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India's negotiation positions at the WTO

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1 Introduction

Often compared to China, India is one of the big emerging economies at the beginning of the 21st century. A dynamic evolution of the Gross Domestic Product (GDP), rapidly growing imports and exports and a considerable influx of foreign direct investment – due above all to the country's huge human resources – are some features that underline the country's ascent within the global economy. This process is accompanied and encouraged by an active economic and trade policy pushing India's internal economic development and international integration. In this context, India is also gaining influence within the multilateral trade negotiations at the World Trade Organisation (WTO).

Since 2001, the multilateral trade negotiations are ongoing under the Doha Round for Development. The official objective of putting the concerns of the developing world in the centre of discussions goes along with a more active participation of developing countries in the negotiations. Especially in the context of the Fifth Ministerial Conference of the WTO in Cancun, those countries began forming coalitions in order to better make their voices heard. While for example the G-90 acts as an umbrella of the African Group, the African, Caribbean and Pacific (ACP) countries and the least developed countries, several bigger developing countries – among them India – have founded the so-called G-20 to push forward their interests in the field of agriculture.

The present paper examines India's negotiation positions and strategies within and outside the G-20 coalition, against the backdrop of the country's economic development during the last years. It begins with an assessment of the Indian place in the world trading system – on the one hand in terms of its economic forces (and weaknesses) that result in exchanges with trading partners, on the other hand in terms of its national trade policy that regulates these international trade relations. Given this background, the paper will then, in its main part, look at the Indian role within the Doha Round, focussing on the three major negotiation fields of agriculture, NAMA and services. In the conclusion it will be discussed to what extent

the Indian role reflects the current confrontation of negotiators of different levels of development at the WTO.

2 General Facts on the Indian Trade Regime and Trade Policy

In order to understand the Indian positions within the current negotiations at the WTO it is crucial to take into account the basic features of the country's economy, its position within the world trading system and its trade policy. The current dynamics of its economic development have to be considered as well as the difficulties linked to it.

The Indian Economy in the World Trading System

With 1.1 billion people India closely follows neighbouring China in terms of population but its GDP of 600 billion US \$ is less than half the one of the People's Republic.¹ The GDP growth rate also is lower than in China but nevertheless at a remarkable average of 6% between 1995 and 2003.² Only since 2004, several factors, such as the high oil prices, have slowed growth. Certainly, India is at the moment not as dominant as China, but it nevertheless bears an enormous potential that has just begun to develop.

While the force of the Indian economy clearly resides in the service sector, accounting for more than half of the GDP, agriculture and industry only make up respectively 22.4% and 26.5%.³ As to agriculture, the Indian interests are rather directed to maintaining self-sufficiency than to expanding exports. Although agricultural exports slightly exceed imports, India has by far not the same importance as agricultural exporter as for example Brazil: Agricultural products make up no

¹ For a comparison of the Indian and the Chinese development see for example Long, Simon: Survey: India and China: "The Tiger in Front", The Economist, 3rd March 2005.

² See: WTO Statistics Database data for 2003, http://stat.wto.org/CountryProfiles/IN_e.htm, 12.07.2005.

³ See: Asian Development Bank: Key Indicators 2004: Poverty in Asia: Measurement, Estimates, and Prospects, data for 2003

http://www.adb.org/Documents/Books/Key_Indicators/2004/pdf/IND.pdf.

more than 15% of the total goods exports. Only five main products constitute the biggest share of these exports: rice, tea, oil cakes and meat/fish. For its internal market, India mainly grows food grains such as rice/paddy and wheat. Sugarcane and milk are also produced in big quantity.

A policy of import substitution in the decades after independence encouraged the development of a broad industrial base, but due to poor product quality and inefficiencies in production the firms are generally lacking competitiveness in the international market. Among the exported industrial products are textiles and clothing, non-metallic mineral manufactures and leather manufactures. The trade balance for manufacture goods is clearly negative – contributing with the considerable oil imports to a strong overall trade deficit.

India's principal merchandise trading partners are the European Union, the United States, the United Arab Emirates, Hong Kong and China as export destinations and the European Union, the United States, China, Switzerland and the Republic of Korea as import origins.⁴ The United States recently decided to restore the benefits of the generalised system of preferences for India (which had been withdrawn in 1992), allowing duty-free market access for a number of products mostly in the agro-chemicals and pharmaceuticals sector.

