

THE WTO AND THE FAILURE TO CONCLUDE THE DOHA ROUND OF GLOBAL TRADE NEGOTIATIONS

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The World Trade Organisation in its short existence faces the possibility of becoming redundant; this is despite its having shown great resolution in rule setting and dispute settlement. The Doha Round, in a manner of speaking, was a touchstone for the future of growth of international trade within the established parameters of globalisation benefitting all countries by ensuring development and fair, rule-based trading that would take fully into account the requirements and needs of developing countries including the those of the least developed among them. This is why care was taken to ensure that the Doha Round of negotiations would give primacy to the development agenda.

It would be appropriate to mention before we go into the details of where the Doha Round stands today that it is perhaps the most ambitious multilateral deal ever in the area of international trade. Its original agenda and the time frame within which it was supposed to be achieved, had it been actually achieved, would have been of enormous benefit to both the developed and the developing countries. Even as of now the offers made in 2008 could lead to a significant reduction in trade barriers resulting in an estimated additional trade in agricultural and industrial goods of \$360-380 billion.

The present position facing the WTO is one that reflects the realities of the 21st century where differences between the industrialised countries and the ‘advanced developing’ countries on fundamentals of the Doha Round have reached a standoff. The main contentious issues have been:

- Trade in agricultural goods: this area is of particular significance as it forms a major part of the development agenda that is supposed to achieve a greater

degree of involvement of the majority of the developing countries in the rule setting and implementational aspects of the WTO and the globalisation process.

- NAMA (Non-Agricultural Market Access): Here there is a push by the industrialised countries particularly on the emerging economies, the so-called G-20 within the WTO context, who are expected to make deeper cuts in tariffs and extend greater market access.
- Services: Here the differences are to a degree narrower. There are, however, gaps in areas of interest to developing countries where the existing voluntary steps taken need to be translated into legal bindings, as this would act against any future protectionist tendencies. One of the remaining contentious issues remains mode 4 relating to cross border movements. There is also agreement to be reached on recognition and grant of equivalence of educational and professional degrees which would lead to greater professional movements to mutual benefit. The member countries have concluded the 'request and offer stage' but the negotiations to arrive at a general agreement have still to be finalised. In the case of India one of the areas which remains outstanding relates to professional services as India has so far negated any attempts to make an offer in the case of legal services. However, in general terms it is accepted that in this segment of the Doha Round the conclusion of the negotiations and the adoption of an expansive GATS regime is achievable.

One of the main aspects of the development agenda is the continuation and to an extent the expansion, of the differential treatment to developing countries. This is an area where again there is a considerable gap. The gap is largely on account of the approach by the industrialised countries for a graduation away from differential treatment for what have come to be described as the 'advanced developing countries'.

Here it is worth mentioning that in the old GATT, and subsequently in the WTO, the developing country combine, the G-77, has never functioned. This was understandable as the normal aspect of trade in goods is one where there has to be

a degree of bargaining and the developing countries as a whole had a very weak hand. It was only a few among them who had some bargaining power and could therefore promote the essentials of differential treatment for developing countries. However the trends of global economic growth in the past decade have resulted in the emerging economies gaining in bargaining strength; this has had both a positive and negative impact on the negotiations.

The positive impact obviously has been the recognition that countries like India, China, Brazil and Russia, for instance, have now attained such economic clout that the Doha Round conclusions have to be more balanced and have to cater to their requirements which have to an extent been identified with meeting the requirements of the G-20 group of developing countries.

The negative element has been the identification of these countries as ‘advanced developing countries’ and as such the view taken that they cannot have the same levels of differential treatment as is admissible for developing countries. In reality we now have a three way divide where the developing countries are concerned viz., the least developed countries, the developing countries and, lately, the advanced developing countries. This has made for greater complications in the negotiations.

Perhaps it would be correct to suggest that on almost all areas there has been negotiated progress and the final bargaining positions are not too far apart. The two areas where the gaps remain are primarily trade in agricultural goods and NAMA. In the case of NAMA, however, one could legitimately assume that the gaps are today being held as negotiating positions that could be resolved once agreement is reached over agriculture. In other words, agriculture is the touchstone where the differences between countries like India and the USA-EC combine need to be resolved for the Doha Round to come to a conclusion.

Agriculture

The complications pertaining to trade in agricultural goods can be spelt out in one sentence: the US and the European Union are not willing to go far enough to meet the demands of the ‘advanced developing’ countries, that they should establish

a time frame by which all subsidies that distort agricultural prices in their countries should be done away with; and the US, EU and Japan for their part want that safeguards impacting on agricultural imports by the advanced developing countries be reduced and made to disappear over an agreed time frame. Perhaps the problems could best be understood if it is stressed that what the negotiators are striving for is balance between the demands of the developing countries and the developed countries on the three pillars of agricultural negotiations viz., domestic agricultural support programmes, export competition and market access. There are no problems with the principles involved which would call for a limiting of domestic financial outlays on trade distorting domestic support, elimination of export subsidies and expansion of market access by lowering of tariffs, increasing quota commitments and limiting the use of safeguards to mutually acceptable levels.

The original expectation was that the WTO Ministerial meeting in December 2008 would lead to a successful conclusion of negotiations. However the July 2008 Mini-Ministerial which it was hoped would result in resolving the differences ended up signalling the WTO that it had failed in narrowing the gaps on the most contentious issues. The main area of failure revolved around the Special Safeguard Mechanism (SSM) in agriculture which is the mechanism that developing countries can use to raise tariffs to control import surges or price falls of sensitive agricultural items. This had almost spelt the failure of the DDA, but political good sense eventually prevailed and in 2009 the round in a sense was revived.

