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**INDIA AT THE FOURTH MINISTERIAL
MEETING IN DOHA**

Déjà vu - again?

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INDIA AT THE FOURTH MINISTERIAL MEETING IN DOHA

Déjà vu - again?

Yashika Singh

Introduction

Members of the WTO have agreed that the fourth WTO Ministerial Conference will be held in Doha, Qatar, on 9-13 November 2001. In the light of the attack on the World Trade Center in the USA, there was a feeling that the Conference might not go ahead as planned. The WTO has however stated that as yet there is no change in the Conference schedule. The Ministerial Conference, the topmost decision-making body of the WTO, has to meet at least every two years, bringing together all member countries and customs unions. The Conference can decide about all matters under any of the WTO Agreements. Previous Ministerial Conferences were held in Singapore (1996), Geneva (1998) and Seattle (1999).

The Singapore Ministerial Meeting led to the articulation of issues that went beyond the built-in agenda of the WTO mandate. These have since been variously called Singapore issues or simply, new issues. These include trade and investment, competition policy, transparency in government procurement, and trade facilitation. Talks on trade and environment also figure in this category, as do discussions around anti-dumping and working groups on trade and debt and trade and finance.

The INVESTMENT ISSUE would introduce new rules that give new rights to foreign investors, making it easier for them to enter countries and to operate freely. The European Union (EU) has made proposals on investment negotiations in the WTO in the form of what is called a "*watered down version* " of the discredited "MAI" (Multilateral Agreement on Investment) that the developed countries had negotiated (but failed to conclude) in the OECD. Due mainly to public protests, MAI negotiations collapsed, and the EU has taken a lead in getting negotiations for an investment agreement started at the WTO.

On the issue of the COMPETITION POLICY, the EU is advocating a new agreement that would look unfavourably on domestic laws or practices that favour local firms, on the ground that this is against free competition. The EU argues that what it considers to be the core principles of the WTO (national treatment and non-discrimination) should be applied through the WTO on the competition policy. Through an agreement on competition in the WTO, it would be compulsory for developing countries to establish domestic competition policies and laws of a certain type.

On the issue of the GOVERNMENT PROCUREMENT, the developed countries want to introduce a process in the WTO whereby companies are able to obtain a large share of the business of providing supplies to and winning contracts for projects of the public sector. At present, such government expenditure is outside the scope of the WTO, unless a member country voluntarily joins the "plurilateral" agreement on government procurement. Since government procurement expenditure in some countries is bigger in value than imports, such an agreement to bring procurement under the WTO rules would tremendously enlarge the scope of the WTO and its rules. There is a two-stage plan for this issue. First, to have an agreement limited to

achieving greater "transparency" in government procurement; secondly, to have a broader agreement that would cover the aspects of liberalisation, market access for foreign firms, and the national treatment principle.

INDUSTRIAL TARIFFS is another economic issue that is being pushed for as part of a New Round. This would entail another round of negotiations to further reduce duties on manufactured products. Although there have, of course, been several previous negotiating rounds on tariff-cutting in this sector, the issue is nevertheless considered "new" in that fresh negotiations on the industrial sector are not mandated in the WTO agreements. Thus, a decision to negotiate on this issue would mean a fresh commitment on the part of the members.

On the issue of TRADE AND ENVIRONMENT, the WTO Committee on Trade and Environment has been working on an elaborate work programme and has devised 10 agenda items covering a range of issues in a balanced manner. The Geneva Ministerial Conference renewed a mandate to identify the relationship between trade and environmental measures in order to promote sustainable development and to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system.

With regard to TRADE AND LABOUR STANDARDS, the push for incorporating labour standards with trade measures in the WTO has come from labour unions in the North and international trade unions that also have affiliations in developing countries. Some trade unions in some developing countries are, however, opposed to including labour standards in WTO. The issue of labour standards is also linked to the concept of "social clause" (which is broader than labour standards and could include the rights of various groups in society) and supported by some political parties in developed countries.

The Third Ministerial Conference at Seattle

"The clouds of the failure in Seattle left supporters of trade and development dispirited. We have a responsibility to see that a rules-based trading system as embodied in the WTO is strengthened, expanded, and deepened".

- Robert Zoellick, USTR

Held between 30 November and 3 December 1999, the Ministerial was expected to launch major new negotiations to further liberalise international trade, i.e., essentially launch a new round of trade negotiations, called the Millennium Round. This meant that negotiations would proceed beyond the built-in agenda. The launch was "*not necessarily*" the only 'result' expected out of the Seattle meeting. Also proposed was that some agreement will be reached on less difficult proposals. At the same time, a number of countries wanted the Seattle meeting to look carefully at how the Uruguay Round results are being implemented. Developing countries, for example, wanted to examine how the agreements on anti-dumping measures, subsidies and textiles and clothing have been implemented.

The European Union, backed by Japan, Canada and other developed nations, was at the forefront to launch a new comprehensive "Round" of trade negotiations at Seattle.

They hoped that in such a Round, several issues would be made the subject of negotiations for new multilateral agreements that will be legally binding on WTO members. Although the US originally seemed cool to the idea of a comprehensive new Round (preferring to push issues it liked on a sector by sector basis), it was expected that it may eventually agree to go along with the proposals for initiating negotiations on the proposed new issues.