The sector in which India is most competitive in the world market is services. India's service exports have shown one of the fastest growth rates in the world since the 1990s, with an annual average of 19% between 1995 and 2003. While the most visible growth has been in information technology and business process outsourcing services, sectors like telecommunications, finance and tourism have also grown considerably.

Seizing the impact of the economic performance and development for the Indian population is rather difficult: Similarly to China, at first sight rapid economic growth in India coincided with sharp drops in poverty incidence: The poverty

rate fell from 51% in 1977-1978 to 27% in 1999-2000.⁵ However, it is heavily contested whether economic growth and further integration into the world trading system have led to better opportunities for all in terms of poverty, employment and income, and access to essential services. The fact is that serious problems remain, including unemployment, regional disparities and enduring poverty of farmers.

Even more than two-thirds of India's labour force work in agriculture and are more or less directly depending on this field. While exact data is lacking, in 2003 the then Indian Minister of Commerce and Industry, Arun Jaitley, mentioned the number of "650 million people in India, who are solely dependent on agriculture".⁶ The majority of landholdings are farmed at subsistence level – the average size of landholdings is about 1.4 ha per farmer. Many farming families live below the poverty line and the rate of illiteracy is high. India has some of the lowest human development indicators in the world, particularly in rural areas. In contrast to this, India also has a large number of highly qualified professionals, as well as several internationally established industrial groups.

Among others, one has to consider the varied impact of the economic development on women and men.⁷ In India, social restrictions on women's participation and entrepreneurship are still very high. In 2002, women accounted for less than one fifth of the paid employees in the public sector and in establishments of the non-agricultural private sector having ten or more persons employed.⁸ They are often working as "unpaid family workers" in agriculture or other parts of the informal economy. But more and

⁴ See: WTO Statistics Database, http://stat.wto.org/CountryProfiles/IN_e.htm 12.07.2005.

⁵ See: World Bank: Trade Policies in South Asia: An overview, Volume 1, September 2004, p.2.

⁶ Statement by H.E. Mr Arun Jaitley, Minister of Commerce and Industry and Law and Justice India Ministerial Conference, Fifth Session, Cancún, 10 September 2003 http://www.wto.org/spanish/thewto_s/minist_s/min03_s/statements_s/st7.doc.

⁷ On this issue see Veena Jha (Ed.): Trade, Globalisation and Gender: Evidence from South Asia, UNIFEM with the United Nations, 2003.

⁸ See: ILO: Statistic on paid employment, by economic activity, <http://laborsta.ilo.org/cgi-bin/brokerv8.exe>.

more, women can also be found working in export industries, either – as female wages are often lower than male wages – in work-extensive low-skill sectors like textiles and clothing or in higher-skill-using services, such as software and financial services. Nevertheless, studies have revealed that the emancipatory effects of globalisation, stated for example in other countries of South Asia, have been comparatively small in India.⁹

To sum up, the dynamics of economic development in general and the progressive integration into the world trading system in particular have complex and varied effects on different parts of the Indian population. A national trade policy, elaborated and implemented in the context of political pressures by influential actors at the national and international level can hardly please everyone.

Recent Developments of the Indian Trade Policy

In the early 1990s India began a process of liberalisation and global economic integration.¹⁰ Particularly in the five years after 1997 major progress was made with the removal of most of the quantitative restrictions and large cuts in industrial tariffs. This process accelerated once the Bharatiya Janata Party (BJP) came into power in 1999 and Prime Minister Atal Behari Vajpayee opened India to more foreign direct investment and allowed several major privatizations. It culminated in a major tariff reform between 2002 and 2004. A system of import licensing applied to all consumer goods – which was a de facto import ban for most of these products – was finally removed in 2001. Furthermore, trade liberalisation was facilitated by a move towards a more market-based exchange-rate regime.

Since May 2004, Manmohan Singh (Indian National Congress party) is leading the new government of the United Progressive Alliance. The economist Singh, who was Finance Minister of India from 1991 to 1996, was one of the early critics of India's inward-oriented trade

policy.¹¹ He played a central role for the country's economic reforms in the 90s. At the beginning of his current term of office he underlined the importance of further integration of India into the global economy in order to increase economic growth and to eradicate poverty.¹² The Minister of Commerce and Industry Shri Kamal Nath has announced the ambitious objective of doubling the Indian percentage share of global merchandise trade within five years (2004-2009).

