

Summary

Chapter 1

Agriculture Trade Negotiations after the ‘July Package’ *The Way Forward for South Asia*

Introduction

What are the South Asian countries negotiating for and what is the bargaining terrain in the agriculture negotiations of the Doha Round? The common thread linking both these questions is the smallholding farmer dominated agriculture system, with issues of livelihood and development staring before them on the trade track. The vulnerability of these countries is, therefore, immense.

The negotiations have evolved as a battle between arithmetic and legal oscillations that has got converted into political exigencies. The information asymmetry in this is being used by multi-stakeholder processes to ride roughshod over smallholder interests. This was rightly summed up by the Brazilian Foreign Minister Celso Amorim that ‘not a deadlock but a padlock’ prevailed in the agriculture talks preparatory to the Hong Kong Ministerial.

As things stand today (November 2005), the G-20’s submission on the agriculture negotiations appears to be the standard for further deliberations. The proposal is being supplemented by the G-33 submission on Special Products (SPs) as well as on special and differential treatment (S&DT). A discordant note, however, comes from the dominant trading partners – the European Union (EU), Japan and the US – as they protect their farmers’ interests while refusing to acknowledge the stakes of smallholding farmers in developing countries.

From Doha to the ‘July Package’

The Uruguay Round brought the area of agriculture into the multilateral trade negotiation framework. The preamble of the Agreement on Agriculture (AoA) reiterates that commitments under the reform programme for trade in agriculture should be made in an equitable way, having regard to non-trade concerns including food security. This was also stated in the Doha Declaration, which mandated negotiations for the continuation of the reform process including non-trade concerns.

The main storyline since the launch of the Doha Round in November 2001 has been one of the missed deadlines and elusiveness to reach an understanding to carry forward the negotiations on agreed modalities. The culmination was the failure to reach an agreement

at the Cancún Ministerial, although the post-Cancún gain in the trade talks has been the emergence of country coalitions, with the liberalisation process gaining a new meaning.

Nevertheless, when WTO Members agreed on the Doha Round's Work Programme (DRWP) in July 2004 – the 'July Package' – the developed countries succeeded in safeguarding their interests by relegating capacity building and implementing issues into a backburner. Moreover, the 'July Package' shifted the focus from the three pillars of agriculture – market access, domestic support and export competition – to the three entities such as agriculture, non-agricultural market access (NAMA) and services as well as brought in trade facilitation.

The major gains for the developing countries in the 'July Package' relate to *de minimis* and the special safeguard mechanism (SSM) for developing countries, the recognition for transparency and monitoring of 'green box' subsidies, and the aim of reducing the high level of trade distorting subsidies. The caution sounded by many developing countries on box shifting, and hence determination of a historical timeline becomes important during further negotiations when actual numbers determine the arithmetic of agriculture.

The main elements of the original G-20 proposal were that the tariff peaks of the developed countries, whether or not products are sensitive, are subjected to deeper cuts. The interests of least developed countries (LDCs), the recently acceded members and preference erosion, were also addressed for the first time by the G-20. It was further boldly pointed out that the infamous 'give and take' principle is not in the best interest of the developing countries. The EU position on this is now clear, following Trade Commissioner Peter Mandelson's statement that results 'in all areas' are expected or else "we will not have anything".

Pre-Hong Kong Developments in Agriculture Talk

The agriculture trade talks have seen some hectic activities in Geneva, with the negotiations moving in pits and falls. An amicable arrangement emerged in mid-2005 on the contested technical issue of *ad valorem* equivalents (AVEs). However, the main talk was confined among the five interested parties (FIPs) Australia, Brazil, EU, India and US emerging as the main players in the agriculture parleys.

Market Access

Market access is the main pillar that has got undivided attention by all Members. The threshold bands and the number of bands are key and must precede any discussion on formula selection. The G-20 proposal has emerged as the basis for the discussions. A stocktaking view indicates some interesting points:

- There are four threshold bands in all submissions, but with differences in bandwidth and linear cut percentages.
- The developing countries' threshold bands are similar in the G-20 and EU proposals, but different in the African, Caribbean and Pacific (ACP), G-10 and US proposals. The US submission does not distinguish between the developing and developed country threshold bands.

- G-33 has reiterated that overall average reduction of tariffs by developing countries cannot exceed two-thirds of the average reduction undertaken by developed countries.
- The G-20 and G-33 have rejected the US and EU proposals and have requested them to make further movements. The unified stand of G-20 and G-33 has been in terms of absolute essentials for market access.
- The treatment of sensitive products is an important issue for the EU and G-10. Similarly, the issues of SPs and SSM are important to the G-20, G-33 and LDCs.

Domestic Support

The discussions on domestic support have concentrated on three broad areas: (1) reduction of aggregate measurement of support (AMS), i.e., amber box support; (2) reduction of overall trade distorting domestic support, i.e., amber box + blue box + *de minimis* supports; and (3) the criteria for the new blue box along with disciplines for new and old blue box supports. In addition, a detailed review and clarification on green box criteria has been mandated in the 'July Package'. This has been carried out by G-20 and is on the table for negotiation. Not much, however, has been heard on these suggestions/submissions.

The G-20 proposes that the overall trade distorting support for the developed countries should be considered in three tiers. The developing countries must necessarily be in different and fundamentally separate bands for overall cuts. As for reductions to *de minimis* support, they are to be made in both product-specific and non-product-specific categories. The levels of cuts have to adjust to the rates of cuts for the overall trade distorting support. However, developing countries without AMS entitlements will be exempted from making any overall reductions as they qualify from exemptions to their *de minimis* elements.

It should be stressed that the outcome of the Cotton sub-committee is crucial and that the domestic support criteria remain flawed in its absence.

Export Competition

The main issue remains the date and schedule for phasing out direct export subsidies as well as export credits and other forms of subsidies. G-20 in its proposal demanded on the gradual elimination of direct subsidies over five years. The G-20 also argues for elimination of all other forms of subsidies as well as the introduction of transparency and discipline in such support mechanisms.

On the issue of food aid, the G-20 proposal suggests fully untied food aid in the form of grants. The developing countries are concerned since new arrangements will severely impact humanitarian and welfare objectives of the state.

Review of South Asian Agriculture within July Package Framework

It is well recognised that food security and the development of an economic base for improving the quality of lives is paramount to the South Asian countries. Agriculture is an economic activity that is not restricted to a couple of crops or a limited number of livestock products.

Challenges facing South Asian countries in agricultural trade that have been highlighted in studies are the denial of ‘fair access’ for developing countries to importing countries due to tariff walls, the existence of non-tariff barriers (NTBs), and faulty safeguard measures. In addition, the balancing act of domestic support with the market access pillar has been identified to be of critical significance for developing countries.

The recommended strategy for the Hong Kong Ministerial includes much greater flexibility for SPs and an SSM; addressing preference erosions; working for S&DT as an integral element of the AoA; moving cautiously with lowering bound tariffs and removal/withdrawal of subsidies. Much disciplining is required in the domestic support and export competition pillars and the G-20 countries should not give up on this as a leverage mechanism.

The G-33 proposals in their references to SPs and an SSM are most commendable and the current discussion is centred on these proposals. As for SPs, the proposal is clear in stating that there are different ways in which different developing countries identify these products. The SSM proposal provides details on its nature and operation in cases of import surges and price depressions relating to agricultural imports by developing countries.

Development Dimensions and Agricultural Sector

The cross cutting issue of development makes it amply clear that agriculture and allied sector activities will be paramount for the developing countries, no matter to which coalition group they belong. In this respect, the most common refrain seen in the literature is that of ‘supply-side constraints’.

The general tenor coming out from the ‘July Package’ is a shift towards a cooperative enabling mechanism to identify less trade distorting instruments. However, not only has a July 2005 deadline been missed, but also there is still a great divergence as one moves towards the Hong Kong Ministerial. Moreover, the ‘best endeavour’ message in the ‘July Package’ is disturbing, considering that the implementation-related issues identified at the Doha Ministerial largely remain in the backburner.

South Asian Agriculture Landscape and AoA

The agriculture sector cannot be left to the mercies of market-driven stimulants for growth and sustenance. The crop-based view needs to be replaced by a land-livestock-environment matrix. Indian case studies have demonstrated that domestic market access to smallholding producers ensures sustainability and a proper livelihood security.

Agriculture in South Asia can be identified to rest on three elements: land-based activities, small scale of production set-up and small groups with commitment to network themselves to access markets for their produce. In a typical case, the livelihood security considerations in a household will entail a given cropping scheme and livestock husbandry decisions. The production decisions are not necessarily for the markets. Therefore, the undue haste in trade-driven prescription to productivity enhancement, market integration and convergence of services purely in a one-way street of supply chain is misplaced in the South Asian region to a majority of producers.

This is particularly the case in Sri Lanka, Nepal and Bangladesh, where up to about 90 percent operated land area is in the marginal and small category. It would, therefore, be a blatant violation of economic realities if agriculture in these countries were compared with estate-driven plantation crops to make a case for policy changes in the supply chain elements. Since the agricultural production systems are geared towards domestic consumption and, hence, towards food and livelihood security, domains of input and other service suppliers to smallholder agriculture merits an S&DT box with sensitivity.

Agriculture Trade in South Asia

South Asia has a marginal significance in the global export market while imports have some significant ramifications. However, considering that the region is a significant global producer of many primary agricultural products, the trade scenario attains importance for many reasons.

The export performance of the region has been credible during the pre-WTO period. The implementation period, 1995-2000, shows a sharp fall in the growth rates. The overall post-WTO period, 1995-2003, has witnessed an average growth of 1.82 percent in contrast to almost 8.00 percent during the pre-WTO period.

Period	India	Sri Lanka	Pakistan	Nepal	Bangladesh	South Asia
90-95	12.31	-2.15	0.62	-4.38	-3.31	7.96
95-00	-2.06	8.32	0.99	1.65	-6.03	-0.54
00-03	9.53	-16.12	4.89	17.37	1.28	5.88
95-03	2.13	-1.58	2.44	7.28	-3.35	1.82
90-03	6.05	3.77	1.05	3.72	-2.85	4.68

Source: Computed From FAO Trade Database

Is the other half of the trade story the same? Unfortunately not. The import side indicates a faster speed in comparison to exports. For instance, the pre-WTO period recorded a growth of 11 percent in the imports to the South Asian region as a whole. India and Pakistan could be given credit for this high import growth in the region, but not entirely, as all the countries reported a growth rate of over 5 percent. The trade balance, therefore, will be adverse for the region. This is due to an unanticipated and extraordinary decline in commodity prices. Consequently, exports declined and imports spiralled, thereby adversely denting smallholding-dominated farmers' incomes. The impacts on livelihood security in all counts have been disastrous. The experience is still fresh with the countries, and the need for a strong and reliable safeguard mechanism must be appreciated against this backdrop.

Period	India	Sri Lanka	Pakistan	Nepal	Bangladesh	South Asia
90-95	15.44	5.93	11.63	5.94	7.05	11.11
95-00	5.29	3.09	-5.85	8.54	9.32	2.38
00-03	19.45	2.35	-0.47	-14.02	2.74	8.75
95-03	10.39	2.81	-3.86	0.54	6.80	4.73
90-03	13.99	4.61	2.13	4.52	8.95	3.17

Source: Computed From FAO Trade Database

Three Pillars of Agricultural Trade and South Asian Agriculture

Domestic Support

The dominance of smallholding farmers in the South Asian agriculture landscape necessarily implies that the domestic support mechanism prevailing in the region requires a re-examination in the current negotiations. For economies in South Asia livelihood options dominate with a negligible marketed surplus ratio. Therefore, indications are strongly in favour of a new protocol for price support mechanism that has subsistence farming and informal agriculture trade as its major strength. In this context, it should be mentioned that since the South Asian agriculture economy is primarily subsistence-based, not many of them would have AMS reduction commitments or apply *de minimis* reductions.

A credible S&DT package according to the G-33 proposal will make South Asian agriculture better equipped to play the market game. There is recognition of the fact that subsistence farmers gain little relief from competition with low-priced imports – dumping in the South Asian experience. In fact, it has been argued that reducing export dumping is crucially linked to drastically reducing subsidies in the developed countries. The undue advantage of domestic support measures enjoyed by the developed country members must therefore be removed.

Market Access

The market access pillar has been the main concern, in which the leverage mechanism appears to have slipped into the hands of the developed countries. A brief review of the offers on the table indicates that the G-20 proposal is very firm on the issue of regaining the balance between the pillars and also the extent of the reduction commitments.

The developed countries have a tariff structure that is fundamentally different from the developing countries due to their subsistence farming system and, hence, structural adjustment processes appear to be absent in the proposals. The challenge for South Asian agriculture, therefore, is to manoeuvre a way out within the existing framework. The G-20 proposal appears to provide one such window of opportunity.

Export Competition

The aim is to get a commitment for a credible end date and it is a strong demand of the G-20 that the export subsidy must end within five years. The net food importing developing countries (NFIDC) have a case in this pillar, as food aid has often been used in a different

manner over the implementation period. The food aid or any of the export competition elements could be effective mechanisms to legitimise dumping of agricultural commodities in the region.

Concluding Observations

The battle lines in agriculture trade talk are clearly demarcated between the arithmetic and legal complexities where political exigencies and maturity would determine whether or not smallholding producer interests are given primacy over the developed countries' conglomerates.

The major problem emanating in agriculture can be broadly put into three categories: arithmetic, legal oscillations and crafting of trade-impeding NTBs. The move towards different 'tiered formula' in July 2004 saw a 'formula racing' in 2005 that gives primacy to statisticians in the market access deliberations. The shift towards law and trade jurisprudence comes at the expense of improving the livelihood option based on agriculture activities. Finally, the ascendancy of food safety measures since 1995 is not only subversive to the multilateral principles of trade; the seditious strategy and manner of projecting only consumers' interests is shifting undue burden of compliance on the producers of primary agriculture products.

The agriculture talks are crucial for the majority of the WTO Members, with final positions still being worked out. However, the G-20 and G-33 coalitions appear to be firm on a few non-negotiable elements, namely, some real cuts in applied levels of domestic support in dominant trade partners, band-based higher cuts in tariffs than those used in the Uruguay Round, and real time cuts and elimination of export competition elements within a fixed five-year period. Besides, the ambitious goals on the three pillars, the aim is to address the structural inequities and therefore, significant movement in S&DT is being visualised. If Doha is to be a development round it must address these issues in the agricultural sector in a transparent manner to attain balance and equity among the pillars as well as among the differently endowed Members.

Chapter 2 **Agriculture in the 'July Package'** *An Assessment of Implications for Least Developed Countries*

Introduction

The Doha Round of negotiations at the World Trade Organisation (WTO) aims at comprehensive negotiations for agriculture reform of the three pillars of the Agreement on Agriculture (AoA): market access, domestic support and export competition. Notwithstanding deadlines set out in the Doha Declaration were missed, but in July 2004, the WTO General Council agreed on the framework for the modalities of negotiations. Crucial technical aspects were left for negotiation, however, and the WTO General Council has since been working to finalise the modalities in time for the Hong Kong Ministerial.

As the negotiated outcome changes the relative price *vis-à-vis* global market and competitiveness as well as rules governing agriculture trade, it may have different impacts on developed, developing and least developed countries (LDCs). Due to the importance of the agriculture sector to the livelihood of a majority of people in the LDCs, the result of the agricultural negotiations is crucial for improving their lives and achieving the Millennium Development Goals (MDGs). This paper analyses the implications of the ongoing Doha Round on agriculture for LDCs as a group.

Agriculture in LDCs

The crucial role of agriculture on peoples' lives in LDCs and, hence, in countries' development cannot be overstated. The agriculture sector is a bed rock for economic growth, employment generation, rural development and food security in LDCs, as table 1 illustrates. It supplies the bulk of basic food in the countries and provides subsistence and other income to LDCs' large rural populations. Consequently, it has a disproportionate effect on poverty reduction, food security and environment conservation in LDCs, which explain the importance of agricultural growth in achieving a number of development goals. Hence, the importance of the ongoing WTO negotiations on agriculture for LDCs not only in order to expand market opportunities, but also to achieve policy flexibility to pursue domestic development objectives.

Although most agricultural production is at subsistence level and commercial farming is at a minimum, LDCs have historically been engaged in the international trade of agricultural products. However, the share of agricultural products in total exports varies among the LDCs, with the share of African LDCs higher compared to other LDCs. The tendency in the share of agriculture in total imports, however, is consistent among LDCs and constitutes more than one-sixth in most of the LDCs. Many of the LDCs are net food importing countries.

