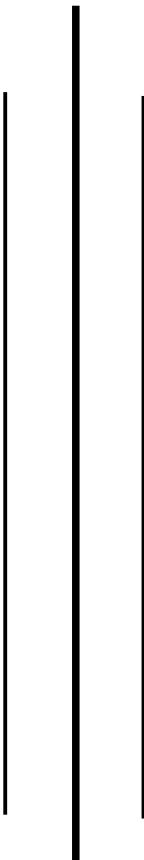


Economic Integration in South Asia



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Current Status of Doha Development Agenda: South Asian Perspective

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BACKGROUND

World Trade Organisation (WTO), which came into being in 1995, provides a platform for the conduct of international trade on the basis of its rules-based architecture. Though this institution has faced a number of challenges in the past 10 years of its existence due to the failure of its two out of five ministerial conferences, its members are committed to overcome them. The major breakthrough was achieved when the trade ministers of 142 member countries succeeded in launching a new round of multilateral trade negotiations in Doha in November 2001. The round was christened the Doha Development Agenda (DDA), which was essentially a compromise between the concerns of the developing countries and developed countries. These two groups were clearly divided on a number of issues, but not on all.

Inclusion of two separate declarations on the main declaration on “Implementation Related Issues and Concerns” and “TRIPS and Public Health” was a major achievement for the developing countries. Other areas, in which eventual agreement was reached despite serious contention, were agricultural liberalisation and negotiations on Singapore issues (which includes competition, investment, transparency in government procurement and trade facilitation).¹⁶ Liberalisation of services and those of manufactured goods were not all that contentious, because both the group of countries had something or the other to gain from the liberalisation of these sectors. Other issues, such as the rules of the trading system (subsidies, anti-dumping, regional arrangements and dispute settlement), special and differential treatment for developing countries, trade and the environment, trade-related intellectual property, and providing assistance to developing countries in implementing previous decisions also found the place they deserved in the DDA. Two completely new issues – trade and technology transfer and trade, debt and finance – were also included in the DDA, albeit as ‘soft’ topics.

This entire list of issues forms a part of single undertaking, i.e., they should be treated as a package. In other words, ‘nothing is agreed, unless everything is agreed’. January 2005 was considered the end date for the completion of negotiations. Despite the fact that WTO operates by consensus, setting of such agenda is ambitious. Given the time it took to complete the two previous rounds—seven years for the Uruguay Round (1986-93) and five for the Tokyo Round (1973-78) termination by this date was never credible.¹⁷

The Fifth Ministerial Conference, which was to be held in Cancun in September 2003, was supposed to provide a platform for a mid-term review of the progress made in the DDA. However, all the deadlines, which would have become milestones for the achievements of objectives of DDA, were missed. Ministers went to Cancun with limited hope to achieve any major breakthrough. This was further complicated not only by a sharp division over two major issues (agriculture and Singapore issues), but also due to the formation of multiple groupings with entrenched positions. Cancun Conference deservedly failed, amidst these irreconcilable differences.

¹⁶ These issues are bundled as “Singapore Issues” because they were included in the WTO proscenium during the first ministerial conference of the WTO held in Singapore in December 1996. During the Doha Ministerial Conference, it was agreed to launch negotiations on these issues subject to ‘explicit consensus’ on modalities of negotiations. See WTO (2001)

¹⁷ See Lawrence (2003), C/ Pandey (2004), *Infra* note 7

Fortunately, the failure of Cancun was not of the order of the debacle at Seattle, where the ministers had to abandon the entire proceeding. Though the meeting abruptly ended, the Ministers managed to issue a Ministerial Statement towards the end of the Cancun Ministerial. The wordings of the paragraph 5 of the Statement makes it clear that in those areas where the Ministers had reached a high level of convergence on texts, they would undertake to maintain convergence while working for an acceptable overall outcome. The instruction given to the trade officials was to “continue working on outstanding issues” at the General Council. Notwithstanding the setback, Ministers reaffirmed all their Doha Declarations and Decisions and re-committed themselves to working to implement them fully and faithfully.

