

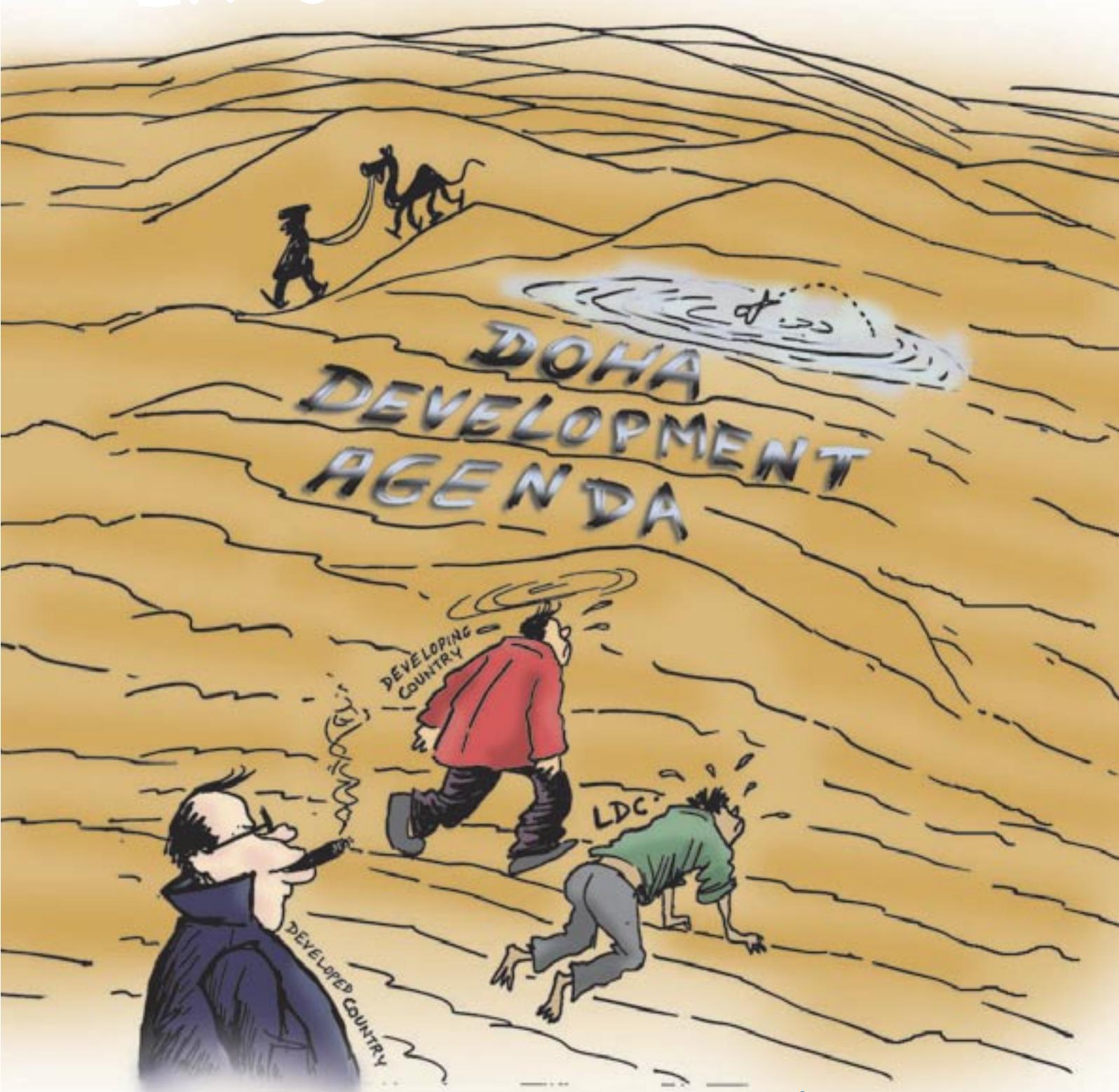


TRADING



Centad
Centre for Trade & Development

For Private Circulation Only



Hong Kong Ministerial Chasing the Development Mirage



Hong Kong Ministerial Chasing the Development Mirage

Editorial

Negotiating Development or Negotiating for Development



Lifting the Veil
**The Doha Round:
Hopes Alive, But Only Just!**

4 Trade Nuance
**Hong Kong and LDCs –
Little to Cheer!** 20

Trade Talk
An Interview with Duncan Green

8 Through the Looking Glass
**Affordable Medicines:
The Beginning of an End?** 22



Trade Nuance
Imbalance in Hong Kong

10 Trading Facts
Glaring Disparities 24

Trading Words
**An Interview with Debapriya
Bhattacharya**

15 Trade Works
**Hong Kong Ministerial Conference
and Development** 26



Trade Talk
An Interview with Rupa Chanda

18 Trade Arsenal
Glossary 29

Editor: Dr Samar Verma
Executive Editor: Dr Biplove Choudhary
Associate Editor: Prabhash Ranjan

Editorial Board:
Robin Koshy and K M Gopakumar

Cartoons: Sharad Sharma, World Comics

Caricatures: New Concept Information Systems

The views expressed in the articles and interviews in the magazine are those of the authors, and may not necessarily reflect the views of Centad or Oxfam GB.

Published by
Centre for Trade & Development (Centad)
406, Bhikaiji Cama Bhavan
Bhikaiji Cama Place, New Delhi - 110066, India
Tel: + 91 - 11 - 41459226
Fax: + 91 - 11 - 41459227
Email: centad@centad.org
Web: www.centad.org

Design and printing: New Concept Information Systems
www.newconceptinfo.com

Centad is grateful to Jaideep Krishnan for providing editorial comments.

Negotiating Development or Negotiating for Development

The WTO Ministerial held in Hong Kong between 13-18 December 2005 was a colourful event. At the venue, trade negotiators, armed with unlimited coffee, were busy disciplining the July Declaration of 2004, while protesters called for an end to the negotiations. The media seemed pleased with the flow of news, from that of Korean farmers jumping into the cold winter sea to that of Pascal Lamy waving his magic wand.

In terms of the final output, in the form of the Hong Kong Declaration of 18 December 2005, some experts labeled the progress as simply five percent. A few centrists stated that the expectations before Hong Kong were so highly downplayed that we should be comfortable with the fact that the wheels of trade negotiations did not run backwards.

The Hong Kong Ministerial was undoubtedly a milestone. First, it reinforced the fact that the Doha Development Agenda was not quite developmental. Developed countries sought reciprocal benefits and were unwilling to give even lip-service to development concerns. The first day of the Ministerial started with a puzzling digression from the agenda, and involved discussions on aid-for-trade, allegedly a ploy by developed countries to win over least developed countries (LDCs). The EU sabotaged efforts for an early decision on the final date for elimination of export subsidies, until the last day of the Ministerial. In addition, instead of 2010, which was the call by almost all countries including the US, the EU pushed the date for elimination of subsidies to 2013. The US was unwilling to provide, without safeguards, duty free quota free (DFQF) access to LDCs. On the final day, they agreed to provide access to 97 percent of tariff lines, to the dismay of several LDCs. Even in the services talks, the EU was not ready to substitute the controversial Annexure C with a more flexible text, though many developing countries proposed an alternative text. By the end of the Ministerial, along with services-aggressive countries like India, other developing countries managed to secure a less diluted Annexure C.

The Hong Kong Declaration fell short in key areas. None of the formulae for tariff reduction was ready. Flexibilities in NAMA and agriculture are still under negotiation. In services, while a stricter framework for negotiations is envisaged, it is impossible to predict the nature of contents in the final schedule of commitments of a Member country. The continuation of the negotiations in Geneva also implies that the most important negotiations will happen in the rooms of the WTO, where green rooms abound, and the role of the secretariat is not exactly neutral.

On a better note, a heartening development in the Hong Kong Ministerial was that of South-South solidarity. The G20, G33, ACP countries and the African Group all came together to form the G110 and developed a common negotiating position.

Nevertheless, much remains to be done. From July 2004 to December 2005, negotiations have simply moved from 50 to 55 percent. However, the rest of the run, from 55 percent to 100 percent is to be finished in Geneva. In agriculture, modalities have to be established before 30 April 2006, including the disciplines on export credits, export credit guarantees, insurance programmes, exporting-state-trading enterprises and food aid. The same deadline is set for NAMA negotiations wherein both the formulae and the flexibilities have to be negotiated. The services negotiations require the final schedule of commitments to be submitted by 31 October 2006.

This issue of Trading Up focusses on the Hong Kong Ministerial and beyond. It provides insights into what was negotiated at Hong Kong. Experts give you their opinion on whether Hong Kong was a success or a failure and on what the future direction of the modalities will be. In the next few months, Centad hopes to contribute effectively to the negotiations. Your comments, criticisms and suggestions are strongly encouraged and we will welcome them.

■ Dr Samar Verma
Regional Policy Advisor
Oxfam GB

The Doha Round: Hopes Alive, But Only Just!

Prabhash Ranjan

The Sixth Hong Kong Ministerial Meeting of the World Trade Organization (WTO) agreed on a Declaration; therefore, the Meeting was not a technical failure. In order to avoid a Seattle or Cancun type of scenario, it was critical, perhaps, for the WTO Members to keep faith and their hopes alive, even if nominally. In this sense, it was necessary to project the Hong Kong meeting as a success. The standoffs on virtually all issues on the Doha 'Development' work plan cannot be illustrated better than by noting that for the WTO to take what were termed graphically as 'micro steps', it took the negotiators 450 meetings, six major gatherings, 200 consultations, six sleepless nights and 350 cups of coffee in one night! As one commentator in the Financial Times, wrote, paraphrasing Winston Churchill, 'Rarely in the history of international negotiations have so many laboured so long to produce so little'.

However, when Ministers from 149 countries come together to take decisions that could have far-reaching impact on the lives of the poor across the globe, one needs to go beyond technical successes and evaluate the Declaration in terms of the 'development' objectives it was meant to achieve. In this sense, it is pertinent to ask whether Hong Kong did enough to address genuine developmental concerns or was

it merely yet another occasion for the display of jingoism, political rhetoric and for blame games. Unfortunately, as the foregoing analysis reveals, the latter seems to have been the case, with development once again taking a backseat.

Agriculture – Much Hype, Less Substance

One of the so-called 'tall deliverables' of the Hong Kong Ministerial was the setting of an end-date for agricultural export subsidies. The developed countries have agreed to eliminate all export subsidies on agriculture by 2013. However, before we start celebrating the decision, it is important to understand the political and economic nuances of the agreement.

When the Ministerial started, the EU was not willing to agree on an end-date for eliminating export subsidies. Their argument was that the hands of the EU Trade Commissioner were tied; he could not make any decision without consulting the member-states of the EU. The US too attempted to give the impression of not being able to negotiate before consulting the Congress. Even if one were to accept the argument at face value, one is left wondering why the US and EU chose to negotiate if they did not have the mandate to do so. This

Box 1

Hong Kong Declaration: At a Glance

Issue	What was agreed in Hong Kong?	What was pushed to future?
Agriculture	Export subsidies will be eliminated by 2013, developing countries can self-designate products as special products and have recourse to special safeguard mechanism.	How to reduce domestic subsidies, how to cut tariff rates.
NAMA	A Swiss formula with coefficients for tariff reduction, sectoral initiative will be non-mandatory, flexibilities to the tariff reduction formula will be a stand alone provision.	The exact structure of the formula, tackling non-tariff barriers.
Services	Plurilateral approach for offer-requests, timelines for submission of offers.	The implementation of the timelines.
Other issues	Duty free quota free (DFQF) access to at least 97 percent of the commodities of LDCs in developed countries, timeline to review progress of reconciling TRIPS and CBD.	How to actually settle the conflict between TRIPS and CBD, conclusion of negotiations on rules.

(Also See Box 2 on Page 27)



The Evergreening WTO Talks

specious argument was contested by the developing countries, and prompted India's Commerce Minister, Mr. Kamal Nath, to comment that the US and EU were acting as if other democracies did not have internal compulsions.

It was agreed by most analysts that an end-date to export subsidies was perhaps the least controversial 'quick win', which Hong Kong should have started with, while building on it to reinstate faith of the developing countries in the Doha Round. However, with the EU keeping its cards close to its chest throughout the entire negotiations, attempts were made to drive a hard bargain.

The first draft of Declaration, released on 17 December 2005, had a bracketed date of 2010 for the elimination of export subsidies. Anything written within brackets means it is still to be negotiated and is not final. The brackets were not acceptable to the G20. Brazil said that if the Members could not agree on even an end-date, the Hong Kong Ministerial Meeting was probably a waste of time. It was only in the final hours of the Ministerial that the G20 and other countries were successful in persuading the EU to remove the brackets, but at the cost of writing 2013 instead of 2010 as the end-date!

