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India at Doha: Retrospect and Prospect

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Doha is behind us. But it is also ahead of us. With the Doha dust settled, however, it is a good time to reflect on what has been achieved, how it was achieved, what was India's role, how this role was perceived and why? It is also a good time to draw lessons from the experience since we must get down to the business of developing positions on the negotiations to which we have committed ourselves along with other WTO members in Doha.

In Section 1, I begin with an overview of what was achieved in Doha. I then outline India's negotiating stance in Sections 2 and subject it to critical examination in Section 3. In Section 4, I dissect carefully the origins of the scathing criticisms India received in the western press and in Section 5 conclude the paper with lessons for the future.

1. What was achieved in Doha?

The Doha Ministerial Conference produced three key documents: (i) Decision on Implementation-Related Issues and Concerns, which addresses a number of complaints of developing countries with respect to the implementation of the Uruguay Round (UR) Agreement; (ii) Declaration on the TRIPS Agreement and Public Health, which weakens some of the provisions of the TRIPS Agreement; and (iii) Doha Ministerial Declaration, which outlines the work program for the new round.¹

¹ Doha also produced two waivers, a GATT Article XIII waiver for the EC banana regime and a GATT Article I waiver for the ACP-EC Partnership (Cotonou) Agreement. These waivers have no direct link to the Ministerial Declaration and could have been handled within the normal WTO procedures. But they had to be moved forward to Doha to get support of the ACP countries for the round. A final document on which agreement had been reached in Doha but was not issued until

In assessing the Decision on Implementation-Related Issues and Concerns and the Declaration on the TRIPS Agreement and Public Health, it must be kept in mind that WTO Decisions and Declarations do not have the same legal status as the WTO Agreements. It is not entirely clear what weight the WTO Dispute Settlement panels and the Appellate Body will give to these documents relative to the WTO Agreements. More concretely, in a WTO dispute, if the provisions in the Declaration on the TRIPS Agreement and Public Health suggest an outcome different from that in the TRIPS Agreement itself, we do not know which of the two documents will prevail. Against this background, let me offer a brief description of each of the three documents.

(i) Decision on Implementation-Related Issues and Concerns

The Decision on Implementation-Related Issues and Concerns had been pushed heavily by India with the backing of many developing countries, especially in Asia and Africa. Spanning over eight single-space pages, substantively it offers several relatively minor, often inconsequential, concessions to developing countries with respect to the implementation of the Uruguay Round (UR) Agreements. I discuss some of the provisions of the Declaration in greater detail later in my critique of India's negotiating stance.

(ii) Declaration on the TRIPS Agreement and Public Health

The initiative for the Declaration on the TRIPS Agreement and Public Health was led by Brazil, India and South Africa and enjoyed wide support among developing countries.² Setting aside the caveat noted above on its legal standing relative to the TRIPS

November 20, 2001 deals with procedures for extension of Article 27.4 of the Subsidies and Countervailing Measures Agreement for certain developing member countries. This document is also without direct bearing on the Ministerial Declaration.

² Contrary to the impression conveyed in some news reports in the western media, India did play a significant role in pushing the Declaration. It was one of the eight WTO members—four developing

Agreement, the Declaration was a significant victory for developing countries. The Declaration acknowledges the primacy of the member countries' right to protect public health and promote access to medicines for all. More concretely, it recognizes each member's "right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted." It also gives each member the "right to determine what constitutes a national emergency or other circumstances of extreme urgency" for the purpose implementing the TRIPS Agreement.

(iii) The Doha Ministerial Declaration

The Doha Ministerial Declaration is a long and complex document and I will not discuss the parts that are marginal to the future negotiations. The main negotiating agenda in the Declaration can be divided into four parts: (1) trade liberalization, (2) trade and environment, (3) WTO rules and (4) the so-called "Singapore issues" comprising investment, competition policy, trade facilitation and transparency in government procurement. Negotiations on the first three items are to constitute a single undertaking and concluded by January 1, 2005. As regards the Singapore issues, negotiations on them may not start until after the Fifth Ministerial in 2003 and even then it is not a forgone conclusion. This is explained later in greater detail.