JULY PACKAGE

Though it was agreed to start negotiations in Geneva by 15 December 2003, it took while for the members to get their acts together. The negotiations that finally resumed in March/April 2004, culminated in the adoption of the 1 August General Council Decision (WT/L/579), known as “July Package” (JP). The Package sets the stage for negotiations to be conducted among the member countries during the run up to Hong Kong Ministerial Conference and beyond. Five issues have been identified by JP as priority areas of negotiations: agriculture, non-agricultural markets access, services, trade facilitation and development dimension. They are discussed below.

Agriculture

Agriculture not only remains the most contentious issue in the WTO negotiations, but is also considered a deal maker or deal breaker in most cases. Though Cancun failure could be mainly ascribed to agriculture, Singapore issues were made the scapegoats. During the July Meeting too, differences among various groups of countries on agriculture issues was threatening to derail the process of achieving consensus. However, the last minutes agreement reached between so called five interested parties (FIPs) – which included Australia, Brazil, India, the EU and the US – saved the meeting from collapse. They hammered out a deal, which was later accepted by the then 147 member countries the WTO.

Though the process of five countries making a decision on behalf of rest of the membership cannot be considered a healthy practice, this should still be considered as a move in the right direction compared to the past when Quad (Canada, Japan, the EU and the US) used to call the shots. Though the major decisions were made by FIPs, other groups were also active in shaping and influencing the final outcomes. They have become even more active in the post-July period. Annex A of the JP contains modalities for negotiations on agriculture, the contours of which are discussed below.

Market Access

In the JP, Members agreed to use a tiered formula, which classifies tariffs into various bands for subsequent reduction from bound rates, with higher tariffs being cut more than lower ones. The actual modalities – the number of bands, threshold for defining bands and type of tariff reductions within each band – remain subject to negotiation. Overall, the negotiations must lead to ‘substantial improvement’ in market access for all products.¹⁸ Annex A also addresses the issue of tariff rate quota, tariff escalation, and tariff simplification. In order to address other concerns, side decisions were made on the following three issues:

Sensitive products: Developed countries as well as developing counties can designate an ‘appropriate number’ of tariff lines to be treated as sensitive without “undermining the overall objective of the tiered approach”. Specific rules and criteria are to be developed in future negotiations.

Special products: Only developing countries will be able to designate Special Products (SPs) for more flexible treatment, based on criteria of food security, livelihood security and rural development needs. The decision on the selection criteria are to be made later.

¹⁸ See WTO (2004)

Special safeguard mechanism: Developing countries will also have recourse to a Special Safeguard Mechanism (SSM) to take measures against sudden import surges. Like SPs, these will also be fleshed out later.

Domestic Support

The JP includes concrete targets for the reduction of overall domestic support and specifies that Blue Box levels will be capped. In the first year of implementing the agreement, the text requires Members to reduce by 20 percent their overall trade distorting support, which comprises the final bound total AMS (aggregate measure of support), the permitted *de minimis* levels and the permitted Blue Box levels. The reduction will be made under a tiered formula that cuts subsidies progressively – higher levels of trade-distorting domestic support are subject to greater reductions.

The Annex also caps product-specific AMS at average levels, based on a methodology to be agreed, in order to prevent circumvention of obligations through transfer of subsidies between different support categories. However, even the 20 percent reduction would not change existing levels of support significantly as the reductions will be made from bound rather than applied levels.¹⁹

Export Competition

The JP, in addition to providing for a ‘credible end date’ for the elimination of export subsidies – to be agreed upon – also includes within its ambit export credits and credit guarantees or insurance programmes. Trade-distorting practices of exporting state trading enterprises (STEs) and the provision of food aid “not in conformity with operationally effective disciplines to be agreed” in order “...to prevent commercial displacement” will be disciplined.

Non-agricultural Market Access (NAMA)

Since developed countries maintain very low (roughly 3.8 percent on an average) tariffs on manufactured products and developing countries either maintain very high bound tariff or have not bound a significant portion of their tariff lines at all, developed countries’ insistence to negotiate NAMA is understandable.