Export Subsidies: Illusory Gains

The agreement to eliminate export subsidies has no real benefit because of many reasons. First, most developing countries, led by agriculture-exporting countries such as Brazil and Argentina, wanted 2010 and not 2013 as an end-date. The Brazilians

accepted the end-date of 2013 only reluctantly, and on the promise that elimination would be progressive and front-loaded. This promise, in the second draft of 18 December 2005, was an improvement on the first draft. It was a clear attempt to cajole the G20, particularly Brazil and Argentina, as countries like India, who have a predominantly defensive interest in agriculture, were not too concerned about the end-date.

Secondly, the EU is already committed to removing all its export subsidies by 2013 under its Common Agricultural Policy (CAP) reform programme.

Thirdly, and most importantly, export subsidies constitute a minuscule proportion of the overall quantum of trade-distorting subsidies in the developed countries. In the EU, for instance, export subsidies constitute only about 3.6 percent of the overall farm support. Even this insignificant reduction has been spread over a period of seven years and will hardly affect the fundamental distortions in international agricultural trade.

In the unequal power play that characterises the WTO, the rich countries invariably get their own way in terms of their internal policy requirements and timelines, while the developing countries are arm-twisted into tacit acceptance. The supreme irony, however, is that even the end-date of 2013 comes with a rider: the Declaration states that the end-date will hold only after the modalities are completed. Hence, at least technically, the date cannot be treated as final.

Domestic Support: The Impasse Continues

While developed-country negotiators flip-flopped over the end-date to export subsidies, the Ministerial was silent on the critical issue of domestic support, which constitutes the bulk of trade-distorting agricultural subsidies in the developed countries. The deal that was brokered in July 2004 had a few loopholes vis-à-vis reducing domestic support. The biggest slip-up was the mandate to reduce domestic support from the current bound levels (the maximum permissible limit of subsidy). The Hong Kong Declaration has, unfortunately, cemented it. Some minor tinkering, such as the call for developing effective disciplines to achieve effective cuts, has however been carried out.

It is known that in the developed countries, there exists a major difference between the bound and applied levels of domestic support. For instance, in 2001, the bound level of subsidies for EU was 67159 million euros, but the applied or the actual subsidy was only 39281 million euros; a difference of 41.1 percent. In such a case, any cut of less than 40 percent from the bound level will not have any impact on the present levels of subsidies. Therefore, to have effective cuts and to mitigate the trade-distorting effects of these subsidies, it is necessary to cut them from their present applied levels. Else, it is important to have a very high cut in the bound levels to make these cuts effective, something that the Hong Kong Declaration talks about. In the above example, a cut of much more than 40 percent from the bound level is needed to make it effective.

Special Products and Special Safeguard Mechanism

The issue of flexibilities hogged the limelight in the negotiations on market access in agriculture. Countries like India demanded that exceptions to market access be put in place before negotiating the exact structure of the tariff-reduction formula. As a redeeming feature for developing countries such as India, the Ministerial Conference witnessed some forward movement in allowing developing countries to have an escape clause while fulfilling market access commitments. This escape clause exists in two forms: first, as Special Products and secondly, as Special Safeguard Mechanism.

Under Special Products, the Hong Kong Declaration states that developing countries will have the flexibility to not subject an appropriate number of products to tariff reduction commitments. These products will be chosen on the basis of criteria such as livelihood and food security and rural development. More importantly, the selection of these products will be made by the countries themselves. It is hoped that the

window of self-designation will give the required flexibility to developing countries. However, the moot issue relates to the ambiguity over the term 'appropriate number'. The first draft, without specifying the number, did talk of having an upper limit while designating products as Special Products. It stated that developing countries will have the flexibility to designate up to 'x' (unknown value to be finalised) percent of their tariff lines as special products. It was hoped that countries would be able to agree on a specific number to replace 'x' in the Declaration. The G33 suggested that developing countries should have the flexibility to keep 20 percent of their products outside the ambit of reduction commitments. However, this was not acceptable to developed countries, and no agreement could be reached. Hence, the final Declaration did not specify an 'appropriate number', and therefore conveniently postponed a decision to Geneva.

The Declaration also talks of developing countries having recourse to a Special Safeguard Mechanism that will protect them from cheap imports. In other words, when there is a surge in imports, either due to depressed prices or increased volumes, developing countries will have the right to restrict these imports either by imposing additional duties or by restricting the quantity.

NAMA – A Confusing Mixed Bag

Another important issue that has engaged countries in global trade negotiations is Non-Agricultural Market Access (NAMA), or the market access of non-agricultural or industrial goods. Developing countries such as India have two major developmental concerns in NAMA negotiations. First, developed countries should reduce or eliminate high tariffs on products of export interest to developing countries. Secondly, developing countries should have the necessary policy space to use industrial tariffs to pursue the goals of industrialisation.

Interpreting the Swiss Formula

The Hong Kong Ministerial did not witness much movement on NAMA. Nevertheless, there have been some noteworthy developments. On the most contentious issue, that of tariff-reduction modality, the Declaration states that a Swiss Formula with coefficients shall be adopted. In other words, the tariff-reduction formula that will be used to cut industrial tariffs will have more than one coefficient. This means that the EC proposal for a Swiss formula with a single coefficient for both developed and developing countries has been abandoned.

However, a 'Swiss formula with coefficients' implies two things. First, there could be a simple Swiss formula that has



Aiding Trade or Bribing Trade

two coefficients – one for developed countries and the other for developing countries. For instance, a simple Swiss formula with the single coefficient in the formula would have the value of the co-efficient as 5 for developed countries and 15 for developing countries. This is a simple Swiss formula, as it has only one coefficient simultaneously when applied to a particular tariff line.

Secondly, there could be another Swiss formula, which has 1, 2, 3 or 'n' coefficients with all of them being a part of the formula. For example, there may be a Swiss formula, which says that apart from the single coefficient, say 5, the country's average tariff rate, say X, will also be a part of the formula. In this case, we have a formula that comprises of two coefficients simultaneously when it is being applied to cut a particular tariff rate.

Now, what needs to be decided in Geneva is which of these two interpretations should be adopted. India, Argentina, Brazil and the Caribbean countries would certainly prefer the second. In other words, they would prefer a Swiss formula where factors that reflect the tariff structures of individual countries, such as the average tariff rate or the effect of reduction of tariffs on revenue, are taken into account while reducing industrial tariffs. Even if the first interpretation is accepted, there should be a large difference between the two coefficients for developed and developing countries.

Flexibilities in NAMA

Developing countries expended their negotiating capital and energy on flexibilities, rather than on the tariff-reduction modality. Just like in agriculture, developing countries were keen to make sure that flexibilities, or the escape clause provisions in NAMA, are reiterated as a stand-alone provision. The July Agreement states that developing countries will have the option of keeping a certain proportion of their tariff lines outside the tariff reduction process (flexibilities), and that this will be independent of the tariff-reduction formula. However, there were attempts by developed countries, after the July Agreement, to link tariff-reduction with flexibilities. In one of its proposals, the EU wanted developing countries that use the flexibilities to cut their tariff rates at the same rate as developed countries. It also wanted only those developing countries that do not use the flexibilities to get 'credits' that could be used to increase the coefficient for tariff-reduction.

In other words, the EU proposed that countries that use the flexibilities be penalised with steep tariff-cuts. Such an erroneous and anti-development proposal would have meant virtually rewriting the July Agreement. This was not acceptable to developing countries. The concern regarding the rewriting of an agreed text brought nine countries together to form a core group on NAMA. This group was successful in getting a reaffirmation in the Declaration regarding the importance of the flexibilities in the NAMA negotiations.

Contd. on page 13

‘Doha Round is Seriously Off Track...’



Duncan Green, one of the leading policy researchers on trade and development, talks to Centad on the deal in Hong Kong.

Centad: In the assessment of the World Trade Organization (WTO), the Hong Kong Ministerial has served to put the Doha Development Round back on track. Do you agree with this analysis? In your opinion, where does the Doha Development Agenda stand after Hong Kong?

Duncan Green: Absolutely not. In fact, the Hong Kong Ministerial confirmed that the Doha Round is seriously off track, in terms of being a ‘development round’. The Ministerial meeting was a lost opportunity to make trade fairer for poor people around the world. Rich countries put their commercial interests before those of developing countries. The small progress in agriculture was more than cancelled out by anti-development texts in services and industrial tariffs. Most of the difficult decisions were put off. The title ‘development round’ was always more aspiration than reality, but in Hong Kong we saw that for the most powerful countries, it had ceased to be even that.

Centad: Agricultural dumping was only marginally addressed in Hong Kong by way of an end-date to elimination of export subsidies, while the core issue of domestic subsidies was bypassed yet again. Do you think there is sufficient ‘political will’ in the EU and the US to take on powerful domestic vested interests for resolving the agriculture deadlock?

Duncan Green: An end-date of 2013 was later than what almost all countries wanted (an end-date of 2010). Besides, export subsidies are a relatively minor part of the farm support that leads to dumping; they are used mainly by the EU (subsidies in the EU amount to 2.5 billion), and constitute only 3.6 percent of overall EU farm support. They would have largely been phased out by 2013 in any case under the Common Agricultural Policy (CAP) reform timetable.

The real battle is over domestic subsidies, and this debate is dominated by domestic politics and the agri-business lobbies in both the EU and the US. In the US, the Bush

administration is facing record deficits and may look to try and lower subsidy levels in forthcoming negotiations on the farm bill. The EU is split between countries that are net recipients of funding from the CAP, such as France, and those that are net donors, such as the UK. To reverse the usual politician’s cliché, this is not a matter of principle; it’s a matter of money! However, the WTO debate can play an important role. For example, the cotton ruling against US subsidies has strengthened the hand of the reformers in Washington.

Centad: Duty free quota free (DFQF) market access for LDCs, elimination of subsidies on cotton and aid for trade, are being bandied about as development achievements at Hong Kong. What is your assessment of the ‘LDC package’ and the tall ‘development friendly’ claims being made on account of it?

Duncan Green: The ‘development package’ is no substitute for a ‘development round’. DFQF market access will be provided for all LDCs on a ‘lasting basis’ by 2008 for at least 97 percent of all products. The decision was a step back from the Doha mandate of full DFQF access, and much less generous than it sounds, as the key export products of most LDCs will be exempted. Almost 94 percent of tariff lines already enjoy access to the US at low or zero tariffs, and in any case, LDCs tend to export a limited range of products. Three percent comprises some 330 tariff lines, when 20-25 tariff lines currently account for some two-thirds of Bangladesh’s total exports. The US insisted on a ceiling of 97 percent of tariff lines precisely because the ceiling allows it to protect its textile and garment sectors from imports from countries such as Bangladesh, Cambodia and Nepal (which it tried to exclude altogether earlier in the meeting). That ceiling also allows Japan to continue to protect rice, fish, leather goods and footwear.

On cotton, the ‘Cotton 4’ group of Mali, Chad, Benin and Burkina Faso achieved limited progress on eliminating export subsidies and reducing other subsidies faster and

further for cotton than for other crops. However, rather than being separately negotiated, cotton has become part of the wider agriculture negotiations. This is particularly outrageous, because both the 'concessions' fall short of the findings of the cotton dispute panel. In Hong Kong, US negotiators managed to turn a dispute settlement ruling against the US into a bargaining chip, for which developing-country negotiators were expected to make concessions in other areas!

On 'aid for trade', Oxfam's overriding concern is that this is unlikely to involve significant new money on top of that already pledged earlier in the year. Instead, money already promised will be re-branded as 'aid for trade', and could be tied to concessions from aid recipients.

Centad: How do you interpret the current state of play in Non-Agricultural Market Access (NAMA)? Do you think the current formula approach to tariff binding that is under consideration would afford enough protection to the industries of developing countries?

Duncan Green: Developed countries in Hong Kong pushed hard for a tariff-reduction formula (known as a 'simple Swiss' Formula, although its simplicity is relative) that cuts higher tariffs more than lower ones. This puts developing countries at a disadvantage since their tariffs are generally higher, and is in direct contradiction of the 'less than full reciprocity' promised in Doha.

In Hong Kong, a new grouping, the so-called 'Core Group' comprising nine countries led by India and South Africa, sought to keep flexibilities for developing countries, while curbing northern tariff peaks and escalation. They successfully fended off text on a simple Swiss Formula, and managed to get some more general language ('Swiss Formula with coefficients') that opens the possibility of using a different, more pro-developing country formula, such as that proposed by the Argentina, Brazil, India (ABI) group. That battle now returns to Geneva in essentially the same state as it was prior to the (Hong Kong) Ministerial.

Overall, however, the Ministerial agreement is still essentially the unacceptable recipe for de-industrialization that was so controversial in the July 2004 Framework Agreement negotiations. The history of almost all successful economies shows that most developing countries need to protect industries during their take-off periods, and lower tariffs as they develop. A bad NAMA agreement could therefore 'kick away the ladder' of development.

