

● **TRADE** ●

# insight

**SOUTH ASIAN**

# Priorities

**for the Hong Kong Ministerial**





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South Asia Watch on Trade,  
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editors' note

# Creative Destruction

**WE** have come a long way, yet our philosophical underpinnings remain unchanged. When we established SAWTEE in 1994, we had a vision in mind. We knew that time, and still hold the belief that, managed properly, globalisation offers tremendous opportunities for South Asia. However, we are not oblivious, but mindfully aware of the possible fall outs of the changing economic paradigms. It is not without reason that our slogan has been: *globalisation yes, but with safety nets*.

When we established our network, the World Trade Organisation (WTO) was not formally established, but we had a fair idea of the contours of the WTO agreements. We knew that the WTO would not only provide opportunities, but also unleash challenges for South Asia. Therefore, the need to build the capacity of stakeholders on rapidly evolving issues in the international trade policy making arena became pronounced.

Our decade long experience in dealing with WTO issues suggests that the global trade body is yet to prove its mettle. The perceived imbalance within the WTO system still persists. Continued protectionism and introduction of new forms of non-tariff barriers are the major challenges of our times. Besides, the abuse of trade remedy measures, to suit the requirements of narrow set of vested interests, has made a mockery of international trade rules. One really wonders if at all trade is freer today than before the Uruguay Round. These and many other issues have lent credence to the anti-globalisation lobby's argument that the WTO is neither in favour of free trade nor fair trade.

Fortunately, the situation is not as murky as is being portrayed. To borrow a popular expression "every cloud has a silver lining", developing countries and their negotiators, through constructive engagement, have mastered the art of protecting their interests. Gone are the days, when Quad (Canada, Japan, the European Union and the United States) used to set the WTO agenda and throw open an agreement to others for signing. A new balance of power has emerged in the WTO, with shifting alliance building priorities. Developing countries, which represent the majority in the WTO, are increasingly making themselves heard – loud and clear. Failure of the Cancún Ministerial and agreement on July Package are the telling reminders of the recent past.

Time is definitely changing, so are we. In September 2002, we had made a painful decision to abandon the publication of our first quarterly *SAWTEE Newsletter*, in circulation since March 1995, by starting *Trade and Development Monitor*. We have now made a conscious decision to discontinue the same, not because it lacked popular appeal, but because we wanted to bring out this magazine – *Trade Insight*.

Since we also have non-technical readers, we have made every possible attempt to make *Trade Insight* as much reader friendly as possible. We have also made drastic changes in the content, layout as well as design.

We know that changes are often painful in the short run, but beneficial in the long run. We are making this careful move with Joseph Schumpeter's idea of creative destruction in mind because we believe in what he believed, when he wrote his seminal book *Capitalism, Socialism, and Democracy* in 1942.

We hope our valued readers will appreciate our endeavours to upgrade the quality of our outputs and make this publication self-sustaining in the long run. Comments, critiques and suggestions from our readers will further help us improve the quality of this publication. ■



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The views expressed in the articles published in *Trade Insight* are those of the authors and do not necessarily reflect the official position of SAWTEE or its member institutions.

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## SAWTEE NETWORK

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2. Bangladesh Environmental Lawyers Association (BELA), Dhaka

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1. Citizen Consumer & Civil Action Group (CAG), Chennai
2. Consumer Unity & Trust Society (CUTS), Jaipur
3. Development Research & Action Group (DRAG), New Delhi
4. Federation of Consumer Organisation of Tamilnadu & Pondichery (FEDCOT), Thanjavur

### NEPAL

1. Society for Legal & Environmental Analysis & Development Research (LEADERS), Kathmandu
2. Forum for Protection of Public Interest (Pro Public), Kathmandu

### PAKISTAN

1. Journalists for Democracy & Human Rights (JDHR), Islamabad
2. Sustainable Development Policy Institute (SDPI), Islamabad

### SRI LANKA

1. Law & Society Trust (LST), Colombo

## India, China should integrate into world economy: US

**UNITED** States (US) President George W. Bush's second administration is committed to relaunching stalled world trade talks, which hold the promise of lifting some 300 million people out of poverty, said Robert Zoellick, outgoing US Trade Representative. He told business government leaders at the World Economic Forum, recently held in Davos that freer trade resulting from a new agreement could improve conditions in many parts of the world and thus help eradicate a breeding ground for terrorism.

"We will continue to try to set an ambitious agenda" for the global economy, said Zoellick, who is to become the number 2 at the State Department. Zoellick said more must be done to include India and China in the global economy. "These are two rising economy powers," Zoellick said. "It's critical that we integrate them into the system," he added (*ET*, 30.01.05). ■

## Indian TRIPS-compliance legislation under fire

**IN** order to meet the 1 January 2005 deadline to comply with the World Trade Organisation's (WTO) intellectual property regime, on 26 December 2004, the Indian government issued an ordinance – an executive decree not debated in Parliament – that made several amendments to the country's patent regime. Although previous bills for the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) compliance were passed into law, an earlier version of the current set of amendments failed to be tabled in Parliament in December 2004 because of disagreements within the governing coalition. Under Indian law, the ordinance will lapse if it is not approved by lawmakers within six months. Legislators will consider the bill during the budget session of Parliament that begins in February.

The decree has raised concerns that it will put access to life-saving drugs for diseases like AIDS out of the reach of poor people both in India and elsewhere in the world. Critics of



the new law claim that it goes beyond the demands of the TRIPS Agreement and fails to take full advantage of existing WTO provisions for the protection of public health.

India is the world's fourth-largest drug market in volume, and drugs often cost 7 to 10 percent of what they do in the United States or Europe. While India's many generic drug producers have thrived in an environment of limited patent protection on pharmaceuticals and exported cheap essential drugs around the world, some argue that the limited protections for intellectual property have kept foreign companies from investing in India (*BWTND*, 19.01.05). ■

## China to host WTO mini-ministerial



**CHINA** may host global trade talks ahead of the World Trade Organisation's (WTO) sixth Ministerial Conference in Hong Kong, China next December, according to the country's WTO Ambassador Sun Zhenyu. The dates for the mini-ministerial have not

been finalised but it is expected to be held in June/early July or in September.

Prior to that the first full-length mini-ministerial is likely to take place on 2-4 March in Kenya. Trade ministers from the United States, the European Union, Brazil, India, Australia, Canada, Japan, Kenya and Swit-

zerland are expected to take part in this event.

A mini-ministerial is also planned in the sidelines of the Organisation for Economic Cooperation and Development's annual ministerial gathering on 3-4 May (*AP*, 24.01.05). ■

## New WTO member

**CAMBODIA**, which applied to join the World Trade Organisation (WTO) in December 1994, became its 148<sup>th</sup> member on 13 October 2004. Along with Nepal, its membership package was approved at the Cancún Ministerial in September 2003. After Nepal, Cambodia is now the second least developed country (LDC) to join the WTO through the full working party negotiation process. It brings the current number of LDCs in the WTO to 32.

Despite earlier approval for the membership, Cambodia's ratification was delayed due to the formation of a new government. The Cambodian Parliament finally ratified the deal in September 2004 (*WTO*, 15.01.05). ■

# e-Developing world lagging on business

**ACCORDING** to *E-Commerce and Development Report 2004*, published by United Nations Conference on Trade and Development (UNCTAD), enterprises in developing countries are increasingly connected to the Internet, but their involvement in e-business remains limited. While small and medium-sized enterprises (SMEs) had a huge potential to boost productivity by using the Internet, they were unable to do so due to fears about security and a lack of money and know-how. For example, though 85 percent of companies in Ghana had Internet access and 35 percent had a web presence, only 16 percent took part in e-commerce. Similar studies in other developing countries such as Bangladesh, Egypt, Morocco and Uganda were also carried out.

The Internet is often used only by the owner or manager, and mostly for

research and e-mail. The percentage of companies surveyed that make purchases online ranged from 59 percent of those with Internet access in Costa Rica to 16 percent in Mexico. As for firms that sell over the Internet, the percentage was even smaller, ranging from 30 percent of companies in Costa Rica to just 2 percent in Colombia. Asked why the firms failed to use the Internet as a tool to increase business, 71 percent cited network security, 41 percent blamed development costs and 37 percent said it was a 'waste of time'. The report also cited other barriers such as lack of demand of such sites from clients, slow and unstable Internet connections and the absence of an e-business strategy.



The report has called on governments to help the private sector overcome such obstacles. The report states that promoting the use of information and communication technologies (ICTs) by SMEs should be a major priority of national e-strategies. The report focuses on the use of ICTs by SMEs and policies and strategies for the development of a national ICT sector in developing countries.

The report has also looked at government's e-commerce applications in e-procurement. Finally, the report has looked at the legal issues and challenges of data privacy and its role as a trust-building mechanism for information society development. It urges countries that participated in the first ever World Summit on the Information Society in Geneva in 2003 to develop a consensus on national policies and ensure international support to boost Internet usage in business when they meet again in Tunisia in 2005 (*UNCTAD, 24.12.04*). ■

## Post quota **textile** trade starts to take shape

**THE** dawn of 2005 brought trade in textiles and clothing (T&C) fully into the normal discipline of the World Trade Organisation (WTO). While countries like China and India, which are going to benefit from the new regime, have already made concrete plans to capture the developed countries' markets, other developing countries and most least developed countries (LDCs) have achieved limited success in terms of devising survival strategy. Some other countries have already started taking measures to contain what they call 'unfair' imports.

For example, on 14 January, Turkey started implementing measures aimed at limiting to 7.5 percent the rate of increased imports from China of 42 categories of textiles. The Turkish government had published its decision to use this 'China textile

safeguard,' provided for in China's WTO accession agreements on 23 December 2004. The Turkish Foreign Trade Department had said that booming imports from China threatened fair trade, squeezing out local manufacturers and driving down prices.

The Chinese government reacted strongly and vocally to the Turkish import restrictions. They argued that the China textile safeguard can only be legitimately invoked after actual market disruption has taken place, and has previously threatened to challenge safeguards imposed merely because of the threat of such disruption at the WTO's Dispute Settlement Body.

Likewise, on 1 January 2005, Argentina started imposing product quotas that limit imports of certain Chinese textile and garment products into Argentina. Like the Turkish quotas, Argentina is using the China textile safeguard to limit the growth of

these imports to 7.5 percent per year.

In the United States (US), however, T&C importers received a court injunction at the end of 2004 against attempts by the US Commerce Department to consider at least 11 controversial petitions from textile manufacturers to block Chinese T&C products on the basis of the threat of import surges.

Meanwhile, at a meeting of the WTO Sub-Committee for Least Developed Countries on 20 January, WTO members agreed to ask the WTO Secretariat to prepare a report on how LDCs can improve their competitiveness in the T&C sector. The move followed an October 2004 request by the LDCs that the Secretariat prepare a report suggesting ways to maintain their market share in the sector, to ensure a smooth transition after the expiry of quotas (*BWTND, 26.01.05*). ■

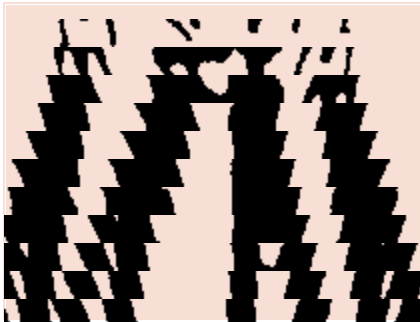


# DG candidates meet with General Council

**THE** race to replace Supachai Panitchpakdi as Director General (DG) of the World Trade Organisation (WTO) officially got underway on 26 January, as the four candidates went before a formal meeting of the WTO General Council (GC) to promote their respective cases for the job.

Former Uruguayan WTO Ambassador Carlos Perez del Castillo; Mauritian Foreign Affairs and Trade Minister Jaya Krishna Cuttaree; Brazilian WTO Ambassador Luiz Felipe de Seixas Correa; and former European Trade Commissioner Pascal Lamy of France each made 15 minute presentations to the GC, followed by an hour of questions and answers with member delegations and a 30 minute press conference.

In stark contrast to the more commonly heard refrain that "the WTO is not a development organisation", the need to make trade more supportive of development was the foremost



theme in every candidate's introductory speech (*See related article on page 23*).

All of them declared that their highest priority as DG would be the swift and successful conclusion of the ongoing Doha Round of trade negotiations.

Members are aiming to finish the selection process by May so as to not interfere with preparatory work for December's WTO Ministerial Conference in Hong Kong (*BWTND, 19.01.05 and 26.01.05*). ■

## South Asia to grow at 6.3 percent



**A** report of the World Bank published on 17 November 2004 revealed that economic growth in South Asia has shrunk marginally to 6 percent in 2004 from 6.3 percent in 2003. However, the region is projected to grow at 6.3 percent in 2005.

The report *Global Economic Prospects 2005: Trade, Regionalism and Prosperity*, which was released in Washington D.C., attributes the slowdown to adverse weather conditions and a decline in agricultural output due to poor rainfall. Though strong

in terms of growth, trade as a share of gross domestic product remains smaller in South Asia compared to any other developing region. The report advises countries concluding bilateral and regional trade pacts to keep them 'open' so as not to divert trade or cause market distortions.

The report further notes that 2004 is likely to be the best year for growth in all developing countries since 1974. Growth is estimated to be 6.1 percent, due to a strong cyclical global rebound from the slowdown in 2001-02 and a solid performance spanning all regions. Global growth in 2004 is also strong at 4 percent and the report forecasts that it would decelerate to 3.2 percent in 2005 and 2006. Slower growth is expected in developing countries too, down from 6.1 percent in 2004 to a projected 5.4 percent in 2005 and 5.1 percent in 2006 (*The World Bank, 17.11.04*). ■

## US, EU take disputes to WTO

**THE** United States (US) and the European Union (EU) launched formal trade disputes against each other, asking the World Trade Organisation (WTO) to rule on the legality of the EU's customs rules and the US' continued sanctions against the EU because of a ban on hormone-treated beef imports.

Both sides asked for the creation of a dispute settlement panel after failing to settle their differences in direct talks. Washington claims the EU is failing to respect the global trade rules set by the WTO because it has a complex set of customs regulation that vary from country to country in the 25-nation bloc. The US said this amounts to a trade barrier because it makes it harder for foreign companies to enter the European market.

However, the EU said this criticism was wrongheaded, claiming WTO rules do not say how responsibility for customs regulations should be spread among the EU countries.

