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DOHA ROUND OF MULTILATERAL TRADE NEGOTIATIONS – CRITICAL ISSUES IN TRADE DEVELOPMENT PERTAINING TO INDIA

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**DOHA ROUND OF MULTILATERAL TRADE
NEGOTIATIONS – CRITICAL ISSUES IN TRADE
DEVELOPMENT PERTAINING TO INDIA**

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The Doha Ministerial Declaration was aimed at establishing a fair and market-oriented trading system. An integral part of all its elements was a special and differential treatment for developing countries. However, it has already taken eight years of negotiations and has not been concluded so far. The present study highlights the major issues that are delaying the conclusion of Doha Round and the dissenting views of developed and developing countries on these particular issues, with a focus on India's stand on them. The study also suggests a framework within which India can make its policy stand for negotiations at the WTO.

The fourth WTO Ministerial Conference at Doha, Qatar in November 2001, entitled as the “Doha Developmental Round”, signalled a significant shift in focus within the World Trade Organisation (WTO) as it recognised the economic developmental needs of low income countries. However, despite the developmental role that this round was expected to play for the developing member countries, it has already taken eight years of negotiations and has faced stiff resistance from developing member countries. The objective of this study is to understand the complexities of the issues raised in Doha round of multilateral trade negotiation and the progress made on them till today. The study aims to analyse the member countries’ perspective and in specific India’s perspective regarding the negotiations.

This study has been divided into three sections. The first section deals with the evolution of WTO and an understanding of its working, the second

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section deals with negotiations on the issues raised in Doha round and the progress made thereon, the third section deals with the current status and sets out the way forward for the Doha round.

Section I

World Trade Organisation

Introduction

The World Trade Organisation came into existence in 1995. The WTO is the successor to the General Agreement on Tariffs and Trade (GATT) established in the wake of the Second World War. The end of World War II was followed by the beginning of multilateral initiatives for rebuilding the world economy, giving rise to a plethora of multilateral institutions. The most important of these was the establishment of the World Bank and the International Monetary Fund (IMF). The inception of these institutions lay in the principle of cooperation for greater benefit of all nations through collective understanding and cooperative initiatives. As the World Bank and IMF came into existence, the idea was to create a third organisation - the International Trade Organisation (ITO) - with the objective of creating an equitable trading order and facilitating the orderly development of global trade, besides ensuring growth and development of all nations. Accordingly, work was started on a draft charter (the ITO Charter) by a group of fifty countries, with the objective of launching an ambitious work on trade liberalisation. However, out of these fifty countries, twenty-three had already decided to 'negotiate to reduce and bind' customs tariffs and had come up with an agreement, GATT. The ITO Charter was finally vetoed out in 1951, and the ITO was abandoned.

The GATT was the only multilateral initiative governing international trade from 1948 until the WTO was established. Its main objective was to facilitate international trade for the overall development and growth of member countries. In 1995, GATT was replaced by the WTO with the main objective of ensuring trade flows as smoothly, predictably and freely as possible for promoting growth and development of member countries.

Theoretical Rationale

The rationale for the establishment of GATT/WTO is based on traditional trade theories which propound that international trade provides gains to trading countries. The gains-from-trade theorem, which is the central proposition of trade theory, states that if a country can trade at any price ratio different from its relative domestic prices, it will be better off than if it refrains from trade. The law of comparative advantage predicts that if permitted to trade freely, a country will gain from specialising in the export of goods in which it has a comparative advantage – that is, goods that it can produce at lower relative cost compared to other countries. International trade leads to specialisation in production and thereby creates benefit through exchange of commodities via export and import. Specialisation leads to higher scale of production and the concomitant gains through economies of scale in production. Also, the increased competition in production through opening up of markets enhances the gains for consumer. The “new new” theory of trade (Melitz, 2003 and Helpman) explains productivity gains from trade. As per the theory, free trade leads to expansion of the most productive firms that pushes some of the non-exporting, lower-productivity firms out of the market.

Besides the benefits available from trade as brought out by different theories of trade, there are certain other dynamic gains attached to international trade. International trade can affect the growth process through its effects on the accumulation of capital and on technological change. In a standard “neoclassical” growth framework, where technological change is determined externally (exogenously), international trade affects factor and product prices and, through this channel, provide incentives to accumulate capital. Within this framework, the effect of international trade on growth depends on the nature of trade taking place. The World Trade Report, ‘Trade in a Globalizing World’, 2008 has highlighted many of these benefits of international trade that support existence of an international organisation working towards the creation of free trade environment. However, in recent past many critiques of the WTO have raised questions about its existence as a growth and development enhancing organisation.

Evolution

The evolution from GATT to WTO came about through a series of negotiations, referred to as 'rounds'. The series of trade negotiations, or rounds, held under GATT led to the emergence of the multilateral trading system. The initial rounds of GATT dealt mainly with tariff reductions but later the negotiations also included other areas such as anti-dumping and non-tariff measures. The most important underlying principle of GATT is the Most Favoured Nation (MFN) principle which states that any concession that one state receives from another should be provided to all other states.

The WTO replaced GATT in 1995 after the final round of GATT, known as the Uruguay Round, which was wrapped up in 1994. Some of the negotiations continued even after end of the Uruguay Round and were made a part of WTO's rounds of trade negotiations.

Structure

GATT was just a treaty, but the WTO is an international organisation with higher empowerment. Also, it is endowed with a legal status. The main objective of WTO is to make international trade as fair and free as possible. To achieve such an objective the WTO sets certain rules of trading. These rules are a result of negotiations among the member countries. Currently, WTO has 153 member countries. The WTO's top level decision-making body 'Ministerial Conference' meets at least in every two years. The rounds of negotiations are introduced in these meets and with the consensus of all member countries rules of trade/schedules are created. These schedules become the basis for trade in:

- Goods, known as GATT that has 30 schedules. This comes under Goods Council.
- Services, known as General Agreement on Trade in Services (GATS). This comes under Services Council.
- Ideas and creativity, known as Trade Related Aspects of Intellectual Property Rights (TRIPS). This comes under Intellectual Property Council.

These Councils report to the General Council which comes at second position in the decision making ladder, *i.e.*, after the Ministerial Conference. Numerous specialised committees, working groups and working parties deal with individual agreements and other areas such as environment, development, membership applications and regional trade agreements.

Functions

WTO's main objective is to form an environment where international trade can be carried out freely, *i.e.*, without any trade restricting barrier. It strives to achieve this by performing the following functions:

- Administering GATT and implementing and administering WTO trade agreements. This is the primary function of WTO.
- Acting as a forum for trade negotiations to achieve a consensus on different sets of rules proposed in different rounds. Thus, it acts as a 'round-table' in the negotiation of new trade deals.
- Handling trade disputes arising between member countries. It acts as a mediator in settling trade disputes. There is an independent arm of General Council, Dispute Settlement Body (DSB), which enforces disciplines and compliance on the one hand, and reduces the scope for trade frictions on the other. Generally, the settlement of disputes under WTO is much faster (usually within 12 months) and its rulings can't be blocked by the national judiciary. Thus, it gives WTO a supranational status.
- Monitoring national trade policies of member countries to ensure that domestic policies do not conflict with the rules of WTO. There is another independent arm of the General Council, Trade Policy Review Body (TPRB), which is responsible for reviewing trade policies of member countries at regular intervals.
- Providing technical assistance and training for developing countries so that they can achieve growth and development as quickly as possible.
- Cooperating with other international organisations such as United Nations Conference on Trade and Development (UNCTAD).

The attempt made after the end of World War II to establish a multilateral trade organisation was finally achieved on 1st January 1995 with the establishment of the WTO as a distinct multilateral institution in its own rights and established on the basis of consensus of all the GATT contracting parties. The scope of WTO is broader than that of GATT. WTO has to ensure the implementation of the GATT's final decisions on trade negotiations and if there is any complication in implementation, the appropriate corrective measures should be suggested for that. Many of the issues that are either concluded under WTO or are still under negotiations, can find their genesis in GATT negotiations, therefore the understanding of GATT's rounds of trade negotiations provides the backdrop for the present status of negotiations.

Multilateral Trade Negotiation Rounds

GATT

Under the first round of multilateral trade negotiations, the group of twenty-three countries,¹ also called the original contracting parties of GATT, had negotiated tariff reductions. This round which came to be known as the Geneva Round established GATT on January 1, 1948. While adopting the results of the negotiations, this group of 23 had also adopted a set of trade rules to ensure that tariff concessions secured were not frustrated by unfair and restrictive trade measures. Eight rounds of trade negotiations had taken place under GATT. (Table 1).

During the last round, Uruguay Round, there were seven-and-a-half years of actual negotiations, preceded by four years of negotiations over agenda items. This round led to the creation of WTO. With this, the GATT ceased to exist, but all its principles, rules and agreements formed an integral part of the WTO as GATT 1947 and GATT 1994. At the beginning, the WTO was GATT+GATS+TRIPS.

¹ This group consisted of Australia, Belgium, Brazil, Burma (now Myanmar), Canada, Ceylon (Sri Lanka), Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, the Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia, Syria, South Africa, the United Kingdom and the United States of America.

Table 1: GATT Rounds of Trade Negotiations

	Name	Year	Place	Countries	Subjects covered	Achievements
1	Geneva	1948	Switzerland	23	Tariffs	Signing of GATT, 45000 tariff concessions affecting \$10 billion worth of trade
2	Annecy	1949	France	13	Tariffs	Exchange of around 5,000 tariff concessions
3	Torquay	1951	England	38	Tariffs	Exchange of around 8,700 tariff concessions, cutting the 1948 tariff levels by 25%
4	Geneva II	1955	Switzerland	26	Tariffs, admission of Japan	Further tariff reductions
5	Dillon	1960	Switzerland	26	Tariffs	Tariff concessions worth \$4.9 billion of world trade, discussion about creation of European Economic Community (EEC)
6	Kennedy	1964	Switzerland	62	Tariffs, Anti-dumping, section on development	Tariff concessions worth \$40 billion of world trade
7	Tokyo	1973	Japan	102	Tariffs, non-tariff measures, “framework” agreements	Tariff reductions worth more than \$300 billion of trade, nine major industrial countries of the time agreed to bring down the average tariff on industrial products to 4.7% over a period of 8 years, harmonised ² tariff reduction, plurilateral ³ agreements/ codes
8	Uruguay	1986	Uruguay	123	Tariffs, non-tariff barriers, natural resource products, textiles and clothing, agriculture, tropical products, GATT articles, Tokyo Round codes, anti-dumping, sub-sidies, intellectual property, investment measures, dispute settlement, the GATT system and services	The round led to the creation of WTO, and extended the range of trade negotiations, leading to major reductions in tariffs (about 40%) and agricultural subsidies, signing of an agreement to allow full access for textiles and clothing from developing countries, and an extension of intellectual property rights.

² It implies the higher the tariff, the deeper the cut: Tokyo Round formula

³ A plurilateral agreement is an agreement between more than two countries, but not a great many, which would be multilateral agreement. Here, the member countries would be given the choice to agree to new rules on a voluntary basis.

Unfinished Agenda of GATT

When the Uruguay Round was concluded in December 1993, there was a long list of ‘unfinished agenda’⁴ on which work could not be concluded, but was a part of the total package. Even today, much of the agenda items still remain unfinished. Industrial market access has not improved much for developing and least developed countries; these countries have had no significant gains yet from the phasing out of textile quotas. The non-tariff barriers such as anti-dumping measures have increased; and domestic support and export subsidies for agricultural products still remain high in the rich countries.

Moreover, the Uruguay Round has been held responsible for the current deep sense of anguish among many of the developing countries against the WTO. This round had introduced the principles of ‘single undertaking’ (that is everything is agreed when each one has been agreed) and ‘early harvest’ (that is the working of an agreement as soon as a negotiation is complete), implications of which, many feel, were not quite apparent to many developing countries at the time of launching of the round. In particular, the introduction of the concept of single undertaking, as realised, was essentially to make developing countries accept a huge number of obligations (as a high burden of policy adjustments) without much assured benefits.