Centad: The outcome on services is certainly the most contentious component of the Hong Kong declaration. Do you view qualitative benchmarking and the acceptance of a

plurilateral approach as a backdoor entry to ultimately moving towards dismantling the flexible architecture of the General Agreement on Trade and Services (GATS) agreement?

Duncan Green: That certainly seems to be the intention of the rich countries, led by the EU. They want to change the structure of the GATS negotiations half-way through the round, moving away from a more development-friendly bottom-up approach, agreed by the developing countries as the basis for including services in the WTO, towards something more closely resembling other areas of negotiation. This has to be resisted – many developing countries are only just developing modern service sectors, and they would be ill-advised to surrender further policy space they may need to use in their industrial policies as they seek to upgrade their economies into the service sector.

Centad: How do you think the negotiations will play out in the future? Do you visualise a repeat of the July 2004 process, where most decisions were taken behind closed doors by a few countries? In such a scenario, what do you think should be the role of civil society organisations?

Duncan Green: In the short term, an attempted re-run of the July 2004 General Council looks likely. In order to try and reach the Hong Kong Declaration's 30 April 2006 deadline for modalities in agriculture and NAMA, delegates will have to meet in the first few months of 2006 and there isn't time or appetite to organize a full Ministerial. Oxfam has serious concerns about this. It is vital that any such decision does not seek to move negotiations behind the closed doors of the WTO, away from public scrutiny, and even from some ministers, as happened to some extent in July 2004. A General Council is not the place to make decisions of this gravity. If the WTO ignores these concerns, the task of civil society organisations will be to keep the spotlight on the decision-making process, even though access is more difficult in Geneva.

In the longer term, I think we are now in for a 'long round' stretching into the next decade. Under the US government's 'Trade Promotion Authority' (better known as 'Fast Track'), Congress is only able to vote for/against trade agreements negotiated by the government, but not amend them. Fast Track runs out in June 2007, and without it Congressional consideration of a trade agreement is considered legislatively impossible. Given the time it takes to agree on modalities and then complete individual country schedules, I believe the round cannot now be completed before Fast Track expires. The mood in the US Congress is such that Fast Track is not expected to be renewed any time soon.

■ Duncan Green is Head of Research, Oxfam GB, Oxford, United Kingdom.

Imbalance in Hong Kong

Bhagirath Lal Das

Doha opened the door in 2001 for correcting the inequities and imbalances in the WTO agreements, and Hong Kong provided an opportunity last December to take concrete steps towards this end. However, the opportunity has been lost. The WTO negotiations appear to be set on the usual path of pressure tactics by developed countries and of weak submission by developing countries. The irony is that the major players among the developing countries keep announcing that they have obtained the best results. A reality check is necessary to keep us on the right track in the negotiations in future. It is even more necessary as the developed countries are showing signs of assuming an aggressive approach in the coming months. This may be crucial, as the target set for working out modalities in agriculture and NAMA (industrial tariff) is the end of April 2006, and that for the final schedules of commitments in services is the end of October 2006.

Proposals of Developing Countries

It shall be relevant to go back in time a little. On the basis of the experience of the operation of the WTO agreements for almost five years by the end of 1999, the developing countries prepared a set of nearly 100 proposals to remedy the imbalances and inequities in the WTO agreements. These proposals formed an integral part of the official document for the Seattle Ministerial Conference in December 1999 and came to be known as 'implementation issues'. The Doha Ministerial Declaration attached 'the utmost importance' to them, but they were mired in technical and procedural squabbles, and therefore not on centre stage in Hong Kong.

Two other important subjects that are of special interest to developing countries, but continue to languish in a technical and procedural quagmire, are special and differential treatment of developing countries and non-tariff barriers affecting agricultural and industrial products. On the former, the Doha Ministerial Declaration speaks of 'strengthening them and making them more precise, effective and operational'. The latter forms an integral part of the exercise for enhancing market access and have been included in the negotiations on agriculture and non-agriculture market access (NAMA).

The developing countries have not been able to bring these subjects into prime focus. The Doha Ministerial Declaration stipulates that 'conduct, conclusion and entry into force of

the outcome' of the entire negotiations shall be treated 'as parts of a single undertaking'. However, there is no parity yet in the progress made in these three subjects, or even in the attention given to them, with that in the three areas in focus: agriculture, NAMA and services. This brings us to these three subjects, which claimed total attention in Hong Kong.

Agriculture

Very little happened in the negotiations on agriculture in Hong Kong. In this sector, what is much more important is what did not happen, as will be explained later. The Hong Kong Ministerial Declaration (the Declaration) has only three concrete decisions in the area of agriculture. They are that

- (1) export subsidy will end by 2013,
- (2) developing countries can self-designate some products as 'special products', in which tariff reduction will be less stringent and
- (3) a large number of the developing countries can retain their permissible *de minimis* level of domestic subsidy.

Let us see what these decisions mean in practice.

Continuance of the export subsidy until 2013 is a big tragedy. The EU spends about 3-4 billion euros on it annually. The US provides it mainly in the form of food aid, a substantial portion of which has an adverse commercial impact on the export prospects of other countries. The export subsidy is given generally to large exporting firms; it does not go directly to the farmers of the exporting countries. It puts the farmers of the importing countries at great disadvantage and, in the case of the farmers in developing countries, even threatens their income and livelihood. There is absolutely no justification for it to continue even for a year. Now the Declaration ensures its continuance until 2013.

The clear decision on self-declaration of the special products is a small step forward, as there was some vagueness about it earlier. Nevertheless, its practical utility is still shrouded in uncertainty, as neither the number of products to be so designated, nor the precise nature of their special treatment, is clear.

The retention of the *de minimis* subsidy of the developing countries (10 percent of the value of production in case of a product specific subsidy and another 10 percent of the



Fooling Farmers! Fooling Poor! Fooling World!

value of total agricultural production in case of non-product specific subsidy) is also a step in the right direction. In fact, it was never seriously challenged; the proposals of the major developed countries for its reduction appear to have been made to put the developing countries on the defensive. In any case, this enabling provision is of little use to the developing countries, as they do not have adequate financial resources to subsidise their farmers to this level.

Against such marginal gains, there has been a big setback: the Declaration does not call for eliminating the huge domestic subsidies in the major developed countries. Among the options for reduction of the total trade-distorting subsidy (TDS), even the most stringent one, asking for 70-80 percent reduction, as given by the Group 20, would enable the EU to give an annual subsidy of about 27 billion, which is about one billion more than what it has itself planned for 2008. The US will be able to pay about US\$ 12 billion annually. Though it will result in a reduction of the last notified level (2001) of payment, of about US\$ 21 billion, it is still a very high subsidy. These subsidies, concentrated on a few, selected, critical products, will continue to damage the competitive environment in those products.

The Declaration does not attempt to close the new window of domestic subsidy that the US is trying to open through the new 'Blue Box' for its counter-cyclical payment to the farmers. Some experts say that this new facility, if approved, may even be utilised by the EU for expanding its own subsidy in some sectors.

In addition, the Declaration does not envisage curbing, or even disciplining effectively, the 'Green Box' subsidy of the major developed countries. Their claim of this subsidy not being trade-distorting, which is untenable, and their insistence on their right to give these subsidies, has not been challenged. It is well-known by now that, since the WTO agreement on agriculture came into force, the major developed countries have done a lot of 'box-shifting' of domestic subsidies and pushed many of their reducible subsidies to the 'Green Box'. Some provisions of the 'Green Box', for example the 'decoupled income support' under paragraph 6 of Annexure 2 of the Agreement on Agriculture enables the major developed countries to pay any amount of subsidy at any time to any farmer for any product. These payments may not be in the nature of price intervention, but they certainly add to the staying capacity of the farmers and support their unviable agricultural production. Thus, they clearly distort production and trade. The Declaration is nearly silent on this matter. It merely repeats the position of the major developed countries to review the criteria of the 'Green Box'. There is not even a hint of elimination, reduction, standstill or capping etc.

These vital omissions in the area of agriculture will result in continued risk from highly subsidised imports to our weak farmers and in denial of export prospects to our competitive farmers.

While this area is afflicted by omissions, in the other two areas of NAMA and services, there have been significant commitments by the developing countries in Hong Kong without any commensurate gain.

Non-agricultural Market Access (NAMA)

There are two specific decisions in the Declaration in this area. They are that

- (1) industrial tariff will be reduced according to the Swiss Formula and
- (2) in the case of currently unbound tariff, the currently-applied rates will be marked up and then reduced according to the formula.

The first decision means that tariff will be reduced on all products, and the second point means that there will be total binding coverage, or that all products will be covered by tariff binding.

These two decisions signify a long march of the developing countries in commitments in the GATT/WTO system. There has never been an obligation on the developing countries to reduce tariff on all products in the past negotiations. They had merely assumed the obligation for reducing the average of their bound tariffs, keeping the option of spreading this average over the different products covered by binding to themselves. This gave them the flexibility to modulate tariffs on different products in line with their development objectives in respect of industrialisation. Now, by agreeing to reduce tariffs on all products, the developing countries have lost this option.

In addition, in agreeing to full binding coverage, i.e. binding tariffs on all products, they have made a significant concession by making their unbound tariff a part of their current rights and obligations in Hong Kong.

All this has been done without any concessions or commitments from the developed countries. They have not made any specific commitment to a special reduction in tariffs that they retain mainly to discourage imports of specific products from developing countries. There is only a vague mention in the Declaration of the formula of reduction having coefficient(s) that will reduce their tariff peaks and high tariffs.

The imbalance in commitments is obvious. While the developing countries have given up their current specific rights, as discussed above, the developed countries have not made any commitment of specific reduction of tariff peaks and high tariffs. It has been left to be worked out through a suitable formula. The commitment of the developing countries is already operational. It is also very specific and basic. On the other hand, the obligation on the developed countries is only general and vague and in the nature of expectation in future.

The WTO Agreement on services allows countries to choose the sectors for liberalisation and to impose conditions and limitations on market access and national treatment in these sectors.

Tariff is now the only means of protection of our industry; it does need protection, particularly in areas where we are not technology leaders. The commitments in Hong Kong can put the current domestic industry of the developing countries at risk from imports and hamper industrial upgradation to higher technological production.

Services

Like in NAMA, in services too, the developing countries have made commitments without any commensurate concessions from the developed countries. The Declaration has decided to intensify negotiations in accordance with the objectives and approaches contained in Annexure C. This Annexure says that commitments will be taken at existing levels of market access in Mode 1 (supply of service by the service provider of a country to a consumer located in another country) and Mode 2 (supply of service in a country to the consumer coming from another country). In respect of Mode 3 (supply of service through commercial presence of a foreign firm), Annexure C stipulates commitments on enhanced levels of foreign equity participation and elimination, or substantial reduction, of necessity criteria applied by a country.

These are major commitments, in view of the flexibility available to the developing countries in the WTO Agreement on Services. The Agreement allows countries to choose the sectors for liberalisation and to impose conditions and limitations on market access and national treatment in these sectors. In particular, the Agreement requires developing countries to have the flexibility to liberalise fewer sectors and fewer transactions. By undertaking the commitments in Hong Kong, as listed above, the developing countries have surrendered this flexibility in a significant way. This will benefit, largely, the major developed countries, but they have given no commensurate concessions to the developing countries in return.

The Final Word

It is well known by now that the WTO agreements are full of inequities and imbalances. One would have hoped that the developing countries would move resolutely to remove them. However, the Hong Kong result further tilts the balance against the developing countries. They will have to work hard in the coming months to rectify the situation. But first, they will have to muster enough political will towards this end.

■ Mr Bhagirath Lal Das is India's former Ambassador to GATT. He can be contacted at bldas20@gmail.com

Contd. from page 7

The Doha Round...

This issue of flexibilities reveals the crevices in the entire process of multilateral negotiations. It had been agreed in July 2004 that flexibilities in NAMA would be stand-alone provisions. It was expected that negotiations would focus on issues other than those already agreed on. However, developing countries had to spend their precious negotiating capital and energy on saving something that had already been agreed instead of negotiating for the future.

One positive development in NAMA was that participation in the sectoral initiatives was made non-mandatory. In other words, countries can voluntarily decide to participate in tariff-reduction negotiations for specific sectors. This has been one of the major demands of countries like India. They wanted that the participation in sectorals should be voluntary in nature and that the issue be taken up only after the tariff-reduction modality has been agreed.

Duty Free Quota Free – A Developmental Joke

Providing duty free quota free (DFQF) access to least developed countries (LDCs) was one of the biggest litmus tests for the present round of global trade talks. The round has failed this test. After almost four days of negotiations, developed countries agreed to provide DFQF to all LDCs on a 'lasting basis' by 2008 for at least 97 percent of all products.

