

NEW ISSUES & NEW ROUND IN THE WTO

by Bhagirath Lal Das

PRESSURES are being built up in the World Trade Organization (WTO) by some major developed countries for starting negotiations in some new areas and for launching a new round of negotiations. This is in continuation of their efforts over the last several decades to derive maximum advantage from the GATT/WTO system.

The developing countries should decide on the new round and the new issues based on their assessment of the gain and loss. They should examine whether there is anything of benefit for them in these proposed negotiations and also the possible risks. Further, if it is found to be entirely to the benefit of the developed countries even without (presumably) any loss to the developing countries, the question that naturally arises is whether the developing countries will be getting any commensurate concessions from the developed countries for agreeing to start a new round. After all, no developed country ever agrees to any proposal in the GATT/WTO without ensuring that it is to its benefit or, at least, without getting commensurate concessions from the proponents of the proposal. The developing countries should apply a similar criterion in deciding on their approach to a new round or negotiations on the new issues.

The following discussion indicates that the launch of a new round and launch of negotiations in the new areas would in fact be clearly harmful to the developing countries and be of benefit only to the developed countries.

The major developed countries are using the WTO

aggressively as an effective instrument of globalization. They have thus far succeeded to a great extent in: (i) opening the markets of developing countries for their goods and services, and (ii) protecting the rights of their intellectual property (e.g., patents and copyrights). They have extracted concessions from the developing countries in all these areas without themselves giving any meaningful concessions to the latter. All this will have a serious adverse impact on the production, trade and technological development of the developing countries. Indeed, the impact has already been felt in several developing countries in many areas.

Equipped with the experience in the WTO over the last six years, the developing countries have placed a number of proposals in the trade body for amending and improving the WTO agreements with the objective of expanding their opportunities and limiting the damage to their economies. The developed countries have not paid serious attention to these proposals. Instead, the major developed countries are continuing with their aggressive agenda by trying to bring new issues for negotiations in the WTO with the aim of:

(i) ensuring free entry and operation for their investors in the developing countries, and

(ii) expanding their manufacturers' and traders' entry into developing countries.

The former is being attempted by pushing for negotiations on investment, and the latter by

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proposing negotiations on tariffs and in the new areas of competition policy and government procurement. The proposals on investment and competition policy are being pushed mainly by the European Union, and that on government procurement mainly by the US.

DANGERS IN THE NEW AREAS

WTO negotiations and agreements in the areas of investment, competition policy and government procurement will be very damaging for the developing countries due to the following reasons.

Investment

The European Commission and Japan are strongly pushing for negotiations on investment. It is clear by now that the proposed negotiations are not for enhancing foreign investment in the developing countries, but for protecting the rights of foreign investors. They are aimed at curbing the role of the governments of the developing countries in guiding the entry and operation of foreign investment, a role which they can exercise at present without any formal external constraint. This role is important and necessary for the developing countries in order to ensure that foreign investment is conducive to and supportive of their development process.

A developing country would like to use foreign investment for upgradation of technology, building up infrastructure and enhancing the production capacity for exportable products. Foreign investment will not automatically result in these benefits. However, these benefits may accrue if the host country is able to channel the investments into appropriate sectors and desired geographical regions and guide some post-entry operations of the investments. Totally unrestricted entry and operation of foreign investment will not give the beneficial results mentioned above, and may instead have some adverse effects on the host country. There is therefore grave risk to the developing countries if their role in guiding the entry and operation of foreign investment is curtailed. An agreement on investment in the WTO is likely to result in precisely such risks.

And no particular benefit is likely to accrue to the developing countries by having an agreement on investment in the WTO. Often it is said that an agreement on freer entry and operation of foreign investment will enhance investment inflows into the developing countries. But this does not appear likely. Experience shows that a large number of developing countries which provide for free entry and operation of investment (for example, many

African countries) do not get much foreign investment, whereas some countries with a restricted regime of investment (for example, China) get massive investment. In fact, investors are attracted more by the facilities and prospects in the host country than by an unrestricted investment regime.