There has been a divergence amongst LDCs in terms of their overall export performances. The LDCs that primarily export manufactures experienced steady growth during 1998-2002, whereas agriculture-exporting LDCs saw their exports decline during the first half of the same period and bounced back in the second half. Despite sustained efforts to diversify their export base, lack of economic dynamism resulted in concentration of exports in agricultural products in most LDCs. The number of products exported by LDCs is very small and for certain LDCs, the export concentration index is close to 1.

Agriculture in WTO

Outcome of the Uruguay Round

The adoption of the AoA created a whole new body of disciplines for agriculture and set quantitative commitments for the WTO members. They agreed to reduce trade and production distorting agricultural support and protection by establishing disciplines and rules on three areas: market access, export competition and trade distorting domestic support policies.

Market Access

The AoA has addressed the practice of unbound tariff lines and pervasive use of non-tariff barriers (NTBs) in three ways. Firstly, it requires all agricultural tariffs to be bound.

Secondly, it establishes rules for tariff reductions and minimum access commitments based on specific numeric formulae. Finally, it obliges members to convert existing NTBs to tariffs.

Domestic Support

The Agreement establishes binding quantitative commitments in the area of domestic support through limits placed on the Total Aggregate Measurement of Support (Total AMS). However, the agreement also identifies four kinds of support measures that are exempted from reduction commitments: ‘green box’ measures, development measures, ‘blue box’ measures and *de minimis* exemptions.

- Green box measures – The general criteria are that the measures must either have no, or at most minimal, trade distorting effects or effects on production;
- Development measures – As a part of special & differential treatment (S&DT), developing countries are exempted from the commitments and reduction of developmental measures;
- Blue box measures – The exemption of direct payments under production-limiting programmes based on fixed areas and yields and livestock payments based on fixed number of heads; and
- *De minimis* exemptions – All support for a particular product as well as non-specific products can be excluded from the reduction commitment if that support is small compared with the total value of production.

Table 1: Basic Indicators for the LDCs			
Indicators	LDCs	All Developing Countries	Developed Market Economies
Per capita GDP (in 2002 dollars)			
1990	253	901	23832
2002	281	1195	28388
Population (in millions in 2002)	699.9	5018.5	871.4
Share of rural population (percentage in 2000)	73	59	
Share of agriculture in labour force (percentage)			
1990	76	61	
2002	69	54	
Share of agriculture in GDP			
1990	38	15	
2002	33	12	
Percentage share of population living in less than:			
\$1 a day	50.1		
\$2 a day	80.7		
<i>Source: UNCTAD, 2004, “Least Developed Countries Report 2004”, United Nations.</i>			

The domestic support measures that are not exempted and where the Total AMS has to be reduced are also referred to as the ‘amber box’.

Export Competition

The new rule on export subsidies under AoA does not outlaw export subsidies, but imposes limits on their application. However, it bans any new export subsidies. Thus, export subsidies are allowed up to a certain level instead of being explicitly illegal as they are for non-agricultural products.

As part of S&DT, developing countries are allowed to grant marketing cost subsidies and internal transport subsidies, provided that these are not applied in a manner that would circumvent export subsidy reduction commitments.

The Ongoing Negotiations: July Framework and Beyond

The Doha Ministerial Declaration of November 2001 provides the mandate for agricultural negotiations. These aim at: substantial improvement in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions for domestic supports that distort trade. S&DT, for developing countries, is envisaged as an integral part throughout the negotiations.

Most deadlines set in the declaration were missed, but in July 2004, the General Council adopted a decision on Doha Work Programme (DWP), called the ‘July Package’. The decision includes a ‘Framework for Establishing Modalities on Agriculture’. The modalities paper is a precursor of the shape of future negotiations and only provides the underlying principles of the reform modalities. The ‘Doha Declaration’ and the ‘July Package’ constitute the combined framework for the current negotiations.

The following are the salient features of the ‘July Package’ on agriculture:

Parallelism: Negotiations on agriculture shall not take place in a compartmentalised manner, but should go in parallel with other issues of the Doha Declaration. The same should apply to negotiations within the agricultural sector.

Recognition of development and social issues: The role of agricultural policies in developing countries and LDCs on the achievement of their development goals, poverty reduction, food security and rural development is recognised upfront.

Domestic Support: Reduction is envisaged for total ‘trade distorting’ support, specified as the sum of the AMS, *de minimis* support, and the support under ‘blue box’ measures. The criteria for ‘green box’ will be reviewed and clarified.

Export subsidies: The elimination of all forms of export subsidies and disciplines on all export measures is proposed, but the ‘July Package’ neither specifies the modalities nor the end date for the elimination of export subsidies.

Market Access: A single approach for both developed and developing countries with tiered formula is proposed. Sensitive products could be designated by members in negotiated numbers of tariff lines.

S&DT: The issues of S&DT have been recognised in all three pillars of the negotiations. A Special Safeguard Mechanism (SSM) will be established, for use, by developing countries. Based on the role of the products on food security, livelihood security and rural development needs, developing countries are entitled to designate these products as special products (SP).

Cotton: The 'July Package' provides that trade-related aspects of the cotton initiative will be dealt in the context of agriculture negotiations, whereas development/compensation-related issues will be dealt in separate track in coordination with the relevant international organisation.

LDCs are not required to undertake any reduction commitments and will have full access to all S&DT provisions.

After the 'July Package', the negotiations have mainly been concentrated on technical aspects of the issues. So far, delegates have been working loudly under the Committee of Agriculture (CoA) on the different elements of what will make up an eventual package rather than on the actual drafting of text. They have considered the three pillars of the negotiations and briefly touched on some 'issues of interest but not agreed'.

Brief Review of Post July Development

The July Framework only settled some political questions and gave political directions to the negotiations. Many technical details still need to be sorted out and the members are working on 'full modalities' in formal and informal meetings and technical consultations.

The dynamics of agricultural negotiations has changed since the Uruguay Round and developing countries are now actively participating in the negotiation process. It has, therefore, become hard for the Quad [the European Union (EU), the US, Canada and Japan] to call the shots. Based on the proposals submitted and the positions taken in various formal and informal meetings, the interplay in the agricultural negotiations could be analysed by defining WTO members as: the US, the EU, G-10, G-20, the Cairns Group, G-33, LDCs, the African Group and African, Caribbean and Pacific (ACP) countries, though there is some overlapping in the membership of the groups. A brief sketch of the positions of these members and member groups is presented below:

Market Access

The US and the Cairns Group have generally taken very ambitious and offensive positions, whereas the EU, G-10 and ACP countries have adopted defensive postures and are in favour of an SSM and concerned about preference erosion. The G-20 is offensive, but has taken a more compromising position than that of the US and the Cairns Group.

The EU and G-10 consider sensitive products to be an important component of the market access pillar. Neither the US, nor the EU, is very supportive of the concept of SPs to be designated by developing countries for more flexible treatment in tariff reduction.

LDCs have not taken formal positions on several of the issues. The main exception is the issue of preference erosion, which is critical to LDCs, the African Group and ACP countries. These groups would like to incorporate special provisions in the modalities to address the erosion of preferences. They also propose to maintain preferences until such time as all domestic support and export subsidies for the products that affect LDCs are removed. They also ask for ‘aid for trade’ as an additional, substantial and predictable financial mechanism to strengthen supply-side and infrastructure capacity, diversification of trade in LDCs and address adjustment costs.

Domestic Support

The US, the EU and G-10 seem to be defensive on the overall reduction of domestic supports, but their positions differ on the issues of amber box, blue box and *de minimis* supports. The G-20 and the Cairns Group are very offensive. LDCs would like significant reductions on all forms of trade distorting support while taking into account S&DT provisions and the need for transitional measures that will offset the negative, short-term effects of removal of subsidies in terms of reducing or removing LDCs’ preferential margins into the markets of developed countries.

Export Competition

The export competition is the most contentious issue even among the developed countries. Members agreed to eliminate export subsidies under the ‘July Package’, but the timeframe for the elimination is yet to be negotiated. The EU and G-10 are very sensitive on the issue of elimination and would like to have a long timeframe. The US is more sensitive on export credit and food aid. The G-20 and the Cairns Group have offensive positions on most issues – except for State Trading Enterprises (STEs), where, by contrast, the EU and the US want to have stringent disciplines.

LDCs are generally supportive of a short timeframe for the elimination of export subsidies, but are concerned with its effects on their capacity to import food. The G-33, LDCs, the African Group and ACP countries have not yet articulated formal positions, but they are in favour of disciplines that curtail commercial displacement of food aid. They would also like to ensure that food aid is available at all times to address the need of LDCs and net food importing developing countries (NFIDCs). As for STEs, they have, together with the G-20, asked for special consideration in maintaining monopoly status of STEs for developing countries and LDCs.

Negotiating Landscape for LDCs

The AoA has a stated goal of no backsliding and modest liberalisation. It obligates members to reduce trade and production distorting agriculture supports and the level of protection. It further establishes disciplines and rules on the areas of market access, export competition and domestic support. However, the levels of commitments made by members vary on different pillars of market reform.

Level of Agriculture Tariffs

Table 2 shows that the global average of applied tariff in agriculture is 17 percent. Its decomposition indicates that 11 percent is *ad valorem* tariffs and six percent is *ad valorem* equivalents of non-*ad valorem* measures. There are significant variations between countries and country groups.

Region	Overall Average	Ad Valorem Tariffs	Specific Tariffs	Tariffs for TRQs	TRQ Share
Developed country	14.3	4.3	10.0	36.9	17.3
Developing country	20.9	18.5	2.4	63.7	11.6
LDCs	13.4	13.0	0.3	0.0	0.0
World	17.2	10.08	6.4	46.5	14.4

Source: Jean, Laborde and Martin 2005

There have been significant gaps between bound and applied rates requiring higher cuts in the bound rates to realise market access improvement. Such gaps are due to the binding overhang – i.e. the gap between bound and most-favoured nation (MFN) tariffs – and preferential arrangements. The average bound tariff in developing countries is 2.4 times the average applied rate. LDCs as a group tend to have a very large degree of binding overhang, with bound rates six times the applied rates.

Special Safeguard Measures

At present, recourse to special safeguards under the AoA is limited to those countries undertaking tariffication. As a result, there is the anomaly that some countries have the right to use special safeguards to deal with import surges, whereas others, including many developing countries, do not. In view of this, there is agreement in the WTO that there should be an SSM accessible to all developing countries.

LDCs have experienced surges in imports of various food products since the mid-1990s. The frequency of the surges is high, occurring on average in about one-third of the years in the period covered for each product in each country. It could have negative effects on local production and economy.

Preference Erosion

Empirical studies have shown that the margin of preference has been decreasing due to agricultural reform and suggest that further trade liberalisation may actually harm LDCs. Since most LDCs are getting preferences in some of the developed country markets either on a global or a regional basis, preference erosion would adversely affect their agriculture production and trade.

Domestic Support

The use of WTO domestic support programmes varies by member states. Participating countries have reduced their spending on programmes that are classified as trade distorting, and these reductions have met or exceeded the requirements of the AoA. The information regarding the domestic support on product categories show that most products sensitive for LDCs either in the form of exports or imports have been heavily subsidised.

Export Subsidies

Altogether 25 countries are entitled to provide export subsidies under WTO. High-income countries accounts for some 85 percent of the total export subsidy commitments, whereas middle-income economies accounts for the remaining support. The products notified by middle-income countries are much more heavily concentrated in commodities that LDCs either export or import. The pattern for trade of LDCs shows that the export subsidies of developed countries have less of a negative impact to them than that of developing countries.

Cotton

Although cotton is just one of the farm products with total global export value of less than US\$10bn, its production and trade is highly distorted by the subsidy policy of a few rich countries. For most LDCs cotton is a minor crop, but it plays significant role in the economy of some West African countries. A study by the International Cotton Advisory Committee (ICAC) indicates that the withdrawal of cotton subsidies would raise cotton prices by 11 cents per pound, or by 26 percent. Similarly, Oxfam's estimation shows that the cost to Africa of cotton subsidies in 2001-2002 amounted to US\$301mn, of which eight cotton-producing West African countries accounted for approximately two-thirds, i.e. US\$191mn.

Conclusion

If the outcome of the negotiations upholds the spirit of the Doha Declaration, a multilateral discipline on agriculture trade will be maintained. Such rules would reduce distortions in global agricultural markets and expand trade opportunities. However, it will have significant implications on policy space to pursue policies suited to specific development needs. It may further reduce the volatility of world prices, but with many LDCs being net food importing countries, they may face a rise in world food prices. It may also result in an erosion of preferences. The outcome of the agricultural negotiations will therefore play a critical role in industrialisation, rural development, food security and, more broadly, poverty reduction in LDCs.

The issues on the negotiation table have disproportionate impacts for LDCs. The issues of market access, particularly in developed countries, and domestic supports are not their priority areas. By contrast, export competition and peripheral issues – in the eyes of most developed and more advanced developing countries – such as food aid, preference erosion, special safeguard measures, and supply-side capability bear significant importance for LDCs. Thus, it is necessary that the negotiating capital be channelised to form alliances on a case-by-case basis to the relevant groups.

Chapter 3

Non-Agriculture Market Access

Priorities for South Asia

Background

A key element of the Doha Round of trade negotiations of the World Trade Organisation (WTO) is liberalisation of trade in industrial products, commonly known as non-agricultural market access (NAMA). Negotiation under NAMA focus on market access for all products (mostly industrial) that are not covered by negotiations on agriculture and aim to reduce, if not possible to completely eliminate tariff or non-tariff barriers (NTBs) that restrict trade in these products. NAMA negotiation also considers products including natural resources such as fisheries, forests, gems and minerals.

The ongoing NAMA negotiations are based on the mandate given in Doha Development Agenda (DDA), agreed at the 4th WTO Ministerial Conference, in November 2001. The Doha mandate states that the current negotiation needs to address tariff peaks, tariff escalation and NTBs. The Doha text also states that, there is need for comprehensive product coverage under NAMA and less than full reciprocity i.e. developing countries need to reduce tariff to a lower extent than industrialised countries and spread commitment over a longer time period. Further, the modalities to be agreed under NAMA include appropriate capacity building measures to assist least developed countries to participate effectively in negotiations.

July Framework also, as adopted on August 2004, identified NAMA as the priority area along with the other issues of WTO and reaffirmed on what was promised in Doha to reduce the tariffs and NTBs and address tariff peaks and tariff escalation, taking fully into accounts the special needs and interest of developing and least developing countries (LDCs).

NAMA Negotiations

The first proposal for modalities of NAMA negotiations was made in 2003 by the Swiss Chairman of the NAMA negotiating group, Pierre – Louis Girard. The key areas of the proposal were a ‘Swiss Formula’ for tariff reductions (cutting higher tariff by a larger percentage than lower tariffs), a sectoral initiative for the full elimination of tariffs in the seven sectors [automobiles, textiles & clothing (T&C), gems and jewellery, leather products, electric & electronic products, fish & fish products and footwear] and some amount of special & differential treatment (S&DT) for the developing countries. During the Cancun Ministerial in 2003, a second text on NAMA i.e. the Derbez Text was proposed. The text included a non-linear formula for reduction of tariffs with similarities to the Swiss Formula, along with sectoral initiative for tariff reduction without specifying the sector. This proposal was strongly opposed by the developing countries, particularly the G-90 countries and was not adopted in Cancun.

During the July 2004 General Council meeting, number of developing countries opposed the inclusion of the Derbez Text of the NAMA in the July Package. The developing countries pressed for the inclusion of several further proposals and demanded abolition

of the non-linear formula, wanted the sectoral tariff component to be voluntary; and asked for more tariff cuts and tariff bindings. The framework adopted for modalities for negotiations under NAMA under the Doha mandate, known as the July Package, envisages the following elements:

- A Formula Approach for tariff reduction and for reduction or elimination of tariff peaks, tariff escalation and high tariffs. The key features of this approach are:
 - o No *a priori* exclusion of products;
 - o Reduction of tariff from bound rates, or from twice the applied most-favoured-nation (MFN) rate in case of unbound tariffs;
 - o Credit for autonomous liberalisation (trade liberalisation on an MFN basis undertaken independently from the WTO negotiations);
 - o Conversion of specific duty into *ad-valorem* duties and their binding;
- Countries that have bound less than 35 percent of their tariffs would be exempted from tariff reductions through the formula, but have to bind 100 percent of their tariff lines; and
- A sectoral approach, aiming to eliminate or harmonise tariffs in a specific sector.