Although this sounds like a big developmental boon to LDCs, the reality is completely different. The provision of 97 percent gives a window to developed countries to keep three percent, which means almost 330 tariff lines, outside the ambit of

DFQF. Therefore, although theoretically LDCs have DFQF access for as much as 97 percent of the commodities, in reality it does not mean anything. Developed countries can easily exclude products that LDCs export from their quota of 97 percent. This is true for most LDCs, as they do not have diversified export baskets. The exports of many LDCs are limited to 20-50 tariff lines. For instance, in the case of Bangladesh, about 25 tariff lines comprise nearly two-thirds of its exports. It is a darkly comic situation: LDCs have DFQF access for things they do not produce but not for those they produce efficiently and export. On the other hand, developed countries such as the US and Japan, who were very vocal against DFQF on all products, can easily shield their defensive products such as textile, fish, rice and sugar from competition from LDCs by not giving DFQF on close to 330 tariff lines. Therefore, the search for 'development' in the 'development round' continues.

However, developed countries are not the only guilty party who played spoilsport in the entire DFQF negotiations. Many developing countries were also opposed to 100 percent DFQF for LDCs because the exports of the LDCs could threaten their exports. These protectionist developing countries ganged up with developed countries and certainly played a role in ensuring that LDCs do not get DFQF on all products.

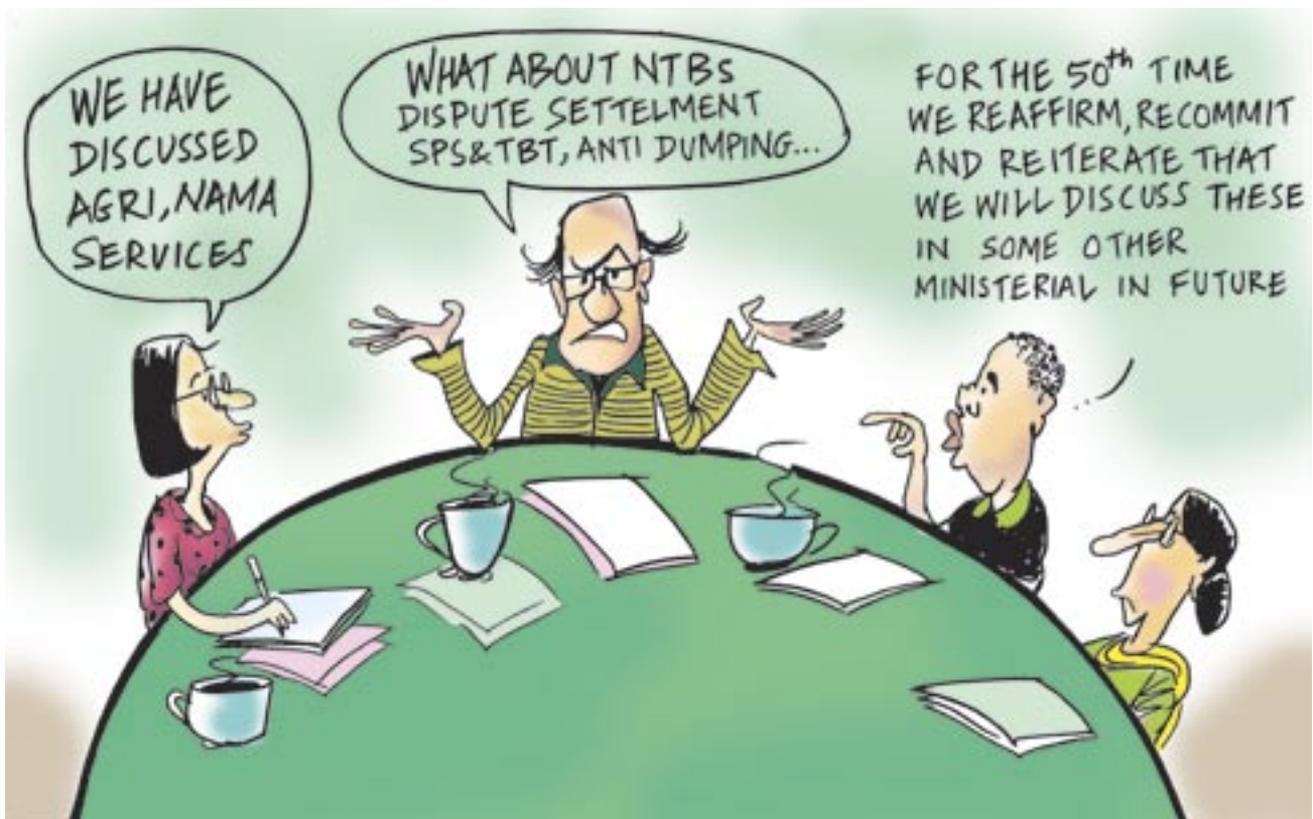
This could have spelt disaster for Southern unity, especially after the grand alliance of 110 developing and least-developed countries in Hong Kong. Southern unity was a positive feature at Hong Kong and balanced the combined might of the developed countries. This unity needs to be sustained even if there is a price to be paid and sacrifices to be made for mutual accommodation of LDCs interests.

Box 1

Protests Galore!

Action in Hong Kong was not limited only to the Hong Kong Convention and Exhibition Centre (HKCEC), the venue of the Ministerial Conference. Outside the HKCEC were a huge number of people from all over the globe who were protesting against the WTO and the unfair rules of the multilateral trade negotiations. The protestors ranged from South Korean farmers to Bangladeshi women workers of the textile industry. They blamed the WTO and its rules for causing livelihood losses and perpetuating poverty. Concerns ranged from privatisation of health and water services to agricultural dumping by the North and harmful impact of the trade regime on women.

These protests demonstrated the high degree of global resistance to the WTO in particular and economic globalisation in general. The protests also revealed how angry the people were with the policies of developed countries. The slogan 'Down WTO' conveyed the popular feeling that the WTO is an instrument in the hands of the rich and developed countries to exploit and plunder poorer countries of the world.



WTO Negotiators Refuse to Move Beyond Reaffirming, Recommitting and Reiterating

Postponing Indefinitely

The WTO is not just about agriculture, NAMA and services. There are host of other issues such as sanitary and phytosanitary (SPS) measures, Technical Barriers to Trade (TBT), anti-dumping and countervailing duties and dispute settlement that are equally important. However, the manner in which negotiations have progressed in the last couple of years suggests that these issues have been relegated. These issues are significant because developed countries will employ, or in fact are employing, other tools such as anti-dumping duties and technical standards to deny market access to developing countries. The negotiations on the dispute settlement system, which has often been referred to as the jewel in the crown of the WTO have also lagged behind.

For all these issues Hong Kong saw only words like ‘recalling’, ‘reaffirming’, ‘reiterating’ and ‘recommitting’ being used. History tells us that these words are merely rhetoric.

Aiding Trade or Bribing Trade?

The Hong Kong Declaration talks about developing a ‘fast track’ in the WTO negotiations to build the capacity of LDCs. This is ‘aid for trade’ and has often been called the litmus test of the seriousness of the intent of developed

countries to build the capacity of LDCs to overcome their supply-side constraints and realise the real benefits of international trade. However, ‘aid for trade’ has often been used for political purposes and not for the development of LDCs. According to an Oxfam study, although bilateral and multilateral trade has increased in recent years (to US\$ 2.7 billion in 2003), it is still insignificant. Further, ‘aid for trade’ has often been used to bribe LDCs to accept bad deals at Ministerial Conferences.

The Bumpy Road Ahead

The Hong Kong Declaration has set difficult deadlines for all the major negotiating issues, such as agriculture and NAMA. In both, modalities are to be finalised by 30 April 2006 and the draft schedules have to be submitted by 31 July 2006. In services, the deadlines are even more stringent (please see the interview with Rupa Chanda on Page 18). Looking at the pace of the negotiations in the past, these deadlines hardly seem attainable. The urgency for completing the round should not come at the cost of a deal that has vital development concerns at its heart.

■ Prabhash Ranjan is Research Officer, Centre for Trade & Development, New Delhi, India. Views are personal. He can be contacted at prabhash.ranjan@centad.org

LDCs are Disappointed, not Despondent

Dr Debapriya Bhattacharya, one of the most prominent civil society voices, talks to Centad on the much hyped LDC package at Hong Kong.



Centad: Do you think ‘development’ was a major casualty during the Hong Kong Ministerial Meeting of the World Trade Organization (WTO) and the Doha Development Agenda is turning out to be about everything but ‘development’? Are LDCs disillusioned about the WTO and the Doha Development Agenda or do they remain optimistic?

Debapriya Bhattacharya: The Hong Kong Ministerial Declaration does not adequately reflect the pro-development promises of the Doha Development Agenda. The bracketed texts of the latest Geneva draft were ‘cleaned’ largely in favour of the developed countries. Indeed, from the perspective of least developed countries (LDCs), the adopted Declaration was of less value than the Geneva text.

Among the developing countries, the G20 succeeded to some extent in withstanding the pressure of the developed countries and in extracting limited dividends, particularly in case of export subsidies in agriculture. LDCs as a group received a dubious market access deal. Ambitions of LDCs like Bangladesh, Cambodia and Nepal remain largely frustrated. Annexure F of the Ministerial Declaration contains certain LDC-specific special and differential (S&D) treatment proposals, most of which are of an esoteric nature.

LDCs are thus having great difficulty in discerning the ‘development content’ of the Hong Kong outcome, but they remain energised to strive for effective gains from the last

lap of the round. Thus, the LDCs remain disappointed from the Hong Kong outcome, but not despondent.

Centad: Duty free quota free (DFQF) market access for LDCs is being flaunted as the most development-friendly outcome of the Hong Kong Ministerial Meeting. Do you view this as an attempt to hoodwink the global community into believing that ‘development’ is at the heart of global trade?

Debapriya Bhattacharya: DFQF market access for all products of all LDCs was to be the major element of the ‘development package’ of the Hong Kong Ministerial. Regrettably, the Ministerial outcome did not live up to the much-hyped promise.

The Hong Kong Declaration does not provide for full and immediately-effective DFQF market access for LDC exports. The value of this proposal will greatly depend on what gets into the three percent Exclusion List (whereby a country can keep certain products outside the DFQF list). According to the remarks of the Chairman of the Ministerial Conference made during his concluding speech, the modalities of the Exclusion List will be thrashed out in Geneva in 2006. There is also no completion deadline for the phasing out of the Exclusion List items. It is difficult to imagine that developed countries such as USA, which opposed the idea of 100 percent DFQF market access for the LDCs in Hong

Kong, would be ready to demonstrate a high degree of flexibility in negotiations pertaining to modalities on Exclusion List. For that matter, it is also true as regards fixation of the Rules of Origin criteria.

On the other hand, the present language of the DFQF proposal about its predictability is anchored on a vague term – ‘access on a lasting basis’ – and does not provide for a binding commitment (which would have meant that an eligible member not fulfilling the directive could be brought to Dispute Settlement).

Centad: There are reports that apart from developed countries such as the US and Japan, many developing countries were also behind blocking the proposal of providing DFQF market access to LDCs on all products. How acceptable do you think is the DFQF package to developing countries in general? Do you foresee any contradictions within the South on this count in the future?

Debapriya Bhattacharya: It is well known that the US and Japan are the two major countries that opposed the full DFQF market access for the LDC products. It is also no secret that the major motivation of the US opposition was guided by its concern for its domestic non-competitive textile industry. Indeed, the US was not ready to offer the deal to the Asian LDCs that it has given to the African and Caribbean low-income countries under the Africa Growth and Opportunity Act (AGOA) and the Confederation of British Industry (CBI).

On the other hand, the EU and some other developed countries did express their explicit support for DFQF market access for all LDC products. The latter group could do so as they have already offered such access for the LDCs through their autonomous schemes.

It may be also mentioned that it is not very clear to what extent the major developing countries lent their unequivocal weight in favour of full preferential access during the Green Room and sideline meetings.

In this connection, the open and assertive stand taken by some clothing exporting non-LDC developing countries was most curious. Pakistan, and to some extent Sri Lanka, opposed the DFQF deal for the LDCs, which effectively meant undercutting

‘Aid for trade’ is an emerging concept. A governance structure for the proposed initiative is yet to be in place; unless it is decided, the committed resources cannot be mobilised or disbursed.

the ambitions of their South Asian LDCs. The competitive nature of the trade patterns of the clothing exporting non-LDCs and LDCs remains an open empirical question. As a matter of fact, LDCs are not major competitors in the apparel/textile categories exported by Pakistan and Sri Lanka. It is understood that the US\$ 400 billion global textile and clothing market is big enough to accommodate an incremental market share for many developing countries.

The absence of coordinated and committed support on the part of all developing countries in favour of a full DFQF proposal contributed largely to diluting the final text. It now advises to take into account the impact of the DFQF measure on other developing countries at a similar level of development and allows the developing-country members to phase in their commitments with appropriate flexibility. From the perspective of future negotiations, there is a strong need to evolve an improved understanding on the part of the developing countries with respect to DFQF market access for LDCs.

