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The WTO at Crossroads

Proponents of neoliberal globalisation view the reduction of “barriers to free trade” in order to facilitate the free flow of goods and services globally, as a basic and desired objective. They further argue that the benefits of such globalisation would manifest in greater economic productivity by efficient resource allocation. The World Trade Organisation came into being, riding on the promise of “Free Trade” that would set in motion processes designed to promote economic growth and thereby alleviate poverty across the world. The promise was flawed on two crucial counts. The WTO was not constructed to promote “Free” Trade, neither was it designed to only promote “Trade”.

FALLACY LINKING TRADE AND ECONOMIC “GROWTH”

The link between trade and economic productivity draws justification from the theory of “Comparative Advantage”, initially proposed by the nineteenth century economist, David Ricardo. Simply put, this theory posits that nations can optimise productivity by specialising in areas where they have a comparative advantage. Further that such specialisation should translate into countries producing or manufacturing and then trading select commodities where they have an advantage. This, it was proposed, would lead to rise in global productivity and translate into greater well being for all. Under such a framework, thus, countries are encouraged not to build capabilities in areas where they do not have a “comparative advantage”.

It is interesting that this continues to be the theoretical underpinning of the global trade regime. The reason is not difficult to arrive at. A linkage between global trade and economic growth on these terms assumes that those who have a “comparative advantage” will always maintain this advantage. In other words, it also assumes that nations that are disadvantaged due to historical reasons will continue to remain disadvantaged. This serves to maintain the presence balance between developed and developing nations.

Evidence suggests that no nation has successfully industrialised under a regime of unrestricted trade. The US in the nineteenth century, Japan in the twentieth century, Korea and Taiwan in the late twentieth century – are all clear examples of economic and technological development taking place in a climate where domestic industries were sheltered from foreign competition. Further, in the post-war world, economic growth has tended to contract as free trade has expanded. In the 25 years of liberalised global commerce, compared with the period prior to 1973 when it was more regulated, productivity and growth rates of both industrialised and developing economies have actually come down. Clearly, there is no direct relation that can be drawn between economic growth and greater trade liberalisation. Moreover simple economic growth does not translate necessarily into development. This is especially true about growth brought about by trade liberalisation, which tends to favour a small elite and actually increases the difference between them and the disadvantaged.

TRANSITION FROM GATT TO WTO

The above account would suggest that what is described as “Free Trade” is not really “Free” but an attempt to perpetuate an unequal division of labour in the global market. It is also important to underline that the WTO is not just about Trade. The story of the transition from a body that regulates global trade to a body that encompasses a number of other spheres, is also the story of the transition of the GATT (WTO’s predecessor – The General Agreement on Trade and Tariff) into the WTO. The WTO regime that came into existence in 1994 is qualitatively different from GATT. GATT was solely concerned with trade issues, i.e. cross border flow of goods and not issues internal to the domestic economy. It did not deal with flows of capital, labour or services. For the first time, in the Uruguay round, Intellectual Property Rights, Investments and Services were sought to be introduced within the ambit of trade discussions. The major reason for developed countries to include it under the GATT rubric was to allow them to use the Dispute Settlement Process of GATT and the threat of trade sanctions in changing domestic laws and practices of developing countries. The WTO, thus, was conceived as a mechanism that went much beyond trade. It was conceived as a global regime that would promote the flow of capital across borders and secure the monopoly over knowledge in a few hands through the medium of Intellectual Property Rights. Since its inception, the WTO has been an instrument for the propagation of neoliberal globalisation. The attempt has been to use the carrot in the form of enhanced trade opportunities and the stick in the form of the threat of retaliatory trade sanctions to make developing countries change domestic policies that threatened the economic hegemony of developed countries

While a number of countries such as India and Brazil, initially opposed the inclusion of non-trade issues in GATT, they finally succumbed in 1989 and accepted the inclusion of Intellectual Property

