

World Trade Organization (WTO) related issues

6.35 The Doha Declaration, which had launched a new round of trade negotiations in November 2001, is a large, complex and ambitious agenda with a number of subjects/ issues involving negotiations. Given the widespread slippages in the timeline on these negotiations and the current stalemate, progress under the Doha round so far has been slow, putting a question mark on the feasibility of a timely completion of the Round ("not later than" January 1, 2005). The fifth WTO Ministerial meeting, held at Cancun, Mexico during September 10-14, 2003, which was expected to take stock of progress in the on-going negotiations under the work programme adopted at Doha and to provide necessary political guidance including decisions on launching negotiations on Singapore issues, ended without any agreement, reflecting serious polarization of views and positions. While the draft ministerial text of August 24, 2003 had formed the basis for deliberations by the ministers at Cancun, a revised draft circulated on September 13, 2003 after initial consultations, evoked sharp criticism from a number of countries, including India, as unrepresentative of their views. Given such wide divergence of views and lack of convergence amongst the developed and developing countries, especially on Agriculture and the Singapore issues, the Ministerial concluded on September 14, 2003 without reaching a consensus or a detailed Ministerial declaration. India emerged as a key player in this Ministerial (Box 6.3). State of play on various issues under the Doha round is summarized below.

6.36 In **agriculture** negotiations, Members remain sharply divided over further reforms and liberalization of agriculture, particularly on the nature and extent of reduction in trade-distorting domestic support and improvements in market access, while Members that grant export subsidies have also been resisting phasing out such subsidies across all products. The engagements between the US and the EC mid-August 2003 accommodated each others' concerns by

drawing up a framework on further negotiations envisaging marginal reduction in domestic support and elimination of export subsidies in some products only. The formula for tariff reductions developed by them required minimal market access commitments in their sensitive products, but projected them as demanders of substantial improvements in market access in developing countries particularly large and relatively more advanced among them. The subsequent formation and consolidation of the G-20 on agriculture, of which India is a founder Member, as a powerful negotiating group of developing countries with offensive and defensive interests in agriculture emerged as the most significant development with regard to the agriculture negotiations.

6.37 The G-20 has succeeded in bringing back the focus in the negotiation on substantial reductions in distortions in agriculture due to high levels of subsidies provided by some developed countries as well as their resistance to reduce border protection in import sensitive products. The G-20 has emphasized that any new market access commitments on developing countries must not cast a disproportionately higher burden on them as compared to developed countries and that sufficient safeguards must be available to safeguard their food and livelihood security and rural development concerns. The G-20 has maintained an inclusive approach to accommodate the concerns and specific interests of other developing countries, in particular including small economies, and net food importing countries. India's position in these negotiations continues to be underpinned by the fact that a vast majority of people are dependent on agriculture characterized by subsistence and small-scale farming. The farming community constitutes an economically weak and exceptionally vulnerable section of the population with a large number of them either below or close to the poverty line, and that providing opportunities for livelihood in agriculture, and availability of food at affordable prices are, therefore, of crucial importance. India accordingly emphasizes that flexibility in domestic policies for agriculture aimed at enhancing food and

Box : 6.3 Cancun WTO Ministerial Conference

India participated in the Ministerial proactively, forging very useful and effective coalitions, bringing the concerns of developing countries centre-stage. It played a key role in forming two important coalitions, viz. G-20 on agriculture and G-16 on Singapore issues, undertaking initiative in organizing regular meetings of these groups at Cancun. At the meeting, flagging agriculture as the key concern, India sought elimination of distortions in world agriculture, created through high level of subsidies in the developed countries. According to estimates, protection in the developed countries faced by developing countries exporters in agriculture is four to seven times higher than in manufactures, stimulating over-production in high cost rich countries and shutting out potentially more competitive products from developing countries. The net effect of subsidizing agriculture in developed countries at the expense of products of the relatively poor in developing countries was to aggravate global income inequalities. Urgent need to bring down the high tariffs and non-tariff barriers on products of export interest to developing countries was also underlined, to secure for these countries sufficient gains from globalization. Further, to effectively take account of their development needs, including rural development, food security and livelihood concerns, ensuring special and differential treatment for developing countries and policy space to deal with sensitive products remained an integral part of all elements of negotiations. India reiterated its opposition to any form of harmonization of tariffs in agriculture. These suggestions formed part of joint proposals on agriculture put forward by India and other (G-20) members offering constructive and meaningful alternative to agricultural negotiations.

