

# **STUDY OF DOHA ROUNDS & ITS IMPACT ON INTERNATIONAL TRADE & DISPUTE SETTLEMENT MECHANISM**

Written by *Mahwesh Buland\** & *Sheikh Sultan Aadil Huque\*\**

*\*BBA LLB (Business Laws), KIIT Law School, KIIT University, Bhubaneswar*

*\*\* Post Graduation Diploma-Human Rights, National Law School of India University,  
Bangalore*

---

## **INTRODUCTION**

The “Doha Development Round was launched in November 2001 in Doha, Qatar, at the WTO’s Fourth Ministerial Conference. The conference endorsed the ‘Doha Declaration’ a statement that focused the agenda on the concerns of the developing countries”. “The agenda included reform to agriculture (particularly reductions in subsidies and tariffs provided by developed countries), reductions in industrial tariffs and special treatment of poor countries (through exemptions from burdensome commitments, and promises of financial assistance). It also promised to redress some of the imbalances from the previous Round, particularly in the area of public health and intellectual property rights”. In this paper, an attempt has been made to study the necessity of Doha Round and its impact on various important issues of international trade and agreements. Paper will also focus on the outcome of the ninth Doha round which is commonly referred to as the ‘Development Round’. “Trade negotiations like Doha are poorly suited to many aspects of development policy. The Doha Declaration authorized negotiations on some issues in both groups, while giving unprecedented rhetorical prominence to development. However, it failed to act on other issues, or did so only in limited ways, e.g., by requiring new DC concessions as the price of rule modifications”. The paper also tries to critically analyze the underlying challenges that has been observed during the rounds. Also the paper tries to figure out the impact of Doha round on the dispute settlement mechanisms and on the current rounds, and overall effect of it on the present globalized trade world and dispute

settlement mechanism. An analysis of effect of Doha Rounds on India has also been carried out in this paper.

## DOHA ROUND

### *What was in the agreement?*

The agreement's purpose was to boost the economic growth of developing countries. It centered on reducing subsidies for developed countries' agricultural industries.

That would allow developing countries to export food, something they were already good at producing. In return, the developing countries would open up their market to services, particularly banking. That would provide new markets to the developed countries service industries. It would also modernize these markets for the developing countries.<sup>1</sup>

Although the agreement negotiated 21 main points, they can be grouped into the following ten categories.

1. **“Agriculture** - Reduce subsidies to 2.5% of the value of production for developed countries. That would only be 6.7% for developing countries. Reduce tariffs on food imports. End subsidies for exports.”
1. **“Non-agricultural market access (NAMA)** - Reduce tariffs for non-food imports”.
2. **“Services** – “Clarify rules and regulations on foreign-provided services. Developed countries want to export financial services, telecoms, energy services, express delivery and distribution services. Developing countries want to export tourism, healthcare, and professional service. Countries can decide which services they want to allow. They can also decide whether to allow foreign ownership”.
3. **“Rules** – “Tighten the rules on anti-dumping. Strengthen prohibitions against launching subsidies to retaliate against another country's subsidies. Focus on commercial vessels, regional aircraft, large civil aircraft, and cotton. Reduce fishery

---

<sup>1</sup> Bacchetta, M. and B. Bora (2001): “Post Uruguay Round Market Access Barriers for Industrial Products”, Policy Issues in International Trade and Commodities, Study Series No. 1 (Geneva: UNCTAD)

subsidies to cut down on overfishing””.<sup>2</sup>

4. **“Intellectual property** – “Create a register to control country-of-origin for wine and liquor. Protect product names, such as Champagne, Tequila or Roquefort, that are only authentic if they come from that region. Inventors must reveal the country of origin for any genetic material used””.
5. **“Trade and environment** - Coordinate trade rules with other agreements to protect natural resources in developing countries”.
6. **“Trade facilitation** – “Clarify and improve custom fees, documentation, and regulations. That will cut bureaucracy and corruption in customs procedures.” That became an important feature of the Trans-Pacific Partnership.”
7. **“Special and differential treatment** – “Give special treatment to help developing countries. That includes longer time periods for implementing agreements. It requires that all WTO countries safeguard the trade interests of developing countries. It also provides financial support to developing countries to build the infrastructure needed to handle disputes and implement technical standards””.<sup>3</sup>
8. **“Dispute settlement** - Install recommendations to better settle trade disputes.”
9. **“E-commerce** - Countries won't impose customs duties or taxes on internet products or services.”