(1) Trade Liberalization

The trade liberalization agenda is wide ranging and includes, industrial goods, agricultural goods and services. The last two of these items have been under negotiation

and four developed—, which drafted the final compromise language of the document. The eight countries in the group were Brazil, India, Kenya, Zimbabwe, Canada, EU, New Zealand, and the United States. South Africa was missing from the list presumably because it has the developed country status in WTO though it was with developing countries on this issue.

since January 1, 2000 as a part of the UR built-in agenda. In the area of industrial goods, developing countries have complained since the UR Agreement that peak tariffs in developed countries are concentrated in labor-intensive goods, textiles and clothing, leather and leather products and footwear. The Ministerial Declaration gives this complaint due consideration by agreeing to negotiate reductions in or elimination of tariffs including tariff peaks, high tariffs, and tariff escalation particularly in products of export interest to developing countries.

In the area of agriculture, the members have committed themselves to comprehensive negotiations aimed at substantial improvements in market access, reductions in, with a view to phasing out, all forms of export subsidies and substantial reductions in trade-distorting domestic support measures. European Union (EU) had vehemently opposed the insertion of the phrase “with a view to phasing out” and agreed to it only after other members agreed to the qualification that the Declaration would not prejudge the outcome of negotiations.

In services, the Declaration recognizes the ongoing negotiations since January 1, 2000 and refers to the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues including the movement of natural persons. It asks participants to submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.

(2) Trade and Environment

The subject of environment has been under study at the WTO under the auspices of the Committee on Trade and Environment for some time. But the Doha Declaration brings it into the negotiating agenda for the first time. India and most other developing countries

had been opposed to bringing environment into the negotiating agenda in any form but EU had insisted on it. Fortunately, the negotiating mandate is quite limited and unlikely to damage the interests of developing countries. It calls for negotiations on (a) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs); (b) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status; and (c) the reduction of tariff and non-tariff barriers to environmental goods and services. With respect to the first subject, the Declaration explicitly notes that the negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question. This means that trade sanctions by MEA signatories on non-signatories are ruled out.

(3) WTO Rules

The Declaration opens WTO rules in three areas to negotiation: (1) anti-dumping, (2) subsidies and countervailing measures, and (3) regional trade agreements. The first of these was a major concession by the United States to Japan and developing countries. Under the second item, members have agreed to open up the issue of fisheries subsidies, which is an important concession to developing countries. The third item has been under discussion at WTO under the auspices of the Committee on Regional Trade Agreements; India was one of the countries to have urged its inclusion into the negotiating agenda.

(4) Singapore Issues

EU had insisted on the inclusion of negotiations for multilateral agreements on investment, competition policy, trade facilitation and transparency in government procurement. A large number of developing countries, especially from Asia and Africa, had

opposed the EU demand. India was the most vocal opponent and persisted in its demand to keep the four issues out of the negotiating agenda until the end. According to the deliberately vague compromise language in the Declaration, members “agree that negotiations will take place after the fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.” Developed countries interpret this phrasing to mean that the Fifth Ministerial in 2003 is to decide only on the modalities while the agreement to kick off the negotiations is already in place. Many developing countries take the view that the decision on modalities by explicit consensus gives them a veto against the launch of the negotiations themselves. The following clarification, issued by Yusef Hussain Kamal, the Chair of the Conference, at the urging of India favors the latter interpretation, though its legal standing is tenuous:

“Let me say that with respect to the reference to an "explicit consensus" being needed ... for a decision to be taken at the Fifth Session of the Ministerial Conference, my understanding is that, at that Session, a decision would indeed need to be taken, by explicit consensus, before negotiations on Trade and Investment and Trade and Competition Policy, Transparency in Government Procurement, and Trade Facilitation could proceed. In my view, this would give each Member the right to take a position on modalities that would prevent negotiations from proceeding after the Fifth Session of the Ministerial Conference until that Member is prepared to join in an explicit consensus.”