Although things tended to go into overdrive, with even deadlines being suggested for the proposed new round and outlines being marked out for negotiating time-tables even before the Ministerial, yet, the Seattle Conference ended without a Declaration and was termed as a "failure". The three issues (investment, competition, government procurement) have not become the subject of negotiations for new agreements. Instead, the three working groups have resumed their discussions. Although, these discussions are considered at a low level of intensity at present, yet, it has been expected that there will again be intensification of pressures to upgrade the working groups into negotiating groups, especially in the build-up to the next Ministerial Conference at Doha when the idea of launching a New Round will again be highlighted.

The tentative list of issues and themes that could be addressed at the Fourth Ministerial at Doha may include:

- Industrial Tariffs
- Agriculture
- Trade and Investment
- Trade and Competition Policy
- Government Procurement
- Trade Facilitation
- Transparency in the Functioning of the WTO
- Trade and Environment
- Services
- Intellectual Property Rights, TRIPs and Public Health
- Unilateral Trade Measures
- The issue of "development deficit" in the WTO

This paper seeks to outline the agenda and themes and issues that are likely to come up at the Fourth Ministerial. It provides an insight into the negotiating positions of the WTO members and sets out the backdrop against which India would negotiate. It also sets out the Indian position and suggests the best way forward for India.

The next section looks at the preparatory groundwork for the Ministerial, followed by a short note on country positions. The Indian stance is covered in the following section, and the paper ends with a few comments and suggestions.

The Background- Preparatory Process

“In November, Qatar will host the fourth WTO Ministerial conference in Doha. My aim there is to launch a new round of multilateral trade negotiations.” -Mike Moor, DG WTO

Much like the Seattle Ministerial, the Doha Conference is expected to launch a new round of trade negotiations. The DG, WTO, proclaimed this year to be a 'crucial year' for the multilateral trading system, putting the success of the Doha Ministerial at the crux of the efforts to assist the LDCs. Against this argument, the new round is being touted as the development round so as to address the missing development dimensions of the trading system.

An economic case for a new WTO round has also been made out. According to one study from the University of Michigan, USA, cutting barriers to trade in agriculture, manufacturing and services by a third would boost the world economy by \$ 613 billion. That is equivalent to adding an economy of the size of Canada to the world economy. Doing away with all trade barriers would boost the world economy by nearly \$ 1.9 trillion: the equivalent of adding two more Chinas to the world economy. The question whether the most can be gained from the current system bit by bit or it would be delivered from a wider negotiation seems to have been answered in favour of the second option.

As a further insight into the build-up process to the Ministerial, it is interesting to note that the proposed Agenda for the new round has been sought to be broad enough to have something in it for everyone, detailed enough to be meaningful, but not so detailed that it becomes a pre-negotiation. The ghost of Seattle is often invoked when seeking consensus on the agenda for Doha in that differences in Member-opinions are ironed out so as to forestall a repeat of the Seattle.

This is not to say that every difference has been incorporated. Every country has its unique interests, priorities and concerns. Developing countries want to see perceived imbalances in previous agreements addressed. Agricultural exporting countries and many developed countries want subsidies to be reduced. For others, food safety is a top public concern. Many countries are also signalling their commitment to wider negotiations. The EC and US want to engage, and have made a strong statement of support to the proposal of a new round. The OECD recently called for negotiations, as did APEC.

During the informal consultations held by the Chairman of the General Council, Mr. Stuart Harbinson of Hong Kong-China on the preparatory process for Doha, a number of themes and issues were enumerated by WTO members. The subjects or items raised by the members included TRIPs and Public Health, multilateralism vs. unilateralism, protection in the industrial world, special and differential treatment, the impact of the Uruguay Round, sustainable development, the development deficit in the WTO agreements, the situation of the least developed countries and need to address their concerns and capacity-building, accession procedures (of new entrants), coherence, transparency and technology transfer, and regionalism vs. multilateralism.

A number of countries from the developing world - Brazil, Egypt, India - have made the point that the WTO did control the world economy, that trade was just one element in this, and any assessment of the state of play should relate to assessing the

state of play in the WTO system, and not the world economy at large.

Developing countries have been particularly insistent that there was a need to assess the impact of the Uruguay Round Agreements, and its imbalances and inequities, and how to rectify and rebalance these. During these informal discussions, a number of countries also underscored the need to elaborate on the development dimensions of the WTO work. Brazil expressed that it was important that the development deficit in the WTO should be addressed. Jamaica and India have expressed that the imbalances in the WTO rights and obligations should be rectified. The issue of technology transfer should be addressed in a concrete manner.

India also pointed out that in many countries, and this was certainly true of India, the WTO was being seen as the main instrument of globalisation, and globalisation itself was being seen by the people as having a negative impact on their lives. This should be addressed appropriately. While remarking to a comment by the United States that the WTO is contributing to peace and security in the world, India said in many developing countries, as a result of the WTO and its obligations, governments were becoming unstable, if not destabilised. This remark at these informal consultations provides us with an insight into the Indian mindset with regard to the WTO.

