration can be Termed Second Best from LDCs' Perspective

THE Doha Ministerial Declaration of the WTO has looked into the problems of the least developed countries in more ways than one. Whilst the 1980s were dubbed the “lost-decade” for developing countries in general, the 1990s have become the decade of increasing marginalisation, inequality, poverty and social exclusion for LDCs in particular.

The decade of 2000s may well become a decade of rhetoric and inaction, if the present trend is not reversed. Forty-nine LDCs of the world, which are home to 10.7 percent of the global population have 0.5% share in global GNP. Further, despite resounding rhetoric, their share in global trade is rapidly falling and it stands at 0.4 percent at present. These figures are scandalous to say the least.

The efforts made so far to integrate them into the multilateral trading system have largely failed.

One of the attempts in this regard was the United Nations Third Conference on LDCs held in Brussels in May 2001. This Conference too, like most other international events, could not provide the much needed relief to the LDCs in terms of better integrating themselves into the global economy. Most of the commitments made during the Conference were at best ‘non-binding’ in nature.

Despite meagre achievements made during the Brussels Conference, LDCs were of the view that whatever precious little has been achieved during the Conference should be included in the Doha Ministerial Conference (November 2001) in order to ensure that they are made binding. In fact one of the objectives of the LDC Trade Ministers meeting at Zanzibar in July 2001 was to achieve this objective.

Major Achievements for LDCs in Doha

The Zanzibar Meeting did come out with concrete proposals not only on Brussels issues but also on many other fundamental issues, including but not limited to, the development agenda. The core issues raised by the meeting included, inter alia, market access to LDC exports and full and faithful

implementation of existing provisions with special reference to the Uruguay Round Agreements on agriculture, trade in services, subsidies, technical barriers to trade, trade-related investment measures, textiles, and intellectual property rights.

However, the momentum gained during the Zanzibar Meeting could not continue at Doha, due to several reasons. First, developed countries thought that there were other pressing needs during the Doha Ministerial Conference than to listen to the pleas of the LDCs. Second, the issues of LDCs got diverted because of the fight on implementation issues versus a new round (which also implied possibility of inclusion of new issues). Third, LDCs, as a group, despite being generally cohesive, could not create the required dent at the Conference. Finally, part of the blame also goes to the leader of the LDC camp, who mixed up LDC concerns with a heterogeneous group of ACP (Asia, Pacific and Caribbean) countries.

Despite these shortcomings, the following sentence contained in para 42 of the Ministerial Declaration could be considered the single major achievement for LDCs at Doha: “We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. In this regard, we welcome the significant market access improvements by the WTO Members in advance of the Third UN Conference on LDCs (LDC-III), in Brussels, May 2001. We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs.”

Contrasting this with the formulation of Brussels Plan of Action, it becomes evident that Doha offers a much better formulation, even though in reality the rich might not do anything in this regard. Further having realised the attitude of both developed Member Countries as well as WTO to merely provide lip service, LDC ministers insisted on a time bound work programme for the Sub-Committee for Least Developed Countries to design a work programme concerning trade related elements of Brussels Declaration and Plan of Action and to report on the agreed work programme to the General Council at its first meeting in 2002.

Similarly, the following sentence contained in the para 43 of the declaration relates to Integrated Framework: “We request the Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in December 2002 and a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs.” This statement could go a long way in providing a concrete shape to the so-called Integrated Framework for Trade Related Technical Assistance – the programme aimed at remedying the supply side constraints faced by LDCs.

LDC's Interests Compromised

There is a sporadic mention of LDCs in several places in the Doha Ministerial Declaration and the two other documents, namely, Trade Related Aspects of Intellectual Property Rights (TRIPS) and Public Health and Implementation Related Concerns attached to the same. They relate to, inter alia, marginalisation, accession, services negotiations, industrial tariff negotiations, investment, competition policy, trade facilitation, environment, debt and finance, technical cooperation and capacity building, and special and differential treatment.

In some respect the Doha Ministerial Conference can be considered an attempt to overcome semantic barriers. On the positive side, the implementation related concerns and TRIPs and Public Health issues, which were adopted as the trade-offs to make the developing countries agree to a new round are likely to prove beneficial for the LDCs as well.

However, a number of proposals made by the LDCs during the Zanzibar Meeting were unheard of during the Doha Ministerial. For example, they were resolutely opposed to the launching of a new round, but Doha did launch a new round. Similarly, the market access text does not cover most of the decisions made during the Zanzibar meeting. The declaration did not even move an inch forward on the accession issue, which is being considered a major stumbling bloc in the process of LDCs' integration into the global economy.

Nonetheless, on the whole, the Doha Declaration should be considered the second best for the LDCs, given their limited political capacity to influence the Conference outcome. Since the first best was not possible during the Conference, they had to settle for the second best, which they did. Something is still better than nothing. For India and other developing countries, it is important to put their weight behind the poorer countries, so that they are not divided, as has been the practice of the past. Indeed, at the WTO often countries will be guided by their self interest, but some will see the whole too. As in war and politics there are no permanent foes nor friends, it's so in the field of trade too.

(The Financial Express, 12.01.02)

Part II

INTERNATIONAL AGENDA

Trade in Services: Needed A Balanced and Proactive Approach

IN a large international organisation like the World Trade Organisation (WTO), in spite of the “one country, one vote” principle, most of the countries do not get what they deserve. But, for sure they get what they negotiate. India did experience the same when it secured major gains in several areas of the hard-fought agenda of the recently concluded fourth Ministerial Conference of the WTO.

A dispassionate analysis of the Ministerial Declaration from the perspective of India’s basic trade interests reveals that India bargained hard on agriculture, implementation, TRIPs and trade & transfer of technology among other areas and got a fair amount of success.

However trade in services is an area, which isn’t probably among the ones highlighted in the Doha meeting, and where perhaps India needs to do a lot of homework to be able to influence future negotiations. The service sector today has vastly expanded in scope, beyond the traditional activities, to a whole host of professional services including software and information service, engineering and legal services and e-commerce and other internet-based service offerings.

The growing importance of the sector is reflected in the fact that it accounts for more than 70 percent of production and employment in industrial societies. India is not behind either, the share of services in India’s GDP, had gone up to 46 percent by 1999, and the upward trend is continuing.

The Doha Declaration talks about negotiations on services and puts emphasis on growth and development of all trading partners. It recognises the work already initiated under Article XIX of the General Agreement on Trade and Services (GATS) and reaffirms the Guidelines and procedures for the negotiations adopted by the Council for Trade in Services as the basis for continuing the negotiation.

Under Article XIX, the GATS Agreement is under review since early 2000 and many countries have placed proposals on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. Participants in the

negotiations are supposed to submit initial requests for specific commitments by 30 June 2002 and initial offers by 30 March 2003. This gives a clear signal to India to start working on the issue seriously and chalk out a game plan.

Initiative Where It Counts

In recent years, services sector has created the maximum number of jobs and is expected to do so in future as well. Our policy-makers have already started taking initiatives, albeit less ebulliently; to make service-industries competitive, as compared to those in developed economies. The GATS accord appears to be an important vehicle for this drive.

Among the different modes of service supply, India is most interested in 'movement of natural persons' and has also submitted a proposal at the WTO Council for Trade in Services.

However, other modes (viz. commercial presence, cross-border supply and consumption abroad) are also important for making Indian service sector a global player in the emerging international scenario. For example, Indian service providers are increasingly looking for niche markets in other countries through 'commercial presence' mode of supply. Many global companies are outsourcing their service products while setting up operational units.

The country is becoming an emerging hub for 'cross-border supply' of services. Nonetheless in terms of action, apart from liberalising the service sectors, the Government has to take steps to create a regulatory environment for the benefit of consumers and take them into confidence at every step. GATS has not had a significant impact on consumers so far, but only because of the fact that the treaty is new and the international market for services is still relatively small.

But that will change as global trade in services is growing rapidly, as evidenced by the incursion of French water companies into Britain, German insurance into China, Spanish telecommunication into Latin America, and so on.

India, at another level has to create an enabling environment for regulation as many foreign companies are investing in India while establishing their presence as service providers and due to the fact that the GATS also provides avenues for foreign direct investment in a country.

Studies by consumer organisations have revealed that in some cases this trend has improved services and lowered costs, but in others, the cost of some basic services, like water, have soared beyond the means of many poor people.

Despite different measures for the liberalisation and promotion of this sector, there are not many efforts by the government to adopt measures for the benefit of Indian service providers in creating a commercial presence in other countries. For instance there are hardly any efforts to create an information hub for

domestic service providers to receive knowledge on market access opportunities in other countries. Such home country measures for promoting trade in services are absolutely essential for India to become a major player in this relatively new area of the multilateral trading system.

India Needs a Proactive Policy

On issues of ‘movement of natural persons’ though India has made its proposal, our trade negotiators are not as proactive as they could and should have. The Indian proposal talks about more opening for professional service providers in other countries’ market, with little emphasis on skilled and unskilled workers.

Our negotiators should explore possibilities of putting forward a comprehensive proposal to the WTO Council for Trade in Services for the opening up of labour markets in developed countries and seek allies in other (developing and developed) countries to support it.

As I have written before, an agreement on MNP can also act as a counter to the demand for an agreement on investment. The latter is on the cards for negotiations to be launched after the 5th ministerial, to be held just 18 months from now. There is not much time left for the more serious preparatory work involving research and coalition building, so that a strong salvo can be fired.

(The Financial Express, 06.12.01)

What's in An Investment Accord?

“It is the Wall Street’s agenda”, observed the noted trade economist, Jagdish Bhagwati at an Asia-Pacific regional conference on international investment agreements organised by the UNCTAD at New Delhi a few summers ago. Prof. Bhagwati, who is an ardent free trade advocate, argued strongly against investment issues to be placed within the WTO framework. Similarly, another economist adviser to Mike Moore, Konrad Von Moltke, while agreeing to the utility of an international agreement, feels that the WTO is a minefield for an investment agreement.

In spite of such considered opinions, the push at Doha to include negotiations on investment did succeed, when nations “recognized the case for a multilateral framework to secure transparent, stable and predictable conditions for cross border investment...”. In fact the rich countries’ worry is the lack of binding policy commitments in the developing world, which is the main motivation for this demand.

Indeed that was the motive of the OECD countries when they launched negotiations on a multilateral agreement on investment (MAI) in June 1995. The highly developed draft agreement was aborted when France blew the whistle and the matter was shelved. Two other important reasons were firstly, the intransigence of the USA, due to several commitments, which would have reduced their sovereignty. Secondly a revolt by the civil society in the west against the agreement was another nail in the coffin.

The US still remains a bystander in the WTO context. It has decided to go along with the European Union as part of a larger strategy of accommodation and bargain in arriving at an agreed text of the Doha ministerial declaration. In this piece I write about investment, while other issues of the Doha Round’s ‘work programme’ will be taken up one by one.

Investment is One of the New Issues

Investment is one of the new issues, along with competition policy, trade facilitation and transparency in government procurement. We are overjoyed with the postponement of the negotiations on these issues. I am not so sure whether we can be complacent about the matter. As an experienced commentator put it: we will have our necks on the chopping block after two years, while another felt that we have buried the matter and will be able to postpone it even when it reappears two years hence. I don't agree with either.

On the relationship between trade and investment, during the next two years, the work programme of the WTO stipulates that the Working Group should carry on its work, focusing on clarifying specified issues.

This working group was set up in 1997 following the Singapore Ministerial Decision. Come the Ministerial in 2003, negotiations on investment will take place, "on the basis of a decision to be taken, by explicit consensus, at that Session, on the modalities of the negotiations".

In the typical opaque language that comes from tortuous international negotiations, it is not at all clear what this means. But looking at the investment issue in its political context, what is clear is that the EU will not tire in using sticks and carrots to make sure that binding negotiations really do start in 2003.

Meanwhile, smarting for the hurt inflicted during the Doha talks, EU will push for negotiations in the various plurilateral trade arrangements that it has with poor countries. This would include such accords as the Cotonou Agreement with 78 of its former colonies in the Africa, Caribbean and Pacific regions.

Developing countries must therefore make the most of the next two years to prepare themselves as much as possible. First, research is necessary. The rich country demandeurs of an investment agreement at the WTO claim that increased confidence and assurances will lead to greater investment flows to developing countries. Considering that over 95 percent of foreign direct investment now flows into only 30 countries, an agreement that can lead to more of this investment being directed to developing countries would be very beneficial. However, there is no evidence to show that this will be the case.

India Should Recognise its Interests

Few other developing countries have the intellectual and analytical capacity of India. India would really deserve to be a leader of the developing world if it put these capabilities to such constructive use. Second, is to develop a clear picture of the country's interests in this area. This was a frequent refrain of commentators before the Doha meet, but it applies just as much now as it did before. The danger is that the country will lapse into a false sense of security

brought on by the “explicit consensus” phrase stated in the Declaration and not bother to develop its own set of demands.

There are certain points that India should be using all its Doha-style bombast to resist on behalf of developing countries. These include restrictions on domestic development policies, too broad a definition of investment that puts countries at the mercy of fickle portfolio investors and across the board liberalisation.

The declaration recognizes several development dimensions for being considered for clarifications during the future study/tentative negotiations. These include further clarification, with issues like a GATS-type positive-list approach for pre-establishment commitments to be made by countries. This is one area where India can derive some comfort, as in its posturing on investment issues since some time it has maintained stoutly that it will not allow unbridled entry of foreign investors.

It also notes the necessity of keeping development provisions, and exceptions and balance of payment safeguards. Furthermore, in a paragraph under the investment clause of the declaration, it asserts that: “Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest”.

The right to regulate is welcome, while the phrase: ‘framework should reflect in a balanced manner the interests...’ conveys the mandatory nature of the recommendation as far as a possible future agreement is concerned.

However, there are also many things in the investment arena that India can, and should be demanding, like standards for enforceable rules governing the behaviour of the mega-corporations that today escape the reach of national laws. Many countries and the whole civil society have been demanding such rules for quite some time, and such a demand will receive wide-spread support. Problems will come from the USA, which believes in national regulation, which need not be informed by any international agreement.

It may be that India never has to put these demands on the table. In fact, it is quite likely that the investment negotiations will drag very slowly, or even die a natural death as the rich countries argue between themselves about what should be in and what should be out. If the failed OECD MAI is anything to go by, Europe, Canada and the US will not be able to accommodate each other’s demands, let alone the demands of the developing country majority at the WTO.

A third and final point: India must keep the developing country coalition together in the investment discussions as well as in other areas. This coalition was one of the major achievements of Doha and will be vital in keeping the WTO on the right track.

Other countries should be encouraged to articulate fears and grievances, and these should be woven into a common position underlying the basic resistance of these countries to any kind of investment agreement. In conclusion, there will be no harm if as a proactive step we start designing an ideal international agreement on investment for being tabled at the working group as the text for being responded to.

(The Financial Express, 26.11.01)

The Trade-Labour Linkage is Not 'Dead' as Yet

“**S**HOW me one piece of evidence where any government has asked for a social clause in the WTO, except when Bill Clinton asked for such an arrangement at Seattle”, said Pascal Lamy, the European Union’s trade commissioner speaking to a civil society gathering at Delhi recently. “Like the WTO should speak with all other international bodies: ILO (International Labour Organization) or IMF (International Monetary Fund) or World Bank, it should also have a dialogue with the ILO on social issues”. Indeed, that is what the final Doha Ministerial Declaration says. The issue of labour standards in the trade regime is not yet dead.

A close look at the draft ministerial declaration prepared before the meeting and the final declaration after the meeting reveals that there are grey areas, and the issue may not be entirely dead. The arguments from developing countries including India on extraneous and protectionist nature of these issues are quite understandable and convincing.

Demanding the inclusion of social issues in the WTO implies opening the window for never ending non-trade issues including gender, human rights and social development all of which fall into the purview of sustainable development. This contamination of trade with non-trade issues certainly does not promote the trade agenda.

Rather, this sort of linkage has immense potential for abuse as a protectionist device of the North. The poor countries therefore argue that, it would help only a few rich countries, not global welfare. Most of the developing countries also seem to be quite united against their inclusion in the trade talks. But it would be quite unwise to assume that die-hard advocates of social clause have given up and are likely to sit quietly.

Perhaps in Doha they were less vocal as they had the fear of repetition of Seattle failure in mind. Nonetheless they used every opportunity to push forward their own agenda. Moreover the window for social concerns has been in a sense already opened by inclusion of environment in the agenda. Though the case of environment is slightly different from that of labour standards but the way

trade talks took a swift turn in Doha signals for worse to come. The developing countries were at the last moment compelled by the European Union and others, to agree on environment as a precondition for negotiation on agriculture. One should bear in mind that labour standards could follow a similar route in near future.

ICFTU's Stance on Labour Standards

The International Confederation of Free Trade Unions (ICFTU), with its hardnosed approach in the trade union movement and, direct and indirect support of many western countries, is still blaring about trade-labour linkages. Just before the Doha meeting it issued a statement insisting that trade agreements must contain labour standards enforced by the threat of sanctions. Importantly the ICFTU has also distorted its actual position (which emerged in the Durban congress of ICFTU in 2000) that the ILO should be the standard setting body and the ultimate implementing body on sanctions, if any.

A clear preference for the WTO over the ILO as the ultimate decision making body to impose sanctions was reflected in this statement, on which there is a discord in the membership. The southern supporters of the social clause such as the Malaysian Trade Union Congress and the Confederation of South African Trade Unions, are quite piqued with this change by the North-dominated ICFTU, though are not so vociferous about their discord.

Be that as it may, the final declaration of Doha meeting on the issue of labour standards states: "We reaffirm our declaration made at Singapore Ministerial Conference regarding internationally recognised core labour standards. We take note of work under way in the International Labour Organisation (ILO) on the social dimension of globalisation".

A careful analysis of the statements reveals that it in no way rules out a possible role for WTO on the debate on social dimension on globalisation. More importantly, a significant line recognising ILO as a more suitable place to discuss labour standards that appeared in the revised draft declaration of 27th October, 2001 (see pg-184) has been removed from the final declaration under the influence of the social clause protagonists. The deleted line reads as: "The ILO provides the appropriate forum for a substantive dialogue on various aspects on the issue".

If this was retained, it would have reinforced the role of ILO, and would have had a different impact altogether. Given this countries like India should keep their fingers crossed and at the same time also prepare a game plan in advance should in case there are any attempts to link WTO and the labour standards.

The Western countries—because of domestic compulsions or otherwise—are still interested in bringing in the so-called new issues including that of

investment, competition and environment. Though they are not very vocal at the moment but demand for labour standards appears to be next in the line.

Real Concern

While India has to still create a consensus at domestic level on its ongoing labour reforms, it should also keep in mind the accession of China into the WTO and chalk out its plan of action accordingly. Looking at the poor labour conditions in China, the demand will gain momentum. Mind you even our clothing exporters are losing out to the suppressed labour costs of the Chinese.

On the other hand we have to become a bit proactive and raise the issue of real concern to us in the labour standards game: free labour mobility across countries. In fact, the issue of movement of natural persons can be a trump card by us, if it is used effectively and timely in the international trade negotiations. For this, we need to do huge research and link it to the sustainable development agenda.

If trade is about give and take, we should also push hard for an agreement on movement of natural persons with no strings attached. We should be happy to discuss all other issues including the most contentious one if issues of our interest are also there on the agenda.

(The Financial Express, 27.11.01)

India has No Reason to be Afraid of 'Competition'?

IN the context of a multilateral competition policy, the Doha Ministerial Declaration notes: "Recognising the case for a multilateral framework to enhance the contribution of competition policy to international trade and development... we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations".

The government of India is mistaken if it believes that negotiations will require an explicit consensus, only the modalities will require a common understanding. Besides, we have agreed to the need for a multilateral competition policy (MCP) in any case.

What does "modalities" mean? It would mean what will be the core principles and the methodology of negotiations for a MCP. But why is India opposing an MCP to be incorporated into the multilateral trading system under the WTO? Basically, there are three reasons: a) the existing problems still have to be resolved; b) developing countries cannot take on more burden, and c) we still need to develop our own competition laws, before entering into any multilateral arrangement.

The first argument, although may have some justification, has lost its significance now. Competition is no longer a new issue at the WTO. To start with the EU was a strong proponent of an MCP, supported by Japan and Hong Kong. The US was vehemently opposed to it, but relented for several reasons. Is an MCP so harmful to the developing countries that they have to fight tooth and nail to block it? No, on the contrary, if properly negotiated, an MCP can bring significant gains to the developing countries.

There is a long history of cartels in which multinational companies carve up the world into areas of control. As a consequence of greater global concentration of ownership, there has been a sharp increase in the extent of global cartel activity. A World Bank study has shown that in 1997, developing countries imported \$81.1 billion of goods from industries in which price-fixing conspiracies

have been discovered during the 1990s. These imports represented 6.7 percent of imports and 1.2 percent of GDP in developing countries.

They represented an even larger fraction of trade for the poorest developing countries, for whom these products represent 8.8 percent of imports. There might have been several other price-fixing conspiracies which remained undiscovered. Moreover, all these cartels are made up of producers, mostly from industrialised countries. Recent international enforcement action has resulted in million dollar fines against vitamin companies, food additive makers and steel manufacturers.

To date only a handful of countries have taken action to penalise transgressing companies or to recover compensation. Moreover, although many of these cartels have been detected and penalised in developed countries, they are still operating in developing countries.

Developing countries are doubly harmed due to these international cartels. Not only that cartelisation leads to higher prices, reduced supply and reduced choice for consumers, these cartels can maintain their position with high barriers to entry for other producers, which again is a serious cause for concern for developing country producers who are, in general, relatively new to international trading. To detect, control, break and punish international cartels, merely having a jurisdiction in competition law is not enough. Countries have to co-operate with each other.

With increasing interaction between firms and economies at the global level, anti-competitive conduct by firms is also globalising. In fact, such anti-competitive practices have been on the rise as a result of increased concentration in the global market. In 1980, the world food and beverage market was dominated by about 180 companies, but today, about half of these companies retain roughly the same market power. In the early 1980s, the top 20 pharmaceutical companies held about 5 percent of the world prescription drug market, today, the top 10 companies control 40 percent of the market.

Stand Together, Fight Together

The argument that the EU is pushing for an MCP only to get market access in 'developing countries' seems to be ludicrous. It's true that one of the objectives of having such agreement is to remove private barriers and ensure better market access. But is it not a fact that the corporations based in the developed countries create market barriers for developing countries? Are the companies of the developing countries powerful enough to raise effective entry barriers for the TNCs (Trans National Corporations)?

If market access is in the EU agenda, then their eyes are on the US market, rather than the developing countries market. Precisely that is one of the reasons

that the US had been opposing a multilateral competition agreement. In fact, if the private barriers are removed effectively, the developing countries will be in a better position to export their products into the developed markets.

A strong domestic competition regime, although necessary, is not sufficient to deal with globalised competition abuses. Hence the need for an MCP can hardly be overstated, be it within the WTO framework or some other forum. But since it is already under active consideration under the WTO, it does not make any sense to oppose it. Given the present situation there are several reasons for having an agreement on competition within the WTO.

First, it will bring some balance in the WTO's approach, which is heavily biased in favour of the producers, especially the TNCs and does not address consumer concerns. The spirit of binding commitment within the WTO will make such agreement more effective than a freestanding one or within some other forum. Considering the past experiences in this regard it will not be easy to have a binding competition agreement in some other forum.