Also, during the Uruguay Round, the collective bargaining position of the developing countries was severely dented, when the LDCs were given a special status and categorisation. Much of the current problems confronting the WTO today lie in these issues. Thus, the genesis of the current conflicts in the WTO lay in the womb of the Uruguay Round.

⁴ Such as movement of natural persons, government procurement agreement, services, trade and environment, technical barriers to trade, harmonisation of rules of origin, sanitary and phytosanitary measures, intellectual property rights, trade related investment measures, etc.

WTO

After the inception of WTO in 1995, six rounds of trade negotiations have already taken place:

Singapore Round

The first round was Singapore round of negotiations which was held in Singapore in 1996. The four “Singapore issues”: transparency in government procurement, trade facilitation (customs issues), trade and investment, and trade and competition were introduced in this round. These issues were pushed at successive Ministerial by the European Union, Japan and Korea, and opposed by most of the developing countries. The United States indicated that it could accept some or all of them at various times and preferred to focus on market access. Disagreements between largely developed and developing economies prevented a resolution of these issues, despite repeated attempts to revisit them, notably during the 2003 Ministerial Conference in Cancun, Mexico, whereby no progress was made.

However, some progress has been achieved in the area of trade facilitation. In July 2004, WTO members formally agreed to launch negotiations. Under the mandate of the so-called “July package”, members have been directed to clarify and improve GATT Article V (Freedom of Transit), Article VIII (Fees and Formalities connected with Importation and Exportation), and Article X (Publication and Administration of Trade Regulations). The negotiations also aim at enhancing technical assistance and capacity building in this area and improving effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues.

Geneva Round

The second round was Geneva round of negotiations which was held in Geneva, Switzerland during 1998. In the declaration, the ministers agreed to establish a preparatory process ‘under the direction of the General Council to

ensure full and faithful implementation of existing agreements, and to prepare for the Third session of the Ministerial Conference'. During this conference, differences persisted in preferences of developed countries.

Seattle Round

The third round was Seattle round of negotiations which was held in Seattle, USA in 1999. A week before the meeting, delegates admitted failure to agree on the agenda, and the presence of deep disagreements with developing countries. Intended as the launch of a new round of trade negotiations that would have been called "The Millennium Round", the negotiations collapsed and no resolution was adopted.

Doha Round

The fourth round was Doha round of negotiations which was held in Doha, Qatar in 2001. Many of the Seattle issues, covering unfinished agenda of Uruguay Round, were reconvened in Doha. This round is also known as Doha Development Round because it is mentioned in the Ministerial Declaration that this round seeks to place developing countries' needs and interests at the heart of the Work Programme adopted in this declaration. In every negotiable issue of the round, special concessions for developing countries were mentioned. The declaration stated that "We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs". However, there was no mention about the policies that involve use of domestic instruments in creating a protective environment and achieving the end result of restricting exports from LDCs. One such example is farm subsidies.

The final resolution on Doha issues has still not been achieved, even after more than 8 years since its introduction. The reason is lack of forward movement by major negotiators on agriculture subsidy and tariff reduction, the two most intractable issues in the Round. The current and future status of Doha negotiations is the prime focus of this study and a detailed discussion on this is set out in the next section.

Cancun Round

The fifth round was Cancun round of negotiations which was held in Cancun, Mexico in 2003. This aimed at forging agreement on the Doha round negotiations. The Cancun Conference was notable for the capacity of developing countries to organise around common positions while the Uruguay Round negotiations on agriculture were largely a US-EU affair, and was concluded once these countries reached the Blair House Agreement. The Doha Round negotiations were more a North-South issue, although with sub-plots within each of these groupings.

Though the Cancun Ministerial Conference had collapsed much before the scheduled end in 2003, the developments in Cancun were a reflection of the growing influence of developing countries. Notable, in this context, has been the emergence of the voice of Africa. The collapse of the talks did not give the African countries any benefits, but the failure of the talks meant that they did not have to make any additional sacrifices. Most G20 members had an indifferent look to it. The developed country members were perhaps the most disappointed lot with this outcome.

Hong Kong Round

The sixth WTO ministerial conference was held in Hong Kong in 2005. It was considered vital if the four-year-old Doha Development Agenda negotiations were to move forward sufficiently to conclude the round in 2006. In this meeting, countries agreed to phase out all their agricultural export subsidies by the end of 2013, and terminate any cotton export subsidy by the end of 2006. Further concessions for developing countries included an agreement to introduce duty free, tariff free access for goods from the Least Developed Countries, following the 'Everything But Arms' initiative of the European Union — but with up to 3 per cent of tariff lines exempted. Other major issues were left for further negotiation to be completed by the end of 2010. This is the most recent round of WTO negotiations.

Overall, GATT/WTO has several achievements to its credit. Membership of the WTO has increased steadily. Currently, 153 member countries account for more than 98 per cent of global trade. Tariff barriers have come down significantly and now there is talk of elimination of tariffs wherever appropriate for both developed as well as developing countries. The WTO's dispute settlement system has been found to be useful and effective by most member countries. The textiles and clothing trade has been integrated into multilateral trading, a development likely to benefit developing countries. But a close observer of the world trading order would, perhaps, fail to see any change in the trading, particularly competitive practices of nations in the two decades since the launch of the Uruguay Round. The trade frictions are increasing, non-tariff barriers are rampant, bilateralism and regionalism is the order of the day. All these are restricting free flow of goods and services across the world.

The aim of this study is to highlight the negotiations undertaken under Doha Round and progress made on this. However, most of the negotiations in Post-Uruguay Round era have concentrated on the initiatives undertaken by developed countries to achieve success on unfinished agendas of Uruguay Round against the efforts undertaken by developing countries and LDCs to remove the unfair imbalances created by Uruguay Round. So, the understanding of Doha negotiations and its success so far achieved involves many issues raised in Uruguay Round. This is set out to be discussed in the next section.

Section II

Doha Round of Multilateral Trade Negotiations

After the Uruguay Round, there was a perception among the developing countries that the Uruguay Round has created imbalances by putting additional policy adjustment pressure on developing countries while providing only limited rights to them. They, thus, wanted a round that could correct those imbalances. On the other side, developed countries were of the view that some new agenda

should be there for a new round of negotiations. Also, many of the agenda items of Uruguay Round were unfinished. So, the selection of the agenda had following three alternatives:

- a) A comprehensive and ambitious new round, including a discussion of implementation issues (View endorsed by Developed Countries).
- b) New round, but with a limited agenda, including a discussion of implementation issues (Intermediate solution).
- c) No new round, but only implementation issues and built-in-agenda to be discussed (View endorsed by India and Low and Middle Income Countries).

Due to the differences in the views of the member countries, the draft of the ministerial text was revised a number of times. While the Doha Ministerial Declaration (DMD) was variously interpreted, the developing countries, in particular, had described it as a development round. Several commitments were undertaken in connection with the integration of the LDCs into the multilateral trading system and the global economy such as: commitment to the objective of duty-free, quota-free market access for products originating from LDCs and facilitate and accelerate the accession process of the LDCs to the WTO. Special and differential treatment (SDT) was mandated as an integral element of all negotiations.

The work programme adopted in 2001 for Doha round of negotiations had issues and concerns related to implementation, agriculture, services, market access for non-agricultural products, trade-related aspects of intellectual property rights, relationship between trade and investment, interaction between trade and competition policy, transparency in government procurement, trade facilitation, WTO rules, dispute settlement understanding, trade and environment, electronic commerce, small economies, trade, debt and finance, trade and transfer of technology, technical cooperation and capacity building, least-developed countries and special and differential treatment (Annexure A).

The main focus of the agenda was the needs of least developed and developing countries. However, various questions were raised on the prepared agenda itself:

- Text on implementation issues did not enjoy any legal standing.
- Target of completing the Doha work programme by 2004 was described as over ambitious.
- Mandate had certain interpretational complexities such as:
 - ▲ There was no fixed definition of ‘all forms of export subsidies’. The USA was of the view that focus was on export subsidies only. The EU was of the view that it covers all forms of export support. In developing countries’ view this was also applicable to subsidy provisions in other export competition elements such as export credit, food aids, state trading enterprises, *etc.*
 - ▲ There was no clarity on ‘substantial reduction in trade-distorting domestic support’. The EU had a view that it covers only amber box⁵, while many others, including the Cairns Group⁶ and leading developing countries had a view that it also includes green box because of its sheer size of US\$ 78 billion a year.

Since then various texts for drafts and proposals have been presented in different meetings of WTO. Many of the unfinished agenda items of previous rounds were present in this new round of negotiations. So, the issues raised and the progress made on them till now requires a discussion in historical perspective also. A detailed analysis of the agenda issues/items is given below-

⁵ Green box subsidies are permissible subsidies meant for the development of agriculture, these are regarded as non-trade distorting. Blue box subsidies are income/production-support subsidies. Amber box subsidies are prohibited subsidies and have to be reduced through negotiations.

⁶ Group of nineteen agricultural exporting countries.

I. Agriculture

Agriculture has always been the most debated sector in WTO rounds. Negotiations on agriculture sector under Doha had been carried out through Agreement on Agriculture (AoA), which was presented in Uruguay Round and entered into force during 1995, with the establishment of the WTO. The member countries have been protecting their domestic agriculture sector by a host of actions such as domestic support (that is, production subsidy, price supports, *etc.*, affecting production level), export subsidy, imposition of tariff (most visible form of restricting market access), tariff quota and non-tariff measures. The AoA was primarily about reduction of barriers to trade in agricultural commodities, exercised through such measures.

Before the Uruguay Round, trade in agricultural commodities was highly distorted on account of excessive governmental interventions and support measures such as farm subsidy and price supports. The AoA of the Uruguay Round was the first ever multilateral initiative that provided framework of rules aimed at disciplining the unfair agricultural policies of the member countries, especially members of the OECD countries. In this agreement, both developed and developing countries had undertaken significant commitments to reduce domestic support, export subsidy and tariff and non tariff barriers, besides accepting disciplines on areas having trade-distorting effects. However, the Least Developed Countries (LDCs) were not required to make any such commitment.

However, the outcome was not satisfactory for the following reasons:

- Coinciding with the implementation of the Agreement, trade in agricultural commodities was seen declining at the rate of 1 per cent annually during 1995-2000, as against a very significant positive growth during the period of negotiations. This had put a question on conventional wisdom that trade liberalisation naturally brings about growth in trade.

Table 2: Producer Support by OECD Countries		
Year	Producer Support as a per cent of Farm Receipts	Total Support Estimate (USD billion)
1986-88	38	308
2001/1999	31	361

Source: Ministry of Commerce.

- There was not much impact on the extent of subsidies or tariff cuts as highlighted by country level as well as commodity level data, particularly for cotton and rice. (Tables 2 and 3).

Cotton has been attracting larger production subsidies. The developed countries accounted for 88.5 per cent of world cotton production subsidies at US\$ 3461 million while the developing countries accounted for 11.5 per cent at US\$ 450 million in 2001. Within the developed countries, the U.S. accounted for around 76 per cent of world cotton subsidies. Among South Asian countries, India was the only country that was providing cotton subsidies to its farmers in 2001. (Chart 1).