### ***Why Were the Doha Talks So Important?***

If successful, Doha would have improved the economic vitality of developing countries. It would have reduced government spending on subsidies in developed countries, but boosted financial companies. Perhaps they would have focused on developing those markets instead of selling derivatives.

---

<sup>2</sup> Cline, W. (2003). *Trade Policy and Global Poverty*. Washington, D.C.: Institute for International Economics

<sup>3</sup> Beghin J.C., Roland-Holst D. and van der Mensbrugghe D. (2002), “Global agricultural trade and the Doha Round: what are the implications for North and South?” Working Paper 02- WP 308, CARD, Iowa State University .

That “might have lessened the devastation of the financial crisis. Unfortunately, agribusiness lobbies in the United States and the EU put political pressure on their legislatures. That ended the Doha round of negotiations. As a result, bilateral agreements have increased. They are easier to negotiate.” Whether this is good for developing countries remains to be seen. The failure of Doha also means future multilateral trade agreements are also probably doomed to fail for the same reason as Doha. The EU and U.S. agricultural industries won't take the risk of allowing low-cost foreign food imports to take any of their domestic market share.<sup>4</sup>

“Similarly, small emerging market countries have seen what the United States and EU agribusiness has done to local economies in Mexico thanks to NAFTA. That means major trade agreements that are in the works are more likely to fail unless there is a level playing field for local farmers. That includes the Transatlantic Trade and Investment Partnership, the pending” agreement between the United States and the EU. “It would replace NAFTA as the world's largest trade agreement. However, it faces the same obstacles as Doha did. European agribusiness can't compete with cheaper American-made food imports.<sup>5</sup> The two countries face resistance in negotiations to end government protection for many food industries, such as French champagne. Most important, the EU bans all genetically-modified crops, meat from animals treated with growth hormones, and poultry that's been washed with chlorine. United States food producers rely heavily on all these practices to keep food prices low. Doha shows us that these obstacles are difficult, if not impossible, to overcome”.

“It also includes the Trans-Pacific Partnership or TPP. It is another pending agreement, this time between the United States and 11 other trading partners bordering the Pacific Ocean. It would also be bigger than NAFTA, but slightly smaller than the TTIP. In this agreement, it's the U.S. and Japan that don't want to remove agribusiness trade barriers. Japan's government heavily subsidizes the country's rice growers”.<sup>6</sup>

---

<sup>4</sup> Anderson, Kym, and Ernesto Valenzuela, 2006, “WTO’s Doha Cotton Initiative: A Tale of Two Issues,” March (Washington: World Bank).

<sup>5</sup> Amiti, Mary, and John Romalis, 2006, “Will the Doha Round Lead to Preference Erosion?” IMF Working Paper 06/10 (Washington: International Monetary Fund).

<sup>6</sup> Gifford, M., 2006. Unblocking the Doha Round Impasse: Possible Scenarios for the Agricultural Negotiations, IPC Issue Brief 21, November.

### ***Why Was Doha Suspended?***

- “The main reason the Doha talks collapsed was because the United States and EU weren't willing to give up their agricultural subsidies. But other sticking points must be resolved if the talks are to resume. First, China, India, and Brazil need to be more supportive of the talks. They must also be willing to take on the leadership role given to developed countries”.<sup>7</sup>
- “**Second**, the United States, Japan, and China must realize their "currency wars" are exporting inflation to other countries, such as Brazil and India. They must accept the responsibility and not treat their monetary policies as simply domestic issues”.<sup>8</sup>
- “**Third**”, “Doha must dangle the carrot of more liberal service export regulations. That would entice the United States and other developed countries. Otherwise, they will move ahead on their own with the Trade in Services Agreement (TISA) negotiations”.

## **ISSUES IN DOHA ROUND**

### ***Main issues of Doha Development Round***

1. “**Agriculture**” – “First proposal in Qatar, in 2001, called for the end agreement to commit to substantial improvements in market access; reductions (and ultimate elimination) of all forms of export subsidies (including under Green and blue box); and substantial reductions in trade-distorting support.”  
“
2. “**Access to patented medicines**” – “A major topic at the Doha ministerial regarded the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The issue involves the balance of interests between the pharmaceutical companies in developed countries that held patents on medicines and the public health needs in developing countries. Before the Doha meeting, the

---

<sup>7</sup> *Ibid.*

<sup>8</sup> House of Commons, 2006. The WTO Doha Development Round: where next for world trade?, Research Paper 06/43



United States claimed that the current language in TRIPS was flexible enough to address health emergencies, but other countries insisted on new language”.<sup>9</sup>