Annex B of the JP titled *Framework for Establishing Modalities in Market Access for Non-Agricultural Products* states that WTO Members should continue to work on a ‘non-linear formula applied on a line-by-line basis’. However, its emphasis on taking into account the ‘special needs and interests’ of developing countries, including through less than full reciprocity in reduction commitments, provides developing countries some leeway to insist on only linear cuts for certain tariffs lines and perhaps none for others.²⁰

The Annex also specifies that flexibilities for developing countries will include applying ‘less than formula cuts’ to up to a certain percentage of tariff lines, or keeping “as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member’s imports”. The bracketed figures are open to negotiations.²¹

Like Agriculture Modalities, NAMA framework ‘contains the initial elements for future work on modalities’ leaving the formula for tariff reduction, the issues concerning the treatment of unbound tariffs, the flexibilities for developing country participants, the issue of participations in the sectoral tariff component and the preferences for future negotiation. It also addresses the issues of non-tariff barriers and requests members to make notifications of NTBs by 31 October 2004 and to proceed with identification, examination, categorisation and ultimate negotiations on NTBs.²²

The text also stipulates that the non-*ad valorem* duty should be converted into *ad valorem* ones. This is not only expected to make tariff protection more transparent, but also helps exporting countries which face higher level of protection when prices of their exportable products fall.

¹⁹ See ICTSD and IISD (2004a)

²⁰ See ICTSD and IISD (2004b)

²¹ Ibid

²² Pandey, Posh Raj (2004)

Since most developing countries still have a substantial portion of their industrial tariff unbound, they are expected to bind substantial portion of their tariff lines. Annex B also appears to suggest that newly acceded countries may not be required to undertake any major tariff cuts given the fact that they have already made extensive market opening commitments.

Like in agricultural text, duty free quota free market access to LDCs' has been left at the discretion of the developed-country participants and 'other' participants, without timeline for the same having been agreed.

In relation to non-tariff barriers (NTBs), which are becoming the major market access barriers these days, the General Council, through JP, while recognising that NTBs are an integral and equally important part of these negotiations; instructs participants to intensify their work on NTBs.

Services

There are two important issues about the services liberalisations. First, when the General Agreement on Trade in Services (GATS) was prepared during the UR, GATT members adopted a positive list approach – allowing members to pick and choose the sectors which they would like to liberalise. Second, GATT members also agreed that there would be further liberalisation in this sector in a progressive manner – like agriculture. During the run up to the Doha Ministerial, two types of interests had clearly emerged. First, developed countries wanted to see hitherto protected sectors in the developing countries for being extremely sensitive such as water, health, education services liberalised. Second, developing countries wanted to see hitherto protected mode of service delivery, i.e. service delivery through the movement of natural persons (so called Mode 4) liberalised.

Accordingly, DDA mandated negotiations on trade in services with a view to promoting the economic growth of all trading partners and the development of developing and LDCs. Following this mandate, the focus of services negotiations has been on bilateral request-offer exercise. JP too supports this mandate and aims to achieve progressively higher levels of liberalisation with no *a priori* exclusion of any services or mode of supply. Since the offers submitted so far have not been upto the expectations of the members, JP sets the deadline to submit revised offer as May 2005.

Trade Facilitation

Developing countries, despite their willingness, were not able to autonomously implement trade facilitation measures. While there could be several political economy factors that have contributed to this state of affairs, one major reason is the lack of resources. Though studies have indicated that one time investment in such measures could help country save tremendous amount of recurring expenses and even provide streams of benefits to the traders, it is difficult for the government to mobilise the resource required for upfront investment.

The inclusion of this issue for negotiations, "subject to explicit consensus on the modalities of negotiations", as agreed during the Doha Ministerial Conference of the WTO, had created a sharp division between the WTO the North and the South in the run up to Cancun Ministerial. However, the JP has laid all the speculations to rest on whether or not negotiations will begin on this issue. It is the only Singapore issue in which members have reached an agreement to conclude negotiations as a part of Single Undertaking under the DDA. The Annex D of the July Package, which elaborates the modalities for negotiations on trade facilitation states that negotiations "shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit."²³

Development Dimension

The implementation related problems in relation to the WTO agreements, and the special and differential treatment are being discussed ever since the launching of the DDA in the various committees of the WTO as well as in the special session of the Trade and Development Committee. However, there has not been significant progress in most issues under the discussion. These issues are being relegated to back seat in the elevated discussions on other issues.

