

## World Trade Organization (WTO) related issues

6.48 The Doha Round of negotiations launched in 2001 received a fillip with a positive outcome at the Sixth WTO Ministerial Conference at Hong Kong, December 13-18, 2005. The Ministerial Declaration adopted at the end of the conference called for conclusion of negotiations launched at Doha in 2006, and established time-frames and targets in specific areas (Box 6.9).

6.49 *Agriculture* continued to occupy centre-stage in the negotiations under the Doha Work Programme. The protracted work on technical aspects of post-July (2004) Framework, particularly on the issue of the methodology for converting non-*ad valorem*

duties (NAVs) to their *ad valorem* equivalents (AVEs) in order to establish a transparent and agreed basis for application of the tariff reduction formula, reflected the deep divergences in the positions of WTO Members. A broad understanding on this conversion methodology reached in May 2005 served to shift the negotiations from technical matters to substantive negotiations. The G-20 has gained recognition as a credible negotiating entity in the negotiations. The Ministerial Declaration adopted at Hong Kong addresses some of the concerns of developing countries related to agriculture. It has been agreed that development programmes of developing countries that have minimal distorting effects will be incorporated into the green box. It has further been agreed that the three heaviest subsidisers, namely, the EC, the US and Japan, will attract the highest levels of cuts in their trade-distorting domestic support entitlements, and that these cuts must be effective.

6.50 In market access, to address their food security, livelihood security and rural development needs, developing countries will be able to self-designate as 'Special Products' an appropriate number of tariff lines for more flexible tariff reduction treatment. In order to address situations of a surge in imports and fall in international prices, both import quantity and price triggers have been agreed under the Special Safeguard Mechanism, the details of which will be further defined in the subsequent negotiations. There will be four bands for structuring the tariff cuts across all agricultural products. Actual commitments and other issues, including the thresholds for developing countries will be taken up in the next phase of negotiations. In export competition, it was agreed that the exact date of elimination of export subsidies by 2013, with a substantial part realised half way through the implementation period, will be confirmed only upon the completion of modalities, which will include disciplines on export credits, export credit guarantees or insurance programmes, exporting state trading enterprises and food aid, to ensure the parallel elimination of all forms of export subsidies. Developing

### Box 6.9 : Key outcomes and timelines of Hong Kong Ministerial Declaration

- Resolve to complete the Doha Work Programme fully, and to conclude negotiations in 2006.
- To establish modalities in agriculture and non-agricultural market access (NAMA) by April 30, 2006 and prepare draft Schedules by July 31, 2006.
- To eliminate export subsidies in agriculture by 2013, with a substantial part in the first half of the implementation period. Developing countries without Aggregate Measurement of Support (AMS), such as India, will be exempt from reductions in *de minimis* and the overall cut in trade-distorting domestic support, consisting of AMS, the Blue Box and *de minimis*, that is entitlement to provide Amber Box subsidies up to 10 per cent of value.
- To submit a second round of revised services' offers by July 31, 2006 and submit final draft schedules by October 31, 2006.
- Amendment to TRIPS Agreement reaffirmed to address public health concerns of developing countries.
- Duty-free, quota-free market access for all LDCs' products to all developed countries. Developing country declaring itself to be in a position to do so, to also provide such access, though flexibility in coverage and in the phase in of their commitments is provided.
- In cotton, export subsidies to be eliminated by developed countries in 2006 and trade-distorting domestic subsidies to be reduced more ambitiously and over a shorter period of time.

countries like India will continue to have the right to provide marketing and transport subsidies on exports for 5 years beyond the end date for elimination of all forms of export subsidies.

6.51 In *Non-agriculture Market Access (NAMA)*, the Hong Kong Ministerial Declaration seeks to achieve the objective of reduction or elimination of tariffs, including tariff peaks, high tariffs and tariff escalation, in particular on the products of export interest for the developing countries through the use of a Swiss formula with coefficients at levels aimed at achieving the aforesaid objective as well as address the issue of special & differential treatment (S&DT) including the issue of less than full reciprocity in reduction commitments for developing countries. Flexibilities granted to developing countries under the S&DT include both a longer implementation period as well as applying less than formula cuts or no cuts for a specified list of tariff lines or retention of some of these tariff lines as unbound. These have been declared as an integral part of the modalities for negotiations under NAMA. On the sectoral initiatives, India, as most other developing countries has emphasized that formula approach should be the main modality for negotiation and sectoral initiative can only be a voluntary initiative. The base rate for the unbound tariff lines has been agreed to in the Ministerial text as being computed on the basis of a non-linear mark up on the applied rates.

6.52 In Services, India submitted its Revised Offer in August 2005, which is a substantial improvement over the Initial Offer. Eleven sectors and 94 sub-sectors are covered in the Revised Offer as opposed to seven sectors and 47 sub-sectors in the Initial Offer. In Mode-3 (commercial presence), India's Revised Offer covers commitments in new services. Commitments on FDI levels have also been enhanced in existing sectors such as computer related services, engineering, R & D, technical testing, telecom, financial services, construction and related engineering services, and tourism services. The major sectors in which restriction on foreign investment remains are: retailing, legal,

auditing and accounting, and postal services. Under Mode-4, at the Initial Offer stage itself, India had made substantial improvements in its commitments by including all the categories of natural persons like intra-corporate transferees, business visitors, contractual service suppliers and independent professionals, specifically mentioning sectors where access is available. In the Revised Offer, further improvements have been made in the sectoral coverage of both contractual service suppliers and independent professionals.

