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## A long way from a done Doha deal

Biswajit Dhar, Financial Express

24 October 2013: In just over a month, members of the World Trade Organisation (WTO) will congregate in Bali for the Ninth Ministerial Conference. This meeting is being seen as an important step towards providing the much-needed impetus to the Doha Round, which has suffered an extended impasse. In 2001, when the decision was taken to launch the Doha Round, WTO members had agreed to seal the deal in four years. However, well beyond a decade since, progress in most of the major negotiating areas has been perfunctory. There is, therefore, no doubt that the current round has been the most vexatious of all the negotiating Rounds that the multilateral trading system has seen since it was established in 1948. An oft-ignored aspect of the Doha Round is that its architects had envisioned a balanced outcome by ensuring that negotiations in all the mandated areas conclude simultaneously. This was reflected in their agreement that the outcome would be in the nature of a “single undertaking”, which really meant that the “Doha Deal” could only be done when WTO Members have concluded agreements on all areas. The WTO-speak in this regard said it all: “Nothing is agreed until everything is agreed”. In practical terms, this approach was extremely significant since it sought to curb the tendencies of the more dominant countries to conclude agreements in areas that suited their interests best (euphemistically called “cherry picking”) and to go slow (or even ignore) in areas in which they had to make concessions. Thus, countries could engage in inter-sectoral trade-offs and this was seen as a big step towards ensuring a balanced outcome.

The high ambitions set for the Doha Round have eroded rapidly, particularly since the breakdown of the negotiations in July 2008. The narrow focus of the issues being discussed in the run-up to the Bali Ministerial Conference underlines the extent of erosion of expectations. The agenda engaging the WTO membership looks thin in relation to the overall negotiating mandate of the Round as they cover three areas, viz., trade facilitation, a couple of issues in agriculture and a package for the least developed countries. The focus of the pre-Bali engagement has, however, been on the first two issues.

Since its inclusion in the negotiating mandate in 2004, trade facilitation (TF) has looked as the most likely area in which WTO Members could conclude an agreement. Negotiations on TF have been dealing with several customs-related issues, including transparency, release and clearance of cargo introduction of risk management, post clearance audit, instituting single window for clearance of goods, elimination of pre-shipment and post-shipment inspections, and uniform forms and documentation requirements for clearance of goods. Besides the above-mentioned, freedom of transit and customs cooperation are key elements of the discussions.

The broad contours of an Agreement on TF are getting clear, despite there being more than 400 square brackets in the latest negotiating text. At the same time, several contentious issues are engaging the WTO members. Differences persist, particularly on the extent of flexibilities that are to be included in the agreement, which are of primary interest to the developing countries. Moreover, these countries have been insisting on the inclusion of effective provisions on special and differential treatment; provisions that would allow developing countries to take less onerous commitments and also benefit from a longer phase-in period for the implementation of their commitments. In addition, developing countries have been seeking firm commitments on capacity building and technical assistance, which will enable them to meet the challenges posed by the proposed agreement.

Agriculture has been among the most contentious issues in the Doha Round and the run-up to the Bali Ministerial. It has been witnessing deep differences between the developing and the developed countries. Agriculture has been identified as a priority area by two groups of developing countries, viz., the G-20 and the G-33, both of which include India as a prominent member. While the former is seeking elimination of export subsidies and credit, the latter is seeking amendments in the Agreement on Agriculture (AoA) for promoting food security.

Way back in 2005, WTO Members had agreed in the Hong Kong Ministerial Conference that by 2013, export subsidies will be eliminated and export credit would be significantly reined in. What is quite clear by now that these twin commitments will not be met. The G-20 has, therefore, taken the initiative to ensure that these egregious forms of subsidies are eliminated in quick time.

It is the G-33 proposal on food security that has emerged as the critical issue in the confabulations on agriculture. Towards the end of 2012, the group tabled a proposal for the inclusion of specific measures in the AoA that could enable WTO members to support their food security programmes. Besides India, which has initiated one of the most broad-based programmes for providing food aid to the needy, ASEAN-members are among those that have taken measures for promoting food security; especially after food prices had reached record levels in 2007-08.

The G-33 proposal seeks to ensure that AoA provisions do not impede implementation of food security programmes by developing countries. These countries have therefore proposed three amendments to the subsidies disciplines, which, they argue, can be introduced through a Ministerial Decision in Bali. The first of the proposed amendments would allow developing countries to make payments on specific activities to promote rural development and poverty alleviation without being subjected to any disciplines introduced by the AoA. Thus, paragraph 2 of Annex 2 of AoA was proposed to be amended by including payments by developing countries for farmer settlement, land reforms, rural development and rural livelihood security, such as provision of infrastructural services, land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programmes, nutritional food security, issuance of property titles and settlement programmes.

Secondly, G-33 proposed that the existing provisions relating to public stockholding for food security purposes should be amended in order that developing countries can spend on acquisition of stocks of foodstuffs for supporting low-income or resource-poor producers and the cost of so doing will not be accounted for in their subsidies' bills. And, finally, they have sought specific amendments to the AoA to cover the programmes designed to lower food prices to more reasonable levels.

In a more recent submission, the G-33 members have proposed a supplementary decision a key element of which is a so-called "peace clause", which would provide immunity to the food security programmes of developing countries from WTO disputes. This "peace clause" would therefore enable developing countries to implement their food security programmes in an unhindered manner as long as their proposed amendments to the AoA do not take effect. But the G-33 proposal faces serious challenge from the developed countries. The United States has been in the forefront of those opposing the G-33, and has demanded that the peace clause be a time-bound interim solution.

In its opposition to the G-33 proposal on food security, the United States has thoroughly exposed its duplicity on the issue farm subsidies. According to the estimates provided by the OECD, the United States has been the largest provider of farm subsidies, having steadily increased its support for agriculture from about \$101 billion in 2005 to more \$156 billion in 2012. These subsidies have not only allowed the United States to protect its highly resource intensive agricultural sector, they have also provided enough cushion to the farm lobby to dump their products in the global markets. At the same time, however, the US and other developed nations unhesitatingly oppose developing countries when the latter initiate

programmes for feeding their poor and the under-nourished. India and other G-33 members have stood up against any attempt to curb their sovereign rights to undertake social welfare programmes; this stand must be taken to Bali and beyond.

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# India may oppose issues outside Doha mandate

Asit Ranjan Mishra, Mint

New Delhi, 13 January 2014: India is preparing to oppose any move by developed countries to include so-called “21st century issues” such as services, competition, investment and climate change in the post-Bali work programme of the World Trade Organization (WTO).

India sees a scheduled discussion on the topic at the World Economic Forum (EF) meeting in Davos later this month as an attempt in that direction, a commerce ministry official said speaking on condition of anonymity.

The WEF annual meeting is scheduled to run between 22 and 25 January. Finance minister P. Chidambaram and trade minister Anand Sharma are scheduled to participate in various debates at the meet.

According to the WEF programme, on 25 January, under the topic *Beyond barriers and borders*, the various dimensions to be addressed include “Facilitating cross-border trade flows, making trade work for developing countries, assessing mega-regional trade agreements and integrating 21st century business issues.”

Delegates from 159 member-states of WTO achieved a historic deal last month, which often seemed like an impossible task, by sealing the organization’s first multilateral accord since it came into force in 1995, breathing new life into the 12-year-old Doha round of world trade talks.

While an agreement for a temporary solution on food subsidy at Bali paved the way for the introduction of the food security Act in India, ensuring distribution of cheaper foodgrain to two-third of its population ahead of the general election due in April, a pact on trade facilitation is expected to help developed countries gain greater market access in developing nations since it requires the latter to streamline their customs regulations and make investments in their trade infrastructure.

The Bali meeting also charted out the way forward by instructing the trade negotiations committee to prepare a “clearly defined” work programme within the next 12 months on the remaining Doha Development Agenda issues pending since 2001.

“We have to emphasize that this is the right time to conclude the Doha round since it is on track after a long time. Therefore, those issues need to be addressed first. Doha round should not be allowed to get derailed now,” the commerce ministry official quoted earlier said, adding that India is in touch with other developing countries on the matter.

Abhijit Das, head and professor at the Centre for WTO Studies under the Indian Institute of Foreign Trade, said it will not be possible at this stage to include any other issues in the WTO post-Bali agenda other than the remaining Doha issues. “The mandate is very clear. It has to be confined to the unfinished items of Doha round of trade talks.”

But he cautioned India has to be prepared for all eventualities. “If issues raised by the developed countries are not in our national interest, we must oppose them,” he said.

India and other developing countries have maintained that until the Doha round of development issues is concluded, WTO should not take up any other issue for negotiation.

Ranja Sengupta, senior researcher at the Third World Network, an independent non-profit international network of organizations, said India should stick to the stand of the developing countries.

“There is a danger that issues completely outside the current mandate under Doha round may be included under different guises. India may be asked for a trade-off on some of these issues in return of a permanent solution on its demand on food security,” she said. However, Sengupta said the government should start consulting with various stakeholders on the 21st century trade issues. “We should finalize our industrial and economic goals and design our trade policy accordingly to serve those ends,” she said.

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# WTO Chief Cautions on Use of Past Texts As Principal Basis for Revived Doha Talks

Daniel Pruzin, WTO Reporter

19 March 2014: The head of the World Trade Organization cautioned against using previous draft negotiating texts from the chairs of the Doha Round talks as the main basis for any renewed talks in key sectors such as agriculture and industrial tariffs.