Issues of Negotiations on NAMA

The main focus or the various issues of negotiations on NAMA are as follows:

- *Product Coverage*: It still has to be determined which product is to be covered by NAMA negotiations.
- *Tariff Peaks & Escalation*: Problems of high tariffs and tariff escalation remain widespread for developing countries even after the Uruguay Round. A significant proportion of the tariff of USA, EU, Canada and Japan continues to exceed the level of 12 percent of *ad valorem* duties, even after full implementation of the Uruguay Round and Generalised System of Preferences (GSP) rates are taken into account. The main problem in the industrial sector occurs in food industry (accounts for about 30 percent of all tariff peaks ranging from 12 to 100 percent in EU and US), T&C (textile importing countries, US, EU and Canada impose tariff in the range of 12-32 percent), footwear, leather and travel goods (tariff rates are close to 160 percent in Japan, 37.5-58 percent in US and 18 percent in Canada), automotive products, transport equipment and electronics. In addition to extremely high tariff and other protection measures, tariff escalation remains an important obstacle for developing countries to enter into industrial exports. This is particularly pronounced in the sectors, which are of direct export interest to the developing countries, including South Asian countries.
- *Formula*: Some new elements have been added to the Swiss Formula such as the possibility to have Swiss Formula with conditional flexibility of applying two different coefficients (proposed by Norway and the US) or four coefficients (proposed by Chile, Columbia, and Mexico), a Swiss type formula with multiple coefficients based on averages and flexibilities and a credit system for developing countries (Argentina, Brazil & India – ABI).

While the simple Swiss Formula is transparent and easier to implement, it places disproportionate burden on developing countries, the ABI formula is more equitable as it incorporates the present tariff commitments of the members and envisages an overall reduction commitment that is proportional amongst developed and developing countries. Since none of the proposals on tariff reduction formula seem to attract consensus, to bridge the gap between the present proposals and fulfill the objective of the Doha Round, Pakistan proposed the adaptation of simple Swiss Formula with two distinct coefficients for developed and developing countries.

- *Tariff Binding*: This applies to unbound tariffs i.e. those products where there is no commitment to place a maximum cap on the tariff for that product. However it is not clear yet what percentage of unbound tariffs would be bound, at what tariff level these tariffs will be bound and whether, bound tariff should be included in the tariff formula for tariff reduction.

Another important issue is that whether such negotiations should cover bound rate only or both the bound and the applied rate. Negotiation is also focusing on the methodology of conversion of non-ad-valorem duties into *ad valorem* duties.

- *Sectoral Approach and Participation in this Approach*: Sectoral negotiations aim for complete tariff elimination. Although participation by developing countries, mostly LDCs could be voluntary, all other members are expected to eliminate or substantially reduce tariff on specific products. Some countries wish to eliminate low tariffs, below 3 or 5 percent. Although low, these tariffs provide important government revenues for a number of countries. Flexibilities for the developing countries and the LDCs also should be taken into considerations in the negotiation.
- *NTBs*: There are concerns on which NTBs should be included into the NAMA negotiations, which will be dealt with in other negotiation committee such as Technical Barriers to Trade (TBT), Sanitary & Phytosanitary Measures (SPS), Trade Facilitation and rules negotiations. Another issue is which NTB should be allowed and prohibited
- *Preference Erosion*: Generalised tariff reduction will lead to preference erosion for the countries that currently benefit from trade preferences due to their LDC status.

South Asian Perspective

The views from Bangladesh, India Nepal, Pakistan and Sri Lanka on various NAMA issues are as follows:

- a) **Bangladesh**: Bangladesh, a LDC is not bound to undertake any tariff reduction commitment. However it has number of concerns with regard to the erosion of preferential margins presently available to Bangladesh under various GSP schemes. The on going NAMA negotiation should highlight this issue and search for appropriate and adequate mechanism to safeguard Bangladesh along with other LDCs.

Another major concern is the duty free access of garment and other products like fish and fish products, and leather and leather goods to US and other countries. Readymade garment industry in Bangladesh, that has so far enjoyed preferential access in developed countries, is not only important for the poor but has also created a social space for the

women in Bangladesh, and hence the industry must be sustained. As these are labour intensive and female sensitive products, they can be treated as 'sensitive products' by the developed countries. Selective reductions in tariff in labour intensive products would lead to lower erosion of LDCs preferences.

Bangladesh also emphasise on implementation of commitment on duty free access. Bangladesh also needs to focus on the NTB issues so that its exports have easy access to the developed countries. In this context Bangladesh may peruse adequate technical assistance for compliance of NTBs, which are compatible with the WTO agreement.

b) **India:** India wants to gain greater market access in the developed countries, not much through the reduction of their tariffs, which are already low but through the dismantling of NTBs to trade and some GSP [e.g. the proposed EU-GSP on (T&C)]. India will also like to resist sharp reduction in tariffs forced open upon by developed countries. It will reduce tariff autonomously at a pace it judges suitable for the Indian industry. India will accept any tariff reduction formula only on bound rates and will counter any attempt to use applied rates as the base for application of a tariff reduction formula. India wants an equitable tariff reduction formula in the negotiations keeping in view the concerns of the developing countries.

India endorses the suggestion put forward by US for using two different coefficients for tariff reductions – one for the developed country and one for the developing countries, but with a lot of fine-tuning, rather than using the Swiss Formula. India is also against the proposal of a mandatory 'zero for zero' reduction on the seven specific products by 2015 as these constitutes the bulk of the India' export basket and are also product reserved for the small-scale sector. A 'zero for zero' regime would spell their doom by granting unmitigated access to large foreign firms in the same market. India also highlights the need to link adoption of tariff reduction formula with concrete time bound progress on eliminating NTBs.

c) **Nepal:** Nepal, LDC with low level of industrialization has a significant stake in the ongoing NAMA negotiations in the WTO. Though Nepal has bound 99.3 percent of its tariff lines during its accession to the WTO and is not required to make any tariff reduction commitment, the outcome of the negotiations will have far reaching impact on Nepalese manufacturing sector in terms of loss of policy flexibility, export competitiveness and preference erosion. Nepal's objectives in NAMA negotiations are to resist sectoral initiative and 'zero for zero' approach, emphasising developed and developing countries to expand market access for products of export interest to Nepal. Bilateral assistance could be one way of doing this. Nepal also emphasise the developed countries to use a corrections coefficient to improve the preference margins for the products that are enjoying preferential access.

It also advocate for the establishment of a 'Competitiveness Fund' with contribution from developed and advanced developing countries to enhance the supply side capabilities of LDCs and weak developing countries. Nepal wants to ensure that the tariff reduction formula has appropriate coefficients to address the problems of tariff peaks and tariff escalation and ensure that the tariff reduction formula results in improved market access in developing countries, including India.

Box 1: Developed Countries: Frequency of Post-Uruguay Round Tariff Peaks in the Industrial Sector by Product Groups

(Percentage of tariff lines within each group with duties above 12 percent ad valorem)

Product Group	United States	Canada	European Union	Japan
Leather & leather products	12	4	0	22
Textiles	21	45	1	1
Clothing	44	93	0	0
Footwear	42	67	0	71
Glass products	10	5	0	0
Vehicles	4	1	8	0

Source: UNCTAD Trade and Development Report 1999.

It also demands effective technical assistance from developed and developing members to enhance institutional and human resources necessary to implement WTO agreements such as SPS and TBT. Nepal also wants temporary waiver on SPS and TBT requirements on non-agricultural exports from LDCs and also incorporation of immediate and effective mechanism to address NTBs being faced by it.

d) **Pakistan:** Pakistan, like the other South Asian countries, believes that the tariff peaks be removed, the tariff escalation minimised and the developing countries are provided free market access. Pakistan is concerned on the issue that there is hardly any tariffs on the goods of developed countries and tariff only apply to goods of developing countries. The tariff rate for the goods of developing countries is almost 4 times that of the developed countries. This is creating problem for market access and also South-South trade. Pakistan is also of the view that special consideration is given for the products of export interest of the developing countries and there should be less than full reciprocity for developing countries.

Although various proposal on the formula for tariff reductions are advocated by different countries, Pakistan is of the view that none of these seems to attract consensus. With the view to bridge the gap between the present proposals while at the same time ensuring that the Doha Round are not compromised, Pakistan has proposed adoption of a simple Swiss Formula with two distinct coefficient for developed and developing countries. These coefficients should be based on an objective criterion i.e. taking the overall average of the bound tariff lines for developed and developing countries as their respective coefficients. The treatment of unbound tariff is an important issue in the market access negotiations, and although different proposals has been tabled, Pakistan has proposed that instead of non linear mark up of 30 percentage points in absolute terms, a markup of 30 percentage points should be added to the base rate (applied rates of 2001) for each unbound line before the application of the formula for tariff reduction.

e) Sri Lanka: Sri Lanka's negotiating position on NAMA puts the fact that the developed countries should eliminate barriers to free market conditions and ensure duty free, quota free market access for non-agriculture products originating from developing and least developing countries. Sri Lanka also highlights the issues such as Formula Approach of tariff cuts, tariffs bindings, reduction or elimination of tariff peaks and tariff escalation, sectoral approach and reduction of NTBs. For Sri Lanka where bound coverage is low, but applied rate is also low, the proposed tariff reduction formula penalises the country in terms of the extent of tariff reduction.

To avoid pitfalls, Sri Lanka spearheaded moves to include paragraph 6 of the Doha mandate in the framework text that allows a small number of developing countries not to undertake tariff reductions if their bound rate is less than 35 percent. However, these countries will be required to bind their tariffs at the average of bound rates for all developing countries. Preference erosion is another issue of concern to Sri Lanka. Given that the core work of the WTO is on MFN basis, Sri Lanka's concern is more on gaining access to markets through tariff reductions rather than directly addressing issues of preference erosion. Sri Lanka is yet to make a clear stand on carrying forward negotiations on a sectoral basis given the complexities in arriving at common ground.

Box 2: Issues in Hong Kong Ministerial Meeting for the Least Developed Countries

- Binding commitment for duty free market access in developed countries market for all industrial goods export from developing countries.
- Appropriate measures to offset preference erosion, including creation of dedicated funds.
- Flexible, non-trade restrictive, simplified RoO.
- Transparent evaluation criteria for NTBs.
- Binding of unbounded tariff lines be left to the LDCs to undertake in autonomously on voluntary basis.
- Significant enhancement of resource allocation for strengthening of integrated framework initiative.

Source: Centre for Policy Dialogue, Bangladesh, 2005

Negotiating Strategy For Market Access

A variety of techniques and modalities evolved during the different round of trade negotiation, which took place under the GATT. South Asian countries have to adopt an approach that results in securing maximum tariff reductions on products, which they export. As regard their commitment to reduce import duties, they may use product-by-product approach. For such products that relate to industries in which country do not have the long run comparative advantage, they may agree on steep cuts while the other industries, where long run comparative advantage exists but procedures have become lethargic due to heavy protection, they may reduce the duties to ensure exposure to competitive without jeopardising the industrial growth.

Preceding the industrial negotiations it is necessary to agree on the ground rules that would be followed in the conduct of tariff negotiations so that to ensure that different

needs and objectives of the participating countries are adequately taken into account. In other words, the negotiations must accommodate the special needs and interests of the developing and the LDCs' participants as ordained in different Articles of GATT.

Developing countries need to determine the extent to which they are willing to liberalise their own economy to win tariff reductions and removal of other barriers with a view to have access to the markets of their trading partners. The developing countries may agree to reduce the bound rates and where they do not have comparative advantage to steep fall in tariff cuts, both in bound and applied rates. The developing countries should strive to seek substantial reductions in peak MFN tariffs, which apply to products of export interests to them e.g. textiles, leather products, footwear etc. and if feasible, aim at elimination of all other MFN rates of tariffs and tariff escalations in sectors where they exist.

The developed countries ought to seek due allowance for autonomously liberalising their economies. One way of ensuring credit for the autonomous liberalisation is to have greater flexibility in the choice of 'Base Tariffs' to be used as a basis for tariff cuts as a result of the industrial tariff negotiations. The developing countries must seek flexibilities in staging of tariff reductions. The ground rules for the negotiations should provide the developing countries longer period than that provided to developed countries for staging of tariff reductions.

The developing countries may press for international financing for training public officials, screening industrial countries' trade policies, and building a network with other developing countries, which could help to address some of these problems.

Conclusion

The South Asian countries are labour surplus, heavily dependent on the agriculture sector and have limited domestic markets. Economic liberalisation through the reduction of tariff and NTBs should go a long way towards liberalisation of the growth potential of these economies. However, the South Asian countries should watch out their interests, rather carefully in view of the misuse of the safeguard measures and incorporation of various standards in the economy.

Although the smaller economies like Bangladesh, Nepal and Sri Lanka are exempted from tariff reduction, the bigger South Asian economies – India and Pakistan must reduce the level of tariffs under the Formula Approach to expose their economic activity to international competition. The countries must also address tariff peaks, tariff escalation and formula of tariff cut to facilitate a degree of harmonisation.

The developed countries at the same time must reduce the obstacles that the product of the developing country face in the developed country by reducing all high tariffs, tariff escalation, subsidies and other protection measures. Also the South Asian countries taking measures to liberalise trade unilaterally outside WTO framework must be given credit for the unilateral tariff reduction.

Both the India and Pakistan should press for an implementation period of 10 years for tariff reductions and for 4 years implementation period for developed countries. The countries should also oppose 'zero for zero' approach and ask for 10 years implementation

period with back loading. The South Asian countries amongst themselves or with other developing economies may negotiate industrial tariffs on the MFN basis on trade between them, at the same time the countries must take a joint stand relating to antidumping, environment, labour standards and other safeguard measures. This would go a long way towards liberalisation of trade and improvement in their welfare level.

Chapter 4

South Asian Agenda for Services Negotiations

Commonalities & Differences

Introduction

The service sector has emerged as the major contributor of income among South Asian countries accounting for as much as 49 percent of region's gross domestic product (GDP). Not only the service sector accounts for a predominant share of GDP but also it has been contributing an ever increasing proportion of growth. In terms of services sector's contribution to the national GDP, the South Asian countries follow the global pattern. But, the export of services from South Asia region has not been uniform across all the countries. While India did exceedingly well and improved its rank among World Trade Organisation (WTO) Members in exports of commercial services, the other nations of the region are lagging far behind. In 1995, India ranked 34th in the world (among WTO Member countries) in commercial services exports, which improved to 21st in the year 2003. As per the WTO 2004 International Trade Statistics, except India no other South Asian nation could reach to the list of the World's top 40 exporters of commercial services.

The South Asia as a group has been able to almost quadruple its exports of commercial services between 1993 and 2003. The total exports of commercial services from South Asian Preferential Trade Agreement (SAPTA) increased from US\$7.9bn in 1993 to US\$29bn in 2003. However, the hidden fact is that a larger part (approximately US\$25bn) of it came from India's services revolution. The exports of commercial services from other four South Asian nations, namely, Bangladesh, Pakistan, Nepal and Sri Lanka have either remained constant or increased only marginally between 1993 and 2003.

The low growth of exports of commercial services from other South Asian countries may be attributed to substantial underestimation of the real flows, as probably up to half of the remittances are not sent through official channels. A study in Bangladesh showed that 40 percent of remittances to Bangladesh are sent through illegal *hundi* sources, 4.6 percent through friends and relatives, 8 percent are carried by migrants when they return and 46 percent go through official sources. The *hundi/hawala*² system, common in the Middle East and the Indian subcontinent, is a transfer or remittance from an expatriate worker in one country to a nominated person in his/her country of origin without a formal transfer of money or use of formal financial institutions. It usually involves *hawaladars* (intermediaries). In Pakistan, senior bankers estimate the real flow at between US\$ 8-10 bn of which only US\$1bn is actually sent through official channels.