²³ WTO (2004), *Supra* note 3.

The JP calls for the review of all outstanding agreement specific proposals and reporting to the General Council for clear recommendations on decisions. More vaguely, the Committee on Trade and Development was instructed to report to the General Council ‘as appropriate’ on all other outstanding work, such as a mechanism to monitor the implementation of S&D obligations and the incorporation of S&D into the architecture of WTO rules. Further, the use of the hortatory language such as: “The Council instructs the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority” shows the lack of seriousness on the part of the trade negotiators to take these issues forward.

On the whole, JP too falls short of addressing issue/agreement specific S&DT. Among the issues agreed for negotiations by JP, trade facilitation text is the only text which contains relatively strongly worded technical assistance language. This text provides the leeway to the developing countries not to implement their part of the commitments in the absence of technical assistance. On the area of agriculture S&D provisions are mostly related to higher transition period and lower level of reduction coefficients. S&DT language, as in the past, are non-binding best endeavour nature.²⁴ Moreover, though the LDCs are not required to participate in any reduction commitment, the non-binding language relating to duty free quota free access²⁵ have further weakened their bargaining position in their efforts to obtain such facilities from the developed countries. The text on NAMA is similar to that of agriculture. As per Annex C of JP titled *Recommendations of the Special Session of the Council for Trade in Services* “Members shall strive to ensure a high quality of offers, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to least-developed countries.” This language does not mean anything to the developing countries as there is a vast difference between “shall strive to ensure” (existing text) which is not mandatory and “shall ensure” which would have been mandatory. Members, as per the text, “note the interest of developing countries as well as other members on Mode 4”. However, noting the interest and actually making a commitment to liberalise this mode of supply are two entirely different issues.

OTHER ISSUES

Some other issues, which had become equally contentious if not more than the five priority issues mentioned above, did not find much space in the JP. However, this does not negate their importance. The foregoing discussion focuses on those issues.

TRIPS Agreement

The issue of TRIPS and public health, which created a major furor during the Doha Ministerial is as important today. This is because the issue of whether or not countries with TRIPS complaint patent regime can export generic drugs to countries without sufficient manufacturing capacity still begs clarifications. Similarly, the study on the relationship between TRIPS Agreement and Convention on Biological Diversity (CBD) is still being hotly debated at almost every session of TRIPS Council meetings. Countries are divided on whether or not to include a mandatory requirement to disclose the source of origin of genetic resources and associated traditional knowledge while applying for patent. Should the members decide to include such a requirement what should be the modalities for prior informed consent and benefit sharing is another issue that is being discussed in the TRIPS Council.

A third issue which is important from the perspective of the DDA as well as from JP is the possibility of initiation of trade dispute even if there has been no violation of TRIPS Agreement. While the Dispute Settlement Understanding of the WTO allows initiation of such complaints in the case of other “covered” agreement, Article 64.3 of TRIPS Agreement had provided initial exception to this rule. This exception was extended for two years by DDA, but due to failure to reach consensus on this issue during the Cancun Ministerial, the future of this issue remained uncertain for a while. JP has

²⁴ For example, the S&DT text on Export Competition mentions: “S&D will be granted to developing countries, and disciplines on export support will be developed with consideration of the impacts on least-developed and net food-importing developing countries.”

²⁵ The actual language is as follows: Developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries. See paragraph 45 of Annex A.

laid all the speculations to rest by explicitly extending the moratorium until the Sixth Ministerial to be held in December 2005 (read Hong Kong Ministerial).