Although, in all likelihood, the developing countries have more to gain from an MCP compared to the developed countries, their poor performance in the Uruguay Round has made them defensive, so much so that they are not even willing to think about any new issue at the WTO. Of course, most of them do not have any experience with competition policy even at domestic level. Hence for them it is probably 'ignorance is bliss'.

However, the same is not true for India, which has a long history of competition law. It is also on the verge of scrapping its old version and enacting a state-of-the-art competition law for the country. Obviously, there cannot be an 'ignorance is bliss' situation in India as there is no such ignorance. If at all it is there, it is restricted to only a few who, although powerful, are not willing to see the writing on the wall.

How to Get More and Better

Hence, India has no reason to oppose an MCP under the WTO, and needs to stop using 'ignorance' as the weapon to block it. Rather, India should take a proactive approach in this regard. It should engage in research and study to develop a model agreement on competition that will address the concerns of the developing countries. It must also build the capacity of its negotiators on the issue. It should also mobilise support of other developing countries to push forward its agenda which will benefit all of them during the negotiations that will take place on competition. If India continues to remain adamant and immune to reasons in its efforts to block any agreement on competition, it will do so at its own peril!

(The Financial Express, 28.11.01)

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Trade and Environment: 'Trade off' at Doha is No Loss

WHILE India is rejoicing on major gains in several areas of the hard-fought agenda of the fourth Ministerial Conference of the World Trade Organisation (WTO), it is bit upset on the inclusion of environment in the Ministerial Declaration. The mistake made is that instead of agreeing to inclusion of environment like a reluctant bride, the Maran Brigade should have asked for a proactive agenda on trade and environment, demanding discussions on issues of trade in domestically prohibited goods (DPGs) and toxic waste, and the relationship between environment and the TRIPs Agreement.

One has to recognise the fact that environment is different from other non-trade issues like labour standards and human rights in the WTO context. It is quite unfortunate to note that despite participating actively in the discussions in the WTO Committee on Trade and Environment (CTE) and recognising the importance of environment, we never pushed for a proactive agenda on our own. As a result we had to change our mind at the last moment and agree on negotiations on environment unwillingly.

However, if one carefully analyses the Doha Ministerial Declaration's work programme on 'trade and environment' there is not much to worry. The work programme doesn't actually go against Indian interests, as is being understood by some. It addresses many points, which have been repeatedly asserted by India in the CTE discussions. These include importance of technical and financial assistance, effects of environmental measures on market access and relevant provisions of TRIPs.

The only thing, which displeases India, is paragraph 31 of the Doha declaration, which primarily talks about the relationship between WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs); prior information exchange between MEA secretariats and relevant WTO committees, and the criteria for the granting of observer status; and the reduction, or as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

Environmental Agenda of EU is Mooted to Protect Agriculture

Undoubtedly the three-point environmental agenda of the European Union supported by Switzerland and other countries was mooted partly to protect domestic agriculture. They pushed hard for clarification of WTO rules on MEAs, ecolabelling and precautionary principle before the Doha meeting. The other members, including India, however vociferously opposed it, especially the precautionary principle saying that they have great potential for protectionism.

They argued that since the EU is obliged to lower agricultural trade barriers, it would simply keep out farm products by finding some 'green' objections to them. This will only be possible by raising the trade-related environmental standards globally.

However the Ministerial Declaration takes care of some of these concerns and talks about negotiations on MEAs only.

If we consider the CTE discussions, India never opposed clarifications between WTO rules and MEA trade provisions. It treated it as an important but not an urgent issue. However our lack of preparedness on the issues has in fact allowed countries like the US to push for a qualification saying that the negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question. This qualification helps the US more than any other country in ducking the MEA issue.

Need to Follow a Proactive Approach

While India needs to be cautious at every stage about the potential for protectionism, the best way out seems to be having a proactive agenda on environmental issues. India is a party to most of the MEAs and clarification of conflicting provisions, in fact seems to be beneficial for it, as otherwise these will be left for interpretation of appellate body as it happened in the shrimp-turtle case. India can still argue in negotiations that as far as predictability is concerned, the existing practices and disciplines in MEAs and the WTO do not seem to be deficient. Article XX of the GATT allows for MEAs to take measures necessary for the protection of the environment.

The trade measures, which cannot be justified under these rules, should themselves be subjected to the tests of 'necessity' and 'desirability'. Therefore, India at the first instance should demand a clear definition as to what constitutes an MEA during future negotiations and subsequently push for establishment of a committee to decide on the desirability/necessity of trade measure in any existing MEAs as well as new MEAs.

Most of the other things mentioned in the work programme actually support India's viewpoint.

It has been demanding continuation of work on all 10 items on the CTE agenda, which has been strengthened by the Ministerial Declaration. Any direct mention of precautionary principle has been removed. The mention of relevant provisions of TRIPs and the emphasis on the need for technical assistance and capacity building is a moral boost for India.

On labelling requirements we have to keep in mind that informally the Indian exporters are already facing and complying with these requirements. Whether it is textiles, or agricultural products, our exporters are increasingly accepting labelling requirements and standards on demands by their consumers abroad. We will have to therefore prepare ourselves with our own standards and labels to counter any future demand in this regard.

India should also ask for more market access for environmentally friendly products, including organic food, and strengthen its own labelling schemes.

It should also ensure strict implementation of policies at home. In the trade-environment interface we often argue that we will do it in our own way, and WTO has no business to tell us how to improve environment. However we rarely see things improving. Failure of the Indian eco-labelling scheme is a lesson for policy makers, on which we have wasted more than Rs. 20 crore of public money, without a single label in the market.

On the other hand, India should use every other fora to push for the case of developing countries

For example, the World Summit for Sustainable Development at Johannesburg in September 2002 offers a very good opportunity for India to ask for commitments made by the rich to be fulfilled. This is an event to look back over the last 10 years of progress made since the Earth Summit held at Rio de Janeiro in June 1992.

There the rich countries had made commitments for additional resources of over \$480bn, but only \$2bn was mobilized. Indeed the Johannesburg summit will be the next big global event after Doha, and trade will be a prominent issue. At this meeting the Commerce Ministry should also participate, as the Environment Ministry did at Doha.

India has been able to communicate to the world about the potential of environment as non-tariff barriers. Now it is India's turn to show the world an alternative path to progress. It has to, prepare itself for strict environmental standards and have its own proactive environmental agenda. There is no inherent contradiction between the WTO and the pursuit of a high level of environmental protection.

(The Financial Express, 20.11.01)

Trade Facilitation: Time to Bring Our House in Order?

AMIDST claims by India's Commerce Minister, Murasoli Maran that "the Singapore issues" are back at Singapore, experts have a feeling that India has only secured a "postponement" of negotiations while conceding the principle that negotiations will take place.

The Doha Declaration states that negotiations on so-called "Singapore issues" including investment, competition, trade facilitation, and government procurement "will take place after the fifth session of Ministerial conference on the basis of decision to be taken, by explicit consensus, at the session on modalities of negotiations." Negotiations will take place, while consensus will be sought on the modalities: the core principles, methodology, opt-in opt-out, vehicle i.e. at the working group or under the trade negotiations committee etc.

I have always argued that the Singapore issues are not entirely against our or any developing country's interests. Trade facilitation for instance, is one, which even Mr. Maran agrees as having the potential for benefits for India because it seeks reforms in areas like customs, where we still have antiquated and inefficient procedures, adding substantially to the transaction costs. Most countries do realise that there is a need to overhaul the archaic and cumbersome border clearance systems, in order to reap the benefits of trade liberalisation to the fullest extent.

Poor Attention

Nonetheless, trade facilitation is an issue, which has not been given the proper attention it deserves. As per estimates the costs to business of unnecessary red tape and procedures could be as high as US\$70bn a year and such costs often fall disproportionately on small and medium enterprises and firms, who ultimately pass it on to consumers in developing countries.

In economic terminology, trade facilitation covers a wide range of non-economic measures aimed at promoting the expansion of international trade through smoothening its flows. Among others these include publication of trade

directories, cooperation on technical standards, customs and quarantine matters, periodic discussion of trade issues, trade fairs, and trade missions etc.

Simplified import, export and customs procedures not only benefit traders, but also improve government administration, revenue collection and controls, while contributing to an improved climate for inward investment. If properly implemented and monitored, trade facilitation can certainly benefit both individual economies as well as the multilateral trading system.

There is always a downside to everything. Thus skeptics will argue that, other than the over burden, an agreement of this nature may lead to ridiculous lengths, such as the type of English language being used etc. Indeed the fears are reasonable, but having entered into the WTO, one has to be prepared for further and newer issues.

In the international trade context, trade facilitation is hardly a new issue though some think it is as being one. Article 8 of the General Agreement on Tariffs & Trade (GATT) emphasises the desirability of reducing formalities and the debate now is, whether this should be made more operational and if so how?

The Doha Ministerial Declaration recognised the case for further expediting the movement, release and clearance of goods in transit, and the need for enhanced technical assistance and capacity building in this area. Trade ministers agreed that negotiations would take place after the Fifth Session of the Ministerial Conference.

In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Article V, VIII and X of the GATT 1994 and identify the trade facilitation needs and of Members, in particular developing and least developed countries. Articles V, VIII and X deal with the freedom of transit, fees and formalities connected with importation and exportation, and publication and administration of trade regulations and the key words are “matters related to customs and other procedures and formalities to expedite movement, release and clearance of goods”.

India Should Put Her House in Order

This gives a clear indication to Indian policy makers to do their homework properly and get their house in order before any thing is agreed on the future of negotiations on trade facilitation. There are arguments that the developed countries are, by means of a multilateral agreement on trade facilitation, essentially seeking to replicate their existing custom procedures worldwide.

However for a large economy like India there is not much to worry. On the other hand this is bound to improve efficiency of the existing system and benefit the economy as a whole.

At another level and from the point of view of making Indian products export competitive in the international market, it is also necessary to analyse customs and other procedures in major economies, which are acting as non-tariff barriers. Thus, the need of the hour is to grasp this opportunity, study import-export procedures of different countries and place a proactive agenda before the WTO Council for Trade in Goods rather than merely reacting to issues raised by others.

However while India has to consider domestic priorities and constraints, it is for its own benefit in the long term to go ahead and ask for a framework of rules to bring transparency, predictability and non-discrimination to customs procedures world wide.

WTO could certainly establish a set of principles or commitments that would guide national efforts to simplify and modernise trade procedures, and ensure that all members followed a harmonised set of standards. India will also have to point out that for most of the developing countries implementation of trade facilitation measures could be a big challenge and would require substantial technical assistance to build capacity, as well as time. Therefore, any WTO initiative should fully integrate and address these needs.

While it seems to be generally beneficial for developing countries to phase out their use of expensive Pre Shipment Inspection regimes, they should push hard for technical and financial assistance to replace these by sophisticated customs administration systems. Countries like India will have to take a lead over here and to highlight the benefits and other implications of trade facilitation; in particular the strong development dimension before any consensus on this issue is arrived at.

On the other hand, at home it has to create an environment for change and reform within customs administrations, particularly with the introduction of automated systems. Imagine the plight of the corrupt customs inspectors! Importers will certainly benefit, and hopefully so will consumers.

After the fourth Ministerial Conference, there have been claims of India winning gold medals at Doha. Indeed we can win real gold medals in future as well if we become a little proactive on issues of our interests and trade facilitation is certainly one of them.

(The Financial Express, 11.12.01)

Government Procurement Agreement: A Chance to Reduce Corruption

GOVERNMENT procurement was one of the four new issues, which were brought under the work programme of WTO at its first Ministerial Conference in Singapore, December 1996. Unlike other new issues of competition, investment, and trade facilitation, it has a little distinct feature. There is already a plurilateral agreement on it in the WTO, and a working group is examining transparency issues. That is the issue which is now on the Doha Development Agenda.

In almost all countries, governments and the agencies controlled by them are significant buyers of goods and services. Such purchases often represent 10-15 percent of a country's gross national product. With increasing globalisation of the world economy, international trade in procurement is also on the increase and currently amounts to several billion dollars.

The general belief is that government procurement is one area where corruption is most rampant. The recipients of clandestine payments are not only the officials of the entities who are responsible for decision making but also ministers and political parties. The obligation to invite tenders, the transparency of the procedures used in awarding contracts and the right which the agreement would give to aggrieved suppliers to challenge the decisions, would restrain both domestic and foreign suppliers from making under-the-table payments and deter public officials and political parties from receiving such payments.

In the recently concluded WTO Ministerial Conference at Doha, Members have agreed to start negotiations on increasing transparency in the GPA after the fifth session of the Ministerial Conference. It means that we have entered into the pre-negotiations phase. This is the most crucial period for a country like India, which is also under pressure to join the agreement.

Analyse the Costs and Benefits

At present India has a clean slate. It is not among 27 signatories of the existing plurilateral agreement on GPA. The best way to move forward is to first identify costs and benefits of having a multilateral agreement on GPA. For India

perhaps the most important benefit of transparent and open procedures is the impact which their adoption may have on the level of corruption. It is the general public impression that government procurement is one area where corruption is most rampant in India. It has the dubious distinction of being one of the top ten highly corrupt countries of the world. The transparency agreement will also ensure that contracts are awarded on the basis of fair and equitable criteria.

From the point of view of the governments, the adoption of such rules would ensure that goods and services are obtained at the most economic prices and thus lead to a reduction in costs and budgetary expenditure. A recent study of the premier research organisation in India, National Council of Applied Economic Research (NCAER), attempts to quantify the costs and benefits to India of acceding to such an agreement. It showed that benefits would be in the range of Rs.67.5bn to Rs.90bn (US\$1.4bn to US\$1.87bn) and that the economic costs of switching are likely to be small.

On GPA, the language of Ministerial Declaration looks fine. It clearly says that negotiations shall be limited to the transparency aspects only. Therefore, it will not restrict the scope for countries to give preferences to domestic supplies and suppliers. In other words it is not binding for a country to give MFN status to all WTO Members. Furthermore, the final declaration also makes commitment for adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

Hence, in principle there is nothing wrong in agreeing to the transparency aspects of government procurement with adequate technical assistance and support for capacity building. In fact it throws up a golden opportunity for a country like India to substantially improve its own corrupt and inefficient system.

Pursue Others to Comply

But there are certain factors, which must be taken into account by India and other developing countries while rule making if they have to derive benefits out of it. First, it is often seen that even after tenders are issued, foreign governments on behalf of their firms put political pressure, especially in the case of big contracts.

Also, most of the countries are using their foreign embassies to pursue commercial contracts. Since large industrialised countries have greater political access and influence, they are able to strengthen the competitive position of their companies and ensure that contracts are awarded to them.

The second issue to be examined is the proportion of tied aid requiring countries to obtain goods and services from the providers of the aid. The famous expose: "Lords of Poverty" claims that nearly half of the aid goes back to the donor country through consultancies, supplies etc. Though the case for awarding contracts is generally argued by embassy officials on the basis of price, quality

and technical specifications it is not uncommon to hold out a promise of additional provision of financial aid.

Finally, the most important factor that needs to be kept in mind in developing countries is that while the WTO rules on transparency would impose obligations on governments, the responsibility for implementation would rest with thousands of different bodies, many of them sub-national and local. Many of these entities have a large degree of autonomy, and persuasion is the only means, which the governmental authorities have in securing compliance.

Such problems in ensuring implementation by the purchasing entities of any accord that may be adopted are likely to be all the greater in a country like India, where the systems for coordination among ministers and other government agencies do not always work effectively. However that is no excuse to not engage in any negotiations that would take place at the WTO.

(The Financial Express, 15.12.01)

Agriculture: Tough to Quantify Benefits Now

“WE have agreed to address only the trade-distorting subsidies and not the whole gamut of agriculture subsidies”, said Pascal Lamy, EU’s trade supremo, at a meeting with the civil society in Delhi recently. “We have seven million farmers in Europe to protect”. In response to an intervention about the 130mn farmers in India, he tersely responded that it is the Government of India who should take care of their interest. This is the central message of what India should do in the future on the issue of agriculture and the world trading system.

Indeed, agriculture has been a very contentious area, because of the rather heavy political overtones. Predictably, on the issues of agriculture, differences of opinion at the fourth Ministerial Conference of the World Trade Organisation at Doha persisted till the last minute. Amidst the tough stand of the European Union for inclusion of environment in the agenda as a quid pro quo for talks on phase-out of export subsidies, and reservations of many other countries, the final outcome of Doha meeting on agriculture can be described as a balanced one.

Its worthwhile to recall that the disagreement on agriculture was ‘the reason’ behind the failure of the Seattle Ministerial Conference of the WTO; not street demonstrations by the NGOs as understood by some, or the push for labour standards and environment into the WTO. Keeping that in mind, many were of the view that agriculture was the key issue at Doha too and a body blow to the multilateral trading system was certain if there was no agreement on this.

Doha Declaration on Agriculture

The Doha Declaration on agriculture, first and foremost, recognised the ongoing negotiations started in early 2000 under Article 20 of the Agreement on Agriculture (AoA). The review of the AoA enters the crucial second phase, where negotiations will be more nuanced than before and all major players will wriggle in the right political language during the negotiations.

Secondly, it recalled the long-term objective referred to in the AoA to establish a fair and market-oriented trading system through a programme of fundamental reforms encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in the world agricultural markets.

Thus, in a way, there was no fundamental change in the original objective (as orchestrated by the EU at the time of the Uruguay Round) of the AoA, i.e. not free trade but stability and equilibrium in the world agricultural markets, mainly through domestic reforms. EU's insistence on the production limiting programme and non-actionable subsidies under the Blue Box measures stems from this objective. It cannot be challenged at the WTO on legal terms and neither it has been challenged politically.

What could have been challenged was EU's failure in reforming its Common Agricultural Policy (CAP). However, the European policy-makers were successful in putting CAP reforms onto the backburner by adopting a big-bang approach on the region's geographical expansion, and also by creating difference of opinion among the ACP (Africa, Caribbean and the Pacific) countries and other developing countries.

Thirdly, 'without prejudging the outcome of the negotiations' (sic) trade ministers committed themselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. Some developing countries are delighted with the understanding that EU has agreed to reduce its export subsidies. However, there are many loopholes and they are less likely to do it so easily.

Development Needs

Moreover, in future whenever there is any pressure on the EU to curtail its export subsidies, the net food importing developing countries (many of them are ACP countries) are likely to raise concerns on their food security and foreign exchange position. That will easily counter any pressures from the demandeurs.

Additionally, it was agreed that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedule of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development

There are some possible gains for India in inclusion of developmental needs in the agenda but it is not so easy to turn the table around, i.e. to change provisions in the AoA to make it not special and differential for the countries. On

the other hand emphasis on concerns like food security and rural development might even strengthen the EU's demand for 'multifunctionality' for agriculture. This is the umbrella under which the EU has been arguing for continuance of its subsidies, which will provide cover to its rural environment etc.

Thus, on the face of it, it is quite difficult at the moment to quantify the benefits for India. Nonetheless, a careful reading between the lines provides clues as to what India should do to convert seemingly impossible gains into realities. First, India should play it cool in the early part of the second phase of review of the AoA. This in no way means that, Indian negotiators should keep their hands off. They should play off-the-ball game rather than taking initiatives on their own.

Obstacles in the Way of India

India has to recognise that there are many hurdles in the way of its becoming a major player in the global grain economy in the near future. 65 percent of India's population depends on agriculture, which contributes only 25 percent to the gross domestic product. One has to distinguish between physical surplus, as being witnessed today, which is due to low purchasing power and time-irrelevant procurement and distribution system, and marketable surplus, which is based on the price of a product.

The Indian grain economy is too price uncompetitive as compared to the Cairns group of countries and they will not budge an inch to defend their 'field of play'. Therefore, at this point India should concentrate on domestic reforms in agriculture. To boost private investment in agriculture, the first and foremost strategy would be for the Central Government taking the State Governments into confidence and persuading them to embark upon land reforms. Indian policy makers should learn from the Chinese policy of leasing-out land for productive use, which has proved to be a crucial factor in making their agriculture competitive.

Another crucial element of domestic agricultural reforms is diversification of Indian agriculture. The reforms should not only include crop diversification but look at animal husbandry, which has been ignored much more. It is to be understood that cropping pattern cannot be changed over night. Farmers will change their cropping pattern, only when they are convinced about maintaining soil fertility and niche markets for selling their products. Furthermore, diversification has to be backed by proper infrastructure for agro-processing and the creation of product-specific niche markets in other countries. For instance, India has a great potential of becoming a major player in the world market for agro-foods, horticulture and floriculture.

We have to gear up for devising strategies to cope up with possible non-tariff barriers for our agro-foods as well as other agricultural products in the world market. In Doha the EU has been successful in pushing the issues of Multilateral Environmental Agreements on the agenda and it is likely to push hard for ecolabelling and precautionary principle in near future.

Opening the environment window has certainly given more strength to non-tariff barriers based on sanitary and phyto-sanitary (SPS) measures and regulations on technical barriers to trade (TBT). One small relief is the agreement on equivalency of standards, though much work needs to be done to ensure that the process of negotiations is not blocked again and again.

India needs to do a detailed and a rolling study of these potential non-tariff barriers and take suitable actions beforehand rather than wait for the end of the day. Indian agriculture needs to traverse a long path to submit proactive demands before the major international players. We have to take some tough decisions to go for domestic reforms for making Indian agriculture export competitive and at the same time develop and promote our own standards and labels to counter those being propagated by the rich.

(The Financial Express, 25.12.01)

Tighter Anti-dumping Rules are Good for India

IN SPITE of its strong opposition, the US has reconciled to the review of rules on antidumping at the Doha meeting of the WTO. It has agreed with other WTO members that the ideal long-term solution to the evil of antidumping lies in seeking tighter rules. Though the proof of the pudding lies in eating it!

Be that as it may, this has been another feather in India's cap, which has been seeking concessions for developing countries in the application of anti-dumping action. Because, the rich countries very often misuse it for giving undue protection to uncompetitive domestic industries. Though lately many developing countries including India have also joined the bandwagon. India with initiation of as many as 16 investigations during 1 January–30 June 2001, was only next to the US in terms of using antidumping measures. Despite this, a pressing need for reviewing the anti-dumping regime has been felt rather acutely, as the action is often political and not economic.

The General Agreement on Tariffs and Trade (GATT) lays down the principles to be followed by the member countries for levy of antidumping duties, countervailing duties and use of safeguard measures. Articles VI of GATT 1994 allows members to apply anti-dumping measures on imports of a product with an export price below its normal value. However its use is economically justified only if dumping is predatory, meaning that the offending firms sell the product below cost with the objective of driving other firms out of the market, and it hurts the local industry.

Rise of antidumping actions has increased dramatically over the last decade, reaching an all time high of 340 investigations in 1999. Interestingly until as late as 1990, just four developed countries accounted for 80 percent of all dumping actions: Australia, Canada, European Union and USA, but after that developing countries including India, South Africa, Brazil, and Mexico, have been increasingly taking recourse to these laws.

Anti-dumping is more often being used as pure protection rather than as a trade remedy. The recent years have seen some blatant violation of anti-dumping laws. Notable among them is the Byrd amendment, under which, US Customs authorities are obliged to pay the anti-dumping duties collected on imports directly

to the complaining domestic industry. This is an illegal remedy against dumping because industries benefit twice, once from the above measure and second time from the price increase resulting from the duty.