In the beef hormone dispute, the EU has asked the WTO to condemn the US as well as Canada for failing to lift sanctions. The EU claims it has complied with a previous WTO ruling on beef imports. The WTO ruled in 1998 that the EU's ban was illegal because of a lack of solid scientific evidence. In retaliation, the US and Canada impose about US\$ 125 million (Euro 96 million) worth of duties each year on European products such as French Roquefort cheese, truffles, mustards, and other delicacies (*HT, 27.01.04*). ■

### NEWS SOURCES

AP: Associated Press

BWTND: Bridges Weekly Trade News Digest

ET: The Economic Times

HT: The Hindustan Times

UNCTAD: United Nations Conference on Trade and Development

WTO: World Trade Organisation

# The Future of Singapore Issues

The future of Singapore Issues depends largely on what happens in agriculture in the current round of negotiations.

Nitya Nanda



The controversial Singapore Issues supposedly played the spoilsport during the Cancún Ministerial. Many believe that the Ministerial failed because of the adamant insistence of the European Union (EU) to start negotiations on these issues. There are others who feel that the real intention of the EU was to block any progress on agriculture.

Developing countries, in general, have been against the inclusion of new issues in the World Trade Organisation (WTO). The Singapore Issues, namely investment; competition; trade facilitation; and transparency in government procurement, are no exception. Most developing countries feel that any further obligations at the multilateral level means more expenditure on structural adjustment and enforcement mechanism to meet such obligations. Developed countries, as usual, have promised technical and financial assistance for making those adjustments. However, developing countries believe that the promised assistance will not come through but the obligations will be binding on them.

Recently, however, WTO members have shown some flexibility as only trade facilitation has been taken up in the so-called July Package, dropping the other three for the time being. Nevertheless, the other three issues are not yet out from the WTO agenda as such and may be revived in the future. How should developing countries respond to such an eventuality?

## Trade and investment

On the whole, the WTO framework includes many of the provisions that the exporters of capital from the developed countries have been demanding so far. Hence, developing countries anticipated that the post Uruguay Round (UR) era would significantly increase the flow of foreign direct investment (FDI) into their countries. However, investment flows to their countries have actually gone down as a proportion of total FDI since the establishment of the WTO. Share of developing countries in the global FDI inflow, however, increased once again in 2001, not because they performed better but the developed countries have been affected more by the global slowdown

in the aftermath of 11 September 2001. This can be due to the fact that developing countries are already providing a reasonably stable investment environment.

Unconvinced developing countries are not comfortable with the existing investment related provisions in the WTO *acquis*. The proposed agreement on investment would, they fear, further limit the scope for domestic control of transnational corporations (TNCs) without any balancing measures.

Developing countries also point out that the proposed agreement attempts to provide protection as well as more liberal environment to foreign investors, without any concomitant efforts at ensuring responsible behaviour from them or putting home country obligations in the proposed agreement. Moreover, most countries, besides unilaterally liberalising their policy environment, are going out of the way to provide incentives to foreign investors leading to 'race to the bottom' situation. Thus, if there is one reason for going for a multilateral agreement on investment, it is possibly to check the 'incentive war'. However, it is unlikely that this will be addressed in any WTO agreement.

## Competition policy

Competition policy is now widely recognised as a useful instrument to promote development in a market-oriented economy. Moreover, the international dimensions of regulatory challenges are becoming more prominent day by day. The stronger nations are able to tackle this problem to some extent through extra-territorial application of their domestic competition law. But weaker nations are not capable of taking such measures. Therefore, there are some *prima facie* arguments to suggest that multilateral discipline can help the weaker nations more.

However, developing countries have seen the approach of both the EU and Japan on the issue of competition policy at the WTO as a 'market access' push only. In response to such criticism, the EU has shifted its focus from market access to hardcore cartels. However, their strong emphasis on non-discrimination as one of the core principles clearly shows that there has not been any shift in their market access agenda.

It is quite clear that due to the proposed ban on hardcore cartels, the import cartels

To create a custom clearance infrastructure that will be as efficient as that of Singapore, even in small developing countries, the amount of money required may well be in excess of US\$ 100 million

will have to be disbanded. However, one is not sure whether developing countries will be able to protect themselves from the harms caused by the international cartels, as that will require cooperation and strong action by developed countries, which are unlikely to be guaranteed.

### Trade facilitation

The losses that business suffers through delays at borders, complicated and unnecessary documentation requirements are estimated to exceed, in many cases, the costs of tariffs. It is estimated that trade facilitation measures could save more than US\$ 150 billion a year. It may also be the case that developing country traders are probably more constrained than their developed country counterparts because of these unnecessary hindrances.

However, it is also felt that it would place a substantial financial burden on developing countries. Even if the benefits outweigh costs, the development payoff might be greater if those resources were spent elsewhere. For example, to create a custom clearance infrastructure that will be as efficient as that of Singapore, even in small developing countries, the amount of money required may well be in excess of US\$ 100 million. In many countries, this figure is much higher than the money that government spends on education. Moreover, considering that the share of developing countries in world trade is just about 30 percent, an overwhelming proportion of the estimated benefits of US\$ 150 billion would accrue to developed countries, while developing countries would bear a huge proportion of the costs.

### Government procurement

Transparency in government procurement is a development requirement and nobody is opposed to it as such. However, some developing countries believe that the issue is better left with the national governments to take appropriate action. A multilateral agreement on it may be the first step to push a market access agenda, otherwise why would some people be so keen when it does not benefit them?

Their distrust is not without reason. If one looks at the existing plurilateral agreement on government procurement (GPA) at the WTO that came into force on 1 January 1996, one can see that it is not only about transparency. Governments are required to apply the principle of national treatment to the goods and services, and suppliers of other parties to the GPA and to abide by the most favoured nation (MFN) rule, which prohibits discrimi-

nation among goods, services, and suppliers of other parties.

Moreover, as many developing countries have argued, if transparency in government procurement does not have anything to do with market access as claimed by its proponents, then it has no trade implication either. If it has no trade implications, then why should such an agreement be negotiated at the WTO? The question remains unanswered.

### In lieu of conclusion

Many developing countries consider an agreement on trade facilitation to be harmless. In reality, it would not be so. If the agreement aims to facilitate trade by harmonising documentation requirements and avoiding complicated and unnecessary requirements, they may not object. If it is to ensure some standards and make some commitments on faster customs clearance that will require huge investment, they need to be worried.

Agreement on three Singapore Issues would incur huge costs for them and the benefits are at best uncertain. The costs of their inability to fulfill their commitments would also be very high as they are likely to face trade sanctions. Most of them are not yet prepared to fulfill their commitments already made in the UR. For example, the obligations under Trade Related Aspects of Intellectual Property Rights (TRIPS) would be difficult to implement as they do not have enforcement mechanism. If they have to spend a lot of energy in protecting intellectual property rights (IPRs), they might not be able to perform many other duties. Enforcing IPR in a developed country is not a problem as much higher income people there can pay the royalty charged by the IPR holders. However, in developing countries, people find it difficult to pay leading to violation of IPR laws.

Developing countries should, therefore, be careful in signing such an agreement. They may, however, sign an agreement even if the net benefits are negative provided the concessions received in other areas, especially in agriculture, far outweigh the costs.

This has implications for the future of other Singapore Issues as well. If the EU makes substantial liberalisation of agriculture, they would not have much bargaining power to thrust upon the other issues once again. The future of Singapore Issues will thus largely depend upon what happens in agriculture in the current round of negotiations. ■

*(The author is Policy Analyst at CUTS International, Jaipur)*



## Corporate Social Responsibility

## The Case of Pakistan

In Pakistan, where poverty is pervasive and health and education sectors are poorly funded, there is a lot of scope for CSR.

Sajid Kazmi

Corporate social responsibility (CSR) may be broadly defined as a firm-level activity, which addresses the social imperatives and consequences of business. CSR is seen as the business contribution to sustainable development goals. Essentially, it is about how business takes account of its economic, social and environmental impacts. It is the voluntary actions that business can take, over and above compliance with minimum legal requirements, to address both its own competitive interests and the interests of the society at large.

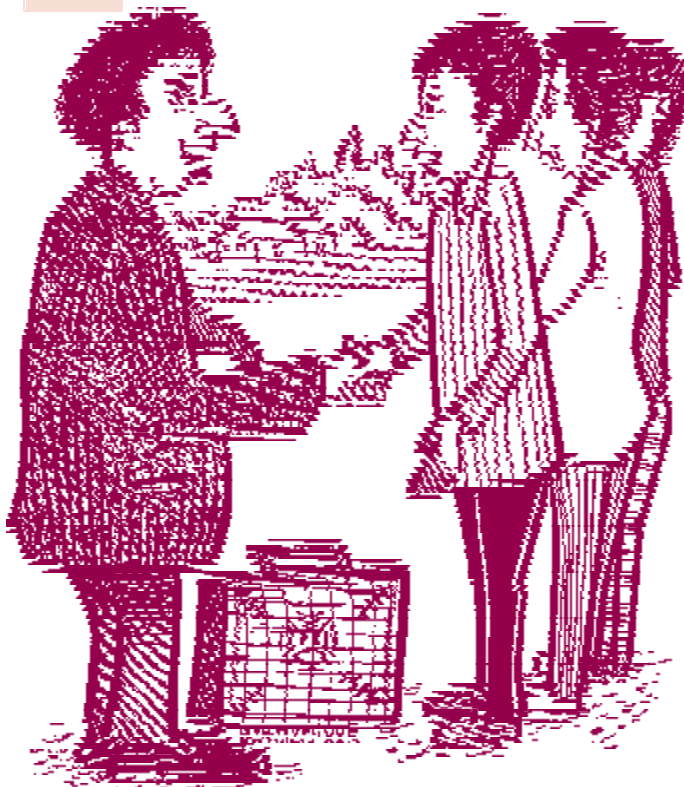
In essence, CSR is more than altruism and there is a strong business case for corporations to engage in CSR. It must be distinguished from philanthropy. There could be several motives for a firm to participate in CSR activities and these include social interest, self-interest, legal protection, reputation enhancement and/or reputation protection. Another view about CSR is that it is the compulsion by consumers and

civil society that force multinational corporations (MNCs) to engage in and contribute resources to CSR. Operationally, it means integrating into business operations and decision making processes practices, programmes and policies that address issues such as community investment, environment, human rights and the workplace. MNCs are accountable to a variety of stakeholders, who are affected by corporate action. These stakeholders include employees, stockholders, consumers, suppliers and the wider community.

Increased awareness and vigilance by civil society organisations (CSOs) like consumer groups and other pressure groups have compelled the corporations to take CSR seriously and not as a mere window dressing. Adoption of CSR by way of Global Compact in 2000 by the office of the Secretary General of the United Nations (UN) also reflects the global community's initiative. Developed countries realised the importance of CSR much earlier. Almost all the major big private sector organisations conduct CSR programmes in various sectors. The British government has even appointed a minister in-charge of CSR and the European Union (EU) has created a Multi Stakeholder Forum to promote CSR in 2002.

A major concerted effort in the realm of CSR in Pakistan was the child labour elimination programme from the soccer ball industry in Sialkot. Sports goods viz. soccer balls are one of the major exports of the country. The global media exposed the wide presence of child labour in the soccer ball industry resulting in boycott on the products of the industry by international consumer groups and trade unions. Pakistan's soccer ball manufacturers, compelled by international buyer pressure, took action and under the Atlanta Agreement (1997), agreed upon among Sialkot Chambers of Commerce and Industry (SCCI), United Nations Children's Fund (UNICEF), International Labour Organisation (ILO) and World Federation of Sports Goods Industry (WFSGI), pooled in resources and launched a comprehensive programme of child labour elimination and rehabilitation. The Atlanta Agreement resulted in the establishment of a presence in Sialkot of the ILO's International Programme on the Elimination of Child Labour (IPEC).

The United States Department of Labour and other bilateral donors funded the programme, which were channelled through the SCCI. A comprehensive ILO monitoring of soccer ball production was introduced in Sialkot. In addition, the Atlanta Agreement supported initiatives by UNICEF and Save the



When foreign companies come to operate in Pakistan, they behave differently from the way they behave in their own countries

Children Fund (SCF) aimed at providing social protection to those children and their families, formerly employed in the industry. This sought to address the root causes of child labour through interventions around poverty alleviation and access to education. This included support for schools, training and income generating activities.

At the global level, alongside ILO-IPEC monitoring of child labour, some leading brands changed practices to reduce the incidence of child labour. Nike, for example, has reduced the number of its local suppliers and through their major supplier Saga Sports, employs women workers in stitching process of the soccer ball industry. Reebok opted for direct monitoring using local non-governmental organisations and in developing child labour education programmes.

Other initiatives include philanthropic efforts by Engro Chemicals Pakistan Limited (ECPL) and Lever Brother Pakistan Limited in establishing health care facilities like dialysis centres, eye clinics and supporting sports events. Engro is also planning to bring out sustainability reporting as part of its commitment to raise the level of stakeholder information dissemination on CSR using Global Reporting Initiative (GRI). GRI is a globally recognised CSR disclosure framework that tracks a company's economic, social and environmental dimensions.

Pakistan Tobacco Company (PTC), a subsidiary of British American Tobacco Group, brought its first social report following the parent company that started the initiative in 2001. It claims of starting tree plantation programme to counter allegation of environmental damage caused due to its operations. On the fuel efficiency front, the company is reported to have converted all the distribution vehicles to compressed natural gas (CNG), which is a positive step in helping reduce vehicular emissions in the atmosphere. PTC has announced that it would not advertise in the electronic media from 1 January 2003 in line with International Marketing Standards (IMS) initiated by the parent company, British American Tobacco along with two other major tobacco companies, Phillip Morris and Japan Tobacco International. Moreover, PTC claims to have worked with the government authorities to develop advertising legislation that has standards similar to IMS. However, CSOs, especially anti-tobacco groups, are apprehensive of the other subtle forms of advertising that they feel are aimed at attracting non-smokers too.

Pakistan has liberalised its investment re-

gime to attract much needed foreign capital. Initially, most of the investment came in the oil exploration and telecommunication sectors from MNCs located in industrialised nations. When these companies come to operate in countries like Pakistan, they behave differently from the way they behave in their own countries. They have often disregarded the norms and acted irresponsibly. The instance of Premier-Kufpec as they behaved in Kirthar National Park issue is a vivid example of high-handedness and collusion with local authorities.