Given the EC's position on the environment, the latter has made a reference to the importance of the WTO contributing to 'sustainable development' although it does seem like the EC's use of the term is laying out the ground for protection on environmental and social conditions. While staying with environment, during these informal discussions, some delegations - particularly the EC - said it was important to continue work in this area, while others felt that the current rules and status of environment at the WTO were sufficient. Australia noted that there was no need for further work, pointing out that, for example, the precautionary principle had already been discussed in the WTO ad nauseum. Together with other delegations, it urged the WTO to focus instead on trade-environment win-win situations such as eliminating perverse subsidies in agriculture and other areas. During the environment session, a debate emerged between Argentina - supported by Peru, Malaysia and India - and the EC over whether or not environment should be a cross-cutting issue that would be addressed in all WTO agreements. Argentina accused the EC of pushing for environment as a cross-cutting theme in order to take pressure off of its heavily - subsidised agricultural sector. USA is opposed to the EC's push to bring in the precautionary principle and WTO-MEA clarification and is against discussing the issue in the WTO.

The trade and investment issue has also been discussed in the preparatory runup. Advocating for the inclusion of investment rules at the WTO is a sizeable number of countries, including the EC, Chile, Costa Rica, Korea, Japan, Morocco and the Czech Republic. Setting out the rationale for such an agreement, proponents argued that a multilateral investment agreement would increase transparency in the multilateral system; confer the benefits of increased FDI flows to developing countries; minimise investment risk for investors; and create better entry opportunities for small and medium sized enterprises. In addition, it was said that since service-related investments already exist under the purview of the General Agreement on Trade in Services (GATS), extending WTO rules to include all forms of FDI would be feasible. GATS Article 1.2(c), dealing with the "commercial presence" of Foreign Service providers, includes Foreign Service

providers within the purview of the GATS' obligations and rights.

In contrast, several members of the so-called Like-Minded Group - including India, Malaysia and Egypt - remained opposed to the idea of a multilateral investment agreement, arguing that binding rules on investment might diminish the options developing countries have when establishing the conditions of entry for foreign direct investors. A multilateral investment regime, they have expressed, could prove to be a limit on national sovereignty.

Representing something of a middle ground, Australia, Argentina and Brazil have stated their willingness to consider a multilateral investment regime at the WTO in exchange for concessions granted in the area of agriculture, such as reduced export subsidies and improved market access. Another group of "middle-ground" countries-including Hong Kong, Singapore, Lesotho and South Africa- emphasised the merits of an investment agreement at the WTO, but were concerned that embarking on investment talks at this stage could have detrimental implications for the pre-Doha process, as well as create problems at Doha itself. Costa Rica weighed in on the side of investment, saying that while it was important to preserve a government's ability to regulate domestically in this area, it was also vital for developing countries to attract foreign investment. USA continues to be skeptical of the merits of investment rules at the WTO. EC is in favour of including investment talks. Even among the proponents of a rules-based investment regime, no country is advocating for an investor-state dispute settlement provision. Investor-state dispute settlement provisions enable corporations to sue governments directly for the expropriation of assets.

Also during these informal consultations, all members spoke of the need to counter protectionism. India and a few others noted that several elements of protectionism were built into the WTO agreements and these need to be addressed and rectified and such provisions should not be there in future agreements. A number of countries in this regard pointed to the anti-dumping instrument and its misuse -an issue that has also cropped up in the context of the US attempts to negotiate and put in place a Free Trade of Americas Agreement. An issue with some differing views, cutting across developing and developed countries, was the one relating to regional trade agreements and the WTO multilateral system. While several countries saw the two as complementary and supportive of each other, others viewed regional agreements and their proliferation as detrimental to multilaterals. Particularly, Turkey said regional agreements were becoming a 'black hole' in the multilateral system.

Discussions have also been held on the implementation issues. Members underlined their commitment to achieving concrete results on implementation, albeit in various time frames. Norway and some other developed countries - who for the most part have had little to say on this issue over the past year - said that if implementation issues were not dealt with in a reasonable way, the outcome at Doha could be undesirable for the WTO. However, US is not willing to move very far on the implementation concerns of developing countries, particularly before Doha. Developing countries have reiterated their stance that if there were no decisions on their implementation concerns by the Ministerial and at the Ministerial itself, then the Doha Ministerial outcome would be in jeopardy.

The built-in agenda of agriculture and services negotiations, together with mandated reviews of other agreements such as Trade-Related aspects of Intellectual Property rights (TRIPs) and TRIMs has also been discussed in the preparatory runup as

a part of the informal consultations. India, Brazil, Egypt, Zimbabwe (for the Africa group), Jamaica and several others underscored the importance of the Doha meeting, addressing the issue of TRIPs and Public Health. The issue has already been raised in the TRIPs council, and developing countries say that such a burning question that has gripped public attention, and is being discussed by civil society and in other multilateral for a need to be addressed at the WTO. The Cairns group of agriculture-exporting countries brought forward their view that if a broad round were to be launched in Doha that included many of the Singapore issues, they would push for an "Agriculture plus" negotiation. An Agri-plus round of talks, according to Cairns group members, would entail commitments that go beyond the built-in negotiations outlined in Article XX of the WTO Agreement on Agriculture. A Doha decision on this would include benchmarks and timetables for even deeper liberalisation in agriculture than what is currently called for under the WTO Agreements. Reflecting not only the US concern over its own domestic agricultural support programmes, but also a likely informal agreement between EC Trade Commissioner Pascal Lamy and USTR Bob Zoellick, the US did not fully support the Cairns group approach. Services remain a relatively uncontroversial item on the agenda, particularly compared with agriculture. Many countries were concerned that services talks could be "held hostage" to the agriculture agenda if the two were too closely tied in parallel. Developing countries expressed their wish to include decisions on reviews of TRIPs and TRIMs on an eventual Ministerial Declaration.