Misuse of Anti-dumping Laws

The developed countries especially the US and the European Union have been repeatedly accused of misusing anti-dumping laws for protecting domestic industries from foreign competition. In the recent years however their own exports have been increasingly encountering the same unpredictable, arbitrary, and disruptive obstacles in other countries. The US was the third most frequent target of anti-dumping measures during 1995-2000.

This trend is worrying. Taking increased trade as a necessary condition (but not sufficient) for developing countries to grow, the increasing use of anti-dumping measures may undermine the considerable progress, which has been made in liberalising world trade. However, there is perhaps some hope that policy makers and industry alike are beginning to realise that imposing anti-dumping measures is not always in the interest of their own economies.

In spite of all this, the US government in the past has been continuously resisting demands and efforts to reform antidumping provisions in international trade negotiations. This resistance reflects strong political support for US anti-dumping laws by the domestic industry lobbies. Members of the WTO did recognise it in the recently concluded Doha Ministerial Conference, where they agreed to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994. For the developing countries the very consent of the US to negotiate on these rules seems to be an achievement. They should take this opportunity to discipline the current antidumping regime and seek tighter rules in the next round of negotiations

India-A New Player

As far as India is concerned it has emerged as new player in the game of anti-dumping. During the period between 1992 to 2000, India initiated a total of 89 anti-dumping cases, the highest number by any country. However for India as well as other developing countries in order to achieve long-term sustainable growth, it is important to ensure that each global trading partner must aim to minimise the use of anti-dumping measures. If we fail to achieve this, then there will be considerable losses both for the exporting country and for the country imposing the duties.

India should take the Doha declaration in this regard as an opportunity to have its say during the negotiations. While we have to remain cautious that building our agenda by merely harping on special and differential clauses will

belittle our case, we cannot on the other hand, afford to sideline concerns of our own business. We need to keep in mind that majority of our exporters are small and financially not sound to fight anti-dumping cases abroad.

Apart from asking for a reasonable *de minimus* margin, it is worthwhile to raise that investigations on developing country members should be initiated only if the petition has the support of at least 50 percent of the domestic industry in the developed country member.

It is also important to recognise that anti dumping duties are product and source specific. They can therefore be circumvented by changing the customs and tariff classification, slightly altering the goods or completing a part of production process in the country of import or a third country. The antidumping agreement has virtually nothing to say on such circumventions.

With the entry of China into the WTO, all equations are likely to change altogether and the incidence of this “trade remedy” measure is expected to rise further. According to the WTO’s semi-annual report, China with 22 investigations on its exports, is at the top of the list of countries subject to anti-dumping investigations. Ten of the investigations against Chinese exports were initiated by the US and India itself (five each).

The growing realisation that antidumping is being used least as trade remedy measure rather than strategic considerations are important explanations for India to participate in antidumping negotiations with its own proactive agenda.

Slackening of the US resistance, towards inclusion of antidumping issues in trade negotiations, during Doha conference, is a positive signal and an opportune moment to push for disciplining the antidumping regime. India should join together with like-minded governments to stem and then reverse the tide of antidumping proliferation.

(The Financial Express, 04.01.02)

Part III

DOMESTIC AGENDA

Labour: Just Holding the Line is Not Sufficient

“WE have to attend to a huge domestic agenda before we can reap any perceived gains that future negotiations can throw up”, Commerce Minister Maran said in his most statesmanlike statement after the fourth Ministerial Conference of the World Trade Organisation (WTO) in Doha. We have been arguing this for long, and have also been advocating the same to the Commerce Ministry to take it up with the relevant ministries.

Our international agenda is determined by how we negotiate, interpret or fight with others on trade issues at the international forums, to promote the best interest of our country in the context of the WTO. But equally important is the domestic agenda, which requires our Government to take note of, in implementing our commitments under the WTO, as also to make the best out of it. In our last article on 27th November in Financial Express we argued that in the post Doha scenario the issue of labour standards in international trade context is not ‘dead’ as understood by some. The protagonists of social clause, this time lead by the EU, successfully managed to remove a significant line from the declaration recognising ILO as a more suitable place to discuss labour standards.

India has been maintaining that labour standards should be dealt with by ILO and not at the WTO where they have the potential of being misused as a protectionist device. The social clauses are relevant only when there is an equal distribution of wealth and resources. However in reality there are pockets of such poverty in different parts of the world that inclusion of social clauses will only worsen the situation by denying the poor, the necessary job opportunities.

India’s stand is fair enough and this has been supported by most of the developing countries as well. However this doesn’t seem to be sufficient. Instead of merely opposing the issue we need to make it clear to the world as to why we are holding this line.

Chalking Out a Plan

We have to chalk out an advocacy plan and convince those supporting the issue that a sanction-based approach never works. It only harms the most vulnerable members of the society in the targeted country. Importantly, India has the advantage of having a common understanding on this issue among all sections of the society. Our trade unions and non-governmental organisations among others are also opposing the trade-labour linkage. What has been lacking, is that we have not been using this understanding quite effectively. We'll have to cultivate, resource and use our domestic trade unions and NGOs to counter the campaign for linkages promoted by their western counterparts.

On the other hand we'll have to keep our house in order and take some tough actions as well as do long term planning to deal with the problem of child labour and to ensure worker's rights in unorganised sectors. Contrary to common belief in western countries our organised sector workers are in fact overprotected, and simpler hire and fire laws with safety nets (for the retrenched workers) are needed for efficient functioning of the economy. However a large majority of our workers fall under unorganised sector and it is this class which is being increasingly exploited.

Our policy makers need to become a bit more proactive and address the issue of ensuring minimum labour standards for unorganised sector workers in the ongoing labour reforms. In India, as per the Supreme Court's definition, a vast majority of the labour force is still languishing under conditions of bonded labour and bonded child labour.

More than 300mn people are deprived of basic labour standards, besides 65mn children, who are working in conditions of bonded child labour. Therefore, nearly every third Indian today is in a condition of one or the other form of forced labour and it is certainly a very tragic situation in the world's largest democracy.

Child Labour a Major Problem

Child labour is a huge and complex problem, which is not being tackled adequately. Despite a 1996 judgement of the Supreme Court directing the government to identify and rehabilitate child labourers very little has been done on the ground. Lack of co-ordination among the central and state governments is one of the prominent reasons for this, apart from lack of will and poor implementation of laws.

According to a study done by CUTS, India would need a whopping Rs. 67,000 crores every year to eradicate actual and potential child labour in the age group of 6-11 years. However, it is disgusting to note that the prevailing red-tapism

and lethargic bureaucratic system even doesn't make adequate use of available resources. In the State of Rajasthan for instance, a large amount of money deposited in the child labour rehabilitation fund established in 32 districts is lying grossly unutilised. The concerned officials keep on passing the buck to each other and even the 8,110 identified child workers have no choice but to hope for good time. The other states also suffer the same fate.

In addition we also need to address the issue of lower workers' rights standards in export promotion zones (EPZ) and special economic zones (SEZ), toward which finger is often being pointed out by the western trade unions and NGOs. There is no logic why these zones should have lax labour standards than those in other areas. Often Chinese examples are quoted by our industry to seek lower standards in these special zones.

But with China's entry into the WTO, that situation may also change when pressured by the western groups. India is already in the process of reforms to strike a balance between legitimate rights of workers and the objective of providing a framework that could encourage efficiency in the system. The same should be applicable to these zones as well.

Importantly as far as exploitation of workers or child labour is concerned, our own rules in this regard are world-class but they are hardly implemented in a proper way. Poor implementation is our own problem and something, which we'll have to address urgently.

Having said that, India's performance at the international fora on the labour front also depends on how serious it is to improve things at domestic level. These actions at domestic level are going to help our own people; in addition, they will also help in shutting the mouths of those advocating social clauses.

Therefore along with these actions, India will have to plan its strategies and alliances well in advance, to keep this issue out in the next WTO Ministerial meeting as well. It needs to start acting now otherwise two years will whiz by so fast that we will get caught napping again.

(The Financial Express, 08.02.02)

Reality Checks on the Domestic Policy Front are Vital for Luring FDI

“THE reforms rabbit can become a turtle, which can become a rock” commented Robert Blackwill, US Ambassador to India recently pointing out that India’s reform process is extremely slow. He questioned the need for government clearances for foreign direct investment (FDI) proposals, which takes 10 years. There are many international investors, willing to flock to India but they are put off by the government ambivalence and red-tapism.

The issue of investment is something which relies upon a host of factors: policy matters, attitude et al. Particularly on international investment arrangements, any policy response by the country affects the flow as well. For example, the proposed UN Code of Conduct for TNCs was aborted in 1992, when the USA warned countries that if they continue to harp for it they would not get the necessary FDI.

India too joined the bandwagon and stopped pushing for the code. However the issue is dormant and not dead, as is being witnessed in the current debate at the WTO working group on trade and investment at Geneva.

In one of our earlier articles (Financial Express, 26th November 2001, see pg-39) on these pages we argued that India should keep its fingers crossed on the issues of international trade and investment in the post Doha scenario, as the Doha ministerial has only deferred the issue for some more time. In political appendage the EU will not tire in using stick and carrot to make sure that binding negotiations really do start in 2003.

One should not forget that just before the Doha ministerial also they came with an opt-in-opt-out mechanism aimed at dividing the developing world on the Singapore issues, which included competition policy, trade facilitation and transparency in government procurement other than investment.

India has been opposing an agreement on investment in international trade context. That is understandable also, as there is no evidence to show that an agreement on investment can facilitate investment flows, or vice versa. However, India does recognise the importance of FDI flows in economic growth and in recent years it has been able to attract it at a faster rate.

India is Not Attractive for Foreign Investors

Nonetheless India is still very far from being a highly favourable destination for investment. The \$2.6bn of FDI that we get is peanuts compared to China (\$43.2 bn), Brazil (\$19.3bn) and Poland (\$4.9bn).

Export growth is an important aspect of economic development. However a number of domestic factors hamper our export growth such as infrastructure constraints, high transactions cost, small scale reservations, inflexibility in labour laws, quality problems, etc.

Therefore the role of FDI is vital in providing the capital and the expertise to achieve export competitiveness in a wide range of technology-intensive as well as labour-intensive sectors. The foreign investors are likely to bring in necessary product design, specialised machine tools and capital goods, key intermediate products, as well as knowledge of and access to world marketing channels.

The government needs to keep this in mind and incorporate it into the core policy and economic management decisions. It needs to create an environment wherein foreign investors are assured certain key conditions for profitability including that of reliable infrastructure, adequate power, physical security, reasonable taxes, decent logistics for the import and export of goods, and so on.

The key element of the strategy is closer and more sustained interaction with the investors on the one hand and with the Government and relevant agencies on the other. For this the government will have to give up its ambivalent regulatory attitude towards foreign investors.

The government seems to be taking some serious steps ahead to promote FDI, but on the other hand it maintains various regulations against full foreign ownership as well as insists on long drawn out approval processes for such ventures. The unnecessary restrictions on equity participation by foreign companies should be removed immediately. Additionally the government should actively encourage inward investment in export-oriented sectors, allowing 100 percent foreign ownership without administrative interference, and with the provision of generous tax holidays. The role of the foreign investment promotion board (FIPB) should be kept to minimum necessary and the number of other agencies involved in the approval process should be streamlined.

India has experimented with export processing zones (EPZs) but their performance has been nowhere close to those in China. A variety of reasons including insufficient logistical links with airports and seaports, poor infrastructure in areas surrounding the zones and unclear incentive packages governing inward investment have been responsible for it.

India should allow the private sector to set up and operate some of these sites to expand EPZs to provide modern infrastructure for export-oriented Projects. An immediate focus on the infrastructure of airports,

telecommunications, ports, and roads in selected areas is the need of the hour to make the country more attractive to foreign investors. Attempts should also be made to increase political commitment, establish regulatory transparency and dispute resolution mechanisms to attract foreign participation in infrastructure.

Unfavourable Labour Laws

One important factor, which continues to appal the foreign investors, is India's unfavourable labour laws that make it very difficult to fire workers in enterprises of more than 100 workers. Excessively protected trade unions and restrictive labour legislation do not have relevance in the process of globalisation.

One needs to strike a balance between legitimate rights of workers and the objective of providing a framework that could encourage efficiency in the system. The restrictive labour legislation should be revised to allow managerial flexibility in the hire and dismissal of workers in large industries; of course this should be done with the provision of adequate safety nets. It has been observed in many parts of the world that easy hire and fire rules help the enterprises to sustain and grow in difficult times, and in turn increase job availability in long term.

We have been attempting to address these problems in the ongoing labour reforms but a strong will on the part of the government is a must for successful reforms. The Government should adopt the recommendations of the Group of Ministers on labour reforms finalised in January 2002.

India should also make serious efforts to strengthen intellectual property rights, particularly in those sectors where it has comparative advantage given its skilled and educated manpower. India has emerged as superpower in the IT sector but the lack of enforcement of intellectual property laws is most likely to inhibit inward foreign investment into it.

Additionally the lack of interest and authority of state and local governments, and the private sector, compared with the central government, in the design, set-up, and functioning of the FDI policies is also playing a negative role.

The government must take urgent measures to engage and devolve more authority in selected areas to the state governments. This will also help in tackling the problem of clustering of FDI in only a few states. Another problem faced by investors is regarding clearances at the state level.

While at the central level, FIPB is approving the FDI proposals within the expected time-frame, investors have to pay bribes to the state officials to get even a basic amenity such as electricity connection. This is a serious problem as state governments provide about 70 percent of the clearances.

Creation of a council of senior Union and State government officials as well as representatives of large foreign-invested companies is also advisable. India has the potential to become a favourable investment destination but it needs to remove the bottlenecks it is facing through further deregulation, far reaching policy changes and effective law enforcement.

(The Financial Express, 11.02.02)

Trade in Services: India at the World's Disposal

D ANI Rodrik, the noted economist, has established that if the rich countries allowed import of temporary skilled and unskilled workers from the poor countries to the extent of only 3% of its labour force, it would yield \$200bn per annum.

“This will be vastly more than the World Bank’s much-inflated estimate of the gains from the traditional trade agenda. Moreover, these gains would directly accrue to workers from developing countries obviating reliance on trickle-down economics”, he argued recently in an article in the Financial Times.

This should sound as music to our domestic policy makers. Over the last decade, India’s performance in international trade on merchandise front might not have been very impressive but she has made significant progress in trade in services. While India’s share in the world’s merchandise exports has gone up marginally from 0.5% in 1990 to 0.7% in 2000, the share in exports of services has taken a big leap forward from 0.6 % in 1990 to 1.2% in 2000. India is emerging as a ‘natural choice’ for services given its comparative advantage in terms of low cost manpower and high computer literacy.

The Doha Ministerial Meeting of the WTO has squarely put the service sector on fast track of liberalisation. India with its already large and growing service sector is likely to gain extensively from liberalisation of services. Technological developments in computing and communications are providing an opportunity to India to telescope decades of development and ‘leap frog’ into the information age in a relatively short period of time. However we need to look beyond information technology and also focus on other potential areas wherein we are traditionally strong, e.g. health, educational and other labour oriented services.

The Uruguay Round brought the service sector for the first time into the fold of multilateral trade negotiations. The General Agreement on Trade in Services (GATS) sets out the rules and procedures for trade in services across nations. GATS is different from other GATT 1994 agreements in a sense that

each particular sector must be specifically placed under the auspices of the agreement for it to operate in that sector.

This 'positive list' approach differs from the usual 'negative list' approach, which means that every relevant sector is covered by the agreement unless it is listed as being excluded. Thus, under the GATS Agreement, no sector is covered unless it is listed as being covered.

GATS is the most complicated of all the GATT/WTO agreements, because of two reasons. First, the Agreement follows the established GATT format in the application of the most favoured nation and national treatment principles yet it adopts the 'positive list' approach. Secondly, the operation of the MFN principle is complicated by the inclusion of an appendix to the Agreement in which countries are allowed to list those sectors for which this principle will not apply for a period of ten years.

Services Sector the Mover of Indian Growth

As far as Indian economy is concerned, over time, services sector with as high as 47 percent share, has become the largest contributor to national income. Furthermore, in recent years, this sector has created the maximum number of jobs and is expected to continue do so in future. In the international trade context it is becoming increasingly evident that the efficiency and quality of the service sector of India will be critical to its development aspirations.

To make India a world class service provider we need to strengthen the supply capacity and enhance the competitiveness of our service sector. This can be best done by domestic policy reforms, introducing competition in the supply of services, particularly infrastructure services, under robust and competitively natural regulatory regimes to address market failure, protect consumer interests and meet universal service obligations.

The GATS Agreement is definitely an important push for this drive for liberalisation and our policy-makers are doing good work at international forums but the domestic agenda is equally important.

We need to take initiatives at domestic level to make service-industries competitive, as compared to those in developed economies. The last Exim Policy was a step forward in this regard, wherein service providers with a turnover of Rs. 100 crore or more were encouraged by according them "International Service House" status.

Among the different modes of service supply, India is most interested in 'movement of natural persons', however, other modes (viz. commercial presence, cross-border supply and consumption abroad) are also important.

To make Indian service sector a global player in the emerging international scenario first of all we need to identify the sectors where the movement of

natural person would result in economic efficiency and long term economic development. Subsequently, in the identified areas focused efforts should be made to buttress the quality of services by developing specific training programmes.

Explore Opportunities

There is a need for temporary movement of skilled and unskilled workers in the developed countries as many of them are short of hands to perform essential duties. We need to develop an efficient system to explore these opportunities and supply right people for the jobs. For instance, we have a huge potential of exporting skilled and semi-skilled workers from the unorganised sectors on a temporary basis e.g. farm workers, barbers, masons, tailors and cooks.

But they need to be systematically trained before sending them abroad. Apart from covering job specific aspects these training modules should also include relevant information on issues of legal migration, exploitation of foreign workers, conditions of employment, workers remittances, changes in labour laws, work permits, employment benefits and protection of foreign workers.

Government needs to take initiative of the process and gradually involve private sector into it. Creating a national level institution for the purpose, possibly on the lines of the Kerala manpower export corporation is one way out. This kind of institution can also act as an information hub for domestic service providers to receive knowledge on market access opportunities in other countries. These kind of domestic measures for promoting trade in services are absolutely essential for India to become a major player in this relatively new area of the multilateral trading system.

Additionally we need to improve and upgrade our educational, professional and technical qualification system to make it world class. This will help us in pursuing with our efforts to secure mutual recognition of these qualifications with other countries, particularly potential importers of services. India has to identify the domestic policies and regulatory systems, which have a bearing on market access available in the services sector and subsequently, make required changes to upgrade them.

To exploit the full potential of the Indian service sector comprehensive reforms are required in insurance sector, banking etc. Moreover we need to adopt independent regulatory mechanisms that would regulate unfair practices in trade etc vis-à-vis services sectors so as to protect vulnerable consumers in the initial years of privatised services.

Similarly, India has the potential to become a major destination for foreign tourists in the near future, thus increasing possibility of generating more income

through 'consumption abroad' mode of service supply. But again there is a need to improve necessary infrastructure as well relevant policies in this regard.

Therefore, for India to become a major player in global trade in services, we need to take some serious steps forward. Creation of a proper regulatory environment (with consumers' involvement) for better quality of services and at reasonable rates is a must. Secondly, investment in infrastructure (like telephones, roads etc) is to be made for making Indian service sector globally competitive. And thirdly, the government should take steps to support Indian service providers in establishing their presence in other countries.

(The Financial Express, 09.04.02)

Trade in Agriculture: From Market Access to Domestic Policies

“**T**OUGH to quantify benefits now” we commented in our last article on agriculture (see pg-55) on the implications of the Doha Ministerial Conference of the WTO on Indian agriculture. In a way no fundamental change was observed in Doha on the original objectives of the Agreement on Agriculture (AoA), but the Doha declaration was certainly seen as a positive step forward from India’s point of view.

Indeed agriculture remains among the greatest inequities in the world trading system, primarily because of unjust reforms. In the era of globalisation, with a rule-based multilateral trading system, the time is well overdue to truly reform global agriculture. Undoubtedly the AoA in its current form is tilted towards rich countries and the poor are not getting their rightful due by way of increased market access for agricultural products.

However for countries like India, where 65 percent of population depends on agriculture, which contributes only 25 percent to the GDP, agriculture suffers adversely from domestic policies and state of infrastructure more than from the WTO and trade liberalisation. One has to distinguish between physical surplus, as is being witnessed today which is due to low purchasing power and time-irrelevant procurement and distribution system, and marketable surplus, which is based on the price of a product.

The country has accumulated massive stock to the tune of 60 million tonnes of food grain that is far in excess of its maximum requirement at any time of about 24 million tonnes. Maintaining this stock is a huge burden on the state exchequer and at times the authorities have been compelled to export surplus rice and wheat even at 60 percent of the domestic price. On the other hand the country has to depend on imports of edible oil and pulses to meet the massive shortage.

Agriculture, a Neglected Sector

Agriculture has been traditionally a neglected sector in the Indian economy. In the post independence era the industrial sector was promoted in the name of

import substitution and self-reliance and at the same time encouraged to incorporate world class technology. However agriculture was primarily guided by “residuary surplus”, e.g. exports of agricultural products was allowed only if there was a surplus after meeting the domestic requirement. This was applicable not only to food grains but also to other products such as tea, coffee, cotton and sugar.

Importantly, during the last two decades this sector has been particularly overlooked and our economic reforms have completely by-passed it. There has been hardly any significant public sector investment in agriculture, resulting thereby in declining private sector investment as well.

However, the recent government decision on freeing internal trade in foodgrains will result in a win-win situation for both producers and consumers. The earlier policy of restrictions helped in creating market distortions only, resulting in producers not getting the right price and consumers poor access.

That said, if India has to become a major player in the global grain economy it has to concentrate on domestic reforms in agriculture. Harnessing export opportunities and import substitution would largely depend upon actions at domestic front.

If India has to exploit the advantages arising out of the liberalization of agricultural trade arising out of WTO it has to take steps to diversify Indian agriculture according to the needs of the consumers and future export potential. It has to ensure the removal of export restrictions on agricultural commodities. In addition, taxation policies on agricultural exports need to be streamlined.

The existing system of routing imports and exports of agricultural products through canalising agencies of the government is highly inefficient leading to consequential delays and corruption. Their reaction to market movements is abysmally slow and bureaucratic. Therefore the role of these canalising agencies for both imports as well exports should be reduced to the necessary minimum and the number of other agencies involved in the process should be streamlined. An

immediate focus on the infrastructure of power, telecommunications, ports, and roads in selected areas is the need of the hour to enable the country to reduce cost of commodities and their domestic prices. To impart competitiveness to the domestic agricultural sector, India needs to improve the infrastructure and thereby reduce intra-country transport costs. As per estimates, transporting one tonne of rice or wheat from Punjab to Tamil Nadu by road costs Rs. 2750. While the cost of transporting a tonne by ship from Thailand to India costs Rs.534, and from Australia to India, it costs Rs. 1000 only. The higher cost of transportation within the country explains preference for imports, which despite higher prices, reach the market comparatively cheap.