Rights, Investments and Services as part of the Uruguay Round negotiations in GATT. This allowed the Agreement on “Trade Related Intellectual Property Rights” (TRIPS) to become a part of the WTO Agreement. Services were also included in GATT and the ongoing discussions under General Agreement on Trade in Services (GATS) is a continuation of the original mandate agreed upon in the Uruguay Round. Investments were originally negotiated under the Trade Related Investment Measures (TRIMS) but could not be concluded due to differences within the developed countries. Developed countries were blocked for a period from taking discussions on Investments further as part of the WTO negotiations, but have now successfully incorporated them in the GATS negotiations in the area of “Financial Services”.

The WTO is different from its predecessor, the GATT in another significant way. Unlike under the GATT regime, WTO uses the principle of “Single Undertaking” which can be translated to mean: “Nothing is Agreed Unless Everything is Agreed”. So members do not have the flexibility to apply only part of a decision.

FREE TRADE OR UNFAIR TRADE?

What has been the experience with the system that the WTO regime has put in place? Many of the fallacies pointed out earlier about premising economic growth on “free” trade are becoming clear. If we look at the nature of trade in primary products (which are of major interest for most LDCs and many developing countries) we see that while world trade has been expanding fast for rich countries, the prices of primary products have continuously fallen in the international market, with the sole exception of oil prices. Prices of primary products have fallen because indebted developing countries are forced to export more and more to pay for their debt servicing and compete against each other. On the other hand, almost 60% of the world’s trade is between MNCs, the bulk of which is made up by trade within the parent and it’s subsidiary. This effectively means that the parent MNC can use its dominant position to do transfer pricing and siphon off resources from its subsidiary. In India, we have seen that parent MNCs have transferred resources out of joint ventures and partially owned subsidiaries to a wholly owned new subsidiary at the cost of other stockholders. Thus, “free” trade under the WTO is not only heavily weighed against the primary producers but is also controlled by a handful of large corporations.

Clearly the predicted gains to developing countries from the WTO have failed to materialise. This can be seen more clearly if we examine what has happened in specific sectors.

In agriculture, while the developing countries have seen the sharp fall in the prices of their agricultural goods, the domestic market of the rich countries still show a high degree of protection. The subsidy given by the rich countries to their farmers and agribusiness, which were to be brought down as per the agreement has instead grown from about $276 billion then (1994) to more than $350 billion now. Tariff peaks continue to block exports from developing countries; for instance, the US, EU, Japan and Canada maintain tariff peaks of 350 to 900 per cent on food products such as sugar, rice, dairy products, meat, fruits, vegetables and fish. This is apart from a host of other protectionist measures such as special safeguards, phyto-sanitary standards, etc. The only concession that developing countries were able to secure in the Hong Kong Ministerial in 2005 was a commitment from the EU to phase out export subsidies, but this still left a bulk of subsidies provided to agriculture by the US and EU intact.

By putting corporate profits above public health concerns, the Trade Related Intellectual Property Rights (TRIPs) has been instrumental in precipitating a public health disaster in the form of the HIV-AIDS pandemic that has pushed back development parameters in many parts of Africa by decades.

The General Agreement on Trade in Services (GATS), with its central principle of "national treatment" — providing foreign entities the same rights as domestic providers — is being seen as a tool that facilitates the control of the service sector by MNCs. GATS is also being seen as a way to secure free movement of capital through liberalisation of financial services. Public utility sectors such as water, electricity, telecommunications, health, educational and other essential services that have been traditionally under public ownership, are sought to be opened up to MNCs under the proposed GATS regime.

In the negotiations on Non Agricultural Market Access (NAMA), developed countries have managed to push through a consensus on a formula on tariff cuts that is designed to cut peak tariffs more drastically than lower tariffs. This compromises the flexibility for developing countries to safeguard sectors of their economy by maintaining high tariff rates.