Table 1: South Asia: Services¹ Exports (in US\$mn) and its Share in World Services Exports		
Country	1993	2003
Bangladesh	435 (0.04)	404 (0.02)
India	5034 (0.53)	25043 (1.39)
Nepal	284 (0.03)	267 (0.01)
Pakistan	1330 (0.14)	1485 (0.08)
Sri Lanka	619 (0.06)	1385 (0.07)
SAPTA	7900	29000
<i>Source: International Trade Statistics 2004, WTO; Figures in brackets indicate percentage share in world services export</i>		

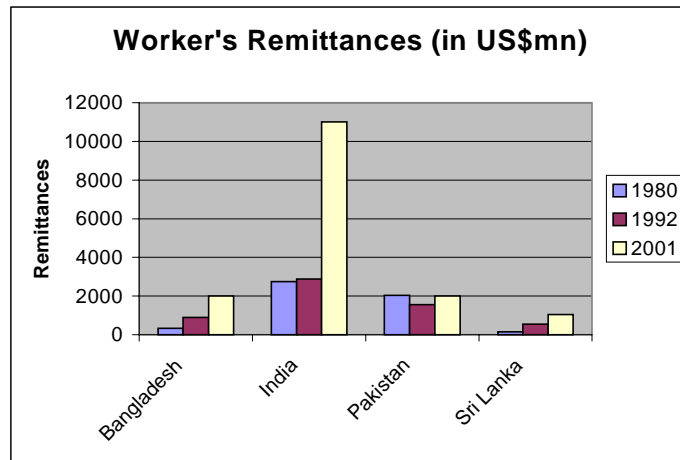
Services Trade: South Asia's Major Strength

South Asia as a region has not been able to raise its share in global services trade, albeit international migration from this region to both developed and developing countries is a well-known phenomenon. After the Caribbean countries, South Asia as a group is the second largest recipient of remittances in the world. . This shows that the region has been traditionally one of the most important exporters of services through movement of natural persons, i.e., Mode 4 of General Agreement on Trade in Services (GATS).

South Asia is one of the poorest regions of the world. Hence, economic migration from this region has played a major role in providing livelihood to a large population. In this new era of open multilateral trading system (MTS), it is being seen as a possible tool to promote development and reduce poverty. Migration for resettlement out of South Asia has been mostly to Europe, Australia or North America; while contract labour migration has been to the Middle East, Southeast Asia and elsewhere.

One major indicator to prove this fact that the huge amount of remittances the South Asian economies are receiving annually. Despite the data limitations, in countries like Bangladesh, Pakistan, India and Sri Lanka, remittances represented a substantial ratio to exports. About 20 percent of the annual global remittances (close to US\$100bn in 2004) flew into South Asia. India accounts for 78 percent of this, which makes it the world's largest remittance receiving country, while Bangladesh accounts for 12 percent, a notable 2 percent of the global remittance flows.

Cross-border trade in business services, especially the so-called 'IT-enabled services' (ITES) is today among the fastest growing areas of international trade. Traditionally, developed countries have dominated trade in this category but the past decade has seen the emergence of some developing countries as the most dynamic exporters. India's name obviously comes at the top. India, a country that has received the most media attention as a recipient of outsourcing in Information Technology (IT) services, is ranked at 6th place (US\$18.6bn).



Source: Based on Data from International Organisation for Migration

Among South Asian countries, except India, other nations do not have any significant presence on the global outsourcing map. In India, the software exports have expanded from US\$1.8bn in 1997-98 to over US\$7bn in 2001-02 – at an average annual rate of 46.3 percent per year. Further, there appears to be a major shift underway in the exports of IT and business process outsourcing (BPO) services in terms of the composition and mode of delivery. The bulk of BPO services are processed in India, unlike Information Technology Services (ITS), which involves some visits to clients' sites, this has had a major impact on the mode of delivery of software exports. In 1993-94, nearly 62 percent of all software exports from India were carried out at the clients' location, i.e. 'on-site'. Only one out of every five dollars of export orders were carried out within India, i.e., 'offshore'. By 2002-03, offshoring became the dominant mode of delivery of software exports, accounting for almost 58 percent of the total exports.

There are no signs that this growth will slow down. According to a report by NASSCOM and McKinsey, exports of IT related services from India are expected to increase from US\$7.9bn in 2001-02 to US\$57bn by 2008-09, growing at an average annual rate of 38 percent. A study by Deloitte Research shows that the global market in offshore financial services could be as large as US\$356bn by 2008-09 of which a large share would go to India.

Other Areas of Strength

Besides cross border trade through business process outsourcing, movement of professionals, there are other sectors as well which have been helping South Asian countries in earning foreign exchange. In South Asia region, traditionally, Sri Lanka, Nepal and India have been attracting bulk of the tourists. The tourist arrival in South Asia as a whole is expected to grow at rate of over 6.2 percent per year, compared to the world average of 4.1 percent during the period 1995-2020. The year 2003 was prosperous for South Asia in terms of tourist arrivals, which went up to 6 million and receipts from them touched a staggering US\$7bn.

	Base Year	Forecasts		Market Share (%)		Av. Annual Growth Rate (%)
	1995	2010	2020	1995	2020	1995-2020
World	565	1006	1561	100	100	4.1
South Asia	4	11	19	0.7	1.2	6.2

Source: Tourism 2020 Vision, World Tourism Organisation

Today, medical or health tourism has become a common form of vacationing, and covers a broad spectrum of medical services. It mixes leisure, fun and relaxation together with wellness and healthcare. The reasons patients travel for treatments vary. Many medical tourists from the US are seeking treatment, which is available at a quarter or sometimes even a 10th of the cost at home. From Canada, it is often people who are frustrated by long waiting times. From UK, the patient can't wait for treatment by the National Health Services (NHS) but also can't afford to see a physician in private practice.

India is a recent entrant into medical tourism. The inflow of foreign patients per year has crossed 150,000 in India, up from 10,000 five years ago. Health care for foreign patients will deliver Rs100 bn (US\$2.3 billion) a year to Indian hospitals by 2012, according to a report by New York-based consulting firm McKinsey & Co. and the New Delhi-based Confederation of Indian Industry (CII), the nation's biggest business group. The market in 2003 was US\$333 million, according to the Gurgaon-based India Brand Equity Foundation, a partnership between the CII and India's Ministry of Commerce.

Procedure	Cost (US\$)			
	US	Thailand	India	UK
Heart Surgery	40,000	7,500	6000	23,000
Bone Marrow Transplant	2,50,000	---	26,000	1,50,000
Liver Transplant	3,00,000	---	69,000	2,00,000
Knee Replacement	20,000	8,000	6,000	12,000
Cosmetic Surgery	20,000	3,500	2,000	10,000

Source: Escorts Heart Institute and Research Centre Limited, New Delhi

Market Access: Major Barriers

At present, movement of professionals under Mode 4 is subject to a range of restrictions, which include wage-parity requirement, strict visa procedures, Economic Needs Tests (ENTs), non-recognition of professional qualifications, imposition of discriminatory standards or burdensome licensing requirements, payment of social security without corresponding benefits, requirements of registration with or membership of professional organisations. Besides, in the aftermath of the 9/11 terrorist attacks many Americans became hostile toward immigration because the terrorists who perpetrated the attacks exploited gaping security holes in the US.

As regards outsourcing of service to India, the issue received a huge amount of attention in the media and political circles. There were 2634 reports in US newspaper on service outsourcing, mostly focusing on the jobs moving from US and European Union (EU) to China and India. The UK newspapers published 380 reports on outsourcing during the same period. Newspaper in Australia has also expressed the same concern. Besides, there were reports of lobbies by Australian software companies to restrict (other) Australian Firms' ability to outsource software designs to India. Three trade unions of UK geared together for the country wise protests against the projected job loss through outsourcing of jobs to India.

These adverse reports in developed countries' media prompted governments, particularly in the US to bring anti-outsourcing bills. Till the first three months of 2005, as many as 112 anti-outsourcing bills were coursing their way through 40 states in the US. In Europe, also there were legal norms designed to protect workers in outsourced deals known as Transfer of Undertakings and Protection of Employees (TUPES), which also have an inhibiting effects. EU even gave a wide ranging directives that aimed to safeguard the privacy of personal data of EU citizens and prevent its misuse world over. It was backed power to cut of data flows to countries that the EU judges not to have adequate data protection.

All these impediments could turn into future barriers for cross border trade in services. It is, therefore, desirable to take pre-emptive action and lock in the current state of openness. The current GATS negotiations under the aegis of Doha Round of trade negotiations offer a valuable opportunity to secure openness.

A "Win-Win" Situation

Economic theory proves that labour movement of all types from lower to higher-wage countries results in allocation of scarce labour resources to their highest value use and allows maximal global production. The findings of the several studies indicate that services is one such sector where trade liberalisation could result in a "win-win" situation. Whether it is greater mobility of temporary workers, the offshoring of services, increased foreign direct investment (FDI) or tourism, all have potential to bring benefits for both service suppliers and recipients' nations.

There are several reasons, which are being cited behind this 'win-win' scenario. Globalisation is increasingly putting pressure on firms worldwide to look for various cost-cutting methods to enhance their competitiveness. The enterprises in developed countries are finding outsourcing, as one of the most convenient ways to save costs by taking advantage of low-wage countries. Some studies have attempted to assess the implications of outsourcing on a sector- and country-specific basis. In the case of professional services, an industry study conducted for the US shows that, of the approximately US\$1.45 –1.47 of value derived from every dollar spent offshore, US firms receive US\$1.12-1.14, while supplying firms receive 33 cents of the value.

Savings from outsourcing can be significant as wages for software developers and data entry agents in India can be a tenth of those in the US. The attraction for companies is clear. For instance, General Electric saves about US\$350mn a year through outsourcing to India; GlaxoSmithKline expects to save around 35 percent a year on its information

and Communication Technologies (ICT) budget; and the US banking industry has saved US\$2bn per year in the last four years. Moreover, services quality does not suffer, and productivity can rise by 15-25 percent, as these jobs attract skilled, motivated workers in developing countries.

As regards, temporary movement of natural persons, the need arises primarily because of two main reasons – changing demographic composition of developed countries and poor preferences among locals for some low-skilled jobs. Winters et al (2002) study shows that the total welfare gains to the world from Mode 4 liberalisation are potentially great. Opening of developed country labour markets to temporary entry by foreign workers equal to 3 percent of the current workforce would generate welfare gains exceeding those that could be attained from full merchandise trade liberalisation – an aggregate gain of US\$156bn a year. For both developed and developing countries, the gains would come principally from the movement of low-skilled workers. Besides, the temporary movement of persons addresses the problem of illegal migration – one of the major concerns of several developed countries.

The majority of OECD countries seem to be facing acute shortages of labour in some professions, which are not preferred by locals. For instance, Australia reports a shortage of around 6000 registered nurses, which is around 3 percent of practicing registered nurses). Conservative estimates of Canada's shortage of registered nurses put the number in the range of 16,000 (or 6.9 percent of the present workforce). Indian nurses are in great demand in the US where the present requirement of nurses is 126,000 which is expected to touch 200,000 in 2005 and cross the one million mark by 2015, an organisation involved in hiring nurses for that country claimed. Every year, an average of 1,000 Indian nurses make to the US to fill in this critical demand.

Last year, the Australian and the New Zealand governments placed accounting professionals on an official list of skills that are in short supply. The government is being urged to relax its visa regulations for foreign graduates. Some organisations are outsourcing a number of accounting functions, and have established subsidiaries in India to handle their outflow. In addition to alleviating the skills shortage, this cuts costs too. This kind of arrangement is likely to become more formalised over the next few years, with plans afoot for some firms to establish Indian centres that will provide accounting services to Australian companies, as they do now with IT.

Current Status of Commitment Under GATS

The Uruguay Round of trade negotiations achieved limited liberalisation on trade in services. A total of only 96 WTO Members made commitments to trade in services. A close analysis reveals that countries at best bound the *status quo* and in fact, in many cases there was a roll back from the existing regime. In movement of natural persons (Mode 4), where many developing countries, including India has comparative advantage, the commitment level from developed country is very low.

The fresh negotiations on services started in the year 2000 with new approach of 'requests and offer'. However, till recently, only six proposals were tabled relating to Mode 4, by the US, the EU, Japan, Canada, India and Colombia. The proposals reflect a wide variety of ambitions, from enhancing the transparency of the current regimes to

securing market access, including the abolition of ENTs and the introduction of ‘GATS visa’.

An analysis of the commitment schedules show that the sectoral coverage was poor and countries were more willing to open up less controversial sectors and modes of delivery of services. A large number of commitments were in sectors such as tourism while social sectors such as health and education received very few commitments. Commitments by modes of supply show that 50 percent of the Members undertook full commitment for Mode 2, 30 percent against Mode 1, 20 percent in favour of Mode 3 and virtually none of the countries scheduled sector specific commitments for Mode 4.

In the run-up to the July Framework Agreement, many Members, developed and developing alike, were interested in ensuring that the services area would be given adequate prominence.

The WTO General Council Decision was finalised and adopted on July 31, 2004 with annexes on agriculture, non-agricultural market access (NAMA), services and trade facilitation. Following the July Decision, Members fixed May 2005 as a target date for the submission of revised services offers, and they were urged to make a high quality offer, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to least developing countries (LDCs).

South Asia’s Approach in the Doha Round

The approach of South Asian countries, especially India, towards services negotiation was significantly different from their stance on the Uruguay Round. This change in position resulted from the fact that India, which is the main player in South Asia, has experienced a robust growth in services sector in the 1990s. A year before the launch of the Doha Round of trade negotiations, India made one of the most comprehensive submission (WTO Document S/CSS/W/12) on the movement of professionals before the Council for Trade in Services. India through its submission has tried to make an assessment of the nature of liberalisation that has taken place in Mode 4 under the existing GATS framework and the extent to which the objectives of Article IV of GATS have been operationalised through liberalisation in this mode vis-à-vis significant export interest to developing countries. This submission document then identifies the key barriers to the movement of professionals and the specific problems related to the existing commitments undertaken by Member countries.

Ever since the launch of Doha Round of trade negotiations in 2001 India has been one of the most vocal champions advocating for services trade liberalisation, particularly under Mode 1 and Mode 4. Prior to the Cancun Ministerial Conference, India and Pakistan along with some other developing countries made the first collective proposal (WTO Document TN/S/W/14) on Mode 4 in July 2003, regretting the lack of substantial improvements in the offer submitted at that time.

The period since the Cancun Ministerial witnessed more active participation by developing countries on services negotiations. From South Asia, India and Pakistan made several joint submissions along with other developing countries suggesting ways to accelerate the GATS negotiations and also expressed the concerns of developing

countries. The proposals from developing countries, therefore, intended to initiate a discussion in the Council for Trade in Services in its Special Session about the extent to which Article IV of the GATS is being implemented in the on-going negotiations. In addition, in February 2005, India and Pakistan along with ten other developing country Members of the WTO made a submission (WTO Document TN/S/W/31) before the Council for Trade in Services Special Session seeking broadening the coverage on categories of 'Natural Persons' under the horizontal commitments.

Future Negotiating Strategy

The current Doha Round of trade negotiations has entered into a crucial phase. India being the leader of developing countries and also the largest country in the South Asian region, has the onus of protecting the interests of a larger group of developing countries and LDCs. South Asian LDCs viz, Bangladesh and Nepal have also supported India's stand on Mode 4. Obviously, among South Asian countries, Mode 4 is one common area of interest.

On Mode 4, what is immediately required is easing of restrictions on existing commitments. At present, while many schemes facilitate the mobility of the highly skilled labours, relatively few cover the moderately or low skilled workers of interest to developing countries. While intracorporate transferees enjoy relatively easier conditions for mobility, groups that are more important to developing countries (particularly South Asia) such as contractual or independent service suppliers face several restrictions. Keeping in view of this fact, South Asian countries must ask for expansion of commitments in categories delinked from commercial presence (Mode 3). Elimination of ENTs will help low-skilled and independent professionals.

The GATS negotiations are slowly getting complex as US and other developed countries are persistent in raising security issues. As per the July framework, developed countries were supposed to improve their Mode 4 offers substantially. But, both the US and the EU disappointed developing countries by not improving the quality of their offers. Further, the US also debarred its United States Trade Representative (USTR) from negotiating visa related matters under GATS, as it touches upon immigration issues.

Undoubtedly, security concerns are crucial for any country, as it can be with EU or US. Hence, there is a need to find out solutions within the GATS framework. The concept of GATS visa, therefore, was proposed by India and other developing countries. Some of the legislations, which are pending before the US Congress in fact, support the concept of temporary workers visa. South Asian countries may also demand for a stand-alone agreement on Mode 4 having features like short-term GATS visa, multilateral criteria for ENTs and labour market tests (LMTs), strict provisions for return migration, Mutual Recognition Agreements (MRAs), greater transparency and predictability etc. These provisions will address the concerns of both developed and developing countries.

