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**Enhancing the Benefits for India and Other
Developing Countries in the
Doha Development Agenda Negotiations**

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Abstract

The Doha Round of multilateral trade negotiations in the World Trade Organization (WTO) has been billed from the start as the “Doha Development Agenda,” with the promise in the Doha Ministerial Declaration to “place [developing countries’] needs and interests at the heart of the Work Programme adopted in this Declaration.” The reason for this emphasis was in part the perception that previous rounds had neglected the interests of developing countries or, in the case of the Uruguay Round, had brought developing countries on board with promises that were misleading or not likely to be kept. The collapse of the September 2003 Cancun Ministerial Meeting reinforced the need to address the interests of developing countries, and recent agreements reached at the WTO in Geneva suggest that the Doha negotiations may now be on track. What is now important to emphasize, as the negotiations get under way, is to follow through with actions that are designed to fulfill the special needs of developing countries and to address their problems in implementing these actions.

In our paper we lay out what we believe to be the most important actions that could be taken in the Doha Round for the benefit of developing countries, including India. We base these suggestions primarily on the understanding of the economics of international trade that has been developed over the last two centuries and is widely taught in the universities of the world, and also on the research in recent years dealing with specific aspects of trade negotiations in general and of the Doha Round in particular. With regard to the interests of developing countries generally, we provide recommendations for WTO decision-making, agricultural policies, market access, intellectual property, services, the Singapore issues, technical assistance, and special treatment. Each of these recommendations is accompanied by brief arguments in support. The paper then goes on to review several more specific policy and negotiating recommendations focused on India.

It is essential that India and other developing countries participate actively and constructively in the Doha negotiations to further their own interests. They cannot rely on the best-intentioned developed countries to do this for them, since the developed countries will inevitably find themselves making compromises in favor of their own interests and in response to powerful pressures from their domestic constituents. Many developing countries are at a disadvantage in the negotiating process, due to their resource limitations, and in many cases due also to their inexperience in negotiations. Offsetting these disadvantages, however, are their large numbers and the compelling case that can be made for meeting their needs. What the developing countries need is leadership and cooperation, which India is well suited to provide. What is also needed is a willingness to listen and be flexible on the part of their developed country counterparts.

Enhancing the Benefits for India and Other Developing Countries in the Doha Development Agenda Negotiations

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I. Introduction

The Doha Round of multilateral trade negotiations in the World Trade Organization (WTO) has been billed from the start as the “Doha Development Agenda,” with the promise in the Doha Ministerial Declaration to “place [developing countries’] needs and interests at the heart of the Work Programme adopted in this Declaration.”¹ The reason for this emphasis was in part the perception that previous rounds had neglected the interests of developing countries or, in the case of the Uruguay Round, had brought developing countries on board with promises that were misleading or not likely to be kept. After the December 1999 Seattle Ministerial Meeting, in which negotiations foundered in part on the conflicting objectives of developed and developing countries, those who sought agreement in November 2001 to initiate a new round at Doha were determined not to repeat that experience. The collapse of the September 2003 Cancun Ministerial Meeting has reinforced the need to address the interests of developing countries, and it is hoped that the Doha negotiations can be put back on track. What is important to note in this connection is that there is attention in virtually every section of the Doha document to the special needs of developing countries, and especially to their problems of implementation of any agreement that might be reached.²

In this paper we lay out what we believe to be the most important actions that could be taken in the Doha Round for the benefit of developing countries, including India. We base these suggestions primarily on the understanding of the economics of international trade that has been developed over the last two centuries and is widely taught in the universities of the world, and also on the research in recent years dealing with specific aspects of trade negotiations in general and of the Doha Round in particular.

We recognize that developing countries are a diverse group, and that any change in policy may be beneficial for some of them while it hurts others. This is inevitable, and should be attended to by institutions that are capable of providing country-specific assistance. The WTO must provide a structure within which countries can prosper, and that is what our recommendations are directed toward.

Since our paper is intended to be a quick and accessible read for those involved in or attempting to influence the negotiations, we first present in Section II a series of individual recommendations under several headings, each buttressed by only the briefest of explanations and references to the literature. Those who seek a more complete discussion can consult that literature. Then, in Section III, we present some recommendations for India with regard to its negotiating positions in

¹ WTO (2001b, para. 2).

² To this end, the Ministerial Declaration includes the words “development” and “developing” a total of 63 times in its ten pages and 52 paragraphs. “Development” appears 39 times and “developing” 24. For comparison, “WTO” appears 38 times and “trade” 65. The Doha Declaration certainly pays lip service, at least, to economic development.

the Doha Round as well as related domestic policy positions. Conclusions are provided in Section IV.