In the post Uruguay Round, trade distortion through high level of tariff and domestic support was the most significant in case of rice. The average

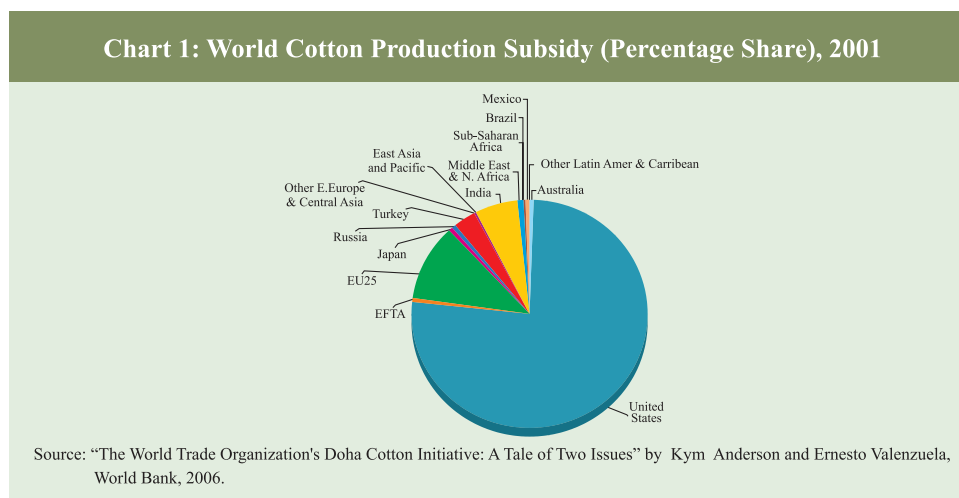


Table 3 : Summary of key findings of commodity studies

Commodity	Major Sources of Distortions	World Average Tariff	Domestic Support	World Price Effects of Distortion Removal
Cotton	U.S. and E.U. domestic subsidies. Small trade distortions. Sporadic support in China. Indirect tax via Agreement on Textiles and Clothing. "Reactive" support in India, Brazil, Turkey, Mexico, Egypt caused by low prices.	5.2% (average MFN 1995-98 HS52).	\$5.3 billion world-wide 2001/02 (direct income and price support).	Increase of 10-20%.
Dairy and Products	TRQs with high out-of-quota tariffs, export subsidies, domestic subsidies in Quad*. TRQ and domestic support in Korea. Trade barriers in China and India.	29.4% (average MFN 1995-98 HS04).	\$39.4 billion (2001 PSE for OECD countries). \$11.56 billion (average 1995-1998).	Increase of 20-40% for milk, cheese, milk powder, casein, dry-whey.
Groundnuts and Products	Trade distortions in China and India. Redundant tariffs in U.S. Former U.S. peanut program but much reduced distortion with 2002 farm bill.	12.7% (groundnuts); 11.3% (groundnut oil), 5.8% (cakes).	\$0.3 billion (2002 U.S. AMS). \$0.35 billion (average 1995-1997).	Increase of 15-20% for groundnuts, groundnut oil and cake.
Rice	Tariff escalation by milling stage in E.U. and LCA**. Prohibitive tariffs in Japan, Korea, E.U. Tariffs in Indonesia, India, and many net importing countries outside Middle East. High tariffs on short/medium-grain rice, lower tariff on high-quality long-grain.	43% for all rice types; 217% for Japonica rice; 21% for indica rice.	\$20.75 billion (average 1995, 1998). \$24.34 billion (2001 PSE)	Increase of 33% on average, but up to 90% for short/medium-grain rice.
Sugar	High domestic and trade subsidies in E.U., U.S., Japan. Trade distortions in Turkey and many countries. "Reactive" support by competitive producers caused by low prices.	26.6% (average MFN 1995-1998 HS 17).	\$5.3 billion (average 1995-1998). \$5.2 billion (2001 PSE).	Increase of 20-40% depending on modeling approach.

* Quad includes Canada, the European Union, Japan, and the United States; high-income Asia includes Japan, Korea, Taiwan; Oceania includes Australia and New Zealand;

** LCA is Latin and Central America.

Sources: "Agricultural Trade and the Doha Round: Lessons from Commodity Studies" by John C. Beghin and Ataman Aksoy, 2003. (Hoekman, Ng, and Olarreaga 2002, OECD 2002, WTO 2000, WTO 2002, Wailes 2003, Diop, Beghin, and Sewadeh 2003 and Baffes 2003).

domestic support for all rice types was \$20.75 billion and tariff was 43 per cent. The Japonica rice had a tariff of 217 per cent. The removal of such high level of distortion was expected to bring on an average about 33 per cent increase in world price of rice. (Table 3).

- There was prevalence of high tariff⁷, incidence of tariff peaks⁸, tariff dispersion and wide variety of tariff, leading to lack of transparency in tariff structure.
- There was no actual special provision for LDCs. The United Nations Development Programme (UNDP) estimated that under the Uruguay Round regime (1995-2004 as assumed) 48 LDCs would actually be worse off by US\$ 0.6 billion a year with Sub-Saharan Africa actually worse off by US\$ 1.2 billion.

Thus, all this led to inclusion of AoA in Doha round. The objectives of AoA under Doha Round are to achieve substantial improvements in market access; reduction of, with a view to phasing out, all forms of export subsidies; and substantial reduction in trade-distorting domestic support. Provision for Special and Differential Treatment (SDT) to LDCs is also a part of the agenda. Throughout the period of Doha negotiations, *i.e.*, since 2001, different proposals have been put forward by different groups of member countries to achieve the above objectives. The current negotiations on AoA revolve around three major issues- formula for tariff reduction, subsidies reduction and special safeguard mechanism.

Tariff Reduction: Tariff is the most visible and direct form of restricting trade and reduction in tariff does not require much policy changes at domestic level. Tariff affects the price of a commodity in international market. The issue of tariff reduction involves two things, selection of the tariff line for reduction and the level of reduction in that tariff. This has faced dissenting views on selecting the formula for reduction.

⁷ The average of post-UR simple average bound tariff for all OECD countries taken together was 30 per cent.

⁸ Incidences of tariff peaks (meaning tariffs above 15 per cent, also expressed as multiple, say 2.5 or 3 times, of average tariff) were around 34 per cent of tariff lines within the EU.

The **developed countries**, represented by US and EU, have proposed a blended formula involving a mix of the Uruguay Round⁹ formula, Swiss formula¹⁰ and duty free for a certain percentage of tariff lines for reducing the tariff levels.

On the other hand, the **developing countries**, represented by G20, have not agreed to accept blended formula and around 75 developing countries, including India, have preferred the Uruguay Round formula because of the following structural flaws in blended formula¹¹:

- It enables, on a self-declaratory basis, countries to opt for those tariff lines subject to minimal cuts (*i.e.* apply average based Uruguay Round formula) which are of higher commercial interest to many other member countries.
- Developing countries have homogeneous tariff structure while developed countries' tariff structure is characterised by clusters of very high tariff (tariff peaks). The use of the Swiss formula for a specific range of tariff lines in homogeneous tariff structures will lead to higher tariff reductions by developing countries. Simulations with regard to the Swiss formula have revealed that members entitled to "special and differential treatment" will be required to make proportionally high average tariff reductions than developed members. The developed countries can apply Swiss and Duty free components on their cluster of already low tariff.

At present, the draft blueprints issued for final deal on agricultural trade negotiations, circulated on February 8, 2008, have proposed a Tiered formula for reduction in Final Bound Tariff, t (or Ad Valorem Equivalent). As per the

⁹ Gerard formula: $t_1 = (B \times t_a \times t_0) / (B \times t_a) + t_0$ where B = a coefficient with a unique value to be determined by the participants, t_1 = the final rate to be bound in ad valorem terms, t_0 = the bound rate (2001 rate), t_a = average of the base rates.

¹⁰ Swiss formula: $t_1 = (a \times t_0) / (a + t_0)$ where: t_1 = final tariff, t_0 = current bound tariff and a = the coefficient.

¹¹ Ministry of Commerce

tiered formula, the tariff level has been divided into five slabs (different for developed and developing countries). The principle at work is ‘the higher the tariff, the greater the required reduction for that tariff’. Developing countries have been given special treatment as it has been proposed to reduce their tariff levels by 2/3rd of the reduction applicable to developed countries. For developing countries, it is proposed that the reduction would take place over a period of 8 years in comparison to 5 years given to developed countries. Moreover, a condition of a minimum/maximum cut has also been set out. For instance, if the tariff rate is 40 per cent in a developed and a developing country then as per the tiered formula a developed country is asked to reduce its tariff rate by 55-60 per cent which implies bringing the tariff rate down to 16-18 per cent over a period of 5 years and after the reduction in all slabs the average cut on tariff should be at least 54 per cent. If this 40 per cent tariff rate prevails in a developing country then it is asked to reduce it by 37-40 per cent which implies bringing it down to 24-25.2 per cent over a period of 8 years and after the reduction in all slabs the average cut on tariff can be at most 36 per cent. (Table 4). In Uruguay Round formula and Swiss formula rate of

Table 4: Tiered Formula for Tariff Reduction

	t	Reduction (per cent)	Subject to condition	Implementation Period
Developed Countries (DCs)	0<t≤ 20	48-52	Minimum average cut on t = 54%	Equal annual installments running over 5 Years
	20<t≤ 50	55-60		
	50<t≤ 75	62-65		
	t>75	66-73		
Developing Countries	0<t≤ 30	2/3 rd of DCs' cut in slab 1	Maximum average cut on t = 36%	Equal annual installments running over 8 Years
	30<t≤ 80	2/3 rd of DCs' cut in slab 2		
	80<t≤ 130	2/3 rd of DCs' cut in slab 3		
	t>130	2/3 rd of DCs' cut in slab 4		

t = Final Bound Tariff Rate.
 Note: Every figure proposed has been put in open bracket for further negotiation. Net food importing developing countries and some recently acceded countries are not required to undertake reduction commitments.

reduction¹² does not increase at an increasing rate with increase in existing tariff rate, for a positive value of 'a'. Also, the rate of reduction under the Uruguay Round and Swiss formula depends on the value of coefficient, 'a'. Tiered formula does not require any such additional information.

Subsidies Reduction: Subsidy provision is a fiscal/monetary measure that distorts the price of an input or/and an output. Subsidy can take several forms such as production subsidy, subsidised interest rates on credit for production, minimum export price, *etc.* Subsidies have certain social and economic domestic objectives and, therefore, reduction in subsidies involves some drastic changes in policy at domestic level.

Regarding the reduction in subsidies, the **developed countries** are proposing that the member countries should make commitment to reduce all forms of agricultural subsidies.

On the other hand, **developing countries** are of the view that their limited financial resources do not allow them to provide substantial agricultural subsidies, therefore, they are not responsible for distortions in agriculture being created by subsidy provisions. Developed countries should undertake reduction in subsidy provisions. Moreover, the developing countries' agriculture sector is dependent on primitive production techniques, therefore, additional provisions should be made to enable them to pursue policies aimed at agricultural productivity growth. For instance, input subsidies given to crops wherein productivity levels are below the world average should be covered under the Green Box.

At present, the 2008 Draft has proposed a tiered formula for reduction in Overall Trade-Distorting Domestic Support (Base OTDS) for both developed and developing countries which has been defined as:

for Developed Countries

¹² $dx/dt_0 = a / (a+t_0)^2$ and $d^2x/dt_0^2 = (-)2a / (a+t_0)^3$ where x is rate of reduction.

Base OTDS (X)= Final Bound Aggregate Measure of Support (AMS) specified in Part IV of a member's schedule + (5 per cent of average total value of production for product-specific AMS + 5 per cent of average total value of production for non-product-specific AMS) + average of Blue Box payments or 5 per cent of average total value of agricultural production, whichever is higher¹³

for Developing Countries

Base OTDS (X) = Final Bound AMS specified in Part IV of a member's schedule + (10 per cent of average total value of production for product-specific AMS + 10 per cent of average total value of production for non-product-specific AMS) + average of Blue Box payments or 5 per cent of average total value of agricultural production, whichever is higher¹⁴

As per the tiered subsidy reduction formula, three tiers have been defined for reducing subsidies by developed countries. The reduction is based on the principle of 'the higher the subsidy, the greater the reduction to be made'. The maximum reduction proposed is up to 85 per cent, which implies that a country can still maintain at least 15 per cent of existing subsidy level. Thus, in case of subsidies provision for developed countries, 100 per cent reduction is not on the table. If the base OTDS (*i.e.*, the total support) is more than 40 per cent of average value of production then, developed countries are required to make some additional reduction. The developing countries, which have some subsidy reduction commitment, have been given special concession, they are required to reduce their subsidy by 2/3rd of the reduction made by developed countries at slab three and they have been given an implementation period of 8 years whereas developed countries have been given a period of 5 years. For instance, if the base OTDS is US\$100 billion in a developed country and its average value of production is US\$ 500 billion then that country is required to reduce

¹³ Average total value of agricultural production is average of 1995-2000.