Despite the orientation towards market opening, trade barriers remain very high in India compared to other developing countries. Especially the agricultural market is one of the most protected in the world. India's unweighed average agricultural tariff for 2004-2005 is of 40%, the fifth highest in the world among 106 developing countries.¹³ Under the WTO Agreement of Agriculture (AoA) India bound its ad-valorem duties at an average of 114.5%, allowing for a great flexibility in tariff determination. It uses this flexibility for example in the context of tariff rate quotas to protect its powdered milk and maize producers. Imported out of quota quantities have to face very high tariffs. The actual differences between domestic prices and world prices for many agricultural products are much less than the tariffs applied to imports. That is to say the high agricultural tariffs do not reflect generally high production cost but are in many cases rather precautionary measures in order to protect the domestic market. The Indian government rectifies this strategy invoking the low and unstable world prices for agricultural goods as well as the need for "comfort" tariffs to ensure that the production and livelihood of Indian producers are not disturbed.

Besides tariffs, non-tariff barriers hinder the import of certain agricultural goods to India. One way of doing this is the use of state trading enterprises (STEs) to control imports. India, who is the principal remaining user of STEs in the

⁹ See for example the above mentioned study by UNIFEM and the United Nations, footnote 7.

¹⁰ For recent developments in the Indian trade policy, see: World Bank: Trade Policies in South Asia, I.c.

¹¹ Singh's book on India's Export Trends and Prospects for Self-Sustained Growth (Clarendon Press, Oxford, 1964) is usually being cited in this context.

¹² See for example Manmohan Singh's speech PM's address at meeting of PM's Council on Trade and Industry, 4 December 2004, <http://pmindia.nic.in/speech/content.asp?id=56>.

¹³ See: World Bank: Trade Policies in South Asia, I.c., p. 28.

South-Asian region, employs these particularly for rice, wheat, coarse grains except maize and barley, and copra –products that make up 40% of the Indian agricultural GDP.

As to industrial goods, a major tariff reform was adopted in India in 2002 that implied successive reductions in industrial tariffs with a final sharp reduction in February 2004. Para-tariffs (i.e. protective import taxes which are applied on top of the regular customs duties) were also dropped until this date. The simple average of ad-valorem duties binding on non-agricultural goods at the WTO is of 34.3%. In June 2004 the general maximum protective duties to most products was of 30%. Nevertheless, 17 custom duty rates are in excess of this general maximum, specific tariffs account for just over 5% of the total tariff lines and in general there exist a large number of exceptions and partial exceptions to the general rule. All this contributes to the continuing complexity of customs duties in India.

Similarly to the agricultural sector, various non-tariff barriers hinder the imports of certain manufacture products. Due to health and safety regulations for example the import of used clothing is banned, the import of second hand cars and household machinery is restricted. Even more striking is the use of anti-dumping measures. India who began using anti-dumping in 1992-1993 and accelerated these measures after the East Asian financial crisis in 1997-1998 is now the most active user of anti-dumping in the world. By far the most targeted country is China, followed by the European Union, South Korea, Japan and the United States. The measures are employed against a wide range of intermediate materials and inputs and also increasingly against consumer goods. One prominent example is the textiles and clothing sector.

The widespread use of anti-dumping measures and exceptions reflects the overall context of attitudes in which the Indian government elaborates and executes its trade policies. In general, a slow but significant change in attitudes towards the role of trade and trade policies has taken place over the last two decades – especially against the backdrop of the Chinese example of successful integration in the

global economic system. Besides the above mentioned reforms towards trade openness, this shift in opinions brought with it new export-friendly initiatives and more supportive general attitudes towards foreign direct investment and other forms of modes of foreign participation. The efficiency of customs services became a major concern.

But still there persists a strong opposition to trade openness from certain enterprises fearing the international competition and other interest groups. Also the resistance of Indian bureaucracies to the liberalisation trend should not be underestimated. Although the importance of these pressures on the government has been declining over the years, their influence on trade policy has to be regarded as significant. In this context, complex customs systems with large exceptions and the use of anti-dumping allow a government wishing to reduce the general level of economic protection to accommodate lobbying and political pressures. The result is a major problem in terms of transparency.

The fact of India being a federal state does not facilitate the situation. While the national government of India elaborates a national foreign trade policy every year, the 28 state governments are hardly consulted. On the other hand, each of the state governments periodically formulates its own trade and industrial policies, which frequently differ from the national government's approach. Only very recently, first attempts have been undertaken to set up an inter-state trade council to integrate states in the implementation of the national trade policy.