We recognize that India played a pivotal role in the November 2001 meeting in Doha and in the September 2003 meeting in Cancun on its own behalf and on behalf of other developing countries. Much of what follows therefore is intended especially to clarify India's interests in the Doha Development Agenda, which coincide in many respects with the interests of other developing countries, and to assist in the formulation of negotiating strategies for these various countries.

We begin, below, with a point that is not really economic in nature, concerning the perceived legitimacy of negotiations and decision-making in the WTO. We then turn to the major issues being addressed in the Doha Round negotiations and the positions that we believe that India and other developing countries should take, in their own interests, on those issues. We also hope that, if the expressed intent of these negotiations to foster economic development is more than window dressing, negotiators for the industrialized countries too will favor these positions, even when they may run counter to some of the domestic interests that they represent.

II. Recommendations³

WTO Decision Making

Recommendation: The WTO should establish a formal structure for its negotiations that will assure every developing-country member that its interests are represented in a manner that is commensurate with the importance of these members and their needs for the future of the world economy.

Argument: Although final decisions are made in the WTO by consensus, every member country ostensibly having a veto, in practice the important decisions come earlier, as texts are drafted and are to be adopted by the larger group. In this process of drafting and then in negotiations on the content of these texts, many developing countries believe that they or their interests are being ignored. The Director General (DG) of the WTO has often organized these discussions among a subset of WTO members in the so-called Green Room Group. While the DG has attempted to represent developing-country interests in this group by including a selection of such countries, the process has been too *ad hoc* to inspire confidence in developing countries that they really have a voice.⁴ More recently, in the run up to the Cancun meeting and thereafter, a new and equally *ad hoc* form of this process has been the "mini-ministerial meetings" that have been held in various locations among, again, a subset of WTO member countries.⁵ It is true that more fruitful negotiations are possible within a smaller group than in the presence of the entire WTO membership, but priority should be given to organizing this process in a way that will be, and will be seen to be, fully representative of developing country interests.

³ Most of what follows has been adapted from Deardorff and Stern (2003).

⁴ See Deardorff and Stern (2002).

⁵ See, for example, Miller (2003) reporting on the third such meeting of 25 trade ministers, held in Montreal, July 28-30, 2003.

Agricultural Policies

Recommendation: Developed countries must commit to reducing their production and export subsidies that stimulate production of those agricultural products that are of export interest to developing countries, as well as these and other policies including import tariffs and other barriers that reduce world prices of these products, and there must be a clear and explicit schedule for eliminating the effects of these policies completely and in a timely fashion.

Argument: Agricultural policies often have the effect, and sometimes the form, of subsidies to production and/or export. In theory, while such policies reduce prices to world consumers, creating a benefit that is more than offset by the cost to the subsidizing country, the lower world price inflicts net cost on countries that also export the same product. World prices are also reduced by high tariffs and by other import barriers on many agricultural products. Developing countries often are affected adversely, and the cost is borne disproportionately by their rural and poor populations. The world trading system in general, and its developing-country members in particular, need not object to government support given to farmers if it does not expand production and/or lower price; such non-distorting transfers within a country, if they can be achieved, are a matter for a country's own taxpayers and government to decide. On the other hand, it must be recognized that transfers that are not directly related to production or trade may nonetheless expand output if they permit a farmer to continue production who otherwise would not do so. Negotiations on agricultural policies must therefore focus carefully on the full effects of all agricultural policies and assure that they do not distort international prices in a way that undermines the abilities, especially of developing countries to exploit their comparative advantage.⁶ At the same time, to the extent that rationalization of these policies raises world prices of commodities that are important for low-income consumers, especially in net importing developing countries, income transfers may be necessary to avoid increased hardship.

Market Access

Recommendation 1: Both developed and developing countries should commit to reducing their most restrictive trade barriers, including the elimination of all quotas and the substantial reduction of their highest import tariffs, and also the rationalization of tariff escalation and rules of origin⁷ that are biased against developing country exports.

Argument: For various reasons the highest trade barriers that exist today are predominantly on imports of the products most readily exported by developing countries, in particular apparel. Because these products tend to be labor intensive, such barriers undermine the ability of developing countries to pursue their comparative advantage as labor-abundant countries, thus adding to the already massive handicaps that these countries often bear. At the same time, the

⁶ See Brown et al. (2003) for one among many studies of the effects of reducing agricultural subsidies and tariffs. They also report effects for multilateral liberalization in manufactures and services, as well as several exercises in regional liberalization, many of which are relevant for other recommendations that we discuss below.