¹⁴ Average production is average of 1995-2000 or 1995-2004, countries' choice.

Table 5: Tiered Subsidy Reduction Formula				
		If X < 40% of average value of production	If X ≥ 40% of average value of production	
	X (USD Billion)	Reduction (%)	Additional Reduction	Implementation Period
Developed Countries (DCs)	X > 60	75-85	½ of the difference between 1 st slab reduction and 2 nd slab reduction	1 st down payment and then running over 5 years
	10 < X ≤ 60	66-73		
	X ≤ 10	50-60		
Developing Countries	With no X commitment	0%	–	
	With some X commitment	2/3 rd of slab 3 reduction of DCs	–	1 st down payment and then running over 8 years

Note: Net food importing developing countries and some recently acceded countries will not be required to undertake reduction commitments.

its OTDS to US\$ 15-25 billion over a period of 5 years. If a developing country is providing US\$ 100 billion of OTDS and if it has made a commitment at WTO to reduce its subsidies then it is required to bring its OTDS down to US\$ 60-66.6 billion over a period of 8 years. (Table 5).

India's stand point on this particular issue is that any tariff reduction commitments can be considered by developing countries only after substantial reduction has actually been effected by the developed countries in all the three areas: market access, domestic support and export subsidies.

Special Safeguard Mechanism (SSM): SSM is a measure designed to protect poor farmers by allowing countries to impose a special tariff on certain agricultural goods in the event of an import surge or price fall.

The **developing countries** want the availability of SSM to all of them irrespective of tariffication in the event of a surge in the imports or decline in prices to ensure food and livelihood security of their people.

On the other hand, the **developed countries**, particularly, the United States, have argued that while making the provision for SSM, the threshold to invoke such a measure has been set too low which implies that it will be too easy for

developing countries to invoke SSM, for even a small size of decrease in international price of import or for a small size of increase in quantity of import.

At present, the 2008 Draft has put forth a proposal for SSM with the following features:

- SSM can be invoked for all tariff lines in principle.
- SSM shall not be invoked for more than [3] [8] [products]¹⁵ in a 12-month period.
- Both price and volume-based measures can't be invoked simultaneously.
- The Volume based measure can be invoked if the quantity of import is more than at least 105 per cent of the base import. In such a scenario the imposing country can apply maximum additional duty on applied tariff with a condition on bound tariff. The condition has been applied in order to ensure that the new applied tariff never exceed pre-Doha level of bound rate (*i.e.*, the maximum tariff level committed at WTO prior to Doha round), so that the countries can't use it as a protectionist measure. Three slabs have been defined for invoking SSM and each slab gives a different rate of increase on applied tariff. The applicable principle is that the higher the surge in imports, the greater the level of additional duty imposed (Table 6).

Table 6: Volume based SSM		
Invoke if	Impose Max additional duty on applied tariffs (as a per cent of current bound tariff)	Subject additional duty to condition if current bound tariff would be exceeded
[105][130]<Q _m ≤[110] [135]	[50][20] or [40][20], whichever is [higher] [lower]	Apply existing bound tariff as max. ceiling
[110][135]<Q _m ≤[130] [155]	[75][25] or [50][25], whichever is [higher] [lower]	<1/2(Pre-Doha Bound Rate – Current Bound Rate)
Q _m >[130] [155]	[100][30] or [60][30], whichever is [higher] [lower]	Apply Pre-Doha Bound Rate as max. ceiling
Note: Q _m is quantity of import as a per cent of base import (rolling average of imports in preceding 3-year period). Figures proposed have been put in open bracket for further negotiation.		

¹⁵ '[]' implies open for negotiations.

- The price based measure can be invoked if the c.i.f. import price is less than [70] per cent of average monthly price (MFN Basis) of preceding 3 years period (trigger price), provided, the domestic currency at the time of importation has depreciated by at least 10 per cent over the preceding 12-months period. In that case the additional duty shall not exceed [50 per cent] of the difference between the import price and the trigger price subject to a condition on level of bound tariff.

As per the Lamy Text, the bound rate trigger has been given a value of 140 per cent, *i.e.*, import volumes to rise by more than 40 per cent to enable increase of tariffs beyond the UR bound levels. India suggested a figure of 115 per cent and the US insisted on a trigger of 140 per cent. India has expressed its inability to accept this trigger, citing studies purportedly proving that substantial injury can occur at level above 110 per cent.

II. Market Access for Non-Agricultural Products (NAMA)

Access to other countries' non-agricultural market requires reduction in tariffs on non-agricultural (industrial) products. Liberal market access for their products in the developed countries was the biggest expectation of developing countries from the Uruguay Round. The developed countries were providing more access to their non-agricultural market than their agricultural market as in the OECD countries the average tariff on agricultural products was 4-5 times the average tariff on industrial products. This multiple was 1.5-2 in developing countries.

In respect of the market access for industrial products, the achievement of the Uruguay Round was very significant in terms of coverage of tariff binds as well as reduction commitments. Binding on tariff was imposed on all tariff lines for some of the major developed countries and almost on 2/3rd of tariff lines for developing countries. Average tariff in developed countries was almost 1/3rd of tariff in developing countries (Table 7). There was an improvement in market access for developing countries' exports (Annexure C).

Table 7: Tariff Structure		
Country	Share of Bound tariff in tariff lines (per cent)	Average Tariff (per cent)
Some of the Developed Countries / Quad* Countries	100	4.4
Developing Countries	73	12

* implies USA, EU, Canada and Japan.

However, there was still continuation of tariff peaks and tariff escalation¹⁶ maintained by developed countries with respect to products of interest to developing countries such as textiles, clothing, footwear, leather goods, rubber, *etc.*

In the aftermath of Uruguay Round, major developed countries were found to be liberally using the technical barriers (Sanitary and Phytosanitary/SPS, Certification and other Technical Barriers to Trade/TBT) and WTO rules (that is, rules relating to anti-dumping measures, subsidies and safeguard duties). Following them, some large developing countries have also begun to use such practices. Thus, the non tariff barriers (NTBs) have emerged as potent instruments for the protection of domestic industry. The brunt of this development was largely borne by the developing countries at large.

In this scenario, negotiations for NAMA were undertaken under Doha Round. The main elements of the Doha Mandate were to negotiate modalities aiming at:

- Reduction, or as appropriate elimination, of tariffs.
- Reduction or elimination of tariff peaks, high tariffs and tariff escalation.
- Removal of non-tariff barriers in particular on products of export interest to developing countries.
- Providing special and differential treatment to LDCs.

¹⁶ It is a system where an importing country protects its processing or manufacturing industry by setting lower duties on imports of raw materials and components, and higher duties on finished products.

The **developed countries** were of the view that reduction in tariff on non-agricultural commodities should be undertaken mainly by the developing countries as the average tariff levels in the OECD countries and some other developed countries were already low.

On the other hand, the **developing countries** were of the view that the mandate, through SDT had special dispensations for them. Therefore, they were not required to make huge reductions in tariff. During 2003, India along with other nine developing countries, proposed:

- Developing countries should be provided flexibility in keeping domestically sensitive tariff lines as unbound.
- Elimination of tariffs should not be applicable to them as they need to use tariff as an instrument of industrial policy and as revenue generating source to meet developmental expenditure.
- For using linear formula of tariff reduction, India suggested a coefficient of 0.5 for developed countries and 0.33 for developing countries.
- To tackle high tariff peaks, no bound tariff line shall have a tariff exceeding 3 times the average of all bound tariffs in its tariff schedule. However, some flexibility should be given to developing countries for sensitive tariff lines.
- Implementation period should be 5 years for developed countries and 10 years for developing countries.
- All non ad valorem duties should be converted into ad valorem equivalent, allowing developing countries to retain 3 per cent of their tariff lines with non ad valorem rates.
- Developed countries shall provide Duty Free Quota Free access for all products of LDCs.

However, still these issues are on the table for negotiations with the presentation/introduction of various revised proposals. As per the negotiations

Table 8: Weighted Average Applied and Bound Rates Levied by WTO members

	Applied Rates (in per cent)			Bound Rates (in per cent)		
	Base	Formula	Formula plus flex	Base	Formula	Formula plus flex
Total						
All countries	3.7	2.5	2.9	9.9	5.7	6.9
High income countries	2.5	1.4	1.7	5.2	3.1	3.8
Developing-non LDC	6.9	5.3	6.2	21.8	12.6	14.4
LDCs	11.1	8.7	11.1	–	–	–
Agriculture						
All countries	14.5	8.9	11.8	40.3	20.7	29.9
High income countries	15.0	7.5	11.0	31.9	13.5	20.2
Developing-non LDC	13.4	11.5	13.3	53.9	33.0	45.4
LDCs	12.5	12.2	12.5	94.1	51.6	94.1
NAMA						
All countries	2.9	2.1	2.3	7.8	4.7	5.3
High income countries	1.7	1.1	1.1	3.5	2.5	2.7
Developing-non LDC	6.4	4.8	5.6	19.1	10.9	11.8
LDCs	10.9	8.0	10.9	–	–	–

Source: Laborde, Martin and van der Mensbrugge (2008).
Notes: Country groups defined using World Bank and UN definitions. - : Not Available

under Doha Round, the required reduction in tariff rates for all member countries is set out in Table 8.

In Table 8, applied rates imply the rates that influence the actual market outcomes, *i.e.*, the rates prevailing in the market. The bound rates are the maximum rates of tariff allowed by the WTO, these are negotiated in the trade rounds. The base rate implies the rate prevailing in the absence of a round, formula shows the rate that will be applicable if negotiations get implemented without exception, and formula plus flex implies the rate applicable after allowing the exceptions, such as those for small and vulnerable economies (SVEs) and for product flexibilities such as those for sensitive and special products in agriculture. As is evident from the table, the base and bound rates are higher for agriculture sector than the non-agriculture sector. On an all country basis, agricultural rates are almost five times the non agricultural rates.

Table 9: Per cent Change* in the Rate with the Implementation of Negotiations

	Applied Rates (in per cent)		Bound Rates (in per cent)	
	Formula	Formula plus flex	Formula	Formula plus flex
Total				
All countries	-32.4	-21.6	-42.4	-30.3
High income countries	-44.0	-32.0	-40.4	-26.9
Developing-non LDC	-23.2	-10.1	-42.2	-33.9
LDCs	-21.6	0.0	–	–
Agriculture				
All countries	-38.6	-18.6	-48.6	-25.8
High income countries	-50.0	-26.7	-57.7	-36.7
Developing-non LDC	-14.2	-0.7	-38.8	-15.8
LDCs	-2.4	0.0	-45.2	0.0
NAMA				
All countries	-27.6	-20.7	-39.7	-32.1
High income countries	-35.3	-35.3	-28.6	-22.9
Developing-non LDC	-25.0	-12.5	-42.9	-38.2
LDCs	-26.6	0.0	–	–

* The rate of change has been calculated from Table 8 in order to analyse the extent of reductions that the implementation of negotiations can bring about.
– : Not Available.

As per Table 9, the rate of reduction, without any flexibility, is lower for non agricultural commodities than agricultural commodities. The rate of reduction is highest for high income countries (HICs) in agriculture sector. In case of NAMA, rate of reduction is higher for HICs for applied rates but for bound rates developing countries are required to undertake higher reduction. The greater lowering of bound rates by developing countries implies that their future policy space will be lesser.

However, it has been pointed out that despite the lower tariff levels applied in developed countries through Doha, the effective market access for LDCs in the EU will be negligible and still negative in the US, as the tariff lines on which tariff cuts have not been changed comprise the products which are of export interest for LDCs (Celine Carrere and Jaime de Melo, 2009).

III. Services

From the view point of developing countries, one of the best outcomes of the Uruguay Round was General Agreement on Trade in Services (GATS), as for instance, some of the provisions in the Agreement, *viz.*, Article 4 (increasing participation of developing countries), Article 12 (BOP safeguard) and Article 19 (progressive liberalisation) had built-in safeguard measures for developing countries. Similarly, in the GATS it was completely up to each country to define their level of commitment. The member countries were not required to open their markets across the board.