There is a need to develop a common understanding of CSR that should be based on the voluntary nature of the effort and also that makes a business case of CSR for companies. With the launch of UN Global Compact (UNGC) in Pakistan, there is a hope that the efforts could be channelised in the right direction. UNGC is an expression of common values and goals of participating companies, UN agencies, and labour and CSOs. These common values are expressed in nine principles under three main categories of human rights, labour standards and environment. UNGC has recently adopted the 10<sup>th</sup> principle regarding anti-corruption. The adoption statement says: "Business should work against corruption in all its forms, including extortion and bribery." United Nations Development Programme (UNDP) Pakistan is providing one year technical and financial assistance to the Securities and Exchange Commission of Pakistan (SECB) to encourage good corporate governance practices and establish a sound regulatory framework for the corporate sector in order to revive investors' confidence that is critical for sustainable economic growth, which, in the long run, would lead to poverty alleviation.

In Pakistan, where 32 percent of the population lives below the poverty line and where health and education sectors are very poorly funded and managed, there is a lot of scope for efforts geared to CSR. There is a need to institutionalise the efforts of UNGC, National Centre for Human Development and Pakistan Centre for Philanthropy. Efforts could be coordinated to tackle the issue of poverty by diverting resources to education and health while taking care of the environment. ■

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# South Asia in 2004

South Asian countries are likely to welcome new opportunities to trade but expanding trade will still be difficult for most of them.

Navin Dahal

The year began with a positive note for South Asia. The adoption of Social Charter and signing of the South Asian Free Trade Agreement (SAFTA) in early January in Islamabad revitalised the cooperation among South Asian countries. The negative list approach of SAFTA was a promising beginning towards a faster and greater regional integration. However, looking back, the year 2004 was not as rosy as it had promised to be.

At the multilateral level, the year augured well for South Asia. After years of negotiations, Nepal became the 147<sup>th</sup> member of the World Trade Organisation (WTO) on 23 April. Some even touted Nepal's accession package as 'most balanced' so far. Given the onerous accession process and merciless 'WTO plus' demands of the members, Nepal's accession, the first by a least developed country (LDC) through accession negotiations, must be termed positive.

As one of the five interested parties, India played a catalytic role to bring the 'Doha Round' back on track through the 'July Package'. In November, the first Working Party meeting to examine Bhutan's foreign trade regime was held to facilitate its accession to the WTO.

Things did not move as smoothly at the regional level. Right from the beginning, it was evident that SAFTA was signed hurriedly before the positive political climate ebbed and with many important elements incomplete. Prominent among these were the sensitive list, rules of origin (RoO), technical assistance and revenue compensation for the LDC members. To this date, these issues are still not decided while the future of SAFTA hinges on these. Even after six rounds of meeting of the Committee of Experts (CoE), there was no visible improvement on these issues.

Although the sixth meet was able to downsize the volume of negative lists from 1800 to 1300, it is still too big and provides a wall of protection rather than facilitate regional trade. There were serious differences among members on the issue of RoO with developing members asking for 50 percent value addition with 10 percent derogation for LDCs as against the 35 percent value addition with 10 percent derogation for LDCs demanded by LDC members. The revenue loss compensatory mechanism is also far from resolved as non-LDC members flatly declined the proposal of the LDCs to establish a separate fund for the compensation of revenue loss in the LDCs and suggested that this issue should be dealt bilaterally. Out of the four outstanding issues, only on technical assistance some



progress was made with India showing flexibility in providing assistance to LDCs. However, it now looks improbable that the remaining issues will be settled by the deadline set for May 2005. This has put the January 2006 date for the implementation of SAFTA in doubt.

This was probably the reason why countries in South Asia looked at regional trading arrangements (RTAs) beyond the region to expand trade. In February, Nepal and Bhutan were formally admitted to the Bay of Bengal Initiative on Mutli-Sectoral Technical and Economic Cooperation (BIMSTEC- FTA), a regional free trade agreement (FTA) also consisting of Thailand, Myanmar, India, Sri Lanka and Bangladesh. BIMSTEC-FTA is more ambitious than SAFTA and in addition to goods, also aims at substantially liberalising services and investment sectors. It envisions extending cooperation in areas such as tourism, culture, information, communication, energy, etc. Transnational highways between the members are also planned to facilitate cooperation and enhance intra-regional trade. The enthusiasm of members, however, could be short lived as BIMSTEC lacks any formal institutional mechanism to take the initiative forward.

In January, India signed a preferential trading agreement (PTA) with Mercosur, the Latin American trading block comprising of Argentina, Brazil, Paraguay and Uruguay, which could eventually lead to an FTA. India also looked eastward and a summit to explore avenues to expand India-ASEAN (Association of South East Asian Nations) trade was held in India in October. India wants to expand trade with South East Asia and targets to increase exports to this region to US\$ 30 billion by 2007 from the level of US\$ 9.7 billion in 2003. In addition to these initiatives, India has around 10 FTAs in the pipeline, which include, among others, FTA with Singapore, Mauritius, China, and Iran.

Pakistan initiated negotiations with Malaysia to explore possibilities of a PTA leading to a free trade area. It also concluded talks with Turkey for the establishment of PTA, which

is likely to be signed during President Pervez Musharaff's visit to Ankara in early 2005. The Asian Development Bank (ADB), probably hoping that greater trade prospects are likely to come to Pakistan from Kabul via road and rail, indicated to offer US\$ 2 billion to Pakistan to help provide connectivity to Kabul.

Regional trading initiatives notwithstanding, the inertia of the RTAs and seeming deadlock at the multi-lateral level encouraged the countries in South Asia to embark upon various bilateral trade initiatives. Sri Lanka and India deliberated to extend the Indo-Lanka FTA into a Comprehensive



sive Economic Partnership Agreement (CEPA). With the FTA already into the fourth year of operation, the CEPA now being negotiated between India and Sri Lanka aims to address the shortcomings in the FTA and will surpass the prevalent FTA into a broad trade relationship and will cover goods, services, infrastructure projects and investments. Sri Lanka also held final round of talks on FTA with Pakistan, which is likely to be signed during President Kumaratunga's visit to Pakistan in February 2005.

Not to be left behind their neighbouring countries in terms of bilateral trade initiatives, trade ministers from Bangladesh and Nepal, in October, agreed to push a PTA. Bangladesh even opened 19 entry points between the two countries to help expand bilateral trade. Not convinced that this alone would help in increasing trade between the two countries, Bangladesh even started the construction of a bridge on the Ruspha

river to facilitate transit cargo to Nepal and Bhutan.

In a bid to boost bilateral trade, Pakistan pledged Nepal duty free market entry for 10 million kilograms of tea during Prime Minister Shaukat Aziz's visit to Nepal in November. Furthermore, the two countries discussed the possibilities of having special tariff agreements.

Bilateral trade, however, was not always smooth. Bangladesh accused India that it was imposing non-tariff barriers on Bangladeshi exports to India by making certificates from the Indian Standard Institute mandatory. Nepal also had more than a dozen agenda that needed to be sorted when the commerce joint secretaries met in November. Among other trade restricting measures and quantitative restrictions, India also restricted Nepal's herb exports from 80 to mere four varieties and imposed 75 percent countervailing duty on the export of Nepali beer. The absence of quarantine points at the border also restricted the exports of Nepali agricultural products to India.

The regional and bilateral issues and efforts were, however, overshadowed by the phase out of the Agreement on Textiles and clothing (ATC) on 31 December 2004. While India and Pakistan are likely to gain in the quota free textile regime, Bangladesh and Nepal are going to be big losers. United Nations Development Programme (UNDP) has estimated that around a million garment workers in Bangladesh will be unemployed by 2005. Likewise, it is estimated that there will be around 300,000 direct and indirect job losses in Nepal. Sri Lanka is also likely to be a net loser in the post Agreement on Textiles and Clothing (ATC) era.

Looking at the events of 2004, there is little doubt that 2005 is going to be challenging and expanding trade will be difficult for most of the countries in South Asia. Hence, they are likely to welcome newer opportunities to trade; whether it comes via road from Bangkok, on rail from Kabul or over the Ruspha river in Bangladesh. ■

*(Mr Dahal is Research Director at SAWTEE)*

# MDGs: Miles to go

In 2000, governments around the world made an unprecedented resolution through the Millennium Declaration consisting of goals in eight areas collectively known as Millennium Development Goals (MDGs). These are: i) halving the incidence of extreme poverty and hunger; ii) providing universal access to primary education; iii) promoting the equality of women; iv) reducing infant mortality by two-thirds; v) reducing maternal mortality by three-quarters; vi) halting and reversing the spread of HIV/AIDS and malaria; vii) achieving environmental sustainability; and viii) forming a global partnership for development. These goals have to be met by 2015 or earlier.

MDGs could be said to be similar to development goals set by individual countries in their respective plans and policies. Then, what make MDGs so different? First, MDGs are people-centered, time-bound and measurable. Second, MDGs have unprecedented political support as all world leaders had signed onto them. Lastly, MDGs are deemed achievable.

In September 2004, the United Nations (UN) published its assessment of progress towards MDGs. The record can best be described as mixed. In East and South East Asia, many countries are on track to meet nearly all MDGs by 2015. The poverty level was 27 percent in 1999 and is likely to be reduced to 14 percent by 2015. The region has been able to reduce poverty at a faster rate than anywhere else in the world but the fact remains that Asia is still home to 800 million of the 1.2 billion people in the world living on less than US\$ 1 a day. The situation has ever worsened since the region has been recently affected by the Indian Ocean tsunami taking a toll of over 220,000 lives.

The scenario in Sub-Saharan Africa is disturbing. The region is neither on track nor in a position to meet a single target except Goal 8.

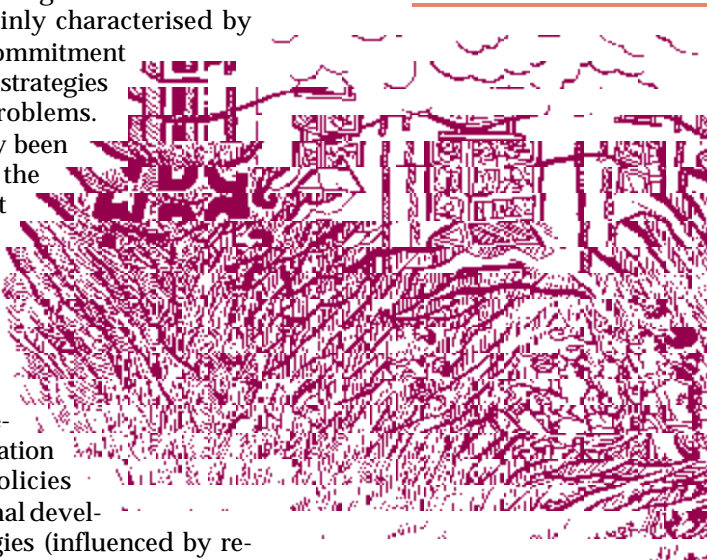
Countries failing to meet the MDG targets are mainly characterised by their lack of commitment to prioritise the strategies to solve the problems.

They have only been able to identify the problems but when it comes to setting priorities and implementing programmes, they have often failed. Moreover, harmonisation of domestic policies and international development strategies (influenced by regional arrangements and multilateral framework) is still a major challenge for them.

Besides, they have not been able to capitalise on Goal 8. It is clear that poor countries are not capable of tackling their development bottlenecks on their own. Unless developed countries do not support them through Goal 8, there could hardly be any progress as envisioned. For example, had Goal 8 really succeeded in directing more aid to poor countries, the case would have been different in the performance of many poor countries. Unfortunately, between 2002 and 2003, total official aid stood at 0.25 percent (US\$ 68.5 billion) of the donor countries' gross national product despite the fact that the UN's agreed goal is 0.7 percent of their national incomes.

The UN high-level conference to be held in September 2005 is an opportunity to examine the successes and failures. One of the few things that can be done in September is: 'identi-

Prashamsa Gadtaula



## What has been done so far?

- Reporting on MDG through country-by-country report
- Millennium Project has been set up to identify new solutions and ideas on how to accelerate progress
- Millennium Campaign launched to build and sustain a popular movement to support MDGs

fying country specific programmes on every target and time-bound logical framework for achievement of the same.'

If the world has sufficient resources at its disposal to achieve MDGs, it should work steadily on achieving the 'ends' rather than just working on the 'means'.

While the developing countries need to overcome their institutional barriers and political apathy towards realising the MDGs, the developed countries will have to help the poor countries through full operationalisation of Goal 8 – develop a global partnership for development. Hopefully, this way MDGs could be met otherwise they will prove to be a bundle of unmet targets. ■

(Ms Gadtaula is Programme Associate at SAWTEE)

# Conflict and economic growth causes, impact and strategies

In order to avoid conflict, there is no alternative but to make the development process more inclusive, rapid and equitable.

Shyamal Krishna Shrestha

Most inter-state conflicts occur in poor nations. For instance, around 95 percent of civil war and strife were overwhelmingly concentrated in poor countries for the period 1990-95.<sup>1</sup> Conflicts in poor countries have attracted considerable attention from economists in recent years, partly motivated by the urgent need to understand continued development failure in low-income nations. While it is hypothesised that conflicts hit low-income economies hard, a closer examination reveals that conflicts thrive in countries where the process, structure and level of growth are constricting factors in the first place.