3. **“Special and differential treatment (SDT)”** – “SDT as a principle has been there since 1970’s in multilateral negotiations under GATT. In Doha round, members agreed that Developing and Least developed countries will continue to be eligible for a favorable treatment. However, of late developed countries are dragging their feet here too. They now claim that big developing countries like India, China, Brazil and South Africa are unreasonable in their demand and only least developed countries are rightful claimant of differential treatment”.<sup>10</sup>
4. **“Implementation issue”**- “Developing countries claim that they have had problems with the implementation of the agreements reached in the earlier Uruguay Round because of limited capacity or lack of technical assistance. They also claim that they have not realized certain benefits that they expected from the Round, such as increased access for their textiles and apparel in developed-country markets. They seek a clarification of language relating to their interests in existing agreements”.<sup>11</sup>

### ***Major challenges***

In particular, the following are four major challenges:

- “Developing countries would benefit more from liberalization by rich countries than they would from their own liberalization. In fact, research shows that developing countries have much to gain from their own trade reforms”.
- “Tariff reductions on a multilateral basis could wipe out a large portion of trade between rich countries and developing countries as a consequence of preference erosion. On the contrary,

---

<sup>9</sup> Supra f.n. 12

<sup>10</sup> Gifford, M., 2006. Unblocking the Doha Round Impasse: Possible Scenarios for the Agricultural Negotiations, IPC Issue Brief 21, November .

<sup>11</sup> *Ibid.*

research shows that the magnitude of any erosion is small in aggregate and is of concern for only a few countries and products”.<sup>12</sup>

- “Agricultural subsidies in many Organisation for Economic Co-operation and Development many (OECD) countries are more damaging than other types of policies, such as tariffs. Actually, import tariffs in OECD countries harm developing countries much more than either production or export subsidies, with the exception of subsidies on cotton. Export subsidies in OECD countries actually benefit developing countries that are importers of subsidized products because they reduce the price of imported goods”.<sup>13</sup>

- “The recipients of agricultural subsidies in rich countries tend to be small, low-income farmers. The facts, based on data for both the United States and the European Union, are that a disproportionately large share of government support goes to wealthy farmers”.

## **POST DOHA ROUNDS: RESULTS OF 9<sup>TH</sup> & 10<sup>TH</sup> WTO MINISTERIAL CONFERENCE**

### ***The results of the 10th WTO Ministerial Conference***

The 10th WTO Ministerial Conference took place in December 2015 in Nairobi, Kenya. It was the first WTO Ministerial Conference ever held in Africa. “The EU, together with several other countries, put forward a joint compromise proposal to address the question of export competition in agriculture. The proposal constituted an important basis for the final deal, which includes the elimination of export subsidies and the introduction of new rules for similar measures which also significantly distort international trade and disrupt local markets”.

In Nairobi, WTO members also agreed a set of important decisions addressing some demands of the least-developed countries, including:<sup>14</sup>

---

<sup>12</sup> Brenton, Paul, and Takako Ikezuki, 2006, “The Value of Trade Preferences for Africa,” in *Trade, Doha, and Development: A Window into the Issues*, ed. by Richard Newfarmer (Washington: World Bank).

<sup>13</sup> *Ibid.*

<sup>14</sup> Hoekman, Bernard, William Martin, and Carlos Braga, 2006, “Preference Erosion: The Terms of the Debate,” in *Trade, Doha, and Development: A Window into the Issues*, ed. by Richard Newfarmer (Washington: World Bank).

- *seeking to simplify the conditions that exporters from the poorest countries have to meet, so that their products benefit from trade agreements (so-called rules of origin)*
- *Giving more opportunities for businesses from the poorest countries to provide services in the WTO's 164 member countries.*
- *Facilitating the integration of least-developed countries' cotton producers in global trade.*

“WTO members also agreed to continue negotiations on a longstanding proposal to shield trade-distorting public stockholding programmes for food security in developing countries from legal challenge and on a proposal to allow developing countries to temporarily raise their tariffs to deal with import surges or price falls (the so-called "special safeguard mechanism")”.