It supported the tariff reduction formula devised by the Chairman of the negotiating Group on market access negotiations on non-agricultural products, opposing any amendment in the formula on the grounds that it would negate the entire work done so far. The suggestion for mandatory tariff harmonization and elimination would be most iniquitous to developing countries because substantial, if not the entire, contribution would then be made by developing countries. India was also opposed to any mandatory binding (zero-for zero) of tariff in suggested seven sectors (auto components, fish & fish products, textiles, gems & jewelry, leather products, and electric and electronic goods), as countries, being in various stages of development, lacked the capacity to undertake such binding commitments in all the proposed sectors.

On Singapore issues, it was reiterated that WTO is not the right forum for these issues, that traditional WTO principles of non-discrimination particularly national treatment are not appropriate for a development policy-related issue like investment and that trade negotiators are not the right people to deal with the movement of capital that have dynamics of their own. Moreover, the need for a multilateral agreement on investment itself is not clear as it can neither promise additional investment flows nor reduce transaction costs for investors significantly. However, an agreement will certainly curtail the policy space of developing countries. Similarly, competition issues are viewed differently by countries at different stages of development, based on the effects they have on their economies. The WTO membership is too diverse to admit a framework that suits all. Further, multilateral rules, binding in nature, in respect of trade facilitation and transparency in government procurement would entail high costs for developing countries. As the process of clarification of issues has revealed a wide divergence in views on various elements, any decision on modalities would be inappropriate at this stage, as it does not provide any idea of the substance and direction of obligations that agreements in this area may require India to undertake.

Underlining India's interests in the services negotiations, it was pointed out that while liberalization of certain sectors was essential to accelerate growth in developing countries, there was need to tread with caution in other sensitive sectors. For developing countries like India, the balance of benefit in the negotiations will accrue to the extent to which their service providers are allowed to supply services in important overseas markets either from remote locations or through temporary movement of natural persons. Expressing deep disappointment over the short shrift given to the development dimension envisaged in the Doha work programme, India emphasized the need to restore the priority accorded to resolving the outstanding implementation issues. Similarly, the need for expediting making of all SDT provisions precise, operational and effective and non mandatory provisions being converted into mandatory ones within a specified time-frame was also stressed.

The issue of transparency and participation in decision-making process in WTO was further raised, suggesting the Ministerial Conference move towards a more inclusive decision making process, responsive to the needs of the developing countries. The need for decisive progress in areas of great importance to developing countries, such as transfer of technology and trade, debt and finance, was also underlined. India also supported the initiative taken by certain countries regarding cotton subsidies and commodity price stabilization, which are areas of critical significance to developing countries.

livelihood security and for rural development should be incorporated in the rules and disciplines on trade in agricultural products through special and differential treatment for developing countries.

6.38 Divergences among the Members, which had earlier resulted in missing the deadline of March 31, 2003 for establishing "modalities" for agricultural liberalization, could not be bridged at the Cancun Ministerial also. Negotiation since then have been energized through a process of developing a broader understanding on the general principles that would guide negotiators in their subsequent work in agriculture.