The principle at work was: each according to capacity and requirements. Further, there was an unconditional application of MFN principle. Thus, unlike other various GATT agreements, GATS did not impose stringent binding commitments on either the developing countries or on developed countries. With increasing importance of services exports in total world exports, GATS continued to remain a part of negotiations and was added in the agenda of Doha round.

Conceptually, the GATS commitments are based on two lines, horizontal commitments and sector-specific commitments. The horizontal commitments imply applicability to all sectors and sector specific commitments are applicable only to the sub-service sector being negotiated. Within each line there are two categories, *viz.*, limitation on market access and limitation on national treatment¹⁷. For each of the category, commitments have been made under four modes of supply of services which are: Mode 1 - cross border supply, example exports and imports; Mode 2 - consumption abroad, example tourism; Mode 3 - commercial presence abroad, example foreign direct investment; Mode 4 - movement of natural persons, example working abroad for more than one year.

¹⁷ The difference between the two can be explained with an example, if a foreign bank is allowed to establish itself within the domestic territory then it implies that the government of domestic economy is giving market access to that foreign country. Any restriction on this access is defined as limitation on market access. On the other hand if foreign bank is allowed to open as much branches as allowed to a domestic bank then it implies that the domestic government is providing national treatment to a foreign entity and any restriction to this is defined as limitation on national treatment.

The benefit of GATS in terms of market access for developing countries was very little as in the schedule of commitments the developed countries had given a little concession in sectors of interest to developing countries, particularly under Mode 4 where the developing countries had competitive advantage. The maximum number of commitments was made in health care and education (WTO, 2003). With respect to movement of natural persons (Mode 4), sector-specific commitments of developed countries were mostly linked to commercial presence (Mode 3), implying liberalisation of foreign investment.

All the developed countries, and particularly the US, the EU and Canada, had imposed a wide range of conditions on market access and applied numerous domestic regulations to create barriers to the entry of skilled natural persons of developing countries into their markets. Further, under mode 4, an individual could not apply for any work in his own right on an individual basis. He had to be an employee of a company. Thus, GATS of the Uruguay Round did not provide much benefit to the developing countries and, therefore, it was made a part of Doha agenda.

Also, during that time, many developing countries undertook unilateral liberalisation in several service sector areas such as tourism, real estate, health care, education, financial services, telecom, *etc.*, thus giving wider access to their markets. The developed countries gained from this development.

An analysis of the Doha offers as of 2008 regarding services sector reveals that the offers do not give any liberalisation of actual policy as:

- Two of the most protected sectors, transport and professional services, are either not being negotiated at all or not with any degree of seriousness (Marin and Matto, 2008).
- The Annex to the GATS on Air Transport Services excludes from the scope of the GATS all measures affecting air traffic rights and services directly related to the exercise of air traffic rights.
- The maritime negotiations are notionally on (with offers from some countries) but have never really got off the ground because the United States is unwilling

to accept GATS disciplines (particularly the MFN principle) on maritime transport and has not made any commitments or offer in this area.

- As far as professional services are concerned, the presence of natural persons faces almost insurmountable barriers in most countries because of the rigid immigration policy or existing domestic regulations such as licensing and qualification requirements.

In almost all regions of the world, actual policy is substantially more liberal than the Uruguay Round commitments. Uruguay Round commitments are on an average 84 per cent more restrictive than current policies. The poorer countries have on average bigger gaps between commitments and actual policy. The Doha offers are an improvement over Uruguay Round commitments but the gap between offers and actual policy is still large. The improvement in offers is on an average the same at all levels of income which implies that no special treatment has been given to developing or least-developed countries. In comparison to actual policies the Doha offers are on an average 43 per cent more restrictive than actual policies. (Chart 2).

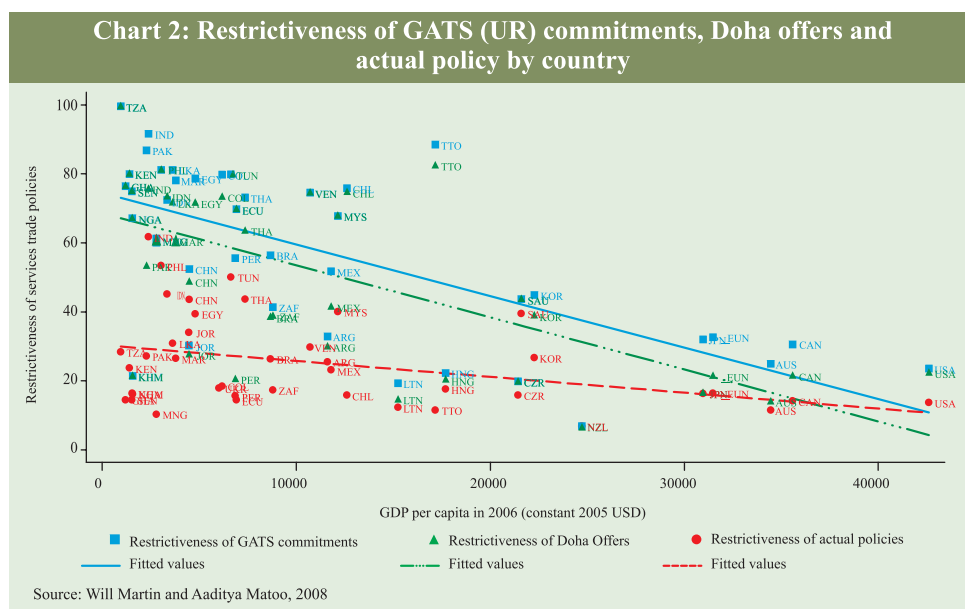
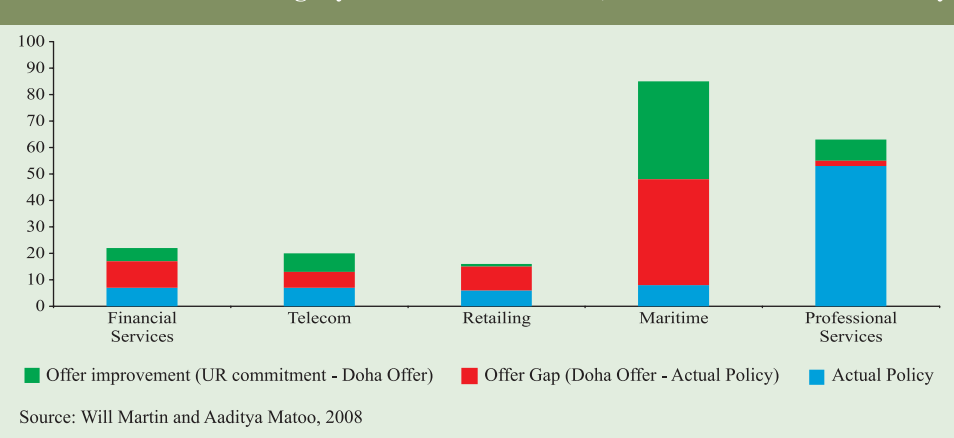


Chart 3: Sector-wise Uruguay Round Commitments, Doha Offer and Actual Policy



There exist sector-wise differences in Uruguay Round commitments, Doha offers and actual policy. Among all four major services, viz., financial services, telecom services, retailing, maritime and professional services, retailing is the least restricted sector, with the actual policy being the most liberal than Uruguay Round commitment and Doha offer. For retailing, the difference between Uruguay Round commitment and Doha offer is the least which means that not much has been achieved in this sector through Doha. The Professional Services, on the other hand, is the most restrictive sector and here the Doha offer and actual policy are almost at the same level of liberalisation, so this sector gives scope for further liberalisation. There exists the highest gap between Uruguay Round commitment and Doha offer in maritime sector which means that a high level of market access has been achieved in this particular sector. However, still the actual policy in maritime is more liberal. (Chart 3).

So, still a lot needs to be done in services sector, given the high growth of global services. The negotiations in services can give a direction for the actual policies of both developed and developing economies.

IV. Trade Related Aspects of Intellectual Property Rights (TRIPS)

The Agreement on Trade Related Aspects of Intellectual Property Rights was introduced in Uruguay Round of multilateral trade negotiations. It included seven types of intellectual property, namely, patents, copyrights, trade-marks, geographical indications, industrial designs, layout-designs, integrated circuits and undisclosed information. The primary focus of the TRIPS Agreement was on minimising the incidence of infringement of intellectual properties and, thus, encouraging innovations, as is clear from the statement made in Article 7 of the TRIPS Agreement that states the objective of the Agreement as ‘The protection and enforcement of IPR should contribute to promotion of technological innovation and to the transfer and dissemination of technology...in a manner conducive to social and economic welfare and to a balance of rights and obligations’.

The implications of such an agreement for developing countries was the most controversial and hotly-debated issue. It was argued that the agreement was aimed primarily at protecting the interests of patent/property right holders through the provision of compulsory licensing. Some trade experts like Jagdish Bhagwati and Arvind Panagariya have criticised the introduction of TRIPS into WTO, fearing that such non-trade agendas might overwhelm organisations’ functions. However, a contrarian view has also been put forth by analysts like Stefan Griller that the IPRs are in the interest of developing countries. Apart from the impact the absence of IP or insufficient IP protection in certain countries may have on exports to these countries and imports from these countries, there is a link between IP protection in a country and transfer of technology to, and diffusion of technology in, that country. Moreover, IP protection is an important factor of foreign direct investment.¹⁸

¹⁸ Stefan Griller, 2007.

Some of the items put on the agenda of the TRIPS review under Doha round are discussed below:

Traditional Knowledge: The concept of traditional knowledge refers to genetic resources, indigenous medicinal knowledge and other resources. The problem of protection is that the traditional medicinal knowledge based on plants is usually not patentable - it is either obvious or it is in the public domain. However, a pharmaceutical product derived from plants via that traditional medicinal knowledge is patentable and the patent belongs to the pharmaceutical company. Under the TRIPS rules - in Daniel Gervais' terminology - there is a double 'exclusionary effect' : a 'negative exclusionary effect' in that traditional knowledge is not protected, and a 'positive exclusionary effect' in that IP rights are acquired by non-traditional knowledge holders. In dealing with these exclusionary effects, most of the options for introducing protection of traditional knowledge probably involve far-reaching adaptations of the TRIPS agreement.

Public Health Issues: TRIPS Agreement has implication for public health issues also, particularly for developing member countries. Infectious diseases kill over 10 million people each year, more than 90 per cent of whom are in the developing world. There is a lack of access by developing countries to several life saving drugs. The TRIPS agreement recognises that while protecting the products of innovation, the social needs should not be ignored, for e.g., in case of a public emergency, if a pharmaceutical manufacturer is not able to produce enough of a needed medicine for which it has a patent, the member country can require that company to license its medicines to another domestic manufacturer in order to supplement any anticipated shortfall. This practice is known as compulsory licensing. However, the Article 31(f) of the TRIPS agreement, which deals with the issue of compulsory licenses, provides that production under compulsory licensing must be predominantly for the domestic market. The basic problem is that many developing countries simply have no

capacity to produce the necessary medicines, even under license. For them, the only realistic means of access is direct import of generics from other member countries' company producing generic medicines under compulsory licenses. This was an issue of negotiation under Doha round. During 2003, the TRIPS Council adopted a decision to grant compulsory licenses with a view to exporting pharmaceutical products to countries with no or insufficient manufacturing capacities. This decision was criticised on the grounds that a country can use such importing outlet for industrial or commercial objectives also. Moreover, there exists the possibility of re-exportation. Such issues need to be resolved through further negotiations.

The developed member countries undertook in Article 66(2) of the TRIPS agreement to provide incentives to their companies to transfer technology to LDCs, but it is not only the technology that is required for capacity building, also the human skill power. Therefore, making available the skills of engineers and scientists for research and development needs to be looked upon during further negotiation on Doha round.

Geographical Indications: The protection of geographical indications has been made a part of the agenda for restricting the acts of unfair competition. The geographical indications are defined by the TRIPS agreement as 'indications which identify a good as originating in the territory of a member country, or a region or a locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin'. The protection of geographical indications through TRIPS requires more stringent domestic policies for member countries as the simple unfair competition laws such as misrepresentation can't be relied upon for this.