The above discussion is indicative of the larger backdrop against which the Doha Ministerial would proceed. There seems to be no cohesive picture forming as yet, and it is close to impossible to set out all the themes and issues in neat developed vs. developing country paradigm. To get a broader view of the agenda against which India will pitch itself, it would be advantageous to see what are the obvious stand-points of the major WTO members and major country groups. This has been dealt with in the next section.

Country Positions

Till July of this year, when the General Council held an informal meeting, the DG commented that was sobering as countries are still polarised between those who want a "new round" and those that do not.

Many countries stated their stand and it does seem likely there is no "convergence" of views. A number of Members, including Costa Rica, Singapore, Hong Kong - China, Japan, Canada and Australia have voiced their support for a new round of trade negotiations.

Many developing countries are still against accepting new issues (investment, competition, transparency in government procurement, trade facilitation, new rules on environment, labour) at the Doha Ministerial. They have expressed great disappointment that their demands for treating "implementation issues" (i.e. problems faced in meeting their obligations in existing agreements like TRIPs, TRIMs, agriculture, subsidies etc.; and problems caused by the developed countries not fulfilling their commitments in opening their markets to poor countries for example in agriculture or textiles) have not been met. The broad premise is that given that they already face so many problems in implementing the existing agreements, if they agree to enter negotiations in new areas, with new obligations, they will then have more

problems in trying to implement.

Countries that spoke up the strongest along these lines included Pakistan, India, Malaysia, Indonesia, Jamaica. Pakistan has made a point that of the 50 proposals made for urgent action on implementation, decisions may be likely on only three issues. This, then, justifies the evaluation there has been no welcome advances, no positive developments, and almost no headway towards positive decisions. Pakistan believes that unless there are tangible results on implementation, it would be difficult to continue considering proposals to enlarge the negotiating agenda before, at or after Doha, and under the present circumstances there is very little prospect for agreement on the Singapore issues.

India has rejected investment, competition, transparency in government procurement and trade facilitation as negotiating issues for Doha, saying the differences in views between members cannot be narrowed by then.

Malaysia too has expressed misgivings on how the Doha process has tended to be focused on the new issues as if these issues would make or break the Doha conference. Malaysia has gone on to describe the situation as one of impasse, warned of the risk of a Seattle Two if the all or nothing course is pursued.

Indonesia too has expressed similar sentiments and has warned that the initiative by some members to launch a "comprehensive" round which includes new issues and those that do not reflect the interests of all members will place at peril the success of the Ministerial Conference. Jamaica too has put forth similar misgivings and has stated that the resolution of implementation issues is a necessary pre-condition.

The poorest members of WTO, the LDC countries (there are almost 40 of them in WTO) represented by the Tanzania Ambassador, have stated that given that the issues involved are complex and divergent views continue to exist and that the new issues are yet to be fully understood, especially regarding their implications on LDCs' development, they are not in a position to agree to negotiate new issues, and that the work of the working groups on these issues should continue instead

The **Africa Group of Countries**, represented by Zimbabwe, also indicated reluctance to entertain new issues at Doha.

The **US** is quite enthusiastic about a new round (a 'limited round') and is prepared to go along with investment and competition as issues for negotiations. This seems to be the way to get the **EU** to agree to liberalise agriculture. **USA** has opined that those developing countries that find difficulty with the new issues have to be won over, for example, by giving them technical assistance.

The **EC** is pushing for a broad-based agenda at Doha. It extols the value of a comprehensive round in which all participants can put forward issues of concern to them for inclusion in the negotiating agenda. The corner stone of EC's position is that progressive liberalisation can be best achieved in a comprehensive negotiation where no sector is excluded.

The EC, Norway, Hungary, Canada and Switzerland collaborated to put concrete suggestions in a paper that attempted to identify elements that could form part of a Ministerial Declaration on the topic of environment. In addition to EC's traditional

stance, advocating *inter alia* the application of the precautionary principle in the WTO and the clarification of WTO rules and trade measures in Multilateral Environmental Agreements (MEAs), the paper also supported developing country-related issues of domestically prohibited goods and capacity building/technical assistance, in a bid to solicit support from developing countries for EC's position on environment.

Their differences notwithstanding, the United States and the European Union share a common strategic objective: to launch a new round of global trade negotiations. In what seems like indirect pressure to build consensus on this issue, the USTR has stated that though the US and EU will manage better than others if a new global trade round is not launched, but the open, growing developing countries that are just moving into the global trading system will suffer most.

USA and EU believe that the key to a successful launch at the Doha Ministerial is an agreed agenda that will accommodate the essential interests of various members of the WTO-developed countries, agricultural exporting countries, services economies, developing countries - and that will gain public support.