Finally, the issue of establishment of a multilateral system of protection for wines and spirits as provided for in the Article 24.3 of the TRIPS Agreement, which was reiterated by DDA, too is being discussed in the TRIPS Council. There is a sharp division between the EU-led group the US-led group on over the issue of whether the protection should be voluntary or mandatory and whether the legal effect depends on members' participation in such a scheme or it applies across the board to all the members. Through JP, the GC requests the Director-General to continue with his consultative process including on issues related to the extension of the protection of geographical indications to products other than wines and spirits.

Trade and Environment

Though the *demandeurs* would have liked to initiate a full-fledged negotiations on trade and environment issues, trade ministers agreed to conduct negotiations on only three areas: a) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs); b) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status; and c) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.²⁶

Ministers also instructed the Committee on Trade and Environment in pursuing their work to give particular attention to: a) the effect of environmental measures on market access issues; b) the relationship with the relevant provisions on the TRIPS Agreement; and c) labeling requirements for environmental purposes.²⁷

Since a vast majority of the WTO members were not too keen on pursuing negotiations on these issues and procedural issues have taken the centre stage, it is not likely to reach too far.

Only the negotiations on environmental goods have seen some movement with some countries proposing lists of environmental goods although many, in particular developing countries, have yet to put forward their positions.²⁸ The JP also made a passing remark on, among others, environmental issues by simply reaffirming members' commitment to progress the negotiations in line with the Doha mandates.²⁹

Trade, Debt and Finance

Developing countries deemed a study on the inter linkage between trade, debt and finance desirable in the context of far reaching liberalisation commitments they had made at the WTO. They were also equally concerned about the access to trade finance to enable them enhance their trade performance. The *demandeurs* for examining this relationship are countries seeking ways to reduce their external debt burden in the context of the multilateral trading system and countries that have experienced financial crises.³⁰

Ministers agreed in Doha to an examination of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries. The main objective was to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. It was also agreed that the General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination. However, due to divergence of opinion between the members, the GC could not prepare any recommendation for the Cancun Ministerial.

²⁶ WTO (2001)

²⁷ Ibid

²⁸ ICTSD (2004c)

²⁹ WTO (2004), *Supra* note 3

³⁰ ICTSD (2004d)

Neither did JP mention anything other than urging the GC and other relevant bodies to “report in line with their Doha mandates to the Sixth Session of the Ministerial Conference.”

Trade and Technology Transfer

Since developing countries, LDCs in particular, felt that technology transfer provisions contained in various WTO Agreements have not been materialised as was promised, they demanded that a negotiations on this issue be held. The Doha Declaration contained the following language: “We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.”

Besides, Declaration on Implementation Related Issues and Concerns, contained a language to reinforce the mandatory nature of Article 66.2 of TRIPS Agreement and urged the developed countries to submit the progress made. Due to the failure of the Cancun Ministerial, the WGTTT will now have to present its recommendations to the Hong Kong Ministerial Conference in 2005.³¹

Dispute Settlement

The dispute settlement understanding (DSU) of the WTO is working reasonably well. However, particular problems were encountered in relation to time taken to settle the dispute and implementation of remedies proposed by the Dispute Settlement Body (DSB). Though it was decided during the UR itself that the review of DSU would be conducted from 1999 itself, this was not taking place. Therefore, DDA agreed to negotiations on improvements and clarifications of the DSU. It was also decided that DSU review and negotiations on this issue would not form a part of single undertaking.

However, due to apathy of the members, two deadlines post-Doha have been already missed. Now there is no deadline for the settlement of this issue, even though there are a number of proposals on the table.

Technical Assistance and Capacity Building

Due to the problems encountered by the majority of the developing countries, in particular LDCs, to implement the commitments made at the WTO mainly due to capacity constraints as well to take advantage of the market access opportunities offered by the WTO agreements, these countries demanded that issue technical assistance and capacity building be discussed under the DDA. The relevant issues identified by the Ministerial Declaration between Paragraphs 38 and 43 were: a) mainstreaming trade into the national development and poverty reduction strategies; b) implementation of WTO commitments; c) coordinated delivery of technical assistance; d) long terms funding for WTO technical assistance; e) market access and export diversification; and f) endorsement of Integrated Framework for Trade Related Technical Assistance (IF) as a viable model for LDCs.

