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Reviving the Multilateral Trading System: Post-Bali Issues

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WTO in the Post-Bali Phase: Whither LDC Issues?

Recapturing the Momentum in the Post-Bali Process

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Recapturing the Momentum in the Post Bali Process

--Anwarul Hoda

At Bali, the ministers gave a mandate to the Trade Negotiations Committee to develop a work programme by the end of 2014 on the remaining Doha issues. Our deliberations today relate to this mandate. The momentum that the topic of today refers to is the momentum generated by the agreement on trade facilitation and the decisions taken inter alia on agriculture, LDCs and some other areas.

In considering a road map for the WTO a concern that is universally shared is to take into account the changes in world economy that have taken place in the last two or three decades. We have to reckon with the surge in preferential trade agreements (PTAs), the growth of international production networks, the increase in WTO membership and the emergence of a multipolar world in which China has achieved dominance in world trade in goods and other large developing nations are increasing their share.

However, I believe that it is important for the survival of the rules based multilateral trading system that in the post Bali process an attempt is made first to salvage some meaningful results from the negotiations that had taken place until 2008 before they started unravelling. These negotiations had taken place under the existing rules of the WTO that was established not long ago in 1995. Looking back at the Chairman's texts of modalities in both NAMA and agriculture one is struck by the remarkable progress that had already been made towards an agreement for further liberalisation. It seems unbelievable today that developing countries as a whole (leaving aside the LDCs) had agreed to the adoption of the Swiss formula as the principal modality for tariff reduction in NAMA. The Chairman's text on which agreement was near also proposed whittling down the main demand of developing countries for exempting some tariff lines from reduction, which was an important issue dividing developed and developing countries. Among the emerging nations, China had already undertaken commitments during the accession process, which ended in 2001 to bring down its tariff levels considerably. India had already adjusted downwards its peak level of applied tariffs of 35 per cent existing at the time the Doha Round was launched to 10 per cent and the Chairman's proposals would have converted much of the reduction into legal commitments. The main hurdle that remained was the inability of Brazil,

China and India to agree on the demand of the major industrialised countries for mandatory participation in sector specific agreements.

In agriculture too, there was unprecedented progress. Judged from the standards of the past rounds of negotiations in the GATT, 1947, it would seem incredible that the industrialised countries appeared to have agreed on prohibiting export subsidies and cutting domestic support by 70 to 80 per cent. On agricultural tariffs, the developed countries were in agreement on reductions ranging between 50 to 70 per cent and the developing countries by two-thirds of those percentages. The last Chairman's text showed no doubt that WTO members were divided on several issues. These included the Blue Box (what should be the product-specific limits); cotton (extent of reduction of AMS); sensitive products (whether Japan and Canada should have flexibility over the four per cent limit proposed for sensitive products); tariff caps (whether there should be flexibility to allow maintaining tariff above 100 per cent, outside of sensitive products); tariff quota creation (whether members would be entitled to declare any tariff line as sensitive or would be restricted to only pre-Doha tariff quotas); tariff simplification (whether all bound tariffs or only up to 90 per cent shall be expressed as simple ad valorem tariffs); special products (the percentage of tariff lines that developing countries would be entitled to designate as special products and the tariff treatment of such products); special safeguards mechanism (the conditions for exceeding the pre-Doha bound rates); and long standing preferences and preference erosion (the extent to which tariff cuts should be delayed on such products). Even though differences on these issues led to the deadlock in 2008, a fresh attempt to overcome them could succeed in the context of high commodity prices. Many of these differences are among the industrialised countries and it should be possible to find a compromise among them. Among North-South issues, the toughest are those relating to reduction of domestic support on cotton and special agricultural safeguards.

In NAMA if the major developing countries cannot agree on sectoral elimination one way out could be to rebalance the package by allowing a higher coefficient to the developed countries. In the services negotiations there has been less progress on specific commitments and the outlook for a more ambitious outcome is not bright, particularly in the light of political difficulties in most WTO Members to address liberalisation in mode 4. Although it is not a happy development for the multilateral system, for the present there may not seem to be scope for liberalisation in

services except in the plurilateral framework of the Trade in Services Agreement (TISA) negotiations. However, as is well known, many Members, particularly the developing ones have liberalised their regimes far beyond what they have bound in the WTO or have offered in the Doha Round. A solution could be found by encouraging them to bind the regimes as near to the applied level as possible. This would not imply any great sacrifice by them because in any case it is unlikely that they would regress from the liberalised levels which they have achieved on an autonomous and unilateral basis.