Speaking March 18 at a meeting of African delegations to the WTO in the French town of Annecy, WTO Director-General Roberto Azevedo said the membership needed to avoid getting bogged down in a debate about the status of the previous draft texts dating from 2008 and 2011. The Doha talks collapsed after a failed meeting of key trade ministers in Geneva in July 2008.

“It's clear it did not work then,” Azevedo said in reference to the draft texts, and “it's clear it won't work now” if the texts remain as they are without adjustments to account for where the membership went wrong, officials in attendance quoted the WTO chief as saying.

The debate over the draft texts is already emerging as a potential sticking point in talks under way at the WTO on a future work program for the organization. After securing a deal on a trade facilitation agreement—the first multilateral concluded at the WTO since its establishment in 1995—trade ministers agreed at the organization's December ministerial conference in Bali that WTO members would prepare a clearly defined work program within the next 12 months on the remaining Doha Round issues.

Azevedo followed up Feb. 6 by calling on the chairs of the Doha negotiating groups to consult with WTO members on the post-Bali work program and provide some initial feedback to a General Council meeting on March 14.

## *Divergence on Draft Texts*

The chair reports circulated after the meeting showed strong divergence on the status of the draft texts. Officials said developing countries led by India, Argentina and the so-called “Alba” group—Bolivia, Cuba, Ecuador and Venezuela—have been the most insistent on the previous draft texts being the sole basis for any future Doha negotiations, with the U.S. among the more vocal in arguing that the texts no longer reflect the realities of a new global trading environment where countries such as Brazil, China and India have emerged as major trading powers.

U.S. concerns focus on the blanket flexibilities in the agriculture and industrial tariff draft texts available to all developing countries, regardless of income, which would impose smaller cuts in their agricultural and industrial tariffs as well as their farm subsidies, and give them longer time periods to implement the cuts.

“There's zero evidence that going back to the 2008 and 2011 texts will lead to a different result,” argued one senior official in the latter camp. “They're fine as a reference point, but they're not agreed texts.”

John Adank, the New Zealand ambassador chairing the Doha agriculture talks, reported that “many” WTO members highlighted the importance they attached to the draft agriculture text modalities issued in

April 2011 as a basis for further discussions and negotiations on agriculture.

“These Members noted that although this document had never been agreed, it had built on earlier Ministerial guidance, was well known in their capitals and reflected a range of discussions and compromises that had been made in the course of negotiations up to December 2008,” he said.

“Some other Members have, in contrast, placed emphasis on the need for further discussions not to be constrained by the draft modalities,” Adank added. “They recall that the draft modalities have never been agreed and have stressed the importance of remaining open to new creative approaches to unresolved issues as well as ensuring that the discussions take account of more recent developments or trends in agricultural trade and policies.”

Switzerland's WTO ambassador Remigi Winzap, the chairman of the Doha talks on industrial tariffs (NAMA), reported a similar outcome.

#### *Trying to Resume at Previous Point*

“Many Members suggested continuing where we left off and to take the latest modalities draft as a basis for restarting the NAMA negotiations,” he said. “Arguments presented were as follows: The draft modalities represented many years of work; they were known in capitals and by industry; they allowed Members to come close to a result; for many Members they were still today close to an acceptable result; for many Members it was not realistic to start negotiations from a blank slate.”

“Alternatively, some Members suggested not continuing work on—or at least not to stick too closely to—the latest draft modalities as we had not been able to deliver through this means,” Winzap added. “Most Members who did not want to take up where we left off in 2011 seemed in particular unsatisfied with the balance between the coefficients and flexibilities in the latest draft modalities.

#### *Cairns Report Said to Mark Big Changes*

Officials said U.S. ambassador to the WTO Michael Punke told the African delegations in Annecy that a recent report by the Cairns Group of agricultural exporters showed the degree to which the international trading environment has changed since the Doha talks were launched in 2001.

The Cairns Group report noted that several major emerging economies, most notably China and India, have sharply increased their spending on trade-distorting farm subsidies over the past decade at the same time the U.S. and the European Union have reduced their subsidy outlays. The report however also noted that the combined amount of farm subsidies of all types “remains far greater” in developed countries than in developing countries.

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# Azevêdo Urges WTO Members to “Shift Gears” in Doha Restart Effort

Bridges Weekly Trade News Digest

10 April 2014: Efforts to develop a work programme aimed at revamping the stalled Doha Round negotiations are ready to enter a “second stage,” WTO Director-General Roberto Azevêdo reported to the global trade body on Monday, after four months of preliminary consultations among members.

“In all these conversations, I have sensed that people want to find a way forward - they know what is at stake for the multilateral trading system. People want to finish the job,” the WTO chief said at a meeting of the Trade Negotiations Committee, which is tasked with the Doha Round talks. “Our task now is to match our desire for progress with an acceptance of the practical steps we need to achieve it.”

The 159-member body has spent the first quarter of this year discussing ways to re-energise the troubled negotiations, building upon the success of last December’s Bali ministerial conference, which saw the WTO’s first multilateral deal in nearly two decades.

Trade ministers in Bali have given WTO members until the end of 2014 to chart a path for concluding the rest of the Doha Round, which was formally declared at an impasse in late 2011, ten years after its launch. While members were able to clinch a deal in Bali on a few select Doha deliverables - primarily on trade facilitation, along with a few select agriculture- and development-related issues - the bulk of the talks has effectively been on the backburner for the past several years.

The 2014 talks have so far been positive, Azevêdo said; however, these have yet to produce “anything very new in terms of members’ stated positions,” with members largely repeating “well-known arguments.” Sources confirm that the consultations are still in very preliminary stages, as members aim to set the groundwork for the next phase of discussions.

“It’s time to shift things up a gear,” the Director-General urged.

*2008 modalities?*

At a meeting of the WTO’s General Council a month ago, Azevêdo reported that members are largely in agreement that any Doha work plan would need to deal with the most difficult issues of the talks - agriculture, non-agricultural market access (NAMA), and services - a sentiment that was reiterated on Monday.

Of these three, several members have said that the ambition seen in agriculture will largely determine how far the other two areas will be able to advance - and, in turn, what progress might be possible in the various remaining topics of the Round. Many have said that there needs to be balance both across agriculture, NAMA, and services, but also within these topics individually.

The next question for the global trade body is what to use as a starting point for this new chapter in the Doha Round talks. Specifically, members have spent recent meetings discussing how closely they should rely on the so-called 2008 modalities - essentially draft blueprints that were issued that year in the hopes of concluding a Doha deal.

“Some have been saying that we need to conclude our negotiations using the 2008 texts as they are. Of course, these texts are an important - indeed fundamental - part of how to assess the situation,” Azevêdo said on Monday.

The 2008 texts could serve as parameters for shaping the next phase, he said, and reflect years of work and insights.

However, he warned, members are no more likely to agree on these texts now than they were six years ago, when the talks suffered a high-profile collapse. “If any of you insists that those texts are cast in stone and unalterable, then you have made a choice; a choice that irreparably condemns our efforts to failure,” he added.

The question of which starting point to use has been especially difficult with regards to agriculture, with members openly sparring on how to proceed. Developing countries have been among those to push for using the 2008 texts as a starting point in this area, though others, such as the US, have been calling for new data to give the talks a fresh start.

“As we noted in each of these negotiating groups, it is essential that our work in these areas is well-informed by the latest data on trends in trade and barriers to trade,” US Ambassador to the WTO Michael Punke said at Monday’s meeting, highlighting in particular the need for new information on agricultural subsidies.

“Members who clamour for progress in Doha but fail to meet this basic obligation will have little credibility,” Punke warned.

EU Ambassador Angelos Pangratis similarly noted that the world today is far different from what it was five or ten years ago, and that members’ discussions “must reflect the problems and questions we face today.”

China, meanwhile, has warned against skipping or ignoring the previous draft texts, noting that WTO members’ “greatest assets are our experiences and lessons gained from the past.”

Beijing also warned against the introduction of any new requests or concepts that may be “at odds with the DDA mandate and detrimental to the completion of the work programme,” according to a copy of Chinese Ambassador Yu Jianhua’s statement seen by Bridges.

#### *Next steps*

The date of the next TNC has not yet been formally confirmed, though a meeting of the General Council is currently slated for 12-13 May.

Other key events on the international trade calendar that could provide indications of “next steps” for the Doha discussions include the annual “mini-ministerial” held on the sidelines of the Paris meeting of the Organisation for Economic Co-operation and Development, along with a meeting of Asia-Pacific trade ministers in China, both in May.

Trade ministers from the Group of 20 major industrialized and emerging economies are also set to meet in Australia in July, just days before the WTO’s last General Council meeting ahead of the summer break.

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# WTO to Explore 'Peace Clause' After India Rejects Food Security Compromise Proposal

Daniel Pruzin, WTO Reporter

9 September 2013: Members of the World Trade Organization (WTO) are under renewed pressure to hammer out a deal on the issue of food security for the WTO's upcoming Bali ministerial conference, after India torpedoed a compromise proposal aimed at addressing its concerns, officials told Bloomberg BNA.

At a September 4 Bali, Indonesia, preparatory meeting dedicated to agriculture, India said it was not in a position to accept the compromise proposal from Norway that would allow it to adjust how it calculates its agricultural subsidy spending to take account of amounts actually paid to farmers. Instead, India, backed by the Philippines, put forward a new proposal granting flexibility to countries experiencing domestic inflation rates greater than 5 percent in calculations of their subsidy spending.