Centad: Some experts have argued that LDCs have not come back empty-handed from Hong Kong and that there are gains in the form of the ‘aid for trade’ package and the extension of the implementation period of the TRIPS agreement until 1 July 2013. Are these developments significant? DFQF market access has not been granted to all the products of LDCs; do these developments have the potential of controlling the consequent damage?

Debapriya Bhattacharya: The immediate and real achievements of the LDCs at Hong Kong are of limited value. Apart from the much-hyped DFQF market access deal, which is anyway of low significance, tentative progress was made in the case of export subsidy in cotton as well as in the cases of certain S&D Treatment provisions.

‘Aid for trade’ is an emerging concept. A governance structure for the proposed initiative is yet to be in place; unless it is decided, the committed resources cannot be mobilised or disbursed. The Director General of the WTO is to constitute a Task Force that will provide its recommendations for the design of the governance structure. However, a number of concerns regarding this initiative have already surfaced. These include

the following: (1) Are these new, additional and incremental resources, or are they being redirected from some other earlier commitments?; (2) Is there a double or triple counting of the resources committed under Millennium Development Goals (MDGs)?; (3) Will these resources be subjected to policy conditionalities, which are usually practiced by the international financial institutions?; and (4) As these resources are for all developing countries, how will the share of LDCs be determined?

The implementation period of the Trade-related Intellectual Property Rights (TRIPS) agreement, which expires on 1 January 2006, has now been extended by another seven-and-a-half years (up to July 2013) with the possibility of further extension. It may be recalled that the LDCs, taking note of their limited capacities, were asking for an extension of 15 years. They have now been asked to provide plans, within the next two years, for implementation of the TRIPS regime.

It may be added that, at Hong Kong, the LDCs have been also accorded an extension regarding Trade-related Investment Measures (TRIMS) for another seven years, i.e. until 2013. LDCs will be able now not only to continue with old TRIMS (subject to notification), but also introduce new ones. However, it is well known that the LDCs are not being able to use these TRIMS due to opposition from the World Bank and the International Monetary Fund (IMF).

In any case, all these initiatives that could potentially benefit LDCs can hardly compensate for the real adverse impact because of the truncated DFQF proposal adopted at the Hong Kong Ministerial.

Centad: Given the current outcome of the Hong Kong Ministerial, what will be the priorities of LDCs in the future trade negotiations?

Debapriya Bhattacharya: The current year (2006) will be a very critical year for the LDCs since this is likely to be the last year of the Doha Round. The decisions embodied in the Hong Kong Declaration have added a note of urgency to the LDCs to prepare adequately for this. To this end, LDCs need to reinvigorate their negotiating capacities. They definitely need

to revisit their trade promotion and industrialisation strategies in the light of the Hong Kong outcomes.

The timelines extracted from the Hong Kong Declaration suggest that there will be a number of priorities for LDCs in the upcoming negotiations.

The first and foremost task will be to engage in negotiating the modalities of the Exclusion List of DFQF market access. The LDCs will have to identify the export items that they want to keep out of the country-specific Exclusion Lists. The deadline for the submission of plans for the implementation of the DFQF initiative is September 2006 for developed countries and December 2006 for developing countries. LDCs will need to discuss the modalities with these countries by keeping these timelines in purview.

The second-most important priority will be with respect to services negotiation, particularly for Mode 4. Article 9(a) of Annexure C states that members shall develop appropriate mechanisms for the full and effective implementation of the LDC Modalities including identification of sectors and modes of supply of interest to the LDCs. This is mandated to be done before 31 July 2006, i.e. before the submission of the second round of revised offers.

Third, the LDCs have to prepare their proposals for the 'aid for trade' Task Force. The Task Force is to submit its recommendations to the Director General of the WTO by July 2006.

Other than these three immediate priorities, the LDCs will have to refocus on some of the items on the unfinished 'development' agenda of the Hong Kong Ministerial. These include negotiating an acceptable solution for tariff preference erosion, discipline for food aid and the S&D proposals on the table on which decisions are yet to be taken.

LDCs should not accept the Hong Kong outcome as the final deal under the Doha Round.

■ Dr Debapriya Bhattacharya is Executive Director, Centre for Policy Dialogue (CPD), Dhaka, Bangladesh.

The current year will be a very critical year for the LDCs since this is likely to be the last year of the Doha Round. The decisions embodied in the Hong Kong Declaration have added a note of urgency to the LDCs to prepare adequately for this.

Aggression on Services has put India in Awkward Position



Rupa Chanda, one of the most respected academicians on services talks to Centad on the controversial Services deal.

Centad: Annexure C of the Hong Kong Ministerial Declaration has been perceived to put pressure on developing countries to negotiate on a plurilateral basis. What, in your opinion, is the implication of this change in approach on developing countries?

Rupa Chanda: This plurilateral approach will definitely help to bring together the critical mass, of developing and developed countries, that matters for the services negotiations and thus speed up the process, compared to the current bilateral approach of requests and offers, which is quite tedious. There would be economies of scale in terms of negotiating effort. But, this would also mean that certain developing countries will come under more pressure to bind in higher levels of liberalisation in key services like finance, telecom, distribution etc. or to offer more services for negotiation in return for any market access gains in modes of services of interest to them. So, the trade-off between Mode 4 and Mode 3 is likely to be more pronounced and could pose some difficulties for developing countries. One could also question whether there would be much gain in Mode 4 commitments from developed countries in terms of actual enhanced market access or whether the improvements there would be more in terms of removal of certain limitations, enhanced transparency and addition of some categories of interest to developing countries. The point I am making is that gains in areas of interest to developing countries may be incremental in return for greater pressure on them to open up services, especially in Mode 3. So, the plurilateral approach may be logistically a superior approach to the bilateral method, but may not yield much more in return for the concessions granted by developing countries.

Centad: In the Services text, liberalisation in Mode 3 is linked to liberalisation in all other modes. What do you think is the nature of give-and-take between developing and developed countries in services negotiations (inter modal) or in other key areas (agriculture and NAMA) in the Hong Kong Declaration?

Rupa Chanda: The linking of Mode 3 commitments by developing countries in return for commitments in Modes 1 and 4 by developed countries has already been noted in question 1 above. This is the main give-and-take. As I have already mentioned, the 'give' by developing countries could end up being more than the 'take' under the plurilateral approach due to the sensitivities involved with Mode 4. As far as the give-and-take involved in the broader scheme of the negotiations, this is primarily between industry and services. For India, it appears that there might be a willingness to agree to steeper tariff reductions in industrial goods if there are generous offers in Modes 4 and 1. I am not so sure if this kind of trade-off exists between agriculture and services, as the issues in agriculture are far more complicated, and it is unlikely that demands for subsidy cuts in agriculture by countries like Brazil would be muted by better offers in areas of interest to developing countries in services. I think the trade-off is more apparent between industry and services and certainly within services across Modes 1 and 4 and in Mode 3.

Centad: Given that countries have initialised sending of requests, what sort of an analysis framework and preparedness should be in place to ensure that developing countries are able to engage in plurilateral negotiations effectively, particularly in domestic regulation?

Rupa Chanda: What is most important is to take stock of the domestic situation – how competitive the sector is; what the regulations in place are; whether there is a level playing field with foreign providers; which the markets of interest are; what the domestic and external constraints are etc. This stock-taking needs the participation of all stakeholders, perhaps collection of information via surveys, impact assessment studies, and accordingly the strategy for requests and offers needs to be worked out. It is imperative to understand the nature of domestic regulation and institutions in the concerned sectors. Take, for instance,

the higher education sector. One needs to understand the regulations that are in place to enforce quality and standards, the conditions for the entry of foreign providers, whether regulations hamper/hinder domestic institutions from competing with foreign providers, how institutions and regulations need to be modified/strengthened in light of a commitment, what domestic objectives such as equity, infrastructure development etc. need to be addressed before making a commitment and how regulations can address these issues and, specifically, what conditions should be inscribed in the schedules. This is a difficult task, and involvement of a large number of concerned parties is required. Where consensus is hard to reach, it may be best to leave out such services from the offer list at this time and to learn the lessons from autonomous liberalisation before binding them in later.

Centad: In your opinion, should India have an aggressive position on services? Isn't such a position hampering the development interests of India and other developing countries? During the negotiations, the ACP group submitted a new, substantially, diluted text on services. Does this reveal that India is not encompassing the interests of other developing countries and that such a position is detrimental to the coalition of developing countries?

Rupa Chanda: India is in an awkward position due to its aggressive position on services. This has led to its endorsing the plurilateral approach alongside other developed countries and pitted it against many developing countries. If being a coalition leader and keeping a unified voice is important in all aspects of the negotiations, then we should perhaps not push as hard as we are pushing on services, because for the majority of countries, this is not a priority sector. But, if we put our national interests and advantages over geo-political considerations, then we should have an aggressive position. The point is what we stand to lose on some fronts, and what we stand to gain, from an aggressive stand on the strategic front. I think we should be aggressive, because we have been aggressive and postured a lot in agriculture, expending considerable negotiating effort on something that is not going to yield major gains to us, in the interests of the larger group of developing countries. We should also now look at our own interests as long as we keep our position in agriculture and don't neglect those other interests. So, we should not strike a different note in other parts of the negotiations, such as flexibility concerns in NAMA or subsidy issues in agriculture, but should maintain this along with pursuing our own interests in services.

Centad: Is India binding autonomous liberalisation in commercial presence as a trade-off for predictable market access in outsourcing and movement of professionals? Since progressivism is mandated in services negotiations, do you expect limits on commercial presence to be lowered beyond the current levels of autonomous liberalisation?

Rupa Chanda: Yes, it is a trade-off between our commitments in Mode 3 for offers in Modes 1 and 4. In any case, it made sense to bind in the autonomous liberalisation levels, as we do not benefit from holding back, especially in services like telecom and finance where the liberalisation is just irreversible. So, there is little credibility that we will gain by binding less than the status quo if we revert to a more protectionist stance in future. This would not be believed by our trading partners, so why not bind in existing levels? Now, I do not think at this stage that we will bind in below existing liberalisation levels, like raising the ceiling on foreign equity further, though a phase pre-commitment in some services cannot be ruled out. But this will also depend on what is forthcoming in Modes 4 and 1; if there isn't substantial improvement, I don't think we will go further than autonomous levels. There is also the scope for offering new services for scheduling and for offering more sub-sectors within earlier services scheduled and hence expanding the scope of commitments than just raising levels of commitments.

Centad: The next two months will be crucial for negotiations in services, given the stringent deadlines set in Annexure C. In your opinion, which are the key sectors in which India should submit requests?

Rupa Chanda: This depends on an assessment of our strengths. I would say that we should submit requests in most of the professional and business services, like in computer and related services, accountancy, architecture, and in others like education, health, tourism, even finance and telecom, but the markets to which we submit requests would need to vary for different groups of services. We may consider the developing economies, countries in the region and south-east Asia for tourism, health, telecom, and these and developed countries for professional services, and so on. So, the requests need to be tailored to each sector rather than submitting a standard request across a large range of countries, without heed to particular restrictions and sub-sectors that we would like to focus on in individual markets.

■ Dr Rupa Chanda is Professor, Indian Institute of Management Bangalore, India.

Hong Kong and LDCs – Little to Cheer!

Dr Fahmida Khatun

The Hong Kong Ministerial Meeting ended amidst mixed reactions, as the outcomes of the Meeting could not satisfy all parties equally. It has been termed a failure by several groups, judged against the development goals of the Doha Development Round. On the other hand, those who have tried to look at it with a positive attitude, found rays of hope. Least developed countries (LDC) have been disappointed and seem to have lost in many core issues vis-à-vis developed countries. This paper briefly analyses the outcome of the Hong Kong Ministerial Meeting from an LDC perspective in four areas: agriculture, NAMA, services and development issues.

Agriculture

The Hong Kong Declaration reaffirms that LDCs are exempt from tariff reductions on agriculture products. However, there will be pressure on them, in the years to come, to take on at least some commitments voluntarily. The Trade Ministers took decisions on export subsidies, domestic support, cotton and food aid. These have important implications for LDCs. Many countries demanded that the deadline for eliminating export subsidies be set at 2010, but the European Commission's (EC) preference, for 2013, was agreed upon. Though the share of export subsidies is only 3.6 percent of the EU's overall support to agriculture, this decision was considered a positive step and supported by most developing countries. However, this is a matter of concern for countries that are net importers of food, as it means a rise in their food import bill.

