

Annex IV.1: Main Issues in WTO

Agenda for Discussion	Main Issues	India's Position
1. Agriculture		
a. Export Subsidies	<ul style="list-style-type: none"> • Reductions of, with a view to phasing out, all forms of export subsidies. 	<ul style="list-style-type: none"> • Removal of all forms of direct and indirect export subsidies, by developed countries, in a time-bound manner. • For developing countries, retention of Article 9.4 of the Agreement on Agriculture, thereby enabling grant of marketing and transportation subsidies on exports listed in Article 9.1 (d) and (e).
b. Market Access	<ul style="list-style-type: none"> • Substantial improvements in market access for agricultural products of developing countries, while allowing them to retain the necessary flexibility. 	<ul style="list-style-type: none"> • Any reduction in tariffs by developing countries should be based on an approach that secures an overall average reduction in bound rates for them which is significantly lower than that by developed countries. • To provide the flexibility of minimal tariff cuts or exemption from tariff cuts by developing countries in respect of Special Products towards food and livelihood security and rural development, based on self-declaration. • To establish for developing countries a new Special Safeguard Mechanism (SSM) applicable to all agricultural products, based on price and volume triggers, to safeguard against import surge and price volatility. • To achieve substantial reductions in tariff peaks and tariff escalation, and to improve disciplines on Tariff Rate Quota administration, in products of export interest to developing countries.
c. Domestic Support	<ul style="list-style-type: none"> • Substantial reductions in trade-distorting domestic support. 	<ul style="list-style-type: none"> • Towards meeting the Doha mandate for substantial reductions in trade-distorting domestic support, the Amber Box support reduction should permit steeper reductions by developed country Members providing higher levels of support. The <i>de minimis</i> for developed countries should be reduced from the existing level of 5 per cent of the value of agricultural production. Blue Box support should be capped and brought under reduction disciplines, and disciplines on direct payments under the Green Box should be strengthened. To prevent circumvention of reduction commitments through the shifting of support between one box and another, trade-distorting Amber Box, Blue Box, and the <i>de minimis</i> should be brought under an overall reduction discipline. • Retain and enhance the provisions of Article 6.2 for low-income and resource poor farmers for developing countries towards addressing food and livelihood security and rural development concerns.

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- Special and Differential Treatment for developing countries
- The negotiated mandate agreed at Doha is for extending undifferentiated special and differential treatment to developing countries as an integral part of all aspects of negotiations. Developing countries can be expected to reciprocate in market access, subject to their economic and social conditions, development needs, food and livelihood security and rural development, only if they get adequate concessions and commitments by developed countries in all the three pillars of Agreement on Agriculture, namely, domestic support, export subsidies and market access.

2. GATS

- Professional Services
- Computer Related Services
- Audio Visual Services
- Distribution Services
- Education and Training Services
- Environment Services
- Financial Services
- Telecommunication Services
- Tourism Services
- Transport Services
- Postal Services
- Recreational, Cultural and Sporting Services
- Under GATS, India has taken commitments in the areas of its economic interests, which include services like financial, telecommunication, health, business, construction, tourism and travel-related. India's commitments are based on its domestic policy and has been taken mainly in Mode 3 (i.e. commercial presence), which are in consonance with the policy on FDI.
- Liberalisation of certain sectors is essential to accelerate growth in developing countries. However, there are certain sensitive sectors that needs to be treaded with caution.
- For the developing countries including India, the balance of benefit in the negotiations will accrue to the extent to which their service providers are allowed to supply services in important overseas markets either from remote locations or through temporary movement of natural persons.
- In case the resistance among developed countries for agreeing to the request of developing countries for enhanced market access under Modes 1 and 4 continues, this would substantially erode India's flexibility to make commitments in sectors of interest to developed countries.

3. Market Access for Non-Agricultural Products

- a. Finalisation of modalities for the actual tariff negotiations, *i.e.*, the tariff reduction
 - A formula to be applied to all tariff lines of all Members coupled with a mandatory sectoral tariff elimination proposal on seven sectors of export interest to developing countries.
 - The formula proposed by the Chairman of the Negotiating Group have merits as it incorporates adequate special and differential provisions by incorporating an element of tariff average in the formula. It thus recognises the principle of less than full reciprocity in the core modality of reduction commitments.