Actively pushing its integration into the world economy, India has recently concluded – and is still negotiating – a number of Free Trade Agreements. In January 2004, the South Asian Free Trade Agreement (SAFTA) has been signed by the seven states that form the South Asian Association for Regional Cooperation (SAARC): Bangladesh, Bhutan, Maldives, Nepal, India, Pakistan and Sri Lanka. Entering into force on 1 January 2006, it is believed to have a large potential for trade creation and increasing welfare for the region in light of its current very low level of integration. It is also hoped to be a vehicle for increased cooperation between India

and Pakistan, whose trade relations are suffering from the political conflicts between both states.¹⁴

Existing bilateral agreements with Sri Lanka, Nepal and Bhutan have only had very limited impacts on trade between the member countries. India also has concluded trade agreements with countries or regional groupings in other parts of the world. As to Latin America for example, a preferential agreement with the Mercosur has recently come into force. Negotiations with the Andean Community, the System of Integration of Central America and Chile are under way.

Having signed the General Agreement on Tariffs and Trade (GATT) in July 1948, India was one of the first participants in the multilateral trading system. On 1 January 1995, at the establishment of the WTO, India was among the founding members. Since then, the WTO rules and institutions motivated and fostered the country's trade liberalisation process for example through dispute settlements, bindings of non-agricultural tariffs, the phasing out of the Multifibre Arrangement and the Information Technology Agreement. The AoA had little direct impact on the Indian agricultural trade but contributed to more transparent policies in the agricultural sector. Parallel to its rise as an important economic power, India also became a more and more influential negotiator at the WTO.

3 India's positions in the current WTO negotiations

During the current Doha Development Round, India has become an important actor within the WTO negotiations. In particular in the context of the Cancun Ministerial in September 2003 it began forming coalitions with likeminded member countries in its main areas of interest. The most remarkable alliance is the G-20, constituted of developing countries and focussing mainly on agriculture. Next to agriculture, non-agricultural market access (NAMA) and trade in services constitute the major pillars of the Doha-negotiations.

¹⁴ The most explicit example is Pakistan's ban on all Indian products except for a 677-item positive list.

Agriculture

The G-20 was established on 20 August 2003, in the final stages of the preparations for the Fifth Ministerial Conference of the WTO, held in Cancun, from 10 to 14 September 2003. The intention of the founding members was to avoid a predetermined result at Cancun and to open up a space for negotiations in agriculture. Their main objective was "to defend an outcome in the agricultural negotiations which would reflect the level of ambition of the Doha mandate and the interests of the developing countries"¹⁵ – this objective has since then remained the central platform of the group.

The group, which has known some variations in terms of membership since its establishment,¹⁶ currently comprises 21 developing countries from three continents: Egypt, Nigeria, South Africa, Tanzania and Zimbabwe from Africa; China, India, Indonesia, Pakistan, Philippines and Thailand from Asia; and Argentina, Bolivia, Brazil, Chile, Cuba, Guatemala, Mexico, Paraguay, Uruguay and Venezuela from Latin America. These countries represent approximately 60% of the world population, 70% of the world's rural population and 26% of the agricultural exports. In particular Brazil, but also India, has an outstanding role of leadership within the group. So far, the G-20 has held three Ministerial Meetings: in Brasilia (December 2003), São Paulo (June 2004) and New Delhi (March 2005). The next meeting is planned to take place in Pakistan in September of this year and is supposed to prepare the ground for the lead up to the Hong Kong Ministerial Conference of the WTO in December.

Since 2003, the G-20 is recognized as an essential interlocutor in the agricultural negotiations. At the Cancun Ministerial Conference it has submitted an agriculture framework proposal whose main points are

¹⁵ See the website of the G-20 : www.g-20.mre.gov.br/history.asp.

¹⁶ Especially in the early days of the group, in the context of the Cancun negotiations, several members such as El Salvador, Columbia, Costa Rica, Guatemala and Peru left. This can be understood as a partial success of the United States' attempt to weaken the group.

1. substantial reductions in trade-distorting domestic support (including direct payments to farmers),
2. a formula for tariff reduction and a general cap of tariffs to allow for a better market access of agricultural products; tropical products should be given duty-free access to developed countries, and
3. a definite date for the elimination of all export subsidies, with a special date for those products of particular interest to developing countries.