The impact of the US cotton subsidies on the African cotton producers was an issue of contention at the Cancun Ministerial Conference. After tough bargaining, and a WTO ruling in favour of Brazil, the plaintiff, the approach to cotton subsidies was changed at Hong Kong. It was decided that developed countries would eliminate all forms of cotton subsidies by 2006, and would commit to reduce other trade-distorting subsidies faster and further for cotton than for other crops. Export subsidy constitutes only a small portion of trade-distorting measures. Many African and developing countries pointed out that the cotton deal was not a complete one, as there was no specific decision

on trade-distorting domestic subsidies, which make up 80-90 percent of the total US support for cotton. This is a big problem for cotton farmers in African and developing countries.

Food aid was another difficult issue, one on which the EU and the US differed strongly. Dumping of non-emergency food aid undermines local farm production and is a disguised form of export subsidy, which can distort global markets. Nevertheless, it was argued that constraints on food aid could lead to denial of critical aid to starving people around the world. Those who called for discipline in food aid wanted emergency aid to be exempt. The issue of food aid progressed very little. It was, agreed, however, that there would be work towards new disciplines to prevent the abuse of food aid and to exempt genuine emergency food aid. It is important for LDCs and net-food-importing-countries to follow discipline in their receipt of food aid.

NAMA

Although LDCs are exempt from tariff reductions on industrial products, any reduction in the most-favoured-nation (MFN) tariffs by developed and developing countries is expected to lead to preference erosion for many LDCs. They are also being pressurised to commit to bind a large percentage of their tariffs on industrial goods. The adoption of a tariff-reduction formula is crucial for LDCs. Developed countries are in favour of the 'Swiss Formula', which cuts higher tariffs more than it cuts lower ones. Developing countries opposed this, as their tariffs are generally higher. Such a formula could result in greater reduction in their tariffs. A group of nine countries comprising India, South Africa, Brazil, Argentina, Egypt, Indonesia, the Philippines, Namibia and Venezuela proposed a formula that would allow flexibility to developing countries while addressing tariff peaks and escalation in developed countries. A tariff-reduction formula is important for LDCs, because it would enhance their market access. The decision to provide market access for 97 percent of products may lead to exclusion of many important items that are of export interest to LDCs, such as textiles and clothing from Bangladesh, and rice from Cambodia.



A Developmental Joke!

Services

The issue of modalities for the Special Treatment of LDCs adopted on 3 September 2003 was re-emphasised. The Hong Kong Declaration called for ensuring full and effective implementation of the LDC modalities; beneficial and meaningful integration of LDCs into multilateral trading system; and priority to be accorded to modes of supply that are of interest to LDCs. However, the benefit of these decisions to LDCs may be limited, as they are exporters of, mostly, less- skilled workers; the Hong Kong Declaration mentions new or improved commitments in the categories of Contractual Services Suppliers, Independent Professionals and others, and in the categories of Intra-corporate Transferees and Business Visitors under Mode 4. Though the method of negotiation will be the bilateral request-offer approach, countries will be obligated to consider requests to participate in plurilateral negotiations. Plurilateral requests are to be submitted by 28 February 2006 or 'as soon as possible thereafter'. Revised offers have to be submitted by 31 July 2006. This implies that LDCs have to work hard to examine requests and to consult and will assess the potential impact of liberalisation in different sectors within the next few months.

Development Issues

Getting duty free quota free (DFQF) access was one of the most important issues for LDCs. The issue was proposed at the Doha Ministerial in 2001, where Ministers agreed to work towards meeting this need. The July Package of 2004 re-emphasised the issue. However, developed-country Members opposed the move to bind any DFQF access in a manner that ensures certainty and predictability and to all products demanded by

LDCs. The possibility of providing DFQF access by developing countries in a position to do so was also discussed by some developed countries. At Hong Kong, Members agreed that DFQF access shall be provided to all LDCs for all their products by 2008 on a lasting basis that ensures stability, security and predictability. However, it was also agreed that Members who find this difficult to do, will provide DFQF access for at least 97 percent of products in the first stage. Though several LDCs were disappointed, as mentioned earlier, they have to keep pressing for full coverage during the next session of the General Council that will review the steps taken by developed and developing countries every year.

The initiative on 'aid for trade' has been undertaken to constitute a Task Force to build supply-side capacity for poor countries so that they can maximise benefits from the multilateral trading system. This aid for trade will be given to both LDCs and other developing countries.

LDCs have to strive to take advantage of such funds. Concerns have been raised on the aid for trade initiative on a number of grounds. First, it is not clear whether this will be a new and additional fund or will be diverted from other commitments and subject to double- or triple-counting. Second, as the IMF and the World Bank may be given the leading role to manage the fund, it is apprehended that the disbursement will fall under their conditionalities. Third, as the fund is also for developing countries, it is not clear how much will actually be allocated for LDCs.

Contd. on page 27



Affordable Medicines: The Beginning of an End?

K M Gopakumar

The pharmaceutical industry is currently the second largest exporting industry in India and the 14th largest exporter in the world. It is well known that the growth and evolution of the Indian pharmaceutical industry as a major supplier of generic medicines globally has been made possible because of the Indian Patents Act of 1970. The Act allowed for patenting of the process of manufacturing, and ruled out patenting of pharmaceutical products. This helped the Indian pharmaceutical industry to introduce generic versions of new drugs in the market at a cheaper price. As a result, drug prices in India became one of the cheapest in the world. Further, this also helped India to achieve self-sufficiency.

With the introduction of the product patent regime in 2005 in India, the rules of the game have been dramatically changed to suit the interests of pharmaceutical giants based in the EU and the US. Under the new system, the Indian pharmaceutical industry would not be able to manufacture the generic version of patented drugs without the permission of the patent holder. Thus the product patent regime offers an absolute monopoly on a patented product with a few exceptions like compulsory licensing. The basic intent of the product patent regime is to eliminate generic competition in the market thus triggering an increase in drug prices. Importantly, high prices of medicines end up constraining their access at affordable prices for the vast majority of poor patients across the developing and least developed countries.

Generic competition and cheaper drugs have been a great aid in offering affordable access to life saving medicines in the case of several public health challenges. For instance, the Indian pharmaceutical companies introduced the generic version of anti-retroviral (ARV) drugs for the treatment of HIV/AIDS in the international market for the first time, which triggered the price fall of similar drugs offered by international pharma giants from US\$ 12,000 to US\$ 140. A similar instance relates to the production of Gleevec, a cure for a deadly form of blood cancer, by Novartis at an unaffordable price of Rs. 1,20,000 per month versus its generic version available at one tenth of the price! While it is currently possible to produce the generic version in India

because of a time window, the future would be completely different. Most new drugs in the pipeline, which promise a cure to life threatening diseases, would remain beyond the reach of poor patients because of the new patent regime.

In such a scenario, what are the options for the Indian pharmaceutical industry? Three broad scenarios can be considered. The first option is to increase the investment in R&D for the development of new chemical molecules. The second option is to function by obtaining a voluntary licence or a compulsory license for the production of patented drugs. The third option is limiting the production only to off-patent drugs. On examining of the strengths and weaknesses of the Indian pharmaceutical industry, it is plausible to argue that the industry does not have adequate financial muscle to develop and introduce new chemical molecules in the market in the foreseeable future. Also, obtaining a license is time consuming and involves payment of a prohibitive license fee, which would end up increasing drug prices. Thus, in all likelihood, introduction of the product patent regime may force most of the Indian pharmaceutical companies to choose the third option i.e. confine manufacturing activities to off-patent drugs.

It is against this backdrop that the introduction of product patent in India has been variously described as 'the beginning of the end' of affordable generics and even sometimes as an end of the Indian pharmaceutical industry itself. Prof. Sudip Chaudhuri has addressed these and other similar concerns in his book titled *The WTO and India's Pharmaceutical Industry* (Oxford 2005).

According to Prof. Chaudhuri, the availability of cheap drugs in a product patent regime depends on three factors viz. the pricing decisions of the patent holder (MNCs), the use of TRIPS flexibilities at the domestic level, and domestic price control mechanisms. The book analyses each of these factors at length.

Conventional wisdom is to sell the product at a lower price to those consumers who have less purchasing power and make up the revenue by increasing the customer base. Unfortunately, the pharmaceutical MNCs do not believe in this conventional

wisdom and therefore sell drugs at a differential price. According to Prof. Chaudhuri, the reason for this practise is the fear of public opinion in the developed country against selling at a lower price in the developing countries. Thus the real reason for the insistence of product patents in developing and least developing countries, which constitutes only 8 percent of the world pharmaceutical market, is to protect profits in the developed countries rather than protecting the intellectual property in the developing countries. Hence, under the circumstance, one cannot expect MNCs to sell the medicines at a lower price in the developing countries.



Developed countries promised many benefits of patent protection while hard selling the TRIPS Agreement to developing countries. The promised benefits included increased FDI, transfer of technology and establishment of pharmaceutical R&D in developing countries. Even after a period of ten years these promises are yet to be realised. The book revisits the behaviour of pharmaceutical MNCs in India prior to Patents Act 1970 and shows that there was little interest to start production and R&D in India. Since the product patent offers an exclusive right to import patented products, the patent holder has no compulsion to start local production or issue compulsory license. The book rules out the possibility of India becoming a manufacturing hub on the basis of the current level of patent protection.

Flexibilities within the TRIPS Agreement hold the key to the new product patent regime. These flexibilities allow countries to determine the scope of patentability on specific grounds and lay down procedures for issuance of compulsory license. Hence, arguably, effective use of flexibilities can ensure availability of affordable medicines to a certain extent in developing countries like India. Prof. Chaudhuri exposes the under utilisation of TRIPS flexibilities especially the compulsory license mechanism in the Indian Patents Act. A strong compulsory licensing mechanism works as a deterrent against abuse of monopoly. The Patents Act provides a time consuming and procedurally cumbersome compulsory license mechanism. As a result, it is posited that the Indian government would find it difficult to curb the abuse of monopoly including excess pricing.

The book also attempts to examine the two fundamental issues of access to affordable medicines and the issue of reformulation

on the compulsory obligation of product patent protection. On the first question, Prof. Chaudhuri looks at various arguments and concludes that patent protection would adversely affect the access to medicine. The author also argues that TRIPS with all its flexibilities is incapable of providing the needed policy space to developing countries and should be restructured

accordingly. In the last ten years, activists and policy makers seem to have forgotten their fundamental opposition to TRIPS and are increasingly getting conditioned to living with the so-called TRIPS flexibilities without questioning its limited practical value. Hence, Prof. Chaudhuri's assertion is a timely reminder for treatment activists and policy makers to have a re-look at the TRIPS Agreement instead of accepting it as a fait accompli.

Prof. Chaudhuri advances the argument that despite the foregoing analysis, the Indian pharmaceutical industry can profitably focus on neglected diseases, which are not a priority for the global giants. Leveraging its inherent cost advantages the Indian industry can invest in R&D for neglected diseases. There are certain public private initiatives to increase R&D investments in neglected diseases. Indian pharmaceutical companies having abilities in new drug discovery can bid for R&D funding. Further, there exists tremendous opportunity in export of off-patent drugs to developed country markets. The Indian companies over the years have shown their ability to overcome entry barriers and penetrate into developed country markets. The book also presents a few case studies.

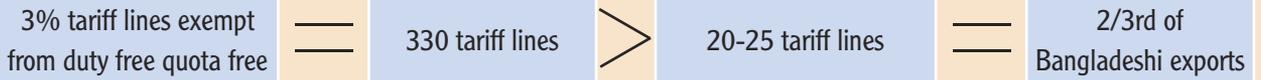
A limitation of the book is that it has not attempted to analyse the implication of these survival tactics on the fundamental issue of the need to ensure affordable access to life saving medicines by the vast majority of the poor. Neither the production of off-patented drugs nor the over indulgence in neglected diseases would solve the issues of access to medicines. The Indian pharmaceutical industry is one of the few which has the capability to use the TRIPS flexibilities for supply of generic versions of patented drugs in the global market. Only time will tell whether the introduction of product patents in India would indeed mark the beginning of the end of affordable generics across the world.

■ K M Gopakumar is Research Officer, Centre for Trade & Development, New Delhi, India. He can be contacted at gopakumar@centad.org



Glaring Disparities

Duty Free Quota Free Development Free



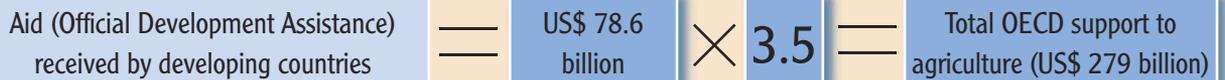
Source: <http://www.ipcs.org/IPCS-Special-Report-07.pdf> (visited on 27 January 2006)

Farm Subsidy! Subsidy Farm!