⁷ Escalation is the common pattern of higher tariffs on processed goods than on semi-processed goods and inputs, a pattern that creates effective protection on final goods that is higher than nominal protection and that makes it particularly difficult for developing countries to expand into final-goods production. Rules of origin are necessary in free trade areas (FTAs), in which the member countries retain different external tariffs, in order to determine whether a good qualifies for tariff-free treatment within the FTA. These rules take many forms and often discriminate against developing countries.

trade barriers in the developing countries themselves are often more restrictive than those in the developed countries and cover a much wider variety of products. These barriers also interfere with the abilities of the developing countries to trade with each other. And more importantly, they impose costs both on their own industrial users and on final consumers of these products. Like any meaningful liberalization, reducing these trade barriers will stimulate strong resistance in the countries that commit to do it. But efforts should be focused on overcoming that resistance, and perhaps on providing compensation to those domestic interests who will be hurt by it, rather than on resisting the liberalization itself. It is such resistance to liberalization that has led the world to its current regime of trade that, although it is liberal to an unprecedented degree, nonetheless remains restricted in those industries most important to the export success of developing countries.

Recommendation 2: The rules for administered protection – safeguards, countervailing duties, and anti-dumping – should be redrafted to focus their use on cases of legitimate economic justification, but to discourage their use as protectionist devices that limit market access.

Argument: It is widely acknowledged among economists that most if not all uses of anti-dumping laws, and many uses of safeguard and countervailing duty laws, are not justified by inappropriate or harmful behavior on the part of foreign exporters.⁸ Rather, these uses of administered protection have become the tools of choice for industries seeking protection for conventional (self-interest) reasons in a world where legislated protection is constrained by the GATT/WTO. Unfortunately, even though the amount of trade covered by actual administered protection is small compared to trade covered by MFN tariffs and other barriers, the threat of action under these laws is pervasive and affects trade much more widely. This threat, even where no actions are taken, discourages trade and fosters collusion among world suppliers, thereby reducing world welfare. Like so many trade barriers, the costs of administered protection may be especially severe for developing countries that are often its targets. These costs include not only the usual production and consumption costs of trade restrictions, but also the costs of participating in the legal proceedings involved. Even more unfortunately, the trend today seems to be for developing countries to enact such laws of their own, thus not only further restricting their own trade, but also wasting their own resources on the administration of these laws. Some means needs to be found to reverse this trend, perhaps by limiting the criteria in the WTO for action under these various forms of administered protection.

Recommendation 3: WTO rules governing the formation of Preferential Trading Relationships (PTRs) should be revised to insure that they contribute to the liberalization and simplification of the multilateral trading system.

Argument: Article XXIV of the GATT was drafted when PTRs were envisioned as a small number of largely isolated groups of countries, rather than the proliferation of overlapping free trade areas and customs unions that we see today. Free trade areas especially, with their complex rules of origin and with their tendency to be formed between pairs of countries, contribute to a trading system that discourages the multilateral sourcing of supply chains that constitutes much of the promise of modern technology and globalization. Furthermore, many PTRs today are negotiated in overlapping “hub and spoke” arrangements that limit trade among the spokes, and

⁸ Appropriate uses of these laws would include: facilitating adjustment to injurious import surges (safeguards); offsetting the distortionary effects of those subsidies that are not themselves corrections for market distortions (countervailing duties); and prevention of dumping that is plausibly predatory – that is, dumping intended to secure a dominant market position and permit later price increases (anti-dumping). See Deardorff (1987, 1989).

these spokes are most often occupied by developing countries, so that trade patterns among them are distorted. What is needed is an amendment to Article XXIV that would govern the expansion of the membership in these arrangements, as well as the relationships among overlapping PTRs, so as to assure that their proliferation moves the world toward, and not away from, more liberal world trade.⁹

Intellectual Property

Recommendation: The Doha-Round negotiations should deliver on the promise at Doha to provide needed flexibility for developing countries to gain access to essential pharmaceutical products, and in the spirit of that Declaration, they should also provide similar flexibility for other products, such as those of biotechnology and information technology, that are needed to improve the health and facilitate the progress of developing countries.