In each of these areas, particular attention is given to the needs of developing countries by stressing the importance of special and differential treatment.¹⁷

The WTO member states were not able to reach an agreement in Cancun. In the post-Cancun process, the G-20 (and particularly India and Brazil within the formation of the "Five Interested Parties", FIPs)¹⁸ has actively contributed to the elaboration of the Framework Agreement on Agriculture, adopted as part of a Council Decision on the Doha working program (the so-called "July-package") on 1 August 2004.¹⁹ The Framework contains elements and principles which will henceforth guide the negotiations on detailed modalities in agriculture. It agrees to eliminate export subsidies by a credible end date. It imposes a limitation of the overall trade-distorting domestic support to 80% of the sum of Final Bound Total Aggregate Measures of Support in the first year of implementation besides containing a combina-

tion of cuts, disciplines and monitoring requirements in the domestic support pillar. Moreover, it comprises a tiered formula for tariff reductions based on proportionately lower commitments by developing countries than by developed countries. The framework explicitly recognizes the critical importance of agriculture to the economic development of developing countries and the need to enable them to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns, including through instruments such as Special Products and a new Special Safeguard Mechanism against likely import surges.²⁰

The G-20 judges the "July Framework" as a success as it meets all of the group's negotiating objectives for the initial phase of the Doha Round: "(i) it respects the Doha mandate and its level of ambition; (ii) it points the way towards positive outcomes of the negotiations in the modalities phase; and, (iii) it represents, furthermore, a substantial improvement in relation to the text submitted to Cancun in all aspects of the agriculture negotiations".²¹

In the current run-up to the Sixth WTO-Ministerial Conference in Hong Kong on 13 to 18 December 2005 the G-20 continues playing an essential role in the agricultural domain by actively participating in the preliminary negotiations and submitting concrete proposals on this topic. In mid-July, some 30 trade ministers of influential WTO member states met in Dalian, China. They agreed that negotiations on agriculture should proceed on the basis of a new framework proposal submitted by the G-20 early in July 2005.

The proposal focuses on market access, which has proven the toughest aspect of the agriculture negotiations. It contains a formula, that divides developed and developing countries' tariff lines into different sets of tariff bands according to the

¹⁷ Joint Proposal by Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, India, Mexico, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Venezuela: Agriculture – Framework Proposal. 4 September 2003
http://www.g-20.mre.gov.br/conteudo/proposals_Cancun01.pdf

¹⁸ Next to Brazil and India, the European Union, the United States and Australia form part of the FIPs. This informal grouping had the leading role within the elaboration of the July Framework.

¹⁹ General Council: Decision adopted on 1 August 2004: Doha Work Programme. 2 August 2004
http://www.wto.org/english/tratop_e/dda_e/ddadraft_31jul04_e.pdf

²⁰ According to paragraph 41, an appropriate number of Special Products, designated on the basis of criteria of food security, livelihood security and rural development needs, shall be eligible for more flexible treatment. The establishment of a Special Safeguard Mechanism is mentioned in paragraph 42.

²¹ See the website of the G-20:
<http://www.g-20.mre.gov.br/history.asp>.

level of duties currently applied, with each band subject to different percentage cuts. For developed countries, five different bands would be available; the first comprising tariffs of up to 20% and the fifth all tariffs of over 80%. The tariffs within each band would be subject to linear cuts of progressively higher percentages for each band. Developing countries' tariffs would fall into four different bands: those between zero and 30%, between 30 and 80%, between 80 and 130%, and over 130%. The proposal seeks to introduce the principle of progressivity (higher tariffs would be subject to higher percentages of cuts) and of proportionality between developed and developing countries. Developing countries would cut less than two thirds of the cut to be undertaken by developed countries.

In addition to the tariff reductions under the formula, the G-20 text proposes to cap individual tariffs – at 100% for developed and at 150% for developing countries. This approach addresses the issue of tariff peaks.²² Moreover, some initial ideas for rules on the treatment of “sensitive products” were developed. Those products – that should be very limited in number – would only be subject to low tariff cuts, but for compensation their tariff rate quotas would be expanded (larger quantities of the product would be imported at a slightly lower tariff rate). The concepts of Special Products and a Special Safeguard Mechanism as well as tariff escalation and the liberalisation of tropical products by developed countries are among the other aspects considered important in the G-20 proposal.

The G-20 acts as a cohesive group in the field of agriculture but the interests of its members differ considerably in certain points. India holds a defensive position, aiming above all at the maintenance of its agricultural self-sufficiency. Although the country does not give much domestic support to its farmers, this issue is very sensitive for India: Given the fact that the

support is essential for its poorest citizens, the country is not willing to make any concessions in form of reductions in this matter. However, India demands reductions in trade-distorting domestic support from other WTO members. Similarly, the country calls for the abolition of export subsidies which itself practically does not use.