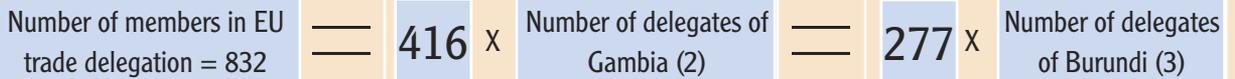
Source: http://www.oxfam.org/en/news/pressreleases2005/pr051215_wto (visited on 29 January 2006) and <http://www.rediff.com/cms/print.jsp?docpath=/money/2005/oct/13income.htm> (visited on 30 January 2006)

Aiding Trade or Trading Aid



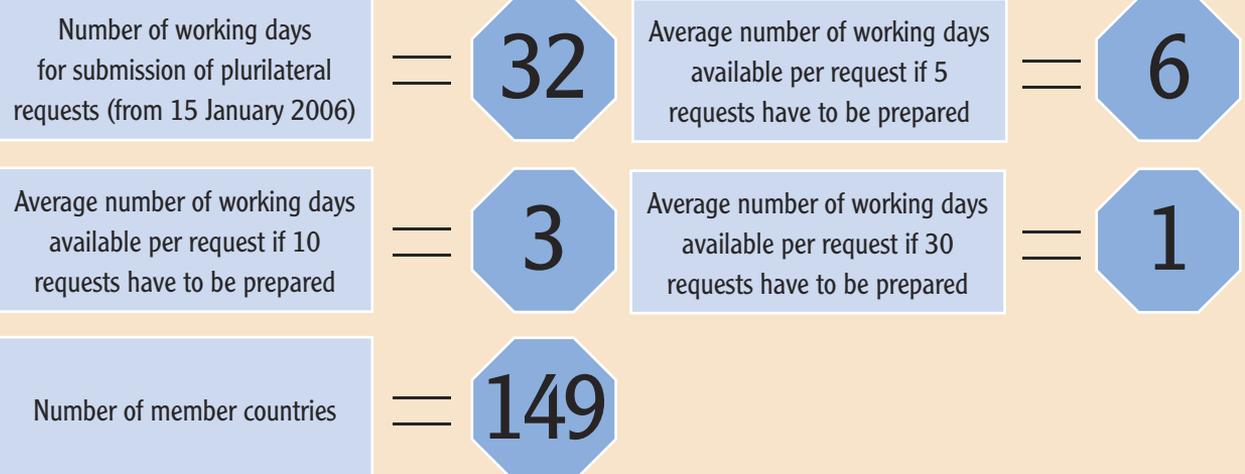
Source: <http://www.oecd.org/dataoecd/58/45/35314840.pdf> (visited on 25 January 2006) and http://www.finfacts.com/irelandbusinessnews/publish/article_10001306.shtml (visited on 23 January 2006)

Sized Up



Source: http://www.panos.org/global/tradingplaces_feature8.asp (visited on 27 January 2006)

Speeding on the Services Highway



(Assuming that the services team of a developing country delegation would work on one request at a time)

*Centad team comprises Biplove Choudhary, Prabhash Ranjan, K M Gopakumar, Parashar Kulkarni & Linu Mathew Philip

Table 1 Impact of the Tiered Approach of Tariff Reduction on 671 Agricultural Tariff Lines of India at HS 6 Digit Level: Simulation I (in percentage)						
	Initial Tariff Rate (T1)	No. of Tariff Lines	Final Tariff Rate (T2)			
			A=30	A=40	A=50	A=60
Band I 0 – 30	0	11	0			
	10	10	7			
	15	1	10.5			
	17.5	1	12.25			
	25	14	17.5			
	30	2	21			
Band II 30 – 80	35	12		21		
	40	13		24		
	45	7		27		
	55	25		33		
	60	1		36		
	75	1		45		
Band III 80 – 130	80	1		48		
	85	10			42.5	
Band IV > 130	100	313			50	
	150	223				60
	300	26				120
		Total 671				

Source: Centad's calculation

Table 2 Impact of the Tiered Approach of Tariff Reduction on 671 Agricultural Tariff Lines of India at HS 6 Digit Level: Simulation II (in percentage)						
Band	Initial Tariff Rate (T1)	No. of Tariff Lines	Final Tariff Rate (T2)			
			A=40	A=50	A=60	A=70
Band I 0 – 30	0	11	0			
	10	10	6			
	15	1	9			
	17.5	1	10.5			
	25	14	15			
	30	2	18			
Band II 30 – 80	35	12		17.5		
	40	13		20		
	45	7		22.5		
	55	25		27.5		
	60	1		30		
	75	1		37.5		
Band III 80 – 130	80	1		40		
	85	10			34	
Band IV > 130	100	313			40	
	150	223				45
	300	26				90
		Total 671				

Source: Centad's calculation

Contd. on page 31

Hong Kong Ministerial Conference and Development

Centad Team

What was the significance of the Hong Kong (HK) Ministerial Conference?

The HK Ministerial Conference was significant in many ways. It was expected to provide direction to the ongoing trade negotiations that were launched at the fourth Ministerial Conference in November 2001 in Doha. Trade negotiations were launched in Doha to review all the WTO agreements with the purpose of correcting the inequities in the global trading regime. This review was to be completed by 1 January 2005. However, even after four years and more, this review process is far from being complete. The inequities in the global trading regime have been perpetuating and the progress towards correcting them has been frustratingly slow. Since the Ministerial Conference is the highest decision making body in the WTO, it was expected that HK would make progress towards correcting these inequities by exhibiting a strong political will, which did not happen.

It is important to bear in mind that although a Ministerial Conference is the highest decision making body of the WTO, all decisions are not taken at the Ministerial Conference alone. The foundation of many decisions is laid in a series of General Council meetings in Geneva and many mini Ministerial Conferences that precede the Ministerial Conference. The final outcome of the Ministerial Conference to a large extent, depends on the developments that have taken place in the meetings and events preceding the conference.

How were the negotiations conducted in Hong Kong?

The process of negotiations at WTO Ministerial Conferences is always cumbersome because a lot of work has to be done in very little time, and HK was no exception to this. The HK Conference had a plenary where the leaders of all countries made their introductory remarks. However, the real negotiations took place in what are known as 'Green Rooms', where a group, not all the countries, negotiated other. These negotiations took place in the night and were dominated by the major players of the global trading

regime. It normally comprised of developed countries and big developing countries such as India, Brazil and Argentina. This group took decisions that they imposed on the other countries. Oxfam referred to this as the emerging pseudo-parliamentary system within the WTO.

The other important element of this pseudo-parliamentary system is that since these negotiations take place in the night, leaders suffer from fatigue and sleep inadequacy. This makes them agree to things that they otherwise would not have agreed. Making decisions of such serious ramifications in this manner is indeed a charade.

A coalition approach was adopted for negotiations at HK. Since it is difficult for countries to negotiate individually, they align on specific issues to negotiate. This grouping is important as it arms these countries with collective bargaining power. These coalitions typically chose a leader who negotiates on the behalf of the entire group. Many such groupings and coalitions were active at HK. The most prominent group was the coalition of 20 developing countries (G20) on agriculture. Similarly, there were other groupings such as the Group of 33 (G33) on special safeguard mechanism in agriculture, the coalition of ACP countries, and also an umbrella grouping of 90 countries (G90), which comprise ACP countries, LDCs and the African Union. A major grouping that emerged in HK was the group of 110 countries (G110), by virtue of the G20 and G90 countries coming together.

What were the achievements and failures of the HK Ministerial?

The HK Ministerial Conference achieved partial success, with some key decisions being taken (see Box 2). The Ministerial Declaration reiterated that the present round would be completed by the end of 2006. The Declaration has also set up a time frame for the negotiation process in 2006 (see Box 3).

However, the failure of the HK Ministerial was that it could not succeed in its core function of giving a boost to the developmental aspect of global trade talks.

The development dimensions of global trade would have been boosted if the HK Ministerial had demonstrated seriousness towards removing the barriers on market access for developing countries and LDCs. It is here that the HK Ministerial was found wanting, and hence the Declaration fell short on many counts such as:

1. It conveniently pushed many difficult questions, such as reducing domestic subsidies, which constitute a major proportion of trade-distorting subsidies to the future. The gigantic domestic subsidies in agriculture by developed countries (OECD member countries provided domestic subsidies to the tune of US \$ 279.5 billion in 2004) act as a major market access barrier to agricultural exports of developing countries.
2. Even the decisions that have been taken do not completely reflect the developmental concerns. For instance, on the issue of providing duty free quota free (DFQF) access to all the products of all the LDCs in developed countries, the Declaration provides DFQF to only 97 percent of the tariff lines to LDCs. Not giving DFQF access to 3 percent of tariff lines or 330 tariff lines implies that developed countries can actually keep all the exports of LDCs outside the DFQF access. LDCs do not have a diversified export basket. Their exports are limited to textiles, clothing, footwear. In the case of Bangladesh, 20-25 tariff lines constitute about 2/3rd of its exports. Similarly exports from other LDCs such as Cambodia and Nepal can also be kept out of DFQF access because of their limited exportable products. So, effectively the DFQF package does not mean much for LDCs.
3. Many other important issues, which have direct bearing on market access such as anti-dumping,

Box 2

Key Decisions at Hong Kong

Agriculture

Export subsidies to be eliminated by 2013.

Export subsidies on cotton to be eliminated by the end of 2006.

Developing countries can self designate certain products special products.

Developing countries will have recourse to Special Safeguard Mechanism.

NAMA

Swiss formula with coefficients has been adopted.

Sectoral negotiations will be voluntary in nature.

Services

Request-offer negotiations should also be pursued on a plurilateral basis.

Countries to which such plurilateral requests are made shall (under obligation) consider such requests.

Other issues

Duty free quota free market access for at least 97 percent of tariff lines for all LDCs in the markets of developed countries.

A WTO fast track to build supply-side capacity of LDCs to reap benefits of multilateral trade.

food and technical standards, dispute settlement system, conflicts between Trade Related Aspects of Intellectual Property Rights (TRIPS) and Convention on Biological Diversity (CBD) were hardly discussed.

Contd. from page 21

Hong Kong and LDCs

To conclude, the Hong Kong outcome was a compromise in favour of developed countries, and far from the theme of 'Development Round' initiated at the Doha Ministerial Conference. Though optimists would look for potential between the lines of the Hong Kong Declaration, experience only shows how difficult it is for LDCs to realise that potential in an imbalanced world. In order to fulfill the spirit of the Doha Development Round, LDCs have to get their homework right, in terms of raising national capacities to grasp the complexities

of the multilateral trading system, revising export strategies, diversifying their export baskets and strengthening their negotiating strategy. At the same time, they need to work on building greater political support from the global community towards their cause.

■ Dr Fahmida Khatun is Senior Research Fellow, Centre for Policy Dialogue (CPD), Dhaka, Bangladesh. She can be contacted at fahmida@cpd-bangladesh.org

Box 3

Important Timelines Proposed by the Hong Kong Declaration for Negotiations in 2006

Overall

Conclusion of the Doha Round: **2006**

Agriculture and NAMA

Finalisation of the modalities: **30 April 2006**

Submission of draft schedules: **31 July 2006**

Services

Submission of outstanding initial offers: as soon as possible

Submission of plurilateral requests: **28 February 2006**

Submission of second round of revised offers: **31 July 2006**

Submission of final draft schedules of commitments: **31 October 2006**

TRIPS

Reviewing progress towards settling the conflict between TRIPS and CBD: **31 July 2006**

Why could Hong Kong not achieve the task of giving a boost to the developmental concerns of global trade?

Hong Kong could not achieve the desired outcome because of the differences between developed and developing

countries on many issues. Developing countries have been constantly asking developed countries to work towards correcting the rigged rules of the multilateral trading system. However, developed countries have not exhibited the required political will in offering solutions towards correcting these rules.

Reforming the subsidy policies of the North has been one of the major demands of developing countries. The Doha Round started with the promise that all trade distorting subsidies of developed countries will be removed. However, even after four years of the launch of the Doha Round no subsidy reduction has taken place. Similarly, market access for products of export interest to developing countries such as textiles, clothing, leather, footwear and fish has also been a major demand, which is yet to be met.

Differences between North-North and South-South also contributed towards not achieving the desired outcome. For instance, the EU was not ready to give the final date for elimination of agricultural export subsidies until Australia agreed to discipline the State Trading Enterprises (STEs) and the US agreed to eliminate all trade distorting support in cotton. Similarly, developing countries were divided on services negotiations and until the last moment, African Caribbean and Pacific (ACP) countries and G33 resorted to placing an alternate draft.

How will the negotiations play out in the near future?

The coming days are going to be extremely tough for developing countries. The HK Declaration has set punishing deadlines for almost all the negotiating issues (See Box 3). These stringent deadlines may be used by developed countries to coerce the Southern countries to enter into agreements ignoring developmental concerns. The other major worrying factor is the manner in which the decisions may be taken in the future. According to the timelines given in the Declaration all the major decisions such as finalisation of the modalities in Agriculture and NAMA have to be taken in the next couple of months. This suggests that these decisions will be taken in the General Council of the WTO as against a Ministerial Conference. This is not a plausible proposition. The political heads of countries i.e. the Ministerial Conference should take decisions on all the issues

that may have serious ramifications for countries and global trade.