THE WTO MOVES FROM ONE CRISIS TO ANOTHER: SEATTLE AND DOHA

This is the background in which the WTO negotiations have to be seen. Every round of negotiations since then have been bitterly contested. The trajectory set in motion by the WTO agreement has placed developed countries in a situation where they have been forced to contest every further bit of agreement in the basic framework. The contested nature of the negotiations would be clear from the fate of every Ministerial meeting since the Ministerial in Seattle in 1999. By that time it had become clear to developing countries that the WTO Agreement was heavily loaded against them. As the developed countries led by the US and the EU tried to further tighten the screws by ratcheting up demands on the developing countries on one hand and by refusing to open up their own economies to developing country products on the other, developing countries have started to strike back. This has been compounded by contradictions within the EU and the US on several crucial issues.

The first signs of disquiet gave way to a tide of discontent at the Third WTO Ministerial meeting in Seattle in 1999. The meeting ended in a fiasco, with no major decisions being taken. The blame, then, was put on widespread street protests that were organised at Seattle by different interest groups. The truth of the matter however is that the Seattle meeting ended in such a manner partly because the two major imperialist blocs — the European Union and the United States — were unable to reach an agreement on certain issues, especially on the contentious issue of large export subsidies being provided to agriculture by countries in the European Union. The other major reason was the suspicion among developing countries that all major decisions were being taken behind closed doors (the infamous “green room” process). Since then, every WTO Ministerial – in Doha in 2001, in Cancun in 2003 and in Hong Kong in 2005 – has ended in acrimony.

After the collapse of the meeting in Seattle, the developed countries approached the Doha Ministerial meeting with a degree of trepidation. Not wanting to repeat the fiasco of Seattle, major preparations went into the Doha meeting. The battle lines were clearly drawn, with the developed countries wishing to push the WTO into a new round, a round that would bring the Uruguay round of GATT (that led to the signing of the WTO agreement in 1995) to its logical conclusion. The intent was to initiate a round of negotiations on new issues (also called “Singapore issues” because they were first mooted at the Ministerial meeting in Singapore in 1997) related to investment, competition policy, government procurement and trade facilitation. These areas constituted the “unfinished agenda” of the Uruguay Round. Once negotiated they were to ensure the near complete dominance of the WTO on sovereign governments in decision making on matters related to trade and capital flow. Developing countries, on the other hand, insisted that the Doha Ministerial meeting should confine itself to discussing issues related to implementation of the WTO agreement. Their contention was that these issues need to be discussed as experience in implementation of the WTO agreement since 1995 point to a large number of asymmetries that favour developed nations vis a vis developing nations.

The Doha Ministerial was virtually deadlocked till the last moment and was saved by a compromise formula that saw the developed countries withdrawing their demand to substantially negotiate further on investments and competition policy. However the compromise draft left nobody happy, as it held promise for these issues to be negotiated in the future. Further the final declaration agreed to pursue a “development agenda” that would address the needs of developing countries. The Doha meeting also saw a small advance with the adoption of the Doha Declaration on Public Health and TRIPS that clarified that countries are allowed by the TRIPS agreement to put in place national legislations that safeguard Public Health.

TALKS COLLAPSE IN CANCUN

The Cancun Ministerial in 2003 was preceded by preparations by developed countries, designed to push forward negotiations again on the “new” issues of investment, competition policy, government procurement and trade facilitation – i.e. the same issues on which the Doha Ministerial had been virtually deadlocked. Developing countries, on the other hand, were interested in pushing forward the “development agenda” of the WTO, which was an outcome of the Doha Ministerial. Unfortunately, very little progress had taken place between Doha and Cancun in issues related to agriculture, TRIPS and health and Special and Differential Treatment (SDT) – some of the major development concerns of developing countries.