6.53 So far, 30 countries including India have submitted their Revised Offers. A number of Initial and Revised Offers are still pending. However, the Revised Offers have provided few commercial opportunities and even two rounds of offers have not proved satisfactory in meeting Members' expectations. An analysis of the Revised Offers tabled by developed Members shows that there is no substantial improvement in terms of quality of offers, especially in areas of interest to India and other developing countries viz., movement of natural persons (mode-4) and cross border supply (mode-1). India's efforts have been to get binding commitments in cross border supply of services (mode 1) and movement of natural persons (mode 4). A number of negotiating proposals were tabled at the WTO in furthering India's objectives. As for Mode 4, India has been pushing for issues such as removal of the Economic Needs Test (ENT), clear prescription of the duration of stay, provisions of extension, etc. It has often been noticed that domestic regulations create barriers for India's service providers even when the trading partners have taken firm commitments. Disciplining such domestic regulations is necessary to impart effective market access for Indian service providers, especially in mode-4. In the Hong Kong Ministerial Declaration, some of these concerns have been addressed. India managed to secure guidance for getting the current levels of market access bound in Mode-1 and also a direction to discuss modalities of doing away with ENT.

6.54 Among *other decisions* taken in the

Hong Kong Ministerial, it was agreed that all developed country Members, and those developing countries declaring themselves in a position to do so, shall provide duty-free and quota-free market access on a lasting basis to all products originating from all LDCs. Agreement was also reached on some other outstanding S&DT proposals by LDCs. On the issue of relationship between Trade Related Intellectual Property Rights (TRIPS) and Convention on Bio Diversity (CBD) and protection of traditional knowledge, the Declaration calls for intensification of the consultation process. On implementation issues, Ministers agreed to redouble their efforts to find appropriate solutions to them and it was agreed that the Council shall review progress and take appropriate action no later than July 31, 2006. The fresh time line for reaching results on S&D cluster is December 2006. The Ministerial Declaration also addresses issues such as aid-for-trade; coherence; technical assistance; concerns of small, vulnerable economies; commodity issues and integrated framework for LDCs.

6.55 The WTO Negotiating Group on Rules has been considering proposals from various Members to clarify and improve existing disciplines of the Anti-Dumping (AD) Agreement and Agreement on Subsidies and Countervailing Measures (SCM), including fisheries subsidies. A number of proposals seeking to strengthen disciplines in these two agreements have been tabled. India has made four submissions thus far, including a textual proposal submitted in early 2005 on mandatory application of 'Lesser Duty Rule'. India is also participating actively in the negotiations on fisheries subsidies and working closely with other Members, including seeking effective S&DT in any new disciplines. Ministerial Conference directed the Group to intensify and accelerate the negotiating process in all areas of its mandate, on the basis of detailed textual proposals before the Group or the ones yet to be submitted, and complete the process of analyzing proposals by the Members on AD and SCM Agreements as soon as possible and mandated the Chairman to prepare, early enough to assure a timely outcome within the

context of the 2006 end date for the Doha Development Agenda, consolidated texts of the AD and SCM Agreements that shall be the basis for the final stage of the negotiations.

6.56 The amendment to the TRIPS Agreement on December 6, 2005 by the General Council to address public health concerns was welcomed by the Hong Kong Ministerial Conference. This amendment enables manufacture and export of pharmaceutical products under compulsory license to countries with limited or no manufacturing capacities in the pharmaceutical sectors. On TRIPS, CBD relationship and protection of traditional knowledge, India along with a number of other developing countries, rich in bio-diversity, proposed that the TRIPS Agreement of WTO should be amended to provide for : (i) disclosure of source and country of origin of biological resource and of the traditional knowledge used in the invention; (ii) disclosure of evidence of prior informed consent under the relevant national regime; and (iii) disclosure of evidence of benefit sharing under the relevant national regime.

6.57 The Ministerial Conference has mandated intensification of the consultative process and taking appropriate action no later than July 31, 2006. Similar mandate is available on the issue of the extension of additional protection to geographical indications (GIs) other than wines and spirits, where India has been supporting the proposal for extension of additional protection. On the establishment of multilateral register for wines and spirits, India maintains that the register should be open for all GIs, including products other than wines and spirits. But it also considers that a multilateral register could mean an obligation to protect thousands of GIs of other Member countries in lieu of just a few Indian GIs registered so far. This obligation, though part of the TRIPS Agreement obligations, should not involve financial burden, or obligations, so as to create additional infrastructure, inspection agencies, developing technical expertise and other associated expenditure. The Hong Kong Ministerial

Conference has mandated to intensify the negotiations in order to complete the work within the overall timeframe for the conclusion of other negotiations. At Hong Kong, the Ministers also reaffirmed the mandate of para 31 of the Doha Ministerial Declaration, in particular para 31 (iii) regarding reduction or as appropriate elimination of tariff and non-tariff barriers to environmental goods and services, and instructed the Member countries to complete the work expeditiously to fulfill the mandate.

6.58 Trade Facilitation is the only subject from the bundle of four Singapore Issues on which negotiation had commenced pursuant to the July Framework Agreement of 2004. The aspect of technical and financial assistance for capacity building in developing countries is also being looked at. India has laid emphasis on compliance issues through an effective cooperation mechanism between customs administrations. It has made a joint proposal with the US to have a multilateral mechanism

for information exchange.

6.59 The negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to RTAs are presently focusing on reaching some agreement to improve the transparency of such agreements. While supportive of the proposals to increase transparency of RTAs, India has been expressing reservations on the proposal by several countries that in order to enhance transparency, all RTAs, including those formed under the Enabling Clause which provides flexibility to developing country Members, should be notified to the Committee on Regional Trade Agreements (CRTA) and be subjected to a factual enquiry process. One important area of discussion under the ongoing negotiations on improving substantive disciplines of General Agreement on Tariffs and Trade (GATT) Article XXIV is to define the term 'substantially all trade' for the purpose of elimination of tariffs.