Moreover, the enforcement of TRIPS agreement requires legal and administrative infrastructure for a country as infringing the rules is prevalent not only in developing but also in developed countries. Finding reasonable and balanced solutions to these issues at the WTO level requires considerable efforts and skills, different from those needed for GATT and GATS matters.

V. Agreement on Trade Related Investment Measures (TRIMS)

Many developing countries have been using their investment policies to achieve certain objectives of domestic growth such as technology access, employment generation, increased exports earnings, *etc.* For example, during the 1980s, India's industrial policy had favoured conditional liberalisation of foreign (as well as domestic) investment, in the sense that only such investors which were willing to accept conditionalities such as obligations to export, phased indigenisation of manufacturing, *etc.*, were allowed to invest. In this respect, the TRIMS agreement of the Uruguay Round was a direct attack on investment policies of developing countries. As per this Agreement, WTO member countries had been prohibited from imposing any of these restrictions or conditionalities on the investors.

Articles 3 and 11 of GATT already prohibited certain investment measures that were trade-restricting and/or distorting in nature. During the negotiations, attempts were made, specifically by the US, Japan and the EU, to widen the scope of such measures by expanding the list but it was opposed by developing countries. Later on, it was agreed that the Agreement on TRIMS could prohibit only those measures that were prohibited under GATT Articles 3 and 11.

Article 9 of the TRIMS Agreement had mandated the council for Trade in Goods to undertake (i) a review of the operation of the Agreement beginning January 1, 2000 and (ii) review whether the agreement should be 'complemented with provisions on investment policy and competition policy'. The agreement required the developing countries to phase out trade-restricting investment measures by January 1, 2000. The mandated review, however, had started with a review of the requests for the extension of the transition period from a few developing countries as well as transition economies.

The developing countries were demanding the multilateral application of the '2 plus 2' formula¹⁹, *i.e.*, in simple words they were asking for the flexibility

¹⁹ 2 plus 2 formula implies the requesting member countries were to be granted two years (ending by the end of 2001) of the extended transition period and an additional two years (ending by the end of 2003) for those requesting members who would submit a binding phase-out plan.

for those developing member countries which were not able to notify their measures and could not submit their request for an extension before the expiry of the transition period. But it was not accepted. Moreover, the U.S. had already initiated a dispute against the Philippines' local content and export-import balancing requirements in the automobiles sector so that the implementation can't be delayed. Similarly, a dispute was also initiated against India's automobile policy. The second aspect of the review, *i.e.*, the review of TRIMS with respect to investment policy and competition policy was not taken up.

The **developed countries** are of the view that all types of trade-restricting investment measures should be phased out.

On the other hand, the **developing countries** are not in favour of removing all investment measures even if they restrict free trade flows. **India** has made its submission in the WTO regarding TRIMS as:

- Developing countries are growing, therefore, they need some policy space to determine the manner in which investments should be regulated and channeled.
- Focus should be on growth enhancing investments along with ensuring that there would not be any crowding out for small and medium enterprises.
- Until recently, performance requirements were an integral part of growth strategies of developed countries, so even developing countries should be given that much flexibility.

These along with some other issues have been hindering the conclusion of Doha Round since its inception in 2001. It requires efforts from all member countries to achieve convergence of opinions on these issues in order to finalise the Doha Round of trade negotiations.

The importance of the conclusion of Doha Round has been highlighted by a study done by Antoine Bouet and David Laborde, 2008 which has concluded that there would be a potential loss of US\$1,064 billion in world

trade if world leaders failed in early conclusion of the Doha Development Round of trade negotiations. This conclusion is based on two losses, firstly, all gains of DDA arising from larger market access, calculated through computable general equilibrium (CGE) model, would be lost and secondly, if countries started moving towards protectionism, which is more likely, then there will be a loss in world welfare due to a fall in world trade. The failure of the negotiations would prevent a US\$336 billion increase in world trade that would have come from a reduction in tariffs and domestic support, while a worldwide resort to protectionism would contract world trade by US\$728 billion.

A World Bank Report has estimated that the continued reduction of tariffs on manufactured goods, the elimination of subsidies and non-tariff barriers, and a modest 10 per cent to 15 per cent reduction in global agricultural tariffs would allow developing countries to gain nearly \$350 billion in additional income by 2015. Developed countries would stand to gain roughly \$170 billion.²⁰

So, it is important for the member countries to conclude the Doha Round in order to achieve improvement in world economic welfare. Moreover, to keep intact the credibility of WTO as a trade facilitating international organisation, there is a need to conclude the negotiations as early as possible.

Section III

Current Status, India's Stand Point and Way Forward!

The year of 2010 has been set as a prospective line to conclude Doha Round of trade negotiations which was launched in 2001. The member countries are trying hard to conclude it after facing a number of failures of the meetings and/or deadlines of July 2002, December 2002, Cancun round of 2003, January 2005, July 2006, G4 meeting of 2007, July 2008 and December 2008. In the current crisis situation it is expected that Doha multilateral trade round at its

²⁰ World Bank, Global Economic Prospects 2004: Realising the Development Promise of the Doha Agenda, 2004.

completion would provide a boost to the global trade integration that is at the centre of productivity growth for rebuilding the world economy after the crisis (WEO, 2009).

The Uruguay round also took seven-eight years of trade negotiations before getting completed in 1994-95 and it has been portrayed as a source of creating imbalances in terms of commitments offered and gains enjoyed by developing countries. One of the aims of the Doha round is to remove those imbalances.

India's position at WTO has gained strength from increasing economic importance of India in global economy. (Table 10). India's share in world exports of goods and services has increased. Also, India has a huge domestic untapped market. Its middle-class is growing and its rural sector is gaining purchasing power. All this is making the developed countries, particularly the US and the EU, much more sensitive to India's trade concerns.

However, many a time the draft proposals giving special concession to developing countries have not been accepted in the WTO meetings. In the year 2003, *Harbinson's draft* which called for steep reductions in tariffs and subsidies by developed countries was objected by the EU and Japan. The negotiations during 2008 also could not move forward because of the differences between developed and developing countries demands²¹.

Table 10: India's Share in World figures (in per cent)

	2001	2006
Merchandise Exports	0.7	0.9
Merchandise Imports	0.8	1.3
Services Exports	1.0	2.2
Services Imports	1.1	2.0

Source: IFS CD-ROM, June 2009.

²¹ The US tried to put the blame of the failure of 2008 negotiations on India for India's strong position on SSM. However, many ministers, officials and diplomats have been speculating that the SSM was not the real issue that was irreconcilable. In the most widespread view, the US did not want to face the cotton issue, which was the next item on the G-7 agenda once SSM was settled. Since the US had agreed to cut its overall trade distorting support by 70 per cent, it would have to agree to reduce cotton subsidies by more than that as the mandate is that these subsidies be cut more deeply and faster than the normal or the average.

Post July 2008, the momentum got weak to some extent due to two reasons: (i) the contagion of the financial crisis spread across the world and preoccupied policy makers and (ii) the US election calendar led to further hardening of US positions. The current crisis situation has resulted in some countries using protectionist measures to save their domestic industries. For e.g., the US domestic content requirements have already been added on to rescue plans, for instance, those for the auto industry; and fiscal stimulus packages have buy-local provisions. These measures are not in line with the spirit of WTO and, therefore, should be brought under consideration while negotiating. The talks to conclude Doha Round have gained the momentum again. The following are the issues which are under intense debate among the member countries:

Agriculture

It is the most debated issue in Doha trade negotiations. The developed countries feel that the developing countries, particularly India, have delayed the talks on agriculture. On the other hand, the developing countries' view point is that the developed countries are not adhering to free and fair trade by providing protection to their agriculture sector through high subsidies. The differences are arising on two major issues, *viz.*, agricultural subsidies and SSM.

Subsidies: The provision of subsidies maintained by developed countries is itself against the principle of free trade on which WTO is based. At the same time, there is no social requirement for the same in developed countries as highlighted by various studies/findings. For instance, a report submitted by the US's Department of Agriculture states that "on average, farm households have higher incomes, greater wealth, and lower consumption expenditures than all U.S. households."²² Thus, despite sound economic condition of the farmers, 30 per cent in OECD and 18 per cent in the US of their total farm income comprises production support.

²² US Department of Agriculture, "Income, Wealth, and Economic Well-being of Farm Households", Agricultural Economic Report, July 2002.

Nearly 90 per cent of all subsidies in developed countries go to growers of just five crops, *viz.*, wheat, cotton, corn, soyabeans, and rice, in the production of which developing countries have comparative advantage (D. Markheim and B.M. Riedl, 2007). In particular, the issue of huge subsidies enjoyed by cotton farmers in developed countries is high on the list of negotiation issues. Subsidies, by their very nature of affecting market price, create inefficiencies. Subsidies have a long term effect of raising global food prices as high subsidies lead to over production, environmental degradation and higher land prices. Therefore, the basic objective of the WTO of creating a free and fair trade environment requires such distortions to be removed.

More recently China and New Zealand have made a complaint at WTO against the high dairy export subsidies provided by the US and the EU. The US response to this is that the provision of subsidies provided by other countries is depressing prices and making the US industry uncompetitive and therefore it has re-introduced the export subsidies in May 2009, but it is not an economically rational argument.

Presently, the text available for agricultural trade negotiations requires the US to cut its allowable Overall Trade-Distorting Domestic Support (OTDS) by 70 per cent to \$14.5 billion from present level of \$48.3 billion. But the \$14.5 billion is far above the actual OTDS of \$7-8 billion in 2007 and it still gives a lot of space to the US to increase its OTDS at any point of time in future. The US offer of \$15 billion for allowable OTDS has not been accepted by India and Brazil among other developing countries as being inadequate.²³

In order to avoid the opposition of developing countries against the high agricultural subsidies of developed countries, the developed countries are also following an alternative way to protect their agriculture sector by shifting a

²³ It is worth mentioning here that in 1989, the US had circulated a proposal calling for the elimination of both export subsidies and trade-distorting domestic subsidies. Subsequently, there was an increase in the value of US domestic farm subsidies so that even after making reduction commitments in WTO it could effectively provide enough protection to its agriculture sector.

number of product lines from blue to amber and green box. As B L Das (2006) has pointed out: “The really significant escape route is the green box which amounts to \$50 billion and \$22 billion in 2000, respectively, in the US and EU and the possibility of unlimited increase in future... Thus the green box, particularly its window of ‘decoupled income support’ (Paragraph 6 of Annex 2 of the Agreement on Agriculture) will continue to be the route to give farmers unlimited amounts as subsidies.” In this connection, India has put forth its views at World Economic Forum, January 2009 that with the continuation of high agricultural and industrial subsidies given by developed countries, the developing countries cannot be asked to exercise restraint on tariffs.

For moving ahead on negotiations, the developed countries are required to reduce their agricultural subsidies so that the distortions in production can be removed and international prices can be aligned with the actual production cost. With the corrections in world prices, the developing countries will be able to export those commodities in the production of which they have a comparative advantage. An upper limit on per capita OTDS, rather than total OTDS, can be set for all member countries as per capita serves as a better indicator of the real situation. Given high level of OTDS provided by developed countries and their small population, it is obvious that these countries would have been providing high per capita subsidies. At WTO, the targets for subsidy reduction can be set with the aim of converging per capita subsidy provision in developed and developing countries and the pace of convergence can be negotiated. For instance, the bound limits for the developed countries can be set as the double of the limit for developing countries given the fact that developed countries have more resources to spend for the social welfare of their economies. However, the bound limit for developing countries can be set as twice the average of last three years of actual per capita OTDS of developing countries, so that the developed countries’ figures do not deviate too far from developing countries’ figures.