2. India's Negotiating Stance

Negotiating positions are difficult to state precisely since they evolve continuously until an agreement is reached. Prior to the Doha meeting, India had publicly stated that it did not support the launch of a round that went beyond the built-in agenda of the Uruguay Round (UR) Agreement. Yet, in the end, Commerce Minister Murasoli Maran not only supported a round that included some new issues but also wisely claimed its launch a victory for India.

Nevertheless, it can be safely asserted that India joined the talks leading up to the Doha Ministerial Conference with a rather extreme position, taking a very hard line. India's position is most clearly outlined in the press brief entitled "Why India is Opposing Negotiations on New Issues," posted on the Ministry of Commerce website and issued by Press Information Bureau, Government of India on November 7, 2001.

The title of this brief makes clear India's unequivocal opposition to the expansion of the negotiating agenda beyond the built-in UR agenda, which included market access negotiations in agriculture and services and reviews of and negotiations on some narrowly specified aspects of a small number of UR Agreements. But the contents of the press brief list more explicitly the areas India opposed going into the Doha meeting: investment, competition policy, transparency in government procurement, trade facilitation, environment, labor and industrial tariffs. In the case of investment and competition policy, the brief expresses India's opposition to even "plurilateral" agreements within the WTO.

This position is more or less reiterated in the statement delivered by Maran at Doha on behalf of India. In a key paragraph of the statement, he notes, "Rather than charting a divisive course in unknown waters, let this Conference provide a strong impetus to the on-

going negotiations on agriculture and services, and the various mandated reviews that by themselves form a substantial work programme and have explicit consensus.” Later, he expresses explicit opposition to the inclusion of the so-called Singapore issues into the agenda: “In the areas of Investment, Competition, Trade Facilitation or Transparency in Government Procurement, basic questions remain even on the need for a multilateral agreement.”

The statement by Maran is not explicit on either support for or opposition to the negotiations on market access in industrial goods. The only paragraph dealing with this subject states,

“In relation to market access, even after all the Uruguay Round concessions have been implemented by industrialized countries, significant trade barriers in the form of tariff peaks and tariff escalation continue to affect many developing country exports. These will clearly need to be squarely addressed. Meanwhile, sensitive industries in developing countries including small scale industries sustaining a large labour force cannot be allowed to be destroyed.”

Since tariff peaks and tariff escalation could not be addressed outside of new negotiations, this statement would seem to suggest support for the inclusion of industrial tariffs into the negotiating agenda. Yet, in the absence of an explicit statement to that effect and the clear opposition expressed in the November 7, 2001 brief—“We are not convinced about the need for tariff negotiations when even Uruguay Round phase-out has not been yet completed for certain products”—, an unambiguous conclusion to this effect cannot be drawn.

The fact that the draft Ministerial Declaration presented at Doha at the opening of the conference does not place the negotiations on industrial tariffs into square brackets, used

to signal disagreement on the part of some members, may also suggest that all countries including India were on board in this area. But again, this is not a litmus test: Maran himself laments at the beginning of his statement that the draft Ministerial declaration is “negation of all that was said by a significant number of developing countries and least-developing countries.”

Finally, India pushed hard for both implementation issues and the weakening of the TRIPS Agreement in the area of public health and medicines. With regard to the former, starting prior to the Seattle Ministerial Conference, India had begun to lobby heavily for an agreement. This push culminated in the Decision on Implementation-Related Issues and Concerns at Doha. With respect to the TRIPS Agreement, along with Brazil and South Africa, India took the position that the TRIPS Agreement should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and ensure access to medicines for all. This effort led to the Doha Declaration on the TRIPS Agreement and Public Health.