Critics such as the United States charged that the Indian proposal would essentially exempt most large developing countries from their WTO spending caps on trade-distorting subsidies, because most of those countries have inflation rates above 5 percent. Australia, Canada and the EU also expressed doubts about the proposal, while Brazil said the initiative was impractical, given the short time remaining until the December 3-6 Bali meeting, according to officials in attendance.

"It would dramatically alter the disciplines of the WTO," argued one participant in the discussions in regards to the new Indian proposal. "Even if countries thought it was a good idea, which many don't, the notion that WTO members could successfully negotiate an inflation mechanism over the next six weeks flies in the face of our experiences over the last 10 months."

*'Due Restraint.'*

John Adank, the New Zealand ambassador chairing the WTO agriculture talks, suggested instead that members examine the possibility of adopting some type of "due restraint" or "peace clause" commitment in Bali that would give members some breathing space for continued negotiations after the ministerial conference, said officials in attendance.

Countries such as Australia and China expressed support for exploring this option in more detail, according to officials, and trade diplomats said the option was already discussed in an August 23 bilateral meeting between US Trade Representative Michael Froman and Indian Commerce Minister Anand Sharma. Sharma gave no indication at that time that India was preparing a new proposal on the food security issue.

A "peace clause" contained in the Uruguay Round agreement on agriculture exempted farm subsidy programs from WTO dispute challenges, provided that spending did not exceed 1992 levels. The peace clause expired at the end of 2004.

WTO members agreed at their 2001 ministerial conference in Doha, Qatar, that restraint would be exercised in challenging subsidy programs that developing countries say are needed to promote rural

development and adequately address food security concerns.

However, WTO members would need to agree whether any such due restraint commitment in Bali would be a Doha-style political commitment or a legally binding obligation and how long the commitment would last. The United States and other major farm-exporting nations are also expected to push for commitments ensuring that any surplus production under these development/food security measures does not get dumped on global markets, effectively constituting an illegal export subsidy.

### *India Food Bill*

India's upper house of parliament approved a Food Security Bill September 3 expanding subsidized purchases of rice and wheat at an estimated cost of some \$20 billion annually.

The legislation establishes food as a legal right and seeks to ensure that the country's 800 million poor people can purchase at least 5 kilograms (11 pounds) of grain every month at subsidized prices. The spending commitments are expected to largely exceed India's current WTO spending limits and expose New Delhi to possible WTO dispute settlement proceedings.

India already has an estimated 80 million metric tons of excess grain production in storage, with some of the excess already being sold on global markets.

WTO members are hoping to secure a deal at Bali on a package that would include an agreement on trade facilitation, as well as several agreements that are related to agriculture and that address the special concerns of the WTO's poorest members. Officials said that members would need to know by mid-October what possible outcomes are likely to be in the Bali package in order to have any confidence that a deal can be reached.

The deal is considered an essential confidence-builder for jump-starting the stalled Doha Round of trade talks, now in their 12th year, and for maintaining the WTO as a viable forum for trade negotiations at a time when bilateral and regional trade initiatives are taking the spotlight away from the organization. However, India has been accused by some trade diplomats of stalling on trade facilitation talks in a bid to win concessions on food security.

### *'Green Box' Subsidies*

The September 4 meeting chaired by Adank focused on a proposal from the "Group of 33" developing countries (G-33) put forward late last year on ensuring food security.

The G-33, led by India and Indonesia, want developing countries to be allowed to classify purchases of food stocks at subsidized prices as "green box" subsidies exempt from WTO spending limits. Normally, such price supports must be classified as trade-distorting "amber box" supports.

Under WTO rules, developing countries with stockholding programs for food security purposes must count any difference between the prices paid to farmers and external reference prices (dating from 1986-88) as trade-distorting subsidies. WTO members are prohibited from spending more than a certain percentage of the value of their domestic agricultural production (de minimis limits) for these subsidies, with the limit for developing countries fixed at 10 percent for both product-specific and non-product-specific support.

India's food security program is based on price guarantees for producers, with administered prices fixed by the government.

The Norwegian compromise proposal would allow for a downward adjustment in the administered price when markets do not function properly. This would essentially allow India to calculate its amber box spending based on the actual income received by farmers rather than on the amount spent on the administered price, which is paid to middlemen or “aggregators” that buy from farmers rather than being paid directly to farmers.

However, according to the participant in the September 4 discussions, India informed WTO members that it could not accept the Norwegian proposal because it has no means of calculating what amounts the aggregators receive and because the payments to aggregators are illegal under domestic law.

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# Azevêdo Sets Bali Ministerial Success as “First Priority”

Bridges Weekly Trade News Digest, Volume 17, Number 29

12 September 2013: Achieving a successful result at this December’s WTO ministerial conference in Bali will be his “first priority,” new Director-General Roberto Carvalho de Azevêdo told the organisation’s members in his inaugural speech on Monday. In his statement, the global trade chief outlined a “rolling schedule of meetings” that he has planned for the coming weeks in the hopes of reaching that goal.

The former Brazilian ambassador took office as WTO head on 1 September, barely three months before the organisation is set to hold its ministerial conference. WTO members have spent most of the past year racing to put together a three-pronged package of deliverables in time for the Bali event, pulled from the broader Doha Round negotiations.

The so-called “Bali package,” as currently discussed, would have a trade facilitation agreement at its core, selected agriculture components, and issues of relevance to developing and least developed countries.

The Doha trade talks have already hit multiple snags during their 12-year history, before ultimately being declared at an impasse at the organisation’s 2011 ministerial conference in Geneva. The fallout from the impasse, trade observers say, has damaged the WTO’s credibility, a perception that the new Director-General acknowledged in his remarks.

“The WTO, as we know, has been defined by what we have been doing in the negotiating front,” Azevêdo said. “This is how the world sees us. There’s no escaping it.” “People see us as good as Doha. That’s the reality,” he added.

Success in Bali has been touted as a way for the WTO to show it can still deliver results, particularly in the current global economic context. While recent reports from organisations have indicated signs of a recovery in advanced economies, many warn that there is still more to be done. For instance, the WTO is actually slated to revise its global trade growth estimates for both 2013 and 2014 downward from its earlier predictions, Azevêdo confirmed to reporters following his speech.

However, restoring faith and trust in the WTO, he warned, is not a task he can do alone. “I can suggest the direction, but we must choose this path together,” he said.

## *“Rolling set” of meetings*

Prior to the WTO’s annual August break, outgoing Director-General Pascal Lamy had warned that the pace of the Bali negotiations - while somewhat improved - was still far too slow, a sentiment that was broadly echoed by trade officials, speaking both publicly and privately.

Azevêdo hopes to jolt the process by holding “intensive consultations” with members in various formats and configurations, at the ambassadors’ level. These will start this week, and will address all three topics that are on the table for Bali. This “rolling set of meetings,” he said, will be designed to give all members a voice on the different issues, and are being planned in coordination with the chairs of the negotiating groups involved.



In order to resolve political disagreements, capitals will also be brought into the process, with the Director-General urging senior officials to be “ready to come to Geneva” over the coming weeks to move the negotiations forward. He will also continue his interactions with ministers during the preparations. There will be regular meetings of the Trade Negotiations Committee - which is tasked with the overall Doha talks - in the coming weeks, which will be convened “as necessary.” Azevêdo has also urged members to start identifying areas for possible trade-offs.

Azevêdo made his first international appearance as director-general last week, at the Group of 20 Leaders’ Summit in St. Petersburg. Reporting to WTO members on the meeting, he noted that the group had called for all of the global trade body’s 159 members to show the “necessary flexibilities” in order to achieve a Bali package.

The G-20, for its part, said it would be “ready to make significant contributions in these negotiations to achieve such results.” (For more on the G-20, see related story, this issue)

### *Bali: Not the “end of the road”*

Clinching a Bali package, the new Director-General said, is only a first step. Delivering on the rest of the Doha Round talks “must be part of any future agenda.” However, details on what ideas he has for resolving the remaining Doha issues would be saved for another time.

Improving the WTO’s other key functions - such as reducing the heavy demands on the dispute settlement mechanism or strengthening the organisation’s monitoring functions - are also important goals, he added. However, for the time being members must focus on “the here and now,” specifically the Bali ministerial. “The intermission is over,” he concluded. “It’s time the WTO was back at the centre of the world stage. The stakes couldn’t be higher. We have to deliver - and if we work together, I know that we will.”

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# WTO Members Make Progress On Bali Package, But Deal Not A Sure Thing

Matthew Schewel, Inside U.S. Trade

20 September 2013: World Trade Organization members are narrowing their differences in newly invigorated discussions over a package of trade concessions for a December ministerial meeting in Bali, but sources said it is still too early to tell whether this progress will be enough to deliver a deal in time.

In particular, key WTO members are moving toward a potential compromise on several of the proposed agriculture and development components of the Bali package, according to Geneva sources. The third pillar of the package is a trade facilitation agreement, although developing countries have made clear that they will not let a trade facilitation agreement come to fruition unless their priorities in agriculture are addressed.

On agriculture, key WTO members -- including the U.S. and India -- have coalesced around the idea of a temporary "peace clause" as a way to handle a controversial food security proposal championed by India, according to Geneva sources. This peace clause would shield certain food security programs from being challenged under the WTO, although the details are still under negotiation, sources said.

The food security proposal has been controversial since it was introduced last November by the G-33 group of developing countries, of which India is a member. The U.S. has argued it would undermine WTO agricultural subsidy disciplines because it would provide an exemption from domestic subsidy commitments for food security programs, under which governments buy food from local farmers at higher than normal prices in order to distribute it to vulnerable populations.