Argument: Intellectual property (IP) protection is inherently the result of a tradeoff between incentives for innovation and creative endeavor, on the one hand, and both economic efficiency and distribution of income, on the other. IP protection favors the former at the expense of the latter, and an enlightened policy would strike a balance between these opposing objectives. As originally formulated, the WTO agreement on Trade Related Intellectual Property Rights (TRIPS) failed to strike such a balance, requiring instead protection at a high level for all WTO member countries regardless of their needs and abilities to pay for the affected products.¹⁰ In the pharmaceutical industry, the mistake became apparent as diseases have spread and could not be contained, leading to the special agreement in Doha.¹¹ But the principle applies much more generally than just to pharmaceuticals targeting the three diseases identified in that agreement. Now that the means of backing off from the extreme protection provided by TRIPS has been acknowledged, the same procedure needs to be provided much more broadly, not only to other products that can improve health in developing countries, but also to products that embody technologies that can raise their productivity.

Services

Recommendation: Negotiations on trade in services should be pushed ahead, with attention given not only to the service industries of greatest interest to developed country exporters, but also to activities in which developing countries may have comparative advantage, such as outsourcing and the movement of natural persons.

Argument: The inclusion in the WTO of the General Agreement on Trade in Services (GATS) accomplished little or no actual liberalization during the Uruguay Round, but progress has been made since then in selected sectors of greatest export interest to developed countries. One can

⁹ See Bhagwati et al. (1999) for several analyses of whether regionalism helps or hinders the progress toward multilateral liberalization. After comparing multilateral and regional liberalization scenarios, we – in Brown et al. (2003, p. 827) – conclude that “realisation of the very significant benefits of multilateral liberalisation may be jeopardized by pursuing these [regional] arrangements.”

¹⁰ That would not necessarily undermine the case for IP protection to promote innovation. But combined with the small addition to incentives that obtains when poor markets are added to the protected rich ones, world welfare can be argued to fall with the extension of IP protection to all poor country markets. See Deardorff (1990).

¹¹ See WTO (2002a).

expect those countries to pursue these interests in other service sectors during the current round. That is beneficial for developing countries, even though their own service providers may suffer as a result, because the countries' success in development depends heavily on access to the high quality, low cost services that competitive world-class firms can provide. Developing countries stand to gain especially if certain service sectors, such as maritime shipping, can be made more competitive. However, the danger is that GATS negotiations will confine themselves only to service sectors of export interest to developed countries, and that would be unfortunate. Developing countries need to pursue their own interests in these negotiations, and these interests arise most obviously in those labor-intensive services where they may have comparative advantage, such as outsourcing and the movement of natural persons. Whether they will be allowed to pursue these interests depends on how the negotiations proceed. If for example liberalization of movement is limited to highly skilled and highly trained persons, then developing countries may have little to gain. But if it is extended to short-term movement of less skilled workers, then the GATS could become a vehicle for significant benefits to developing country populations. This is unlikely to be accomplished, however, if the developing countries must negotiate for it alone. What is needed is not only for developing countries to negotiate as a group, but also for the GATS negotiations to be joined by those industries within the developed world that stand to benefit from the services of workers who are either temporarily from, or working within, developing countries.

Singapore Issues

Recommendation: Negotiations on the Singapore Issues should proceed cautiously, taking due account of the difficulties many developing countries would have in conforming to whole new sets of procedural obligations, especially on investment and competition policies.

Argument: The Singapore Issues – trade and investment, competition policy, government procurement, and trade facilitation – all involve the potential for rules that would, in principle, be very beneficial to developing countries. There are two dangers here, however. One is that the impetus for these negotiations, particularly on investment and competition policies, comes mostly from the developed world, and especially from large corporate interests based there. These forces may well push their own interests unduly, as in the TRIPS agreement during the Uruguay Round. Second, even if well-balanced agreements could be reached on each of these issues, implementation of each agreement would inevitably require creation of yet more bureaucratic and procedural infrastructure, something that many developing countries can ill afford. Some progress on these issues would be desirable, but it should be slow and careful progress, with difficult adjustments postponed until developing countries have gone further in assimilating their previous WTO commitments.

Technical Assistance

Recommendation: The WTO needs to agree on both formal mechanisms for providing the kinds of technical assistance to developing countries that were specified in the Doha Declaration, and on the means to finance that assistance.

Argument: The Doha Declaration mentions frequently the need to assist developing countries in their efforts to trade and to comply with their WTO obligations. Many of the issue areas in the Declaration include acknowledgement that developing countries find compliance difficult, and

that they require special assistance. In addition, a separate item in the Declaration addresses Trade Facilitation, and another Technical Cooperation and Capacity Building, both of which are specifically directed toward helping developing countries to become better integrated into the world trading system. However, it is not clear how this promise will be implemented in practice. The WTO itself is a small organization and ill equipped to provide the level of assistance required. If the assistance is left to be provided by individual developed countries, it will confront the same provision-of-public-good problem that hinders development aid, in addition to difficulties of coordinating assistance so that it will not run at cross purposes. The negotiators in the Doha Round need to create, and especially to provide funding for, the institutional facilities that will deliver this assistance.