An agreement on investment in the WTO is, by itself, not likely to bring higher investment to the developing countries, but it is almost certainly going to curtail their role in using foreign investment in support of their development process.

Competition

An agreement on competition is likely to curb the role of the developing countries in guiding the entry and operation of foreign trading firms. This may: (i) expose their domestic firms to competition with powerful multinational firms, and (ii) put constraints on governments' discretion to give preference to domestic firms. Obviously, this will have adverse effects on the emergence, operation and growth of the domestic firms.

The proposal for negotiations in this area appears to be aimed at having a uniform minimum standard of competition policy in different countries. Competition policy standards in a large number of developing countries may not be similar to those in the major developed countries. An appropriate competition policy for a developing country should be able to help its process of development. It should encourage the operation and growth of firms and at the same time bring benefit to the consumers. A developing country should continue to be able to choose and adopt the competition policy suited to its conditions and development objectives. Drawing up some uniform multilateral standards does not appear necessary. It may in fact curtail the options of the developing countries in evolving their own appropriate competition policies.

Government procurement

The current negotiation in this area are for working out the elements of an agreement for transparency in government procurement. But high-level officials of the EC and the US have repeatedly said very explicitly that they consider this only as an interim stage towards an eventual full-fledged agreement on market access, i.e., for expanding their markets in the area of government purchases. An agreement on expanding market access in government procurement may curtail the current rights of the governments of the developing

countries to: (i) choose the sources of supply for purchases for government use, and (ii) give preference in such purchases to domestic producers and suppliers. In many developing countries, the volume of purchases for government use is very high; hence the major developed countries are keen on opening these markets for their producers and traders. Articles III and XVII of GATT 1994 give countries the right to choose the sources of supply and not to give national treatment (treatment no less favourable than that accorded domestic producers and products) in purchases for government use. The proposed agreement on market access in this area is likely to curtail these current rights.

The developing countries are not likely to get any benefit of enhanced export opportunities through such an agreement because of their low supply capacity. Thus an agreement in this area is likely to curtail the current rights and options of the developing countries without giving them any benefits.

NEED FOR CAUTION

Negotiations and agreements in the above areas are clearly dangerous for the developing countries. Past experience in the GATT/WTO has shown that once negotiations get started on a subject at the initiative of the major developed countries, these end invariably in agreements according to their aims and objectives. Because of such apprehension, a large number of the developing countries are opposing the initiation of negotiations in these areas in the WTO.

When faced with stiff opposition, the major developed countries often use the technique of moving step by step to achieve their objectives.

1. First, they persuade the developing countries to agree to have “studies” and/or “discussions” in working groups.
2. Then they push for the exercise to be upgraded to “negotiations” towards new agreements.
3. During the negotiations, the developed countries will then push strongly for the inclusion of provisions suitable to them but which may be detrimental to the developing countries.

Despite a strong fight put up by some developing countries, the developed countries have succeeded in the past in having agreements to achieve their objectives. In the above three areas, the developed countries have already succeeded in initiating “studies” thereon. It is in the interest

of the developing countries not to let “negotiations” or even “discussions” on the new subjects start in the WTO.

ADDRESSING THE CALL FOR A NEW ROUND

One route of entry for these subjects in the WTO framework is through a possible new round of negotiations. Some major developed countries have issued a call for launching a new round in the WTO with the objective of including some of these subjects in its agenda. (The European Commission has been actively canvassing for a “comprehensive round” of negotiations in the WTO with the main focus on investment and competition. The US is giving the impression at present of being lukewarm in these areas but it is keen on the area of government procurement.)

If a new “comprehensive round” of negotiations is launched, it is most likely to include all or at least some of the subjects discussed above, or it is likely to leave the door open to include these items later in the round. Both these possibilities will be dangerous for the developing countries, as discussed above.