Chapter 5

Multilateral Agreement on Trade Facilitation *Important but Complex Agenda for South Asia*

Introduction

Trade facilitation (TF) refers to measures that help in simplifying and reducing the negative impact of customs procedures on imports and exports. Problems in this field faced by traders include unnecessary and excessive data and documentation requirements, lack of transparency, absence of rapid legal redress, excessive release and clearance times, absence of co-ordination between customs and other inspection agencies, the absence of modern customs techniques and inadequate transit regimes. Broadly defined, these measures include anything from institutional and regulatory reform to customs and port efficiency and are inherently far more complex and costly to implement.

The global economy has made considerable progress in the last two decades in easing border restrictions on merchandise trade by addressing trade protective measures of non-tariff barriers (NTBs) and high tariffs through the implementation of structural reform programmes as well as commitments undertaken under the multilateral framework of the General Agreement on Tariffs and Trade (GATT)/World Trade Organisation (WTO).

Nevertheless, developing countries were not convinced that binding rules in the WTO would be necessary or helpful in this area. From the inception of Trade Facilitation as a separate issue (added to the agenda at the WTO Singapore Ministerial Meeting in 1996), developing countries have not shown enthusiasm to negotiate a multilateral agreement of TF commitments.

This paper is intended to contribute to a wider discussion on the contents and elements of the multilateral framework on trade facilitation by offering South Asian negotiators an opportunity to examine, in greater detail, the challenges posed by the negotiations on trade facilitation. In addition, it aims to evaluate TF proposals submitted by South Asian members and their implications for the region.

Trade Facilitation: Benefits and Costs

While Trade Facilitation is subject to numerous definitions, discussions in the WTO are limited to the ‘simplification and harmonisation of international trade procedures’ covering the ‘activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade’. It relates to a wide range of activities at the border such as import and export procedures (e.g. procedures related to customs, licensing and quarantine); transport formalities, payments, insurance and other financial requirements.

The rapid growth of international trade in recent years, including the relative importance of border procedures, has added to the transaction costs involved in the movement of goods across borders. Progressive easing of border trade restrictions such as tariff and NTBs has facilitated growth in the volume of international trade. In turn, the reduction

of such types of barriers has brought into new prominence the wider regulatory and institutional shortcomings, such as waiting time and customs procedures in the conduct of international trade. An added impetus has come from the increased complexity of global trade; decentralised networks of sourcing components and the rapid spread of information technologies and e-commerce has progressively encouraged the growth of integrated global supply, production and distribution systems.

In this environment, unnecessary or over-complicated trade procedures and requirements can mean a significant cost for both businesses and governments. Inefficient border procedures may also lead to poor export competitiveness and make the country less attractive to investment, thereby limiting the potential to fully participate in global trade expansion.

WTO and Trade Facilitation

Trade Facilitation came rushing to the foreground of WTO issues, as the international business community increasingly expressed concern for greater transparency, efficiency, and procedural uniformity of cross-border transportation of goods. While work on TF has a long history at the national, bilateral and regional levels, the WTO member countries added it to the agenda for the first time at the Singapore Ministerial Conference in 1996. The Singapore Ministerial Declaration directed the Council for Trade in Goods (CTG) 'to undertake exploratory and analytical work, drawing on the work of other relevant organisations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area'. While specific elements concerned with aspects of simplification and harmonisation of trade procedures are already contained in Articles V, VII, VIII, X of the GATT 1994, the WTO legal framework, as well as in Agreements on Customs Valuation, Import Licensing, Pre-shipment Inspection, Rules of Origin (RoO), Technical Barriers to Trade (TBT), and the Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures, they were not seen as creating a coherent framework for TF. Hence, the response of the Singapore Ministerial Declaration provided the WTO the mandate to take a more comprehensive look at the issue.

Leading up to the Doha Ministerial, several themes were identified by member countries as common issues:

- the cost of implementation of TF measures;
- the importance of having simplified official requirements in applying information technology;
- the benefits of TF on small and medium-sized enterprises (SMEs); and
- efforts done to foster a cooperative relationship between governments and the trade community.

Some of the measures proposed relating to the principles of transparency and simplification were:

- publications and making easily accessible all administrative rules and amended procedures;
- advance ruling;
- establishment of enquiry points;
- minimum procedures of trade;
- modern customs practices;

- adaptation of international standards; and
- ‘single window’ submissions.

Gaps and overlapping in some areas were identified due to lack of proper coordination among intergovernmental bodies, donors and government authorities.

The importance of these factors were highlighted: the political will of governments; coordination and cooperation among the providers of technical assistance; transparency of reform programmes; involvement of all stakeholders; the responsiveness of trade facilitation to particular needs of recipients; and the use of agreed benchmarks in their execution for the successful implementation of TF related technical assistance programmes.

Member countries carried on TF work based on the Doha Mandate. According to its work programme, the focus was on three core agenda items:

1. GATT Articles V, VIII and X;
2. TF needs and priorities of members, particularly of developing and least developed countries; and
3. Technical assistance and capacity building.

With regard to Article X, several delegations proposed to improve and clarify this provision covering various measures to improve transparency, while some stressed the need to consider issues, such as differences in corresponding needs and development levels of member countries. Discussions based on Article VIII focused on the issues of implementation of the proposed measures and challenges faced by the countries in TF. Further, discussions were held on how to clarify and improve Article V and the need to strengthen and operationalise it by introducing new binding rules.

Although the Singapore Ministerial Conference endowed WTO with the mandate to address TF comprehensively, the failure of WTO members to launch negotiations for a considerable period of time was due to a number of factors, not least the lack of enthusiasm from developing countries. Developed countries, particularly the European Union (EU), have long argued in favour of negotiating binding rules on TF. Many developing countries on the other hand have consistently expressed concerns regarding the incorporation of issues of TF under the umbrella of the WTO work programme. While acknowledging the need for TF measures, developing countries have long opposed the setting of new binding rules at the WTO on TF.

Box 1: India's Concerns at WTO on Trade Facilitation

India's submission on TF highlights that WTO is not a suitable forum for dealing with the TF issue, as it duplicates the on-going work of the World Customs Organisation (WCO). India is of the view that efforts undertaken to bridge the TF gap between developed and developing countries were not fair and these efforts have ignored the reality of capacity constraints of developing members. As mentioned by many other developing members, Indian concern specifically indicates that negotiations based on binding rules, which ultimately lead to the dispute settlement mechanism, would be particularly harmful to developing countries if there is a lack of progress in the area of S&D treatment so far. Furthermore, according to Indian perspective, TF is an instrument used by developed countries for involving in trade harassment against developing countries. India remains less than convinced on the need for negotiations on the issue, though Indian government has already committed to improve TF as a part of their reform agenda.

(i) Source: CUTS, 2005

Box 2: Bangladesh Concerns at WTO on Trade Facilitation

The Bangladesh position highlights that TF needs to be viewed at through development angle whereby TF needs and priorities of least developing countries (LDCs) should be made an integral part of negotiations. Bangladesh calls for strengthening institutional capacity of LDCs with the technical assistance from developed countries. Furthermore, there should be no binding commitments for LDCs vis-à-vis TF measures. Bangladesh further states that technical assistance and capacity building support should be provided not only in terms of soft infrastructure but also for hard infrastructure since soft infrastructure alone would not help in this regard.

Source: Bangladesh Institute of Development Studies, 2005

Trade Facilitation and South Asia

The importance of South Asian countries for TF has been reflected in their efforts made at the country level to facilitate the flow of goods and services under bilateral, sub-regional and regional levels initiatives. Such initiatives include – the India-Sri Lanka Free Trade Agreement (FTA), SAARC Preferential Trading Agreement (SAPTA), Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) and the scheduled South Asian Free Trade Area (SAFTA). In the context of the Indo-Lanka FTA, the broadening and deepening of the FTA into a Comprehensive Economic Partnership Agreement (CEPA) pays attention to TF. The agenda of the CEPA includes efforts to go beyond trade in goods, e.g. liberalisation of trade in services and investment cooperation, and an 'effective mechanism for TF'. Within the ambit of the SAPTA, Article 6 stipulates that 'Contracting States agree to consider, in addition to the measures set out in Article 4, the adoption of TF and other measures to support and complement SAPTA to mutual benefit'.

SAFTA, which is scheduled to come into force in January 2006 recommends the inclusion of TF, such as harmonisation of standards, simplification of custom clearance procedures, simplification of banking procedures for import financing, transit facilities for intra-SAARC trade, removal of barriers to intra-SAARC investments, development of communication systems and transport infrastructure, and simplification of procedures for business visas.

Within the framework of the BIMSTEC – which includes Bangladesh, India, Sri Lanka and Nepal as members – there exist six priority sectors of cooperation. The sub-section on Trade and Investment pays attention to TF. Under TF, the following areas were recognised by the Task Force for cooperation:

- trade-related capacity building (HRD, seminar, training, etc.);
- movement of goods (freight, goods in transit, carnet);
- standards, conformity and mutual recognition arrangements (MRAs); harmonisation of custom procedures;
- banking arrangements, intellectual property rights protection; and
- e-BIMSTEC (BIMSTEC Task Force, 2005).

Despite notable efforts to integrate South Asian economies and improve international competitiveness, most of the TF initiatives have yielded limited results. Transaction costs in many South Asian countries remain high, as evidenced by high transport and communication costs, long customs and administrative delays at ports and border posts, and inefficient international payments systems. Furthermore, poor programme implementation, lack of coordination among and between countries, lack of coordination among relevant agencies within countries, inadequate skilled manpower and lack of a multi-sectoral approach to TF, have also contributed to the less than satisfactory outcomes on TF initiatives in South Asia.

Consequently, transaction cost in South Asia remains relatively high. In four major countries viz, Bangladesh India, Pakistan and Sri Lanka, survey findings of the Global Competitiveness Report (GCR) 2004-2005 delineates business impact of customs procedures to be more skewed towards being damaging and inefficient.

In terms of infrastructure, all four countries are considered to be below average. In terms of airport infrastructure quality, both India and Pakistan are placed above the mean level, while Bangladesh and Sri Lanka are below the mean level. The inadequacies in airports prevent efficiency of trade. In the context of port infrastructure quality – the channel through which most trade takes place in South Asia – all four countries have been placed below mean level. Further, the success of risk management and post-clearance audit processes already in place are considered to be a function of many future developments, such as changes in the customs clearance procedures and changes to the Customs Act, etc., to name a few. In terms of irregular payments in export and import, it appears to be common in all the South Asian countries considered. However, hidden barriers to trade do not appear to be an important problem in any of the South Asian countries.

July Package

The WTO General Council reached agreement on July 31, 2004 on a framework called 'July Package' to resume Doha Round of trade negotiations. There seems to be a tacit understanding that negotiations on TF would be limited in scope to Articles V, VIII and X of the GATT 1994. Annex D of the 'July Package' dealing with modalities on negotiations on TF states that negotiations shall aim to clarify and improve relevant aspects of articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit.

Article V

The key provision of Article V relates to freedom of transit. In post 'July Package' negotiation, several proposals primarily by landlocked countries highlighted the problems associated with transit formalities. These include additional controls and checks, excessive security measures, excessive documentation requirements and unreasonably high transit charges. Issues of transit facilities are most relevant to India, Bangladesh and Nepal. This has been dealt primarily as a bilateral issue in the region for example, the Indo-Nepal Treaty of Trade & Transit. Nepal, for example, faces a severe impediment in trading with the rest of the world due to its landlocked geographic location bordering China and India. The cost borne by Nepalese exporters in terms of transport and transit procedures are higher (ranging up to 25 per cent) than those of their competitors in other countries. India, too, faces issues of transit with Bangladesh (which has been reluctant to offer transit facilities for fear that Indian goods might enter Bangladesh) along its north-eastern region. Sri Lanka and Pakistan have also not included measures under Article V in their TF effort so far.

Issues of transit facilities under Article V are most relevant to India, Bangladesh and Nepal. For the most part, transit issues in the sub-continent have been dealt with on a bilateral basis (e.g., Nepal-India Treaty of Transit). However, India, Bangladesh and Nepal are yet to accede to international transit conventions such as the TIR (Transports Internationaux Routiers/International Road Transit) convention or the ATA (Admission Temporaire/Temporary Admission) Convention, although India uses the ATA Carnet to a limited extent.

Article VIII

The provision of Article VIII relate to fees and formalities concerned with importation and exportation. In post 'July Package' negotiation proposal by US to establish specific parameters for fees charged by members and publish such fees on the Internet. The proposal also contains a suggestion to get specific expedited procedures for express shipments. The joint proposal of New Zealand, Norway and Switzerland, calls for documentation and date requirements to be reduced to the necessary minimum and proposed the use of international standards.

The status of south Asian countries with respect to the key proposals based on Article VIII indicate that even though these countries have undertaken several computerised systems such as use of Automated System for Custom Data (ASYCUDA), (EASY), Electronic Data Interchange (EDI), etc. in order to reduce documentation requirements in import and export procedures, there are continuing procedural complexities. In addition, fees and charges in most of these countries are fairly large in number and the amounts

can be substantial. According to available information, no official standard processing time has been set in these countries so far. Some countries such as India and Sri Lanka have set some basic guidelines for their customs stations. Pakistan, Sri Lanka and Nepal have committed to implement international standards while India also needs to implement several reforms to fully meet international standards.

Article X

The key provision of Article X relates to the publication and administration of trade regulations. The EU proposals have asked for an obligation for members to ‘publish and make easily available’ all laws, procedures and rules affecting imports, exports and goods in transit and to provide such information in a ‘simple and accessible manner’ and preferably online as well. In addition, the EU has proposed that all members should be required to establish a national trade desk where such information will be provided. This has been backed by Taiwan, South Korea and Japan. Furthermore, as members introduce new rules and procedures, the EU maintains that these should be notified to the WTO.

The current status of South Asian countries with regard to the proposals based on Article X reveals that authorities in India, Pakistan, Bangladesh, Sri Lanka and Nepal disseminate information using electronic media to some extent while they still use print media as well. Authorities have started to use electronic media with the introduction of several computerised systems. However, in the case of Bangladesh, Pakistan and Nepal, there is still no progress reported with regard to advance rulings. None of the countries have established a single window enquiry point for traders. In addition, there is no consultative mechanism at the moment in many countries; the Sri Lankan, Indian and Nepalese legislations provide the right of appeal to the affected party.

Conclusion

South Asian countries acknowledge that existing inefficiencies in TF measures need to be tackled if they are to become more competitive in international markets. Efficiency and capacity constraints in South Asia include common factors such as low port efficiency and less competitive nature, poor port infrastructure, lack of cross border transit points and road connections across the region, high cost of road transport, licensing restrictions, poor railway facilities, poor management at customs with high monetary and time cost, administrative problems, non-transparent trade procedures, lack of technical equipments used in customs administration, restrictions on information technology (IT) and service sector infrastructure, lack of modern infrastructure networks and problems in meeting standards and technical regulations.

In addition, political will to implement TF measures seems to be lacking in some countries. One of the barriers to TF in these countries is wide spread bureaucratic barriers at key government institutions. Furthermore, the pressure from stakeholder to implement TF measures in most of the South Asian countries is lacking partly because the business community is not fully conversant with the potential benefits of TF. However, a key factor inhibiting most developing countries from implementing TF measures is the cost associated with large-scale improvements in trade infrastructure.

It is evident that the concerns expressed by developed countries in the negotiations are different from developing countries. While some developed members have submitted their proposals for new obligations or clarifications of the relevant existing GATT rules, many developing countries on the other hand insist on voluntary guidelines, rather than legally binding rule-based agreements. Even though the developing countries do not disagree with the merits of TF, they argue that compliance with binding TF standards would be an additional cost to them. LDCs in particular stress the need for precise, effective and operational S&D treatment provisions and have expressed concerns that the proposals submitted so far do not provide for technical and financial assistance by developed countries. One another submission is that the legal and administrative implications of proposed measures need to be examined taking into account existing institutional and administrative capacities of developing and LDC members.

The priority areas in improving TF for many South Asian countries are improving customs procedures and formalities, harmonisation of standards, removing constraints on transit procedures, etc. They are, therefore, likely to call for the scope of current negotiations on TF under the WTO to be limited to Articles V, VIII and X of GATT 1994. And despite the recognised potential benefits of TF, concerns regarding additional costs associated with new commitments and implementation capacities will mean that the importance of providing S&D treatment and technical assistance and capacity building for developing countries and LDCs at both the negotiation and implementation stage needs to be highlighted in future negotiations.