The US and EU have been working together over the past few months to identify ways to accommodate each other's interests in a manner that will also be responsive to their other trading partners' interests. Referring to the failure at Seattle in 1999, an effort is underway to avoid trying to pre-negotiate the details and the outcomes of the negotiations.

The United States is seeking greater transparency in dispute resolution cases. It has also stated that it would not stand in the way of a clearly defined and sensible negotiating approach on investment that garners widespread support among the other members and interested parties while continuing to protect its "right to regulate in the areas of health, safety, and the environment".

With regard to trade and competition policy, it does seem like the USA is more responsive to the issue and in the final analysis may give support to its inclusion in the agenda. It has, of course, expressed doubt as to how competition obligations based on the core principles should be assessed; for example, the important question of how dispute settlement might operate or whether other forms of oversight, such as peer review, might be more satisfactory. The United States also states that it is committed to the successful negotiation of agricultural trade liberalisation.

Australia too strongly supports a new round of multilateral trade negotiations, stating that the failure to launch a new round could see the continued proliferation of regional trade agreements, which could prove detrimental to the multilateral trading system. For Australia, and the rest of the Cairns Group of countries, agricultural reform and market-oriented outcomes on the agricultural agenda would form the cornerstone of the new round.

Before we take a look at the Indian position, it is helpful to do a quick recapitulation of the various themes and issues that form or would form the various strains of discussions at the Ministerial. This is done in the Table below: (Country positions as listed below are tentative and likely to change, the ones mentioned are more of the "best of my knowledge" category.)

Country Positions: at a glance

Issues	Background	For	Against	Fence Sitters	Foreground
New Round	The issue, in the form of a 'millennium round', came up during the Seattle Ministerial meeting but there was no progress.	EU, USA, Canada, Japan, South Africa, Egypt, Costa Rica, Singapore, Hong Kong	<i>India</i> , Pakistan, Malaysia, Honduras, Dominican Republic	APEC (majority), Mexico, New Zealand	The situation is fluid with changing country positions. The EU is pushing hard, including consensus building, for a 'comprehensive round' while the US is for a 'limited round'.
Trade and Investment Policy	This decision to set up a WG was adopted after hectic lobbying by EU and Canada before the Singapore Ministerial. USA too gave support. India was left alone; Malaysia deserted at the last moment.	EU, Chile, Costa Rica, South Korea, Japan, Morocco, Czech Republic, Hungary, Switzerland, Norway	<i>India</i> , Malaysia, Egypt, Pakistan	Australia, Argentina, Brazil, Hong Kong, Lesotho, South Africa, USA	The WG is yet to submit its final report. There is little consensus among members on issues that are to be taken up in case negotiations start, while EU is pushing hard. EU has proposed a plurilateral agreement, with the participation of all WTO members but without any commitment. US will likely support such a move for other trade-offs.
Trade and Competition Policy	A WG on Trade and Competition Policy was set up as per the Singapore Ministerial Declaration to look into the relationship between trade and competition. South could get in the issue of studying anti-competitive practice also. In the runup to the Singapore Ministerial meeting, the EU and Japan pushed for this issue, while USA was uninterested, due to domestic turf problems.	EU, Japan	<i>India</i> , Pakistan	USA	The WG is yet to submit its final report. Like investment, tactically, EU has proposed a plurilateral agreement, with the participation of all WTO members but without any commitment. USA will likely support such a move for other trade-offs.
Trade Facilitation	The Singapore Ministerial Declaration instructed the WTO Council for Trade in Goods to start exploratory and analytical work on trade facilitation.	EU, Japan, USA, Switzerland, South Korea	<i>India</i>		The issue is at the background now, but the situation is fluid.

Government Procurement	There is a plurilateral (WTO) agreement on government procurement. As per the Singapore Ministerial Declaration, the WTO has set a WG, which includes all members on Transparency in	EU, USA, Canada, Switzerland, Singapore, Japan, South Korea Israel, Liechtenstein,	<i>India</i>	Argentina, Australia, Bulgaria, Czech Republic, Chile Colombia, Turkey, Jordan, Poland, Panama	A potentially contentious area. Likely to be a part of the negotiating agenda in case new round starts.
Trade and Environment	The WTO Committee on Trade and Environment (CTE), established at Marrakesh, is discussing a 10-point agenda. Northern civil society, a strong advocate ever since.	EU, USA, Canada, Japan, Norway, Switzerland	Many developing countries	Australia, South Korea	Discussions at the CTE are not progressing but EU continues pushing, as in the past, to incorporate environment in all accords.
Trade and Labour Standards	Some developed countries have pushed long for a working party on trade and labour standards, but that did not materialise due to opposition from others. But the issue is certainly not yet defunct. Many trade unions in both North and South, while mainly Northern NGOs, have come forth as the driving force.	USA, Canada, Norway, Sweden*, Germany* (* EU members, but are pressing hard within)	<i>India</i> , Pakistan, Egypt, South Korea Thailand, South Africa, Brazil, Hong Kong	EU, Argentina	There has been some softening of the stance of many of those countries that were pushing hard earlier.