Other parts of the agriculture pillar of the Bali package are separate proposals by the G-20 group on export subsidies and on the administration of tariff-rate quotas (TRQs). One outstanding issue on the TRQ administration proposal is the political decision on whether its obligations apply to both developed and developing countries, sources said. The U.S. has pressed for the proposal to apply to all WTO members, which is a controversial position, according to one Geneva source.

Sources said negotiators are still divided over the export subsidies proposal, which would require developed countries to reduce their scheduled export subsidy commitments by 50 percent by the end of this year. The U.S. and EU are strongly objecting to that proposal, even though the amount of export subsidies they currently offer is probably already below the 50-percent target, according to one Geneva source. But these countries want to ensure that they have the space to offer export subsidies again if commodity prices go down, this source said.

Another source backing the G-20 proposal said all WTO members appear to have agreed that there needs to be some sort of outcome on export subsidies in Bali, although they still disagree about whether it should be a binding outcome or a nonbinding political commitment to seek reforms in the future.

These advances have come over the past two weeks in a series of meetings set up by newly appointed WTO Director-General Roberto Azevedo involving roughly 30 key WTO members. The meetings have been at the Geneva ambassador level with the exception of a September 19 session of senior-level capital officials. The process is expected to continue next week, during which the Trade Negotiations Committee

is also slated to meet.

One Geneva source said that although WTO members are working towards landing zones on the various agriculture issues, it remains to be seen if this progress will be enough to unlock the negotiations on trade facilitation.

Several sources said all WTO members agree that the negotiations have to be concluded before the Bali meeting -- meaning there can be no last-minute negotiating by ministers. Two sources said Azevedo wants the final tradeoffs for the deal identified by the end of October, and another source said the deal needs to be completed and sent to capitals by mid-November.

In an interview this week, South African Trade Minister Rob Davies said that Azevedo has "got time against him" in trying to cobble together the Bali package. The negotiations taking place now should have taken place in April after a meeting of trade ministers in Paris on the margins of the Organization for Economic Cooperation and Development ministerial, he said.

But Davies stressed that a deal can be done if WTO members show the right kind of flexibility. If that is the case, "I have no doubt it can be done," he said. "Whether it will be done, I am not prepared to bet on."

The peace clause was one of three options endorsed by the G-33 in a new paper on the food security issue it presented last week during the ambassador-level meetings convened by Azevedo. The other two options, which involved changing the way subsidies commitments are calculated, were dropped after being branded by some WTO members as too ambitious to achieve in the limited time remaining ahead of the Bali meeting.

The details of the peace clause that are now being hashed out include how long it would last, what conditions these programs would have to meet to be protected, and what reporting and transparency steps would be required of governments undertaking them, according to these sources. Also under discussion is whether a country's food security program will be automatically able to use the clause, or whether the country would have to request approval from the WTO members to use it.

The G-33 paper tabled last week proposed the peace clause as a temporary solution that would stay in place until WTO members reached a more permanent agreement to address worries by India and other developing countries that their public stockholding programs aimed at promoting food security could put them over their limits for trade-distorting "amber box" subsidies.

Some WTO members have balked at the idea of an indefinite duration of the peace clause, arguing that this would remove the incentive for its users to pursue a permanent solution on food security. These critics have sought a narrower timeframe for the peace clause, and officials are continuing to discuss what would be an appropriate duration, sources said.

Another point of discussion is what conditions public stockholding programs would have to meet in order to qualify for safe harbor under the peace clause. Among the conditions being discussed are that these programs would have to be minimally trade distorting and actually be related to food security, as opposed to being a disguised measure to help domestic farmers, according to one Geneva source.

The components of the development package have been significantly scaled back, according to Geneva sources. One of the main development proposals still under consideration is a mechanism to monitor how the special and differential treatment obligation in specific WTO agreements is being applied.

The other is a proposal tabled this week by least developed countries (LDCs) that would simplify rules of origin to allow them to more readily access developed country markets. One Geneva source said this proposal is viewed as a good basis for conversation, although another source maintained that it is way too complicated to be implemented in the short time remaining before Bali.

Other elements that had been discussed as part of the development pillar appear to have fallen by the wayside. For instance, the African group of countries has pulled back its demand that the Bali deal include a decision on specific language laying out flexibilities for developing countries in 28 WTO agreements, sources said.

The LDC group has also failed to move forward with proposals on cotton subsidies and implementing duty-free, quota-free access for LDC exports in developed country markets due to internal disagreement, sources said. Sources have said that Haiti and Lesotho oppose the DFQF proposal, which they fear would undermine unilateral trade preferences currently granted to them by the United States.

One source said that with nothing moving on cotton subsidies, it will be important to ensure that technical assistance continues to the four West African cotton producers hurt by the U.S. and other subsidizers.

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# Negotiations for a deal at WTO's Bali meet stuck over food security

Asit Ranjan Mishra, Mint

New Delhi, 25 September 2013: Negotiations for a deal at the Bali ministerial meeting of World Trade Organization (WTO) members scheduled for December are stuck over the tenure of an interim resolution to the demand by G-33 developing countries on food security.

While the 33 developing countries (G-33) led by India are demanding the tenure should be 10 years, developed countries like the US are ready to accept an extension only by two or three years.

In the absence of a broad-based agreement on the Doha round of trade talks that started in 2001, member countries are making a last-ditch attempt to work out areas where a consensus could be reached.

India has been demanding a balanced outcome from the WTO ministerial in Bali with the interest of the so-called least developed countries (LDCs) and developing nations at its core.

While developed countries are projecting trade facilitation as a sure thing at the Bali ministerial meeting, developing countries want a deal to allow them to increase their ceiling on food subsidies above what is permissible at present.

“Developed countries are saying they are ready for a peace clause for a period of two to three years. Developing countries are saying if there has to be a peace clause, it should be an interim solution till a permanent solution is found, so that there is pressure on the developed countries to find a permanent solution,” a government official said speaking on condition of anonymity.

A so-called “peace clause” in WTO parlance gives legal security to member countries and protects them from being challenged under other WTO agreements.

The official said the G-33 countries are of the opinion that if the peace clause has to be time bound, it should be for 10 years. “In the Uruguay round also, the peace clause was implemented for eight years,” he added.

Developing countries also think the proposal on table at present on trade facilitation only increases the burden on developing countries by forcing them to upgrade their export infrastructure without any reciprocal commitment on the part of developed countries for financial assistance or technology transfer. “The G-33 has been saying that don’t only look at trade facilitation from your export point of view. The second pillar of trade facilitation is about special and differential treatment to developing countries. Developed countries do not want to talk about that,” the official said.

He added that even section 18.4 of the Agreement of Agriculture under WTO rules has a provision to give due consideration to excessive inflation while calculating subsidies. “If you adjust for excessive inflation, then our food subsidy is nothing,” he said.

If the ceiling for food subsidy is not increased, then at its present level, India may cross the ceiling within three-four years. Subsidy cannot extend 10% of the total value of the production of that product.

Through the newly enacted food security law, the government commits to provide subsidized foodgrain to two-thirds of the country's population, thus putting additional subsidy burden on the government.

India apprehends this new commitment on food subsidy may be interpreted as a violation of permitted subsidy under WTO regulations. India argues such food procurement for the purpose of food security should be kept out of its commitments under WTO. India has also been arguing that food subsidies help its poor and marginal farmers to fight hunger and malnutrition, which are the key pillars of the Millennium Development Goals.

WTO director-general Roberto Azevêdo, who is scheduled to visit India on 7 October after attending the Asia-Pacific Economic Cooperation meeting in Bali, is also expected to try to convince Indian trade minister Anand Sharma to push for a deal at Bali later this year.

"We will tell him that we are not being obstructionist for a deal at Bali. If developed countries agree on an interim arrangement on the peace clause, then we should not have a major problem with trade facilitation. You give us in one hand and take it in the other hand," said a second government official, who also spoke on condition of anonymity.

Azevêdo in his first statement to the Trade Negotiations Committee as chair on 23 September had said though he is encouraged by the progress on the Bali agenda, negotiations have to be expedited. "The absolute need for close and more political effort cannot be understated. I want capitals to continuously engage and I will be delivering this message to ministers as well in the near future," he said.

Abhijit Das, head and professor at the Centre for WTO Studies under the Indian Institute of Foreign Trade, said an interim solution will be meaningful only if the peace clause is of a sufficiently long duration. "The interim solution should not have stringent conditions attached to it that renders it of little value. Some sort of automaticity should also be built in so that the affected developing country does not require to seek approval every year from the WTO," he said.

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# India demands changes in WTO trade facilitation agreement

Nayanima Basu, Business Standard

**New Delhi, 21 September 2013:** Even as the government is collating inputs from industry to chalk out its negotiating strategy in a trade ministers' meet during December 3-6 in Bali, Indonesia, it has demanded some immediate changes to the Trade Facilitation Agreement (TFA) being discussed at the World Trade Organization (WTO).

India has clearly stated that it will not agree to TFA's conclusion without the changes it suggested. The commerce and industry ministry has the authority to negotiate on behalf of the country. The ministry wants to make it compulsory for customs authorities globally to allow exporters to take back portions of the rejected consignments at the borders before nullifying the entire shipment, officials in the commerce department told *Business Standard*.

"The draft trade facilitation proposal has substantial cost implications for developing countries. Countries will have to amend their laws. Apart from cost implications, the onerous compliance implications are also a matter of concern," said a senior commerce department official on condition of anonymity.