Two lesser demands related to intellectual property that Maran also put on the table in his Doha statement were the extension of geographical indications to products other than wines and spirits and restrictions on the misappropriation of the biological and genetic resources and traditional knowledge of the developing countries. It is not clear whether these were serious demands or were intended merely to satisfy certain domestic lobbies.

3. Questioning India's Stance

Let me begin by noting that Maran's opposition to the inclusion of the Singapore issues into the negotiating agenda is quite defensible. I have written on this subject in

greater detail elsewhere and I will not repeat it here.³ But let me note two key points. First, if multilateral agreements on investment, competition policy, trade facilitation and transparency in government procurement are forged, it is developing countries that will have to undertake substantial new obligations. It is not immediately clear why these countries should subject themselves to such obligations without corresponding new obligations by developed countries. More importantly, in as much as many developing countries may not be able to fulfill these obligations, they will be exposed to the risk of trade sanctions and hence loss of market access in goods and services. Second, in so far as the investment agreement is concerned, the slow pace of liberalization in the area of services, which inevitably require opening the market to foreign investment and labor movements, indicates that countries find it much harder to open factor markets than goods markets.

The opposition to WTO agreements on investment, competition policy, trade facilitation and transparency in government procurement is not to imply opposition to liberalizing policy changes in these areas. For instance, foreign investment liberalization and trade facilitation are not only eminently sensible policies for developing countries but also a part of their ongoing policy reforms. Likewise, transparency is desirable in all aspects of the government business including procurement while competition policy at the national level exists in many developing countries. Nevertheless, acceptance of such obligations under a WTO agreement before these countries are able to implement them in the form required by WTO agreements places their access to markets in goods and services at risk. For instance, time bound clearance of goods at the border sought under trade facilitation

³ See my paper “The Millennium Round and Developing Countries: Negotiating Strategies and Areas of Benefits,” 2000, G-24 Discussion Paper Series, UNCTAD, Geneva and Center for

may be beneficial (though even here the country must decide whether its scarce resources should be deployed to speed up the internal movement of goods or at the border)) but countries have to be sure that they can implement them before signing on to a WTO agreement to this effect. We have already seen that the TRIPS obligations have been sufficiently onerous that the least developed countries have had to be given an extra ten years of reprieve under the Doha Declaration on the TRIPS Agreement and Public Health. But for this extension, many of them would have faced the prospects of trade sanctions.

While India's opposition to the Singapore issues is, thus, defensible, at least three aspects of its stance at Doha remain disturbing: (i) failure to lend unequivocal support to liberalization in industrial products and, indeed, outright opposition to such liberalization where India was concerned; (ii) unduly large dispensation of the negotiating capital on the virtually empty box of implementation issues; and (iii) posturing that seemed to convey the impression that India was opposed to the launch of the round altogether. Let me elaborate on each of these points in turn.

(i) Tariffs on Industrial Products

Further liberalization in industrial products is in India's own interest. Compared to virtually every major, economically resilient country, India's industrial tariffs remain astronomically high. As evidenced by our own experience during 1990s, there is much to be gained in terms of productive efficiency and benefits to consumers through further liberalization. Politically, Finance Minister Yashwant Sinha has publicly stated his commitment to bringing the top tariff rate from the current level of 35 percent to 20 percent by the year April 2004. By making such tariff reductions a part of a future WTO round, we

only stand to double our benefits by gaining greater access to the U.S. and EU markets as a part of an overall bargain.

Instead, India implicitly took the position that while developed countries must eliminate tariff peaks, India should not be asked to liberalize any further. This meant asking developed countries to eliminate tariff peaks unilaterally. While there is much to be said for unilateral liberalization, in practice, large countries have only rarely lowered their tariffs unilaterally. As such the demand by India was unrealistic. Indeed, tariff peaks in textiles and clothing exist today not because developed countries are inherently inclined towards discrimination against imports from developing countries. Instead, they exist because until recently, developing countries chose not to participate in multilateral negotiations in any meaningful way. As a result, liberalizing bargains were limited to developed countries and hence products that were exported principally by them to one another.⁴