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<p>method and the extent of tariff reduction to be offered by different countries.</p> <p>b. How to deal with non-tariff barriers</p> <p>c. Special treatment, if any, of environmental goods in these negotiations.</p>	<ul style="list-style-type: none"> The formula requires all members to reduce their tariffs on all industrial products. The main issue is to clearly identify what is the measure, who is imposing it, how it affects trade and an estimation of the trade restricting impact of the measure. Members are not clear as to what constitutes an 'environmental good' and thereafter what should be the special treatment. 	<ul style="list-style-type: none"> Amending any aspect of the formula or the formula itself would negate the entire work done so far. The suggestion for mandatory tariff harmonisation and elimination would be most iniquitous to developing countries. There is no mandate for harmonisation of tariffs under the Doha Ministerial Declaration. For developing countries, the initiative for sectoral tariff elimination should be voluntary rather than mandatory and should also incorporate the principle of less than full reciprocity. Being at different stages of development, developing countries may not have the capacity to undertake binding obligations on all the proposed sectors. Some of the highest tariffs are found in developed countries in these sectors, namely, in textiles and clothing; leather and footwear; marine products; and gems and jewellery. Several WTO members including India have notified existing NTBs faced by their goods during exports to various markets. Discussions are going on as to how to address these NTBs. In the list of environmental goods, goods of export interest for developing countries should also be included.
<p>4. TRIPS</p> <p>a. TRIPS and Public Health</p>	<ul style="list-style-type: none"> How to ensure patent protection for pharmaceutical products does not prevent people in poor countries from having access to medicines while at the same time maintaining the patent system's role in providing incentives for R&D into new medicines. 	<ul style="list-style-type: none"> TRIPS Agreement under Article 31 provides for compulsory licensing procedure to make available patented medicines and drugs at affordable prices. Doha Declaration on TRIPS and Public Health adopted in November 2001 provides that the TRIPS Agreement does not and should not prevent Member countries from taking measures to protect public health and that each Member has the right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted as well as the right to determine what constitutes a national emergency or other circumstances of extreme urgency referred to under Article 31. Further, General Council has taken a decision on August 30, 2003 to waive obligations under Article 31(f) and 31(h) of TRIPS Agreement, with certain conditions. This decision would ease the problem being faced by the developing countries and Least Developed Countries having little or no manufacturing capacities in the pharmaceutical sector, in using the flexibility of compulsory license. This decision would enable

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		<p>manufacture and export of pharmaceutical products under compulsory license to countries with limited or no manufacturing capacities in the pharmaceutical sector. This would further improve accessibility of patented medicines at reasonable prices in poor countries. India has not taken any decision on all of these issues.</p>
<p>b. Geographical indications</p>	<ul style="list-style-type: none"> • Geographical indications are place names used to identify origin and quality, reputation or other characteristics of products. • Whether to extend the 'higher level of protection' beyond 'wines and spirits' to a wide range of other products, including food and handicrafts. 	<ul style="list-style-type: none"> • India has proposed that the proposed multilateral register should be extended for products other than wines and spirits. From India's point of view, the most important issue is the legal obligations of the Register on non-participating Members. Consensus among the Members could not be reached so far on this issue. • India has been demanding extension of protection available under Article 23 of TRIPS Agreement to products of geographical indications other than wines and spirits.
<p>c. Bio-diversity and traditional knowledge</p>	<ul style="list-style-type: none"> • How to deal with patentability or non-patentability of plant and animal inventions and the protection of plant varieties. • Whether discussions on these subjects have developed far enough to be handled immediately in the WTO or whether they should wait for technical discussions. 	<ul style="list-style-type: none"> • Draft Cancun Ministerial Text (Second Revision) under para 13 regarding implementation issues, while reaffirming the mandates given under para 12 of Doha Ministerial Declaration and Decision on Implementation-Related Issues and Concerns, instructed the TNC and other negotiating bodies to redouble the efforts to find appropriate solutions as a priority and requested the Director General to continue the consultations undertaken by him on issues including extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits. However, since there was no consensus among the Member countries on the draft Cancun Ministerial Text, the above draft language could not be agreed to.
<p>d. Non-violation complaints</p>	<ul style="list-style-type: none"> • The purpose of allowing 'non-violation' cases is to preserve the balance of benefits struck during multilateral negotiations. The issue is to decide whether 'non-violation complaints' should be allowed in intellectual property and if so, to what extent and how (scope and modalities) they could be brought to the WTO's Dispute Settlement procedures. 	<ul style="list-style-type: none"> • However, the draft language as suggested by India and other like-minded countries on implementation issues was different. India alongwith other like-minded Member countries such as Cuba, Egypt, Indonesia, Jamaica, Kenya, Malaysia, Pakistan, Sri Lanka, Tanzania, Uganda and Zimbabwe, reaffirmed that negotiations on outstanding implementation issues shall be an integral part of the Doha Work Programme.
<p>5. Singapore Issues</p>		
<p>a. Trade and Investment</p> <p>b. Trade and Competition Policy</p> <p>c. Trade Facilitation</p>	<ul style="list-style-type: none"> • Whether there is 'an explicit' consensus on modalities that would allow negotiations to go ahead, leading to new WTO rules on these four issues. 	<ul style="list-style-type: none"> • WTO is not the right forum and that the traditional WTO principles of non-discrimination particularly national treatment are not appropriate for a development policy-related issues like investment. • There are significant and deep differences in views of Members on many elements of these issues. India is not entirely convinced of