However, Indian industry is strongly batting for the deal to go through in its present form for it will reduce industry's cost burden. A comprehensive deal on trade facilitation will reduce transaction costs by 10 per cent in advanced economies and by 13-15.5 per cent in developing countries, says a study by Organisation for Economic Co-operation and Development (OECD).

The TFA, which aims to reduce bureaucracy at borders, has the potential to provide a \$1-trillion boost to global economy, according to WTO chief Roberto Azevêdo who wants work on the deal to speed up before trade ministers from all 159 member countries meet in Bali. India has also proposed that the customs procedures be made transparent and non-discriminatory to avoid any non-tariff barriers and encourage greater flow of goods from one country to another.

"The benefits of a trade facilitation agreement will accrue largely to the developed countries and those developing countries which are strong manufacturer-exporters. Such an agreement based on the current proposals would aggravate the adverse balance of trade of many developing countries," the official, who is involved in the talks, said.

In FY13, India witnessed an unprecedented level of trade deficit at \$191 billion with exports falling by 1.76 per cent to \$300.60 billion, while imports stood at \$491.6 billion.

The official added that if TFA is accepted in the present form, the "burden of policy change required to implement the deal will lie only on developing countries". The main objective of the deal is to reduce bottlenecks of shipments at borders by smoothening customs procedures through customs streamlining, easing transaction costs and red tape at international borders.

According to a recent World Bank study, most of the gains in trade facilitation will come from improving infrastructure such as ports and roads, which calls for a considerable amount of expenditure and investment.

Developing countries such as India, China, the Philippines and Brazil have also urged agreement on food security along with the TFA as a successful outcome of the Bali meet. TFA is only a minor component of the entire global trade deal, which started in Doha in 2001. However, a major consensus on this is expected to pep up the deadlocked talks for a global trade deal as countries are increasingly diverting their attention to regional trading arrangements.

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# Slow Progress on WTO Food Stockholding Talks

Bridges Weekly Trade News Digest, Volume 17, Number 32

3 October 2013: Trade negotiators have made slow progress in informal talks on amending WTO rules on food stockholding ahead of the global trade body's upcoming ninth ministerial conference in Bali, Indonesia, this December.

Delegates moved closer to agreement over how best to make information on subsidised food purchases for stockholding programmes more transparent to other WTO members, sources told Bridges. The transparency conditions would apply to countries benefiting from an "interim mechanism" to provide greater flexibility to countries whose subsidised purchases for stockholding programmes could put them at risk of breaching current ceilings on trade-distorting support. The mechanism could take the form of a "peace clause" that would temporarily shield developing country subsidy programmes from legal challenge, sources said.

Developing countries in the G-33 coalition have sought greater flexibility to subsidise food purchases when building public stocks or providing domestic food aid. Large countries in the coalition, such as India, have argued that current rules on calculating trade-distorting subsidies fail to take due account of how price inflation has affected markets since the rules were first devised.

While developed countries fear that the proposed changes could open a loophole for developing countries to provide unlimited amounts of trade-distorting support through their public stockholding programmes, other developing countries are also uneasy about the potential impact of the proposals on their own poor producers.

## *Notifying farm support to the WTO*

Informal talks convened by the chair of the agriculture negotiations, New Zealand ambassador John Adank, have led to convergence on possible transparency conditions, trade sources said.

"Members could easily reach consensus on transparency," one developing country delegate told Bridges. A developed country official concurred. However, discussions over the scope of products to be covered by the arrangement and on possible safeguards to prevent trade-distorting effects were moving more slowly, the sources said.

Strengthening requirements for WTO members to submit their regular subsidy notifications to the Committee on Agriculture was one option under consideration, trade sources said. Countries' notifications to the committee have often been significantly delayed in recent years.

Another possibility would be for countries to use as a template a questionnaire prepared by the chair of the agriculture talks earlier this year.

## *Product coverage, safeguards: slower progress*

Negotiators were still further apart in discussions over the scope of products that would be covered by the interim mechanism, one source said.

While some countries had proposed that the mechanism would cover a limited number of staple foods, such as rice and wheat, others argued that a broader basket of products should be covered.

“Different nations have different crops as staple foods,” one trade official observed.

Negotiators are also still trying to define what safeguards could be agreed to limit the trade-distorting effects of subsidised food purchases for stockholding programmes. While some suggested that countries should be required not to export stockpiled food that had been purchased at administered prices, others argued that this was neither practicable nor desirable.

Opponents of the idea said that existing safeguards, such as the WTO’s Agreement on Subsidies and Countervailing Measures, should instead prevent countries from causing domestic injury to producers in other countries.

*Excessive inflation: what is “due consideration”?*

A separate informal discussion last week on the margins of the WTO’s regular Committee on Agriculture also looked at how excessive inflation should be given due consideration when the committee reviews how countries are implementing their commitments under the organisation’s rules on farm trade.

Article 18.4 of the WTO’s Agreement on Agriculture, which was agreed almost two decades ago at the end of the Uruguay Round, requires countries to give due consideration to inflation, but does not specify in detail how this should be done.

An informal “room document” circulated by Canada observed that Iceland, Tunisia, and Ukraine had all noted the impact of inflation rates when reporting their farm subsidies to the committee. The paper suggested that information on national inflation rates, and an explanation of how these may have affected countries’ ability to abide by its commitments, could improve the functioning of the review process. However, trade officials familiar with the talks told Bridges that developing countries were reluctant to engage in a discussion on the issue, while related negotiations were going on elsewhere.

“There was a refusal to discuss this,” one trade official said.

A separate informal submission from the US, aimed at improving transparency on agricultural export restrictions, was also given a cool reception, sources said.

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# WTO head meets Anand Sharma, industry lobbies

Asit Ranjan Mishra, Mint

New Delhi, 7 October 2013: India should recognize the willingness of rich nations to talk about a so-called 'peace clause' on food security as a step towards striking a multilateral trade deal in December, as failure to do so may prolong a current deadlock in negotiations, World Trade Organization (WTO) director-general Roberto Azevedo said on Monday.

Azevedo, who has previously served as Brazil's ambassador to WTO, was in India for the first time as WTO head to enlist support for a trade deal at a meeting of ministers in Bali, Indonesia, on 3-6 December. He met trade minister Anand Sharma and also spoke to industry lobbies to garner larger support for a deal.

He said developed countries earlier were unwilling to renegotiate the food security clause, holding it to be a backtracking on commitments made at earlier, so-called Uruguay round of trade talks.

"India should see that as a very big step. Now they (developed countries) are not only willing to talk, they are willing to establish a peace clause which says they need to give time to conversations to evolve in order to find a long-term solution (on food security). This is a big major step forward. If it is not recognised as such, we will fail at Bali," he cautioned.

A peace clause gives legal security to member-countries and protects them from being challenged under other WTO agreements.

Abhijit Das, head and professor at the Centre for WTO Studies under the Indian Institute of Foreign Trade, however, said the current G-33 proposal on food security already commanded a significant consensus in 2008.

"When the last version of negotiating text was issued by the chairman of the special session in December 2008, there were no square brackets, implying no disagreement on the basic proposal on food security," he said.

The Bali meeting is important because in the absence of a broad-based agreement on the Doha round of trade talks that started in 2001, member-countries are making a last-ditch attempt to work out areas where consensus can be reached for laying down the rules of global trade.

India holds the key to a deal at Bali because it has high stakes on an agreement on food security. Through the newly-enacted food security law, the government is committed to providing subsidized foodgrain to two-thirds of the country's population, thus putting an additional subsidy burden on the government.

If the ceiling for food subsidy under WTO rules is not increased, then at its present level, India may cross it within three to four years.

Rich nations have shown support for a 'peace clause' that would agree to developing countries' demands on food security for a period of two-three years. But developing nations, represented by the G-33 group, are demanding a protection period of 9-10 years, Mint reported on 25 September.

Trade minister Sharma expressed satisfaction at the intensification of discussions on the G33 proposal but voiced concern over the hardening of positions among some members who are now proposing stringent conditions to be satisfied before an interim mechanism can be made available. "These conditions will make it difficult, if not impossible, to use," Sharma said.

Sharma assured Azevedo that India would remain fully engaged with all key stakeholders from developed and developing countries in its search for a fair and balanced outcome in Bali. "Though Bali is not the end of the road, it is to be seen as a stepping stone to the conclusion of the Doha Round. The success of this round is critical for multilateralism," he added.

On the issue of trade facilitation, developed countries that are expected to largely benefit from an agreement are reluctant to commit to any kind of financial assistance to developing countries to upgrade their systems, while demanding legally binding commitments from developing and least developed countries.

For instance, developed countries want India's proposal on customs cooperation to be accepted on a 'best endeavour' basis, while their proposals are to be accepted by developing countries on a binding and justiciable basis.

Developing countries think the proposal on the table at present on trade facilitation only increases the burden on developing countries by forcing them to upgrade their export infrastructure without any reciprocal commitment on the part of developed countries for financial assistance or technology transfer. Sharma told Azevedo that it is important to honour the provisions of the mandate relating to special and differential treatment of developing countries, including least developed countries, and provide support to such countries.

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# For food security law, India may stoop to conquer at WTO

Business Line (The Hindu)

New Delhi, 7 October 2013: India seems ready to settle for a short-term solution to the problem surrounding its food security legislation that breaches the permissible subsidy levels set by the World Trade Organisation (WTO). The country may agree to a 'peace clause' which provides a temporary reprieve from penalties in the event that the subsidy level is breached.