Indeed, when developing countries did finally join the negotiations actively in the Uruguay Round, they got the commitment from developed countries to phase out the Multi-fiber Arrangement (MFA) and thus return this sector to the full discipline of the General Agreement on tariffs and Trade (GATT). There remain complaints that developed countries have back loaded the liberalization, pushing much of the substantive liberalization to the last two installments due on January 1, 2003 and January 1, 2005. But fearing that less efficient suppliers—India among them—might lose rather than gain market share with the end of the quotas, this is precisely what developing countries had bargained.

website: www.bsos.umd.edu/econ/ciepanag.htm.

⁴ See Bhagwati, Jagdish and Arvind Panagariya, 2001, “Wanted: Jubilee 2010 Against Protectionism” on my website in this context.

(ii) Implementation Issues

India pushed heavily a number of demands under the rubric of “implementation issues”. In my personal judgment, this was a tactical mistake. To be sure, there are more than 50 paragraphs in the Declaration listing large number of items. But these are lot of nothings that do not add up to something. Substantive concessions in the document are few and far between and surely not enough to justify more than two years worth of negotiating capital expended to achieve them. Indeed, somewhat perversely, the Decision allows developed countries to convey the impression that having conceded to the demands of developing countries without insisting on something in return they have been generous.

The first point to remember while evaluating the achievements in this area is that as noted earlier WTO Decisions do not enjoy quite the same legal status as WTO Agreements. In ruling on a dispute, Dispute Settlement panels and the Appellate Body are likely to rely principally on the WTO Agreements rather than Decisions. But even leaving that consideration aside, the Decision on Implementation-Related Issues and Concerns is long on the expression of good intentions but short on actual commitments.

As an example, consider what may be the most substantive part of the Decision: the provisions relating to the implementation of the Uruguay Round Agreement on Textiles and Clothing (ATC). There are three items in this part of the Decision: (i) developed country members should effectively utilize the provisions in the ATC for early elimination of quota restrictions; (ii) they should exercise particular consideration before initiating antidumping investigations of textile and clothing exports from developing countries previously subject to quantitative restrictions under ATC for a period of two years; and (iii) they shall notify

any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

These provisions add little to what exists in ATC currently. Provision (i) gives developing countries no extra leeway in challenging developed countries on the speed of elimination of quota restrictions over and above that granted by ATC. Precisely how, except as already provided in ATC, is one to determine that a country has failed to use the provisions relating to the elimination of quotas “effectively”? Likewise, how is it to be determined that a country did not exercise “particular consideration” before initiating antidumping investigation? The provision on the rules of origin is even less of a concession than the preceding two.

The only substantive concession in the area of textiles and clothing sought by developing countries as a part of implementation issues was a “growth-on-growth” provision amounting to the compounding of the annual growth of quotas. Currently, textiles and clothing quotas are allowed to grow annually at a pre-specified rate with the growth rate applied to the initial base in the bilateral quota agreement. Developing countries had sought that growth be built on not just that base but also on growth in the previous years. This concession was not granted in the Decision, however. Instead, it was referred to the Council for Trade in Goods for examination and recommendation by July 31, 2002.

The view that the Decision carries few substantive benefits for developing countries is perhaps not particularly contentious. Even prior to its finalization in Doha, Abdul Razak Dawood, Pakistan’s minister for Commerce, Industries and Production, who was India’s ally in pushing for the Decision, noted in the official statement of his government: “The package of implementation measures proposed for adoption at Doha is almost a bare

cupboard. Some major countries want to take away what little it contains – such as the provision for ‘growth on growth’ in textiles.”

(iii) Posturing against the Round

With less than 1 percent share in the world trade, India would have had almost insignificant power to influence the negotiations under normal circumstances. But two factors, both unique to Doha, made India a player of some significance. First, in the wake of the September 11 events, Bush administration had assigned the launch of a new round the highest priority. In retrospect, it is fair to speculate that Robert Zoellick, the United States Trade Representative (USTR), arrived in Doha with the intention not to return home empty handed. This fact gave each country, including India, some leverage. This was confirmed by the fact that the United States gave special concessions to virtually all members he possibly could.