Fallacious inducement

Some points of inducement are being put forth to persuade the developing countries to start a new round. Firstly, it is said that further liberalization in some important sectors like agriculture and textiles can be facilitated by the launch of a new round. Secondly, it is pointed out that there will be a faster move towards regional agreements if a new round is not started in the WTO. Thirdly, it is also said that a new round in the WTO may prevent the US from turning more inward-looking (i.e., becoming more protectionist) in the wake of the slowdown of its economy. More generally, it is argued that the launch of a new round will reduce the pressure and inclination for protectionism in the world. Fourthly, it is argued that the developing countries can improve their market access in other countries through the launch of new round, particularly by the reduction of industrial tariffs.

All of these are totally unconvincing arguments. The developed countries have already undertaken an unambiguous commitment in the WTO to end all special restrictions on textiles imports from the developing countries with effect from 1 January 2005. No more is likely to be done by them in this sector. The developing countries do not have to make further concessions, for example by agreeing

to launch a new round in the WTO, to ensure implementation of the developed countries' obligations in this sector.

In agriculture, the experience of the previous negotiating round, the Uruguay Round, has shown that the major developed countries will be driven mainly by their own respective internal pressures and mutual pressures between them. Concessions from the developing countries are not likely to influence events. This is precisely what happened in the Uruguay Round and there is no reason to think that the picture will be any different now.

Regional trading arrangements have their own dynamics and momentum. They have emerged in the past not because of any dissatisfaction with the multilateral trading system, but mainly because of the perception of mutual benefits among the participating countries. In fact, some major regional arrangements emerged or got strengthened while major negotiating rounds were in progress in GATT. For example, the European Economic Community got strengthened while the Tokyo Round (1973-79) was in progress and the North American Free Trade Agreement was finalized during the period of the Uruguay Round (1986-94). Hence it is very unlikely that the launch of a new round will dampen enthusiasm for future regional arrangements.

Further, the policies of the US in the area of international trade are guided by its own perception of its interests. Past experience has shown that the multilateral trading system does not influence the US trade policy, rather the US policies shape the multilateral trading system. Hence it is likely that the US will try to tackle the problems of a possible recession on its own, rather than waiting to see whether or not a new round is launched in the WTO. Besides, we should also note that a multilateral round of trade negotiations does not dampen the pressures and enthusiasm for protectionism in the developed countries. We should remember that the protectionism in the area of textiles, jute and leather got started and intensified during the course of the Tokyo Round. Also, neo-protectionism through frequent anti-dumping measures and on the pretext of protection of environment became a much used practice while the Uruguay Round was on.

Coming to the point of the developing countries' prospect for improving their market access, we should realise that it is not a win-win situation. Negotiations for the expansion of market access outside will necessarily involve the developing countries in talking about reducing their own

industrial tariffs. This is likely to have an adverse effect on their industrial development, as tariff is the only practical way of protecting their industries. And, if indeed it is considered that the industrial tariff negotiation is in the interest of the developing countries, it can be done through a decision of the General Council, without going into the massive exercise of a comprehensive new round.

Major developed countries' aggressive championing of rounds in the GATT/WTO is a familiar experience for the developing countries by now. A very attractive picture of benefits was painted before the start of the Uruguay Round and also during the round. But almost all of the professed benefits have proved to be illusory. The same tactics of persuasive charm are being tried again. It is necessary for the developing countries to remain careful and vigilant. They have to resist the pressures for launching a new round and for starting negotiations in the new areas in the WTO.

NEED FOR STRATEGY & COORDINATION

The developing countries need to have an effective strategy to face the challenge posed by the push for starting negotiations in the new areas and for launching a new round. A developing country acting alone does not have the capacity and strength at present to handle this effectively. But the combined technical resources and political strength of some of them can certainly make it possible.

If at least some of them are determined not to let the WTO stray into the new areas and into a new round, they can effectively achieve their objective if they prepare together and act together. They have to remain firm in their resolve right to the very end of the WTO Ministerial Conference in Doha in November. For this purpose, what is needed, apart from their technical preparation, is coordination at the level of ministers and even heads of government.

The preparatory process for the Ministerial has already started. Hence this is the time for the developing countries to come together with a common programme and combined resources.

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