Efforts to Enhance Yields

On the other hand we need to make serious efforts to enhance yields from various agricultural sub sectors in India, which are much below the international levels. It would be worthwhile to give serious consideration to biotechnology. Moreover we need to adopt innovative methods to induce public as well as private investment in agriculture, including investments in R&D on biotechnology. For instance, one important aspect in marketing of products which our exporters lack is the latest technologies in packaging. Modern packaging not only helps in preserving the original form, texture and text of agricultural products but also attracts consumers.

Greater technical know-how as well as collaboration with agri-tech companies from developed countries should also be encouraged. However in order to attract foreign capital apart from improving infrastructure we also need to make honest efforts for ensuring enforcement and compliance of intellectual property rights.

With increasing emphasis on environmental and health standards, it becomes all the more important for Indian agricultural and food exporters to adhere to international norms on health and sanitation. They can also explore and avail of technical and financial help available under various international trading agreements in this regard. The government should chalk out a long-term plan to disseminate relevant information to exporters of agro and food products.

Additionally the government needs to remain vigilant about misuse of environmental and health standards for protectionist purposes by other countries. The Government should do a rolling study (at least for five years) on non-tariff barriers being faced by Indian exports in various countries so that a comprehensive long-term strategy can be evolved to counter them.

Antidumping: Needed a Rationalised and Vigilant Approach

ANTIDUMPING is one of the few policy instruments, which despite sharing an often-uneasy relationship with the WTO's core principles has found a welcome audience among many of its member nations. Anti-dumping use has increased dramatically over the last decade, reaching an all time high of 340 in 1999. Though it has been a favorite among developed countries, of late many developing countries including India have also joined the bandwagon. India with initiation of as many as 16 investigations during 1 January–30 June 2001, was only next to the US in terms of using antidumping measures.

The history of anti dumping duties dates back to the pre GATT period, when Canada for the first time applied these duties in the early part of 20th Century. In 1947 when GATT was drafted, a provision for imposition of company or product specific duties was also incorporated. However, it is Articles VI of GATT 1994, which actually allows members to apply anti-dumping measures on imports of a product with an export price below its normal value.

Dumping refers to a situation wherein goods that are unsaleable because of high price they command in the domestic market, are sent to a foreign market for sale at low price with the intention of keeping up the prices at home and, at the same time capturing new markets. Anti dumping duties are additional duties levied by the country in which goods are dumped, if there is dumping and a causal link is established between dumping and injury to domestic industry. As nations liberalize their markets and cede control over certain types of trade policies to the WTO, anti-dumping along with safeguard measures have become increasingly popular methods of protecting domestic industries from foreign competition. In some sectors, anti-dumping measures have become substantial non-tariff impediments to international trade, and their use has recently become increasingly common.

India, a New Player

As far as India is concerned it has emerged as a new player in the game of anti-dumping. During the period between 1992 and 2000, India initiated a total

of 89 anti-dumping cases, the highest number by any country. However for India as well as other developing countries in order to achieve long-term sustainable growth, it is important to ensure that each global trading partner must aim to minimise the use of anti-dumping measures. If we fail to achieve this, then there will be considerable losses both for the exporting country and for the country imposing the duties.

In India at domestic level there is a need to streamline the government's antidumping investigation machinery, so that the investigations could be expedited to provide relief to the affected Indian industries as quickly as possible. The time taken by antidumping directorate recommending a provisional and final measure against dumped measure is too long, leading to grievous injury to the industry in the intervening period. This is in sharp contrast to the average time taken by developed countries like the US, New Zealand and Australia.

The main stumbling block seems to be inadequate access to authentic and timely information and data related to cost of production and domestic prices. An information hub needs to be created which can collect and pass on all relevant information to Indian companies well in time. In addition, Indian diplomatic missions abroad should play a greater role in this endeavour and work closely with industry associations to collect and disseminate information and required data.

Furthermore, the Indian authorities need to design a system to carefully analyse the cases to balance the consumer interest and safeguard affected industry's interests. The recent case of imposition of preliminary antidumping duty on certain polyester staple fibres (PSF) being imported from Republic of Korea, Malaysia, Taiwan and Thailand by the designated authority in the Commerce Ministry, which has stirred up a hornet's nest, is worth considering as an example.

While on the one side is the Association of Synthetic Fibre Industry (ASFI) representing the domestic PSF producers such as Reliance Industries Ltd., and Indo Rama Synthetic (India) Ltd. accounting for more than 71 percent of domestic production, which have welcomed the decision.

A long list of users/importer industries numbering 41 including Indian Cotton Mills Federation (ICME), South India Mill Association (SIMA), Indian Spinners Association, Madura Coats Ltd., Rajasthan Textile Mills Association, on the other hand have sharply criticised the decision as this will increase cost of inputs for them. They have argued that the recommended antidumping would only help a couple of domestic units of PSF to emerge as a virtual monopoly in the whole polyester chain.

Both the WTO agreement and the Indian anti-dumping regulations allow interventions in Anti Dumping (AD) enquiries by user groups and consumer

organisations, to present a contrary view. Such interventions are quite popular in the European Union, but sadly lacking in India. For this purpose, consumer organisations in India need to be sensitised, resourced and encouraged to take up AD work.

Indian Exporters too Small to Fight Cases

The other important aspect is the fact that majority of our exporters are small and financially not sound to fight AD cases abroad. On the part of government, apart from asking for a reasonable de minimus margin in trade negotiations, it is worthwhile to raise the point that investigations against developing country members should be initiated only if the petition has the support of at least 50 percent of the domestic industry in the developed country member.

At home Indian manufacturers should keep themselves prepared for any possible AD challenges and develop a culture of maintaining harmonised accounts as per WTO norms. They need to remain cautious about possible AD actions against them in other countries and should sell at least to one wholesaler in such a way that the AD margins are not greater than 2 percent.

They should change the cost structure in a way that keeps as many costs in the home market as direct and as many as possible for products exported as indirect. The direct and indirect expenses should be recorded separately for each product and as far as possible should be attempted sporadically not continuously.

Indian industry associations should also develop a strong database to support their case with relevant material. This should be complimented by serious efforts from the government of India for collecting complete details about Indian exports of affected products, their growth over a period of time along with growth of imports from competing sources as also growth trends of relevant products in the importing countries concerned. In the long term however, we should keep in mind that the solution of evil of AD lies in tighter international rules for which India should continue its efforts at international level.

Competition Regime in India: What is Required?

THE four 'Singapore Issues' (named after the location of the 1996 ministerial conference), proved to be one of the main points of contention between the North and the South at the Doha Ministerial Conference of the WTO. The EU wanted to begin negotiations on competition and investment, while the US pushed talks on transparency in government procurement and trade facilitation (e.g. making sure goods move smoothly through customs at the borders).

While, most of the developing countries including India did not want any of them, arguing that they imposed a massive negotiating burden; that they were not priority issues, and that they had yet to be convinced that it is in their interest to seek agreements in these areas.

However as we have been arguing in the past also, all Singapore issues per se are not bad for India. A multilateral competition agreement, for instance, if properly negotiated can bring significant gains to the developing countries. For instance, there has been a long history of cartels wherein large multinational companies have, at times, quite effectively carved up the world into areas of control. A multilateral agreement will help to detect, control, break and punish these unholy international cartels, which are a direct attack on larger consumer interest.

On the other hand despite fending off the immediate threat of negotiations, the issue has in no way gone away. Between now and the next ministerial, the pressure is likely to increase on developing countries to accept negotiations. As in Doha, the battle in 2003 over a Northern-driven agenda risks diverting attention towards competition issues.

India therefore should keep her fingers crossed on the issues of international trade and competition in the post Doha scenario, as the Doha ministerial has only deferred the issue for some more time. At the same time she should focus on domestic measures and improving things at home to prepare her self for such an international regime.

Under most circumstances, policies to promote healthy competition will also lead to growth and development but there may be conflicts and the relationship between the two needs to be given careful consideration by policy-makers.

Furthermore, economic, political, social and historical factors vary from country to country and the design of the competition policy must take this into account. For developing and developed countries alike, developing and implementing a truly successful competition policy requires an active debate involving all stakeholders.

Throwing the Baby out with the Bathwater

As far as India is concerned, the scope and context of the term 'competition' has undergone a significant change since she embarked on the path of liberalisation in 1991. However, it is disappointing to note that the Indian policy response towards nurturing competition in a market driven economy in the new era started on a wrong note.

The Monopolies and Restrictive Trade Practices (MRTP) Act, 1969 (the existing competition law) was amended in 1991, which stripped the MRTP Commission (the existing competition authority) of its powers to conduct a pre-merger scrutiny. It was a case of throwing out the baby with the bathwater.

Since 1991, India has been witnessing increasing foreign direct investment inflows, growing numbers of mergers & acquisitions and accelerated trade liberalisation which have influenced the structure of the concerned markets and conduct of corresponding domestic and international players. Therefore the need of a legal instrument that could regulate and not restrict competition in a globalising and liberalising market place becomes an imperative.

Realizing this, the government took a step in the right direction by introducing the Competition Bill of India, in the Parliament in August 2001. However, despite the intense debate that gathered momentum after the publication of the Raghavan Committee Report in May 2000, certain issues remain unresolved. Various interest groups are now eagerly looking for a good debate in the Parliament and the final outcome.

Importantly, if an international agreement on competition comes by at the WTO, there will not be any cost of compliance to the Indian economy. The framework of agreement as it is being proposed at the WTO includes only the core principles like transparency, non-discrimination and procedural fairness, and provision for hardcore cartels. Neither the present competition law nor the proposed Bill has any conflict with the core principles proposed at the WTO. Even the provisions in our existing and proposed laws are much more elaborate than that would be required under any potential agreement.

Bill needs Reconsideration

However, the Competition Bill needs reconsideration in certain parts, on its own merits, for ensuring balance between consumer interests and freedom of trade. There are many such issues, but here we deal with few important ones.

Hard-core cartels, for instance, need to be tackled through a carrot and stick approach. In the current form, it seems that if the cartelising parties are able to rebut the presumption against them (of appreciably affecting competition), they might be let off unpunished, even if it is established that they had entered into the agreement with the mala fide intention of reducing competition.

Defaulters must be punished even if they do not achieve their desired results, which would discourage the formation of cartels at the first instance. Therefore, at least hardcore cartels should be put under the *per se* rule.

Additionally, the Bill should provide for initiation of criminal proceedings against the persons involved (personal liability) at the appropriate criminal court in case of hardcore cartels, once such cartel is proved. The competition authority should proactively ensure that such criminal proceedings are initiated and pursued, as it happens in the USA etc.

It is also important to include in the Bill explicit authority for two things: (a) provide protection to the whistleblower, usually an employee who brings forth incontrovertible evidence which can assist the authority in fixing the violators; and (b) to set up a leniency programme, which will grant amnesty to the approving colluding firm, which has been a member of the cartel and brings forth damning evidence. Similar provision exists in our criminal law.

The degree of these measures has to be structured so as to encourage firms and their employees to be the first to inform the Commission of the nefarious activities. The “stick and carrot” of heavy potential fines and punishments (like jail terms) coupled with the promise of amnesty for the whistleblower has proven effective in uncovering and prosecuting hard core cartels in many countries including the US. The EU and the UK have also proposed to amend their laws to include such provisions.

Moreover, despite the increasing importance of intellectual property rights issues (under TRIPs etc), the Bill does not seem to adequately deal with them.

The TRIPs is quite damaging to developing countries’ interests. However, there are provisions in the TRIPs which allow countries to adopt some relief measures. But by not including suitable provisions in the Competition Bill we are losing that opportunity. The matter can be dealt within a separate chapter altogether.

An important point, which needs attention, is that appointment of retired judges and civil servants as the Members or Chairperson of the new authority is absolutely undesirable. It not only breeds corruption as judges and civil servants succumb to the establishment to get sinecures after retirement, but one also

needs to remember the fact that most of them are ill-equipped to deal with economic issues. This kind of practice as it prevails now has made the competition authority quite ineffective. The provision of high retirement age in Bill indicates that the same practice may be continued.

The Bill requires the proposed Commission to give its opinion on possible effect on competition policy (competition advocacy) only on a reference made by the Central Government and that too only for future policies. Instead the Bill should empower the Commission to make recommendations to the Government on its own, covering both current and future law and policy. Similarly, by making the Commission bound by its policy directions, the Government is taking away the independence of the Commission and has raised the scope of political interference. This is in contrast, with what has been recommended by the Raghavan Committee.

We also need to keep in mind that ensuring division of responsibilities like investigation, prosecution and adjudication and transparency in the functioning of the competition authority, and maintaining their independence is equally important. Independent regulatory authorities, particularly in services sectors, should be formed by taking into account the consumer and public interest.

Secondly, the model which has been recommended follows the design of the MRTPA, that the new authority will be both prosecutorial, regulatory and adjudicative needs to be reconsidered strongly. Our own Telecom Regulatory Authority (mark-1) had a similar design, but the law was repealed due to excessive interpretation by the members. A new law was enacted, by virtue of which it was changed to have a separate regulator and a separate disputes and appellate tribunal. A similar model is already followed for regulation of securities, i.e. the Securities & Exchange Board of India is the regulator while there is a separate tribunal to adjudicate disputes arising due to interpretation. The South African competition law too has a similar divided structure.

By improving things at home and ensuring the incorporation of all essential elements in the national competition law we would be able to form a comprehensive framework to ensure that a country reaps the benefits of competition between firms while achieving its national development objectives.

Multilateral Trade versus Environment Protection: What are We doing at Home?

THE World Trade Organisation (WTO) Members for the first time in the trade body's history agreed to negotiations on environmental issues during the Doha Ministerial Conference. The green negotiations have already started with a special session of the WTO Committee on Trade and Environment (CTE), last month, however the developing countries including India are still a bit uneasy about this linkage.

The predicament is understandable also, as the rich countries have often misused environment as a protectionist device to deny market access to developing countries. Nonetheless it is important to note that apart from the international agenda which we have on this issue, equally important is a huge domestic agenda. It is quite unfortunate that we have been continuously neglecting this (domestic agenda) and our efforts towards a better environment at domestic level have been far from satisfactory.

Lately we have been observing that the policy responses on environmental standards and eco-compliance, be that of auto-pollution, protection of Taj Mahal or any other issue, are increasingly left to the courts to address, in *suo moto* actions or as a result of public interest litigations, rather than to the government to regulate. All across the country, evidence of environmental degradation is appearing everywhere, and everyone notices except the political establishment.

Over the years the courts have developed some half-a-dozen principles including "polluter pays", "exemplary damages" and "strict liability", for punishing the polluters. But ironically the pollution control boards are rarely seen using them against mighty polluters. "Sustainable development" and "environmental compliance" are still trite mantras in India, to be faithfully and mechanically repeated by all, and forgotten.

All this definitely doesn't give a reason for linking environmental protection to threat of sanctions in WTO, but our sincerity in tackling these issues domestically will undoubtedly help us immensely in exhibiting our concerns up front during international trade negotiations.

Linkage much stronger than any other

It is important to recognise that the trade-environment linkage is much stronger than any other non-trade issue. Almost every agreement within the WTO system contains exceptions from the trade liberalisation rules in order to provide for Members' efforts to protect the environment. The Doha Declaration has further deepened the relationship. Stronger language has been used than ever before in the Ministerial Declaration's Preamble itself, which states that that the multilateral trading system and efforts towards environmental protection and sustainable development "can and must" be mutually supportive.

The Declaration has also launched negotiations on relationship between WTO rules and trade obligations set out in Multilateral Environmental Agreements (MEAs); procedures for information exchange between MEA secretariats and relevant WTO committees; and the reduction or elimination of tariff and non-tariff barriers to environmental goods and services.

Therefore, it is high time to take the issue seriously and put our house in order by taking tough actions at home and implementing the domestic agenda. In the long run India should and must plan to improve environmental standards across the country, not because of pressure from outside or because it has come to WTO, but because it is for our benefit.

On the trade policy front, first and foremost the status of the Consultation Group on Trade and Environment under the aegis of the Ministry of Commerce should be raised to that of a Standing Committee, which will discuss and prepare concrete recommendations. The Committee should also involve other important stakeholders including the Ministry of Environment & Forests, the State environment ministries as well as the state pollution control boards.

Secondly before the negotiations begin we need to finalise India's position and strategies for negotiations on MEAs as well as on environmental goods and services. As far as MEAs are concerned India is a party to most of them. Clarification of conflicting provisions, in fact seems to be beneficial for us, as otherwise these will be left for interpretation to the appellate body as it happened in the shrimp-turtle case.

While on environmental goods and services it seems we are stuck up on the definitional aspect itself, there are different shades of opinion about it. The narrow definition of environmental goods developed by the OECD limits it to only clean technologies, processes or products that can be used for minimising environmental damages, in which India has hardly any edge over developed countries as far as exports are concerned.

Environmental Goods and Services

Some experts argue that widening the definition and including environment friendly goods into it will help us in securing market access for products in which we are traditionally strong e.g. organic products and jute etc. But this can prove to be a double-edged sword. It would effectively mean accepting non-product related PPMs and thereby limiting market access opportunities for products, which may not qualify as eco-friendly. Therefore we need to take all relevant sectors including business and NGOs into confidence before we finalise our strategies for lobbying at the international level.

We also badly need to encourage domestic production of environmental goods and services. Efforts should be made to persuade domestic industry and the government to invest in R&D to develop environmentally sound technologies and practices indigenously. However in order to stimulate the domestic production we also need to attract investment as well as technology flows in these areas. If this

happens India, given its trained technical manpower, could over the time become a large exporter of environmental goods and services to other countries.

Policy makers also need to take a lesson from failure of Indian 'ecolabelling' scheme, on which we have wasted more than Rs.20 core of public money, without having a single label in the market. There seems to be an urgent need to overhaul the system so that consumer and producer awareness on sustainable consumption and production practices is generated in the country. Moreover the producers need to be encouraged by fiscal and monetary incentives for producing eco-friendly products.

On the other hand we need to be more vigilant about misuse of environment for protectionist purposes by other countries. The Government should conduct rolling studies (at least for five years) on non-tariff (environmental) barriers being faced by Indian exports in various countries so that a comprehensive long-term strategy can be evolved to counter them.

Over the years we have recognised that environment is not merely to do with "pretty tigers and green forests" and that "smoke is not a sign of development" but we still need a paradigm shift in our attitude. We must learn to take environmental compliance in our stride.

What's there for India in an Agreement on Government Procurement

WITH the conclusion of the Uruguay Round of international trade negotiations and creation of the WTO, a large number of multilateral disciplines were established which apply to all the WTO Members. The big exception however, is government procurement where signing on to the principle of non-discrimination remains voluntary. A working group on transparency in government procurement had been setup in pursuance of a decision of the Singapore Ministerial Conference to study the existing practices and to develop elements for inclusion in a suitable agreement.

Government procurement is one of the four so-called Singapore issues, which developing countries in the past have been reluctant to discuss. The Government Procurement Agreement (GPA) was originally negotiated during the Tokyo Round, and negotiated during the Uruguay Round. The revised GPA, which came into force on January 1st 1996, is one of the plurilateral agreements that applies only to the WTO members that have signed it. As of now there are only 27 signatories to agreement and almost all developing countries including India, are out side it's purview.

The GPA establishes a framework of rights and obligations among its parties with respect to their national laws, regulations, procedures and practices in the area of government procurement. Procurement of products and services by government agencies for their own purposes represents an important share of total government expenditure and thus has a significant role in domestic economies.

As far as India is concerned so far it does not seem to have assimilated the idea of a multilateral agreement in the WTO framework. Lately there appears to be a willingness to agree to transparency aspects, but opposition to the extension of this to a market access agreement remains firm.

Transparency will Improve Efficiency

The possible advantages of an agreement on transparency in government procurement in the WTO can come in several ways. First and foremost it is

bound to impart efficiency to the public procurement system, as transparency would ensure that the most efficient suppliers would have the opportunity to participate in the procurement process. Therefore the best quality at the lowest price would be available to the Government.

Moreover, it is also expected to reduce the extent of discretion by bureaucrats and thus result in reduced level of corruption. The transparency of the procedures used in awarding contracts and the right which the agreement would give to aggrieved suppliers to challenge the decisions, would restrain both domestic and foreign suppliers from making under-the-table payments, and put checks and controls on public officials and political parties. There are also, in addition to it, gains that follow from the reduction in the negative externalities that arise from corruption.

According to experts, for India, the gains from market access point of view, expected out of GPA are negligible. But on the other hand there would be significant gains from the potential savings in government resources resulting from the disciplines of the GPA. Therefore it seems to be in India's own interest to take actions at domestic level and make efforts to make the whole government procurement system (barring defence procurements, which even the GPA exempts) more transparent.

Moreover the developing countries including India can expect to be confronted with substantial pressure to accede to the WTO agreement on government procurement or to accept the multilateralisation of this agreement.

The Doha Ministerial meeting has already initiated the process, wherein the members have agreed to start negotiations on GPA after the fifth session of the Ministerial Conference. Significantly the Doha Declaration talks only about the transparency aspects and it doesn't attempt to question Member's preference for domestic manufacturers.

That said, this is the most crucial period for a country like India, who have so far not done much homework on the issue of government procurement. The time for doing that is rather limited, so an early action is desirable.

In this regard our policy makers need to keep in mind that while the WTO rules on transparency would impose obligations on governments, the ultimate responsibility for implementation would rest with thousands of different bodies including various local bodies.

In India, the Central Government, the State Governments and the local bodies represent the three levels of government. Additionally there exist many centrally and state owned enterprises. On the top of it there is no single uniform law governing procurement by all these entities.

We have to ensure better co-ordination among these different bodies which is a daunting task given the fact that some of these entities have a large degree

of autonomy, and persuasion is the only means, which the governmental authorities can use for securing compliance.

Many Problems in India

Such problems in ensuring implementation by the purchasing entities of any international disciplines that may be adopted are likely to be all the greater in a country like India, where the systems for coordination among ministries and other government agencies do not always work effectively and efficiently.

The rules regarding tendering procedures, documentation requirement, technical specifications, procedures for awards and negotiations, time limits, transparency and publication of awards etc need to be rationalised in view of prevailing international practices and systems. Also an efficient reviewing procedure using a court or some independent authority, where complaints can be addressed and disposed of timely.

Moreover, we still follow many outdated and irrelevant price and purchase preference systems, which need to be revamped and gradually removed. For instance, preferential system for public sector units has lost its relevance. The government has already discontinued the system of price preference and the system of 'purchase preference' has recently been extended, with some modifications.

Under this provision a government enterprise whose bid is within 10 percent of that of a large private unit is allowed to revise its price downwards and is eligible for a parallel rate contract. These systems need to be rationalised to keep pace with privatisation efforts and second-generation reforms.

There is no convincing reason as to why public sector units should not be treated as commercial entities. They should be brought into direct competition with private suppliers and government decisions should not be forced on them.

The desired level of efficiency is bound to follow, as over time these units will be privatised and made subject to competition. The government has to give special attention to bulk buyers such as Railways and Department of Telecommunication.

As discussed earlier, for India the gains will mainly follow from transparency and competition-promoting aspects of government procurement. Therefore whether there is an agreement on government procurement or not, it is important for us to take domestic measure to ensure transparency and competition in the process.