In what will be a further softening of stance, India may also agree to the demand of developed countries for a pact to facilitate movement of goods across borders.

But Commerce Minister Anand Sharma does not see these concessions as a dilution of India's earlier stand. It is about finding a middle ground that is acceptable to all, he said.

At a joint press conference with WTO Director-General Roberto Azevedo here on Monday, Sharma said, "You don't do negotiations with a tight list and say this is the final list. I don't want any ambiguity on food security. Its legitimacy has been appreciated, and the negotiators will find an acceptable solution to that."

At the WTO, the developed countries are willing to offer a 'peace clause' that will allow developing nations, such as India, legal protection against action by other members for breaching food subsidy limits prescribed under the agriculture pact. This would be offered for a two/three-year period within which time the members hope to find a long-term solution to the issue.

WTO members are trying to arrive at an agreement on a small package of issues, which includes Trade Facilitation and Food Security, at the forthcoming Ministerial meeting in Bali, Indonesia.

"There is appreciation of the legitimacy of food security concerns in India and other developing countries. Work is going on intensely to find a solution, which will probably include a 'peace clause'. Conversation for a long-term solution will happen very meaningfully after Bali," said the WTO Director-General, who is in India to seek the country's support for making the Ministerial a success.

Sharma said that India too favours a Trade Facilitation pact as long as it is balanced and serves the interests of both developed and developing countries.

Azevedo, who also addressed industrialists at meets organised by the CII and the FICCI, said that the Bali Ministerial was not the end of the road for the Doha Round. "It is one first step towards an agenda that we have to define for the WTO that delivers on areas of interest in developing and developed countries alike," he said.

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# WTO chief seeks support for Bali ministerial meet

ENS Economic Bureau

New Delhi, 8 October 2013: Seeking India's support for a multilateral trade deal in the Bali ministerial scheduled in December, World Trade Organization (WTO) director-general Roberto Azevedo on Monday said the country should work out a strategy on its food security law, which envisages providing food to two-third of the population as a right, ahead of the meeting.

Azevedo, who replaced Pascal Lamy in September, said that India should consider the 'Peace Clause'. Under the Agriculture Agreement, the Peace Clause protects subsidies awarded by countries who comply with the agreement, from being challenged under other WTO agreements.

Although it expired in 2003, some countries want it extended, while others want agriculture to be brought under general WTO discipline that deals with a state's ability to act against subsidies.

"Food security is a squarable circle. The line between price support and food security is very flimsy and not easily drawn. It is going to be a complex task. What we have agreed in Geneva is we are going to be working on a Peace Clause... which allows negotiators to find a more permanent solution for the long term," he while addressing members of industry chamber CII.

Negotiations for a deal at the Bali meet are stuck over the tenure of an interim resolution on the demand by G-33 developing countries on food security. While the G-33 is demanding the tenure of the peace clause to be 10 years, developed countries such as the US are ready to accept only a 2-3 year period.

Azevedo, who is visiting India for the first time after taking over from Lamy, met commerce and industry minister Anand Sharma to garner support from India for the Bali ministerial.

Sharma urged Azevedo to persuade all parties to discuss the food security proposal constructively even as he underscored the importance of trade facilitation and upgrading infrastructure at borders.

Addressing the press after the meeting, the Sharma said that there is "appreciation of the legitimacy of food security and associated concerns in India and other developing countries and poor countries".

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# The pot calling the kettle black

Martin Khor, Financial Express

5 October 2013: A fight taking place in the WTO negotiations towards the Bali Ministerial shows how the rules on agriculture allow developed countries to continue huge subsidies whilst penalising developing countries' farmers. Food security is one of the key issues now being negotiated at the WTO as part of its preparation for the Ministerial meeting in Bali in December. For developing countries, food security and the livelihood and incomes of small farmers are important priorities. Especially for the poor, food is the main item in the household budget. Agriculture also employs the most people in most developing countries. Ensuring farmers have enough income is key to development and social stability.

Increasing food self-reliance is a goal in many countries. Food security became a high priority after global food prices shot up to record highs in 2008, and there was a near-scramble for supplies of some food items including rice because of potential shortages. Also, reducing and eventually eliminating hunger worldwide is one of the key Millenium Development Goals adopted by governments at the United Nations. In the present negotiations on formulating Sustainable Development Goals in the UN in New York, food security, nutrition and agriculture are one of the key clusters of issues.

Against this background, there is a remarkable discussion now taking place at the World Trade Organisation, as part of preparations for its Ministerial Conference in Bali in December. Developing countries grouped under the G33 are asking that their governments be allowed to buy food from their farmers, stock the food and distribute it to poor households, without this being limited by the WTO's rules on agricultural subsidies. However their proposal is facing resistance, mainly from some major developed countries, especially the United States, whose Ambassador told the WTO earlier this year that such a move would "create a massive new loophole for potentially unlimited trade-distorting subsidies". This clash is outstanding example of the how the agriculture rules of the WTO favour the rich countries whilst punishing the developing countries, including their poorest people.

It is well known that the greatest distortions in the trading system lie in agriculture. This is because the rich countries asked for and obtained a waiver in the 1950s from the liberalisation rules of the GATT, the predecessor of the WTO. They were allowed to give huge subsidies to their farm owners, some of who do not even carry out farm activities, and to have very high tariffs.

When the WTO was set up, it had a new agriculture agreement that basically allowed this high farm protection to continue. The rich countries were obliged only to reduce their "trade distorting subsidies" by 20% and could change the nature of their subsidies and put them into a "Green Box" containing subsidies that are termed "non trade-distorting or minimally trade-distorting." There is no limit to the Green Box subsidies. So the strategy of major developed countries has been to move most of their subsidies to the Green Box, including subsidies that are not directly linked to production, or that are tied to environmental protection. But studies have shown that many of the Green Box subsidies are in fact trade-distorting as well.

With this shifting around, the rich world's subsidies have been maintained or actually soared. WTO data show that the total domestic support of the United States grew from \$61 billion in 1995 (when the WTO started) to \$130 billion in 2010. The European Union's domestic support went down from 90 billion euro in 1995 to 75 billion euro in 2002 and then went up again to 90 billion in 2006 and 79 billion in 2009. A broader measure of farm protection, known as total support estimate, which is used by the OECD in its

reports on agricultural subsidies, shows the OECD countries' agriculture subsidies soared from \$350 billion in 1996 to \$406 billion in 2011.

The effects of continuing developed-country subsidies have been devastating to developing countries. Food products selling at below production costs are still flooding into the poorer countries, often eating into the small farmers' incomes and livelihoods. Ironically the developing countries, already the victims of the rich world's subsidies, are themselves not allowed to have the same huge subsidies, even if they can afford it.

The reason is that the agriculture rules say that all countries have to cut their distorting subsidies. So if a developing country has not given subsidies before, it is not allowed to give any, except for a small minimal amount (10% of total production value) known as de minimis support. In other words, if a country has given \$100 billion subsidy in the trade-distorting categories, it has to bring it down to \$80 billion and it can also transfer the remainder (or more) to the Green Box. But if a country has been too poor in the past to provide subsidies, or its subsidies are low, it cannot increase the level, except for the minimum allowed.

This is where the present WTO controversy comes in. The developing countries under the G33 are asking that food bought from poor farmers and given to poor consumers should be considered part of the Green Box without conditions.

The present rule sets an unfair condition. Although governmental stockholding programmes for food security purposes in developing countries are placed under the Green Box, there is however a provision that the subsidy element in any such national purchase scheme should be accounted for in the country's AMS (aggregate measure of support), which is the main category of subsidies considered to be trade-distorting, and which for most developing countries is limited to the de minimis amount (10% of production value). Other Green Box subsidies, including those that developed countries mostly use, do not carry such a condition. The developing countries seek to remove this unfair condition that in effect prevents them from adequately helping their poor to get sufficient food.

The unfairness of this condition is worsened by the way the subsidy element is calculated in the Agriculture Agreement. It is defined as the difference between the acquisition price and the external reference price. The problem is that the acquisition price (i.e. the price which the government pays for the farm produce) is the current price level, whilst the 'external reference price' is defined as the average world price level in 1986-88 (during a period when the Uruguay Round that led to the WTO was being negotiated).

Since 1986-88, global and local prices of food items have increased tremendously. The 1986-88 price is thus obsolete and much too low to be used to determine if a developing-country government is subsidising its farmers. Using this, rather than a more rational yardstick, such as the global price level of the food item most recent year or three years, grossly exaggerates the extent of subsidy the government is providing. It thus unfairly adds to the amount of subsidy that presently has to be counted towards the country's AMS.

At such unfair rates mandated by the WTO rules, a developing country will have its AMS maximum level exceeded fairly easily even if it pays the farmer the present world price (since the reference price is the 1986-88 world price and not the present price).

Countries that are in danger of exceeding its AMS or de minimis maximum level include India. Its parliament has just passed a food bill that entitles the poor (two-thirds of the population) to obtain food from a government scheme that buys the food from small farmers. But the estimated \$20 billion-plus the



government will spend annually may exceed the allowed AMS and de minimis levels, because India was not a big subsidiser before the WTO rules came into force. Other developing countries that provide subsidies to their farmers and consumers, such as China, Indonesia, Thailand, and Malaysia may also one day find themselves the targets of complaints.

For rich countries who are subsidising a total of \$407 billion a year (in the OECD's broad measure of agricultural support) to disallow poor countries from subsidising their small farmers and poor consumers, is really a specially bad form of discrimination and hypocrisy. An outstanding case of the pot calling the kettle black!