6.39 Similarly, the negotiations on market access for non-agricultural products (**NAMA**) have lacked a convergence on establishing modalities and formulae for actual tariff cutting negotiations so far, resulting in the missed deadline of May 31, 2003. While many members appeared to favour a combination of a formula-based approach with bilateral request/offer, starting from bound tariffs, phased in stages and with less than full reciprocity for developing countries, others like US favoured scrapping all tariffs by 2015. The Indian proposal suggested a simple percentage cut on bound tariff of each Member, with higher reduction percentage for developed countries relative to developing countries (developing countries reduction in tariffs being two thirds of the corresponding reduction in tariffs by developed countries), removal of tariff peaks (in excess of three times the average tariff) and flexibility for developing countries both for unbound and bound tariff lines. Finally, the chairman of NAMA, on his own responsibility, in May 2003, submitted a set of modalities which reflected the ambitions and concerns of various members. The draft, apart from proposing zero-for zero tariff commitments on seven major sectors (including auto components, fish and fish products, textiles, gems & jewelry, leather products, and electric and electronic goods), also proposed special & differential treatment and less than full reciprocity for developing and least developed countries. Developing countries were allowed to keep up

to 5 per cent of their tariff lines unbound provided they do not exceed 5 per cent of their total value of imports. India and some other developing countries were, however, opposed to any such mandated zero-for zero import duty commitment. The draft presented for the Cancun Ministerial, however, provided certain flexibility for developing countries by proposing that up to 10 per cent of tariff lines could have less than the formula-based levels of cuts and further left the scope of mandatory participation in sectoral initiative more open.

6.40 The process of exchanging initial bilateral requests and offers proceeded broadly on schedule under negotiations in trade in **services**. India has formulated and submitted requests to various countries in architectural services, audio visual services, computer and related services, health services, maritime services, tourism and travel related services, financial services, construction and related engineering services, and accounting and book keeping services. At the horizontal level, India's major interest lies in liberalization of movement of natural persons (Mode 4), where the Uruguay round liberalization was extremely unsatisfactory. India and developing countries have targeted a range of restrictions in developed country markets related to economic needs test, the processing of visa applications, residency requirements, recognition of educational qualifications and social security contributions. Another area of key interest is the cross-border supply of services (Mode 1), especially through electronic mode of delivery in a large number of service sectors. On the other hand, the core interest of most of India's trading partners seem to be in Mode 3 (commercial presence), in which the request is either for binding the presently applicable FDI policy or to offer a more liberal policy than currently prevailing. India has tabled its initial conditional offer in services covering both horizontal access under mode 4 (movement of natural persons) and sectoral access in various sectors. The process of negotiation on the basis of offers tabled so far is underway at the bilateral and multilateral level. Negotiations towards developing Rules in various areas are also continuing.

6.41 An important area of negotiations in the Doha round relate to trade rules “aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on subsidies and countervailing measures”. In addition, it was agreed to “clarifying and improving” disciplines on fisheries subsidies and regional trade agreements (RTAs) and for “improvements and clarifications” of the Dispute Settlement Undertaking. The scope of these negotiations is, however, hedged about with the caveat that they should preserve “the basic principles and effectiveness of these agreements and their instruments and objectives”. India has made two submissions to the Negotiating Group on Rules; the first seeking special and differential treatment for developing countries during anti-dumping and countervailing duty investigations, and the second suggesting identification of specific provisions of the Anti-dumping Agreement that require amendments. The push for sector-specific rules on **fisheries subsidies** proposes a substantial cut in allowable fisheries subsidies of types which lead to overexploitation of fishery resources, and damage competition on the plea that the heterogeneous nature of the products in this sector precludes a meaningful application of existing provisions of the subsidies agreement. The opponents, on the other hand, insist on a cross-sectoral approach to subsidies on the grounds that heterogeneous nature of products is not unique to the fisheries sector and it is a generic issue. The negotiations on **regional trade agreements (RTAs)** so far have focused on the issue of transparency. Given the potential of proliferating bilateral and regional agreements to undermine the multilateral system, the importance of clearly defining the criteria of RTAs needs to be underlined. Negotiations under **Dispute Settlement Undertaking (DSU)**, which are placed on a separate track (not part of single Undertaking), were required to be concluded by May, 31, 2003. The deadline being missed, the time frame for negotiations was extended to May 31, 2004.