Catching up with IPRs before it's too Late

“THE party is over”, commented some of the western trade experts on India’s commitments to recognise pharmaceutical patents by 2005. Indian pharmaceutical companies have been accused of flouting western norms of intellectual property, which has allegedly, over the time, made the country one of the world’s largest suppliers of generic and pirated medicines.

All this is however likely to end, as India is committed under the WTO agreement on Trade Related Intellectual Property Rights (TRIPs), to provide adequate safeguards to intellectual property rights owners from all over the world.

On the other hand there are apparent advantages of a stronger IPR regime. Until now, no Indian firm has had an incentive to undertake original research, in knowing that their discoveries could be copied by a large number of rivals. But now all this is bound to change.

Overall India stands to gain from TRIPs in the long run as it has a huge potential in the knowledge economy although it may have some negative impact on the pharmaceutical sector in the short run. There is already an evident clamour in the country for better IPR protection in industries like software, audio and audio-visual, and traditional knowledge and geographical indications.

Given the fact that the public funds for R&D are increasingly drying up, it is only the private sector that can be expected coming up with new concepts, ideas and products. There are of course some negative aspects of monopoly profit margins, but that is something, which will actually encourage firms to invest in R&D.

Otherwise why would, for instance, a pharma company sink billions of dollars into finding the cure for cancer unless it can be sure that it will be rewarded for that risky investment? Moreover the adverse impact of such developments can always be minimised by suitable policy responses.

Genuine Concerns

Undoubtedly there are some genuine concerns, which have been often expressed against TRIPs agreement and specifically against the inclusion of TRIPs in the WTO. Certainly there is merit in these arguments and they should

be pursued at international level. One also needs to note that it is TRIPs which is the main buy-in for the US to stay in the WTO. Be that as it may, a huge domestic agenda also exists, which we have to attend to on IPRs.

At the domestic level there is quite a long list of tasks, which we have to accomplish before we can reap any possible benefits out of IPRs. Prominent among these are amending the domestic patent laws to meet our obligations under TRIPs; spreading awareness among industry on implications of IPRs and the TRIPs agreement; modernisation of patent offices and infrastructure development; and most critically, creating a pool of trained IPR professionals.

Secondly, we also need to include the regulation of abuses by IPR holders in our new competition law.

The 1999 second amendment bill to the Indian Patents Act seeks to comply with the TRIPs obligations that promote private rights as well as identify modes of protecting public interest.

It's imperative on the part of the Government here, to clarify whether IPR policy in India is to be used as an incentive to knowledge based industries or as a necessary evil to promote the public interest by regulating the uses and abuse of private rights.

Contrary to the common belief, the TRIPs agreement provides both in letter and spirit, for considerable manoeuvring to make it third world-friendly. Consequent to the AIDS drugs fiasco, the Doha Ministerial Conference of the WTO has further clarified some of these provisions (see pg-48).

The second amendment Bill should exploit and incorporate these for maximising the gains for the country.

On the other hand the lack of preparedness of a large chunk of the Indian industry for the new IPR regime is another urgent action point. The domestic industry is not fully aware of implications of IPRs and the TRIPs agreement.

In order to enhance the knowledge of various issues regarding patents among the cross section of people suitable tailor made training/awareness programmes are required. The industry associations should come forward and chalk out plans with Government authorities, NGOs and research institutions in this regard.

It's quite important to encourage Indian industries to invest a portion of their profits into R&D, so that, they can benefit. In turn domestic consumers can benefit from lower prices and greater choice.

More importantly a sense of awareness and activeness needs to be developed in the business community, which can address their fears of someone else patenting the item before they can.

Strengthen Patent System

As far as infrastructure is concerned, much more needs to be done to improve working of patent and trademark offices in India. The patent systems needs to be strengthened and made efficient to deal with the registration of IPRs such as patents, industrial designs, layout-designs, copyrights, trademarks, protection of undisclosed information and so forth.

The Indian Patent Offices located in Calcutta, Delhi, Mumbai and Chennai need to be modernised, and the long and cumbersome process of granting patents needs to be made much more efficient than it actually is. The Indian Patent Office in Calcutta receives no less than 10,000 applications on an average every year from domestic firms and individuals. The Patent Examiners typically take four to five years to approve or reject a patent application, which requires repeated trials and examination before final approval.

Another important factor to be considered is that the need for IPR experts in the country is going to grow at a faster pace than expected. Apart from dealing with an increased number of patent disputes a brigade of patent experts would also be required to train and assist countries' managers and scientists on IPR issues.

Importantly the disputes arising out of IPR matters are more often than not complicated in nature and involve highly scientific questions. To handle such disputes, sufficiently trained and knowledgeable multidisciplinary professionals are required as the concerned officers should not only have a good knowledge of IPR laws and practice but also adequate knowledge of science and technology.

Under the current practices in India, when a lawyer at some stage of his career decides to become an IPR lawyer, the Bar Council emphasises brushing up of his science knowledge, which has not proved very effective. Instead we should seriously think about the US system wherein it is a science graduate or an engineer, who gets special training in law and becomes an IPR professional. For all this, we need to establish more professional institutions to create a pool of technically qualified IPR professionals.

That said, we have to get our act together and work over the huge domestic agenda that we have on IPRs. As of now the IPR system doesn't seem to balance the need for profits with that of consumer welfare from the spread of knowledge, but this will not prevail for long. In the long term we need to foster our own MNCs, and stronger, not weaker IPRs seems to be the preferable route.

Part IV

EPILOGUE

Epilogue

CUTS is a terrific organisation, representing most effectively the interests of developing countries at the WTO. It is also ahead of its rivals in its field. I am very happy to see this book, and it is my pleasure to endorse the foreword by Prof Jagdish Bhagwati. It is my great pleasure to see this essay, originally published by the Economic & Political Weekly (26th January, 2002), carried in the book by CUTS.

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India at Doha: Retrospect and Prospect

Arvind Panagariya

In developing our future negotiating positions, we need to think far more systematically than we have done so far. At least three strategic conclusions can be drawn from the Uruguay Round and Doha experiences. First, we need to consider the direct benefits to us of any demand we put forward in the negotiations. Second, diplomacy requires that we define our negotiating position positively rather than negatively. Finally, and most importantly, prior to defining our negotiating position, we must think hard about the end-game. By repeatedly staking a position that is far from what we eventually accept, as has been the case in the UR Agreement and the Doha Declaration, we lose credibility in future negotiations and risk being isolated. This risk has now increased manifold with the entry of China into WTO.

Doha is behind us. But it is also ahead of us. With the Doha dust settled, it is a good time to reflect on what has been achieved, how it was achieved, what was India's role, how this role was perceived and why. It is also a good time to draw lessons from the experience since we must get down to the business of developing positions on the negotiations to which we have committed ourselves along with other WTO members in Doha.

In Section I, I begin with an overview of what was achieved in Doha. I then outline India's negotiating stance in Section II and subject it to critical examination in Section III. In Section IV, I dissect carefully the origins of the scathing criticisms India received in the western press and in Section V conclude the paper with lessons for the future.

I

What Was Achieved in Doha?

The Doha Ministerial Conference produced three key documents: (i) Decision on Implementation-Related Issues and Concerns, which addresses a number of complaints of developing countries with respect to the implementation of the Uruguay Round (UR) Agreement; (ii) Declaration on the TRIPS Agreement and Public Health, which weakens some of the provisions of the TRIPS Agreement; and (iii) Doha Ministerial Declaration, which outlines the work programme for the new round.¹

In assessing the Decision on Implementation-Related Issues and Concerns and the Declaration on the TRIPS Agreement and Public Health, it must be kept in mind that WTO Decisions and Declarations do not have the same legal status as WTO Agreements. It is not entirely clear what weight the WTO Dispute Settlement panels and the Appellate Body will give to these documents relative to the WTO Agreements. More concretely, in a WTO dispute, if the provisions in the Declaration on the TRIPS Agreement and Public Health suggest an outcome different from that in the TRIPS Agreement itself, we do not know which of the two documents will prevail. Against this background, let me offer a brief description of each of the three documents.

(i) Decision on Implementation-Related Issues and Concerns

The Decision on Implementation-Related Issues and Concerns had been pushed heavily by India with the backing of many developing countries, especially in Asia and Africa. Spanning over eight single-space pages, substantively it offers several relatively minor, often inconsequential, concessions to developing countries with respect to the implementation of the TR Agreements. I discuss some of the provisions of the Declaration in greater detail later in my critique of India's negotiating stance.

(ii) Declaration on the TRIPS Agreement and Public Health

The initiative for the Declaration on the TRIPS Agreement and Public Health was led by Brazil, India and South Africa and enjoyed wide support among developing countries.² Setting aside the caveat noted above on its legal standing relative to the TRIPS Agreement, the declaration was a significant victory for developing countries. The declaration acknowledges the primacy of the member countries' right to protect public health and promote access to medicines for all. More concretely, it recognises each member's "right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted." It also gives each member the "right to determine what constitutes a national emergency or other circumstances of extreme urgency" for the purpose of implementing the TRIPS Agreement.

(iii) The Doha Ministerial Declaration

The Doha Ministerial Declaration is a long and complex document and I will not discuss the parts that are marginal to future negotiations. The main negotiating agenda in the declaration can be divided into four parts: (1) trade liberalisation, (2) trade and environment, (3) WTO rules, and (4) the so-called 'Singapore issues' comprising investment, competition policy, trade facilitation and transparency in government procurement. Negotiations on the first three

items are to constitute a single undertaking and are to be concluded by January 1, 2005. As regards the Singapore issues, negotiations on them may not start until after the Fifth Ministerial in 2003 and even then it is not a foregone conclusion. This is explained later in greater detail.

(1) *Trade Liberalisation:* The trade liberalisation agenda is wide-ranging and includes industrial goods, agricultural goods and services. The last two of these items have been under negotiation since January 1, 2000 as a part of the UR built-in agenda. In the area of industrial goods, developing countries have complained since the UR Agreement that peak tariffs in developed countries are concentrated in labour-intensive goods, textiles and clothing, leather and leather products and footwear. The Ministerial Declaration gives this complaint due consideration by agreeing to negotiate reductions in or elimination of tariffs including tariff peaks, high tariffs, and tariff escalation particularly in products of export interest to developing countries.

In the area of agriculture, the members have committed themselves to comprehensive negotiations aimed at substantial improvements in market access, reductions in, with a view to phasing out, all forms of export subsidies and substantial reductions in trade-distorting domestic support measures. European Union (EU) had vehemently opposed the insertion of the phrase “with a view to phasing out” and agreed to it only after other members agreed to the qualification that the declaration would not prejudice the outcome of negotiations.

In services, the declaration recognises the ongoing negotiations since January 1, 2000 and refers to the large number of proposals submitted by members on a wide range of sectors and several horizontal issues including the movement of natural persons. It asks participants to submit initial requests for specific commitments by June 30, 2002 and initial offers by March 31, 2003.

(2) *Trade and Environment:* The subject of environment has been under study at the WTO under the auspices of the Committee on Trade and Environment for some time. But the Doha Declaration brings it into the negotiating agenda for the first time. India and most other developing countries had been opposed to bringing environment into the negotiating agenda in any form but EU had insisted on it. Fortunately, the negotiating mandate is quite limited and unlikely to damage the interests of developing countries. It calls for negotiations on (a) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs); (b) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status; and (c) the reduction of tariff and non-tariff barriers to environmental goods and services. With respect to the first subject, the declaration explicitly

notes that the negotiations shall not prejudice the WTO rights of any member that is not a party to the MEA in question. This means that trade sanctions by MEA signatories on non-signatories are ruled out.

(3) *WTO Rules*: The declaration opens WTO rules in three areas to negotiation: (1) anti-dumping, (2) subsidies and countervailing measures, and (3) regional trade agreements. The first of these was a major concession by the United States to Japan and developing countries. Under the second item, members have agreed to open up the issue of fisheries subsidies, which is an important concession to developing countries. The third item has been under discussion at WTO under the auspices of the Committee on Regional Trade Agreements; India was one of the countries to have urged its inclusion into the negotiating agenda.

(4) *Singapore Issues*: EU had insisted on the inclusion of negotiations for multilateral agreements on investment, competition policy, trade facilitation and transparency in government procurement. A large number of developing countries, especially from Asia and Africa, had opposed the EU demand. India was the most vocal opponent and persisted in its demand to keep the four issues out of the negotiating agenda until the end. According to the deliberately vague compromise language in the declaration, members “agree that negotiations will take place after the fifth session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations.” Developed countries interpret this phrasing to mean that the Fifth Ministerial in 2003 is to decide only on the modalities while the agreement to kick off the negotiations is already in place. Many developing countries take the view that the decision on modalities by explicit consensus gives them a veto against the launch of the negotiations themselves. The following clarification, issued by Yussef Hussain Kamal, the chair of the conference, at the urging of India favours the latter interpretation, though its legal standing is tenuous:

Let me say that with respect to the reference to an ‘explicit consensus’ being needed...for a decision to be taken at the fifth session of the Ministerial Conference, my understanding is that, at that session, a decision would indeed need to be taken, by explicit consensus, before negotiations on Trade and Investment and Trade and Competition Policy, Transparency in Government Procurement, and Trade Facilitation could proceed. In my view, this would give each member the right to take a position on modalities that would prevent negotiations from proceeding after the fifth session of the Ministerial Conference until that member is prepared to join in an explicit consensus.

II

India's Negotiating Stance

Negotiating positions are difficult to state precisely since they evolve continuously until an agreement is reached. Prior to the Doha meeting, India had publicly stated that it did not support the launch of a round that went beyond the built-in agenda of the UR Agreement. Yet, in the end, commerce minister Murasoli Maran not only supported a round that included some new issues but also wisely claimed its launch a victory for India.

Nevertheless, it can be safely asserted that India joined the talks leading up to the Doha Ministerial Conference with a rather extreme position, taking a very hard line. India's position is most clearly outlined in the press brief entitled 'Why India is Opposing Negotiations on New Issues' posted on the ministry of commerce website and issued by Press Information Bureau, government of India on November 7, 2001.

The title of this brief makes clear India's unequivocal opposition to the expansion of the negotiating agenda beyond the built-in UR agenda, which included market access negotiations in agriculture and services and reviews of and negotiations on some narrowly specified aspects of a small number of UR Agreements. But the contents of the press brief list more explicitly the areas India opposed going into the Doha meeting: investment, competition policy, transparency in government procurement, trade facilitation, environment, labour and industrial tariffs. In the case of investment and competition policy, the brief expresses India's opposition to even 'plurilateral' agreements within the WTO.

This position is more or less reiterated in the statement delivered by Maran at Doha on behalf of India. In a key paragraph of the statement, he notes, "Rather than charting a divisive course in unknown waters, let this conference provide a strong impetus to the ongoing negotiations on agriculture and services, and the various mandated reviews that by themselves form a substantial work programme and have explicit consensus." Later, he expresses explicit opposition to the inclusion of the so-called Singapore issues into the agenda: "In the areas of Investment, Competition, Trade Facilitation or Transparency in Government Procurement, basic questions remain even on the need for a multilateral agreement.

The statement by Maran is not explicit on either support for or opposition to the negotiations on market access in industrial goods. The only paragraph dealing with this subject states,

In relation to market access, even after all the Uruguay Round concessions have been implemented by industrialised countries,

significant trade barriers in the form of tariff peaks and tariff escalation continue to affect many developing country exports. These will clearly need to be squarely addressed. Meanwhile, sensitive industries in developing countries including small-scale industries sustaining a large labour force cannot be allowed to be destroyed.

Since tariff peaks and tariff escalation could not be addressed outside of new negotiations, this statement would seem to suggest support for the inclusion of industrial tariffs into the negotiating agenda. Yet in the absence of an explicit statement to that effect and the clear opposition expressed in the November 7, 2001 brief – “We are not convinced about the need for tariff negotiations when even Uruguay Round phase-out has not been yet completed for certain products” – an unambiguous conclusion to this effect cannot be drawn.

The fact that the draft ministerial declaration presented at Doha at the opening of the conference does not place the negotiations on industrial tariffs into square brackets, used to signal disagreement on the part of some members, may also suggest that all countries including India were on board in this area. But again, this is not a litmus test: Maran himself laments at the beginning of his statement that the draft ministerial declaration is “negation of all that was said by a significant number of developing countries and least-developing countries”.

Finally, India pushed hard for both implementation issues and the weakening of the TRIPS Agreement in the area of public health and medicines. With regard to the former, starting prior to the Seattle Ministerial Conference, India had begun to lobby heavily for an agreement. This push culminated in the Decision on Implementation-Related Issues and Concerns at Doha. With respect to the TRIPS Agreement, along with Brazil and South Africa, India took the position that the TRIPS Agreement should be interpreted and implemented in a manner supportive of WTO members’ right to protect public health and ensure access to medicines for all. This effort led to the Doha Declaration on the TRIPS Agreement and Public Health.

Two lesser demands related to intellectual property that Maran also put on the table in his Doha statement were the extension of geographical indications to products other than wines and spirits and restrictions on the misappropriation of the biological and genetic resources and traditional knowledge of the developing countries. It is not clear whether these were serious demands or were intended merely to satisfy certain domestic lobbies.

III

Questioning India's Stance

Let me begin by noting that Maran's opposition to the inclusion of the Singapore issues into the negotiating agenda is quite defensible. I have written on this subject in greater detail elsewhere and I will not repeat it here.³ But let me note two key points. First, if multilateral agreements on investment, competition policy, trade facilitation and transparency in government procurement are forged, it is developing countries that will have to undertake substantial new obligations. It is not immediately clear why these countries should subject themselves to such obligations without corresponding new obligations by developed countries. More importantly, in as much as many developing countries may not be able to fulfil these obligations, they will be exposed to the risk of trade sanctions and hence loss of market access in goods and services. Second, insofar as the investment agreement is concerned, the slow pace of liberalisation in the area of services, which inevitably require opening the market to foreign investment and labour movements, indicates that countries find it much harder to open factor markets than goods markets.

The opposition to WTO agreements on investment, competition policy, trade facilitation and transparency in government procurement is not to imply opposition to liberalising policy changes in these areas. For instance, foreign investment liberalisation and trade facilitation are not only eminently sensible policies for developing countries but also a part of their ongoing policy reforms. Likewise, transparency is desirable in all aspects of the government business including procurement while competition policy at the national level exists in many developing countries. Nevertheless, acceptance of such obligations under a WTO agreement before these countries are able to implement them in the form required by WTO agreements places their access to markets in goods and services at risk. For instance, time-bound clearance of goods at the border sought under trade facilitation may be beneficial (though even here the country must decide whether its scarce resources should be deployed to speed up the internal movement of goods or at the border) but countries have to be sure that they can implement them before signing on to a WTO agreement to this effect. We have already seen that the TRIPS obligations have been sufficiently onerous that the least developed countries have had to be given an extra 10 years of reprieve under the Doha Declaration on the TRIPS Agreement and Public Health. But for this extension, many of them would have faced the prospects of trade sanctions.

While India's opposition to the Singapore issues is, thus, defensible, at least three aspects of its stance at Doha remain disturbing: (i) failure to lend

unequivocal support to liberalisation in industrial products and, indeed, outright opposition to such liberalisation where India was concerned; (ii) unduly large dispensation of the negotiating capital on the virtually empty box of implementation issues; and (iii) posturing that seemed to convey the impression that India was opposed to the launch of the round altogether. Let me elaborate on each of these points in turn.

(i) Tariffs on Industrial Products

Further liberalisation in industrial products is in India's own interest. Compared to virtually every major, economically resilient country, India's industrial tariffs remain astronomically high. As evidenced by our own experience during 1990s, there is much to be gained in terms of productive efficiency and benefits to consumers through further liberalisation. Politically, finance minister Yashwant Sinha has publicly stated his commitment to bringing the top tariff rate from the current level of 35 per cent to 20 per cent by the year April 2004. By making such tariff reductions a part of a future WTO round, we only stand to double our benefits by gaining greater access to the US and EU markets as a part of an overall bargain.

Instead, India implicitly took the position that while developed countries must eliminate tariff peaks, India should not be asked to liberalise any further. This meant asking developed countries to eliminate tariff peaks unilaterally. While there is much to be said for unilateral liberalisation, in practice, large countries have only rarely lowered their tariffs unilaterally. As such the demand by India was unrealistic. Indeed, tariff peaks in textiles and clothing exist today not because developed countries are inherently inclined towards discrimination against imports from developing countries. Instead, they exist because until recently, developing countries chose not to participate in multilateral negotiations in any meaningful way. As a result, liberalising bargains were limited to developed countries and hence products that were exported principally by them to one another.⁴

Indeed, when developing countries did finally join the negotiations actively in the Uruguay Round, they got the commitment from developed countries to phase out the Multi-fiber Arrangement (MFA) and thus return this sector to the full discipline of the General Agreement on Tariffs and Trade (GATT). There remain complaints that developed countries have back-loaded the liberalisation, pushing much of the substantive liberalisation to the last two instalments due on January 1, 2003 and January 1, 2005. But fearing that less efficient suppliers – India among them – might lose rather than gain market share with the end of the quotas, this is precisely what developing countries had bargained.

(ii) Implementation Issues

India pushed heavily a number of demands under the rubric of 'implementation issues'. In my personal judgment, this was a tactical mistake. To be sure, there are more than 50 paragraphs in the Declaration listing large number of items. But these are lot of nothings that do not add up to something. Substantive concessions in the document are few and far between and surely not enough to justify more than two years worth of negotiating capital expended to achieve them. Indeed, somewhat perversely, the decision allows developed countries to convey the impression that having conceded to the demands of developing countries without insisting on something in return they have been generous.

The first point to remember while evaluating the achievements in this area is that as noted earlier WTO Decisions do not enjoy quite the same legal status as WTO Agreements. In ruling on a dispute, Dispute Settlement panels and the Appellate Body are likely to rely principally on the WTO Agreements rather than Decisions. But even leaving that consideration aside, the Decision on Implementation-Related Issues and Concerns is long on the expression of good intentions but short on actual commitments.

As an example, consider what may be the most substantive part of the decision: the provisions relating to the implementation of the Uruguay Round Agreement on Textiles and Clothing (ATC). There are three items in this part of the decision: (i) developed country members should effectively utilise the provisions in the ATC for early elimination of quota restrictions; (ii) they should exercise particular consideration before initiating antidumping investigations of textile and clothing exports from developing countries previously subject to quantitative restrictions under ATC for a period of two years; and (iii) they shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

These provisions add little to what exists in ATC currently. Provision (i) gives developing countries no extra leeway in challenging developed countries on the speed of elimination of quota restrictions over and above that granted by ATC. Precisely how, except as already provided in ATC, is one to determine that a country has failed to use the provisions relating to the elimination of quotas "effectively"? Likewise, how is it to be determined that a country did not exercise "particular consideration" before initiating antidumping investigation? The provision on the rules of origin is even less of a concession than the preceding two.

The only substantive concession in the area of textiles and clothing sought by developing countries as a part of implementation issues was a 'growth-on-growth' provision amounting to the compounding of the annual growth of quotas.

Currently, textiles and clothing quotas are allowed to grow annually at a pre-specified rate with the growth rate applied to the initial base in the bilateral quota agreement. Developing countries had sought that growth be built on not just that base but also on growth in the previous years. This concession was not granted in the decision, however. Instead, it was referred to the Council for Trade in Goods for ex-amination and recommendation by July 31, 2002.