Special Safeguard Mechanism (SSM): The other issue which is delaying the conclusion on Doha Round is Special Safeguard Mechanism (SSM). More

recently, on July 21, 2008, negotiations started again at the WTO's head quarters in Geneva on the Doha Round but stalled after nine days of negotiations over the refusal to compromise over the SSM. The Lamy's proposal on SSM, introduced in the G7-meeting of July 2008 was supported by the US and others but it was opposed by India and China. The text gave a coefficient of 140 for bound rate trigger, however, India suggested a coefficient of 110 per cent. The political statements in the US pointed against India and China for the collapse of the talks and regarded SSM as new protectionist devices. But it is worth noting that the special measures are mainly used by the developed countries. As per the WTO data, during the period from 1995 to 2002, the US invoked the SSG (special safeguard for agriculture) on a total of 396 tariff lines. The European Commission in the same period used the SSG on 296 tariff lines. Fewer than 30 developing countries qualify to use the SSG (as it can only be used for those products that underwent a tariffication process in Uruguay round) and they hardly make use of this facility. Neither India nor China is eligible to use the SSG. Later a joint statement regarding the proposals on SSM was issued by the G33 team which dispelled the notion that India was the only country blocking the talks.

A new proposal for SSM has been presented in December 2008. However, the remedies still remain restrictive as the low level of extra duty allowed is regarded as insufficient to address the problem of import surge or declining import prices. Also, the additional conditions, imposed for invoking the SSM, limit the effective use of SSM for developing countries. At the World Economic Forum, January 2009 India expressed the view that due to the precarious condition of India's agriculture sector, SSM is necessary to insulate Indian farmers from the sudden decline in international prices or surge in import volumes of agricultural commodities. India's agriculture sector accounts for around 18 per cent of its GDP and 56 per cent of its workforce. Most of the members of this workforce are subsistence farmers, working on land holdings of less than 2 acres, many are not even landowners, and mere sharecroppers. Even an incremental surge in agricultural imports could affect the lives of millions of these farmers.

However, it should be remembered that all types of special measures are actually trade distorting as they create misallocation of resources by making some production activities more attractive. Therefore, the focus should be on the cause of the import surge or import price decline, as it may have resulted from some technological innovation in rest of the world and the solution should be to imitate or import such new technology.

More specifically in the Indian context, India needs to look at other major bottlenecks faced by its exporters in developed countries. For example, India's fruit exports are constrained by stringent sanitary and phyto-sanitary (SPS) measures being imposed by some developed countries in their market such as barriers to exports of mangoes and other fruit on account of insistence of some of India's major trading partners to use only the Vapour Heat Treatment (VHT) procedure.²⁴ Many of India's exports are subject to certification by developed countries on health grounds. Though, to some extent quality checking is essential but over stressing on quality and too much interference in production procedures make these stringent laws as trade restricting measures. During recent negotiations, the use of such non tariff barriers has not got the required attention, due attention should be given to them.

There is a need to throw light on the other side of the coin. As per Singer Prebisch Theorem, agricultural exports have low income elasticity and synthetic substitutes for agricultural commodities are easily available and therefore reliance on agricultural exports cannot create export-led growth. Also, as agricultural production involves issue of food security, no country can follow a policy of import dependence for food products. Thus, the growth of such exports is limited. Moreover, developing countries are still dependent on primitive production techniques, the crops are still rain-fed and their own population is growing. Therefore, the potential for growth of primary goods export is not very high. Hence, while negotiating on agriculture sector the

²⁴ 'WTO and Agriculture', MANAGE, an organisation of ministry of agriculture, Govt. of India.

developing countries' focus should be on technology transfers so that productivity in agriculture sector can be enhanced. The developed countries should be asked to invest in the domestic research and development of developing countries and also for providing human expertise to promote inventions and innovations in developing countries. The developing countries' exports need to be marketised adequately in existing and potential destinations. They have to diversify their exports in terms of composition and destination. To move up on the technological ladder, the stress should be on the value added exports and those exports that have scope for technological upgradation and high productivity.

Trade facilitation is another major issue of concern for developing countries, in particular, for India's exports growth. The transaction cost amounts to around 5-8 per cent of total production costs in India. There is a need to introduce procedural simplifications for reducing high transaction costs. India should focus on services sector exports as it has a comparative advantage in it and as it is already following more liberalised trade regime for this sector, it can demand for liberalisation in services trade at WTO level.

NAMA

As per the WTO text on NAMA of December 6, 2008, the developing countries have been asked to undertake tariff reductions of 60 - 70 per cent while the developed countries are offering a reduction of only 20 - 30 per cent based on Swiss formula for tariff reduction which gives a coefficient of 8 for developed countries and 22 on an average for developing countries. (Table 11). The insistence on developing countries to cut their bound tariffs in

Table 11: Tariff Reduction through Swiss Formula	
Country	Average Bound Tariff Reduction (in per cent)
Japan	22
US	29
EU	33
Developing Countries (Incl. India)	60

NAMA or agriculture until they go below the applied levels along with the continuation of US practice of having a bound level that is twice its actual spending on agricultural domestic subsidies has been objected by India and China.

India desires that the modalities for tariff cuts should reflect the mandate of less than full reciprocity in reduction commitments and comparability in ambition between NAMA and Agriculture.

Also, there is a pressure for compulsory participation by select developing countries (including India, China and Brazil) in voluntary sectoral approach (in which tariffs in whole sectors have to be eliminated or brought to very low levels). In particular, the developed countries are pressurising India, China and Brazil to take part in “sectoral initiatives” to open their markets in auto, chemicals, and electrical/electronic sectors. The developed countries are also trying to link these sectoral initiatives with the flexibilities in average bound tariff reduction, but India, among others, has not accepted this and negotiations are still continuing.

So far as the tariff reduction is concerned, it may be mentioned that the Swiss formula should not be used for making commitments on tariff reduction as it involves the use of an arbitrary coefficient, a , which can be manipulated by member countries. Even, the simple average formula has its own limitations. For instance, it overlooks the values that are either very high or very low and thus cannot solve the problem of tariff peaks.

The simplest way is to reduce the bound levels of developed countries to 5 or 10 per cent for all tariff lines as their industries have already developed. Otherwise, the developed countries can be asked to bring their bound tariff rates to 5 to 8 per cent for those tariff lines that cover at least 98 per cent of the potential exports, and not the actual exports as that may be lower because of existing high import tariff or domestic support in importing country, of developing countries to developed countries. This potential of exports for

developing countries can be calculated through revealed comparative advantage²⁵ or by matching the developing countries exports and developed countries imports at different commodity classification levels.

TRIPS

The Doha agreement on TRIPS, which enabled developing countries to procure generic versions of drugs for diseases like AIDS, Malaria and T.B., is expected to accelerate India's pharma exports. But not much has been achieved on this particular issue. About a hundred developing countries, led by India and Brazil, had proposed a system of disclosure of country of origin, and evidence of prior informed consent and benefit sharing, to accompany applications involving genetic resources and associated traditional knowledge. However, the US is opposed to advancing negotiations on the geographical indications (GI) and disclosure issues. The recent negotiations have focused on agriculture and industrial markets, the issue of TRIPS has been sidelined.

Services

The world trade in services has grown at an average of 15 per cent during 2003-07 (IFS, June, 2009). But not much has been achieved in services sector under Doha negotiations. It is a growth driving sector particularly for Indian economy. Within services sector, India's commercial interest lies in Mode 1 (as it has a high potential for the exports of services such as IT services) and Mode 4 (as it has a reserve of skilled labour), while developed countries interest lies in Mode 3 (as they have resources to invest overseas for making money out of them).

India's services sector has been growing at an annual average growth rate of 8.9 per cent during 2000-06, which is much higher than the world average of 2.8 per cent and India's GDP growth of 7.4 per cent for the same period.²⁶

²⁵ RCA Index = $(X_{ij}/X_{iw}) / (X_j/X_w)$ where X=Export value, i=commodity group, j=country, w=world

²⁶ World Development Indicators, 2008

Table 12: India's Services Sector

Year	Share in GDP (in per cent)	Annual Growth Rate (in per cent)
1951-52	34.3	3.2
1991-92	50.2	4.3
2001-02	56.7	6.9
2006-07	62.0	11.3
2007-08	63.0	10.8
2008-09	64.5	9.4

Source: Real Time Handbook of Statistics, RBI

The share of services sector in total GDP has followed a rising trend and it now stands at more than 60 per cent. It is growing rapidly. (Table 12).

Within services sector, the share of Trade, Hotel, Transport and Communications is highest and it has increased over time. Finance, Insurance, Real Estate & Business Services have maintained a stable share over the period whereas the share of Community, Social & Personal Services has declined. (Table 13).

Table 13: Services Sector

	Share in Total Services (in per cent)			
	Construction	Trade, Hotel, Transport and Communications	Finance, Insurance, Real Estate & Business Services	Community, Social & Personal Services
1951-52	13.5	33.1	22.4	31.1
1991-92	12.3	36.9	23.0	27.8
2001-02	10.1	40.6	23.3	26.0
2006-07	11.6	43.8	23.0	21.6
2007-08	11.5	44.4	23.2	20.9
2008-09	11.3	44.3	22.9	21.6
	Annual Growth Rate (in per cent)			
1951-52	6.8	2.7	2.3	3.0
1991-92	2.1	2.6	10.8	2.6
2001-02	4.0	9.2	7.3	4.1
2006-07	11.8	12.8	13.8	5.7
2007-08	10.1	12.4	11.7	6.8
2008-09	7.2	9.0	7.8	13.1

Source: Real Time Handbook of Statistics, RBI

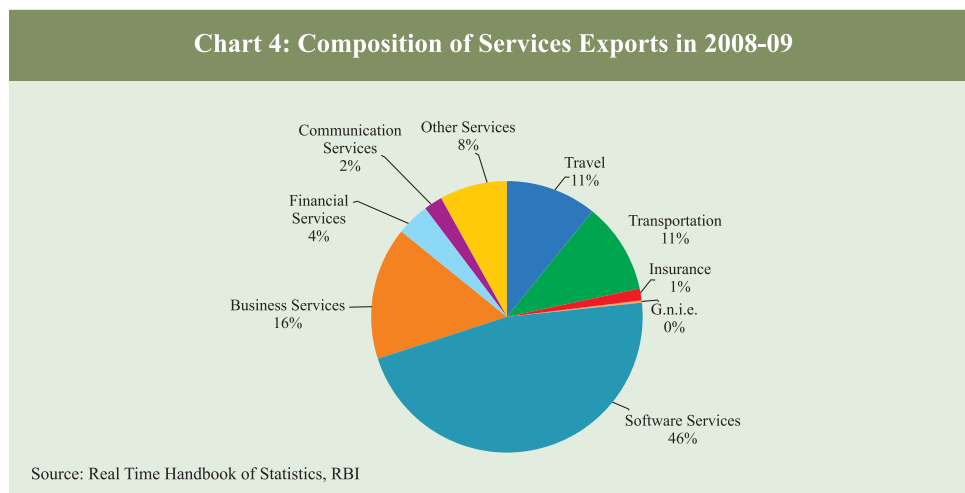
Table 14: India's Share in World Trade in Services (in per cent)		
Year	Exports	Imports
2001	1.0	1.1
2002	1.0	1.1
2003	1.1	1.2
2004	1.4	1.4
2005	1.9	1.7
2006	2.2	2.0

Source: IFS CD-ROM, June 2009

Looking at the export and import side of services, India's share in world exports is greater than its share in world imports. India's share in world exports and imports has almost doubled during 2001-06. (Table 14).

Within our services exports, the software services contribute to almost 50 per cent. The contribution of business services stands at 16 per cent. (Chart 4). From 2001-02 to 2007-08, our exports of software services have grown at an average rate of 30 per cent. During 2008-09, the growth rate was 16.6 per cent, reflecting the impact of global crisis on our exports.

There is a huge scope for future expansion in IT exports as is evident from the findings published in the report of International Data Corporation (IDC), a global research firm. This report has projected that global IT spending is expected to grow at 2.9 per cent in 2010 before nearly doubling to 5.7 per



cent in 2012. This report states that “China, India, Philippines, Thailand and Vietnam are among the list of higher growth Asian ICT economies.”