Special Treatment

Recommendation: The Doha Round should provide “special and differential treatment” of developing countries, and especially of the least developed countries, but this treatment should entail assistance with bearing the costs and fulfilling the obligations of the agreement, *not* exemption from the provisions for their own market liberalization.

Argument: The phrase “special and differential treatment” in the old GATT too often meant exempting developing countries from liberalizing their own trade. The phrase appears again in the Doha Declaration, though without specifying what it will mean in this case.¹² It is to be hoped that, this time around, it will not mean continued protection, but rather acknowledgement of the adjustment costs of liberalization and a plan to provide assistance with bearing those costs. Such assistance is likely to include longer periods of time to comply with WTO rules, but it must also include financial and technical assistance, as discussed above.

III. Recommended Negotiating and Domestic Policy Positions for India

Mattoo and Subramanian (2003) have reviewed the major challenges that India faces in designing and implementing their domestic and external policies in the context of India’s engagement in the Doha Development Agenda negotiations. Their recommendations are as follows:

Industrial tariffs—Reduce own bound and actual tariffs and seek to reduce tariffs in other countries, especially in textiles, clothing and footwear.

Agriculture—End domestic policies that discriminate against agriculture. Push for liberalization on a global basis and consider joining the Cairns group.

Services—Pursue further domestic liberalization, emphasizing competition more than a change of ownership, and greater use of GATS to precommit to future liberalization. Create inter-modal negotiating linkages to enhance the scope for export of services through greater mobility of labor and capital. Strengthen domestic regulations and push for stronger multilateral disciplines on regulatory barriers to trade.

¹² WTO (2002b, para. 44).

Electronic commerce—The current WTO decision on duty-free treatment has little meaning since quotas and discriminatory internal taxation are still permitted in many cases. Therefore, widen and deepen the scope of cross-border supply commitments under GATS on market access (prohibiting quotas) and national treatment (prohibiting discriminatory taxation) to ensure that current openness continues in areas of export interest like software and database services.

TRIPs—Change IP legislation to ensure that India can withdraw its TRIPs commitments in the event of TRIPs noncompliance by trading partners that affects India's exports adversely. Institute workable systems for protecting traditional knowledge domestically in order to seek their replication internationally. Use India's new competition policy and use judicious compulsory licensing to mitigate the egregious impacts of the TRIPs agreement.

Preferential agreements—Argue for inclusion of compensation provision for third countries adversely affected by trade diversion.

Competition policy—Strengthen implementation of India's new competition law and be open to the development of meaningful multilateral disciplines, which ideally would also cover anti-dumping and international cartels.

Standards—Strengthen disciplines on mutual recognition agreements (MRAs) to ensure that they are non-discriminatory. Push for multilateral disciplines on domestic regulations in goods and services based on the necessity test. Improve domestic standards. And on labor standards, be proactive in the ILO while resisting attempts to bring the issue into the WTO.

Government procurement—Be open to creation of multilateral disciplines, but link to the elimination of barriers to trade in goods and services, so that foreign procurement contracts can be contested in areas of comparative advantage, such as labor services.

Investment—Be willing to discuss multilateral disciplines, but examine case for preserving discretion beyond that provided by strengthened competition policy.

Anti-dumping—Curtail domestic use of anti-dumping. Argue for drastic reform of multilateral anti-dumping rules to eliminate current protectionist use, ideally by subjecting them to competition policy.

IV. Conclusion

This paper has touched only on what we take to be the major issues affecting India and other developing countries in the Doha Round. There are many other issues of importance to these countries, and the issues addressed here also involve many details that we have not been able to include. It is essential that India and other developing countries participate actively and

constructively in the Doha negotiations to further their own interests. They cannot rely on the best-intentioned developed countries to do this for them, since the developed countries will inevitably find themselves making compromises in favor of their own interests and in response to powerful pressures from their domestic constituents. Many developing countries are at a disadvantage in the negotiating process, due to their resource limitations, and in many cases due also to their inexperience in negotiations. Offsetting these disadvantages, however, are their large numbers and the compelling case that can be made for meeting their needs. What the developing countries need is leadership and cooperation, which India is well suited to provide. What is also needed is a willingness to listen and be flexible on the part of their developed country counterparts.

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