The economic causes of civil war have been extensively dealt with, pointing out to low level of growth and prevalence of underdevelopment, which also manifest in extensive dependence on primary commodities for trade.<sup>2</sup>

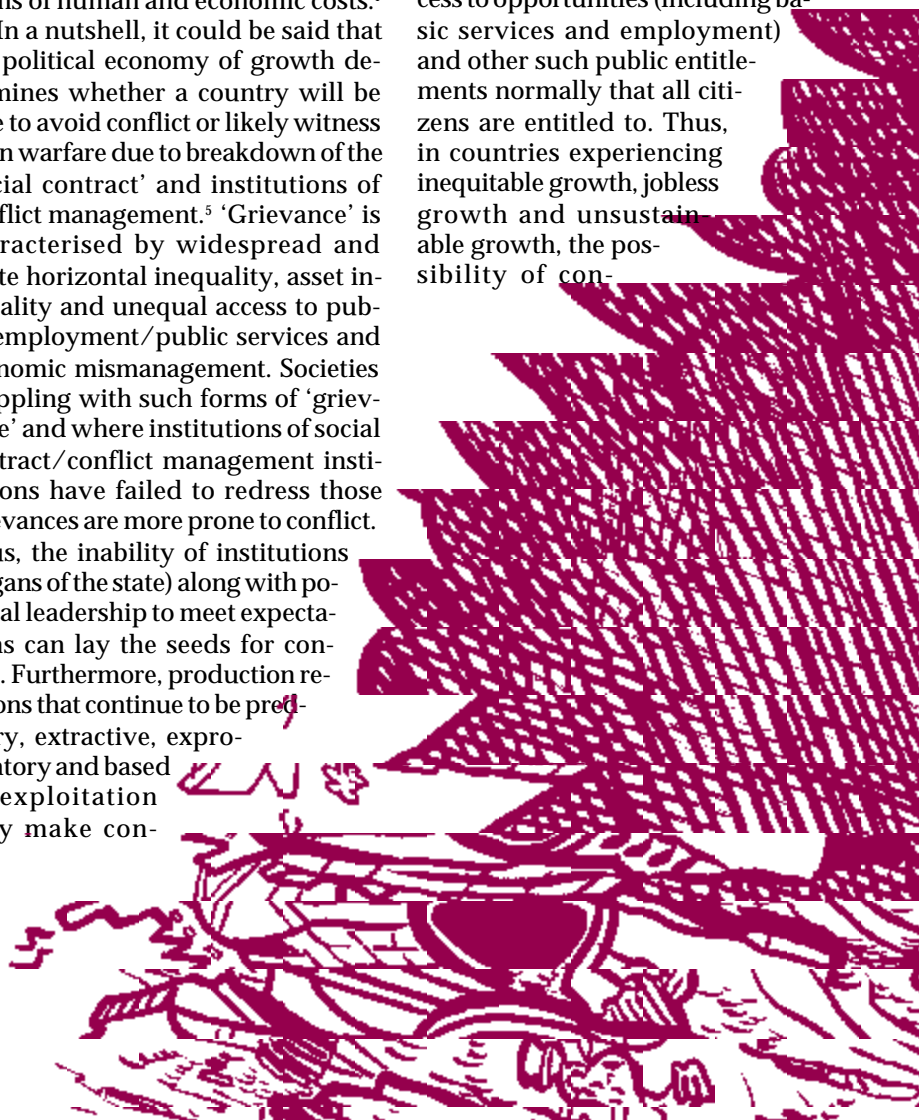
Collier (2002) discusses other factors leading to conflict and here a distinction is made between 'grievance' (which is based on a sense of injustice over the way in which a social group is treated, often with a strong historical dimension); and 'greed'/'opportunity' (which is based on largely private economic motivations to start or continue fighting). Often,

'opportunity' is disguised as political grievance.<sup>3</sup> 'Greed' factors thrive where a poor country is typically abundant in natural resources (like gold, diamonds and oil) so that competing claims over wealth-generating resources are resolved through conflict rather than cooperation. Where conflicts are vented through open armed warfare, the implications for growth have been obviously disastrous. As a study states: "Wars are devastating wherever they occur," in terms of human and economic costs.<sup>4</sup>

In a nutshell, it could be said that the political economy of growth determines whether a country will be able to avoid conflict or likely witness open warfare due to breakdown of the 'social contract' and institutions of conflict management.<sup>5</sup> 'Grievance' is characterised by widespread and acute horizontal inequality, asset inequality and unequal access to public employment/public services and economic mismanagement. Societies grappling with such forms of 'grievance' and where institutions of social contract/conflict management institutions have failed to redress those grievances are more prone to conflict. Thus, the inability of institutions (organs of the state) along with political leadership to meet expectations can lay the seeds for conflict. Furthermore, production relations that continue to be predatory, extractive, expropriatory and based on exploitation only make con-

licts inevitable in such societies. Although conflicts originate from both 'greed' and 'grievance', they may interplay in explaining violent conflict. Therefore, a conflict originating out of 'grievance' may continue due to 'opportunities' that the escalation offers like rents that arise from arms sale or leverage in terms of support for competing ideologies.

Low growth rates in low-income nations and skewed distribution of income make growth achievements redundant for large sections of the populations. Hence, group and class inequalities are common and production relations unequal. The possibility of 'grievance' expressed as violence rises if the contract between the state and its citizens deteriorates or fails so as to alienate the marginalised groups, classes, sections and regions rather than foster inclusion. Contracts may be considered as services that a state should provide equality in access to opportunities (including basic services and employment) and other such public entitlements normally that all citizens are entitled to. Thus, in countries experiencing inequitable growth, jobless growth and unsustainable growth, the possibility of con-





flict, civil strife and war is higher if economic performance is weak and the institutions constituted for economic development and growth fail to deliver the desired outcomes.

Groups, on the basis of political ideologies, may capitalise 'grievances' into 'opportunities'. 'Opportunity'/'greed' factors may become more powerful through the new status that non-state actors come to occupy and the gains, even if temporary, (like dominance and control over resources, areas and sections of population) arising from the continuance of conflict. Support by their domestic and external constituents through finance and arms lends legitimacy to the 'grievance'. A vicious circle of conflict results as warring factions engage in directly unproductive activities rather than concentrate their energies to the resolution of the conflict.

The experience from many war-torn countries concludes that conflict eventually hurts growth in myriad ways. First, wars may be categorised as an 'exogenous shock' that lowers growth rates. Destruction of physical, hu-

man and social capital reduces investment, diverts public spending from productive activities and drives both skilled and unskilled workers to emigrate. Some scholars have attempted to quantify the costs arising from conflict. For instance, a country's per capita output declines an average of 2.2 percent a year relative to what it would have been in the absence of conflict.<sup>6</sup> If, on average, a conflict lasts for seven years, the economy will shrink by 15 percent at the end of the war than if the war had been averted. Although an economy may grow annually by more than 1 percent above the norm in the post conflict years, it will take a decade to return to its pre conflict growth rate (i.e., more than one and a half decades after the conflict started). In more severe and protracted wars, the economic and human costs are even greater. Second, conflicts affect the entire productive capacity of the economy, especially on the state's authority in allocating resources, so that the basic economic questions of 'what, for whom and how to produce' come under strain. Overall welfare may be reduced because of increased expenditure on security during the conflict, imposing additional burden to the public exchequer. Furthermore, the curtailing of resources for development purposes affects people directly. Last but not the least, besides loss of human lives, conflict also causes widespread destruction, disease,

Conflicts affect the entire productive capacity of the economy, especially the state's authority in allocating resources

disability and displacement; all difficult to quantify and denting growth prospects further.

What policy instruments and economic interventions are available to put an end to existing conflict or the possibility of conflict? It has been aptly remarked: "War retards development, but consequently, development retards war".<sup>7</sup> There is no alternative but to make the development process more inclusive, rapid and equitable. Reducing the possibility of civil war based on 'grievance' requires strengthening of public policy and instituting mechanisms (for resource transfers from the state to its citizens) so that they foster rapid and equitable growth. This would ultimately result in increased incomes and entitlements that do not fuel 'grievances' and raise the specter of conflict. ■

#### ENDNOTES

- <sup>1</sup> World Bank. 2000. *World Development Report 2000/2001*. New York: Oxford University Press.
- <sup>2</sup> Collier, P. 2002. *The Economic Agendas of Civil Wars* ([www.inwent.org/ef-texte/business/collier.htm](http://www.inwent.org/ef-texte/business/collier.htm)) and 2004. *Reducing the Global Incidence of Civil War: A Discussion of the Available Policy Instruments* ([www.dsede/ef/military.collier.htm](http://www.dsede/ef/military.collier.htm))
- <sup>3</sup> The discussion is contained in Bray, J., L. Lunde and M. Murshed. 2003. "Economic Drivers of the Conflict in Nepal" in K. Ballentine and J. Sherman (eds.), *Political Economy of Armed Conflict: Beyond Greed and Grievance*. Boulder: Lynne Rienner, pp. 107-132. Also see M Murshed and S Gates. 2004. *Spatial-Horizontal Inequality and the Maoist Conflict in Nepal*. Paper prepared for the UNU/WIDER Project Conference on Spatial Inequality in Asia, United Nations University Center, Tokyo, 28-29 March 2003.
- <sup>4</sup> World Bank. 2001. Supra note 1.
- <sup>5</sup> Stewart, F. 2002. "Root Causes of Violence in Developing Countries" in *British Medical Journal* (<http://bmjjournalis.com/cgi/content/full/324/73333/342/maxtoshow=&eaf>)
- <sup>6</sup> Collier, P. 2002. Supra note 2.
- <sup>7</sup> Collier, P. 2002. Supra note 2.



The DDA and South Asian

# Priorities for the Hong Kong Ministerial

Ratnakar Adhikari



**T**he Doha Development Agenda (DDA) was essentially a compromise between the concerns of the developing and developed countries. The DDA covered 16 different issues as a single undertaking, i.e., they should be treated as a package with January 2005 as the deadline for reaching an agreement except in the case of review of Dispute Settlement Understanding (DSU).

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

Fortunately, despite the failure of the Ministerial, the Ministers managed to issue a statement. 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 (GC).

## July Package

Although it was agreed to start negotiations in Geneva by 15 December 2003, the negotiations resumed in March/April 2004. Finally, on 1 August, the GC adopted a Decision (WT/L/579), known as the 'July Package' (JP). The JP sets the stage for negotiations among members during the run-up to the Hong Kong Ministerial and beyond. The JP identifies five issues as priority areas of negotiations – agriculture, non-agricultural market access (NAMA), services, trade facilitation and development dimension. Though discussions/negotiations are also taking place on other issues – intellectual property right (IPR), environment, technology transfer, debt and finance, technical assis-

tance and capacity building, regional trading arrangements, and dispute settlement at various councils and committees of the WTO – they did not form the core elements of the JP.

## Agriculture

During the July Meeting, differences among various groups of countries on agricultural issues threatened to derail the process of reaching consensus. However, the last minute agreement reached among the so-called five interested parties (FIPs) – Australia, Brazil, India, the European Union (EU) and the United States (US) – saved the meeting from collapse. They hammered out a deal, which was later accepted by all members.

Annex A of the JP contains modalities for negotiations on agriculture, the contours of which are discussed below.

On the issue of market access, 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 – will be negotiated later. The issues of tariff rate quota, tariff escalation, tariff simplification have also been addressed. In order to address other concerns of both developed and developing countries, there are provisions for sensitive products, special products and special safeguard mechanism (SSM). While the developed countries will have recourse to the first, developing countries will have recourse to all three issues mentioned above.<sup>1</sup>

On the issue of domestic support, the JP includes provision 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. The reduction will be made under a tiered formula that cuts subsidies progressively. It is agreed that higher levels of trade distorting domestic support will be subject to greater reductions. With a view to preventing circumvention of obligations through transfer of subsidies between different support categories, the Annex also puts a limit on product-specific aggregate measurement of support (AMS) at average levels, based on a methodology, which will be agreed later.

On the issue of 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 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.<sup>2</sup>

### Non-agricultural market access

Annex B of the JP text on NAMA 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 inter-

ests” of developing countries, including through less than full reciprocity in reduction commitments, leaves developing countries some leeway to insist on only linear cuts for certain tariff lines and perhaps none for others.<sup>3</sup>

The Annex also specifies that flexibilities for developing countries will include applying “less than formula cuts” to upto a certain percentage of tariff lines. 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 the same level of protection even when prices of their exportable products fall.

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. As per the text, developing countries would be allowed to keep 5 percent of their tariff unbound, provided they do not exceed 5 percent of import value. 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. The text also addresses the issue of non-tariff barriers, albeit vaguely.

### Services

The DDA mandated negotiations on trade in services with a view to promoting the economic growth of all trading partners and the development of developing countries and least developed countries (LDCs). Following this mandate, the focus of services negotiations has been on bilateral re-

quest-offer exercise. The JP 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 members, the JP has set the deadline of May 2005.

Given the fact that services negotiations post Doha have not picked up speed, they are unlikely to produce significant advances on market access. For the purpose of the Sixth Ministerial, the Special Session of the Council for Trade in Services shall review progress in these negotiations and provide a full report to the Trade Negotiations Committee (TNC), including possible recommendations.

### Trade facilitation

Trade facilitation was included in the WTO work programme by the Singapore Ministerial in December 1996, and is a part of Singapore Issues (other issues being competition, investment and transparency in government procurement). However, the inclusion of these issues for negotiations, subject to explicit consensus on the modalities of negotiations, as agreed during the Doha Ministerial, created a sharp division between the North and the South – in the run-up to the Cancún Ministerial.

Singapore Issues were also blamed for the failure of the Cancún Ministerial.

However, the JP has laid all the speculations to rest on whether or not negotiations will begin on trade facilitation. It is the only Singapore Issue in which members have reached an agreement to conclude negotiations. Annex D of the JP text 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.”<sup>4</sup>

### Development issues

The implementation related problems in relation to the WTO agreements,



and the special and differential (S&D) treatment are being discussed in the various committees of the WTO as well as in the special session of the Committee on Trade and Development (CTD) ever since the launching of the DDA. However, there has not been significant progress in most issues.

The JP calls for the review of all outstanding agreement specific proposals and reporting to the GC for clear recommendations on decisions. The CTD was instructed to report to the GC "as appropriate" on all other outstanding works, such as a mechanism to monitor the implementation of S&D obligations and the incorporation of S&D treatment into the architecture of WTO rules. The use of 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, the JP too falls short of addressing issue/agreement specific S&D treatment. Among the issues agreed for negotiations, trade facilitation text is the only text, which contains relatively strong language on technical assistance. The texts on agriculture and NAMA provide some flexibility to the developing countries in terms of transition period and lower level of reduction coefficients. Other texts mostly use non-binding, best endeavour language.

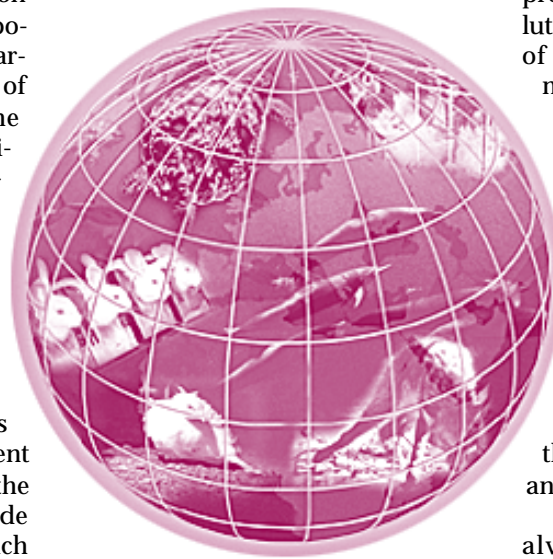
### Current state of play

Very limited negotiations have taken place in various committees after the JP was issued. Looking at the progress made so far, it is difficult to imagine how complete modalities for negotiations on these five issues would be finalised by the Hong Kong Ministerial scheduled for 13-18 December 2005.