India at the Ministerial

“No prima-facie case has been established on the necessity or relevance of the proposed new issues into WTO framework; nor has a case been made out to show that the developing countries are going to definitely benefit from negotiations in new areas.”

— **Omar Abdullah, (former) Minister of State for Commerce and Industry, India**

The position

India has decided to put up a strong resistance to the launch of the new round of negotiations at Doha, with the contention that the demand of the developed countries for a new round should be read as new obligations on the developing nations. But even the demand for a “limited new round” has not been viewed with favour by India.

India has been taking a stand that the Ministerial Conference at Doha should address the implementation-related concerns and take stock of and give policy directions to the ongoing mandated negotiations in agriculture and services and other mandated reviews. At the same time, it has stressed for the successful conduct of the Doha Ministerial Conference, which it believes is very important for the strengthening of the multilateral trading system under the auspices of the WTO.

The primary concern of India is about better implementation of the Uruguay Round of Agreements. Resolution of the implementation concerns should receive top priority in the Doha Ministerial over other issues. For example, the non-accrual of expected benefits to developing countries in textiles and clothing as well as agricultural sector.

Mandated negotiations and reviews and various Working Group discussions form a large agenda for the WTO system, which stands unfinished. India would like to use Doha to take stock of the situation on all these issues plus the implementation concerns.

Mandated negotiations, mandated reviews, ongoing work programmed in various working groups, accession of over 30 countries along with assessment of the progress on resolving the implementation concerns constitute a sufficiently large agenda for the Doha Ministerial. Referring to the last Ministerial, India has said it is not necessary that in every Ministerial, we should talk about or begin a new round, as bringing multiple issues on the table just to get substantial trade-offs and swap concessions advantageous for a few countries without any benefit to developing countries does not augur well for the success of the multilateral trading system. It would just overload the agenda and make it unsustainable.

To further clarify its position, India has made it clear that it is not in a position to take on more commitments. It does not feel convinced that issues such as investment, competition, labour and environment under WTO will facilitate any additional market access or open up newer development opportunities for the developing countries. India is opposed to the linkage of non-trade issues, like labour and environmental standards, on the ground that such linkages would be used as an excuse to distort competition, undermine comparative advantage and provide "Trojan horses of protectionism". Not only does this type of agenda not coincide with the basic concerns of India, but also such measures would need more painful domestic adjustments and create intolerable hardship and may mean years of lost opportunities and low growth. The Indian Ministry of Commerce has stated that no amount of procedural emphasis will succeed in the inclusion of non-trade issues. India has also articulated that there is a '*widely shared feeling*' of imbalance in the rights and obligations of WTO agreements. A greater element of flexibility and operationalisation of special and differential provisions are needed for wider acceptance of the multilateral trading system in the constituencies of developing economies.

India has voiced concern with the advocacy of the developed countries that further liberalisation in the mandated negotiations in Agriculture and Services may not be forthcoming unless the New Round of negotiations is launched and that the implementation-related concerns can only be addressed in a comprehensive round of negotiations; a view India does not subscribe to.

India has outlined a four point criteria before inclusion of any new item in the WTO agenda, viz.:

- (i) It should be directly trade-related.
- (ii) There should be a consensus to bring it into the WTO agenda.
- (iii) It should have been thoroughly discussed; we should be able to evaluate its likely impact on additional rights, responsibilities and obligations and be ripe for such an inclusion.
- (iv) The developing countries should get convinced as to how its inclusion is going to help - or in any way - hinder the realisation of their development objectives as enshrined in the Marrakesh Agreement and it should not constrain their domestic policy options for taking up development activities.

Demands and Proposals

As elaborated above, India is of the view that the WTO work should concentrate on the full implementation of the Uruguay Round results and the "built-in agenda" which foresaw new negotiations on Agriculture and Trade in Services and reviews of several multilateral trade agreements. Implementation issues must find primacy. Other matters of priority indicated are:

- (a) The implementation of special and differential treatment as envisaged in various WTO agreements, and
- (b) Correction of imbalances in several WTO agreements including subsidies and countervailing measures, anti-dumping, TRIPs and TRIMs which have major implications for development policies and interests of developing countries.

Indian proposals for mandated negotiations under the AoA can broadly be classified into the following 2 categories:

1. Increasing the flexibility enjoyed by developing countries by creation of a 'Food Security Box' for providing domestic support to the agriculture sector under the special and differential provisions as also further strengthening of trade defence mechanisms with a view to ensuring the food security and to take care of livelihood concerns.
2. Demanding of substantial and meaningful reductions in tariffs including elimination of peak tariff and tariff escalation, substantial reductions in domestic support and elimination of export subsidies by the developed countries so as to get meaningful market access opportunities.

The proposals in the first category include:

Additional flexibility for providing subsidies to key farm inputs for agricultural and rural development.

Exemption from any reduction commitments of measures taken by developing country members for alleviation of poverty, rural development, rural employment and diversification of agriculture.

Exclusion from AMS calculations of product specific support given to low income and resource - poor farmers.

Clarifications on certain implementation issues, such as, offsetting of positive non-product specific support with negative product specific support, suitable methodology of notifying domestic support in stable currency to take care of inflation and depreciation.

Rationalisation of product coverage of AoA by inclusion of certain primary agricultural commodities such as rubber, jute, coir etc.