India was one of the strongest proponents of the instruments of Special Products (SP's) and SSM's. Its contention was that, given the commitment of the Doha Round to the development agenda which was to bring greater benefits to the developing countries, it was imperative that the interests of the poor and vulnerable farmers and the vital issue of long term food security of developing nations were safeguarded even while accepting the benefits of commercial interests guiding international trade. The situation is one where the differences in what would trigger the use of these mechanisms remain very wide. For instance, the richer countries feel that the point at which the SSM could trigger off is when the imports were 40% higher over an average of the last three years imports. This was not acceptable to

the developing countries as a whole as it was substantially higher than the point at which developing countries had been using the Special Safeguards after the 1995 Agricultural Agreement came into being under the WTO. All efforts to resolve this issue have so far failed. What needs to be stressed is that the demand for a higher trigger would in effect result in safeguard tariffs failing to secure the security of the vulnerable sections of the farming communities and would also come to negate the requirements of food security. As for the SP's, the Hong Kong Ministerial meeting had accepted that the developing countries could self-designate the agricultural products that would face less than the accepted formula for lowering tariffs.

Apart from the issue of the SSM, there are continuing differences over a number of developing country issues like subsidies to cotton, preference erosion, tropical products, trade-related aspects of intellectual property rights etc. It is obvious that unless the agricultural issue is resolved to mutual satisfaction the Doha Round would not progress but would remain stalemated.

At the end of 2008 the Chairman of the Agriculture Committee had managed to convince the committee to adopt a new draft text known as the "modalities framework" which was an attempt at freezing the progress so far made and in pinpointing the differences. This locked in the areas where there was agreement on specific formulas and time tables covering trade distorting farm support, tariffs and export subsidies and the opening up of import markets as well as marking out the outstanding issues. These were a practical attempt at keeping the record straight and re-establish the commencement of negotiations in 2009. Interestingly, even at this stage the farm lobbies, officials and the congress in the US had objected to what they saw as too many concessions reflected in the text of the modalities framework. The text according to them (inclusive of the commodity boards) was heavily balanced in favour of importing countries like India.

At this stage it would be pertinent to point out that the December 2008 Ministerial, that had been planned by the WTO Director General Lamy, was cancelled and since then, for all practical purposes the negotiations have not progressed. While attempts have continued and much effort to achieve a balanced

agreement have been expended there has been no real progress on the contentious issues. On top of it, the American Presidential elections have now taken front space and the US has clearly indicated that nothing can happen till after the election. What remains the main contention of the OECD countries, and more specifically the American position, is that unless there is a resolution of greater market access for their agricultural products by the more advanced developing countries there would be no real progress in the negotiations on agriculture. The formal US position is that the need is for bilateral discussions for arriving at understandings that could thereafter become part of the multilateral agreement. This is an effort to break up the unity of the G-20 and the G-33 that are the present developing country negotiating mechanisms.

Consequences of the Stagnating Doha Round

There are, as could only be expected, two major negatives of the failure to conclude the Doha Round, both of which have weakened the rule making aspects of the WTO and have resulted in major concessions in the context of bilateral and regional trading agreements. Concessions that the member countries should be extending to each other on a universal application basis that would be implied if they were extended under the WTO are in fact being made available under the guise of the RTA's. For instance, in what is obviously a contradiction of India's position in the WTO on bringing down its very high tariff-based market access barriers to agricultural imports in its bilateral agreements with countries like Malaysia, it has agreed to reduce import duties, albeit on a marginal basis to start with, but with the implication that it would reduce these further. It also means that if eventually it agrees to market access arrangements which go deeper than those agreed under bilateral agreements or regional trading arrangements, it would have to grant proportionately deeper tariff cuts to maintain the agreed-to differentials. This clearly shows that such agreements outside the bounds of multilateral rule making would end up reducing the effectiveness of the WTO.

Another negative aspect that needs to be taken into account is the fact that the WTO's Dispute Settlement mechanism is being increasingly used to arrive at

settlements outside the rule making mechanisms of the WTO. This is an element that could eventually reduce the effectiveness of the Dispute Settlement mechanism in terms of the possibility that the losing parties may refuse to implement the findings. It is also against the spirit of rule-based international trade that would eventually be balanced between the benefits for the developing countries and the developed countries as a whole. The world needs a growth based system in place that would reduce in time the gaps between the haves and the have not's. After all, this was the basic meaning attached to the Doha Round being the Development Round.

Conclusion

It is apparent that there will be no resolution of the issues while the election process is on in the United States and as such the possible closing of the Doha Round in a successful agreement is unlikely before the end of 2013. Further, with the changes in the global economy already underway and the problem of a change in the distribution of economic strength among the US, the European Union and other countries like Japan at one end and the BRIC's on the other the entire bargaining stream could change in content and direction. The areas of global responsibility for keeping the world economy on a growth path itself are changing and could well result in increasing protectionist trends. This would not be in the interest of countries like India. Even more than the developed countries, the emerging economies need an acceptable rule-based system in place to maintain their higher rates of growth. Eventually and in the not too distant future, these countries, particularly China and India along with Russia and Brazil, will become the global drivers of growth along with the US. These countries would need a rule-making and rule-based system that ensures an orderly trading system. It is therefore in their interest that the WTO is strengthened and not weakened.

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