In Cancun the negotiations broke down when the US and the EU counter posed the issue of reduction in their agricultural subsidies with the issue of starting negotiations on “new” issues. Finally, a walkout staged by the African delegates on the issue of agricultural subsidies maintained by the EU and the US signalled the collapse of the meeting, which ended without adoption of any declaration. While reports about the Cancun collapse tended to focus on the role played by the Group of 21 countries (21 developing countries including India) in resisting pressures from developed countries, the unity of the African countries played a role that was as important, if not more in derailing the Cancun meeting.

In the run up to Cancun, the US and EU held their own negotiations to try and unify their positions. The entire thrust of their joint proposal was to allow for shifting of their respective subsidies from one box to another. On the other hand they proposed steep cuts in the tariff protection of the developing countries while making very few concessions on their side. African agricultural markets are already much more liberalised than those of developed countries, and generally more than even in other developing countries. This is because, for more than two decades (i.e. from long before the signing of the WTO agreement), African governments have been forced through structural adjustment policies and bilateral aid and trade conditions to eliminate producer subsidies and reduce tariffs at deeper and faster rates than required by the WTO rules. By 2005, African agricultural tariffs averaged 20 per cent, compared to 36 per cent in Northern markets.

The case of cotton, sugar and cattle bring out most sharply the effect of the WTO on African agriculture. Under IMF and World Bank pressures, West African farmers had to shift from food cultivation to a commercial crop, cotton, so that this could be exported to pay for their loans.

More than 10 million people in West and Central African countries earn their livelihoods from cotton production, which is the main source of foreign exchange and government revenue for several poor countries in West Africa. The US is the world's largest exporter of cotton; it is also the world's largest subsidizer of cotton, spending nearly $4 billion a year on subsidies for 25,000 producers. This is roughly three times the entire USAID budget for Africa's 500 million people. American subsidies have driven down world cotton prices to levels not seen since the Great Depression, generating losses to African producers of $301 million in 2001/2002.

Similarly in sugar, the amount of subsidy that EU gives its farmers to grow beet is higher than the price of the entire surplus sugar of the developing countries. The rich countries pay $2 per head of cattle to its cattle growers, more than the per capita income of the farmers in most of the developing countries keeping life stock.

Given this background, it was not surprising that the African countries, faced as they were with the brunt of the WTO's iniquitous trade regime in agriculture, finally chose to say, "enough is enough". The proverbial last straw on the camel's back was the reported advice by the developed countries, Marie Antoinette like, that if Africans are facing problems in selling cotton they should shift to other crops!

On the day the talks collapsed in Cancun, the US made its intentions clear. The US Trade representative Robert Zoellick said at the post conference press conference: "The U.S. trade strategy, however, includes advances on multiple fronts. We have free trade agreements with six countries right now. And we're negotiating free trade agreements with 14 more. All our free trade agreement partners, some quietly, some more actively, tried to help over the course of the past couple of days. The results are very revealing to me, that over the past few days, a number of other developing countries, that are committed to opening markets and economic reforms, expressed their interest in negotiating free trade agreements with the United States". Since then the US has entered into a number of Bilateral Free Trade Agreements, all of them seeking to impose conditions that are far more onerous than what is demanded by the WTO.

HONG KONG MINISTERIAL AND AFTER

After the collapse of the Cancun Ministerial, global capital under the leadership of the US and EU made elaborate plans to resurrect the talks. In this they appeared to make substantial headway when they got developing countries to agree to a framework for negotiations in July, 2004 (called the July Framework) at a meeting in Geneva. This framework undid most of what had been achieved, when the talks had been stalled in Cancun. It chalked out a roadmap for the lowering of tariffs for Non-Agricultural Market Access (NAMA) without any substantial concessions from the EU and US as regards reduction of its agricultural subsidies. It also gave an impetus to the GATS negotiations, thus preparing the ground for the opening up of the service sectors in developing countries.