While the members of the G-20 are widely in line regarding the issues of domestic support and export subsidies the market access pillar is more contested. In contrast to the important agricultural exporter Brazil, India does not have an offensive interest in agricultural market access: It does not pursue export ambitions and the agricultural products exported by India do not face severe problems in terms of import tariffs or quota restrictions. The country is not against enhanced market access but it does not belong to the active demanders. The crucial point for India with regard to agricultural market access is its unwillingness to open up the own market. It argues that the import of cheap agricultural products from the world market would directly affect the income of the poorest parts of the Indian population. India therefore insists on the principle of proportionality according to which developing countries have to make fewer concessions than developed countries.

Instead of weakening the G-20, the differences within the group can be seen as their strength: The proposals submitted by the group in the field of agriculture do not represent isolated positions but already contain compromises between divergent interests. The European Union and the United States have explicitly welcomed the G-20 framework proposal on agriculture as it succeeded to steer negotiations to the middle ground between the Swiss formula and Uruguay round approach.²³ With this, the two most powerful industrialised WTO members are backing the G-20 alliance of developing countries in the field of agriculture. On the other side, among developing countries not being

²² Tariff peaks are defined as tariffs that are more than three times the national average tariff. They constitute a particular problem for developing countries as they are often concentrated in sectors of interest to them, such as textiles and clothing, footwear, and electronics.

²³ The Swiss formula, supported by the United States, is a harmonizing method for tariff reduction (for more detailed information see the following chapter on NAMA). The European Union propounds the Uruguay approach of average tariff reduction with a stipulated minimum reduction on each tariff line.

member of the G-20 and non governmental organisations, the role of the group begins to be contested. While at the beginning there was hope that the G-20 could become a strong actor that would strengthen position of developing countries in the negotiations, now the fear of a division of developing countries emerges. Especially with regard to India and Brazil some begin to wonder whether these countries are suitable for speaking for the developing world as a whole. This doubt is particularly strong with respect to the other areas of negotiations – NAMA and services.

Non-agricultural Market Access (NAMA)

In the area of NAMA the main issues to be solved within the current negotiations are the formula for tariff reduction and the treatment of unbound tariffs. Other issues are preference erosion, the sectoral approach and non tariff barriers. On behalf of the formula, most countries are in favour of a so-called Swiss-formula. The Swiss-formula is a special kind of harmonizing method, producing a narrow range of final tariff rates from a wide set of initial tariffs and a maximum final rate (determined by a "coefficient"), no matter how high the original tariff was. One characteristic of the Swiss-formula is that higher tariffs are subject to higher cuts than lower tariffs. Owing to their vulnerable position, most developing countries have higher bound tariffs than those of developed countries.²⁴ Therefore, many developing countries – among them India – are opposed to this type of formula applied to bound tariffs as they would face higher tariff cuts than developed countries. They argue that this would be against the principle of "less than full reciprocity" agreed to by all WTO members in the July package of last year.²⁵

While the United States and the European Union are in favour of the simple Swiss-formula, in April 2005 Argentina, Brazil and India (ABI) submitted a proposal on NAMA including a

modified Swiss-formula in order to attend to the concerns of developing countries.²⁶ The so-called Girard-formula would enable developing countries to retain some policy flexibilities by considering each country's tariff average. The formula, which would be applied to the different bound tariff lines (i.e. on a line by line basis), is a non-linear method in which tariff cuts depend on the value of the coefficient "B" – the lower the value of this coefficient, the steeper the tariff cuts. Special and differential treatment for developing countries could be achieved by applying to them a higher coefficient than to developed countries as well as by according them longer implementation periods.

Besides this formula for the reduction of bound tariffs the ABI proposal describes increasing the binding coverage to 100% as a "desirable objective", stressing at the same time that developing countries have to be given appropriate flexibility to achieve this objective. The text rests rather imprecise regarding this contested issue. For newly bound lines, a slightly different formula is suggested, applying - in contrast to the first formula for already bound tariffs - only to the tariff average (not on a line by line basis). Least Developed Countries (LDCs) and countries with a very low level of consolidation of tariffs should, according to the proposal, be exempted from tariff reductions in the ongoing negotiation round. The liberalisation recently undergone by newly acceded members should also be taken into consideration.