Second, repeated assertions by both the United States and EU that the next round must be a development round left them boxed in their own rhetoric: they would not look good launching a development round without the endorsement of a poor country with one billion people. A development round that left out one fifth of the humanity would be a joke. Bringing India on board was essential.

Given these facts and India’s stance prior to arrival the at Doha, there was some measure of discomfort on the part of some developed countries in Doha that India might become the ultimate stumbling block to the launch of the new round. Therefore, India already ran the risk that as a pressure tactic, developed countries would try to discredit it as obstructionist. By failing to take a clear public stance in favor of a round that will squarely focus on trade liberalization in all sectors and conveying it forcefully to the press and

returning repeatedly to the theme of restricting the negotiations to the UR built-in agenda and implementation issues, India made itself highly vulnerable to the charge of obstructionism.

Lest this diagnosis should appear an afterthought, let me remind that many, including the author, had advocated the strategy of supporting aggressively a trade liberalization round well before the Doha meeting. I cannot resist reproducing some key passages from my monthly column in the *Economic Times* dated August 25, 2001:

“Two years ago, prior to the WTO ministerial in Seattle, I had argued that developing countries should support a minimalist negotiating agenda that includes the UR built-in agenda plus trade liberalization in industrial goods. The built-in agenda requires negotiations in agriculture and services and reviews of certain aspects of the Dispute Settlement Understanding and Agreement on TRIPs. This agenda still makes sense for India.

“As a part of its economic reforms, India is likely to continue liberalizing its trade in industrial goods, agriculture and services. The benefit from this liberalization can be greatly leveraged by pursuing it in the context of a multilateral negotiation. This way, we will benefit not only from our own liberalization but from the liberalization of our trading partners as well. The dividend on the latter is double nowadays since it helps dilute trade preferences which have proliferated lately and discriminate against our exports in North America, Europe and other parts of the world.”

I went on to conclude thus:

“It is also important to recognize that most developing countries do not want a round that includes labor standards in any form whatsoever. Prospects for a round consistent with this goal have never been better. As a part of the mandate for the next round, developing countries may be able to assign this subject to the International Labor Organization once and for all.

“This leaves principally the subjects of investment, competition policy and environment and trade on which the European Union is insistent. Even here, compromise may be possible. One option is to place these latter subjects on a second track and make participation in negotiations on issues on the second track optional. Alternatively, sufficiently tight wording could be chosen to limit the scope of negotiations in these areas.”

“The key element of our strategy must be to identify attainable objectives that best serve our interests. The negotiating strategy should be then targeted to achieve these objectives.”

4. Questioning the Coverage in the Western Press

During and immediately after the Doha meeting, India was subject to scathing criticism by the western news media. The *Financial Times* (November 15) called the country the “worst villain” and “the only real loser,” the *Economist* (November 17, 2001) chastised it for having “almost scuttled” the launch of the round and the *Wall Street Journal* (November 16, 2001) described Maran as “the man who rattled the WTO in Doha.” How do we explain this hostile treatment?

To be sure, India bears part of the responsibility. By giving the distinct impression publicly that it was against negotiations beyond the UR built-in agenda, even if this may not

have been its actual negotiating position behind the scenes, India made itself vulnerable to these criticisms. But this is only half the story. Let me explain why.

While Maran was surely the most vocal opponent of the Singapore issues, he was scarcely alone. The United States itself did not want the expansionist agenda but acquiesced to EU demand as a price of launching the round. More importantly, Egypt, Pakistan, Indonesia, Malaysia, Thailand, Nigeria, Kenya and a host of other countries from Africa and Asia had expressed unequivocal opposition to the inclusion of these issues in the negotiating agenda. The main difference between these countries and India was that having been promised their respective favorite concessions, they were willing to go along with the compromise worked out by the United States and EU on the Singapore issues, while India chose to stick to its original position.