Fortunately, the Hong Kong Ministerial in December, 2005, did not entirely rubber stamp the July Framework. While the talks did not collapse entirely, the final declaration left many areas open for further negotiations. While no major progress was made in the case of agricultural subsidies of the US and EU a small step forward was the commitment made by the EU to remove export subsidies over a specified period. The issue of Non-Agricultural Market Access (NAMA) was kept open for further negotiations, though the principle of a non-linear formula (higher tariff cuts for peak tariffs) was endorsed. In the area of Services (GATS), the developed countries were able to extract some concessions, with the final draft emphasising the that plurilateral negotiations would continue. While not as bad as the July Framework, the Hong Kong Ministerial declaration was a small step forward for developed countries, achieved to a large extent by backroom maneuvers at two levels. First the unity of developing countries and LDCs (Least Developed Countries) was fractured through the ploy of offering the latter concessions in the form of “Aid for Trade”. Second developing country unity was weakened by the co-option of India and Brazil into a core group that hammered out the final agreement. In WTO parlance the US, EU, India and Brazil were named the “new quad”.

However, belying predictions regarding a rejuvenation of the WTO negotiations after the Hong Kong Ministerial, it stuttered towards another collapse as a mini-ministerial meeting in Geneva, In July 2006, ended without any progress. That the talks seem to have reached an impasse was borne out by WTO chief Pascal Lamy’s comments that: “There has been no progress and therefore we are in a crisis.” The latest breakdown came as a result of the extreme intransigence of developed countries, specifically their demand on developing countries to reduce industrial tariffs and open up the service sector while refusing to respond likewise by cutting subsidies that they provide to their agriculture.

TAKING STOCK: WHERE DOES THE WTO GO FROM HERE?

The WTO has, since its inception, functioned through murky backroom deals and arm-twisting by developed countries. This has often made a mockery of the supposed democratic decision making process in the WTO, where technically each country has one vote. What we are now starting to see is a closing of ranks within developing countries, apparent since the last rounds of negotiations in formation of coalitions of developing countries in the form of G20 (group of 20 developing countries), G33, G90 etc. While such coalitions have tended to be fragile and open to subversion by the US and EU, they seem to have started solidifying into groups that speak with coherence in the interest of developing countries.

The issue for developing countries like India has always been, at what terms should they agree to be part of the global trading system. It is natural that there are differing perceptions regarding how global trade should be regulated, depending on which side of the North South divide one comes from. Developed nations see the expansion of global trade as a way to prise open markets in developing countries on one hand, while on the other restricting the ability of developing nations to develop their independent capabilities in manufacturing and services. Developing countries on the other hand would like to see global trade as addressing their needs of accessing the markets of rich countries, while at the same time developing their independent capabilities. There is an obvious dissonance between these two objectives. Developing countries erred grievously during the Uruguay Round of negotiations, by agreeing to terms that placed onerous conditions on them through the WTO agreement. Having been sucked into this system, developing countries are now having to look for ways to negotiate terms that provide them with some advantages. As the earlier account would show, this has not been an easy process, neither has it been accomplished with any great success. On the face of it, developing countries are in an obvious majority in the WTO, and should be able to negotiate better deals for themselves. In practice, such an unity of developing countries have been almost impossible to forge. Part of this has to do with bilateral pressures exercised by the US and EU to break the unity of developing nations. The other part also has to do with the policies promoted by ruling classes in developing countries themselves, which rely on virtues of the market.

The story around agricultural subsidies points to the negligent ways in which developing country governments (including India) have carried out negotiations in the WTO. Traditionally developing and developed countries have protected domestic agriculture in different ways. The former, lacking resources to directly subsidise its agriculture, have tended to protect its agriculture through Quantitative Restrictions – i.e. by setting quotas above which agricultural imports in specific areas were not allowed. The latter, as elaborated earlier, provide direct subsidy to its farmers. Since 1995 developing countries have signed away their bargaining power by removing QRs on agricultural imports, without receiving anything in return from developed countries.