Chapter 6

Development Dimension of the Doha Agenda

A Major Concern for South Asia

Background

Among the developing countries, the least developed countries (LDCs) constitute more than quarter of the total World Trade Organisation (WTO) members. These countries are at a disadvantageous position in terms of bargaining power and negotiation positions, and hence, are lagging behind in exploiting the benefits of free trade. The share of the LDCs in world merchandise exports has even declined from 0.48 percent in 1990 to 0.40 percent in 1999. Given the inequality of the WTO members in terms of differences in stages of economic, financial and technological developments, 'Development Dimension (DD)' as envisaged in different General Agreement on Tariffs and Trade (GATT) and WTO modalities, addresses the capabilities of the developing countries, including the LDCs for integration in the multilateral trading system.

This integration is utmost in reliability through the form of special & differential treatment (S&DT), which is directed towards increased market access opportunity for developing countries, less obligations, longer time frame for implementation of the obligations, transition period and technical assistance for capacity building. This will ensure that the developing countries, especially the LDCs secure a share in the growth of world trade that is commensurate with the needs of their economic development.

The developing and LDCs initially had signed the WTO agreement without understanding the consequences of the agreement. They raised the ineffectiveness of the S&DT provisions and implementation of the agreements in the subsequent WTO Ministerials in Geneva and Seattle. The agreement made impossible for the LDCs to reap the benefits out of the provisions. Moreover the commitments and obligations were huge burden for the developing countries.

The Doha Ministerial conference had put the concern of the developing countries at the centre of the new round of negotiation. It recognised the role of 1) enhanced market access; 2) balanced rule; and 3) well targeted technical assistance. The Cancun Ministerial failed due to lack of consensus on agriculture and Singapore issues. Finally, a framework was adopted on August 1, 2004, called the 'July Package', which identified DD as the priority areas along with the other issues of WTO negotiations and reaffirmed what was promised in Doha, and laid down the modalities for discussion in the Hong Kong Ministerial Conference in December 2005. The tools of addressing the DD as cross cutting issues as decided are S&DT, Technical Assistance, implementation and concerns of the LDCs.

Box 1: Development Related Outcomes of the Doha Ministerial

- Ministerial recognised the implementation related issues and concerns, and also issued a separate declaration on this subject, paving the way for some serious negotiations on these issues before the conclusion of the round.
- Due to the Monopolistic tendency of the pharmaceutical producers with the patent protection and resultant rise in prices of medicines due to the provision of the TRIPs agreement, a declaration on TRIPs and public health was included in the Ministerial Declaration.
- In response to the developing countries' call for addressing the problems of conflict between TRIPs Agreement and UN convention on Biological Diversity (CBD), it was decided to conduct discussions on the ways and means to harmonise these international instruments
- To address the problem of best endeavour nature of S&DT, it was decided to make precise, effective and operational.
- Labour standards, which had made it to the WTO from Singapore Ministerial Conference, was dropped altogether from the WTO ambit
- To assuage the fear of the developing countries that environmental issues could not be used as a form of disguised protectionism, it is decided to narrow down discussion on this issue.
- Issues, such as trade, debt and finance, trade and technology transfer, and technical assistance and capacity building were included in WTO agenda for the first time

Negotiations on Development Dimension

Negotiations in DD, which have been discussed in various WTO fora, mainly in the negotiations on special & differential treatments within the committee on Trade and Development Special Session (CTD-SS), covers various issues. The negotiations include key elements as follows:

Special & differential treatment (S&DT)

Although the provisions on S&DT are considered as an integral part of the WTO agreements, but so far the developing countries have benefited very little from the agreements. The Doha Development Agenda instructs the CTD-SS to review the existing S&DT provisions and report to the GC with clear recommendations for making them more effective and operational. Several deadlines were set of the negotiation; the only progress was that the members agreed to set up a 'Monitoring Mechanism' for S&DT. 88 proposals have been submitted by different countries to strengthen S&DT provisions and make them more precise and operational. Among them 38 proposals were accepted with minor changes, 38 discussed in relevant WTO bodies and the rest 12 needed major changes.

Currently, there is debate on which issue needs to be addressed first i.e. either the agreement specific or the cross cutting issues. Developing countries proposed to look at agreement specific proposals beginning with LDCs. The WTO GC Chairman proposes four thematic groups, but the members could not agree on the modalities. Members agreed to address five LDCs proposals, however, there were differences in the perception about the nature and extent of flexibility. Moreover, European Union (EU), the US, Canada and Japan were unwilling to give exemption to the LDCs from Trade-related Investment Measures (TRIMs). However, the report of the Chairman of the Trade Negotiation Committee (TNC) in July 2005 called for providing the LDCs with predictability and security through duty free and quota free market access and to address the agreement for specific issues.

Implementation-related issues and concerns

Implementation issue arises due to 1) non-fulfillment of commitment in reducing trade barriers and 2) regulation and processes at the national level. Although LDCs were given certain transitional period for implementation of most agreements, but there exists lack of capacities among these countries to carry out such measures. Several agreements implemented by the developed countries like anti-dumping, Sanitary & Phytosanitary measures (SPS), technical barriers to trade (TBT) etc are not in the interest of LDCs. The progress on the implementation issues has also been disappointing with only few resolved (three out of 99).

On other issues, members just took note of it and needs to find solution by specific deadlines. However, issues, which were referred to relevant WTO bodies missed all deadlines. There is divergence of views on TRIPs, Balance of Payment (BoP), TRIMs, TBT and Customs valuation and the Director General (DG) suggested continuing consultation. Regarding the geographical indication extension, opinion differed on its desirability and implication. The trade negotiations committee Chairman in its July 2005 report requested to make efforts to allow progress.

Capacity building and Technical assistance (TA)

Several developing country members consider the technical assistance and capacity building (TACB) provided by WTO as the heart of DD of the Doha Round. The issues related to trade-related technical assistance are getting complicated with new issues, such as TBT, trade facilitation (TF) etc. Problems with the TACB were: 1) focused more on quantity than quality 2) lack of national ownership and short duration of many activities and 3) failure to take into account the needs of beneficiary countries.

The 2005 technical assistance and training plan is more quality oriented than earlier plans. There is also a need to move away from seminars toward building local capacity. Technical assistance and capacity building must address the broad range of steps needed to ensure proper participation by developing countries, particularly by the LDCs. The WTO member countries have pledged Swiss Francs (CHF) 30 million (US\$22.9mn) for a new Global Trust Fund. Joint WTO/Organisation for Economic Development and Cooperation (OECD) database suggest that TA for TF has increased while for SPS has declined. But TA for enhancing supply capacity is still lacking.

Concerns of least developed countries

So far, some progress has been made such as: 1) adoption of work programme for LDCs in 2002.2) Extension of waiver of TRIPs agreements until January 2016 and 3) adoption of modalities in Services negotiation.

Market access for goods: Already 28 developed (except USA) and developing countries have provided duty free and quota free market access on autonomous basis. These are voluntary and uncertain and not WTO obligations. These includes excluded sector of General System of Preferences (GSP), which covers all export and administrative requirement. South Asian LDCs have been left out from deeper preferential treatment in USA.

Market access for services: Special priority to LDCs should be granted in service negotiation at sectoral level. LDCs accounted for 0.4 percent of world trade in commercial services. LDC modalities refer to market opening in Mode 4, but implementation of the provision is far from satisfactory. During the special session of the service council, there is little progress. Revised offer by the US and EC has not improved commitments on Mode 4. LDCs are asking for adequate and targeted technical assistance for the assessment and strengthening S&DT proposals to address supply side constraints.

Flexibility in rules: Accession of LDCs in WTO must provide flexibility. The accession schedule has been termed as WTO plus and has been discriminatory. Nepal had to forgo most of its rights to S&DT during the process of its accession. The transitional periods had mostly expired. WTO members should refrain from placing excessive demands on applicants from LDCs. There is need for a transparent, streamlined and accelerated accession process in keeping with the WTO rules and discipline.

Technical assistance (TA): The integrated framework (IF) of Technical Assistance has two Windows. Window 1 is for diagnostic studies and mainstreaming and window II for specific and clearly identified programmes. Among South Asian countries, Bangladesh was included in old IF and Nepal has undertaken diagnostic study for trade integration strategy. Consultants conduct these and there is no country ownership. Due to low level of development many LDCs cannot exploit trade opportunities because of supply side constraints. But physical infrastructure projects are excluded from window2. As of March 2004 Window 1pledge was US\$12.5mn and Window II was US\$8.6mn. TA has been unhelpful as they focused on software rather than hardware. Window 2 has allocated a budget of US\$1mn for each LDC, which is extremely low to address its supply side constraints.

Box 2: Development Dimension – July Package

Agriculture

- Flexibility to designate an appropriate number of products as Special products based on food security, livelihood security and rural development needs.
- Special safeguard mechanism for use in the developing countries only.
- Developing countries will have lower reduction coefficients and higher implementation period on domestic support pillars, longer implementation for phasing out export subsidies, lesser tariff reduction commitments
- The LDCs are exempted from reduction but the non-binding language and unbounded commitments of duty free and quota free market access have weakened their bargaining position.

NAMA

- Less than full reciprocity in reduction commitments for developing countries
- Longer implementation period and LDCs are exempted from tariff reduction commitments

Services

- Treated as if not related to market access
- Developing countries would benefit from liberalisation of Mode 4
- In the July Package members only note the interest of the developing countries, as well as other members, in Mode 4

Trade Facilitation

- This is the only text which contains strongly worded technical assistance language
- Developing countries are not to implement commitments in the absence of technical assistance

Negotiation Positions of LDCs

The LDCs adopted the Dhaka Declaration prior to the fifth Ministerial Conference and recently adopted Livingstone Declaration ahead of the Hong Kong Ministerial conference. In both the Declarations the main concerns and negotiating position of LDCs, highlighted are:

Enhanced market access

- Binding commitment on duty free and quota free market access for products from the LDCs with realistic, flexible and simplified rules of origin to raise the LDCs market share in world trade.
- Strengthening the existing preference schemes.
- Incorporation the provisions to address the erosion of preferences.
- Providing a moratorium on safeguard measures and antidumping actions against the LDCs to facilitate exports from the LDCs.

Issues related to services

- Full implementation of modalities for the Special Treatment for the LDCs in the negotiation on Trade in Services.
- Full market access and nationality treatment to LDCs in the sectors and modes of supply of export interest to them, including less skilled and non professional services providers on Mode 4 on temporary and contractual basis.
- Adequate targeted technical and financial assistance to the LDCs, including to carry out sectoral assessments and take part in the request /offer process in a beneficial and meaningful way.
- Developing and applying domestic regulation disciplines including recognition of qualifications, simplification of administrative practice and visa requirements, no economic needs tests.

Flexibility in rules

- Complete exemption for the LDCs from any reduction commitments.
- Flexibility for LDCs to determine the levels of binding commitments of tariff lines consistent with their trade, development and financial needs.
- Operationalising the flexibility agreed in the modalities for Negotiations on TF, which stipulates that LDC Members will only be required to undertake commitments to extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

Concerns of the net food importing countries

- Establish a special safeguard mechanism to respond to the needs of the LDCs in order to address import surge and price decline for safeguarding food and livelihood security and rural development.
- Full implementation of the commitments made in Marrakesh Declaration and Ministerial decision in favour of LDCs and the Ministerial Decisions on measures concerning the possible negative effects of the reform programme on LDCs and net food importing developing countries (NFIDCs).
- Ensure food aid available at all time to meet the needs of the LDCs and NFIDCs.

Technical assistance and capacity building

- Binding commitments on targeted and substantive technical assistance programmes in favour of LDCs to enhance their capacity, to meet SPS measures standard requirements, Rules of Origin and other non-tariff barriers in the importing countries.
- Full implementation of the guidelines for the LDCs.
- The need for all development partners to assist LDCs in attaining the MDGs.
- Full implementation of the Modalities of Negotiations on TF that ensure adequate financial and technical assistance and capacity building including support for infrastructure development for the LDCs, through coordinated and sustained flow of funding.

Negotiating Positions of other South Asian Countries

Agriculture is the main developmental concern in the negotiations for the South Asian Countries, followed by services and TF. In agriculture, the provisions for S&DT for developing countries needs to be spelt out in terms of concrete obligations considering experience in implementation of the Agreement on Agriculture (AoA), the differing

levels of economic development, the role of agriculture in economies with a large rural population and the need to preserve food and livelihood security taking into account the vulnerability of their agriculture sector. Given this, negotiating positions of the South Asian developing countries are as follows:

- Appropriate level of tariff bindings allowed to be maintained as S&DT measures, keeping in mind their developmental needs and priorities.
- A separate safeguard mechanism on the lines of the Special Safeguard Provisions, including the provisions for imposition of quantitative restrictions under specified circumstances should be made available to the developing countries.
- Flexibilities to be given to developing countries in the manner of providing subsidies to key firm inputs.
- In addition to the provisions contained in AoA, in relating to agriculture investment and input subsidies, product specific support given to low income and resource poor farmers should also be excluded from AMS calculations.

Box 3: A Case Study of Bangladesh

- Textile is a labour intensive sector in Bangladesh. The readymade garment industry is important for the poor. It has created a social space for woman. Ready made garment industry accounts for 75 percent of the exports in Bangladesh.
- If Bangladesh gets duty free and quota free access to the markets of the US, the EU, Canada and Japan its export revenue would increase by 45 percent. Export of textiles and clothing to Canada and the US would rise by more than US\$ 700mn.
- Bangladesh faces mainly non-tariff barriers in the Indian market. The Bangladesh Standard Testing Institute certification is not accepted in India.
- In services, Bangladesh has opened only telecom and five star hotels. Received requests from nine members of the WTO in opening business, finance, insurance, telecommunication, construction, architecture, audio visual, maritime, environment.
- Agriculture subsidy in Bangladesh is much below the deminimus level. It accounted for 0.48 percent in 2002/03 and 0.51 percent in 2003/04.
- Bangladesh has autonomously liberalised tariff. Tariff has been reduced by 25 percent and there are three slabs of tariffs.
- Agriculture products in Bangladesh were bound at a ceiling of 200 percent, except for 13 items. The average tariff rate in agriculture was 23.92 percent in 2003.
- There is no effective measure in place in Bangladesh to deal with the livelihood issues of the workers who are likely to lose jobs.

Contd...

- So far, only one firm in Bangladesh invested in anti-dumping case against India for export of batteries.
- Bangladesh provides cash incentives for export of non-agriculture products in some sectors.
- T & C, fish and fish products, leather and leather products are the main export of Bangladesh, and hence accelerated reduction of tariff in these sectors will lead to loss of preferences in these areas.

Conclusion

To successfully conclude the Doha Round of negotiations, the developed countries have to deliver their commitments, such as improving market access and removing all types of barriers for goods and services of export interest for the developing and the LDCs, and increase their trade related technical assistance. This will help these countries to alleviate poverty and integrate their economy with the global economy. Along with this, it is required to address the supply side constraints through resource mobilisation in the form of financial and technology transfer and strengthen and diversify their productive capacity to increase export volume. At the same time there is need for capacity building, which will go beyond addressing the normal WTO obligations.

The conflicting interest of the developed and the developing countries needs to be reconciled and fair compromise needs to be worked out in the forth-coming negotiation. This must be complemented by clear commitment and political will to make the new round a development round. The modality for negotiations on different issues needs to be accepted by December 2005 and the LDCs also must push for making the provision of duty-free and quota free market access for all products binding.

This is the priority of the South Asian LDCs in the present round of negotiations. However, at the same time, it needs to be ensured that progress in the negotiation is made in all the specific proposals, especially the LDCs proposals and in that context to effectively address the issues of increased flexibility, market access and capacity building for the LDCs and the developing countries.

Back to Basics: A Way Forward for World Trade Organisation Negotiations

Raghendra Jha

ABSTRACT

At a summit scheduled for Hong Kong for the end of the year, the World Trade Organisation's (WTO's) 148 members are supposed to agree on an outline for a global trade deal as part of the Doha Round of negotiations. But progress has stalled, largely because of the thorny issue of farm subsidies. The Doha Round is set to conclude by the year 2006. This paper evaluates the scope for progress on this issue and suggests that going back to the core concerns of the WTO would be an appropriate way of taking the talks forward. The WTO should not be saddled with the additional responsibilities of environment, property rights, social conditions and so on. It is up to the ingenuity of the international community to devise an appropriate response to these challenges outside the framework of the WTO.