As per the Doha Mandate, the Director-General was supposed to report to the Fifth Ministerial Conference the implementation and adequacy of technical assistance and capacity building commitments identified in different paragraph of the declaration. The December 2002 deadline for the submission of the interim report the GC was missed. During the run up to Cancun Ministerial Conference this issue was sidelined, as other major issues took major portion of negotiating time. There is no mention of this issue in the JP. Technical assistance is now focused on organising regional trade policy courses for training the government officials under what is known as Technical Assistance and Training Plan (TATP). However, it is necessary to understand that trade policy course alone is not what the developing countries are demanding. They need much more than that. For example, they need resources not only to implement their WTO obligations, as noted above, but also help them enhance their supply capacity in order to take advantage of the predictable market access opportunities offered by the WTO.³²

³¹ ICTSD (2004e)

³² See Adhikari (2005)

IMPLICATIONS FOR SOUTH ASIA AND THE WAY FORWARD

South Asian region has bestowed full faith on the multilateral trading system and all the six member countries of the region (Bangladesh, India, Maldives, Nepal, Pakistan and Sri Lanka), have made public their support to the DDA. They have realised that DDA offers tremendous prospects for these countries to achieve their overarching objective of sustainable development and poverty alleviation. Therefore, they have a high stake in successful completion of DDA.

While it is an imperative for the South Asian countries to join hands together and form a common position in the run up to the Hong Kong Ministerial Conference, there are several impediments inhibiting common approaches. First, there are different priorities and focus of the countries in the region, reflecting their stage of their economic development. While developing countries are in a position to make reciprocal commitments, LDCs would still like to take shelter under the special and differential treatment provisions including availability of preferential market access to developed countries markets. Developing countries feel that the LDCs would be gaining incremental market access at the cost of the former. Second, there are sector specific concerns such as in the case of Agreement on Agriculture (AoA), which is discussed below. One of the major issues, which used to divide South Asian countries, was the Agreement on Textile and Clothing (ATC). However, after the expiry of the agreement in December 2004, this issue no more remains contentious. Moreover, this issue does not form the part of the DDA.³³

However, despite the above mentioned impediments South Asian member countries of the WTO would do well to move concertedly so that they can create better impact on negotiations. The challenge is to identify the areas of common interest, articulate the common approach and strategy to be pursued in the WTO negotiations, and in the process resolve conflict of interest through a proactive policy of regional cooperation.³⁴ Recognising imperative, the trade and commerce ministers of South Asian countries met in Delhi in August 2001 to prepare and articulate common positions in the run up to Doha Ministerial Conference on a number of issues. This was done as per the mandate of the 11th SAARC Summit held in Kathmandu in January 2001. What follows is an analysis of the likelihood of common positions, or otherwise, on the issues being discussed as a part of the DDA.

Since majority of South Asian are farmers and live in rural areas, their interest lies in protecting their agricultural sector from the onslaught of trade liberalisation and import of subsidised products from the developed countries. While this generalised statement may be true for all the countries of the region, but not for Bangladesh. It has been projected by an International Monetary Fund (IMF) Study that India stands to gain tremendously from the removal of agricultural subsidies in the developed countries, but Bangladesh is slated to lose out because of the increased food import bill. Countries like Sri Lanka and Nepal will also lose out in the process, but their losses are not that high. However, the study also reveals that if India also reduces its subsidies and tariff barriers – rest of South Asia will unambiguously gain. Given this scenario, it might be in the interest of South Asian region as a whole to have a common position on the elimination of subsidies in the developed countries, but maintaining the MFN tariff protection. Then South Asian countries could liberalise tariff on agricultural products among themselves under the South Asian Free Trade Agreement (SAFTA) negotiations. This will continue to protect Indian market from the import of cheap agricultural products, but by providing market access opportunities for the rest of South Asia, it will help enhance regional welfare.