The view that the decision carries few substantive benefits for developing countries is perhaps not particularly contentious. Even prior to its finalisation in Doha, Abdul Razak Dawood, Pakistan's minister for commerce, industries and production, who was India's ally in pushing for the decision, noted in the official statement of his government: "The package of implementation measures proposed for adoption at Doha is almost a bare cupboard. Some major countries want to take away what little it contains – such as the provision for 'growth on growth' in textiles."

(iii) Posturing against the Round

With less than 1 per cent share in the world trade, India would have had almost insignificant power to influence the negotiations under normal circumstances. But two factors, both unique to Doha, made India a player of some significance. First, in the wake of the September 11 events, Bush administration had assigned the launch of a new round the highest priority. In retrospect, it is fair to speculate that Robert Zoellick, the United States Trade Representative (USTR), arrived in Doha with the intention not to return home empty handed. This fact gave each country, including India, some leverage. This was confirmed by the fact that the United States gave special concessions to virtually all members it possibly could.

Second, repeated assertions by both the United States and EU that the next round must be a development round left them boxed in their own rhetoric: they would not look good launching a development round without the endorsement of a poor country with one billion people. A development round that left out one-fifth of the humanity would be a joke. Bringing India on board was essential.

Given these facts and India's stance prior to arrival at Doha, there was some measure of discomfort on the part of some developed countries in Doha that India might become the ultimate stumbling block to the launch of the new round. Therefore, India already ran the risk that as a pressure tactic, developed countries would try to discredit it as obstructionist. By failing to take a clear public stance in favour of a round that will squarely focus on trade liberalisation in all sectors and conveying it forcefully to the press and returning repeatedly to the theme of restricting the negotiations to the UR built-in agenda and implementation issues, India made itself highly vulnerable to the charge of obstructionism.

Lest this diagnosis should appear an afterthought, let me remind that many, including this author, had advocated the strategy of supporting aggressively a trade liberalisation round well before the Doha meeting. I cannot resist reproducing some key passages from my monthly column in *The Economic Times* dated August 25, 2001:

Two years ago, prior to the WTO ministerial in Seattle, I had argued that developing countries should support a minimalist negotiating agenda that includes the UR built-in agenda plus trade liberalisation in industrial goods. The built-in agenda requires negotiations in agriculture and services and reviews of certain aspects of the Dispute Settlement Understanding and Agreement on TRIPs. This agenda still makes sense for India.

As a part of its economic reforms, India is likely to continue liberalising its trade in industrial goods, agriculture and services. The benefit from this liberalisation can be greatly leveraged by pursuing it in the context of a multilateral negotiation. This way, we will benefit not only from our own liberalisation but from the liberalisation of our trading partners as well. The dividend on the latter is double nowadays since it helps dilute trade preferences which have proliferated lately and discriminate against our exports in North America, Europe and other parts of the world.

I went on to conclude thus:

It is also important to recognise that most developing countries do not want a round that includes labour standards in any form whatsoever. Prospects for a round consistent with this goal have never been better. As a part of the mandate for the next round, developing countries may be able to assign this subject to the International Labour Organisation once and for all.

This leaves principally the subjects of investment, competition policy and environment and trade on which the European Union is insistent. Even here, compromise may be possible. One option is to place these latter subjects on a second track and make participation in negotiations on issues on the second track optional. Alternatively, sufficiently tight wording could be chosen to limit the scope of negotiations in these areas. The key element of our strategy must be to identify attainable objectives that best serve our interests. The negotiating strategy should be then targeted to achieve these objectives.

IV

Questioning Coverage in Western Press

During and immediately after the Doha meeting, India was subject to scathing criticism by the western news media. *The Financial Times* (November 15) called the country the “worst villain” and “the only real loser”. *The Economist* (November 17, 2001) chastised it for having “almost scuttled” the launch of the round and the *Wall Street Journal* (November 16, 2001) described Maran as “the man who rattled the WTO in Doha”. How do we explain this hostile treatment?

To be sure, India bears part of the responsibility. By giving the distinct impression publicly that it was against negotiations beyond the UR built-in agenda, even if this may not have been its actual negotiating position behind the scenes, India made itself vulnerable to these criticisms. But this is only half the story. Let me explain why.

While Maran was surely the most vocal opponent of the Singapore issues, he was scarcely alone. The US itself did not want the expansionist agenda but acquiesced to the EU demand as a price of launching the round. More importantly, Egypt, Pakistan, Indonesia, Malaysia, Thailand, Nigeria, Kenya and a host of other countries from Africa and Asia had expressed unequivocal opposition to the inclusion of these issues in the negotiating agenda. The main difference between these countries and India was that having been promised their respective favourite concessions, they were willing to go along with the compromise worked out by the US and EU on the Singapore issues, while India chose to stick to its original position.

In view of the fact that five years earlier India had accepted Singapore issues as study topics in the Singapore Declaration on the condition that negotiations on them will be launched by “explicit consensus”, Maran cannot be faulted for demanding the continuation of this provision in the Doha Declaration. After all, EU had also insisted on the language on the phase out of export subsidies until end and, indeed, delayed the Doha Conference by almost a full day. Likewise, a day earlier, ACP countries, which had been demanding an Article I waiver for their preferential Cotonou trade arrangement with EU, had threatened to walk out of the negotiations if the waiver was not granted to them. In this last case, technically the issue was not even formally linked to the ministerial package. Maran’s misfortune was that the issue that concerned him most lingered till the end. That made him the last signatory to the Doha Declaration, leaving the distinct impression that he, and not Pascal Lamy of EU, was therefore to be blamed for the delay.

There is one further disadvantage India faced in Doha insofar as its public image was concerned. At least technically speaking, the WTO secretariat is

supposed to act as a neutral facilitator, a clearinghouse of sorts, for the negotiations. Nevertheless, the success of its director general is ultimately measured by his ability to advance the negotiations. Therefore, Mike Moore, who was attending his last ministerial meeting as director general, had a heavy stake in the launch of the round. This fact made the WTO secretariat potentially unsympathetic to a member viewed as a threat to the launch of the round.

Additionally, bureaucracies are inherently expansionist. Like the TRIPS Agreement, the Singapore issues offer a large scope for the expansion of the policy space over which WTO can have its sway. This makes the WTO bureaucracy naturally inclined toward the inclusion of the Singapore issues into the negotiating agenda. This natural inclination is complemented by the location of WTO in Geneva. The staff can scarcely escape what they observe in their backyards: EU's fervour for the expansionist agenda.

These factors made India potentially a target of criticism by WTO staff in their informal contacts with the press. Lest this might appear entirely speculative, let me offer a concrete example. Following the attacks on India in *The Financial Times*, Per Gahrton, member of the European Parliament (Greens, Sweden) wrote in a letter to the newspaper (November 24, 2001):

Sir, in your editorial on the World Trade Organisation meeting in Doha (November 15), you named India as the 'villain' of the meeting.

Having followed the deliberations as a member of the European parliament delegation I would rather consider Mr Maran, head of the Indian delegation, as a defeated hero of a common Third World cause. I would propose another candidate for the pejorative label: Pascal Lamy, trade commissioner of the European Union.

On the morning of the last official day of negotiations Mr Lamy admitted to MEPs that the EU 'is the problem', being at loggerheads with others on several crucial points, including its defence for the protectionist interests of certain member countries, such as agriculture, fisheries and textiles.

Astonishingly, four days later, Mike Moore came to the defence of Pascal Lamy. In a letter published on November 28, 2001 in *The Financial Times* and reproduced below in its entirety, Moore wrote:

Sir, It has not been my practice to involve myself in domestic political differences but the sheer magnitude of the injustice in the letter of November 24 from Per Gahrton, an MEP at the Doha ministerial,

attacking Pascal Lamy, the European Union trade commissioner, has moved me to comment.

It was Mr Lamy who led the battle for market access for least developed countries (Everything But Arms). Commissioner Lamy's role in brokering the waiver for African, Caribbean and Pacific (ACP) countries on preferential access to the EU market was widely acclaimed and the first ministers speaking in favour of the deal were from Africa. It was Mr Lamy who fought for and won advances on trade and the environment, public access to medicines and the trade-related intellectual property rights agreement. He fought but was less successful on labour issues. He has led on matters of internal governance and transparency and the involvement of the World Trade Organisation and civil society.

Europe had other agenda items that it promoted one way or another. Mr Gahrton must have been at a different ministerial from the rest of us.

In defending Lamy, Mike Moore seemed to also defend his agenda extending to environment and labour, something that has been inimical to the position of virtually all developing countries. Additionally, by neither coming to Maran's defence following the original attacks on him in *The Financial Times* nor stating a single kind word for him while aggressively defending Lamy, he also conveyed a clear preference for the latter's position over Maran's. This is a far cry from what WTO is supposed to do: be an honest broker and clearinghouse for its member countries.

V

Concluding Remarks: The Way Forward

Continued asymmetries between the influence of the rich and poor countries notwithstanding, WTO is by far our best hope for protecting our trading rights. It is not a 'necessary evil' as our leaders sometimes describe it; instead, it is godsent. A key condition for faster economic growth in countries such as India is guaranteed access to open world markets. And the only institution that can deliver this access is WTO. In spite of the pressures we face from the rich countries through WTO as reflected, for example, in the demand for trade-labour link, WTO remains the best guarantor of our trading rights. Anyone who thinks otherwise only need contemplate a world without WTO. In that world, rich countries would not need to *demand* the trade-labour link; they will simply *impose* it. It is the power of the WTO rules that protects smaller nations from unilateral trade sanctions by rich and powerful nations.

In developing our future negotiating positions, we need to think far more systematically than we seem to have done to date. At least three strategic conclusions can be drawn from the UR and Doha experiences. First, we need to consider direct benefits to us of any demands we put forward in the negotiations. Any time we demand something, we are using up our negotiating capital and we must be sure that there is a commensurate benefit in store for us. As an example, consider our demand for growth-on-growth of MFA quotas. Did we analyse if this would generate benefits for us? From the information I have been able to collect, during the last two years, most of our MFA quotas have remained underutilised, presumably because of our high costs of production. Therefore, *prima facie* it is questionable whether we would have been able to export more had developed countries conceded the growth-on-growth demand. On the contrary, increased exports by other countries under faster quota expansion would have even lowered prices, making us relatively less competitive. Did we even consider such calculations?

In the same vein, we have made demands for the extension of protection to geographical indications for products other than wines and spirits and for rules against misappropriation of the traditional knowledge and genetic resources? How do these demands square with our complaints against the very inclusion of intellectual property rights into the WTO? Have we done the cost-benefit analysis of expanding intellectual property protection in these areas?

Second, diplomacy requires that we define our negotiating position positively rather than negatively. Our approach should be to state clearly the agenda on which we are willing to support a round. Only after we have clearly stated our affirmative position should we proceed to the negative, with clear reasons for our objections. Without precluding an inflexible position on certain issues such as trade-labour link, it also does not make sense for us to lock ourselves publicly into a very inflexible overall position prior to the round. Countries such as Malaysia, Thailand, Pakistan, Nigeria and Egypt had taken positions quite similar to ours in their official statements but avoided giving the impressions of inflexibility in their public statements.

Finally and most importantly, prior to defining the negotiating position, we must think hard about the end game. For example, before we took the hard-line position in Doha, we should have asked ourselves: are we willing to walk out of the negotiations even if we are the only country to do so and, if yes, at what point? Is trade-labour link the make or break issue? Or is it environment? Or Singapore issues? Or trade liberalisation in industrial goods? We should have defined our negotiating position based on the answers to these questions. By repeatedly staking a position that is far from what we eventually accept as has

been the case in the UR Agreement and the Doha Declaration, we lose credibility in the future negotiations and risk being isolated.

This risk has now increased manifold with the entry of China into WTO. As the largest developing country in terms of population, India enjoyed some advantage in the past negotiations. Now it will have to share this advantage with China. For instance, if China decides to take an essentially pro-negotiations stance towards the Singapore issues, it is unlikely that India will be able to stop negotiations on them from proceeding despite the 'explicit consensus' provision in the Doha Declaration. Are we willing to walk out of negotiations then even if we are the only country to do so? Our negotiators must think through that question before they arrive in Mexico in 2003 for the Fifth WTO Ministerial.

Notes

[The author wishes to thank Jagdish Bhagwati for numerous helpful discussions and comments on an earlier draft.]

- 1 Doha also produced two waivers, a GATT Article XIII waiver for the EC banana regime and a GATT Article I waiver for the ACP-EC Partnership (Cotonou) Agreement. These waivers have no direct link to the Ministerial Declaration and could have been handled within the normal WTO procedures. But they had to be moved forward to Doha to get support of the ACP countries for the round. A final document on which agreement had been reached in Doha but was not issued until November 20, 2001 deals with procedures for extension of Article 27.4 of the Subsidies and Countervailing Measures Agreement for certain developing member countries. This document is also without direct bearing on the Ministerial Declaration.
- 2 Contrary to the impression conveyed in some news reports in the western media, India did play a significant role in pushing the Declaration. It was one of the eight WTO members – four developing and four developed, which drafted the final compromise language of the document. The eight countries in the group were Brazil, India, Kenya, Zimbabwe, Canada, EU, New Zealand, and the US. South Africa was missing from the list presumably because it has the developed country status in WTO though it was with developing countries on this issue.
- 3 See my paper 'The Millennium Round and Developing Countries: Negotiating Strategies and Areas of Benefits', 2000, G-24 Discussion Paper Series, UNCTAD, Geneva and Centre for International Development, Harvard University, Cambridge, Massachusetts. Also available on my website: www.bsos.umd.edu/econ/ciepanag.htm.
- 4 See Bhagwati, Jagdish and Arvind Panagariya, 2001, 'Wanted: Jubilee 2010 Against Protectionism' on my website in this context.

ANNEXURES

India and America: Seizing Economic Opportunity

Robert B. Zoellick

US Trade Representative

August 9, 2001, New Delhi, India

It is a special honour for me to be with you today. Given my respect for India—your ancient civilization, your democracy, and your distinctive potential to influence the world—I asked President Bush if I could be the first member of his cabinet to visit you.

It is also a special privilege to visit shortly after the arrival of my close friend and colleague, Bob Blackwill, the new US ambassador to India. Ambassador Blackwill is the latest in a line of distinguished U.S. scholar-ambassadors to India, including Senator Daniel Patrick Moynihan and Professor John Kenneth Galbraith. During Ambassador Blackwill's years at Harvard, he contributed importantly to our country's assessment of the changing security agenda, including America's consideration of strategic interests in Eurasia. In addition, he taught a coming generation of leaders from around the world.

Yet I also know Ambassador Blackwill's skills as one of America's premier diplomats. Some ten years ago, we worked closely together, along with Dr. Condi Rice, on the unification of Germany and the panoply of political and security issues associated with the end of the Cold War.

Moreover, as a compatriot with then-governor Bush, Ambassador Blackwill brings to India a strong familiarity with the President, his senior team, and the Administration's strategic thinking. I cannot think of a better person to represent U.S. interests to India and to explain India's interests to the United States.

India's Challenge

Fifty-four years ago this week, India achieved its independence after a struggle that moved the world. Late on the night before India's independence became official, Mr. Nehru delivered a speech from a balcony outside India's parliament. "The achievement we celebrate today," he said, "is but a step, an opening of opportunity, to the greater triumphs and achievements that await us." He then put a test to the Indian people: "Are we brave enough and wise enough to grasp this opportunity and accept the challenge of the future?"

In the years that followed, India faced many challenges. One of the most important legacies of the past 50 years was India's forging of a democratic federalism that has proven flexible enough to respect India's rich diversity, resilient enough to adjust to many pressures, and strong enough to preserve the integrity and durability of an independent Indian state.

Today, leaders from the major parties in India have identified a new, vitally important challenge: How should this vast civilization, encompassing one-sixth of the world's people—this proud country with a strong sense of sovereignty—adapt to globalization?

The Cold War has been over for ten years. The original vision of non-alignment does not fit the dynamic of this new era. So whither India?

I have come to India to learn the Indians' answers to these questions. My trip here includes visits with the Prime Minister, senior government leaders, the democratic opposition, strategic thinkers, business people, young entrepreneurs, journalists, and the children at the Salaam Baalak Trust shelter for homeless runaways. The sense of hope in the eyes of the young children and the warmth of the Indians who care for them perhaps send the best message of both the challenge and promise of this vast land.

I am here to listen and observe. I would like to better understand the rich range of Indian life and opinion about changes in the subcontinent and the world beyond.

My prior experience has given me some initial sense of how India is starting to answer these questions.

First, I have read with interest the Prime Minister's appeals to his countrymen and women to be attentive to India's destiny as an increasingly more important country in the world. I have felt a stirring, a new vision of an India that is looking outward: beyond the borders and mountains of the subcontinent and over the seas that wash South Asian shores.

This new outlook seems to be shared—with variations in concept and degree—by many political leaders from the major parties. There seems to be an emerging, yet fractious, consensus that India must engage with the world economy. Indian leaders are recognizing the country's competitive strength and prowess, at the same time they appreciate the risks and problems of change.

Moreover, this new India is taking form through Indian policies. Ten years ago, when I served in the State Department, India's far-sighted Ambassador to the United States, Dr. Abid Hussein, urged me to be alert to the historic shifts just beginning in the Indian economy. So I watched the first, tentative steps toward economic liberation, followed over the decade by strides to end, the license Raj, lower tariffs, and begin privatizations and disinvestments.

India began to create a more vibrant economy, generate more jobs in services and manufacturing, and boost agricultural output. You started to turn away from the controlling regulation left over from both colonial governance and the Fabianism that a newly independent India imported from a fading empire. In doing so, India helped to provide hope and new opportunities for the millions of Indians for whom grinding poverty remains the everyday reality

Second, I touched the new India through my contacts with many Indian-Americans. At one session with a group of India-American business people a few weeks ago, I heard a story that I would like to share with you.

One of my guests had visited India recently with his 13-year old son. Together they had wound their way to a 600-year-old temple in Mangalore, where they were greeted by an elderly priest, a slight wizened figure with a shock of white hair. At first, the clash of cultures and even of centuries seemed apparent as the boy extended the wrong hand to receive the offering from the seemingly remote priest – to the great embarrassment of the boy's father. Yet in a moment, the priest, recognizing the boy as an Indian-American, piped up: "You should check out my web site," he acclaimed. When they did so, the boy and his father encountered a blend of the old and new Indias - high resolution-graphics and animation, telling a story of social and cultural events over hundreds of years.

Third, I have a suspicion that the new India might find its origins in an older India – indeed, a much older India, far pre-dating colonial intrusions. For I first encountered India not here, in the homeland, but in Hong Kong, Singapore, Southeast Asia, and East Africa. I have tasted India in Europe and America. I know that India was one of the great originators of globalization, many years past.

The voyagers from India sought not to conquer, but to trade; they journeyed not to compel others to think in a certain way, but to offer to share a culture. Like the proponents of open computer architectures who share software, these early Indian travellers were marketing geniuses.

A few years ago, when I visited Yogyakarta, in the Javanese heartland of Indonesia, I wandered around the Hindu temple complex of Prambanan and saw the ever present figures of the Ramayana epic. By exporting ideas, these long-distant Indians transformed thinking.

Indeed, historians trace the root of modern physics, economics, and engineering to India's invention of the concept of zero. Hindu numerals spread as broadly as silk and spices, to seats of learning in China, Russia, Baghdad and Egypt.

As commerce swelled, Hindu numerals formed the foundation of estimating, bargaining, reckoning, and records of transactions. Is it any wonder that the

land that gave birth to zero, would thrive in the zero-one world of computer binary code?

These are not tales of an old India; they are scenes from the life of the India. Any observer of the information technology environment has seen the modern influence on the world of Indian thinkers, designers, and software engineers.

I believe India is on the verge of opening a door to tomorrow. If it chooses to do so, India can help shape this age of flux. With further deregulation, privatisation, limited taxation, and open trade, India can free the entrepreneurial and inventive skills of the Indian people to overcome poverty, strengthen the country, and sway the world. The real test—the most important one—will be to use these tools to tap the Indian spirit and sense of community to transform the lives of those most vulnerable—like the children I met at the shelter.

Yet I also believe this new era of rapid communications, transportation, and financial flows—of increased trade and investment—of expanded liberty, choice, opportunity and individual empowerment—will not wait for any country, not even India.

During this visit I hope to learn that Indians do want to tap their globalized past and unleash their potential future. I am excited about the possibility of forging a common trade agenda that benefits both our nations and the rest of the world—developing and developed alike. Expanded trade and commerce is not a zero-sum mercantilist calculation, but instead a “win-win” opportunity for our peoples, our countries, and the global economy.

A new Era in US- India Relations

I believe India and the United States are entering a new era of more cooperative political and economic relations.

The end of the Cold War, and our shared security interests, present new opportunities for India and the United States—the world’s two largest democracies—to find common ground. I was encouraged to hear the recent comments of a senior government official that “there is a lot said about where we differ, but I believe that there is much more where our two democracies agree.” India and the United States are both nations born in bold struggles for independence from colonialism that draw strength from diversity and democracy, while continually striving to improve the lives of our citizens and those living around us.

Yet these often-noted truisms should be just the start of a serious assessment of our shared interests.

Today, the United States wants to treat India realistically for what it is – a major country and an emerging power. We want to engage India in a strategic dialogue that encompasses the full range of global issues. The United States

appreciates that India's influence clearly extends far beyond South Asia. We welcome a broader role for India, and we want to work closely with India to develop imaginative responses in such areas as counter-terrorism, nuclear non-proliferation, human rights, and environmental protection.

India and the United States are just beginning to recognize their shared economic interests. As India opens its markets, seeks to promote exports, and creates a climate for investment, I expect the linkages with America will grow rapidly. The United States is already responsible for a full 15 percent of India's world trade, with an increasingly diverse blend of Indian products and services driving steady growth in Indian exports to the United States. Nearly 40 percent of America's Fortune 500 companies now outsource their software needs to Indian companies.

Although U.S. exports to India have not increased in recent years, American firms recognize the immense potential of the Indian market and are exploring possibilities. Their ongoing interest will depend in part on the economic messages that India decides to send the world.

I hope India sends positive signals. That is one reason I am here with you. I want to work together to strengthen, and deepen, a vibrant trading, commercial, and investment relationship. To take an important step down this path, yesterday I told Commerce Minister Maran that this month the United States would totally free trade for 42 products, encompassing about \$540 million of Indian exports, under the US Generalized System of Preferences for developing countries.

India has also enriched American society. Thousands of Indians have opened companies in the United States – developing innovative products and services, employing tens of thousands of Americans. Your ideas, as expressed by Mahatma Gandhi, provided the non-violent moral foundation for America's civil rights movement, just as they did for South Africa's successful struggle to end apartheid. And your human capital has given us countless individuals of high distinction, including Vinod Dharm, the designer of the Pentium chip; Vinod Khosla, a leading venture capitalist in California; Zubin Mehta, one of the world's greatest conductors; and Jagdish Bhagwati, one of the world's foremost trade economists. It is a testament to the talents of Indians and Indian-Americans that they have thrived in Silicon Valley – one of the most competitive markets anywhere.

I recall these individuals to emphasize a fundamental fact: India's essential strength, its true genius, is its people. When Indian intelligence, creativity, and determination to succeed are unleashed – when governments here or abroad stand aside so the human spirit can thrive, Indians will transform the world.