I. Introduction

The current round of international trade negotiations – the Doha Round named after the Qatari capital where it was launched in 2001 – is dressed up as a developmental round. Central to international development is poverty alleviation and with almost 70 percent of the poor people in developing countries living in rural areas, agricultural sector reforms – in particular global trade liberalisation – will be crucial in giving them opportunities for better lives. However, while the nomenclature has been agreed upon there is slow, even halting, progress towards achieving this end. Thus, a recent World Bank report (Aksoy and Beghin 2005) noted that despite the recent framework agreement in Geneva, agricultural protection continues to be among the most contentious issues in global trade negotiations. High protection of agriculture in industrial countries was the main cause of the breakdown of the Cancún Ministerial meetings in 2003, and remains among the key outstanding issues in the Doha Round of global trade negotiations. The Ministerial to be held in Hong Kong, in December 2005, is designed to make some progress towards that end but, as argued below, the chances of success appear remote.

The World Bank (WB) Report argues that although developing country agriculture has shown productivity gains there is much room for further cost efficiencies and these are needed in order to achieve tangible poverty reduction. This requires a supportive international trade framework – in particular a reduction of agricultural protection in industrial and some middle-income countries. If these tariff reductions are not put in place, increased productivity in agriculture will instead only lead to overproduction and price declines for many commodities, undermining competitive poor countries' efforts to expand exports and rural incomes. This is likely to have a domino effect and other countries will raise protectionist voices.

There has been some progress in reduction of manufacturing sector protection. This is true of both developed and developing countries. But as François Bourguignon, the WB's Senior Vice President and Chief Economist, while launching the Aksoy and Beghin report said:

... (m)anufacturing protection has declined worldwide following substantial reforms of trade policies, especially in developing countries. Yet, many industrial and developing countries still protect agriculture at high levels, which is hitting the world's poor the hardest.

Identifying superior policy options is not difficult, the WB Report states, but the feasibility of reform depends on the power of vested interests, and the ability of governments to identify efficient tradeoffs among multiple goals – such as food security, income transfers, and expansion of higher-value products in agriculture.

The situation in regard to agricultural protection has developed paradoxically. While agricultural subsidies remain high in industrial countries, many developing countries have significantly liberalised their agricultural sectors. Average agricultural tariffs, the main source of protection in developing countries, declined from 30 percent to 18 percent during the 1990s, the WB Report argues. In addition, many developing countries generally pursued more open trade policy regimes by devaluing exchange rates, abandoning

multiple exchange rate systems that penalised agriculture, making currencies convertible on the current account and eliminating almost all export taxes. However, 'reactive protection' in response to industrial-country support to agricultural producers has begun to increase in many middle-income countries, especially in food products.

Although low-income countries have seen increased agricultural trade surpluses in their trade with both middle-income developing countries and industrial countries, these countries now export more to middle-income countries than they do to the European Union (EU), their largest export market in the early 1980s, and the agricultural trade surpluses of middle-income countries have diminished. Among industrial countries, Japan has the largest agricultural trade deficit (almost US\$50bn in 2000-01); the EU, once the largest net buyer of agricultural commodities, has seen its deficits decline; and North America Free Trade Agreement (NAFTA) members' trade surplus with the rest of the world has shrunk considerably.

Projections in the WB report indicate that without significant reforms, the agricultural trade surpluses of industrial countries will increase while the developing countries will face increasing agricultural trade deficits, exacerbating rural poverty. The report identifies both the key policy instruments that distort competition and likely winners and losers from global reforms, including producers, consumers, and taxpayers within and across countries. Knowing who is likely to gain or lose from a given reform is critical for sequencing reforms and putting in place complementary policies, e.g. assistance to reduce the cost of adjustment in non-competitive sectors. The report concludes that reform would reduce rural poverty in developing economies, both because, in the aggregate, they have a strong comparative advantage in agriculture and because the agricultural sector is important for income generation in these countries. Also, liberalisation of value-added activities is crucial for expanding employment and income opportunities beyond the farm gate.

How reforms occur will have important consequences for developing countries, the report says, noting that the best approach is coordinated global liberalisation of policies. The WB report illustrates the importance of a multi-commodity approach to reform, as gains and losses do differ greatly by market. This approach would also allow the countries to trade off gains in some commodities against the losses in others. For example, world sugar price increases alone would offset about half the lost quota rents, or about US \$450 mn, for countries with preferential access. The WB's analysis shows that losses in rents would be much less than is commonly expected, as high production costs eat up much of the potential benefit from preferential access to the high-price markets.

Consumers in highly protected markets will benefit greatly from trade liberalisation as domestic (tariff-inclusive) prices fall and product choice expands. Consumers in poor, net-food-importing countries could face higher prices if these markets were not protected before liberalisation, because of higher import unit costs. In practice, however, such concerns have often been exaggerated. For example, dairy consumption in the Middle East and North Africa would be little affected by trade liberalisation because, while world prices would rise, high import tariffs would be removed, so that the net impact on dairy consumer prices would be negligible. Similarly, rice prices will decline for consumers in most rice importing developing countries in Asia and Africa.

Border barriers remain high in many commodity markets studied (the exceptions are cotton, coffee, and seafood), including industrial countries and many developing countries. For example, the global trade-weighted average tariff for all types of rice is 43 percent and reaches 217 percent for Japonica rice. Many Asian countries accord very high rates of protection to their agricultural and food markets.

Subsidies have similar effects, depressing world prices and inhibiting entry by inducing surplus production by non-competitive, and often large producers. Cotton subsidies in the US and EU, for example, have reached US\$4.4bn in a US\$20bn market. In dairy and sugar markets, the effects of export subsidies have been smaller than those of tariffs and tariff rate quota schemes, partly because of the export subsidy disciplines introduced in the Uruguay Round Agreement on Agriculture (AoA).

Domestic support and protection policies have substantial negative effects on producers in developing countries, because of the sheer size of the subsidies relative to the size of the market. Such large support programmes shield non-competitive producers, and penalize efficient producers, often in poor countries.

The plan of this paper is as follows. In part I and II assess the current prospects for a successful Ministerial at Hong Kong. Section III reiterates the stated role of the WTO and explores further, the reasons for the current impasse. Section IV suggests ways to move forward with the WTO negotiations while focusing on the basic role of the WTO and section V concludes.

II. How Likely is the Progress at the Hong Kong Ministerial

At a summit scheduled for Hong Kong for the end of the year, the WTO's 148 members are supposed to agree on an outline for a global trade deal as part of the Doha round of negotiations. But progress has stalled, largely because of the thorny issue of farm subsidies. The Doha round is set to conclude in the year 2006. It aims to boost the global economy by lowering trade barriers across all sectors.

However, as of late October 2005, WTO talks are threatening to unravel as rich nations and developing countries warn they could block consensus at a key Ministerial meeting in December (in Hong Kong) and thereby scuttle hopes yet again for a global trade deal. The popular press has spoken of the WTO talks as being on 'life support'.

There appear to be wide gaps separating key players such as the US, the EU, Brazil and Australia. Big food importers such as Japan and Switzerland and developing countries in the Africa, Caribbean and Pacific (ACP) bloc have bluntly put the WTO on notice that their interests have to be addressed if a long-awaited trade liberalisation deal is to be realised. The current deadlock centres on trade in agricultural produce, which is seen as crucial to the success of the current Doha Round of negotiations. Recent talks have seen bitter splits between the EU, the US and powerful developing countries including Brazil and India over which of them should make the most concessions.

According to a US offer, Washington would make cuts of 60 percent in trade-distorting farm subsidies but would require the EU and Japan to make cuts of 80 percent, since their subsidy levels are higher. The US proposal also calls for the elimination of all

agricultural subsidies and tariffs by 2023. In response, EU Trade Commissioner Peter Mandelson put forward an offer to cut farm subsidies in products, including wheat, dairy goods and rice by 70 percent – five percentage points higher than its previous pledge. Other subsidisers – including the US – would make lower but proportional cuts, the EU proposal said.

However, Peter Mandelson and the French President Jacques Chirac have publicly disagreed with each other on the extent of planned EU concessions. On October 27, French President broke with the rest of the Union and said he was prepared to block world trade talks. Furthermore, Japan's agriculture minister, Mineichi Iwanaga, said his country could not accept the US offer as a basis for discussion. Even, if the reforms had been agreed to they would have been a tough sell to farmers on both sides of the Atlantic who have profited from generous government handouts.

Some interest groups said the US offer would not result in significant cuts in aid to farmers because the proposal relates to only the maximum amount Washington is allowed to spend on subsidies, rather than current subsidy levels. There is little information on how deep tariff cuts the US was willing to make immediately, leading to fears that the US offer far from being a genuine attempt to move the talks forward was in fact a very clever piece of manoeuvring.

Articulating developing countries' stand, Indian Commerce Minister Kamal Nath rejected the US formulation 'of slightly lesser cuts' on farm tariffs by developing countries, saying this was totally inadequate to meet concerns of poor farmers. Nath also opposed a move by EU-US to widen the scope of talks and establish linkages between agriculture and industrial tariffs and staunchly resisted EU move to link the treatment of sensitive products and special products in agriculture.

Chancellor Gerhard Schröder of Germany issued a warning that Germany would not be able to contribute more to the EU budget, and cast doubt on a proposal championed by Blair for a new fund to cushion the effects of globalisation. Schröder also used his last European summit meeting to attack Blair's efforts to revitalise Europe's economies, warning against a damaging 'neoliberalism,' which he said 'no one wanted'. Europeans wanted greater social cohesion rather than increased competition and open markets that drove down social standards. Some of this can be interpreted as opposition to the Mandelson statement on EU positions at the Hong Kong Ministerial.

France has accused the EU trade commissioner, Peter Mandelson, of overstepping his mandate by offering cuts to farm subsidies and tariffs. Mandelson has responsibility for negotiating in the trade talks on behalf of EU countries. But before any deal can be struck, the EU's final negotiating position requires unanimous support by all 25 EU countries, so France does have the possibility of vetoing it.

The immediate difficulty within the EU seems to be partly as a result of the disagreements between Britain, on the one hand, and France and Germany, on the other. British Prime Minister Tony Blair was blamed by many countries for the failure to adopt the EU's multibillion-euro budget, which was seen as a deep blow for European integration. Since then he has insisted that, before they agreed on the budget, EU countries had to forge

a new thinking on their economic priorities in order to be able to respond to globalisation and threats posed by emerging rivals like China and India. This would include adopting a stance towards the WTO Ministerial in Hong Kong. Mandelson was probably at least partly echoing Blair's views and faced resistance from a number of important European countries. For instance, in a blow to Blair's liberalising agenda, Chancellor Wolfgang Schäussel of Austria called for a new, toned-down plan to open up Europe's trade in services, after an earlier plan had met resistance over fears that it would usher floods of cheap labour into Western Europe.

Such leaders are also averse to giving up Europe's generous social benefits and subsidies – some of which would have to be sacrificed if the Mandelson proposals were to be exactly followed. Thus Chirac has proposed a new •10bn (US\$12bn), investment fund to be administered by the European Investment Bank. Thus, the European position has got tangled in intra-EU politics, the Japanese are traditionally hesitant to make deep cuts and the US, fully anticipating such reaction, has proposed cuts which have a low chance of being adopted and which, in any case, do not require large adjustment in the short-run. The message from the three most significant actors in global trade does not augur well for the success of the Hong Kong Ministerial.

III. The Role of the WTO

Against this gloomy backdrop it is easy to be dismissive of the usefulness of the WTO. However, it is precisely at such times that one needs to recall the basic rationale for the WTO. The core agreement of the WTO among its members consists of binding, nondiscriminatory terms of reciprocal market access established through multilateral negotiation and supported by trade policy rules and a dispute settlement system all WTO members are committed to honour. In the terminology of the 'new institutional economics' based on the work of, among others, Coase (1960), and Yarbrough and Yarbrough (1992), WTO membership is to be regarded as contract, with rights and obligations that define the political cost-benefit calculations that countries must make in deciding whether or not to participate. Since the WTO is a consensus-based organisation with no real legislative function, it has relied on this simple principle to motivate its activities and provide the essential foundation for its existence. Governments will be motivated to take part in a multilateral contract such as the WTO and make progress on a new agreement if the contract (or agreement) reduces uncertainty and transaction costs compared with the alternative of a series of bilateral or regional agreements. From a real world perspective, the welfare-enhancing benefit of the WTO derives from its ability to harness the basically mercantilist goal of governments to secure predictable terms of market access for their exporters. An additional benefit of the WTO is that the system reduces transaction costs for countries that seek to liberalise trade on a reciprocal basis.

Traditionally market access has typically been subject to protectionist measures by sovereign governments to protect import-competing industries. This adds uncertainty and risk to international trade. Thus, firms often face considerable uncertainty in entering or sourcing from foreign markets, not knowing if governments might change their trade policies and thereby restrict market access. The denial of access would result in a loss of the value of investment in production capacity, foreign distribution, supplier relations

and other trade-related activities. The role of the WTO has been to establish an agreement on rules of reciprocal market access, and in so doing to facilitate an environment of certainty regarding trade and investment in the world economy (Tumlir 1985; Jackson 2002). The political risk of international business – that is, the prospect of arbitrary actions by governments to close or restrict access to their markets – is thereby reduced. This simple but profound argument provides the core rationale for the WTO. Consensus among WTO members is that adherence to common trade policy rules facilitates reciprocal and non-discriminatory market access and thereby improves national economic welfare for all participating countries. This single proposition alone unites the 148 current signatories to the WTO in their acceptance of the requirements of membership.

It is important to recognise that the WTO has made politically possible what governments have traditionally found difficult to do: resist domestic protectionist pressures in the broader interest of national economic welfare. Though each country may, in isolation, pursue mercantilist options, the WTO structure enables these countries to reap the non-mercantilist advantages of more exports and imports for each country. The WTO has been described as a ‘peace treaty among mercantilists’ (Sauvé and Subramanian 2001) who are otherwise suspicious that their trading partners are bent on maximising exports and minimising imports. Each country’s market access for imports is a ‘concession’ that is traded for reciprocal market access elsewhere. So, in order to help exports in one sector a country has to tradeoff by giving up protection of domestic markets for another sector. Since this is an agreement among voluntary partners – nation states – if everyone plays by these rules the system works and it is possible to claim victory on the home political front. The very fact that the WTO has 148 active members indicates a belief on the parts of governments in the broader economic gains from trade for their countries.

However, it should be recognised that the WTO membership is an incomplete contract – it does not fully incorporate all the effects of the trading relations between countries, e.g., the environment or child labour. It is for this reason that appending considerations other than trade to the WTO may affect its core constituency.

It is important, in this regard, to recognise the legal nature of the WTO as an organisation. Unlike a constitutionally established government, which would wield independent legislative and enforcement powers over its member nations, the WTO’s administrative structure was designed conservatively, in order to protect the integrity and value of the core agreement. The WTO secretariat, for example, has a limited budget and a small staff, and cannot in principle do anything beyond what its members have specifically delegated to it. Amendments to and interpretation of WTO rules are furthermore regulated by governance mechanisms that protect its basic principles. There are no ‘elastic clauses’ that can create new rules outside the established bargaining framework based on consensus.

An important feature of the WTO core agreement in this regard is that it is backed up by a Dispute Settlement Understanding (DSU). As in any contractual relationship, its value depends on provisions that prevent the loss of benefits due to ‘chiseling’ on the agreement by other members (see Yarbrough and Yarbrough 1992: 40–42). WTO members can challenge the trade practices of other members on this basis, and WTO rules provide for a review by a dispute settlement panel, which decides if the policy in question has

violated WTO principles and thereby ‘nullified or impaired’ WTO trade benefits for the complaining country.

The system encourages a negotiated settlement, but if the panel process finds a violation of the rules (subject to review by a WTO Appellate Body), it can direct the WTO member to change its policy, authorise compensation for the victimised country, or ultimately – if all other exhaustive efforts to resolve the case have come to naught – allow for retaliatory sanctions. The DSU contributes significantly to the institutional value of the WTO by internalising the consequences of violations into the agreement with specific procedures and penalties, strengthening the incentive of access to international products, technology, investment, and/or ideas that accompany trade, in order to recognise the ‘gains from trade’ and participate in trade liberalisation based on reciprocity.