Whether this controversy can be settled fairly before the WTO's Bali Ministerial remains to be seen.

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# Azevedo's pre-Bali messages

T S Vishwanath, Business Standard

10 October 2013: The Director General of the World Trade Organization (WTO) Roberto Azevedo, was in New Delhi this week to kick-start his bilateral engagements with member countries to take forward the progress achieved in Geneva over the last few weeks and successfully conclude the Bali Ministerial meeting in December 2013.

Interestingly, this was the first time a director general (DG) of the WTO made India his first stop for a bilateral discussion. He will certainly be following this up with several other bilateral meetings in the next few weeks. The Doha Round that was launched in November 2001, has been steered by several DGs.

Of these, Pascal Lamy had the longest stint of eight years as head of the Geneva-based multilateral organisation. What is interesting is the new style that Azevedo brings to this job. In his meeting with the industry it was clear that he believed in a direct approach. There was no beating about the bush. It is, therefore, important to look at the messages he conveyed in a bid to achieve success at Bali.

First was an admission. Multilateralism is at a crossroads and, therefore, it is important to have a productive ministerial meeting in December. He urged industry to support governments to find a balance in their negotiating position. He also urged governments to be practical in their approach to the negotiations. He was clear that the Bali Ministerial would be the first step towards an agenda that member countries will define for the WTO to deliver on areas of interest for developing and developed countries.

Second was an expectation that countries will not dig in their heels on issues and would be willing to look at a compromise that more or less addresses their concerns. This was in the context of the G-33 proposal on food security of which India has been a strong advocate. The WTO DG pointed out that when the G-33 group of countries put forward this proposal it had been turned down as a deal-breaker for Bali. But over the last few weeks a consensus seems to be emerging that while the real issue can be debated later, Bali could deliver a peace clause that will allow developing countries such as India to continue government purchases to support the public distribution system for the poor.

The peace clause, as he pointed out, will certainly be a worthwhile achievement. G-33 countries such as India should view the in-principle agreement on the peace clause as a win, given the strong resistance it has faced in the past.

News reports suggest that India's Commerce Minister Anand Sharma was inclined to give this proposal a favourable nod. The commerce minister was quoted as saying that "you don't do negotiations with a tight list and say this is the final list. I don't want any ambiguity on food security. Its legitimacy has been appreciated, and the negotiators will find an acceptable solution to that."

Third was the new WTO DG's approach to industry. In his meeting with the Confederation of Indian Industry (CII), he recognised the need for a partnership between industry and the WTO. He was willing to team up with the CII for joint reports and look at ways to make the partnership more meaningful. This move signals a change from the approach adopted by his predecessors and is welcome since it can help make the negotiating process more inclusive for stakeholders beyond the government.

Trade facilitation, as the DG pointed out, remains an important deliverable at Bali. As of now all countries seem to be in favour of having a good trade facilitation text agreed at the ministerial meeting.

One area, however, needs more attention - development. The issue of development is critical for least-developed countries that make up a large portion of the membership. Countries will have to quickly come up with reasonable proposals to ensure that the development pillar is adequately addressed at Bali.

The DG's visit to India has brought new hope for the multilateral system. He will now have to convert this hope into reality by getting the large players to build the required consensus on issues.

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# Hope food security issues be resolved in Bali: Sharma

PTI

12 October 2013: India on Saturday expressed hope that all issues related to food security and trade facilitation would be resolved during the forthcoming meet of the World Trade Organization (WTO) members at Bali in December. "It has become imperative to revisit the issue of food security at WTO and I remain optimistic that we will have a resolution of all the issues related to multilateral trade," Commerce and Industry Minister Anand Sharma told reporters.

New Director General of the World Trade Organization (WTO) Roberto Azevêdo had said India's food security law would raise subsidy levels and the issue needs to be addressed in a positive manner. "On food security issue, here is a G-33 proposal to allow countries with food security law to procure goods for ensuring food security for its people. We have shown our willingness to find a common ground and take forward the negotiations," Sharma said.

He also said India would agree to negotiate about the trade facilitation pact. India is keen to win legitimacy for its ambitious food security law that promises highly subsidised foodgrain to the poor from WTO and is open to the issue being discussed at the Bali meeting.

The country is implementing the Food Security Act which entitles 82 crore people to five kgs of foodgrain per person in a month at the rate of Rs 1-3 a kg. The country needs 62 million tonnes of foodgrain in a year to implement the law.

Countries like the US and Canada have raised concerns over India's food security legislation. They have asked India to explain the effect the legislation would have on global stocks and commodity prices.

External Affairs Minister Salman Khursid also said this was absolutely an issue of high importance to India. "It is important to make a very clear distinction that these stockpiles are not for trading, not for finding a market for our agriculture and other goods, but for safety and security of our people," he said.

He added India would engage with every country that have similar concerns on food security. "We are convinced this is not just reasonable but also a moral imperative that we needed to do something of this nature for our people. This is something that must go hand in hand with our growth strategy," he said.

"Unless our people have food security, health security..., the (economic growth) numbers that please the world, those would not be enough," Khurshid said. The 9th WTO Ministerial Conference will be held in Bali from December 3-6. The Ministerial Conference is the highest decision-making body of the 158-member WTO which meets at least once every two years.

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# India to push for longer validity of WTO food subsidy waiver

Amiti Sen, Business Line (The Hindu)

New Delhi, 15 October 2013: India's consent to the temporary waiver being negotiated at the World Trade Organization (WTO) to allow developing countries to go beyond their permitted food subsidy limits will depend on its duration and the food items covered by it.

The Government may also not agree to possible conditions attached to the waiver such as linking it to international availability of foodgrain and global prices as proposed by some developed countries, a Commerce Department official told *Business Line*.

"We want the temporary waiver or the peace clause to be in place for much longer than the three years being offered by developed countries and all major foodgrains should be covered by it. The waiver should be applicable irrespective of the global market situation," the official said.

A group of more than 40 developing countries including India, Indonesia and the Philippines, formally known as the G-33, have been trying to convince the WTO to amend its farm pact (Agreement on Agriculture) to remove limits on public stock holding and food aid.

It is important for India to get a waiver because once its new Food Security legislation, which offers 5 kg of subsidised foodgrain to about two-third of its population, is fully implemented, it will breach the existing food subsidy limits fixed at 10 per cent of total production.

In return, these countries will support a Trade Facilitation agreement being pushed by developed countries to improve customs infrastructure and ensure time-bound clearance of shipments.

WTO members are hopeful of signing both agreements at the meeting of trade ministers from all 149 member countries in Bali, Indonesia, in December. These pacts are expected to give a boost to the Doha Round of negotiations launched in 2001. The global trade talks have been stuck due to differences between developed and developing country members over market access issues for both farm and industrial goods.

In a meeting of the Committee on Agriculture at the WTO on Monday, the Chairperson noted that at this stage, members do not envisage changing the rules of the Agriculture Agreement. "Instead, they are focusing on a shorter term way of allowing developing countries some leeway to exceed their agreed domestic support limits when they buy, stock and supply cereals and other food in order to boost food security among the poor," Chairperson John Adank of New Zealand said.

There is also no agreement on what safeguards would be available to prevent the release of the stocks from affecting international markets, and how countries using the provisions would provide enough information to make their actions transparent.

The G-33 wants to ensure that any agreement for a waiver should also include a time-line for negotiating changes in the AoA to ensure that higher good subsidy limits become part of the pact.

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# WTO Farm Talks: Negotiators on Final Lap Before Bali Ministerial

Bridges Weekly Trade News Digest, Volume 17, Number 34

17 October 2013: Trade officials have entered the last stretch of talks before the WTO's ninth ministerial meeting in Bali, Indonesia, with an outline deal for a "small package" of measures now due to be wrapped up by the first week of November - a month before the conference.

Sources told Bridges that only a few issues would remain for ministers to decide upon after 8 November, with members now set to make a concerted bid to close outstanding gaps during the next two weeks. Negotiators are aiming to develop a three-pronged package for the Bali ministerial, drawn from the overall Doha Round - a series of trade talks that were launched in 2001, but which ministers later declared at an 'impasse' when they met in Geneva two years ago. This December's package would, if achieved, ideally include an agreement on trade facilitation, select agriculture issues, and some components related to developing countries.

The chair of the agriculture negotiations, New Zealand ambassador John Adank, was this week expected to prepare draft negotiating text that trade officials could consider, following an informal meeting open to all WTO members which he convened last Friday.

"The priority now is to capture in a more concrete way the convergence that I have described earlier," he told members at the end of the meeting.

The chair reported on consultations he has held on three topics: food purchases at administered prices in developing countries, as part of public stockholding programmes; disciplines on export subsidies and similar measures; and new rules on the administration of tariff rate quotas for imports.

## *Food stockholding: possible waiver?*

Adank told members that he had held consultations on eight aspects of an eventual deal on food stockholding, where the G-33 developing country coalition has sought greater flexibility to purchase food at administered prices from low-income, resource-poor producers. The group argues that price inflation in recent decades has eroded their ability to run some types of programmes covered under WTO rules, although a number of other countries are eager to ensure that any additional flexibility does not create new trade distortions or undermine food security in other countries.

Trade officials are exploring whether countries could temporarily agree to refrain from bringing legal disputes, in exchange for various safeguards and conditions that would apply to any country wishing to make use of this flexibility.

Legal analysis at the WTO secretariat has indicated that members could consider four main options for a possible agreement in this area, Adank said. These included a waiver; a different form of ministerial decision; a ministerial declaration; and a chairperson's statement.