In view of the fact that five years earlier India had accepted Singapore issues as study topics in the Singapore Declaration on the condition that negotiations on them will be launched by “explicit consensus,” Maran cannot be faulted for demanding the continuation of this provision in the Doha Declaration. After all, EU had also insisted on the language on the phase out of export subsidies until end and, indeed, delayed the Doha Conference by almost a full day. Likewise, a day earlier, ACP countries, which had been demanding an Article I waiver for their preferential Cotonou trade arrangement with EU, had threatened to walk out of the negotiations if the waiver was not granted to them. In this last case, technically the issue was not even formally linked to the Ministerial package. Maran’s misfortune was that the issue that concerned him most lingered till the end. That made him the last signatory to the Doha Declaration, leaving the distinct impression that he, and not Pascal Lamy of EU, was therefore to be blamed for the delay.

There is one further disadvantage India faced in Doha in so far as its public image was concerned. At least technically speaking, the WTO secretariat is supposed to act as a neutral facilitator, a clearinghouse of sorts, for the negotiations. Nevertheless, the success of its Director General is ultimately measured by his ability to advance the negotiations. Therefore, Mike Moore, who was attending his last Ministerial meeting as Director General, had a heavy stake in the launch of the round. This fact made the WTO Secretariat potentially unsympathetic to a member viewed as a threat to the launch of the round.

Additionally, bureaucracies are inherently expansionist. Like the TRIPS Agreement, the Singapore issues offer a large scope for the expansion of the policy space over which WTO can have its sway. This makes the WTO bureaucracy naturally inclined toward the inclusion of the Singapore issues into the negotiating agenda. This natural inclination is complemented by the location of WTO in Geneva. The staff can scarcely escape what they observe in their backyards: EU's fervor for the expansionist agenda.

These factors made India potentially a target of criticism by WTO staff in their informal contacts with the press. Lest this might appear entirely speculative, let me offer a concrete example. Following the attacks on India in the *Financial Times*, Per Gahrton, Member of the European Parliament (Greens, Sweden) wrote in a letter to the newspaper (November 24, 2001):

“Sir, in your editorial on the World Trade Organization meeting in Doha (November 15), you named India as the "villain" of the meeting.

“Having followed the deliberations as a member of the European parliament delegation I would rather consider Mr. Maran, head of the Indian delegation, as a defeated

hero of a common Third World cause. I would propose another candidate for the pejorative label: Pascal Lamy, trade commissioner of the European Union.

“On the morning of the last official day of negotiations Mr. Lamy admitted to MEPs that the EU ‘is the problem’, being at loggerheads with others on several crucial points, including its defense for the protectionist interests of certain member countries, such as agriculture, fisheries and textiles.”

Astonishingly, four days later, Mike Moore came to the defense of Pascal Lamy. In a letter published on November 28, 2001 in the *Financial Times* and reproduced below in its entirety, Moore wrote:

“Sir, It has not been my practice to involve myself in domestic political differences but the sheer magnitude of the injustice in the letter of November 24 from Per Gahrton, an MEP at the Doha ministerial, attacking Pascal Lamy, the European Union trade commissioner, has moved me to comment.

“It was Mr. Lamy who led the battle for market access for least developed countries (Everything But Arms). Commissioner Lamy's role in brokering the waiver for African, Caribbean and Pacific (ACP) countries on preferential access to the EU market was widely acclaimed and the first ministers speaking in favor of the deal were from Africa. It was Mr Lamy who fought for and won advances on trade and the environment, public access to medicines and the trade-related intellectual property rights agreement. He fought but was less successful on labour issues. He has led on matters of internal governance and transparency and the involvement of the World Trade Organization and civil society.

“Europe had other agenda items that it promoted one way or another. Mr. Gahrton must have been at a different ministerial from the rest of us.”