The WTO significantly strengthened its dispute settlement system for the very purpose of improving the protection of members’ core ‘contractual’ benefits. See Milgrom and Roberts (1992, chapter 5) for a general discussion of the issue of bounded rationality and incomplete contracts and Yarbrough and Yarbrough (1992, chapter 2) and Trachtman (1999: 346–50) for a discussion applied to international organisations. The internal decision-making structure of the WTO provides further protection for the core agreement. The WTO is an international institution based on consensus and without independent enforcement powers. It cannot, therefore, act as a sovereign authority over trade policy, imposing and enforcing new rules from above on an unwilling membership. In general, no one country or even a small group of countries, regardless of their size or importance in world trade, is in a position to change the content of the WTO agreements. According to the WTO rules, any amendments that change the rights or obligations of members require approval by a two-thirds majority of all member countries. Based on current membership, a group of 48 or more countries could effectively block a reform programme, for example. In addition, the WTO Ministerial Conference has the power to decide, by a three-quarters vote, whether countries not accepting the amendment will be allowed to remain as WTO members under an exemption from the amendment.

There is, thus, a strong indication in the WTO rules that amendments introduced independently will require nearly universal acceptance in order to be implemented as part of the WTO core. This constraint on reform suggests that an acceptable set of rules on non-trade issues in the WTO system, for example, would require comprehensive negotiations and overwhelming support for a multilateral agreement on all the issues, submitted as a package for a vote. These constraints explain the difficulty of extending the current framework to include trade rules for environmental protection, labour standards harmonisation, or human rights abuses. The only major amendment to the General Agreement on Tariffs and Trade (GATT) itself has been the agreement on trade and development (Part IV) adopted in 1964.

The fact that the importance of a single country or a group of countries is limited in the WTO stands in sharp contrast to that in other international organisations such as the International Monetary Fund (IMF) – Jha and Saggiar 2000, where exercising of power is linked to dollar contributions and have the potential of being arbitrary. In fact, the Uruguay Round reforms to the dispute settlement process removed the veto power of

individual countries, virtually guaranteeing the adoption of panel decisions. See Yarbrough and Yarbrough (1992, chapter 2) for a discussion of dispute settlement as a strategic organisational issue.

IV. Taking the WTO Forward-Thinking Inside and Outside the Box

The WTO today presents a paradoxical picture. We have a global trading system early in the new century: a strengthened global organisation with a growing membership on the one hand; increasing and conflicting demands that the organisation is hard-pressed to satisfy on the other. In this section I indicate some ways to move forward.

The first point to recognise is that the WTO should not be asked to do too many things. For instance, the WTO core agreement amendment was motivated by a desire among the early GATT Contracting Parties – mostly rich industrialised countries – to make GATT membership more attractive to less-developed countries. It would be difficult to make this same argument with regard to adding social and environmental chapters to the WTO.

A challenge — – intellectual as well as administrative – for the global community is to develop new global institutions¹ and to strengthen existing ones to promote environmental quality, human rights, labour standards and the like. These issues do not enjoy a global WTO-like consensus on a framework of commonly accepted rules, rights, and obligations. The expanded institutional framework could take varying forms: extensions of regional economic integration agreements to harmonise environmental standards, issue-specific treaties to protect certain species or reduce certain types of pollution, development and aid pacts with human rights commitments, a strengthened International Labor Organisation (ILO) to promote labour standards, etc. This approach would allow increased participation by issue-oriented non-governmental organisations (NGOs), whose expertise and advocacy could thereby be applied most directly to specific goals. Instead of unilateral trade restrictions, such agreements would also allow a broader range of compliance measures, such as diplomatic sanctions and negotiated agreements. At the same time, it is surely one of the most important challenges of our time that we ensure that the slow progress on these fronts should not be used as a cover for following protectionist policies at the WTO negotiations. Whether the integrity of the WTO can be maintained will depend on the consistent support for trade liberalisation by major WTO member governments. The creation of new non-trade institutions will increase the chances for a favourable outcome because legislators who may otherwise vote against trade liberalisation are more likely to support it if given the opportunity to vote for a World Environmental Organisation (WEO) (or other comparable institutional measure) as part of the package. And given the opportunity to establish a dedicated international agreement for their cause, advocates would find it difficult to reject the compromise of getting a WEO in exchange for leaving the WTO alone.

Second, the WTO system provides an additional benefit, especially for smaller member countries, in acting as a sort of ‘leveling’ device. Because of the most-favoured-nation (MFN) clause, basic WTO rules on market access, and a dispute settlement process, smaller countries are less likely to be bullied by large countries in trade policy matters.

To be sure this institutional feature is imperfect, because large players in the WTO, notably the US and the EU, have disproportionate influence on trade negotiations and the implementation of the agreements. But that is because of their weight in world trade and is not an intrinsic drawback of the WTO itself.

Third, the WTO should not be subjected to goal fatigue. Article XVIIIb of the WTO calls for negotiations with a view to reducing duties. It needs to be stated that the WTO is about freer trade *not* free trade.² There has never been a GATT/WTO negotiating round in which the stated goal was across-the-board free trade. It should further be recognised that the WTO is concerned with bound tariff rates, not applied rates. The focus is on the coverage of tariff bindings, the conversion of specific rates of duty into *ad valorem* rates, and the gap between applied and bound rates. Whether or not the rate is actually zero is a distinct issue. Many countries – developed and developing – are wary of the adjustment costs associated with tariff cuts. Furthermore, the empirical evidence in support of the free trade proposition is not universally accepted. As Panagariya et al. (2001), referring to recent surveys point out, traditional empirical estimates of price elasticities do not support the case for unilateral liberalisation. In contrast, their paper is one of the few to support the case for unilateral liberalisation by substantiating the small country assumption as regards trade policy. But then the EU and the US do not satisfy the small country assumption. Another area of disagreement is the link between trade liberalisation and growth. Rodriguez and Rodrik (2001) point out that policy advice should be careful about data and methodology and, unless this is done, one can come to the conclusion that trade liberalisation does not necessarily and always lead to higher economic growth.

Extension of the GATT rules to services, government procurement and intellectual property has already stretched the system dangerously. With the dispute settlement process generating new rules, which also extend the scope of the WTO into new areas, the cohesion of the membership is weakening.

In principle, trade liberalisation does not conflict with environmental and social goals, and in many ways provides the economic underpinnings that actually support these goals. Reductions in agricultural subsidies and trade restrictions in foodstuffs would, for example, in many cases improve both environmental quality and economic welfare (Esty 1996). Recent studies indicate that trade, by promoting development, also tends to increase preferences for environmental quality (Antle and Heidebrink 1995; Dean 2000). Similarly, the principles and goals of the WTO support the promotion of human rights through increased economic welfare and stability (Petersmann 2000; Lim 2001), and the freedom to exchange goods is, in itself, arguably a human right (Sen 1999; Srinivasan 1996). The role of trade in economic development also contributes to worker rights and labour standards. From a strictly economic theory point of view, trade liberalisation tends to benefit labor in developing countries, the abundant factor of production. It is true that the beneficial effects of trade on non-trade goals are often part of a long-term process that may take many years to come to fruition. Yet governments should avoid any systematic retreat from trade liberalisation, even as part of a strategic effort to enforce global social and environmental standards. Such efforts will harm all countries and erode the economic foundation for progress.

The issue coverage of the WTO has gone well beyond the original mandate of its predecessor, the GATT, which was essentially to reduce tariffs on manufactured goods. WTO agreements now cover a broad range of trade-related issues, including foreign investment and intellectual property rights (IPR), services, and agriculture, among others, most of which are part of a 'single undertaking' that binds the entire membership. The expansion of WTO rules into new sectors and even into new types of trade-related regulations in most cases represents a straightforward extension of the core agreement into new products or variants of market access issues. But the expansion of WTO into policies other than those dealing with market access has proven to be problematical, in that it has complicated the simple reciprocity formula associated with the core agreement. In the Trade-Related Aspects of Intellectual Property rights (TRIPs) agreement, for example, WTO members have agreed to develop and/or harmonise their intellectual property protection laws to a global standard. In contrast to traditional trade rule agreements, which reduce government intervention in markets, the TRIPs agreement requires increased intervention. Furthermore, TRIPs does not enjoy the universal support among economists that free trade does, largely because it represents the protection of monopoly rights, and implies substantial transfers to patent and trademark holding countries from countries that import these products, while trade liberalisation generally implies gains for all participants. One could argue that such negotiations belong in a strengthened World Intellectual Property Organisation (WIPO) rather than the WTO. In addition, some of the more controversial aspects of TRIPs, including compliance timetables for developing countries and the coverage of critical medicines, have been subject to revision and re-negotiation. These complications indicate the problematic nature of WTO bargaining outside the traditional framework of trade negotiations. On the other hand, it is important to understand what the developed countries would be willing to concede in return. Despite the repeal of the Multifibre Arrangement (MFA) we have seen that free trade in textiles is encountering resistance and reducing subsidies for agriculture is an uphill task. In any case, the bargaining price for social chapters would be high, if indeed they became negotiable at all. Progress in these areas is much more likely in a bargaining framework that can more easily internalise both the economic and political trade-offs of an agreement.

Fourth, the dispute settling mechanism within the WTO needs to be strengthened. In recent times, dispute settlement within the WTO has become strong and is no longer based on the rule of consensus. However, the political decision-making process remains *de facto* governed by the principle of consensus. Compared with the new dispute settlement process, the political decision-making process now appears weak and inefficient. As evidence recall the first strenuous attempts to review the Dispute Settlement Understanding (DSU) which were abandoned after the failure of the Seattle Ministerial Meeting in 1999, and the new negotiations to 'improve and clarify' the DSU, launched after the more successful Ministerial Meeting in Doha. Tensions between the dispute settlement process and the political decision-making process have grown in the last ten years. Until 1999, the new dispute settlement system was frequently praised as an important achievement. However, enthusiasm for this has waned considerably since then. It is significant that in his Farewell Speech of July 31, 2002, the outgoing Director General, Mike Moore, did not even allude to dispute settlement in his list of WTO achievements of the last three years.

The reasons for this are clear. The first cases decided under the new dispute settlement system were 'left overs' from the old GATT regime and the results were more or less along expected lines. In addition, the political decision-making process functioned relatively well and successful negotiations were speedily concluded on telecommunications and financial services. After this, the cases decided by panels and the Appellate Body moved into unexplored territory and produced less expected and more controversial results, e.g., those on unsolicited amicus curiae briefs, on balance of payment problems (Article XVIII of GATT 1994) and on regional trade agreements (Article XXIV of GATT 1994).

Fifth, efforts should be undertaken to clearly define and limit the role of outside agencies. In particular in recent times the role of NGOs – particularly from the North – has become controversial. Many member governments profess sound reasons for restricting outside participation in the activities of the Organisation. As Sampson notes (2001, p. 11), 'WTO members justify their reluctance on the grounds that the WTO is both a legally binding instrument and a forum for negotiations'. More than any other international agency, the work of the WTO is linked to intergovernmental negotiations, with the national delegates chiefly acting as actual or potential negotiators and the Secretariat assisting them in that capacity. Few governments, if any, would welcome the active and regular participation of outsiders in negotiating processes, entirely for valid reasons. Further, many if not most of the NGOs, which aspire to greater influence in the WTO either do not share or actually reject the objectives of the Organisation.³ They are opposed to freedom of cross-border trade and capital flows, suspicious of further moves in that direction, and preoccupied with what they see as the damaging effects of globalisation. In these organisations there appears to be a generalised hostility to global capitalism, multinational enterprises, and the idea of a market economy. Moreover, the issue is divisive since the support for closer NGO involvement has largely come from some of the OECD member countries, while it is firmly opposed by the governments of most developing countries who see these NGOs as advocates of non-tariff barriers (NTBs) such as labour standards.

The Role of the Project 'WTO Doha Round & South Asia: Linking Civil Society with Trade Negotiations'

There is a considerable need for increasing the participation of civil society organisations (CSOs) from the South in the WTO debate. Such participation could provide more effective representation for the citizenry of Southern countries including, and in particular, marginalised groups, which will be seriously affected by the way the WTO talks proceed. Such organisations can also strengthen the links between trade, development and poverty reduction.

In this context, the CUTS sponsored collaborative project entitled, 'WTO Doha Round & South Asia: Linking Civil Society with Trade Negotiations', which aims to establish linkage between the CSOs and research institutions while conducting advocacy with the governments and at the inter-governmental organisations. The project has duration of 15 months from January 2005 and is being implemented in five major South Asian countries. The project focuses on five key elements of the WTO negotiations, viz., agriculture, non-agriculture market access, development, services and trade facilitation.

The novelty of this project's approach lies in seeking country positions on these issues from participating countries and then find common ground in order to develop a common South Asian position for the Hong Kong Ministerial and beyond. The remaining papers in this volume are indicative of the fine work being done as part of this project.

There is consensus on the need for greater participation by the developing countries and southern NGOs in WTO decision-making and capacity building to support such participation. It appears that the development community, north and south, is in substantial agreement on a future trade agenda. Among developing countries, however, several authors note differences between the middle-income industrialisers, who are most concerned over the distribution of gains in a new trade round, and the poorest developing countries, who fear marginalisation and require assistance to exercise their right of participation in the WTO. The rift between northern NGOs and developing countries is now reaching dangerous proportions.⁴

V. Conclusions

It is an oft-repeated rhetoric that the WTO stands at a crossroads today. Whereas its appeal has spread far and wide with countries representing more than 90 per cent of the world's population already in it and the rest keen to do so its agenda has been thrown wide open and its operational flexibility compromised.

The forthcoming Hong Kong Ministerial Round faces a number of challenges. As argued above, it could flounder on the issue of agricultural subsidies. It also has to face other pressing issues such as trade in services (Mattoo 2005) and a whole plethora of additional concerns that have encroached into the WTO agenda.

This paper has proposed a set of measures to ensure that the WTO functions smoothly and in accordance with its basic purpose. The WTO cannot be all things to all participating countries and should be allowed to perform its basic functions. This involves focusing sharply on its basic role of liberalising trade to the exclusion of other objectives that are being imposed on it. The WTO's core agreement tends to focus governments' attention directly on trade and the traditional domestic tradeoffs associated with it. Governments implicitly understand that opening WTO negotiations to non-trade issues will complicate the negotiations, although both the US and the EU have introduced such issues into trade discussions as a result of domestic pressures. Partly as a result of such impositions the very relevance of the WTO is in doubt as regional trade agreements proliferate and multilateral tariff reductions take back seat.

At the same time the world community faces the challenge of evolving institutions to address other trade related issues that have global ramifications, e.g., environmental effects, social standards and human rights. The most promising alternative would be to develop international bargaining channels on such issues, where their views and positions will encounter a more efficient negotiating framework. In other words, the alleged 'democratic deficit' would be more easily rectified through the creation of dedicated global institutions or other negotiating opportunities to deal with these issues. Instead of seeking to close the gap by adding social chapters to the WTO — which would erode the WTO consensus by undermining the core agreement — advocates of

non-trade goals should push hard for new international agreements, conventions, and organisations that will give them a direct voice in these matters. WTO negotiations cannot and should not be held hostage to the fact that full consensus on such issues is yet to emerge.

Endnotes

- 1 Thus in the case of trade-environment linkages some authors have suggested the creation of a World Environmental Organisation (WEO). Thus Lodefalk. and Whalley (2002) have asserted the requirement that a WEO should internalize the economic costs and benefits of pursuing their goals. Constructing institutions on the hard rock of economic logic is in principle the most efficient way to improve global welfare. Yet such agreements and institutions will need to internalize the political costs and benefits of cooperation as well. Jha et al. (2002) indicate the contours of the bargaining that might precede the formation of a WEO.
- 2 Bhagwati (2002) and Irwin (2002) present cases for free trade but this is not central to the WTO agenda.
- 3 In this connection, David Robertson has reported (Robertson 2000, p. 1132) his experience that 'A search of NGOs' websites that claim to be part of "civil society" does not reveal any that support liberal trade'.
- 4 This is not to suggest that NGOs do not have an important role to perform in advisory and monitoring capacities. Indeed there maybe a risk that the WTO may become too bureaucratic. This aspect of reality has been well described by William Letwin:

Each particular field of policy is a relatively closed environment, peopled by official and private specialists, who work with recondite information and esoteric outlines, habits and precedents which can only be dislodged against considerable opposition and at the cost of upsetting time-hallowed expectations. Each field of policy therefore runs on with a momentum of its own which persists even when the ensemble of policies is changing its shape. (Letwin 1989, p. 633)

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