Non tariff barriers, such as anti-dumping measures, abuse of Sanitary and Phyto-Sanitary and Technical Barriers to Trade measures, and restrictive rules of origin, that also affect the trade in non agricultural goods, are dealt with in a separate negotiation group on rules. The ABI proposal therefore does not include any suggestions in this regard. In general, India is not very proactive in this field. This is little surprising regarding the fact that the country uses itself

²⁴ Apart from the fact that many small developing countries have a very low level of binding coverage.

²⁵ The Annex B of the above mentioned Council Decision WT/L/579 deals with the modalities for non agricultural market access. The principle of "less than full reciprocity" is to be found in paragraph 2.

²⁶ Argentina, Brazil and India. Communication to the Negotiating Group on Non-Agricultural market Access, 15 April 2005.
http://commerce.nic.in/wto_sub/NAMA/sub_tnmaW54.pdf.

many non tariff measures to protect its industry, first and foremost anti-dumping.²⁷

The opinions on NAMA are still very divergent at the WTO negotiations. On the issue of the formula, a Swiss or Swiss type formula seems likely to be chosen, but proposals concerning the details vary considerably. Early in July, a group of Caribbean countries (Antigua and Barbuda, Barbados, Jamaica and Trinidad and Tobago) submitted a proposal containing a non-linear formula for tariff reduction that copies the variable of average bound tariff rates from the ABI proposal but adds a further variable, in terms of a credit given for certain characteristics of developing countries. Another proposal was recently submitted by Pakistan. As to unbound tariffs some convergence seems to emerge in a sense that all countries (including LDCs) should be asked to bind their tariffs substantially. However, the negotiations on a formula for binding are ongoing.

Trade in Services

Services are the largest and most dynamic sector of the global economy. It is expected that by 2050, the world services exports would exceed merchandise exports. In response to the huge growth of the service economy, the General Agreement on Trade in Services (GATS) was signed as a part of the Uruguay Round and came into force on 1 January 1995. It is the first and only set of multilateral rules governing the international trade in services for which it defines four modes:

1. services supplied from one country to another (e.g. international telephone calls), officially known as "cross-border supply" (also called "mode 1");
2. consumers or firms making use of a service in another country (e.g. tourism), officially "consumption abroad" ("mode 2");
3. a foreign company setting up subsidiaries or branches to provide services in another

country (e.g. foreign banks setting up operations in a country), officially "comercial presence" ("mode 3"); and

4. individuals travelling from their own country to supply services in another (e.g. fashion models or consultants), officially "presence of natural persons" ("mode 4").

So far, GATS has only had limited impact in terms of liberalisation and has widely failed to provide developing countries increased opportunity to exploit their natural comparative advantage in services trade. The negotiation structure for trade in services differs from those for agriculture and NAMA. In the service sector states do not apply tariffs or similar quantifiable measures but more complex and often more subtle national regulations to control the imports and exports. Therefore, there can be no simple "formula" to be agreed on at the WTO to establish a frame for national policies in the sector. The multilateral rules in the services sector do not have the same level of specificity and the commitments include far more flexibility. Negotiations follow a requests and offers approach on a widely bilateral basis, with few multilateral guidelines. During the last years, two rounds of offers have taken place, whose results have been judged little satisfactory by the participants.

Currently, negotiations on services trade liberalisation are ongoing under the Doha Development Round. Amongst developing countries, particularly India has shown proactive interest in pushing for ambitious trade liberalisation in services which is the country's main trade interest. In contrast to its more defensive position in the agricultural and NAMA negotiations, the country pursues an offensive strategy in this area. India is bargaining for better market access, especially in mode 1 and mode 4 where the country has comparative advantages.

In the case of mode 4 (presence of natural persons), a major problem is that the temporary movement of service providers in most countries comes under the purview of immigration legislation and labour market policy and not international trade policy. Service providers face a range of barriers to accede the markets particularly of developed countries. These include complicated administrative procedures, quota-restrictions for visas and strict limitations

²⁷ One of the rare documents by India on anti-dumping is: Communication from India: Proposal on mandatory application of lesser duty rule, 9 February 2005
http://commerce.nic.in/wto_sub/Rules/sub_rules170.pdf

concerning the length of the stay in the receiving country with difficulties of renewal. The domestic regulations of entry and stay are very often lacking transparency. Greater security concerns in the wake of 9/11 have further complicated the liberalisation of services trade through the movement of natural persons. Even when market access is formally given, other formalities such as qualification requirements and procedures often impede the movement of service providers. India calls for the abolition of numerical quotas for visas and, in case they have to be applied, the criteria for fixation of such quotas should be specified. Moreover visa conditions such as "economic needs tests" should be abolished as they impede market access. Finally, transparency in mode 4 commitments should generally be enhanced.