Flexibility enjoyed by developing countries in taking certain measures in accordance with other WTO covered agreements should not be constrained by the provisions of AoA.

Maintenance of appropriate level of tariff bindings on agricultural products in developing countries, keeping in mind their developmental needs and high distortions prevalent in the international markets with a view to protect livelihood of their farming population. Also, linking the appropriate levels of tariffs in developing countries with trade distortions in the areas of market access, domestic support and export competition.

Rationalisation of low tariff bindings in developing countries, which could not be rationalised in the earlier negotiations.

Separate safeguard mechanisms on the lines of SSG, including a provision for imposition of QRs in the event of a surge in imports or a decline in international prices, as an S&D measure to protect Food Security and livelihood concerns.

No minimum market access commitments for developing countries.

The proposals in the second category include:

Blue box and de-coupled and direct payments in Green Box to be included in the Amber Box to be subjected to reduction commitments.

Accelerated reduction in AMS so as to bring it below *de minimis* by the developed countries in 3 years and by the developing countries in 5 years.

Substantial reduction in tariff bindings, including elimination of peak tariffs and tariff escalation in developed countries.

Expansion and transparent administration of TRQs pending their eventual abolition.

Elimination through accelerated reduction in export subsidies and disciplining of all forms of export subsidisation, etc.

With regard to the TRIPs Agreement, India has asked for specific inclusion of certain elements during its review process. For example, intellectual property rights, when granted based upon biological or genetic resources and traditional knowledge of developing countries, must be done only after prior informed consent and the views of the source country or countries of those resources and knowledge have been obtained and considered. India has also suggested harmonization of the respective TRIPs provisions with the UN Convention on Biological Diversity. Another area of concern is higher level of protection for geographical indications.

Further, India has also opined that public health and accessibility of drugs for the poor at affordable prices, *"can neither be left to charity nor the uncertain outcomes of a new round of negotiations, nor even left to the tender mercies of dispute panels and their interpretations of the flexibility allowed by the WTO/TRIPs agreement"*. Rather, they should be dealt with by Ministers at Doha, both clearly setting out the available flexibility, and the changes in TRIPs needed to ensure that public health prevails over all other rights and concerns.

Additionally, with regard to special and differential treatment, India wants a

review of the provisions contained in existing WTO agreements granting a more favourable treatment to developing countries. With regard to services, India is following a single point agenda - further liberalisation of temporary movement of skilled and professional people for delivery of services.

View on the "New Issues"

Trade and Investment and Competition Policy

India does not subscribe to the view that a multilateral framework on investment is either necessary or desirable. There is no guarantee that a multilateral agreement on investment, as sought by the developed countries, would result in augmented inflow of foreign capital, but it would curtail government's policy options in using and directing foreign investment in accordance with the country's development priorities. India feels bilateral investment treaties are adequate in addressing the concerns of investing nations since India in any case, is opening up its economy to foreign investment in a transparent manner and are committed to progressive economic reforms.

With regard to competition policy, several developing countries including India are in the process of formulating and enacting national competition laws and hence do not have sufficient experience of the Functioning of Competition Law at the domestic level. Hence, it would not be fair to expect them to engage themselves now in negotiations for developing multilateral disciplines in this area. At any rate there are Working Groups already established in the WTO, which are discussing the linkage between Trade and Competition and between Trade and Investment. These Working Groups have not yet been able to arrive at any consensus. At best, the Working Groups should be allowed to continue their work for the time being.

Government Procurement

Even though the current exercise in WTO covers the study of transparency in government procurement practices, India remains skeptical about the proposal on such an agreement. India feels that such a proposal could actually be an initial step for major developed countries in their quest for expanding market access of their entities in the area of government procurement. India warns that adequate caution is called for in dealing with the discussions on a "transparency agreement" which should be seen in the light of such strategic objective of drawing the developing countries into the eventual goal of market access and full integration of procurement practices.

Trade and Environment

India attaches due importance to environmental protection and sustainable development. Despite the Committee on Trade and Environment (CTE) operating in the WTO on the basis of an agreed work programme. The industrialised countries are attempting to widen the environment window with protectionist intentions and objectives. India strongly opposes any attempt to either change the structure of CTE or its mandate, and feels that the CTE should be allowed to carry on its work as per the earlier mandate without any "*cherry picking*" of issues from various items under discussion. India, along with a number of developing countries, is of the view that environment is a non-trade issue and attempts aimed at inclusion of environmental issues

in future negotiations go beyond the competence of the WTO. India is therefore opposed to the linkage of environment with trade in the WTO framework since it has the potential *"to open the floodgates of protectionism through the backdoor"*.

Trade and Labour Standards

India is fully committed to observance of labour standards and has ratified most of the ILO Conventions. India has stated that *"it cherishes all the values of democracy, workers' rights and good governance"*. But India believes that these issues, however, are not under the purview of the WTO. At the Singapore Ministerial Conference, it was decided once and for all, that labour-related issues rightly belong to the ILO. India resolutely rejects the renewed attempts to introduce these in the WTO in one form or another. WTO should in no way be involved in issues related to labour standards.