In defending Lamy, Mike Moore seemed to also defend his agenda extending to environment and labor, something that has been inimical to the position of virtually all developing countries. Additionally, by neither coming to Maran's defense following the original attacks on him in the *Financial Times* nor stating a single kind word for him while aggressively defending Lamy, he also conveyed a clear preference for the latter's position over Maran's. This is a far cry from what WTO is supposed to do: be an honest broker and clearinghouse for its member countries.

5. Concluding Remarks: The Way Forward

Continued asymmetries between the influence of the rich and poor countries notwithstanding, WTO is by far our best hope for protecting our trading rights. It is not a "necessary evil" as our leaders sometimes describe it; instead, it is god sent. A key condition for faster economic growth in countries such as India is guaranteed access to open world markets. And the only institution that can deliver this access is WTO. In spite of the pressures we face from the rich countries through WTO as reflected, for example, in the demand for trade-labor link, WTO remains the best guarantor of our trading rights. Anyone who thinks otherwise only need contemplate a world without WTO. In that world, rich countries would not need to *demand* the trade-labor link; they will simply *impose* it. It is the power of the WTO rules that protects smaller nations from unilateral trade sanctions by rich and powerful nations.

In developing our future negotiating positions, we need to think far more systematically than we seem to have done to-date. At least three strategic conclusions can be drawn from the UR and Doha experiences. First, we need to consider direct benefits to us of any demands we put forward in the negotiations. Any time we demand something, we

are using up our negotiating capital and we must be sure that there is a commensurate benefit in store for us. As an example, consider our demand for growth-on-growth of MFA quotas. Did we analyze if this would generate benefits for us? From the information I have been able to collect, during the last two years, most of our MFA quotas have remained underutilized, presumably because of our high costs of production. Therefore, *prima facie* it is questionable whether we would have been able to export more had developed countries conceded the growth-on-growth demand. On the contrary, increased exports by other countries under faster quota expansion would have even lowered the prices, making us relatively less competitive. Did we even consider such calculations?

In the same vein, we have made demands for the extension of protection to geographical indications for products other than wines and spirits and for rules against misappropriation of the traditional knowledge and genetic resources? How do these demands square with our complaints against the very inclusion of intellectual property rights into the WTO? Have we done the cost-benefit analysis of expanding intellectual property protection in these areas?

Second, diplomacy requires that we define our negotiating position positively rather than negatively. Our approach should be to state clearly the agenda on which we are willing to support a round. Only after we have clearly stated our affirmative position should we proceed to the negative, with clear reasons for our objections. Without precluding an inflexible position on certain issues such as trade-labor link, it also does not make sense for us to lock ourselves publicly into a very inflexible overall position prior to the round. Countries such as Malaysia, Thailand, Pakistan, Nigeria and Egypt had taken positions quite

similar to ours in their official statements but avoided giving the impressions of inflexibility in their public statements.

Finally and most importantly, prior to defining the negotiating position, we must think hard about the end game. For example, before we took the hard-line position in Doha, we should have asked ourselves: are we willing to walk out of the negotiations even if we are the only country to do so and if yes at what point? Is trade-labor link the make or break issue? Or is it the environment? Or Singapore issues? Or trade liberalization in industrial goods? We should have defined our negotiating position based on the answers to these questions. By repeatedly staking a position that is far from what we eventually accept as has been the case in the UR Agreement and the Doha Declaration, we lose credibility in the future negotiations and risk being isolated.

This risk has now increased manifold with the entry of China into WTO. As the largest developing country in terms of population, India enjoyed some advantage in the past negotiations. Now it will have to share this advantage with China. For instance, if China decides to take an essentially pro-negotiations stance towards the Singapore issues, it is unlikely that India will be able to stop negotiations on them from proceeding despite the “explicit consensus” provision in the Doha Declaration. Are we willing to walk out of negotiations then even if we are the only country to do so? Our negotiators must think through that question before they arrive in Mexico in 2003 for the Fifth WTO Ministerial.

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