The issue of cross-border supply of services (mode 1) concerns among others software services and business process outsourcing – in both India is one of the leading service providers. Especially the technological progress during the last decades has facilitated international labour division in the form of outsourcing through global data networks. In the area of cross-border supply, binding commitments from WTO members that are up to now widely lacking are demanded by India in various segments including business services, computer-related services, financial data processing, research and development services, management consulting services, environmental services, placement services, supply of personnel and provision of financial information.

Although to a lesser degree, India also has interests in the fields of mode 2 and mode 3. As to consumption abroad, one has to note that tourism is an important source of foreign exchange earnings. In India, these have grown considerably since the early 90s and have reached 3.5 billion US\$ in 2003 with 2.8 million tourists visiting the country.²⁸ Tourism has seen the most action among the services sectors under the GATS. India already has a highly liberalised tourism policy and is continuing to

further open up this sector. The same goes for the issue of commercial presence where India pursues a liberal policy of foreign direct investment.

India stresses that there is a need for symmetry among the different modes as not every service can be classified unambiguously into one of them. Until now, the progress in the negotiations, especially on modes 1 and 4 is judged as not at all satisfactory. Most importantly, the United States are reluctant to make concessions in mode 4. The chances for India of using the G-20 to further its interest in the services sector look remote, as positions with regard to trade in services differ significantly within the group. The country therefore has to look for new allies who share its interest in opening up the services sector. Several proposals at the WTO have been submitted by India together with other mostly Asian and Latin American developing countries, as China, Pakistan, Philippines, Thailand, Argentina, Brazil, Chile, Colombia, Guatemala, Mexico, and Egypt. But also some developed countries, among them Canada, Australia and New Zealand, have made similar suggestions. The liberalisation of the service sector can therefore not be seen as a pure conflict between North and South.

A specific feature of the Indian negotiation position is the explicit linking of the three market access areas of agriculture, NAMA and services: India stresses that the outcome in these three fields has to be balanced and it uses this argument in particular to underline that the services negotiations should be considered as equally important as NAMA and agriculture.

4 Conclusion

It is quite difficult to find an overall characterisation of the Indian positions in the current negotiations at the WTO. The country is pursuing varied strategies in the different fields of negotiations – corresponding to the heterogeneous structure of its domestic economy. The most obvious contrast is to be seen between the services and the agriculture sector: Services are India's main trade interest and the country is therefore offensively promoting liberalisation in this area. By contrast, in the field of agriculture, the country aims at

²⁸ See: Indian Ministry of Tourism: Incredible India. Figures 2003, http://www.tourismofindia.com/pdfs/tourism_stats.pdf.

protecting its local market and subsistence farmers and therefore pursues a defensive approach, stressing the need for protectionist measures to support its internal development process.

In which way do the Indian positions reflect the point of view of the developing world? Not at least India underlines that the developing countries should avoid being divided at the WTO. However, it is obvious that "the" point of view of the developing world cannot exist, taken into account the large variety of countries. The phasing out of the Multifibre Agreement is an often cited example of a WTO decision affecting developing countries in a most contrary way. In contrast to some of the poorest countries, struggling for the mere survival of their domestic economies, other developing countries have gained significant global competitiveness in certain sectors – as Brazil in agriculture or India in services.

These emerging economies have considerably increased their influence at the WTO during the last years. Although their positions differ in detail, they often act together when facing developed countries negotiators. The G-20 in the field of agriculture is a classic example in this regard. Especially Brazil and Argentina are important allies for India also in other areas of negotiation, particularly in NAMA. Regarding trade in services, India's possible allies can be found among developing as well as developed countries. Next to the formation of alliances with likeminded WTO members, India pursues a strategy of explicit linking of the different fields of negotiation in order to defend its varied interests in the different sectors. In a clever way, it makes progress on agriculture and NAMA dependent on concessions of developed countries in trade in services.

The Indian example very well demonstrates that the structure of the multilateral trade negotiations is far more complex than a simple confrontation between an industrialized and a developing world. This fact makes it even more challenging for a heterogeneous country like India to pursue its interests within the WTO and for the whole organisation to come to a balanced outcome of the Doha Development Round.

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