As expected, the agricultural negotiations have proven highly contentious with each and every issue agreed under the JP being fiercely debated. For example, there is a disagree-

ment over what the review of 'green box' constitutes. On the issue of special products and SSM, a group of countries (G-33) have demanded that the products should be self-designated, as using the same criteria for all the countries would be neither practical nor feasible at the international level. Similarly, there is a lack of consensus on whether S&D treatment should figure as the main issue or a side issue.<sup>5</sup>

On the issue of NAMA, the Chair's proposal to put formula and sectoral issues on the same footing created a furor among the developing coun-



tries. They asserted that negotiations on formula, a core modality for tariff reduction, should precede those on sectoral approach. A group of developing countries have made it clear that they would not agree to negotiate the sectoral components until the formula was agreed. However, the developed countries suggested that both the issues were equally important. On the other hand, while the US has put the proposal for zero to zero tariff reductions under sectoral initiative, there are no takers for the proposal. Developing countries are waking up to the reality that non-linear tariff cuts under NAMA will cause significant losses to them because of sharp reduction in their tariffs, compared to the developed countries, which already have lower tariffs. Therefore, they are likely to use the 'less than full reciprocity' argument for tariff re-

duction.

Initial offers on services show limited ambition in terms of both their depth and their coverage of the four modes of supply. For example, with the exception of the EU, virtually no developed country has offered new liberalisation on the movement of natural persons (mode 4).<sup>6</sup> It is equally disturbing to note that almost no progress has been made in the parallel discussions on the so-called 'horizontal' and 'General Agreement on Trade in Services, GATS rules' issues.<sup>7</sup>

The trade facilitation negotiation process is described as 'flexible', 'evolutionary' and 'member driven'. Some of the international organisations mentioned in the JP have already presented their works and findings on trade facilitation, and they will be invited for the future meetings on an *ad hoc* basis. Many members believe that trade facilitation efforts will result in increased welfare gains due to reduction in cost of doing business. Landlocked developing countries, in particular, hope that the negotiations will address their concerns like border delays and higher transit costs.<sup>8</sup>

Development related issues have always been controversial at the WTO. For example, the progress on S&D treatment post July 2004 has been marred by the disagreement over the agreement specific issues and so called cross cutting issues such as the principles and objectives of S&D treatment, eligibility to receive it, and differentiated treatment. The developing countries are arguing that such issues are not a part of the Doha mandate, while developed countries view them as essential issues. The recent proposal made by the Chair of the CTD – Special Session to look at underlying motivation and intent of the agreement specific proposals could, instead of debating the language of recommendations, help move the discussion forward.<sup>9</sup>

The progress on implementation issues has been disappointing, with only a few resolved and many ignored entirely. As per a list compiled in December 2004, out of 12 different

issue areas – barring two issues relating to extension of time period to use export subsidy, and taking developing countries interest into account while devising standards under Sanitary and Phytosanitary (SPS) Agreement – there has been no progress so far.<sup>10</sup>

### Implications for South Asia and the way forward

The South Asian region has bestowed full faith in the multilateral trading system and all the six WTO members of the region have made public their support to the DDA. They have realised that the DDA offers tremendous opportunities for these countries to achieve their overarching objective of sustainable development and poverty alleviation. Therefore, they have high stake in successful completion of the DDA.

While it is an imperative for the South Asian countries to join hands and form a common position in the run-up to the Hong Kong Ministerial, it is still a difficult task to ensure that. Given the difference in the level of economic development, reliance on trade, and status of countries in terms of food security situation, problems are bound to arise. These problems are, understandably, difficult to resolve, but in no way, impossible.

Since a majority of South Asian population 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. Similarly, on agricultural negotiations at the time of reducing tariffs and designating sensitive products and special products, and preparing the modalities for SSM, they need to have common positions. They would do well to consult with each other even at the time of submitting proposals in alliance with other groups.

On the issue of NAMA, it is proven beyond doubt that two South Asian countries – India and Pakistan – which maintain high industrial tariffs 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 in-

dustrial products. NAMA negotiations may have some impact on Bangladesh and the 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 tariffs. These negotiations may not have any impact on Nepal not only by the virtue of being an LDC, but also because it has 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&D provisions present in the NAMA text of the JP.

On the issue of services, 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.<sup>11</sup> South Asian countries need to raise the issue under the 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 are covered under mode 1 of GATS (cross-border supply of services using information and communication technology), 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. Nepal may be the only South Asian member of the WTO, which may have a slightly different approach to trade facilitation negotiation. Given its landlocked status, the negotiation on transit freedom is crucial to secure transit rights. 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 receive suffi-

cient and targeted technical assistance from their development partners to implement these measures.

Finally, on the issue of negotiations relating to implementation issues and S&D treatment, South Asian countries should have a common position to ensure that these issues are expeditiously settled, preferably within the new deadlines set by the JP. If not, these countries should join hands with other countries to block the negotiations on other issues. After all, the DDA is a single undertaking and nothing can be considered as agreed unless there is an agreement on all issues, including development related issues. ■

### ENDNOTES

- <sup>1</sup> See World Trade Organisation. 2004. *Doha Work Programme: Decision Adopted by the General Council on 1 August*, WT/L/579, 2 August, Geneva: WTO.
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- <sup>3</sup> ICTSD and IISD. 2004b. *Doha Round Briefing Series – Non-agricultural Market Access*, Vol. 3, No. 4, Geneva: ICTSD; and Winnipeg: IISD.
- <sup>4</sup> WTO. 2004. Supra note 1.
- <sup>5</sup> ICTSD and IISD. 2004a. Supra note 2.
- <sup>6</sup> ICTSD and IISD. 2004c. *Doha Round Briefing Series – Trade in Services*, Vol. 3, No. 3, Geneva: ICTSD; and Winnipeg: IISD.
- <sup>7</sup> Ibid.
- <sup>8</sup> See ICTSD and IISD. 2004d. *Doha Round Briefing Series – Trade Facilitation*, Vol. 3, No. 6, Geneva: ICTSD; and Winnipeg: IISD.
- <sup>9</sup> See ICTSD and IISD. 2004e. *Doha Round Briefing Series – Trade Facilitation*, Vol. 3, No. 13, Geneva: ICTSD; and Winnipeg: IISD.
- <sup>10</sup> ICTSD and IISD. 2004f. *Doha Round Briefing Series – Trade Facilitation*, Vol. 3, No. 1, Geneva: ICTSD; and Winnipeg: IISD.
- <sup>11</sup> Pandey, Posh Raj. 2004. Reflections on the July Package: A Nepalese Perspective. Paper presented at Thirteenth Forum on Globalisation and WTO organised by SAWTEE and ActionAid Nepal, 9 November, Kathmandu.

# An introduction to the Dispute

## Settlement Mechanism of the WTO

The DSU has made little or no progress, besides changing to a 'rules-based' system and adapting to this change.

**Bharath Jairaj**

One of the key features of the General Agreement on Tariffs and Trade (GATT) system was its in-built dispute settlement mechanism. This mechanism relied on 'positive consensus', requiring members to agree 'in favour' of every stage of the settlement procedure. For enforcement of its rulings, the GATT dispute settlement process relied on diplomacy and the good faith of its members.

However, this enforcement mechanism sometimes fell short in settling trade disputes in a time bound manner. For instance, in 1988, the United States (US) imposed sanctions against Brazil on account that Brazil failed to provide patent protection to pharmaceutical products manufactured by US companies under Super 301 of its Trade Act of 1974. Brazil requested for a Dispute Panel (DP) stating that the US sanction was illegal under the GATT commitments. However making full use of the requirement for 'positive consensus', the US stalled the formation of the DP for over six months. Though the US later lifted the sanctions after signing a bilateral agreement with Brazil, the efficiency of the dispute settlement system did come into question.

Over the several years of its functioning under the GATT, dispute settlement procedures were often given

scarce consideration and the losing country would often block the implementation of the DP report. These were among the several limitations of the dispute settlement system under the GATT regime.

This more or less provided the impetus for making 'improvements' to the Dispute Settlement System in the World Trade Organisation (WTO). Primarily, the rules-based WTO system changed to the premise of 'negative consensus' (where members have to agree 'against' every stage). The new Dispute Settlement Body (DSB) under the General Council (GC) of the WTO executes numerous functions. The DSB institutes the DP and the Appellate Body (AB) and accepts, formulates and observes the operation of the recommendations based on their reports.

A systematic procedure is observed under the Dispute Settlement Understanding (DSU) that makes trade dispute settlement more acceptable and quicker. 'Consultation' is the initial step of the dispute settlement process. Discrepancies in any trade measure that arise can be given in writing to the concerned member country for consultation. The distressed country can make a request for a DP, if no solution is reached within a specified period.

The DP has to complete its task

within a stipulated period of six months that may be increased to nine months in certain cases. The AB re-evaluates the panel decisions in the event of an appeal. Keeping with the requirement for a negative consensus, once a DP or AB took a decision, every single country involved would have to abide by that decision unless there was a consensus against such a decision.

To ensure improved enforcement of their decisions, the DSU sought to provide for a range of punitive and penal measures including mandatory monetary compensation against the non-compliant country whenever necessary. The DSU could also authorise the suspension of concessions or other obligations as well as authorise other retaliatory and cross-retaliatory measures, which could vary, depending on the situation.

However, it must be mentioned that the DSU is hardly exempt from the geo-political realities of various nations. For example, in the enforcement of a DP/AB ruling, while it is nearly impossible and entirely insignificant for a nation such as Bangladesh to impose trade sanctions on a superpower such as the US, it is easy for the US to impose trade sanctions and indeed influence nations such as Bangladesh, or even India, with little or no consequence to their own economy.

### The DSU review

A 1994 Ministerial Decision mandated that the DSU rules should be reviewed by 1 January 1999. The discussions at the DSU review assume significance since countries could potentially debate and agree on ways to strengthen the entire system.

The review started in 1997 and got its first extension till 31 July 1999, but there was no agreement. It was not till November 2001, at Doha, that the DSU review came back on the agenda when countries agreed to negotiate to improve and clarify the DSU. This negotiation was to be concluded by May 2003. This was subsequently extended to May 2004.

Over this period of time, several countries submitted proposals on a range of issues aimed at strengthen-



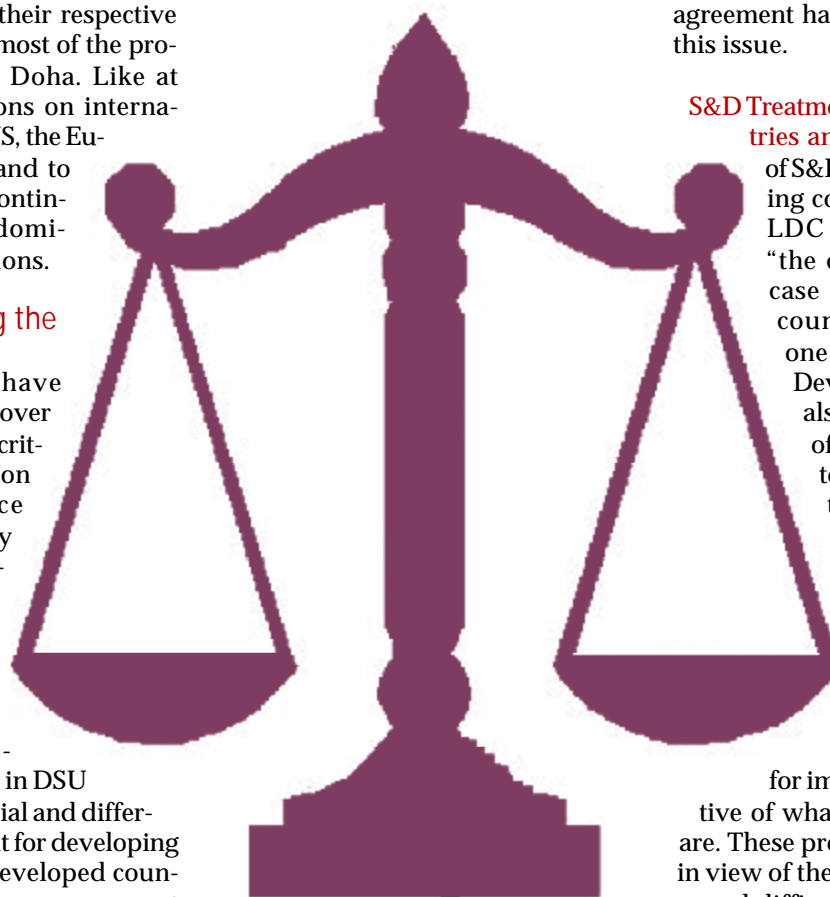
ing the DSU – from their respective points of view, with most of the proposals coming after Doha. Like at most other discussions on international trade law, the US, the European Union (EU) and to some extent Japan continued to show their dominance in the discussions.

### The issues plaguing the DSU review

Of the issues that have come up repeatedly over the last few years, the critical ones have been on 'sequencing' (since there was ambiguity on sequencing the retaliation measures that could be adopted in disputes) and improved implementation of DP/AB decisions, increased transparency in DSU proceedings and special and differential (S&D) treatment for developing countries and least developed countries (LDCs). However, no agreement has been reached on any of these issues. Some of the discussions during the DSU review are listed below.

**Transparency in DP/AB proceedings:** Meetings on this issue have normally ended in heated arguments on whether dispute settlement proceedings should be transparent. The EU and the US, in particular, feel that non-governmental actors should be allowed to submit unsolicited *Amicus* briefs to the DP/AB and observe the proceedings as well. However, a majority of WTO members, especially developing countries strongly oppose the issue, stressing on the inter-governmental nature of the WTO. They also fear that developed countries, where civil society is both rich and powerful, could strategically solicit *Amicus* briefs to tilt the case in their favour.

**Sequencing of retaliation measures:** On the issue of 'sequencing', the question was whether a 'compliance panel' must first review the implementation measures adopted by the losing



country, before authorising retaliatory measures by the winning country. The US was initially against sequencing and wanted to initiate immediate retaliation. However, they subsequently worked out a process on a bilateral basis with the EU (after they found themselves on the losing side of a dispute and did not want immediate retaliation by the winning country). It appears that countries are now adopting a case-by-case approach and following this new procedure. However, there is no formal agreement on this approach.

**Improved implementation of DP/AB decisions:** The US and Chile proposed that countries be allowed to agree to delete certain portions of the DP/AB reports, if desired, arguing that this could lead to quicker and easier implementation of decisions. However, countries that see this proposal as affecting the independency and effectiveness of the DP/AB and indeed the predictability of the trade system have opposed this. As such therefore, no

agreement has been forthcoming on this issue.