If there is a possibility of capturing progress in the negotiations in a permanent outcome of the Doha Round, it is in the areas that I have just outlined. There is much less possibility in the area of rules both in goods and services. Looking at the successive reports of Chairpersons it would seem that there is virtually no convergence in GATS rules (safeguards, government procurement and subsidies). In domestic regulations too, despite some progress, differences exist on some basic issues. The rules negotiations on the goods side, on anti-dumping and subsidies and countervailing duties have shown no promise at any stage. The same observation applies to two other areas of negotiations in the Doha Round mandate viz., TRIPS and trade and environment. With regard to trade and environment there are reports of an emerging critical mass agreement among 14 Members accounting for 86 per cent of the global trade for reducing import duty on MFN basis to 5 per cent on a list of such goods. This is an encouraging development, which would enlarge the package of meaningful results from the Doha Round.

What I am trying to say is that we should look first at concluding the Doha Round based on the work done principally in NAMA, agriculture and services, besides trade facilitation and LDCs. We should leave out the rule making and other areas, which have not revealed any scope for agreement so far. If we are able to conclude on this basis the stage can be set for the launch of another round of negotiations, which needs to be structured after taking into account the developments that have taken place in recent decades. I have referred to them at the outset- the surge in PTAs, the growth of international production networks, increase in WTO membership and rise of China and other developing countries as key players.

The agenda of the new round of negotiations would have to take into account all these developments. We have to remind ourselves that it is difficult to stem the tide of PTAs which in most cases have grown from geo-political roots. What we can do is to minimise the adverse

effects from them for third parties (the trade diversion effect) through another ambitious dose of multilateral liberalisation in the new round. One of the ways of dealing with the WTO- plus and WTO- beyond measures adopted in PTAs would be to pick out the measures that are widely accepted in PTAs and multilateralise them by adopting agreements within the WTO framework. In the past also, provisions in PTAs have provided the inspiration for multilateral agreements. Many of the EU rules on services served as models for the GATS in the WTO. Many of the ideas incorporated in the Trade Facilitation Agreement mirror the provisions in existing PTAs. The agenda of the new round of multilateral negotiations must therefore include elements with wide acceptability in the PTAs. Investment is one subject that comes to mind in this context.

With regard to plurilaterals, the best way forward is that in drawing up the rules of the new round we must provide for the possibility of accords among subsets of WTO Members in which agreement is reached among a critical mass of such Members. The benefits of such agreements must be applied to all WTO Members on a non-discriminatory basis in order to be WTO consistent. The free rider benefits to non-parties can be limited by setting a high benchmark for the critical mass. Some authors favour plurilateral agreements in which the benefits are limited to the parties as in the Government Procurement Agreement and for this purpose they propose an amendment in the Marrakesh Agreement Establishing the WTO in order to make it possible to add new plurilateral agreements in Annex 4, without the requirement of consensus as the Marrakesh Agreement provides . In the light of past debates on the issue, my assessment is that obtaining agreement on such a fundamental change in the WTO framework would be very daunting and almost impossible. We should stick to the critical mass modality in all matters where agreement is feasible among a subset of WTO Members and continue with the practice of extending the benefit on MFN basis.

As regards the global value chain informed approach to the negotiations on market access and rules, as proposed by Bernard Hoekman, I think the idea is a good one. The governments and their representatives can and should benefit from the analyses presented to them by the WTO secretariat and others on the implications of measures under negotiation for the supply chains or international production networks. The idea should be to encourage individual delegations and the negotiating body as a whole to consider these implications in taking positions during the

negotiations. However, these submissions can influence the course of negotiations only to the extent the governments think fit.

Lastly, on the question of special and differential treatment (SDT) I think that except in the case of LDCs there is a case for adopting a much lower profile on this aspect. It would be better to design common rules taking the development dimension into account rather than separate rules for developed and developed countries as such an approach can become the source at times of SDT applied in the reverse. In the new Round of negotiations that I propose, developing countries should desist from pursuing the application of SDT on every aspect and limit it only to those areas in which it can be critical.

To sum up, I would propose that for the credibility of the multilateral trading system it is necessary first to envisage concluding the Doha Round as quickly as possible. It would be realistic for us only to attempt to put in the package the specific commitments in the areas of NAMA, agriculture and services on which Members appeared to be very near agreement when the negotiations broke down in 2008. The Trade Facilitation Agreement, which is already agreed could also be added formally to the Doha Round package. We need to leave out of the package the rule making and other areas included in the agenda of the Round on which the deliberations so far have not revealed any scope for agreement. Simultaneously with the conclusion of the Doha Round, we must launch another round of multilateral trade negotiations with an agenda and approach that takes into account the developments in recent decades, including the emergence of PTAs and mega-regional agreements, the increasing dominance of global value chains, rise of several developing countries and the expansion of WTO membership.