Finally, “Ministers signed an important declaration. “The Doha Development Agenda was not reconfirmed as such due to differences among WTO members regarding the value of the previously made attempts to reach consensus. While WTO members expressed their strong interest to advance negotiations on remaining Doha issues, some of them also supported the adoption of new approaches to advance on these issues””. The declaration also recognises that some members wish to open negotiations on new issues in the WTO.<sup>15</sup>

### ***The results of the 9th WTO Ministerial Conference***

The main outcome of the 9th WTO Ministerial Conference was the Trade Facilitation Agreement. “The agreement aims to make it easier and cheaper to import and export by improving customs procedures and making rules more transparent. Reducing global trade costs by 1% would increase world-wide income more than USD 40 billion, 65% of which would go to developing countries. The gains from the Trade Facilitation Agreement are expected to be distributed among all countries and regions, with developing landlocked countries benefitting the most”.<sup>16</sup>

The Trade Facilitation Agreement will enter into force upon its ratification by 2/3 of WTO Members. “The EU ratified the agreement in October 2015. In Bali, WTO members also agreed

---

<sup>15</sup> *Ibid.*

<sup>16</sup> Hertel, T. W., & Ivanic, M. (2006). World Market Impacts of Multilateral Trade Reforms. In T. Hertel, & L. Winters (Eds.), *Poverty and the WTO*, Palgrave Macmillan: World Bank's Trade and Development Series.



on a series of Doha agriculture and development issues. In the run-up to the Nairobi meeting, a large majority of developing countries led by India, China, South Africa, Indonesia, Ecuador, and Venezuela prepared the ground to ensure that the Doha Round of negotiations are not closed by the two trans-Atlantic trade elephants". They also tabled detailed proposals for a permanent solution for public stockholding programmes for food security and a special safeguard mechanism (SSM) to protect millions of resource-poor and low-income farmers from the import surges from industrialized countries". "Again, the two proposals were actively opposed by the US, which led a sustained campaign to ensure that there was neither an outcome on continuing DDA negotiations nor a deal on SSM and public stockholdings for food security".

### ***Doha Rounds & Dispute Settlement Mechanism***

The "reform of the WTO Dispute Settlement System is an integral part of the Doha Development Agenda launched at the WTO's Fourth Ministerial Conference in 2001. In November 2001, Members decided, at the Doha Session of the Ministerial Conference, to open formal negotiations on the DSU in January 2002." "These negotiations, based on the work on DSU reform done so far as well as on any additional proposals by Members, are currently still under way. The Doha Ministerial Declaration clearly states that the negotiations on the DSU will not be part of the single undertaking i.e. that they will not be tied to the overall success or failure of the other negotiations mandated by the Ministerial Declaration".<sup>17</sup>

As "the improvement of the dispute settlement system is in the interest of all Members, it was considered inappropriate to make the DSU negotiations part of the give and take of the overall negotiations. The desire to keep the DSU negotiations 'separate' from the rest of the Doha Development Round, is also reflected in the time frame for the DSU negotiations. Unlike the Doha Development Round, which is to be concluded in January 2005, the deadline for the DSU negotiations was initially set at May 2003". The negotiations on the DSU were conducted by the Special Session of the DSB, established for that purpose by the TNC on 1 February 2002. Between February 2002 and May 2003, "the Special Session of the DSB met formally 13 times to carry out negotiations on the DSU. In addition, it also met many times informally. While the

---

<sup>17</sup> Peter Van den Bossche, *The Doha Development Round Negotiations on the Dispute Settlement Understanding*, DSU Negotiations WTO Conference Paper Taipei, November 2003 .

prevailing view of Members was that ‘the DSU has generally functioned well to date’”, “in total 42 proposals for clarifications and amendments to the DSU were submitted.<sup>50</sup> These proposals touched on almost all DSU provisions and were submitted by developed country as well as developing country Members”.<sup>18</sup>

### ***Major Takeaways from Doha Round Regarding DSU***

The Doha Declaration mandates negotiations on “[...]improvements and clarifications of the *Dispute Settlement Understanding*, and “based on the work done thus far as well as any additional proposals by members”

[par.30]. “*This Declaration also states that the result of these negotiations will not be part of the single undertaking, meaning that they will not be tied to the overall success or failure of the other negotiations mandated by the Declaration [par.47].*”<sup>19</sup> In Hong Kong, Ministers further instructed to “continue to work towards a rapid conclusion” of these negotiations. Originally set to conclude by May 2003, they continue without a deadline. “Since 2013, the work of the Special Session of the DSB has been based on a “horizontal process” in which interested participants have the opportunity to explore possible solutions together for the following twelve issues under consideration”:<sup>20</sup>

- **“Panel composition”**
- **“Third party rights”**
- **“Mutually agreed solutions”**
- **“Remand referral mechanism”**
- **“Strictly confidential information”**
- **“Post-retaliation”**
- **“Transparency and amicus curiae briefs”**
- **“Timeframes”**
- **“Sequencing”**

---

<sup>18</sup> Ronald S, Report by the Chairman, Special Session of the Dispute Settlement Body, 30 January 2015

<sup>19</sup> *Supra* f.n. 9

<sup>20</sup> Habib Kazzi, Reshaping the WTO DSU: Challenges & Opportunities for the Developing Countries, European Scientific Journal November 2015 edition vol.11, No.31 ISSN: 1857 – 7881.