However, the WTO secretariat is citing logistics as the major reason for not organising another Ministerial in the next couple of months. This implies that the General Council in Geneva will take all the major decisions in the presence of political heads of selected big countries. Then, this decision will be forced on the rest of the WTO membership. This happened in the past, when the General Council agreed on a framework agreement in July/August 2004 to take the Doha Round forward and then this decision was presented to all the WTO members who had no choice, but to accept it. Such a decision making approach does not augur well for the democratic credentials of the WTO.



Glossary

Centad Team

Aid for Trade: This is a kind of aid given to help developing countries, particularly LDCs, to build supply-side capacity and trade-related infrastructure, which will assist these countries to implement and benefit from the WTO agreements and expand their trade. During the Hong Kong Ministerial, the US announced that it will double its annual trade-related aid from US\$ 1.3 billion in 2005 to US\$ 2.7 billion in 2010. The EU too announced a US\$ 5 billion aid package for LDCs. Japan also announced an ambitious package. This was viewed as a strategy to divert the agenda of the negotiations from key concerns, such as agricultural subsidies, and also to win the support of LDCs.

Annexure C: The objectives, approaches and timelines for further negotiations in the General Agreements on Trade and Services (GATS) are set out in Annexure C of the Hong Kong Ministerial Declaration of 18 December 2005. The inclusion of Annexure C in the Declaration was controversial because most of the developing countries were against an ambitious negotiation framework in services. For instance, Annexure C favours the plurilateral approach of negotiations, vis-à-vis the earlier request-offer approach, and this change in the architecture of negotiations was strongly protested against by many developing countries.

Anti-dumping Measures: A government action that seeks to stop and remedy the dumping of imported goods into the territory of a WTO member by imposing an anti-dumping duty.

Common Agricultural Policy (CAP): This is a system of subsidies provided by the EU to the agriculture sector and represents about 44 percent of the EU's spending. These subsidies, given either to provide a minimum support price for producers or to pay directly for crops planted, are given on the grounds of providing some economic certainty for EU farmers and of production of a certain quantity of agricultural goods.

Cotton Issue: This refers to the cotton initiative that was originally raised both in the General Council and in the agriculture negotiations by Benin, Burkina Faso, Chad and Mali. The four countries attributed the damage in their cotton sector to cotton subsidies in richer countries. They called for elimination of subsidies, and for compensation to be paid to them as long as the subsidies remain, to offset their consequent economic loss. In the Hong Kong

Ministerial Declaration, developed countries agreed to eliminate all forms of export subsidies for cotton by 2006 and to provide DFQF access for cotton exports from LDCs from the commencement of the implementation period.

Convention on Biological Diversity (CBD): CBD is a global treaty signed at the Earth Summit in 1992 that aims to institute an international legal framework for the conservation and sustainable use of genetic resources, with the rights over such resources vested with the sovereign states.

Doha Work Programme: This refers to the new round of trade negotiations launched at the Fourth Ministerial Conference of the WTO in Doha in 2001. The Doha Round of negotiations was launched with a promise to correct the inequities in the global trading regime and to ensure that the benefits of the multilateral trading system are available to developing countries and LDCs. The Doha Work Programme was to be completed by 1 January 2005. However, this deadline has been missed and the work is still in progress.

Doha Development Agenda: The Doha Work Programme was renamed 'Doha Development Agenda' to make it saleable to developing countries and LDCs. The attempt was to make the world believe that development is central to the global trade talks. There is no definition of the term 'development agenda' in the Ministerial Declaration.

Duty Free Quota Free (DFQF): This refers to providing access for the products of LDCs to the markets of developed countries without payment of any duty or subjection to any quota. The provision of DFQF access has been one of the major demands of LDCs and has been referred to as the litmus test of the ongoing negotiations. In the Hong Kong Ministerial, developed countries agreed to provide access to LDCs without imposing any tariff or quota on their exports, subject to a safeguard of three percent of tariff lines.

Export Subsidies: These are payments made by a country's government to its export firms to finance their purchase of expensive domestic products instead of their cheaper, imported alternatives or substitutes. These payments cover the difference in cost of the expensive domestic product and the cheaper import alternative so that firms buy from the domestic producers. For example, assume that in country

A the cost of a domestic variety of apple is six units and the cost of an imported variety of apple is two units. In such a scenario, the government of country A makes a payment of four units (the difference in the cost of the domestic apple and the imported apple) or more to the export firms and asks them to buy the expensive domestic apple. This payment of four units or more is the export subsidy, which compensates the export firm for buying the expensive domestic apple. Export subsidy is trade-distorting, as it impedes efficient imports and encourages inefficiently-produced domestic products.

Fast Track: This is a power granted to the President of the US by the US Congress to negotiate trade agreements, which may be accepted or rejected by the Congress, but not amended. It is also known as 'Trade Promotion Authority'. The advantage of Fast Track is that domestic political compulsions would not result in the amendment of trade agreements between the US and another country. However, critics point out that Fast Track may be used to undermine domestic public interest concerns during trade negotiations.

Front-loading: This refers to the practice of taking on more commitments in the earlier years of the implementation period than in the later years. The agreement on textiles and clothing, which involved 80 percent of the quotas to be dismantled in the final year, was back-loaded. To avoid a similar strategy by developed countries in elimination of export subsidies by 2013, the agreement calls for progressive elimination of export subsidies, implying that a major component of the subsidies are to be eliminated in the earlier years of the implementation phase.

G-110: During the Hong Kong Ministerial, heterogeneous groupings of developing countries with diverse interests, such as the G20, G33, ACP (African, Caribbean and Pacific Group of Countries), LDCs and the small economies joined hands to preserve the unity of the South and to project a common set of interests in the negotiations. It was for the first time that such a massive coalition, representing four-fifths of humanity, emerged. The common demands of the coalition included DFQF access for LDCs and elimination of subsidies of developed countries.

Green Room: This refers to the practice of informal consultations by a small number of WTO members behind closed doors. The consensual decision of these countries is then imposed on the rest of the WTO Members. This process is criticised for its opaque and undemocratic nature. The term 'Green Room' is used because during the General Agreements on Tariffs and Trade (GATT) days, the Director General used to hold such consultations in a room near his office that was

painted green, or according to other sources, in a room that had a baize-covered table.

Hong Kong Ministerial: The Ministerial Conference is the highest authority and the political decision making body in the World Trade Organization (WTO). It comprises all the member countries of the WTO. It is required to meet at least once in two years and takes decisions on all matters under multilateral trade agreements. China hosted the Sixth Ministerial Conference of the WTO. This Ministerial Conference was held from 13-18 December 2005 in Hong Kong. Past Ministerial Conferences have been held in Singapore (1996), Geneva (1998), Seattle (1999), Doha (2001) and Cancun (2003).

July Framework/July Package: The decision adopted by the General Council on 1 August 2004 in the form of a package of framework agreements is unofficially called the July Framework/July Package.

Modes of Supply: This refers to the means of delivering services to foreign consumers under the General Agreement on Trade in Services (GATS), dependent on origins of the supplier and consumer and the type of territorial presence that both have when the service is delivered. There are four modes.

Mode 1: This is cross-border supply. When a service is delivered within the territory of the consumer from the territory of the service supplier. Entails the conveyance by mail or telecommunication.

Mode 2: This is known as consumption abroad. A consumer receives a service outside his country either by moving or being situated abroad, for example foreign exchange students, people seeking medical treatment, repair services done to equipment shipped to a different country, tourist services consumed by a foreigner etc.

Mode 3: This is known as commercial presence. A service supplier establishes any kind of business or enterprise in the foreign market to supply services. For example, establishing corporate subsidiaries, trusts, joint ventures, partnerships, representative offices and branches, etc. In common parlance it is called Foreign Direct Investment (FDI).

Mode 4: This is known as movement of natural persons. Service delivered by one individual acting alone or as an employee of a service supplier by being present in the foreign market to provide the service.

Non-Tariff Barriers (NTBs): Measures that have trade-restrictive effects on trade in goods or services, but do not involve tariffs. They include technical barriers to trade and quantitative restrictions. Can also include standards intended to promote health and protect the environment.

Parallelism: Parallelism is a negotiation strategy that ensures that all components of a negotiation move ahead in parallel. For instance, several WTO Members insisted on parallelism in agriculture, NAMA and services, allegedly since the first few days of the negotiations were stuck on agriculture. Similarly, in agricultural negotiations, the EU insisted on parallelism in elimination of export subsidies; they were willing to work towards eliminating export subsidies if there was parallelism in all forms of export competition, such as export credits, state trading enterprises and food aid.

Plurilateral: Generally, all WTO Agreements are multilateral and apply to all the members of the WTO. However, there are certain Agreements that are applicable only to their signatories. The Hong Kong Ministerial Declaration mandates plurilateral negotiations in services.

Single Undertaking: This refers to the practice Members accepting the outcome of negotiations of a Ministerial as a single package instead of accepting it selectively. Some consider the practice advantageous because it obviates the ‘pick-and-choose’ approach. Others feel it may lead to necessary linkage of various trade negotiations.

Special Safeguard Measures (SSM): A proposal to amend the Agreement on Agriculture (AoA) by incorporating the provision to grant the right to impose safeguard measures, as defined in Article XXIX of the GATT, to protect the importing country from market volatility due to import surges. This proposed SSM is different from the existing provision of special safeguards in the AoA.

Swiss Formula: This is an extreme tariff-cutting formula that favours bringing all tariffs of WTO member countries to the same level. Cuts high tariffs (as in most developing countries) more steeply than lower tariffs, exposing developing countries to greater market volatility.

Contd. from page 25

Table 3						
Impact of the Tiered Approach of Tariff Reduction on 671						
Agricultural Tariff Lines: Simulation III						
(in percentage)						
Band	Initial Tariff Rate (T1)	No. of Tariff Lines	Final Tariff Rate (T2)			
			A=50	A=60	A=70	A=80
Band I 0 – 30	0	11	5.5			
	10	10	5			
	15	1	7.5			
	17.5	1	8.75			
	25	14	12.5			
	30	2	15			
Band II 30 – 80	35	12		14		
	40	13		16		
	45	7		18		
	55	25		22		
	60	1		24		
	75	1		30		
Band III 80 – 130	80	1		32		
	85	10			25.5	
Band IV > 130	100	313			30	
	150	223				30
	300	26				60
		Total 671				

Source: Centad’s calculation

Notes:

Tiered approach for tariff reduction: $T2 = T1 (1 - A/100)$, Where T1 is the initial tariff rate, T2 is the final tariff rate, A is a coefficient and has different values for the four different tariff bands as shown in the table.

...:Centre for Trade and Development:... - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media Print Mail

Address <http://www.centad.org> Go Links

Centad
Centre for Trade & Development

Contact Us



Centre for Trade and Development (Centad) is an independent, not-for-profit organisation registered under the Indian Societies Act that carries out policy research and advocacy on issues around trade and development, with a focus on South Asia.

[more](#)

UPDATES
Centad calls for papers on trade in services

TRADE NEWS

- > **Timetable set for completion of Doha talks**
- > **Trade ministers agree to quicken pace of trade talks**
- > **South Asian Free Trade Area comes into force**
- > **Key outcomes of the Hong Kong Ministerial: A Centad report**

SOUTH ASIAN YEARBOOK OF TRADE & DEVELOPMENT



Centad Calls for Papers on Trade in Services...

Centad is instituting a call for papers for researchers on key areas of trade in services, to address current research gaps. Papers are expected to have an India focus, development linkages and provide a policy angle. Papers should also include India's negotiations in the WTO as well as provide inputs for future negotiations.

Trade researchers, economists, lawyers, social scientists are invited to submit abstracts. The call for papers is subdivided into 1) Sectoral Analysis and 2) Thematic Analysis.

Extended Abstracts/Paper Submission

The abstracts should clearly delineate

- Topic
- Rationale
- Hypothesis/Objectives/Addressed questions
- Research methodology
- Proposed sections

The abstracts should be submitted electronically (MS Word, maximum 1200 words) on a separate sheet providing details of the researcher. Name of the researcher should not appear on the abstract sheet. A team of experts will review the abstracts for originality and relevance. Researchers whose abstracts are selected will be required to submit full papers which will be collated, peer reviewed and edited in the form of a book, by experts. Centad will pay Rs. 20,000 to the researcher/s whose papers are selected.

Important Dates

Last date to email abstract: 7 March 2006

Selection of abstracts: 31 March 2006

Last date to submit final paper: 10 July 2006

Address

Centre for Trade & Development
#406, Bhikaiji Cama Bhawan, Bhikaiji Cama Place
New Delhi – 110066

For further information, contact:

Email: centad@centad.org

Website: www.centad.org