Unfinished Business

India has declared the next ten years the Decade of Development. The government's goal is for India's per capita income to be twice as high in 2010 as it was in 2000. It is an ambitious goal. But it is attainable. To do so, in our view, India will need to deepen and reinvigorate the process of reform it began a decade ago.

The dividends from the previous decade's regeneration are already being realized, in ways big and small.

Ten years ago, one airline serviced the Delhi to Mumbai route, with three flights a day. Today, there are 4 airlines, and over 20 flights a day.

According to Asia Private Equity Review, two years ago, \$100 million of venture capital was raised in India. Last year, \$750 million of venture capital funds came into India's venture community.

Last year, on August 15, India deregulated long distance telephone service. That was a nice coincidence, because the inevitable decline in long distance phone rates will help deliver a 21st century form of independence for the Indian people.

Each of these reforms—and I hope others—will trigger inventiveness beyond the imagination of government planners. The weekend before I left for India I read a story in the *New York Times* that described how Indian fishermen from a small village were using their new mobile phones to check prices at different ports while still at sea, doubling their profits. As the head of research at DSP Merrill Lynch explained, “The value of timely access to market information is clearly dawning across business communities” in India. Listen to the new voice of India: “Life without a mobile phone,” said one newly empowered fisherman, “is unthinkable”.

I was pleased to see that earlier this year the Indian government expressed its confidence in India's capabilities by removing many quantitative barriers and lowering tariffs on imports. That bold stroke demonstrated that India means business.

Yet I hope you do not mind – as a friend of India – if I point out that relative to others, India's tariffs and regulatory barriers remain high. Although India's average tariff rate has fallen to about 30 percent, that is still twice as high as China's average rate, and 10 times as high as the United States'. Therefore, I am encouraged that the Indian government has recommended reducing the average tariff rate to Asian levels of 20 percent or lower in the next few years. High tariff rates only retard economic development and reduce industrial competitiveness by increasing the costs of business inputs, raising prices for Indian families, and permitting less efficient companies to avoid the need to improve.

Greater deregulation is also needed. The success of India's high-technology sector offers a striking example of what Indians can do if the government does not stifle innovation. The information technology software and services industry now accounts for 2 percent of India's GDP; this could be nearly 8 percent by 2008, according to a study by McKinsey and Nasscom, India's software trade association.

India could also reap major gains from the further liberalization of its agriculture market. I suspect the old rules date back to an era when Indian states feared local famines. With more open markets, India's real challenge is to use its food supplies efficiently, to lower the prices of imports, and to embrace opportunities to export.

If India is going to tap the muscles, brains, and energies of its people, the country also needs strong, clear arteries within which commerce can circulate – within India and to the wider world. The lifeblood of commerce requires an infrastructure of roads, ports, ships, planes, water, communication, and energy. But India's arteries of infrastructure are clogged.

Another story from an Indian-American friend painted the problem of India's infrastructure in sharp relief. Because of the poor quality of roads, it took his family 90 minutes to travel 30 miles to visit a local temple. After the long, hot drive the family stopped at a small café for a refreshment – only to find that the establishment also offered Internet access. After logging on, my friend's son began exchanging instant messages with his friends in the United States. He then noted the irony of today's India: "It took us 90 minutes to drive 30 miles," he said, "but it took us just seconds to communicate with people in the United States."

Much of the infrastructure investment India needs can be carried out by the private sector, including by foreign companies. Self-sufficiency is not an option for India if it hopes to generate economic growth and participate to India's benefit in the 21st century.

The world of the early 21st century can tap great sources of financial and intellectual capital. But there is also unprecedented competition for these resources. As a result, capital can afford to be a coward. If India wants to attract higher levels of private investment, and to draw on its extraordinary human and intellectual capital, India will need to continue and enhance its drive toward openness and lower the risks for investors.

I hope that India – like every developing nation – will see that a bold vision of growth and opportunity for its people is a new independence movement – a movement to free Indian entrepreneurs, Indian workers Indian researchers, Indian investors – from the shackles of excessive regulation and state control. As President Bush points out, it is not the role of government to create wealth,

but instead to establish the legal, tax, deregulatory, energy, education, and open trade frameworks in which private individuals can expand prosperity, create jobs, and add to society's capabilities.

India's Stake in Global Trade

The tremendous success of India's high-technology sector offers a potent argument for India's interest in an open trading system. India exported \$6 billion worth of software last year – accounting for 13 percent of the country's total exports. Over the past five years, the annual growth rate for India's software exports has been 45 percent. And there's every reason to believe it will keep growing. The Software Engineering Institute at Carnegie Mellon University gives its "top quality" ranking to only 32 software companies in the world; 17 of them are based in India.

In 12 weeks, the 142 nations of the World Trade Organisation will be convening in Doha. The United States has been working with all the members of the WTO – developed and developing nations alike – to ensure a successful launch of a new round of global trade negotiations devoted to growth and development.

I am hopeful that India – a leader in the developing world – will work with us. The developing world has the most to gain from a new round, and the most to lose without one.

A new round would be a "win-win" for India. By helping to knock down domestic barriers to trade, the round would provide India's consumers with more choices and lower prices, while boosting the long-term competitiveness of the Indian economy. By knocking down trade barriers around the world, a new trade round would promote jobs and create valuable new export opportunities for Indian companies.

Of all the economic reforms India has implemented over the past 10 years, the adoption of a more liberalized trading regime has the potential to pay the biggest, and the most lasting, dividends. The World Bank conducted a study recently of developing countries that opened themselves to global competition in the 1990s, and of those that did not. The income per person for globalizing developing countries grew more than five percent a year. For non-globalizing countries, it fell a little over one percent a year. The absolute poverty rates for globalizing developing countries fell sharply over the past 20 years.

We have seen that increased trade promotes growth, which leads to improved working conditions, more resources to protect the environment, increased opportunities for women, and greater investment in education.

Active and constructive participation in a new trading round would provide India with the opportunity to amplify its voice and help shape the rules of

globalization. Withdrawal will leave the field to others. The sooner India supports new negotiations, the more influential it will be.

India and the United States share a number of objectives for a new global trade round. Hollywood and Bollywood – and our software industries – lead both countries to have an interest in audio visual services and copyright protection. We can promote more open trade in agriculture, reduced barriers for services, and more manufacturing trade. We can work cooperatively to thwart efforts to employ labour and environmental concerns for protectionist purposes. And in electronic commerce, India and the United States will benefit from an open network in which we both add value

Some in India have complained that the difficulty of implementing the obligations of the last global trade negotiation – the Uruguay Round – has caused them to miss out on benefits. The United States is working with other developed nations to address legitimate implementation concerns in coming months and has already offered adjustments. We will also be willing to consider other concerns as part of a new negotiation. And we recognise the need to provide aid and other financial support, including through the World Bank, to help developing countries build the capacity to take part in trade negotiations and to follow through on agreements.

Yet Indians also need to honestly assess the very real benefits of the Uruguay Round for India and other developing nations. India now supplies \$2.8 billion worth of textile products to the United States – an 84 percent increase because of the reduction of U.S. barriers through the Uruguay Round. During the same period, India's exports of agricultural goods to the United States grew 74 percent, information technology grew 246 percent, and furniture grew 400 percent. The total value of India's exports to the United States has more than doubled – a growth rate faster than for the rest of the world. Over half of these Indian imports entered the United States duty free. Today, the United States is India's largest trading partner, buying 22 percent of your overseas sales.

Beyond the mere numbers are the success stories of economic cross-fertilization – of the augmentation of international capital through trade, investment, business contacts, IT exchanges, and myriad relationships that add value for all involved.

The Uruguay Round served another valuable purpose: it continued the post-World War II momentum in favour of opening the world's markets to trade. After the debacle in Seattle in 1999, that momentum is once again in question. The history of the 20th century has shown us that there can be an extraordinarily high economic – and political – price of a breakdown in the global trading order. That is why we must remove the stain of Seattle by launching a new global trade round in Doha in November.

We need the active participation of all WTO members in the weeks ahead. By the end of the year, China will be a member of the WTO. Already, China has actively supported the launch of a new global trade round of growth and development.

You will not be surprised if I observe that the emerging strategic relationship between our two great democracies will not be resilient and growing if we fail to draw our economies closer together. Indeed, our private sectors are leading the way. Therefore, I am seeking close governmental cooperation on trade – bilaterally and for the global trading system.

Conclusion

It is a privilege to be at the center of the trade debate at such a time in history. Open trade reflects the spirit of the new century.

The United States and India should leverage this dynamism to open minds and to open markets. Our policies must promote these global trends. We must take practical steps to move the world toward greater freedom and promotion of human rights by linking ourselves to the agents of global change: the new networks of free trade, information, investment, and ideas.

We will have occasional disputes, but the root of our relationship should be strong and healthy – the shared value that honours an individual's right to economic, political and human freedom. And if we tend to it properly, that root will spawn a century of prosperity and freedom unequalled in human history.

The Statement of *Youssef Hussain Kamal*, Qatari Finance, Economy, and Trade Minister and the Chairman, Doha Ministerial Conference and the submission of the three Draft Declarations, 14 November 2001, closing plenary session

“ ... I now would like to submit to delegations for their consideration and adoption, three draft texts which have emerged from the process of intensive decisions and negotiations that we have had over the past few days. These texts are the following:

- the **draft Ministerial Declaration** in document WT/MIN(01)/DEC/W/1,
- two, the **draft Declaration on the TRIPS Agreement and Public Health** in document WT/MIN(01)/DEC/W/2, and
- the third, the **draft Decision on Implementation-Related Issues and Concerns** in document WT/MIN(01)/W/10

Before I propose action on these three texts, allow me to offer my sincere thanks to the Director-General and all of the ministers who have assisted me so ably as Friends of the Chair. I would also like to pay tribute to the hard work and dedication of the Chair of the General Council, the Deputy Directors-General and the Secretariat, and all the ministers and delegations representing their governments at this Ministerial Conference.

The past five days have seen a tremendous amount of committed work by all delegations. Throughout this process I have done my utmost to ensure full transparency and inclusiveness, and I am grateful for the spirit of cooperation and goodwill shown by all participants.

I would like to note that some delegations have requested clarification concerning paragraphs 20, 23, 26 and 27 of the draft declaration. Let me say that with respect to the reference to an ‘explicit consensus’ being needed, in these paragraphs, for a decision to be taken at the Fifth Session of the Ministerial Conference, my understanding is that, at that session, a decision would indeed need to be taken by explicit consensus, before negotiations on trade and investment and trade and competition policy, transparency in government procurement, and trade facilitation could proceed.

In my view, this would also give each member the right to take a position on modalities that would prevent negotiations from proceeding after the Fifth Session of the Ministerial Conference until that member is prepared to join in an explicit consensus.

I would like to suggest that we take action on the three draft texts before I give the floor to delegations who wish to do so to make a statement for the record.

First I should like to propose that the Ministerial Conference adopt the draft Ministerial Declaration in document WT/MIN(01)/DEC/W/1. May I take it that this is agreeable to members?

It is so agreed.

I should like to propose that the Ministerial Conference **adopt the draft Declaration on the TRIPS Agreement and Public Health** in document WT/MIN(01)/DEC/W/2. May I take it that this is agreeable?

Finally I should like to propose that the Ministerial Conference **adopt the draft Decision on Implementation-Related Issues and Concerns** in document WT/MIN(01)/W/10

With regard to the outstanding implementation issues, I would like to recall the cover letter of 5 November 2001, sent to me by the Chairman of the General Council and the Director General, which accompanied the draft decision on implementation. It states that the draft decision proposes immediate action on a number of implementation issues, and provides that remaining issues, which include those referred to WTO bodies as well as those listed in their completion will be addressed in the course of the future work programme in accordance with paragraph 12 of the draft ministerial declaration.

May I take it that the draft **Decision on Implementation-Related Issues and Concerns** in document WT/MIN(01)/W/10 is acceptable to delegations?

May I now offer the floor to delegations wishing to make a statement for the record ”

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/W/1
14 November 2001

(01-5769)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

MINISTERIAL DECLARATION

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.

2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.

3. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the

multilateral trading system. We recall the commitments made by Ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.

4. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development.

5. We are aware that the challenges Members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making.

6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We welcome the WTO's continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services.

8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimension of globalization.

9. We note with particular satisfaction that this Conference has completed the WTO accession procedures for China and Chinese Taipei. We also welcome the accession as new Members, since our last Session, of Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession. These accessions will greatly strengthen the multilateral trading system, as will those of the 28 countries now negotiating their accession. We therefore attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries.

10. Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all Members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.

11. In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system.

WORK PROGRAMME

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

12. We attach the utmost importance to the implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them. In this connection, and having regard to the General Council Decisions of 3 May and 15 December 2000, we further adopt the Decision on

Implementation-Related Issues and Concerns in document WT/MIN(01)/W/10 to address a number of implementation problems faced by Members. We agree that negotiations on outstanding implementation issues shall be an integral part of the Work Programme we are establishing, and that agreements reached at an early stage in these negotiations shall be treated in accordance with the provisions of paragraph 47 below. In this regard, we shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 46 below, by the end of 2002 for appropriate action.

AGRICULTURE

13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial

Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

SERVICES

15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

17. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.

18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

19. We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.

RELATIONSHIP BETWEEN TRADE AND INVESTMENT

20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

INTERACTION BETWEEN TRADE AND COMPETITION POLICY

23. Recognizing the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

24. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.

TRANSPARENCY IN GOVERNMENT PROCUREMENT

26. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

TRADE FACILITATION

27. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.

WTO RULES

28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies,

taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.

29. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.

DISPUTE SETTLEMENT UNDERSTANDING

30. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.

TRADE AND ENVIRONMENT

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

- (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;
- (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:

- (i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction

- of trade restrictions and distortions would benefit trade, the environment and development;
- (ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and
 - (iii) labelling requirements for environmental purposes.

Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.

ELECTRONIC COMMERCE

34. We take note of the work which has been done in the General Council and other relevant bodies since the Ministerial Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.

SMALL ECONOMIES

35. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.

TRADE, DEBT AND FINANCE

36. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TRADE AND TRANSFER OF TECHNOLOGY

37. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TECHNICAL COOPERATION AND CAPACITY BUILDING

38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing

on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced.

39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

40. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.

41. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 22, 25-27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity-building programmes. We instruct the Director-General to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.

LEAST-DEVELOPED COUNTRIES

42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their Ministers in July 2001. We recognize that the integration of the LDCs into the multilateral trading system requires meaningful market access, support for the diversification of their production and export base, and trade-related technical assistance and capacity building. We agree that the meaningful integration of LDCs into the trading system and the global economy will involve efforts by

all WTO Members. We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. In this regard, we welcome the significant market access improvements by WTO Members in advance of the Third UN Conference on LDCs (LDC-III), in Brussels, May 2001. We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs. Accession of LDCs remains a priority for the Membership. We agree to work to facilitate and accelerate negotiations with acceding LDCs. We instruct the Secretariat to reflect the priority we attach to LDCs' accessions in the annual plans for technical assistance. We reaffirm the commitments we undertook at LDC-III, and agree that the WTO should take into account, in designing its work programme for LDCs, the trade-related elements of the Brussels Declaration and Programme of Action, consistent with the WTO's mandate, adopted at LDC-III. We instruct the Sub-Committee for Least-Developed Countries to design such a work programme and to report on the agreed work programme to the General Council at its first meeting in 2002.

43. We endorse the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF) as a viable model for LDCs' trade development. We urge development partners to significantly increase contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We request the Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in December 2002 and a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs.

SPECIAL AND DIFFERENTIAL TREATMENT

44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme

on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial

Conference will be held to take decisions regarding the adoption and implementation of those results. 46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:

- (i) all Members of the WTO; and
- (ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/W/2
14 November 2001
(01-5770)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.
2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.
3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices.
4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:
 - (a) In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.

- (b) Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.
- (c) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.
- (d) The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.

WORLD TRADE ORGANIZATION

WT/MIN(01)/W/10
14 November 2001
(01-5768)

MINISTERIAL CONFERENCE Fourth Session Doha, 9 - 14 November 2001

IMPLEMENTATION-RELATED ISSUES AND CONCERNS Decision

The Ministerial Conference,

Having regard to Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

Mindful of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

Determined to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

Recalling the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

Noting the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

Noting also the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and

the discussions as well as the clarifications provided and understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

Decides as follows:

1. General Agreement on Tariffs and Trade 1994 (GATT 1994)

- 1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.
- 1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase “substantial interest” in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture

- 2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.
- 2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.
- 2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.
- 2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission

by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures

- 3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase “longer time-frame for compliance” referred to in Article 10.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually satisfactory solution to the problem while continuing to achieve the importing Member’s appropriate level of protection.
- 3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase “reasonable interval” shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.
- 3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.
- 3.4 Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years.
- 3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these

organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and
(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

- 3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and
(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

- 4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.
4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.
4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

- 4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning of the implementation period; extend the same treatment to least-developed

countries; and, where possible, eliminate quota restrictions on imports of such Members;

- 4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;

and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

- 5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.
- 5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase “reasonable interval” shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.
- 5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and
(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.
- 5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and
(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6. Agreement on Trade-Related Investment Measures

- 6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.
- 6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

7. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

- 7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.
- 7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.
- 7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12 months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.

7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.

8. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns,

including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

- 9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.
- 9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.

10. Agreement on Subsidies and Countervailing Measures

- 10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US \$1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US \$1000 based upon the most recent data from the World Bank.
- 10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.
- 10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing Measures regarding countervailing

duty investigations and report to the General Council by 31 July 2002.

- 10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US\$ 1,000.
- 10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article 27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.
- 10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/W/471/Rev.1. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/W/471/Rev.1.

11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

- 11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference.

It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

- 11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

- (i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;
- (ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and
- (iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 (“Enabling Clause”)¹ should be generalised, non-reciprocal and non-discriminatory.

13. Outstanding Implementation Issues²

Agrees that outstanding implementation issues be addressed in accordance with paragraph 12 of the Ministerial Declaration (WT/MIN(01)/DEC/-).

14. Final Provisions

Requests the Director-General, consistent with paragraphs 38 to 43 of the Ministerial Declaration (WT/MIN(01)/DEC/-), to ensure that WTO technical assistance focuses, on a priority basis, on assisting developing countries to implement existing WTO obligations as well as on increasing their capacity to participate more effectively in future multilateral trade negotiations. In carrying out this mandate, the WTO Secretariat should cooperate more closely with international and regional intergovernmental organisations so as to increase efficiency and synergies and avoid duplication of programmes.

¹ BISD 26S/203.

² A list of these issues is compiled in document Job(01)/152/Rev.1.

A Comparative Statement of the Three Draft and the Final Versions of the Doha Ministerial Text

The Final Ministerial Declaration of the fourth WTO Ministerial Conference held at Doha in November 2001, is a classic case of ‘is the glass half full or half empty?’ There are no clear winners or losers. Everyone is interpreting it in its own way and full implications will become clear only in the course of negotiations. However, it would be quite interesting to see and find out how the language of the text changed from the Harbinson’s Draft Ministerial Declaration of 26th September 2001 to the Final Ministerial Declaration.

The Final Declaration was adopted on 14th November 2001 after six days of intensive negotiations in Doha. However, the actual negotiation process started with the release of Harbinson’s first draft. Discussions, negotiations, arm-twisting and horse-trading continued for nearly 50 days till the final declaration was agreed. In between, two revised versions of the declaration were also released on 27th October and 13th November 2001.

It has been seen and experienced that too much emphasis is given to the wordings and framing of the language of the text. Perhaps, one reason could be, as the Members are not sure about the outcome at the time of negotiations, later on, how one interprets the language that matters.

For example, in final Ministerial Declaration, para 13 says that “...we take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture”.

Here, developing countries can easily interpret that this means that they can take care of their developmental needs like food security, rural development etc. But at the same time, the European Union can also pursue and push forward its ‘multifunctional’ agenda.

It is in this backdrop, this Annexure lays out the four texts as they were drafted for readers to see.

IMPLEMENTATION

DMD*	Rev.1 §	Rev.2 +	Final 4 #
<u>Para 10</u> We attach the utmost importance to the implementation issues and related concerns and are determined to resolve them.	<u>Para12</u> We attach the utmost importance to implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them .	<u>Para12</u> -do-	<u>Para12</u> -do-
--- Taking note of the General Council Decisions of 15 December 2000 [and 3 October 2001], we adopt the further Decision contained in document ... to address other outstanding issues.	--- In this connection, and having regard to the General Council Decisions of 3 May and 15 December 2000, we further adopt the Decision on Implementation related issues and concerns in document Job(01)/139/Rev.1 to address a number of implementation problems faced by Members	--- do	--- do
--- We agree that remaining implementation issues should be fully addressed, in accordance with appropriate guidelines to be developed, under the work programme we are establishing.	--- We agree that negotiations on outstanding implementation issues shall be an integral part of the work programme we are establishing, and that agreement reached at an early stage in these negotiations shall be treated in accordance with the provisions of paragraph 40 below.	--- do	--- do
No mention.	--- In this regard, we shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 39 below, by the end of 2002 for appropriate action.	--- do	--- do

* DMD: Draft Ministerial Declaration, released by WTO on 26th September 2001.

§ Rev.1: Revision 1, first revision of DMD, released by WTO on 27th October 2001.

+ Rev.2: Revision2, second revision of DMD, done in the midst of the Doha Ministerial Conference and released on 13th November 2001.

Final: Ministerial Declaration, agreed by all participating nations on 14th November 2001. This is also called Doha Development Agenda.