Similarly at the time of reducing tariffs and designating sensitive products, special products and preparing the modalities for SSM, they need to develop common positions. They would do well to consult with each other even at the time of submitting proposal in alliance with other groups. It was not without reason that the above mentioned Delhi meeting of the trade and commerce minister had, among other, underscored the needs for more close collaboration and consultation amongst the SAARC policy makers, and ambassadors accredited to the WTO in Geneva. They were also asked to

³³ For a detailed discussion see SACEPS (2002), *Post-Doha Negotiations in the WTO: Advancing the Interests of South Asian Countries*, Report of the South Asian Centre for Policy Studies, Dhaka

³⁴ Ibid

keep each other abreast of country positions, interact and discuss pertinent issues.³⁵ This is applicable not only to agriculture, but all other issues being discussed at the WTO.

On the issue of NAMA, it is proven beyond doubt that two South Asian countries – India and – which maintain one of the highest industrial tariffs in the world are going to be hit hard due to non-linear formula for tariff reduction. Sri Lanka is not likely to lose much because its tariffs are already low on industrial products. NAMA negotiations may have some impact on Bangladesh and Maldives – despite their LDC status which allows them to opt out of tariff reduction exercise – because they will be asked to bind more than 90 percent of their industrial tariff. These negotiations may not have any impact on Nepal not only by the virtue of being an LDC, but also having bound almost 100 percent industrial tariffs at the time of its accession to the WTO. Therefore, it would be in the interest of all the South Asian countries to lend support to India and Pakistan to operationalise whatever little S&DT provisions that is there in the NAMA text of the JP.

On the issue of services negotiations, liberal service regime along with sufficient infrastructure needs to be complemented by facilitated and favourable access to market, technology, information network and distribution channels and market information.³⁶ South Asian countries need to raise the issue under JP in the negotiation on rules. Given the role of remittances in the South Asian economies, there are tremendous gains to be had by all these countries from the liberalisation of mode 4 across the globe particularly on labour intensive services such as construction services. Similarly, they should also press for the liberalisation of outsourcing services, which is covered under Mode 1 of GATS (cross-border supply of services using ICT), since this is clearly an area of comparative advantage for most South Asian countries.

On trade facilitation negotiations, all the South Asian countries should have a common position on most issues being discussed/negotiated. The only South Asian member of the WTO which may have a slightly different approach to trade facilitation negotiation is Nepal. Given the fact that Nepal is a landlocked country, the negotiation on transit freedom is crucial to secure transit rights. Customs and transshipment delays which account for as much as 55 per cent of the logistic costs of sending certain types of goods from Kathmandu to Kolkata, the outcome of negotiation would help to reduce the cost.³⁷ However, given the cost of implementing the measures, which will be eventually proposed after the full negotiations, all the South Asian countries should be extremely careful to ensure that they need sufficient and targeted technical assistance from their development partners to implement these measures. At the individual country level, it is worthwhile for them to conduct studies to map out their technical assistance requirements.

On the issue of negotiations relating to implementation issues and S&DT, South Asian countries should have a common position to ensure that these issues are expeditiously settled, preferably within the new deadlines proposed by the JP. If not these countries should join hand with other countries to block the negotiations on other issues – after all DDA is a single undertaking and nothing can be considered as agreed unless there is an agreement on everything, development related issues included.

Apart from the five core issues identified by July Package, South Asian countries should make best possible effort to ensure that they have common positions on other issues as well. On the three issues relating to TRIPS, they should have the following positions. First, they should aim at clarifying the spirit of the Doha Declaration so that countries with limited manufacturing capacity on pharmaceutical products are free to import generic medicines from other countries, such as India and Pakistan in order to address their public health concerns. Second, they should develop a position that would help them not only prevent piracy of their genetic resources and associated traditional knowledge by emphasising on the disclosure, prior informed consent and benefit sharing as the precondition for patenting of invention based on genetic resources and/or traditional knowledge. Third, they should demand that discussions on geographical indications should be broadened to include their products (such as Ceylon Tea, Darjeeling Tea, Ilam Tea and Jamdani Saree) as well.