Under mode 3 also India is gaining strength as is evident by the presence of 10 Indian companies in the list of 500 top global companies in 2009 in terms of market capitalisation, with RIL among the top 100. India’s telecom industry is also growing. Indian companies are increasingly getting involved in international level mergers and acquisitions, as is evident from Jaguar and Land Rover acquisition by Tata Motors in 2008 and Corus acquisition by Tata Steel in 2007. India’s BPO industry is flourishing. A list of services which are particularly important for India has been provided in a study done by Department of Economic Affairs (DEA). As per this study, professional services including legal services, accounting, auditing and book keeping services, architectural and engineering services (along with construction), medical and dental services, services by midwives, nurses, physiotherapists and paramedical personnel; R & D services; other business services including management and other consultancy services, repair of ships, printing & publishing services, telecommunication services; educational services; some financial services; entertainment services like films; satellite mapping services; and standardisation and quality assurance services, etc. (other than software services, tourism and travel related services and transport services) are important for India. Further, India has a potential to provide all goods and services traded by e-commerce. It is stated that there is a great potential for India to be an outsourcing destination for many of the above services.

All this reflects that India is gaining strength in services exports and therefore its position on commitments in services sector under Doha round is crucial.

Till now, the offers from some of the developed countries like the US have not been encouraging, especially on Mode 4 in which India’s commercial interest lies. As per the DEA study, the stringent laws of the US create actual barriers for services exports to that country. For e.g. some of the US states are passing laws to limit business outsourcing which can affect India’s exports of IT, software and business services related to IT. There exist stringent legislation in the US for

restricting the investment by non-US firms and foreign-owned firms in radio telecommunications infrastructure.

The EC's denial of access to its trading partners in European markets of health and education has jolted the hopes of many developing countries who were hoping to gain access in EU's health and education markets through mode 4 of service supply. India wants more visas to be granted for independent professionals by developed countries. This reflects that the developing countries need to negotiate hard for further opening up of services sector.

India has pointed out that the horizontal commitments under mode 4 are subject to many kinds of limitations. Also, the immigration and labour market policies of the member countries are restricting the movement of natural persons. The temporary movement of labour is not separated from permanent movement of labour and therefore it comes under the purview of immigration legislation and labour conditions. There exists major entry barriers in the form of Economic Needs Tests (ENT), Local Market Tests and Management Needs Tests to ascertain the need for entry as well as the number to be allowed to enter. Moreover, there is lack of recognition of professional qualifications and licensing requirements. Also, the developing countries' professionals are being subjected to payment of social security contributions in the host country even though they are not eligible to get the benefits from such contributions since their period of stay under GATS is invariably lower than the minimum period required for such benefits to flow to them. All such kind of limitations raise the entry and operational costs of service providers and reduce the scope for technology and skill transfer and thus encourage substitution of domestic with foreign service personnel. Also, the existing commitments in mode 4 are largely linked to commercial presence (mode 3) and this linkage is restricting the movement of independent professionals and other persons in which developing countries are more interested.

India's objectives under GATS negotiations are to achieve efficient market access in modes 1, 2 and 4. In the presence of above limitations and restrictions on services exports it is required on the part of India to remain more attentive while negotiating in services sector liberalisation. It has to demand more liberal policies to be adopted regarding movement of natural persons.

TRIMS

Regarding TRIMS, the developing countries should be given policy space for undertaking growth enhancing investment projects and plans as investment policy can help in achieving long term development goals.

There are some other issues that are hindering the conclusion of Doha round. This time the developing countries are more aware of their limitations and they are trying to overcome those limitations by having a better understanding of the implications of each and every agenda issue. Some of their weaknesses are:

Unbalanced Bargaining Power

More than three-fourth of the member countries are developing countries who contribute on an average around 35 per cent to world trade. Therefore, as per their physical presence they should be able to have greater power in decision making than their counter parts, *i.e.*, developed countries, but as per their economic presence, this is not possible.

Lack of Technical Expertise in Developing Countries

Most of the developing countries don't have technical expertise to analyse the implications of the issues that are on agenda. There exists lack of clarity in understanding the future complications of the agenda items for developing countries. Therefore, they are following a more cautious approach in understanding the issues raised for negotiations. In the post Uruguay Round, it was realised that developing countries had made those commitments also that might adversely impact their domestic growth and development. Therefore, this time they don't want to commit the same mistake.

Representator in the WTO

The development of the round also depends on the negotiating power of the representative of each country, which is generally the minister of commerce for each member country. When a round takes so much of time in negotiations,

the representator gets changed and thereby the political will also gets affected. The developing countries face more unstable form of government formation which creates change in stance on important issues.

All these factors have delayed and are still delaying the conclusion of Doha Round. The declaration at the end of the G20 summit of world leaders in London in 2009 included a pledge to complete the Doha round. Most developing and third world countries have been looking up to India, which has a strong presence because of its rising position in the world economic activities, reflected by its financial integration with the world and rise in share of its services exports in world exports. India had hosted an informal ministerial meeting on the Doha Round in the first week of September, 2009. It included representatives from 34 countries including the United States, the European Union, Japan and other developed countries so that both the opposing parties, developed as well as developing, could be involved in resolving the conflicting issues of Doha Round. India can play an important role along with China in making Doha round a success for developing countries. India's presence in the Climate Conference in Copenhagen during December 2009 also reflects its growing importance in international decision making and developing countries are hoping that India will frame its policy stance as per the needs and requirements of developing world. On the basis of present study following policy stances can be recommended, in particular, for India while negotiating at the WTO:

- In case of agricultural subsidies the developed countries should be made to undertake the commitment of reduction in their bound per capita OTDS instead of total OTDS as per capita OTDS can be used as a measure to converge subsidy provisions prevailing in developed and developing countries. Convergence of the two implies effective reduction in subsidies provisions.
- So far as food security and livelihood of poor farmers is concerned, India should not compromise on SSM, at least, so long as the provision of special safeguard for agriculture remains available to developed countries.
- For industrial sector, developed countries should be asked to reduce their bound tariff to negligible levels, at least for the tariff lines covering 98

per cent of potential exports of developing countries in order to provide effective market access for developing countries exports. Developing countries should be provided concession in this respect given their lower levels of development.

- For services, developed and developing countries both should make commitments in all four modes of supply to open up their markets. India has to maintain its demand for greater and effective market access under mode 4 of services supply.
- Developing countries should be given policy space for growth enhancing investment projects and plans as investment policy can help in achieving long term development goals.
- The technology transfers from developed to developing countries should be encouraged at the WTO level. The developing countries should be given access to inventions and innovations of developed countries in different areas. A provision could be made at the WTO level for promoting Research and Development in areas characterised by low productivity in developing countries.

Conclusion

The discussion in this paper highlights that it is important to conclude Doha Round as early as possible but at the same time conditions and requirements of the developing countries need to be given special attention. The member countries should ensure effective reduction in the use of trade distorting measures adopted by different countries in order to protect their own domestic economy. With the beginning of a new decade, new hopes are there for achieving a successful completion of Doha round. However, to move forward on Doha Round, each side, developed as well as developing world, has to look for a solution. If there is a strong political commitment from each member country in finalising the negotiations, things can move forward and Doha can prove out to be as a development round for developing countries.

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Annexure A

Excerpts from DOHA MINISTERIAL DECLARATION

20 November 2001

WORK PROGRAMME

Agriculture

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

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

Annexure A (Contd.)

and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

Services

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

Market access for non-agricultural products

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

Trade-related aspects of intellectual property rights

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

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

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

Relationship between trade and investment

20. Recognising the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred

Annexure A (Contd.)

to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations.

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

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

Least-developed countries

42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their ministers in July 2001. We recognise that the integration of the LDCs into the

Annexure A (Contd.)

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

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

Annexure A (Concl.)

Special and differential treatment

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

Annexure B

During the beginning of 2003, chairman of Committee on Agriculture, Harbinson, proposed following major ideas as a draft text on his own responsibility:

- a. On market access, that is, tariffs, the proposal was to reduce tariffs (starting with final bound tariffs as the base) by a simple average for all agricultural products subject to a minimum reduction per tariff line. In case of specific tariffs, reduction was required in ad valorem tariff equivalents (AVEs).
- b. Regarding reduction in subsidies, the suggested formula was: (i) for a set of agricultural products representing at least 50 per cent of the aggregate final bound level of budgetary outlays for all products subject to export subsidy commitments, final bound levels of budgetary outlays and quantities to be reduced, over a period of five years, using a formula with a constant factor, c , to be taken at 0.3. At the beginning of the sixth year, the budgetary outlays and quantities were to be reduced to zero.
- c. With respect to domestic support, the proposals included- (i) a reduction in amber box support by 60 per cent over a period of five years, (ii) a reduction in blue box (production-limiting) support by 50 per cent and (iii) some amendments to green box support of the AoA.
- d. De minimis level of 5 per cent (for developed countries) was proposed to be reduced by 0.5 per cent over a period of five years, but no reduction in 10 per cent de minimis that was available to developing countries.
- e. For the benefit of developing countries, special and differential treatment provisions were highlighted for each element of the negotiations.

Annexure C

The EU had already adopted, unilaterally in 2000-2001, a decision in favour of duty-free, quota-free (DFQF) access of all products other than arms from the LDCs into their markets. This was known as the Everything But Arms (EBA) deal. But the larger developing countries did not very much appreciate the EU's initiative for two reasons: first, they felt that it was a move to create a division within the South and second, they realised that it could put them into a disadvantage vis-à-vis the LDCs in the global market. Even some of the LDCs and smaller economies enjoying preferential and privileged access to EU market (*i.e.* ACP countries) had also felt threatened that the privileges enjoyed by them could be curbed. The US too had taken limited initiatives such as the African Growth and Opportunities Act (AGOA).

Effective September 2000, Canada had added a further 870 tariff lines to the list of goods eligible for duty-free entry of imports from the LDCs. As a result, about 90 per cent of all LDC imports were eligible for duty-free access into Canada. Japan had announced in December 2000, '99 per cent initiative' on industrial tariffs. However, effective 1 July 2001, New Zealand had also offered DFQF access to all products from LDCs. The same was also offered by Hungary, the Czech Republic and the Slovak Republic.

Annexure D

India's Stand on Doha Issues

Agriculture	<p>Demanding substantial reduction in domestic support given by developed countries to their agriculture sector: Reduction in OTDS</p> <p>Demanding elimination of export subsidies by developed countries. Export subsidies of the kind listed in the AoA, which attract reduction commitments, are not extended in India</p> <p>Demanding substantial and meaningful reductions in tariffs including elimination of peak tariff and tariff escalation</p> <p>Resisting deep reductions in tariff rates for developing countries considering the dependence of poor section of society on agriculture</p> <p>Special Safeguard Mechanism, India has asked for a trigger coefficient of 115 while US wants 140</p>
NAMA	<p>Demanding tariff reduction for commodities of export interest to developing countries to enhance market access in developed countries</p> <p>Sectoral Initiative: India had not committed itself to participate in these negotiations in the run up to the July 2008 Mini-Ministerial on the ground that negotiations on this issue were not mandatory. This issue remains undecided</p> <p>Demanding for retaining flexibility to accord tariff protection to sensitive products where the need arises in future</p>
Services	<p>Demanding commitments in Mode 1 across the commercially meaningful sector/sub-sectors for professionals services, computer related services, health services, education, <i>etc.</i></p> <p>Rise in the bound rate for granting visas for independent professionals</p> <p>Liberal entry norms for contractual service suppliers (CSS)</p>

Annexure D (Concl.)

Delinking movement of natural persons with commercial presence
Reduction in Economic Needs Tests, Local Market Test and Management Needs Tests to ascertain the need for entry as well as the number to be allowed to enter
Exemption from payment of social security contribution.
Separate temporary from permanent movement of persons

TRIPS Demanding for accomodation of concerns relating to bio-piracy* through disclosure of country of origin and evidence of prior informed consent and benefit sharing and other measures
Demanding higher level of protection to all products

* Biopiracy has emerged as a term to describe the ways that corporations from the developed world allegedly claim ownership of or otherwise take unfair advantage of, the genetic resources and traditional knowledge and technologies of developing countries. It allegedly contributes to inequality between developing countries rich in biodiversity, and developed countries served by pharmaceutical industry exploiting those resources.