6.42 Progress on “**implementation agenda**”, which had risen to the top of the WTO priority list in the Doha Ministerial, has been slow so far, relegating the issues to a lower order of priority. India hopes that all the outstanding implementation issues would be satisfactorily resolved within the framework set in the Doha Ministerial Declaration and the Decision on Implementation Related Issues. The Doha declaration had also spelled out the hope of an “early harvest” of **special & differential treatment (SDT)** for developing countries. However, the deadline had to be shifted to the end of December 2002 due to lack of agreement and even this second deadline passed without agreement. The main roadblock in the **TRIPS and public health** negotiations was the scope of diseases for compulsory licensing provisions for developing countries without domestic production capacity. India continued to maintain its position that the Doha mandate should not be diluted to restrict the scope and the definition of diseases to just infectious diseases as desired by countries like the USA. The General Council finally took a decision in August 2003, under paragraph 6 of the Doha Ministerial Declaration on TRIPS agreement and Public Health, which would enable manufacture and export of pharmaceutical products under compulsory license to countries with limited or no manufacturing capacity in pharmaceutical sector. Other aspects of negotiations under TRIPS included establishing a system of notification and registration of “geographical indications” for wines and spirits, extension of geographical indications (place names used to identify products with characteristics associated with specific locations) to products other than wines and spirits, examining, inter alia, the relationship between the TRIPS agreement and the Convention on Biological Diversity and the protection of “traditional knowledge and folklore”. India has proposed that the multilateral register should be extended for products other than wines and spirits.

6.43 The **Singapore issues** were included in the Doha agenda in a two step procedure. Preparatory work commenced at the beginning

of the round and actual negotiations were to start after the Cancun ministerial meeting, “on the basis of a decision to be taken, by explicit consensus, at that session on the modalities of the negotiations”. India, while continuing with the clarification process, has been reiterating its stand that many of these issues desired to be treated outside the framework of WTO. The lack of explicit consensus on modalities was also emphasized by India. A core group of 16 countries (G-16), including India, took a strong and effective stand at the Cancun Ministerial, highlighting the problems and lack of explicit consensus on modalities. Nevertheless, the draft Ministerial text of September 13, 2003 ignored the position taken by over 90 countries, including India, and suggested commencement of negotiations on three of the four Singapore issues, viz. Investment, Transparency in Government procurement and Trade facilitation. As such a position was unacceptable to these developing and least developed countries, the Ministerial ended in a deadlock over Singapore issues.

6.44 As mandated by the Cancun Ministerial Conference, the General Council at senior capital based officials level met on December 15-16, 2003. In this meeting members agreed on the need to take forward the process of negotiations. The process received some momentum when the United States Trade Representative (USTR) circulated a letter to

all Trade Ministers in January, 2004 giving a broad outline of the goals he felt should be achieved and suggested that a 'framework' may be agreed by mid July, 2004. This was followed by a letter from the EC Trade Commissioner in May, 2004 addressed to Trade Ministers showing flexibility in the area of domestic support and export subsidy in relation to the Agricultural negotiations. The current efforts are to conclude a package agreement by July, 2004. This could include frame work agreements on Agriculture and Non-Agricultural market Access which could expand on the Doha Mandate and lay down broad principles for future negotiations of detailed modalities. On Singapore issues, the emerging consensus appears to be in the direction of finalization of modalities for negotiations on trade facilitation by 'explicit consensus' where as the other three issues of Investment, Competition and Transparency in Government procurement would cease to be part of the Doha agenda. The proposed July package is also expected to cover Implementation issues and issues relating to Special and Differential Treatment.

nature through the issue of Treasury Bills/ dated Governemnt securities. The ceiling on issuance of such bills/securities under MSS is initially placed at Rs. 60,000 crore for 2004-05.