Concluding Comments

Although India believes that its stand finds support from a number of developing countries as well as LDCs, a fine distinction needs to be made. While a number of developing countries vociferously demand non-inclusion of some of the new issues, it is conceivable that they might not be quite so vociferous about the "no new round" stand. In other words, while India could garner support for the *content*, it might not be able to do so for the *process*. The new round may happen, India likes it or not. In a strange way, the situation might be comparable to the pre-Uruguay Round scenario, where India went to the negotiating table with its legs kicking, as even those countries that had supported its position left it standing alone in the end.

India is not a representative or spokesperson of the LDCs and it is conceivable that it might not be able to forge a consensus on its stand from this group of nations. Given the efforts of Mike Moore to woo the LDCs in the time between Seattle and now by a series of "confidence building measures", this group could in fact find the package of the new round infinitely preferable. Promises of improved market access, technical assistance and capacity building aimed specifically at the LDCs have been articulated again and again. In any case there are some fine differences in the priorities of LDCs, which might not find an echo in the Indian context. Hence, this group of countries might in fact be easily convinced that to do better, a new round has to be launched.

Though the Indian Union Commerce and Industry Minister has made an appeal to the developing world for evolving a concerted and coordinated stance among themselves in effectively bringing unfinished agenda of the Uruguay Round (UR) agreements as also implementation concerns of these pacts, the cohesiveness sought is elusive because in the WTO dispensation like-minded approach barely makes any impact because each one works for its own enlightened self-interest.

Likened to the *"biggest trading elephants in the jungle"*, the US and the EU, who together count for about 20 per cent of world trade will push aggressively for a new round. The EU Trade Commissioner has cited three overriding reasons for what is being termed *"an urgent need to launch a new round"*. First, the global economy badly needs a boost. Second, it must be recognised that failure to launch at Doha would mean immediate damage to the world trading system and to the WTO in particular. Third, because the Round is the mechanism by which "we update and

modernise the rule-based multilateral trading system". By staking their very credibility as a touchstone for the launch of a new round and linking the success of Doha to this tenet, it would not be far off the mark to state that both the elephants with which India has a good economic and geopolitical relations in recent months could ill-afford to spurn the elephantine gesture when stakes involved are great for India.

There is some fear that the constituency support for the WTO might be waning in India. What needs to be understood is that globalisation is not new, and the WTO is certainly not responsible for it. It is not a policy; it is a process that has been going on for a very long time. The WTO exists to support the benefits of a more integrated world economy, to resist the possibility of hostile trading blocs. Having a framework of transparent and legally binding rules promotes stable and predictable trade flows, it gives business the legal certainty of access to foreign markets. It prevents escalating trade tensions and random government interference. If one must play, its better to do so with rules.

There are some very good reasons why it might be beneficial for India to go along with the proposal for a new round. The world is in the midst of a global slowdown, which could entail a resurgence of protectionism worldwide. The commencement of a new round at this stage will help to some extent in checking these. Post-UR, there has been an intensification of the worldwide move towards regional agreements. Even as the efforts to negotiate FTAs proliferate in most areas of the world, India is excluded from them. The best thing we can do is to go in for ambitious multilateral negotiations, so that regional preferences in goods and services are somewhat diluted. Further, negotiations have already begun in Geneva for further liberalisation of trade in agriculture and services under the built-in agenda of the WTO Agreement. To get ambitious or substantial results, it is important to broaden the agenda somewhat and to fix a time-frame for the negotiations. India has often stated that of the 93 implementation-related proposals submitted by the developing countries, only 2 have been addressed so far - a bad score by any yardstick. This marginal progress would perhaps be better handled if the implementation-related concerns were rolled over as the agenda for a new round.

India could in fact work out a cogent position divided into three categories:

- a) Issues that we must negotiate, which could include TRIPs, agriculture, services, dispute mechanism, anti-dumping and industrial tariffs. On the question of industrial tariff, it would seem like India is opposed solely on it being a new issue (which itself is not strictly true, since industrial tariff is not really a new issue and even most developing countries are willing to discuss it). India has often complained about peak tariffs and tariff escalation in the tariffs of the developed countries. Hence, inclusion of industrial tariffs will be of advantage to developing countries, India included. Developed countries have been paying lip service to the issue by saying that we need to incorporate objectives of developing countries regarding tariff peaks, tariff escalation, and non-tariff barriers. It would be beneficial for India to make them put their money where their mouth is. India has a sufficient cushion in terms of the gap between present applied rates and the UR reduction and binding commitments to absorb any reduction demand. In the trade-off based playing rules of the WTO, India could use this inclusion to have its demand elsewhere met.

- b) Issues that we are willing to discuss which could include trade and investment, trade and competition policy and government procurement.
- c) Issues where there is no compromise, which could, quite obviously, include trade and environment and trade and labour standards.

Along with these, India could press stringently for rolling forward of implementation issues in the agenda for the new round.

India must shake off the sense of *déjà vu*, comparable to the pre-UR scenario. The only difference is that India is very well prepared and well-versed in most of the different strains of issues. What remains is putting it into practice. At least, India could refrain from expressing itself against the launch of a new round at a time when the world's trade majors are determined to initiate one. In the ultimate analysis, India's cannot afford to be a "*voice in the wilderness when the rest of the world chimes in to the tunes of the elephants*".