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d. Transparency in Government Procurement	<ul style="list-style-type: none"> Members also take position that, negotiation will commence after the Fifth Ministerial and results of negotiations would be part of 'single undertaking' to be concluded by March 31, 2005. 	<p>the appropriateness of taking a decision on modalities as it does not give any idea of the substance and direction of obligations that agreements in this area may require the country to undertake.</p> <ul style="list-style-type: none"> Negotiations on these issues may commence only after 'explicit consensus' on modalities among all members of the WTO and that each of the four Singapore issues should be considered separately and not covered under a single set of modalities. The need for a multilateral agreement on investment itself is not clear. Although it can neither promise additional investment flows nor reduce transaction costs for investors significantly, such agreement will certainly curtail the policy space of developing countries. There exists a wide divergence in views on various elements of 'investment' including scope and definition, transparency, dispute settlement, performance requirement, etc. Further work needs to be done on understanding elements in 'competition' such as core principles, cooperation mechanisms and the coverage and prohibition of hardcore cartels through appropriate mechanisms before India can start comprehending the implications of any multilateral discipline. Multilateral rules, binding in nature, in respect of trade facilitation and transparency in government procurement would entail high costs for developing countries.
6. Trade Rules		
a. Anti-Dumping b. Subsidies c. Regional Trade Agreements	<ul style="list-style-type: none"> Improve and clarify the anti-dumping Agreement. Improve and clarify disciplines in the Subsidies Agreement. How to interpret the phrase 'substantially all the trade'; regulations that could restrict trade such as rules of origin under preferential schemes; how regional agreements relate to development and the primacy of the multilateral trading system and the negative effect regional agreements can have on other countries. 	<ul style="list-style-type: none"> India has made three submissions to the negotiating group on Rules. The first submission has sought Special and Differential treatment for developing countries during anti-dumping and countervailing duty investigations. The second submissions has identified specific provisions of the anti-dumping agreement which require amendments. The third submission highlights provisions that require amendments to the Subsidies Agreement.
7. Dispute Settlement		
	<ul style="list-style-type: none"> Clarify and improve provisions of the Dispute Settlement Understanding (DSU). The Doha Declaration stated that these negotiations will not be part of the single undertaking, i.e. that they will not be tied to the success or failure of 	<ul style="list-style-type: none"> A comprehensive set of proposals was tabled by India alongwith certain other countries in the special session of Dispute Settlement Body (DSB).

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	<p>the other negotiations mandated by the declaration. All members, however, expressed a readiness to continue work beyond May 31, 2003 towards an agreement.</p>	
<p>8. Trade and Environment</p>	<ul style="list-style-type: none"> The need to clarify the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs); exchange of information between the WTO and MEA secretariats; criteria for granting observer status to other international organisations and liberalisation of trade in environmental goods and services. 	<ul style="list-style-type: none"> India has submitted a paper on "the effect of environmental measures on market access" to the Committee on Trade and Environment (CTE). (WT/CTE/W/207 dated 21/5/2002) and another paper on "Relationship between Specific Trade Obligations set out in MEA and WTO Rules" (TN/TE/W/23 dated 20/2/2003).
<p>9. Trade, Debt and Finance</p>	<ul style="list-style-type: none"> Durable solution to the problem of external indebtedness of developing countries and to strengthen the coherence of international trade and financial policies with a view to safeguarding the Multilateral Trading System (MTS) from the effects of financial and monetary instability. 	<ul style="list-style-type: none"> It is necessary to make significant progress in the areas of great importance to developing countries.
<p>10. Trade and Technology Transfer</p>	<ul style="list-style-type: none"> Recommend on steps to be taken within the mandate of WTO to increase flows of technology to developing countries. 	<ul style="list-style-type: none"> Need to move to the stage of identification of elements of a possible agreement and agree on start of negotiations.
<p>11. Electronic Commerce</p>	<ul style="list-style-type: none"> The main issues are (i) classification of the contents of certain electronic transmissions, (ii) development-related issues, (iii) fiscal implications of e-commerce, (iv) relationship (and possible substitution effects) between e-commerce and traditional forms of commerce, (v) imposition of customs duties on electronic transmissions, (vi) competition, and (vii) jurisdiction and applicable law/ other legal issues 	<p>—</p>