--- Para

AGRICULTURE

DMD	Rev.1	Rev.2	Final
<p><u>Para11</u> Text to be elaborated through further consultations based on the following elements:</p> <ul style="list-style-type: none"> • Reference to the ongoing negotiations, including a reference to the active participation of developing countries. • Reference to the long-term objective of reform in agriculture. • Reference to the direction or aims of reform in the areas of market access, domestic support and export competition. • Reference to special and differential treatment. • Reference to non-trade concerns. • Benchmarks and time-frames. • Negotiating body. 	<p><u>Para13</u> We recognise the work already undertaken in the negotiations initiated in early 2000 under Article 20 of AoA, including the large number of negotiating proposals submitted on behalf of a total of 121 Members</p>	<p><u>Para13</u> -do-</p>	<p><u>Para13</u> -do-</p>
	<p>... We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and</p>	<p>... do</p>	<p>... do</p>

DMD	Rev.1	Rev.2	Final
	protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme.		
	--- Building on the work carried out to date, we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.	--- Building on the work carried out to date, we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of [, with a view to phasing out,] all forms of export subsidies; and substantial reductions in trade distorting domestic support.	--- Building on the work carried out to date and without prejudging the outcome of the negotiations members commit to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade distorting domestic support.
	--- We agree that special & differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied	--- do	--- do

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	in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development.		
	--- We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the AoA.	--- do	--- do
	<u>Para14</u> Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than ... Participants shall submit their comprehensive draft Schedules based on these modalities no later than ... The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.	<u>Para14</u> Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003 . Participants shall submit their comprehensive draft Schedules based on these modalities no later than the Fifth Session of the Ministerial Conference . The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.	<u>Para14</u> -do-

SERVICES

DMD	Rev.1	Rev.2	Final
<u>Para12</u> The mandated negotiations on trade in services are an important means of promoting the economic growth of all trading partners and the development of developing countries.	<u>Para15</u> The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing countries.	<u>Para15</u> -do-	<u>Para15</u> The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries .
--- We take note with satisfaction the progress which has been made in these negotiations since their inception in January 2000, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on Movement of Natural Persons (MNP).	--- We recognise the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the GATS , and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on MNP	--- do	--- do
--- We reaffirm the guidelines and procedures for the negotiations adopted by the Council for Trade in Services on 28 th March 2001 as the basis for continuing the negotiations with a view to achieving the objectives of the GATS, as stipulated in the Preamble, Article IV and Article XIX of that Agreement.	--- do	--- do	--- do

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	<p>--- Participants shall submit initial requests for specific commitments by initial offers by ...</p>	<p>--- Participants shall submit initial requests for specific commitments by 30th June 2002 and initial offers by 31st March 2003.</p>	<p>--- do</p>

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

DMD	Rev.1	Rev.2	Final
<u>Para13</u> We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks and tariff escalation, as well as non-tariff barriers.	<u>Para16</u> We agree to negotiations, which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs , and tariff escalation, in particular on products of export interest to developing countries , as well as non-tariff barriers.	<u>Para16</u> -do-	<u>Para16</u> -do-
--- Product coverage shall be comprehensive and without a priori exclusions.	--- do	--- do	--- do
--- The negotiations shall take into account the special needs and interests of developing and LDC participants, including through less than full reciprocity in reduction commitments.	--- The negotiations shall take fully into account the special needs and interests of developing and LDC participants, in accordance with the relevant provisions of Article XXVIII bis of GATT 1994 and the provisions cited in paragraph 43 below.	--- The negotiations shall take fully into account the special needs and interests of developing and LDC participants, including through less than full reciprocity in reduction commitments , in accordance with the relevant provisions of Article XXVIII <i>bis</i> of GATT 1994 and the provisions cited in paragraph 50.	--- do
No Mention	No Mention	--- The modalities to be agreed will include appropriate studies and capacity-building measures to assist LDC to participate effectively in the negotiations.	--- do

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

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It is proposed that the issue of the relationship between intellectual property and [access to medicines] [public health] be addressed in a separate declaration.	<u>Para17</u> We stress the importance we attach to implementation and interpretation of the TRIPs Agreement in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, have adopted a separate Declaration.	<u>Para17</u> We stress the importance we attach to implementation and interpretation of the TRIPs Agreement in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.	<u>Para17</u> -do-
<u>Para14</u> We agree to complete negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits.	<u>Para18</u> With a view to completing the work started in the TRIPs Council on the implementation of article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference.	<u>Para18</u> -do-	<u>Para18</u> -do-
<u>Para15</u> We agree [that the TRIPs Council shall examine issues related to possible negotiations on] [to negotiate] the extension of	--- We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the	--- do	--- do

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the protection of geographical indications provided for in Article 23 to additional product areas.	Council for TRIPs pursuant to paragraph 12 of this Declaration.		
<u>Para16</u> We instruct the TRIPs Council, in pursuing its work programme, to give due attention to the relationship between the TRIPs Agreement and the Convention on Biological Diversity, the protection of traditional knowledge, non-violation complaints, and keeping the TRIPs Agreement abreast of new technological and other developments. In undertaking this work, the TRIPs Council shall be guided by the objectives and principles of the TRIPs Agreement and shall take fully into account the development dimension.	<u>Para19</u> We instruct the Council for TRIPs, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPs Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, <i>inter alia</i>, the relationship between the TRIPs Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPs Council shall be guided by the objectives and principles set out in Articles 7 and 8 of the TRIPs Agreement and shall take fully into account the development dimension.	<u>Para19</u> -do-	<u>Para19</u> -do-
<u>Para17</u> <i>The TRIPS Council shall report on the progress of its work set out above to the General Council at the end of 2002 and submit a final report to the Fifth session of the Ministerial Conference, which shall decide on further action.</i>	No mention	-do-	-do-

TRADE AND INVESTMENT

DMD	Rev.1	Rev.2	Final
<p><u>Para18</u> We agree to negotiations which shall aim to establish a multilateral framework of rules to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment.</p>	<p><u>Para20</u> In the period until the Fifth Session of the Ministerial Conference, work will focus on the clarification of elements of a possible multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, and to contribute to expansion of trade.</p>	<p><u>Para20</u> [Recognising the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly FDI, that will contribute to expansion of trade]. We agree that at the Fifth Session of the Ministerial Conference a decision will be taken on whether to launch negotiations in this area.</p>	<p><u>Para20</u> Recognising the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly FDI, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity building in this area. We agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations.</p>

DMD	Rev.1	Rev.2	Final
--- The framework shall reflect in a balanced manner the interests of home and host countries, and take due account of governments' regulatory responsibilities and economic development objectives.	--- The framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest.	<u>Para21</u> -do-	<u>Para22</u> -do-
--- It shall include as core elements provisions on scope and definition, transparency, non-discrimination, pre-establishment commitments based on a GATS-type approach, and settlement of disputes between governments.	--- Core elements are: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and safeguards; consultation and the settlement of disputes between Members; and negotiating modalities, including the question of participation.	--- In the period until the Fifth Session, further work in the Working Group will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members.	--- do
--- The special development, trade and financial needs of developing and LDC participants shall be taken into account as an integral part of the framework, which shall enable Members to undertake obligations commensurate with their individual needs and circumstances.	--- The special development, trade and financial needs of developing and LDCs should be taken into account as an integral part of the framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances.	--- do	--- do

DMD	Rev.1	Rev.2	Final
... The negotiations shall pay due regard to other relevant WTO provisions and to existing bilateral and regional arrangements on investment.	... Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment. <i>At the Fifth Session, a decision will be taken on modalities of negotiations in this area.</i>	... Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.	... do
... We commit ourselves to ensure that appropriate arrangements are made for the provision of technical assistance and support for capacity building both during the negotiations and as an element of the agreement to be negotiated.	... We commit ourselves to ensuring that appropriate arrangements are made for the provision of technical assistance and capacity building throughout, and as an element of the outcome.	<u>Para22</u> We recognise the needs of developing and LDCs for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.	<u>Para21</u> -do-

DMD	Rev.1	Rev.2	Final
OR <u>Para19</u> <i>The working group on the relationship between trade and investment shall undertake further focussed analytical work, based on proposals by Members. A report on this work shall be presented to the Fifth Session of the Ministerial Conference.</i>	No Mention	-do-	-do-

TRADE AND COMPETITION POLICY

DMD	Rev.1	Rev.2	Final
<u>Para20</u> We agree to negotiations aimed at enhancing the contribution of competition policy to international trade and development.	<u>Para21</u> In the period until the Fifth Session of the Ministerial Conference, work will focus on the clarification of elements of a possible multilateral framework aimed at enhancing the contribution of competition policy to international trade and development.	<u>Para23</u> [Recognising the case for a multilateral framework to enhance the contribution of competition policy to international trade and development,] we agree that at the Fifth Session of the Ministerial Conference a decision will be taken on whether to launch negotiations in this area.	<u>Para23</u> Recognising the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and technical assistance and capacity building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.
--- The negotiations should establish a framework to address the following elements: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition	--- In this connection, the following elements will be addressed: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; support for progressive reinforcement of competition institutions in developing countries	<u>Para24</u> In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary	<u>Para25</u> -do-

DMD	Rev.1	Rev.2	Final
institutions in developing countries through capacity building.	through capacity building; and negotiating modalities, including the question of participation.	cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building.	
--- In the course of negotiations, full account shall be taken of the situation of developing and LDC participants and appropriate flexibility provided to address them.	--- do	--- do	--- do
--- We commit ourselves to ensure that appropriate arrangements are made for the provision of technical assistance and support for capacity building both during the negotiations and as an element of the agreement to be negotiated.	--- We commit ourselves to ensuring that appropriate arrangements are made for the provision of technical assistance and support for capacity building throughout, and as an element of the outcome.	<u>Para25</u> We recognise the needs of developing and LDCs for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately	<u>Para24</u> -do-

DMD	Rev.1	Rev.2	Final
		resourced assistance to respond to these needs.	
OR <i>Para21 The Working Group on the Interaction between Trade and Competition Policy shall undertake further focussed analytical work, based on proposals by Members. A report on this work shall be presented to the Fifth Session of the Ministerial Conference.</i>	No Mention	-do-	-do-

TRANSPARENCY IN GOVERNMENT PROCUREMENT

DMD	Rev.1	Rev.2	Final
No mention	-do-	-do-	<u>Para26</u> Recognising the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.
<u>Para22</u> We agree to negotiations on a multilateral agreement on transparency in government procurement, building on the progress that has been made in the Working Group on Transparency in government procurement and taking into account participants' development priorities.	<u>Para22</u> We agree to negotiations on a multilateral agreement on transparency in government procurement, building on the progress that has been made in the Working Group on Transparency in Government Procurement and taking into account participants' development priorities, especially those of LDC participants.	<u>Para26</u> -do-	--- These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of LDC participants.

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--- The negotiations shall be limited to the transparency aspects and will not restrict the scope for countries to give preferences to domestic supplies and suppliers.	--- do	--- do	--- do
--- Issues relating to compliance with any new obligations to be agreed shall be addressed in the negotiations, taking into account the situation of developing and LDC participants.	--- <i>Matters related to the nature of commitments and their implementation shall be addressed in the negotiations, taking into account the situation of developing and LDC participants.</i>	--- do	Dropped
--- We commit ourselves to ensure that appropriate arrangements are made for the provision of technical assistance and support for capacity building both during the negotiations and as an element of the agreements to be negotiated.	--- <i>In the case of developing and LDCs, it is recognised that the implementation of the outcome shall be related to their capacities to implement and the technical assistance provided.</i> We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.	--- do	--- We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

TRADE FACILITATION

DMD	Rev.1	Rev.2	Final
No mention	-do-	-do-	Para27 Recognising the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations
<u>Para23</u> We agree to negotiations which shall build upon Articles V, VIII and X of the GATT 1994, taking into account existing WTO provisions on matters related to customs and other procedures and formalities to expedite movement, release and clearance of goods.	<u>Para23</u> With the aim of further expediting the movement, release and clearance of goods including goods in transit , we agree to negotiations which shall build upon Articles V, VIII and X of the GATT 1994 by clarifying and improving elements of those Articles , taking into account, as appropriate , existing WTO provisions on matters related to customs and other procedures and formalities for goods trade .	<u>Para27</u> -do-	--- In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and LDCs
--- Issues relating to compliance with any new obligations to be agreed shall be addressed in the negotiations, taking into account	--- <i>Matters related to the nature of any additional commitments and their implementation shall be addressed in the negotiations,</i>	--- do	Dropped

DMD	Rev.1	Rev.2	Final
the situation of developing and LDC participants.	<i>taking into account the situation of developing and LDC participants.</i>		
--- We commit ourselves to ensure that appropriate arrangements are made for the provision of technical assistance and support for capacity building both during the negotiations and as an element of the agreement to be negotiated.	--- <i>In the case of developing and LDCs, it is recognised that the implementation of the outcome shall be related to their capacities to implement and the technical assistance provided.</i> We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.	--- do	--- We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.

WTO RULES

DMD	Rev.1	Rev.2	Final
<p><u>Para24</u> We agree to negotiations aimed at clarifying and improving disciplines under the existing Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures[...], taking into account the needs of developing and LDC participants.</p>	<p><u>Para24</u> In the light of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts and principles underlying them and taking into account the needs of developing and LDC participants. In the initial phase of the negotiations, participants will indicate the provisions that they seek to clarify and improve. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector of developing countries.</p>	<p><u>Para28</u> In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements, their objectives [and instruments] [and procedures], and taking into account the needs of developing and LDC participants. In the initial phase of the negotiations, participants will indicate the provisions that they seek to clarify and improve, including disciplines on trade distorting practices, in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries.</p>	<p><u>Para28</u> In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and LDC participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.</p>

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<p><u>Para25</u> We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements.</p> <p><i>Issues relating to the application of any new obligations to existing regional trade agreements shall be addressed during the negotiations.</i></p> <p>Participants shall also take into account the developmental aspects of regional trade agreements.</p>	<p><u>Para25</u> We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.</p>	<p><u>Para29</u> -do-</p>	<p><u>Para29</u> -do-</p>

DISPUTE SETTLEMENT UNDERSTANDING

DMD	Rev.1	Rev.2	Final
<p><u>Para26</u> We agree to negotiations on possible amendments to the Dispute Settlement Understanding on the basis of proposals by Members. The negotiations should be based on the work done thus far and aim to produce a balanced package of amendments not later than May 2003, at which time we will take steps to ensure that the amendments enter into force as soon as possible thereafter.</p>	<p><u>Para26</u> We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.</p>	<p><u>Para30</u> -do-</p>	<p><u>Para30</u> -do-</p>

TRADE AND ENVIRONMENT

DMD	Rev.1	Rev.2	Final
No Mention	-do-	<p><u>Para31</u> [With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations on:</p> <ul style="list-style-type: none"> the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services, especially in relation to developing countries, in particular the least-developed among them; Procedures for regular information exchange between MEAs Secretariats and the relevant WTO Committee, and the criteria for the granting of observer status.] <p>[We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.]</p>	<p><u>Para31</u> With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on;</p> <ul style="list-style-type: none"> The relationship between existing WTO rules and specific trade obligations set out in MEAs. The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question; Procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status; The reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services. <p>We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.</p>
<u>Para27</u> We instruct the Committee on Trade and	<u>Para27</u> We instruct the CTE, in pursuing work	<u>Para32</u> We instruct the CTE, in pursuing work on all items on its agenda within	<u>Para32</u> We instruct the CTE, in pursuing work on all items on its agenda within its current terms of

DMD	Rev.1	Rev.2	Final
<p>Environment (CTE) to pursue work on all items on its agenda within its current terms of reference, and in particular:</p> <ul style="list-style-type: none"> ■ To address, in pursuance of the WTO's objective of sustainable development, those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development; ■ To deepen the understanding of the relationship between the multilateral trading system and multilateral environment agreements (MEAs) . 	<p>on all items on its agenda within its current terms of reference, to give particular attention to:</p> <ul style="list-style-type: none"> ■ The effect of environmental measures on market access and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development; ■ The relationship between the multilateral trading system and MEAs; ■ The relevant provisions of the Agreement on TRIPs; and ■ Labelling. <p>Work on these issues should include the</p>	<p>its current terms of reference, to give particular attention to:</p> <ul style="list-style-type: none"> ■ The effect of environmental measures on market access, [especially in relation to developing countries, in particular the least-developed among them,] and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development; ■ <i>The relationship between the multilateral trading system and MEAs;</i> ■ The relevant provisions of the Agreement on TRIPs; and ■ Labelling [requirements for environmental purposes]. <p>Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report on <i>[all items on its agenda]</i> to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to [any] future action,</p>	<p>reference, to give particular attention to:</p> <ul style="list-style-type: none"> ■ The effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development; ■ The relevant provisions of the Agreement on TRIPs; and ■ Labelling requirements for environmental purposes. <p>Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on</p>

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<p>The CTE shall report to the Fifth Session of the Ministerial Conference on these issues.</p> <p><i>Para28 We direct the Committee on Technical Barriers to Trade (TBT) to expedite its work on labelling, bearing in mind that any measures in this field should not become disguised restrictions on trade, and report to the Fifth Session of the Ministerial Conference.</i></p>	<p>identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations.</p>	<p>including the desirability of negotiations. [The outcome of this work as well as the negotiations carried out under paragraph 31 shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, nor alter the balance of these rights and obligations, and will take into account the needs of developing and LDCs.]</p>	<p>the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and LDCs.</p>
<p>No Mention</p>	<p>-do-</p>	<p><u>Para33</u> [We recognise the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.]</p>	<p><u>Para33</u> We recognise the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.</p>

TRADE AND LABOUR STANDARDS

DMD	Rev.1	Rev.2	Final
<u>Para6</u> We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimensions of globalisation.	<u>Para8</u> We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the ILO on the social dimensions of globalisation. <i>The ILO provides the appropriate forum for a substantive dialogue on various aspects of the issue.</i>	<u>Para8</u> We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the ILO on the social dimensions of globalisation.	<u>Para8</u> -do-

ELECTRONIC COMMERCE

DMD	Rev.1	Rev.2	Final
<u>Para29</u> We take note of the work which has been done in the General Council and other relevant bodies since our Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce.	<u>Para28</u> -do-	<u>Para34</u> -do-	<u>Para34</u> -do-
No Mention	--- The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognise the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce.	--- do	--- do
--- We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference.	--- do	--- do	--- do
--- We agree to maintain our current practice of not imposing customs duties on electronic transmissions until the Fifth Session	--- do	--- do	--- do

SMALL ECONOMIES

DMD	Rev.1	Rev.2	Final
<u>Para30</u> We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members.	<u>Para29</u> -do-	<u>Para35</u> -do-	<u>Para35</u> -do-
--- The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.	--- do	--- do	--- do

TRADE, DEBT AND FINANCE

DMD	Rev.1	Rev.2	Final
<u>Para31</u> We agree to an examination, under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and LDCs, and to strengthen the coherence of international trade, financial and monetary policies with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. <i>We instruct the General Council to consider the most appropriate institutional arrangements for handling this examination</i> and to report on progress to the Fifth Session of the Ministerial Conference.	<u>Para30</u> -do-	<u>Para36</u> Same language except, the proposal to examine this issue in a WTO Working Group under the auspices of the General Council.	<u>Para36</u> -do-

TRADE AND TRANSFER OF TECHNOLOGY

DMD	Rev.1	Rev.2	Final
<p><u>Para32</u> We agree to an examination, under the auspices of the GC, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. <i>We instruct the GC to consider the most appropriate institutional arrangements for handling this examination</i> and to report on progress to the Fifth Session of the Ministerial Conference.</p>	<p><u>Para31</u> -do-</p>	<p><u>Para37</u> We agree to an examination, in a Working Group under the auspices of the GC, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The GC shall report to the Fifth Session of the Ministerial Conference.</p>	<p><u>Para37</u> -do-</p>

TECHNICAL COOPERATION AND CAPACITY BUILDING

DMD	Rev.1	Rev.2	Final
<u>Para33</u> We instruct the Secretariat to respond to requests from Members for technical assistance in the context of their mainstreaming of trade into national plans for economic development and strategies for poverty reduction.	<u>Para32</u> We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction.	<u>Para38</u> -do-	<u>Para38</u> -do-
--- The delivery of WTO technical assistance shall be designed to assist beneficiary countries to understand WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system.	--- do	--- do	--- do
--- Priority shall be accorded, in the delivery of trade-related technical assistance, to building capacity for multilateral trade negotiations in developing, least-developed, small and vulnerable, and transition economies, including those without representation in Geneva.	--- do	--- do	--- do

DMD	Rev.1	Rev.2	Final
<p>--- We underscore the urgent necessity for the coordinated delivery of technical assistance with relevant international and regional intergovernmental institutions within a coherent policy framework and timetable. We agree that there is a need for this assistance to benefit from secure and predictable funding.</p>	<p><u>Para33</u> We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the D-G to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalising the Integrated Framework for Trade-Related Technical Assistance to LDCs and the Joint Integrated Technical Assistance Programme (JITAP). We agree that there is a need for technical assistance to benefit from secure and predictable funding.</p>	<p><u>Para39</u> -do-</p>	<p><u>Para39</u> -do-</p>
<p>--- We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at a level no lower than that of the current year.</p>	<p><u>Para34</u> We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the GC in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.</p>	<p><u>Para40</u> -do-</p>	<p><u>Para40</u> -do-</p>

DMD	Rev.1	Rev.2	Final
No mention	No mention	<p><u>Para41</u> We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 22, 25-27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity building programmes. We instruct the D-G to report to the Fifth Session of the Ministerial Conference, with an interim report to the GC in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.</p>	<p><u>Para41</u> -do-</p>

LEAST-DEVELOPED COUNTRIES

DMD	Rev.1	Rev.2	Final
No mention.	<u>Para35</u> We acknowledge the seriousness of the concerns expressed by the LDCs in the Zanzibar Declaration adopted by their Ministers in July 2001.	<u>Para42</u> -do-	<u>Para42</u> -do-
<u>Para34</u> We recognise that the further integration of the LDCs into the trading system requires combined and inter-related action at three levels namely, market access, trade-related technical assistance and capacity building, and LDCs' domestic policy reforms	--- We recognise that the integration of the LDCs into the trading system requires combined and inter-related action at three levels, namely: market access, trade-related technical assistance and capacity building, and supporting domestic measures to mainstream trade priority areas of action into plans for economic development and strategies for poverty reduction.	--- do	--- do
--- We agree that the WTO should take into account, in designing its work programme for LDCs, the trade-related elements of the Brussels Declaration and Programme of Action consistent with the WTO's mandate adopted at the IIIrd UN Conference on the LDCs in May 2001.	--- We agree that the meaningful integration of LDCs into the trading system and the global economy will involve efforts by all WTO Members. We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. In this regard, we welcome the significant market access improvements by WTO Members in advance of the IIIrd UN Conference on LDCs in Brussels, May 2001.	--- do	--- do
No mention	--- We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs. Accession of LDCs remains a priority for the Membership. We agree to work to accelerate negotiations with acceding LDCs. We instruct the Secretariat to reflect the priority we attach to LDCs' accessions in the annual plans for technical assistance. We agree that the WTO should take into account, in designing its work programme for LDCs, the trade-related elements of the Brussels Declaration and Programme of Action, consistent with the WTO's mandate, adopted at LDC-III. We instruct the Sub-Committee for LDCs to design such a work programme and to report on the agreed work programme to the GC at its first meeting in 2002.	--- do	---do

DMD	Rev.1	Rev.2	Final
<p>... We acknowledge the value of and endorse the Integrated Framework for Trade-Related Technical Assistance to LDCs (IF) as a viable model for LDCs' trade development. We appeal to development partners to increase contributions to the IF Trust Fund. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF and the extension of the model. We request the D-G, following coordination with all the core agencies, to report to Ministers at the Fifth Session of the Ministerial Conference.</p>	<p><u>Para36</u> We endorse the Integrated Framework for Trade-Related Technical Assistance to LDCs (IF) as a viable model for LDCs' trade development. We urge to development partners to increase contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We request the D-G, following coordination with heads of the other agencies, to provide an interim report to the GC in December 2002 and a full report to Ministers at the Fifth Session of the Ministerial Conference on all issues affecting LDCs.</p>	<p><u>Para43</u> -do-</p>	<p><u>Para43</u> -do-</p>

SPECIAL AND DIFFERENTIAL TREATMENT

DMD	Rev.1	Rev.2	Final
<u>Para35</u> Text to be considered, taking into account the report to be submitted by the Committee on Trade and Development.	<u>Para37</u> We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly LDCs. In that connection, we also note that some Members have proposed a Framework Agreement on special and differential treatment (WT/GC/W/442).	<u>Para44</u> -do-	<u>Para44</u> -do-
	--- We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.	--- do	--- do

Note: 1. Sentences in bold letters indicate either change from the previous draft or addition in the text.
2. Sentences in italics indicate dropped from the following drafts.
3. Sentences in both bold and italics indicate change from the preceding draft as well as missing in the following text.