**S&D Treatment for developing countries and LDCs:** On the issue of S&D treatment for developing countries and LDCs, the LDC group has asked for "the deciding panel in any case involving developing countries involve at least one developing country". Developing countries have also proposed the option of 'collective retaliation' to overcome the difficulty faced by smaller countries in enforcing decisions against the larger countries. Similarly, India has asked for developing countries to be provided a minimum period of 15 months for implementation, irrespective of what the changes required are. These proposals have been filed in view of the inherent disadvantages and difficulties faced by developing countries. However, developed countries have not agreed to these requests.

### Conclusion

In May 2004, countries agreed to a further time extension for the DSU review, this time not placing any deadline for results. It is thus apparent that the DSU has made little or no progress, besides changing to a 'rules-based' system and adapting to this change.

It is also increasingly apparent that the review of the DSU will not see progress since countries are unable to agree on which direction the DSU should be headed. It will take a lot of flexibility from countries, something that both developed and developing countries appear reluctant to provide, to break this deadlock. The prospects of reaching an understanding on the issues for review at this time look impossible. ■

*[Mr Jairaj is coordinator of Citizen, Consumer and Civil Action Group (CAG), Chennai]*

# In Defence of Multilateralism

The World Trade Organisation (WTO) has existed for a decade and a reflection on its performance has been long overdue. The report by the Consultative Board to the Director General (DG) of the WTO, entitled *The Future of the WTO: Addressing Institutional Challenges in the New Millennium*, released on 17 January 2005, provides a review of the body as well as suggests measures to strengthen the multilateral trade organisation.

Headed by Peter Sutherland (former DG of the General Agreement on Tariffs and Trade, GATT and the WTO), other members of the Board are: Professors Jagdish Bhagwati and Koichi Hamada (economics and international trade), Ceslo Lafer and John H. Jackson (international law), Thierry De Montbrial (international relations), Kwesi Botchwey (policy-making) and Niall FitzGerald (media). The output is an 86-page report consisting of nine chapters.

The report evaluates the performance of the WTO on two tracks. The first relates to the principles of globalisation and the multilateral trading system. The second focuses on the institutional improvements, including measures on how to increase efficiency in decision making and improve transparency of the WTO as an institution.

The report addresses the WTO's role in the globalisation process, responding to many criticisms the organisation continues to face. The main areas of focus are preferential trade arrangements (PTAs), coherence between the WTO and other agencies (the Bretton Woods Institutions), relations with civil society, the WTO dispute settlement system, the decision making process and the role of the DG and the Secretariat.

The defense of multilateral trade liberalisation is the cornerstone of the report. Although it also makes some

practical suggestions about how to make it work better, it falls short of suggesting radical changes to the way the institution operates. But that is exactly what the authors warn about: excessive changes that would undermine the very role that the WTO was intended to perform, viz. as a rules-based trading system, are not desirable.

The recent fashion for bilateral and regional trade arrangements have come under severe flak. The Board is skeptical because these PTAs could undermine the basic principle of the WTO: non-discrimination. This 'spaghetti bowl' of overlapping preferences not only prevents resources from being directed to where they will be most efficiently used; it also imposes significant transaction costs on business. These costs are particularly burdensome for developing countries. While some PTAs may spur liberalisation at the multilateral level, the report cautions: "The unregulated proliferation of PTAs tends to create vested interests that may make it more difficult to attain meaningful multilateral liberalisation". It suggests that, in the longer term, reducing tariffs to zero can eliminate the spaghetti bowl problem, as the preferences would then also go down to zero. The Board also urges rich countries to set a date by which all their tariffs would come to that level.

The report debates the WTO's 'consensus' principle at great length. It notes that there is more legitimacy for proposals to be adopted by consensus but there are also disadvantages, as the will of the majority can

be blocked by even one country. The authors recommend that the problems related to consensus be further studied with possible distinctions made for certain types of decisions. For this, a Declaration should be made at the General Council that a member wanting to block a measure, which has a very broad support, shall only block the consensus if it declares in writing that the matter is of 'vital national interest' to it.

Calling for more political involvement in the WTO, the report proposes that Ministers should meet annually and the DG should report to Ministers on key WTO developments in writing every six months. A summit of heads of states and governments should also be held every five years.

It calls for the creation of a consultative body of not more than 30 nations to be chaired by the DG, for providing political guidance to the negotiators. Of these nations, major trading nations would be permanent members and the majority seats would rotate, drawing from geo-

graphical areas or regional trading arrangements. This part of the report has already been under criticism.

The most telling comment in the report is a passing remark that: "the WTO is not a part of the United Nations, nor should it be so." A succession of failed conferences and meetings from Seattle to Cancún has raised the specter of the UN to fright-

en those diplomats in Western capitals, who fear the WTO may be derailed by politics.

The recommendations are based on the performance of the WTO during the past decade. Whether or not they will greatly influence WTO members at a critical time in its young history is doubtful. But the report is sure to generate 'enlightened discussion' on systemic issues, as the WTO DG puts it. ■

*(The report is reviewed by Ms Prashamsa Gadtaula, Programme Associate at SAWTEE)*





Ratnakar Adhikari

# DG Selection

## Let development not remain a mere façade

As the expiry of the term of the incumbent Director General (DG) draws closer, World Trade Organisation (WTO) members are debating on who should succeed Supachai Panitchpakdi, the outgoing DG. With the formal nomination of four candidates for the top trade job in December 2004 and their meeting with the General Council (GC) on 26 January 2005, the debate has further intensified.

It is interesting to note that out of the four candidates three are from developing countries – Brazil, Mauritius and Uruguay – and one is from developed country – France. This probably reflects the contemporary view that WTO should be headed by someone from the developing countries for two reasons. First, the DGs of the predecessor of the WTO, General Agreement on Tariffs and Trade (GATT), have always been from developed countries. Even within the WTO, the three DGs preceding Supachai were from the developed countries – Ireland, Italy and New Zealand. Second, Bretton Woods Institutions (the World Bank and the International Monetary Fund) have always been headed by individuals from developed countries, and in order to attain balance of power in international economic arena, the WTO should be headed by someone from developing countries.

All the four aspirants made 'development' the priority agenda during their speech at the GC on 26 January. Sudden focus on development by the DG candidates could be due to three plausible reasons. First, there is the need to woo the developing countries – which represent the 80

percent of the WTO membership; and the consequent imperatives to obtain their support. Second, the current round of multilateral trade negotiations has been christened the Doha Development Agenda (DDA) and development is the major focus of this round. Third, despite the claim made by various trade officials that the WTO is not a development organisation, 'development' had entered the WTO lexicon. The DG candidates have no choice but to face this reality.

A number of United Nations agencies and civil society organisations (CSOs), which were advocating against the 'development blind' policies of the WTO, are happy to see at least the DG candidates finally coming to grips with development issues. Despite the unchallenged role of the WTO as a guardian of the rules-based multilateral trading system, some of its rules were (and still are) unfriendly to the development interests. Right from its inception, the WTO has invariably advanced 'one-size-fits-all' approach. Even those WTO agreements that recognise particular discomfort with this approach, have provided nothing but additional time period for the developing countries and least developed countries (LDCs) to comply with WTO rules, as done by the developed countries.

For example, it is universally agreed now that the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) is not only highly biased against the developing countries, but it follows the same discredited 'one-size-fits-all' approach. Despite the resistance of the developing countries, developed countries managed to impose their will and in-

clude TRIPS within the sanction-based system of the WTO. And it provides a transition period of one year to Belgium (a developing country) and 11 year transition period to Benin (an LDC). The underlying assumption is that Benin would become like Belgium in a 10 year period. What else does anti-globalisation lobby need than this living example to ridicule the WTO! Developed countries should now take the blame for this.

TRIPS is only one example (which is picked up by many due to its high visibility) that explains the development deficit in the WTO. There are a number of other agreements that restrict the policy space of members to achieve their development objectives. These range from the requirement of tariff binding to the restriction on providing subsidies to the restriction on the performance requirement with a view to enhancing linkage of investment with domestic economy.

Development deficit is anti-thesis to WTO's credo, not least because one of its prime objectives is to promote 'sustainable development'. The new DG would certainly do well to shift his focus to bring development at the centrestage of multilateral trade discourse. For this to happen, commitment to move the DDA in earnest is a necessary condition, but in no way a sufficient one. The major agenda should be to rebalance the rights and obligations of members such that the real stakeholders feel more secure within the system. For example, the issuance of the Declaration on TRIPS and Public Health, as a part of the DDA, is a humble beginning. However, more needs to be done. Otherwise, development would merely remain a façade within the WTO. ■



# Extortion at the gate

## Will Vietnam join the WTO on pro-development terms?

WTO members must stop imposing onerous 'WTO plus' conditions on Vietnam and allow it to maintain policy space to pursue its development objectives.

The briefing paper *Extortion at the Gate: Will Vietnam Join the WTO on Pro-development Terms* by a leading non-governmental organisation (NGO) critically assesses the accession process of the World Trade Organisation (WTO) in light of Vietnam's ongoing accession negotiations. Given Vietnam's economic situation, the paper, published by Oxfam International in October 2004, posits that the Working Party must stop imposing onerous 'WTO plus' commitments that threaten the livelihoods of poor populations and hinder prospects for poverty alleviation of acceding developing countries like Vietnam.

### WTO accession process

An argument gaining recognition within the development community is that the accession process favours short-term interests of existing WTO members at the expense of development priorities of acceding countries. During the negotiation process, a country not only has to agree to all the existing WTO agreements but is also subject to 'WTO plus' demands, which are a set of extra demands from members in return for support. This leaves the acceding countries less to bargain with and more costly reforms and adjustments to implement. Moreover, the pace at which negotiations move reflects the interests of richer

members. A majority of developing and least developed countries often lack the technical and human resource capacity to conduct negotiations on their own. Therefore, financial and technical assistance is vital for them. However, even this is flawed as a majority of donors are also members of the Working Party and assistance is biased.

### Vietnam's economic status

With a population of 80.4 million, Vietnam offers a large market and is of interest to many WTO members. However, the gains and losses for Vietnam depend on the extent to which it can avoid some arduous 'WTO plus' commitments as well as on the industrialised countries delivering on their promises. It is encouraging to note that Vietnamese officials are not rushing for accession at any price as clear and reasonable demands are crucial for the country, especially because a large proportion of the population lives in poverty and is extremely vulnerable to external shocks.

Since the early 1990s, Vietnam has been implementing legal, institutional, and economic reforms with gradual liberalisation of trade, which has led to macroeconomic stability and an average annual per capita growth rate of 6 percent and a halving of the incidence of poverty from 58 percent in 1993 to 29 percent in 2002. The driving forces behind this have been job creation by the private sector, increased integration of agriculture into the market economy and targeted development policies to ensure that growth is pro-poor.

However, despite the impressive



growth rates, economic growth has benefited the rich more than the poor and the poverty gap has been widening. Vietnam is still a heavily indebted, low-income country with a wide gap between rich and poor populations. Forty five percent of the rural population lives below the poverty line and poverty among ethnic minorities, comprising of roughly 14 percent of the population, is disproportionately high and increasing (from 20 percent in 1993 to 30 percent in 2002).

The transformation to a market led economy has, moreover, created a large amount of redundancies in the state sector. Urban poverty is also severe with the majority of workers employed in insecure jobs with low and unstable incomes. Meanwhile, the ability of the Vietnamese government to finance poverty reduction has been restricted by debt repayments. It is classified by the World Bank as a heavily indebted poor country (HIPC).

### WTO plus conditions

Since export led growth has been essential in Vietnam's growth strategy, the primary motive for Vietnam to join the WTO is to benefit from trade opportunities by further boosting its exports, mostly in the textile and agricultural sectors.

If the developed countries deliver on their promises of the Doha Development Round – increased market access, reduction of their domestic farm subsidies, and concessions for developing countries – then there could be substantial gains for Vietnam. The country has been granted a special safeguard mechanism (SSM) to respond to import surges from outside and exemption from tariff reductions for a number of 'special products' vital to food security. Given the international competition for agro-exports, this could immensely benefit Vietnam while allowing it time to develop competitiveness. The country also hopes to enjoy benefits of foreign investment as well as of the dispute settlement mechanism (DSM) in case of a perceived unfair treatment. However, it is likely that the developed countries will renege on their commitment and restrict market access to Vietnamese goods as has already been done by the United States (US) in the case of catfish and shrimp exports.

The classification of Vietnam as a non-market economy (NME) could restrict its access to international markets. The US Department of Commerce classifies a country as an NME if it has 'a highly distorted market', along with six other criteria. Although these are vague and contentious, the WTO allows members to use more flexible calculation methods to determine the existence of dumping in case of imports from an NME. Hence, Vietnam's exports can be considerably restricted. Members are also allowed to demand special provisions from NMEs that could considerably reduce benefits of most favoured nation (MFN) rights.

Vietnam is also being asked to liberalise its agricultural sector more than most developing country members, eliminate all its export subsidies (whose level is insignificant compared to European and US subsidies to their farm sectors), and reduce domestic agricultural support (which are by no means trade distorting but have very positive results on growth). This puts at risk the livelihoods of millions of people as this is the sector employing 69 percent of the pop-

### Vietnam: Basic development indicators

GNP	US\$ 35.1 billion (2002)
GNP per capita	US\$ 430 (2002)
GDP per capita growth	6% average per annum (1990-2001)
Poverty incidence	29% (2002)
Adult literary rate	92% (1998) Female rate 90% (1998)
Primary completion	97% (2002) Female rate 95% (2002)
Life expectancy at birth	69.7 years (2002)
Infant mortality	20 per 1,000 live births (2002)
Under-five malnutrition	25.7% (2002)
HIV (female, ages 15-24)	0.2% (2001)

ulation with the highest incidence of poverty and is incapable of competing with cheap imports from elsewhere. Industrial tariffs are also being pressed lower than the current offer of 17 percent, which could cut off a growing source of employment, especially in the fledgling automobile industry, for workers, who are not equipped to deal with the adjustment shocks as most are low skilled and retraining is costly.

In the case of services, Vietnam has agreed to allow international companies to enter 92 service sub-sectors, including financial, professional, telecommunications and legal services. The European Union (EU) is currently pushing Vietnam to go beyond these commitments even though it has liberalised far more than its neighbours.

Finally, there are a number of threats posed by the United States-Vietnam Bilateral Trade Agreement (USBTA). Vietnam has made concessions, which go beyond the WTO requirements in the USBTA and if the Working Party takes these as entry points for negotiation, Vietnam will be left with little to gain from. For example, although linking technology transfer to investment policy would be invaluable in the form of increased competitiveness for Vietnam, the country has already surrendered its right to use 'local content requirement' under the USBTA. If this commitment is multilateralised, then Vietnam would be severely restrained to capitalise on the full benefits of foreign direct investment.