³⁵ SAARC (2001)

³⁶ Pandey (2004), *Supra* note 7

³⁷ Pandey (2004), *Supra* note 7

On the issue of trade and environment, there is no harm for South Asian countries in discussing issues that are on the table as a part of Doha Development Agenda. However, care should be taken to ensure that environmental standards are not legitimised within the WTO framework, because this could be used for protectionist purposes by the developed countries. On the issue of trade, development and finance, South Asian countries may not have major interest because of the relatively sound macroeconomic fundamentals they have been able to maintain so far. Trade and technology transfer is a major issue for the South Asian countries, which are net importer of technologies. Therefore, they should make informed intervention at the WGTTT such that their concerns are reflected in the Working Group's submission to the Hong Kong Ministerial Conference. One area in which they should press for binding commitment is relates to preparing monitoring mechanism within the WTO for the effective operationlisation of the provision of Article 66.2 of TRIPS.

DSU review might not be a priority for South Asian countries at present because of the limited number of dispute in which these countries are involved. Moreover, non-implementation of DSU rulings, which is a major bone of contention, has not been a problem for South Asian countries. The issue of technical assistance and capacity building is a major issue for these countries. They should collectively press for binding commitment on provision of technical assistance to help the LDCs in the region in particular to improve their supply capacity. Investments in upgrading infrastructure and customs administration are the twin priorities are the needs of the hour.

CONCLUSION

Since the DDA offers tremendous prospects for the developing countries in general and South Asian countries in particular, they have a high stake in its successful completion.

Despite the failure of the Cancun Ministerial Conference, agreement reached among WTO membership on JP has once again raised hope for the successful completion of DDA. However, given the current state of play and divergence of position among the developed and developing countries, completion of DDA is bound to be a long drawn process with a great deal of acrimony.

South Asian countries have divergent interests and views on some issues, but that does not preclude the possibility of reaching to common positions other issues. Fortunately, it makes prefect sense for them to have common position on most of the issues being discussed as a part of DDA. The differences on two issues – agriculture and NAMA – too can be ironed out through consultations and discussions. However, given the limited negotiating resources at the disposal of most South Asian countries, there is a need to prioritise the issues on the basis of their importance to the region so as to create better impact. At the same time it is necessary for all the countries in the region to be proactively engaged in the WTO discussions so as to ensure that those issues that have been not received as much prominence as they deserve, should be brought into a much sharper focus.

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South Asian Economic Union (SAEU)

Signing of SAFTA agreement has opened a new possibility for SAARC member countries marching towards close economic integration. An economic integration process passes through various stages. South Asia has already entered into a first stage of integration continuum. The stage would be South Asian Custom Union (SACU) where common tariffs and quotas are set up for trade with non-members. In Common Market, non-tariff barriers to trade (products and services markets integration) as well as restrictions on factor movement (factor market integration) would be abolished. In an economic union, social and economic policies are to be harmonized to a greater extent. Both the goods and financial markets integration is essential for the smooth functioning of the economic integration.

This century witnessed growth FTAs which work as a root cause to realize such arrangements to other regions. Some of the successful FTAs and economic unions are: European Union (EU), North American Free Trade Area (NAFTA), ASEAN Free Trade Area (AFTA), Closure Economic Cooperation (CER), MERCOSUR, etc. SAARC since its inception has been formalizing various bodies and agreements for more liberal trade and investments regimes. Previous efforts have been found to be less effective in order to achieve the common goals. In this backdrop, the 24th Session of the SAARC Council of Ministers held in Islamabad during January 2-3, 2004 recommended SAARCFINANCE to study and make recommendations on early and eventual realization of SAEU. Strengths of the economic union can be summarized as follows:

- a) A Common currency would reduce economic uncertainty caused by exchange rate fluctuations.
- b) Business sector would be fostered because of the lower cost and less currency risk.
- c) Monetary unification decreases transaction cost and risk of foreign exchanges which would in turn help flow more capital into the region in the form of investment and trade.
- d) Substantial mobility of labor, flexible local markets for goods and labors, flexibility in resource mobilization would expand the economies.
- e) Economic union helps to increase formal trade and reduce informal trade. Likewise, it also helps to maintain price stability by restraining excessive monetary spending. No currency union has experienced a hyperinflation. This would also reduces the need for foreign exchange reserve for intra-regional trade.

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