- “Developing country interests ( including special and differential treatment)”
- “Flexibility and member control”

## DOHA ROUNDS IMPACT ON INDIA

### *Doha Round and India*

India “has taken a keen interest in the Doha Round and has become one of the key actors in the WTO negotiations. “A multilateral trade agreement would affect India’s trade relationships with all trading partners, and thus it is likely to have a larger impact on the Indian economy than any single bilateral free trade agreement”. At the same time, the depth of liberalization in the Doha Round would be less than in an FTA in which tariffs (and perhaps other barriers to trade) were entirely eliminated”. “An agreement in the Doha round negotiations would require India and other countries to bind their agricultural tariffs at lower levels”. “As a result, the government would have less scope for raising tariffs to offset negative global price changes that could disrupt domestic farm incomes, the source of livelihood for a majority of Indian households. Agricultural price changes would have the strongest effects on India under a Doha agreement, as compared with bilateral trade agreements, because Indian tariffs would be lowered toward all trading partners, including the lowest-cost producer of each agricultural product. Of the benefits projected for developing countries, only a few see most of the gains”.<sup>21</sup>

## CONCLUSION

India has to continue its effort to prevent issues of developmental importance to be sidelined. “Until this is done WTO cannot impinge upon sovereignty of India. India has already marked red line in sectors such as agriculture by making it clear than there is no scope of compromise on its positions. West has relentlessly tried to project India as rigid and uncompromising negotiator. However, these attributes are better suited to U.S. and other developed countries”.

---

<sup>21</sup> Dr.Nabeel A Mancher, Doha Round Dilemmas: What Stakes India holds in the WTO? India Stat Article , (Available at: [https://www.indiastat.com/SOCIO\\_PDF/64/fulltext.pdf](https://www.indiastat.com/SOCIO_PDF/64/fulltext.pdf), last accessed on 25.03.2019 at 08:35pm)

“They have been backtracking on various commitments under Doha Development Round and desperately trying to bring in new issues including Singapore issues. These issues are prejudicial to interests of majority of countries and vast majority of population. Consequently, majority of countries stand with India after failure of every meet”.

India needs to upscale its diplomatic capability. “In recent Nairobi meet, it was seen that while developed countries spoke in unison, there was no such unity in developing countries. Brazil, a prominent member of WTO, has already broken away from G-20/33 group and has aligned itself close to position held by developed countries; thanks to its globally competitive agricultural sector. India made a serious effort last year at India- Africa summit to arrive at common agenda for WTO and was largely successful”. “However, there needs to be larger combined effort in bringing on the common platform of developing nations in all continents. U.S. has been already doing it for several years and that’s partly why it remains most assertive and subtle power in any negotiation.”

Whereas “the WTO dispute settlement system is definitely still open to improvement, it currently already constitutes an effective and efficient system for the peaceful resolution of disputes. It brings a degree of security and predictability, in international trade, to all its Members and their citizens”. According to Peter Sutherland, a former WTO Director-General and now Chairman of BP and Goldman Sachs International, the WTO dispute settlement system is ‘the greatest advance in multilateral governance since Bretton Woods’. “However, there is a genuine danger that Members overburden, and thus undermine, the dispute settlement system as a result of their inability to agree on (clearer) rules governing politically sensitive issues concerning international trade”. “Since 1995, the WTO dispute settlement system has been severely put to the test by politically sensitive disputes over issues touching on public health (*EC – Hormones and EC – Asbestos*), environmental protection (*US – Gasoline and US – Shrimp*), cultural identity (*Canada – Periodicals*), taxation (*US – FSC*) and foreign and development policy (*US – Havana Club and EC – Bananas III*)”. “So far, the WTO dispute settlement system has performed well in handling these and other sensitive disputes. However,

the task may steadily become more difficult as the WTO is drawn more deeply into politically controversial issues. Some observers fear the system may soon be overwhelmed”.<sup>22</sup>



---

<sup>22</sup> Supra f.n. 09.