Abuse of the USBTA safeguards on the part of the US could damage

Vietnam's textiles and clothing industry and the 'TRIPS plus' provision of restricting for five years in case of third party use of clinical data for pharmaceutical products could drive up prices of medicine, thus adversely affecting public health.

### Rethinking strategies

Given Vietnam's economic conditions and the objective of the WTO to encourage a rules-based system of free and fair trade, WTO members should stop setting onerous WTO plus conditions that put at risk the livelihoods of millions of Vietnamese.

Vietnam should not be asked to make greater concessions on domestic support and export subsidies than those made by other developing countries. The NME status should not be multilateralised and should be reviewed every year.

Also, sufficient time should be allowed to implement agreements on Technical Barriers to Trade, Sanitary and Phytosanitary Measures, and Customs Valuation as these are extremely complex and costly reforms and might hamper the country's growth and development if carried out without caution.

Finally, Vietnam should not be required to multilateralise any commitments it has made under the USBTA, such as the intellectual property and trade safeguards, as this will limit the majority of benefits it can obtain from WTO membership and hinder the country's growth and development. ■

*(This synopsis has been prepared by Ms Dikshya Thapa, Programme Associate at SAWTEE)*

# Trade's Bermuda Triangle: China, Retailers and Petitions

The trouble is that even comparatively good statistics might not tell what pressures will come upon small-scale production or employment.

Ali Dehlavi

Prices of textiles and clothing (T&C) began 2005 stripped of added quota charges placed on products prior to their arrival in the European Union (EU), the United States (US), Canadian and Turkish markets. US importers in 2005 know, for example, that prices of knitted cotton shirts (Category 338) do not include the cost to the Pakistani supplier of buying licenses for the right to export 8,614,748 square meter equivalents (size of Pakistan's Category 338 quota in 2002) in government auctions. As the premium sometimes represented as much as 42 percent of the average import price, prices are, as expected, lower without the quota premium.

In the second week of 2005, government analysts told the press they forecast a 10-20 percent decline in Pakistan's average unit price.

Once secured, the size of orders is expected to increase in 2005, as big retailers source from fewer countries (from 40-50 to under 10, according to industry analysts) to get the volumes needed to meet consumer demand. Bank procedures, such as letters of credit, may even become aligned with closed-network on-line bidding offered to textiles mills by Carrefour as early as 2003. Most fully understand the risks and know what products to position where and continue to structure their transactions accordingly with suppliers.

It is widely expected that import-

ers will offer enhanced bilateral market access concessions to disadvantaged/preferred suppliers from 1 January 2005 onwards. In response, delegations from non-preferred supplier countries are negotiating T&C items to include in a new EU concession scheme commencing on 1 January 2006. This 'Generalised System of Preferences (GSP)+' scheme offers duty reductions of up to 20 percent on T&C items for eligible countries i.e. those with less than 12.5 percent of the EU market share (it also requires eligible members to sign and ratify a long list of multilateral conventions). Non-preferred suppliers will also be negotiating free trade agreements (FTAs) with the US to tackle tariffs after the removal of quotas in order to sustain their T&C market shares.

For those not already beneficiaries of US trade preference programmes and FTAs, average *ad valorem* duties are in the region of 6.6 percent for textiles and 11.7 percent for apparel, with many unit apparel tariffs in the 20s and even 30s. But this is far from being the only source of erosion of GSP benefits to preferred suppliers. Eventually, agreed reduction in the current bound rates in T&C will emerge from non-agricultural market access (NAMA) negotiations, possibly using a 'non-linear formula applied on a line-by-line basis' as stipulated by World Trade Organisation (WTO) members in July 2004 (recall that items on which quotas were shed on 31 December 1997, 31 December 2001 and 31 December 2004 became successively subject to WTO disciplines governing industrial goods, including most favoured nation or MFN, national treatment, trade remedies and market access negotiations).

Fears about China are not exaggerated.

China had a US quota on bathrobes (200,000 dozen) that it topped 20 fold (4 million dozen) only two years after quotas were lifted in this category. Not surprisingly, having lifted the quota on bathrobes (categories 350 and 650) on 1 January 2001, the US re-imposed it on 25 December 2003. Prices had actually fallen from US\$ 100 per dozen in 2001 to US\$ 48 per dozen in 2003. Such falls in prices were not restricted to robes. The American Textiles Manufacturers Institute (ATMI) observed an average 12-month 46 percent price drop (US\$ 6.23/square metres to US\$ 3.37/square metres) in 29 Chinese apparel categories removed from quota control on 1 January 2003. As mutually agreed reapplication of quotas on a broad scale was not achieved in 2004 between US/EU and China, American and European domestic interests will continue to file individual petitions for safeguards across practically all categories.

In the US, public comments were already due in mid-December 2004 for petitions filed in October on categories 347/348, 338/339, 340/640, 638/639, 647/648, and 352/652 (trousers, shirts, underwear), while filing was expected in 349/649 and 350/650 (brassieres, bathrobes). Among future tailor-made restraints on China's export volumes, the most significant has to be the T&C specific safeguard that WTO members can avail until 31 December 2008 (see WT/MIN (0)/3, i.e., the report of the Working Party on China's accession). With a one year lifespan, its validity may even extend upto December 2009 if, e.g., the EU/US continue to make determinations of market disruption up until 31 December 2008. According to International Trade Centre



(ITC), market disruption threats from China may also be countered by a transitional product-specific safeguard mechanism available on all products (including T&C) until 10 December 2013, though the reference to 2013 is not in WT/MIN (0)/3. This was only invoked once by Peru, which reverted to section 19 of the GATT (general safeguard rules) after consultations with China. In the past, China was slowed in its tracks by differentiated ATC 'growth on growth provisions' – its incremental increase in quota volumes was held below 16 percent up until 19 March 2002, almost half of that enjoyed by other WTO members in the first of three stages of integration; while its bilaterally agreed annual average expansions were low (less than 1 percent in the case of the US). According to United Nations Conference on Trade and Development (UNCTAD), China had ceilings written into bilateral/regional agreements with the EU, Turkey, Argentina, Hungary, Poland and Slovakia to contain T&C import surges.

Something that China's competitors and company sourcing strategists alike will follow closely is China's obligation, immediately upon receipt of a market disruption complaint, to cap T&C shipments to a level no greater than 7.5 percent (and 6 percent for wool product categories) above the amount reached in the first 12 months of the most recent 14 months. The buyers will also watch to see what safeguards are used against China, in addition to seeing if its economy will overheat, if it will revalue its currency, crack down on non-performing loans, or tighten credit to its textiles mills. Intermediaries, retailers, industrialists and governments will also track rules of origin (RoO), and critical exceptions, to utilise or establish sourcing arrangements.

WTO members bound by 'original' ATC rules can expect the incidence of ordinary (as opposed to T&C specific) petitions for CV/AD duties and safeguards to increase. T&C tariffs with more than one standard deviation above the simple average of the trade-weighted aggregate tariff will also remain. Discriminatory

tariffs that increase as the level of T&C processing increases will remain in place. Low in-quota tariffs (not synonymous with quotas in the sense of export licenses) and higher out-of-quota tariffs, along with health, safety, environmental and labour standards will also persist. However, relative market shares will be determined by market factors long before non-tariff barriers are addressed in non-agricultural market access (NAMA) talks.

Proximity to markets (for e.g., saving two days of shipping time to the US) only counts so much in meeting just-in-time needs of large retailers. Instead, in the face of fast changing consumer tastes, multiple, flexible pro-



duction lines to deliver large volume, high quality orders are perhaps paramount. China's largest container carrier, Cosco, has also upgraded ships traveling on its lucrative routes to the US so that China's carrying capacity (now 30 percent higher) and delivery time differential has narrowed (down to 11 days from 13) by comparison with the likes of Costa Rica, El Salvador, Guatemala, Honduras and the Dominican Republic (2-7 days). Besides, countries that enjoy proximity could suffer widespread small unit shutdowns as factories equipped with better scale, productivity, and efficient middle management take over.

As large retailers consolidate, banking and industry analysts ask what production size in weaving (air jet and regular looms), spinning

(spindles), and processing (meters per day) is required to survive the competition. Planning ministries and central banks in T&C export dependent countries unpackage current accounts, examining 'trade balance', against components such as 'interest payments' or non-structural inflows such as cash grants, oil facilities, or logistical support payments, and other such items oft reviewed in developing countries. That is, the impact is expected to be significant at both economy and industry levels.

International Monetary Fund (IMF) transitional loans under the Trade Integration Mechanism (TIM), to be reviewed in 2009, are almost certainly on standby for countries such as Bangladesh, Nepal, Cambodia, and Lao People's Democratic Republic. In these countries, the T&C sector earns 50-90 percent of trade revenues and comparisons at the commodity level suggest exporters are subject to intense competition in US and EU markets. Studies have also highlighted the vulnerability of cotton-producing countries in West Africa (Benin, Burkina Faso, and Mali) and cotton exporters such as Kenya, Lesotho, Madagascar and Mauritius. There is a possibility that a higher expected rate of return on investment could be demanded if investors believe these countries to be adversely affected by quota removal.

Numerical estimates often provide warnings that should be heeded. According to the IMF, among the categories in which quotas were removed for Bangladesh on 31 December 2001, it suffered value-earning losses of 46 percent in the EU and 41 percent in the US. Such figures are absent or not publicised in the case of other developing country exporters. National export figures as well as balance sheets and profit and loss accounts of large (listed) companies have already revealed much. The problem is that even comparatively good statistics might not tell what pressures will come upon small-scale production or employment. ■

*(Mr Dehlavi, an expert on trade and sustainable development, is based in Karachi)*

## Sri Lankan textiles

# Mitigating global challenges

With so many dimensions of the RMG trading environment analysed, this book can be a useful guide for conducting similar analyses in other economies.

**Bhaskar Sharma**

*Ready-made Garment Industry in Sri Lanka: Facing the Global Challenge* is a publication consisting of essays written on Sri Lanka's Ready Made Garment (RMG) sector in the context of a changing global trade regime. The book, edited by Dr Saman Kelegama, a noted academician, was published in June 2004 by the Institute of Policy Studies (IPS), Colombo.

The publication came at a time when global trade in RMG was set to change from the Multi-fibre Arrangement (MFA), a system of voluntary export restraints based on allocated quotas, to the quota free system under the Agreement on Textiles and Clothing (ATC). The ATC expired on 31 December 2004, freeing the world textile sector from 2005 onwards.

The book notes that the RMG sector has been a leading export sector for many developing countries for decades. The MFA had helped to serve small developing countries like Sri Lanka to get a foothold in the market of the European Union (EU) and the United States (US). It is against this backdrop that the book analyses the Sri Lankan RMG sector trying to seek an answer to the question as to whether the industry can survive in the new trading order. The book is relevant for several reasons. First, it has correctly identified many issues involved in RMG trade and dealt with them thoroughly. Second, there is a proper sequencing of the issues raised. Third, the language has been kept very simple and non-technical. Fourth, given the coverage and scope, the publication does form the basis for carrying out similar analyses in other countries as well.

Content-wise, the book is a vast storehouse of knowledge and begins with a comprehensive analysis of the RMG industry in Sri Lanka, familiarising the readers about the sector's performance so far. Then it addresses in detail the issue of competitiveness. Following an in-depth analysis, the publication notes that weaknesses far outweigh the strengths of the Sri Lankan RMG industry. What makes this section more interesting is the fact that the authors have gone to the extent of creating a model of competition in the RMG sector in Sri Lanka.

Likewise, the publication also discusses the problems and prospects of backward and forward linkages. It reiterates the fact that the Sri Lankan RMG industry

plays an important role in the economy despite the relatively low levels of linkages. Similarly, the book vividly addresses the issue of labour productivity and job quality in the garment industry. It highlights how rising labour costs and low level of productivity in the country have dampened the high hopes that emanated from the growth of the RMG sector in the past.

The book dedicates five chapters to the external trading environment for the RMG sector. Three scenarios with regards to the dynamics of regional and bilateral trading arrangements are dealt with. They include the risks for the garment industry from the North Atlantic Free Trade Area (NAFTA); the impact of the Indo-Sri Lanka bilateral free trade agreement (FTA) on the garment industry; and the opportunities that the RMG sector in Sri Lanka would have if an FTA is signed between Sri Lanka and the US. The threats and the opportunities under each scenario have been highlighted with justifications. Towards the concluding chapters, the book analyses the impact of China's emergence as a global RMG exporter and the ATC on Sri Lankan textiles exports. The book reckons and recognises the stiff competition and possible market displacement that China's RMG would bring. Likewise, it asserts that the future of the Sri Lankan RMG industry would critically depend on market access in developed country markets. It notes, both with hopes and fears, that since the ATC does not relate to tariff barriers, there is every possibility that developed countries, especially the US and the EU, would find alternative means of protecting their markets. Much will depend on how developed countries react to Chinese RMG exports.

This book puts forth the discussions and debates that raged, and continues to rage, in the Sri Lankan RMG sector, covering a range of issues that are of relevance to any economy's RMG industry. It also needs to be reiterated that with so many dimensions of the RMG trading environment analysed, this book can be a useful guide for conducting similar analyses in other economies. As such, the book is a must read for policymakers, academics, researchers and media in Sri Lanka and abroad. ■

(Mr Sharma is a freelancer based in Kathmandu)



## Regional training workshop on WTO

**CUTS** Centre for International Trade, Economics & Environment (CUTS-CITEE), Jaipur, and Sustainable Development Policy Institute (SDPI), Islamabad along with SAWTEE organised the *South Asian Regional Capacity Building Training Workshop on WTO* in Islamabad through 11-13 December 2004. The workshop was organised under the project *Progressive Regional Action and Cooperation on Trade (PROACT) Phase III*, undertaken by SAWTEE. It aimed at developing capacities of the young professionals to comprehend World Trade Organisation (WTO) issues, the perspectives and linkages with their work and the economy.

International law experts and resource persons from concerned ministries, departments, agencies, international and national non-government organisations, and academic sector provided the training during the sessions. Altogether 26 participants from South Asia including jour-



nalists, lawyers and young researchers representing international and national non-governmental organisations, research organisations, media and academia attended the workshop.