If we understand this background, it is clear that if talks in the WTO are collapsing, it is because the US and EU are finding it more and more difficult to push through their interests in the negotiations. Clearly 2006 is very different from 1995. After being pushed against the wall, developing countries are being forced to negotiate better deals for themselves to salvage some degree of legitimacy as they go back to their people. The ruling classes of most developing countries had negotiated away large parts of their economy when they signed the WTO agreement. Now they are being forced to negotiate back some of the lost ground.

Given such a situation, one need not shed tears if the WTO negotiations falter and come to a standstill. India and other developing countries have a stake, not in perpetuating the present trading system, but in negotiating a system that serves their interests. This is not an easy process, but the growing unity of developing nations is a step in the right direction.

INDIA'S VACILLATING ROLE IN THE WTO

The Indian negotiating team in Geneva has sent the correct signal by being part of the developing country bloc that refused to be brow-beaten into agreeing to an unfair deal. This position of the Indian Government needs to be followed up with other measures and have to be consistent with policies being pursued by the Government. Among other measures, the Government needs to impose Quantitative Restrictions (QRs) again on imports from developed countries, because clearly the US and the EU have refused to honour their side of the bargain. India should also refuse categorically to negotiate on NAMA till there is a firm commitment from the US and EU to reduce farm subsidies. Further, the Government's belief that GATS represents an opportunity for the country is misplaced. As importantly, India's positions at the WTO need to be consistent with its domestic policies. Unfortunately this is far from the case, as India proceeds to liberalise imports of agricultural commodities on its own, without being obliged by the WTO to do so. Similarly in the services sector the Indian Government has proceeded with its autonomous liberalisation programme by opening up large swathes of its services, without being required by the WTO to do so.

With domestic economic policies in India being informed by the neoliberal framework, India's role in the WTO negotiations will continue to be viewed with suspicion. It also prevents India from providing firm leadership to other developing countries in the WTO. The vacillating character of the present Indian State is manifest in the dubious role that it plays within the WTO – at times standing firm in the face of imperialist pressure, and at other times succumbing to such pressure. This has been characteristic of India's role in successive WTO Ministerial meetings. In Seattle India played virtually no role in the standoff and actually hinted that in certain areas India may choose to align with the US. At Doha India was the last significant holdout among developing countries and could have prevented a declaration that included the "new" issues, but succumbed right at the end. In Cancun, while India claimed to have played a role in forging developing country unity, it at the same time also tried to salvage a declaration. The collapse of the meeting took place finally because the African delegates decided to walk out. Then in July 2004, India, along with Brazil and Australia joined the EU and US to constitute what was termed as "the Five interested Parties (FIPs)". While supposedly representing the cause of developing countries, both India and Brazil were party to the infamous July Framework that was widely seen as a sellout of developing country interests, and served to breathe life into the WTO after its collapse at Cancun. Again in Hong Kong, India and Brazil were part of the "new quad" along with EU and US and helped salvage a face saving declaration, in spite of the latter two's refusal to honour earlier commitments regarding reduction of agricultural subsidies.

Clearly India has been seen to be too eager to bail out the developed countries in recent negotiations. While this has been presented as a necessity by India, to prevent a total collapse of the negotiations, the moot point really is what stake do we have in perpetuating a framework that is as iniquitous and discriminatory as the present WTO regime. Developing countries do have a stake in promoting a multilateral framework, but this has to be tempered with the realization that an unjust and grossly discriminatory framework can be worse than no framework at all. This is where the terrain for future battles lie – a terrain where developing countries need to preserve their unity and battle for a just framework. In the absence of such an approach, an attempt to merely prop up the WTO serves no purpose and is against national interest. The present negotiations may be on the verge of a collapse, but the WTO is far from dead. What has already been negotiated in the WTO continues to haunt the developing world – such as the TRIPS agreement. Future battles lie in not only halting further negotiations that are contrary to developing country interests, but also in reversing much of what has already been negotiated.