The specific issues discussed were: historical perspectives of multilateral trading system; agricultural negotiations; issues in intellectual property rights; phasing out of Agreement on Textiles & Clothing (ATC); development dimensions of WTO negotiations; dispute settlement mechanism of the WTO; and issues in non-agricultural market access. ■

## WTO's July Package

**CUTS** Centre for International Trade, Economics & Environment (CUTS-CITEE), Jaipur organised a symposium on *WTO's July Package* at Palais des Nations, Geneva, Switzerland on 3 November 2004. The symposium hosted a panel of discussions on aspects of the WTO's July Package and two panel discussions on trade facilitation (TF) and transparency in government procurement (TGP).

In the TF session, the scope and definition of TF, technical assistance and capacity building in TF, specific General Agreement on Tariffs and Trade (GATT) 1994 provisions and TF, dispute settlement issues, and TF country case studies were discussed. In the TGP session, the primary questions raised were whether TGP should be a policy priority for developing countries and whether a multilaterally binding rule on government procurement will contribute substantially to development. ■

## GLOBALISATION AND WTO FORUMS

**SINCE** 2003, SAWTEE and Action-Aid Nepal (AAN), Kathmandu have been organising discussion forums titled *Globalisation and WTO*. Between November 2004 and January 2005, they organised three forums on contemporary economic and trade issues facing Nepal.

**Recent Development in Doha Round – Way Forward for Nepal:** This forum (thirteenth in the series) was held on 9 November 2004. The forum discussed the implications of the negotiations set under the July Package for Nepal. A research paper on the theme was presented for discussion at the forum. The theme paper, presented by Dr Posh Raj Pandey, President, SAWTEE, facilitated an informed and inclusive trade policy debate in the context of the July framework and its implications for Nepal. The discussions also provided inputs to the government authorities who were present in the fo-

rum to understand the issues at stake. Dr Surya Subedi, Professor, University of Leeds, United Kingdom chaired the forum.

**Market Access Barriers Facing Nepalese Agro-exports:** This forum was organised on 24 December 2004. Mr Ratnakar Adhikari and Mr Kamalesh Adhikari presented the theme paper for discussion. The paper delved into the tariff and non-tariff barriers faced by Nepalese honey, floriculture, tea, vegetable seeds and medicinal plants in select international markets. It was discussed that the tariff peaks in all these products exist in the neighbouring countries except China; bound tariffs reveal formidable barriers; and incidents of non-tariff barriers are high in most of the markets. Mr Prachanda Man Shrestha, Joint Secretary, Ministry of Industry, Commerce and Supplies chaired the forum.

**Phasing out of Textile Quota – Future Strategies for Nepal:** This forum was held on 25 December 2004. The basis for discussion at the forum was a research paper prepared by Mr Navin Dahal of SAWTEE. In the forum, the participants assessed the present situation of the Nepalese garment industry and discussed ways to facilitate dialogue between the private sector and the government to identify measures to address the problems in the post Agreement on Textiles and Clothing (ATC) era. It was discussed that the private sector would have to improve their marketing to get orders, as they can no more rely on the availability of quota. The participants stressed that this is not an easy task and the private sector and the government need to work together. Dr Shankar Sharma, Vice Chairperson, National Planning Commission chaired the forum. ■



# CUTS' publications on trade and regional cooperation

## WTO Agreement on Rules of Origin

**– Implications for South Asia:** The importance of rules of origin (RoO) has grown significantly over the years. RoO can be divided into two categories: non-preferential and preferential.

Non-preferential RoO defines the origin of goods mainly for statistical purposes and for the application of trade measures such as tariffs, quotas, anti-dumping, countervailing duties, etc. Preferential RoO, which is often more stringent, is defined by members of a preferential trade area to ensure that only goods, which originate from one of the member countries benefit from a preferential access at importation. It is more evident that RoO are increasingly used by the de-

veloped countries to regulate the trade flow. By varying the degree of transformation required, countries are able to use the RoO to control the degree of preference granted. In fact, RoO are being used as a tool for policy and to control market access often by product or by industry.



veloped countries to regulate the trade flow. By varying the degree of transformation required, countries are able to use the RoO to control the degree of preference granted. In fact, RoO are being used as a tool for policy and to control market access often by product or by industry.

The paper tries to critically examine the World Trade Organisation (WTO) proposal on the harmonised RoO. The study has looked at its implications on South Asian countries, especially India. Further, in view of the contentious nature of the RoO pertaining to textiles, and the big stakes involved for South Asia, the study places special emphasis on textiles and clothing.

**Agreement on SAFTA – Is It Win-Win for All SAARC Countries?:** A major breakthrough was made in Jan-

uary 2004 when during the 12<sup>th</sup> South Asian Association for Regional Cooperation (SAARC) Summit in Islamabad, a framework agreement on South Asian Free Trade Area (SAFTA) was signed. SAFTA marks a movement away from mere tinkering with tariffs [as it was under South Asian Preferential Trade Area (SAPTA)]. The commodity-by-commodity negotiations under SAPTA were proving highly labourious and time-consuming and had hardly made any impact on the intra-regional trade.

One of the major objectives of this study is to sensitise various stakeholders (state as well as non-state actors) on the need for better regional cooperation, as it has been proved that such cooperation gives huge peace dividends. It provides a good account of existing trade between SAARC countries and highlights lessons learnt from the efforts so far made for better intra-regional trade within South Asia. It also discusses possible implications of SAFTA on South Asian countries.

**Protectionism and Trade – Remedial Measures:** According to one school of thought, the use of trade remedial measures is often guided by protectionist tendencies and causes more harm than good to the country imposing such a measure. The other school of thought argues that the use of trade remedial measures is warranted in order to protect the domestic industry from unfair trading practices.

In the WTO *acquis*, three types of trade remedial measures are recognised – anti-dumping (AD), countervailing and safeguard measures. They do not constitute a homogenous group. A careful examination of these three measures reveals that the use of AD measures is more frequent as compared to the remaining two.

This paper examines how protectionism has influenced the use of trade remedial measures. It examines the

trends of imposition of trade remedial measures. This trend clearly shows that countries have found AD measures a safe haven for extending protection to domestic industries. In order to highlight the protectionist nature of AD measures, the paper looks at the manner in which the countries have interpreted the WTO Agreement on Anti-dumping. The paper also makes a comparison between AD measures and safeguard measures. ■

## Forthcoming Event

**CUTS** Centre for International Trade, Economics & Environment (CUTS-CITEE), Jaipur, in association with Institute of Policy Studies (IPS), Colombo and SAWTEE, is organising the launch meeting of the project titled *WTO Doha Round & South Asia: Linking Civil Society with Trade Negotiations* on 9-10 March 2005 in Colombo. The project is being implemented by CUTS-CITEE with the support from the Novib (Oxfam, The Netherlands).

The project has been taken up with the background that the outcome of the Doha Round will have significant implications on international trade and national development. This is more so for developing countries, as international trade is increasingly linked with livelihood and associated national development (poverty reduction) strategies. Therefore, it is important for South Asian countries to have arrived at better negotiating positions during the Doha Round of negotiations.

Given this context, the project will focus on the following five key elements of the July Package on which the Doha Round of negotiations will progress: Agriculture; Non-agricultural Market Access; Development Dimensions; Services; and Trade Facilitation. ■

# WTO and South Asia

**THE** Fifth Ministerial of the World Trade Organisation (WTO), which was held at Cancún, Mexico in September 2003 failed to advance trade negotiations as expected. Although members made some progress, there was no breakthrough in key areas to enable them to proceed towards the conclusion of the negotiations and fulfill the commitments they undertook at the Fourth Ministerial in Doha in 2001. No consensus could also be forged on the 'Singapore Issues.' The intransigence showed by the developed countries and the collective action by developing countries led to a situation where no new agreements could be reached. Instead, the Ministerial ended with a promise of intensifying negotiations at subsequent General Council meetings.

Reflecting on the events that led



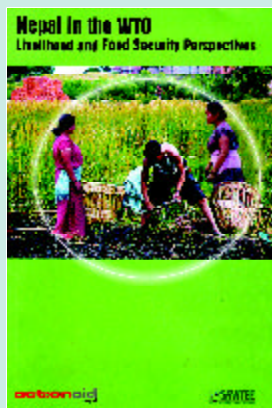
Title: WTO and South Asia: Post Cancun Agenda  
Publishers: CUTS and SAWTEE  
Editors: Navin Dahal and Bhaskar Sharma

to the failure of the Cancún Ministerial, the book is the outcome of a three-day regional conference cum training programme titled *Post Cancun Agenda for South Asia* held during 30 November - 2 December 2003 in Kathmandu with the support of the Novib, The Hague and Friedrich Ebert Stiftung, Kathmandu. In between the conference and the publication of this book, WTO members on 31 July 2004 agreed on the 'Oshima Text' and gave new momentum to the Doha Development Agenda (DDA). Understandably, the papers presented in this book do not capture this latest development. However, an attempt has been made to give a fuller picture to the reader by incorporating a chapter that analyses the JP. ■

# Nepal in the WTO

**NEPAL** joined the World Trade Organisation (WTO) in 2004 and its membership has implications for its largely subsistence agricultural sector, which employs around three-fourths of its population and contributes around 40 percent to its gross domestic product (GDP). In a global perspective, the insertion of agriculture into the multilateral trading system is crucial especially for its free trade implications.

The book looks at those agreements that are likely to have an impact on the livelihood options and food security situation of the Nepalese



Title: Nepal in the WTO: Livelihood and Food Security Perspectives  
Publishers: AAN and SAWTEE  
Editors: Dr Hiramani Ghimire and Navin Dahal

farmers. These agreements are the Agreement on Agriculture (AoA), Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, Agreement on Technical Barriers to Trade (TBT) and Agreement on the Application of Sanitary and Phytosanitary Measures (SPS). It presents Nepal's WTO commitments in relation to each of these agreements and analyses their ramifications for international trade in general and the farming community in particular. The analyses are followed by policy recommendations. ■

## Bridging the gaps

**THE** two-volume book results from the Sustainable Development Policy Institute's (SDPI) concern for translating specialised multi and transdisciplinary research into effective policy measures in the global South.

Maj. (Retd.) Tahir Iqbal, Pakistani Minister for Environment, launched the book on the occasion of the SDPI's 7th Sustainable Development Conference titled *Sustainable Development: Bridging the*



*Research/Policy Gaps in Southern Contexts* in December 2003

The first volume on *Environment* examines different issues in the context of the natural environment and their impact on human life. The volume looks at the environmental dimensions of human security and livelihoods; natural resource management and its interface with governance issues; and the design and enforcement of environmental quality standards in South Asia. The second volume on *Social Policy* addresses trade and sustainable development, globalisation and the World Trade Organisation (WTO) in the context of people's livelihoods, and governance issues, among others.

The SDPI and the Oxford University Press have jointly published these volumes. ■

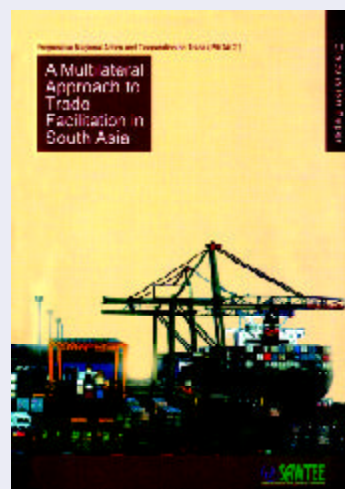




Title: Positive Trade Agenda for South Asian LDCs

Publisher: SAWTEE

Authors: Ratnakar Adhikari and Navin Dahal



Title: A Multilateral Approach to Trade Facilitation in South Asia

Publisher: SAWTEE

Author: Dr Upali Wikramasinghe

## Positive Trade Agenda for South Asian LDCs

**IN** the last couple of years, the South Asian least developed countries (LDCs) – Bangladesh, Bhutan, the Maldives and Nepal – have taken bold measures to liberalise their economies, a direct indicator of which is the increase in the proportion of trade to gross domestic product. However, their marginalisation from the global economy continues. This has mainly arisen due to their limited export base on few products like readymade garments, carpets, processed food and electricity, and limited export destinations. This scenario has exacerbated the vulnerabilities of these economies to global trade policies that are intensifying competition, providing preference to other low-income nations through preferential trading arrangements and the emergence of non-tariff barriers in industrialised countries. These policies undermine the trade and growth prospects of LDCs. Therefore, to fully benefit from the multilateral trading system, South Asian LDCs need to be proactive and take measures at two levels – domestic and international. *Positive Trade Agenda for South Asian LDCs* stresses that these nations viz. Bangladesh, Bhutan, the Maldives and Nepal, need to, among others, mainstream trade into their development programmes, promote accountable governance, improve infrastructure, and develop human resources. At the international level, given their limited resources, this discussion paper suggests they will have to focus on their priority areas and form issue-based alliances with other developing countries and LDCs to strengthen their say at the international forums such as the World Trade Organisation (WTO). ■

## A Multilateral Approach to Trade Facilitation in South Asia

**TRADE** facilitation is universally accepted as a means of improving the efficiency of international trade and economic development. It is an issue that is linked to a number of critical areas with far-reaching implications: competitiveness, economic efficiency, government regulations and controls, issues of governance, institutional arrangements and legal structure. The issue is especially pertinent in an era where tariff barriers are being reduced and reduction in transaction costs is directly linked to improved trade performance. Countries with very high transaction costs are likely to be the biggest beneficiaries as upgrading of infrastructure and trade processes will aid both producers and consumers. Trade facilitation was included in the World Trade Organisation (WTO) by the Singapore Ministerial in 1996, and is a part of the 'Singapore Issues' (others being competition, investment and transparency in government procurement). However, the inclusion of these issues for multilateral negotiations, subject to explicit consensus on the modalities of negotiations, as agreed in Doha, created a sharp division between the North and the South. Arguably, Singapore Issues could be considered a major reason for the failure of the Cancún Ministerial. With the adoption of the July Package, negotiations will begin on the issue.

This discussion paper calls upon South Asian countries to take a proactive negotiating agenda to further their domestic reform agenda of reducing trade barriers as well as secure as much concessions as possible from the developed countries on implementation of trade facilitation measures, including on technical assistance. ■

Launched in December 1994 at Nagarkot, Nepal by a consortium of South Asian NGOs, South Asia Watch on Trade, Economics & Environment (SAWTEE) is a regional network that operates through its secretariat in Kathmandu and member institutions from five South Asian countries, namely Bangladesh, India, Nepal, Pakistan and Sri Lanka. Registered in Kathmandu in 1999, the overall objective of SAWTEE is to build the capacity of concerned stakeholders in South Asia in the context of liberalisation and globalisation.