Adank told the group that, by discussing in some detail transparency requirements, conditionality, and safeguards, "members had already taken steps towards elaborating quite specific requirements on which

the flexibility will be dependent” - suggesting that the agreed mechanism might be more likely to take the form of a ministerial decision rather than one of the other options.

However, he warned that many countries saw the legal form of the agreement as being linked to associated conditions and safeguards.

He also said he expected the mechanism to apply automatically to countries, once the agreed conditions and safeguards had been fulfilled.

*Coverage: a limited number of crops?*

Adank told the meeting that members had “informally agreed” on the broad scope of application of the proposed new flexibility, which he said would cover cases in which there is “a clear risk” of breaching countries’ agreed ceiling on trade-distorting amber box payments - known as AMS, or the “aggregate measure of support” at the WTO.

However, they remained divided over whether countries should have to commit to a limit on the number of staple crops that would be covered by the new flexibility or not. Some negotiators had suggested that countries should agree to limit the coverage to “traditional” staple crops.

*Transparency: “most convergence”*

“It is fair to say that this has been the element on which we have seen the most convergent and detailed focused discussion so far,” Adank told the group with regards to transparency. Trade officials have said over the last two weeks that they feel optimistic about the progress that had been achieved in this area.

Adank said that, in order to benefit from new flexibility in this area, governments would have to ensure that their farm subsidy notifications to the WTO were up-to-date. They would also have to provide some additional information to other members.

“We have already had a very extensive discussion in this area and are, I believe, close to an agreement on these various elements,” the chair said.

*Safeguards: are other countries affected?*

Negotiators had also had a “rather conceptual” discussion around safeguards that could help ensure that other countries’ trade or food security was not harmed by food stockholding programmes elsewhere in the world, Adank reported - although he noted that “more discussion” on this topic was required.

On the duration of the flexibility, the chair told the meeting that two groups of countries could be identified. One group would like a clear time-bound solution - for example a two-year period - while the other would like the flexibility to apply until a permanent solution could be found.

A third option could be to establish a time-bound arrangement and a work programme aimed at a more permanent solution, but without any direct relationship between the two, the chair said.

*Post-Bali: members’ views diverge*

“Work of some sort will need to continue post-Bali to explore progress on more enduring solutions,” Adank told the group, although he warned that views still diverged on what form this future work should take.

Although some countries had emphasised the importance of addressing the issues raised by the G-33, others had advocated for a “more open approach.”

*Export competition: no legal changes?*

Trade officials told Bridges that they were concerned that Bali might not deliver more than a political declaration of the importance of action on eliminating export subsidies. “There is no appetite to change current rules,” one source said.

Adank told the meeting that a number of members “do not see a legal change to commitments as possible in the context of Bali” - despite others seeing this as “the central part” of talks over agricultural export subsidies and equivalent measures.

WTO members agreed to eliminate these instruments at the global trade body’s fifth ministerial conference in Hong Kong, eight years ago. A proposal to cut current ceilings for export subsidies, submitted last year by the G-20 developing country group, has made little headway in the face of opposition from the US and EU.

Adank told the meeting that work on this issue after Bali would need to take into account “the wider context of the WTO agriculture negotiation and more generally the context of the Doha Round as a whole.”

*TRQ administration: US, China at odds*

Trade sources told Bridges that differences between the US and China were preventing further progress on a proposal to overcome administrative barriers to imports, as part of a review of rules on tariff rate quotas, or TRQs in the jargon used by negotiators.

However, Adank told the meeting that “there are fewer issues remaining to be resolved” on TRQ administration than there are on either the G-33 proposal or on export competition issues.

Members continue to differ, though, on the extent to which developing countries should be able to benefit from “special and differential treatment” on proposed new arrangements aimed at easing import requirements in cases where quotas are persistently not being filled.

*New text, more consultations*

Adank told the meeting he would continue to hold consultations “in different formats” throughout this week. He would then hold another informal negotiating meeting with all members before the end of the month.

The chair said his aim was “to continue to extend the areas of convergence and progressively build upon them elements of drafting for further consideration.”

“This week, I expect John Adank will come up with draft text on a peace clause,” one source familiar with the consultations confirmed.

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# Food security and securing farmers' interests at WTO

Anil Kumar Kanungo, Financial Express

30 October 2013: The Food Security Act (FSA) may be a welcome step for the country, but how does it really help the Indian farmer make a living? The bill doesn't necessarily ensure their livelihood security especially when the agriculture sector doesn't remain a domestic issue and is linked with world agricultural trade negotiations guided by WTO.

What needs to be done to make the FSA succeed is to empower the farmers in a complete sense, including their livelihood security, their rural income and development. Indian farmers will possibly be most benefited if the issues of livelihood, food security and rural development are equally considered at the WTO level (however, this is already contentious) to ensure the security of their entitlements as citizens of the country. Therefore, the issue before the government is not only spending its entire energy, using its institutional mechanism, fuel and fertiliser subsidies, PDS and instituting other fiscal measures to operationalise FSA, but also, more importantly, negotiating at multilateral trade forums to ensure all securities for the farmers.

In fact, agriculture remains a bone of contention for WTO member-countries even today. A host of issues have already been discussed at great length in the ongoing Doha round of negotiations. But, there is no end in sight. What is preventing WTO members from striking a deal is disagreement between the advanced (led by the US) and the developing countries like India, China, Brazil, etc. The debate is on whether to address the economic and social security of the farmers of developing countries or focus on trade. Two-thirds of WTO members are developing countries whose food security, livelihood and rural income are critically dependent on agriculture. They have a defensive interest in agriculture and are not keen to open up the sector for world trade whereas the industrialised countries are pushing their agenda of tariff reduction and market liberalisation of the sector so that they are in a position to export their products to developing countries and establish their global competitiveness in agriculture. Huge domestic subsidies to their farm sector are further helping them sell their products at cheaper prices in the global market which the developing countries can't afford to do, as a result of which the latter's competitiveness is globally diminished. Since industrialised countries like the USA and those in the EU are powerful and influence global trade negotiations, economic and social security of Indian farmers is largely getting compromised.

What the developing countries are proposing instead are certain measures that should help them protect their agriculture, earn the farmers their livelihood and boost rural income, and in some ways prepare them to remain unaffected by the onslaught of world competition as engineered by USA and EU. Two measures being proposed by developing countries are 'Special Safeguard Mechanisms' (SSM) and identification of 'Special Products' (SPs). SSM would help them to defend their triple concerns of food security, farmers' livelihoods and rural development in the event of agricultural trade liberalisation. It would enable them to raise their tariffs above the bound rates in the event of a fall in price of the imported product or an increase in volume of the imported product, beyond certain levels. SSM, therefore, would be an effective instrument to provide contingent protection to poor farmers in developing countries from negative shocks from surges in imports. The other measure initiated by developing countries to prohibit agricultural import surge is the concept of Special Products (SPs). SPs are a set of products that directly concern their food security and farmers' livelihoods, and therefore, should be subjected to no or low tariff reductions in the Doha programme.

Inclusion of such provisions, the developing countries feel, will allow them to address concerns of food security, livelihood and rural development as most of their agricultural products would be outside the ambit of trade liberalisation, and secondly, will help them increase food production. It would remain relevant to the current crisis in food prices as subsistence in food production will provide food security and the developing countries won't rely on imports when there is a global shortage or price increase.

This policy space will allow developing countries to maintain the minimum comfort level of local farmers achieving greater self-sufficiency in food production. Given the backdrop of increase in food prices, there is a need for effective and operational SSM and SPs. This will also provide developing countries with long-term instruments to enable local food production. Sustained food production will help the farmers to sell their extra produce at government procurement level or market price, thus enhancing their income and social development. The Indian government has a huge task ahead in ensuring these farmers' securities when it negotiates at the ninth WTO Ministerial Conference at Bali during 3-6 December 2013. The success of food security bill for farmers will then be justified.

*The author is with the Indian Institute of Foreign Trade, New Delhi*

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# India proposes changes in trade pact at WTO Bali meet

Dilasha Seth, Economic Times

New Delhi, 31 October 2013: India has proposed changes in the trade facilitation agreement to address the concerns of developing countries in the proposal that tops the agenda of the WTO's Bali ministerial scheduled for early December.

The trade facilitation agreement aims to smoothen cross-border trade by removing red tape, improving infrastructure and harmonising Customs procedures. Seen as the developed countries' agenda, the emerging economies have sought relaxations in the legally binding clauses like clearing shipments within three hours.

"We have informed WTO that there needs to be some restriction on the scope of expediting shipment, and should be only limited to air cargo and that too very urgent ones," a commerce department official told ET.

The country should also be allowed to restrict it to courier services, as the ones very urgent.

WTO has subsequently agreed to relax the clause to make expediting shipments within six hours or as rapidly as possible instead of three hours.

Negotiators from 159 countries have held several rounds of talks since September in Geneva to forge a consensus on the multilateral agreement.

Although talks started in 2001 in Doha, lack of consensus between the developed and developing countries has lead to an impasse.

The ninth ministerial round in Bali is being seen as the last attempt to renew the global trade agreement agenda by focusing on the low hanging fruit such as trade facilitation.

India's commerce & industry minister Anand Sharma told WTO director-general Roberto Azevedo during his Delhi visit in October that India was in support of the trade facilitation agreement, "but needs a balance in the pact".

India along with other developing countries had raised objection to the clause, which calls for a sufficient time gap between the announcement of change in tariff to its coming into effect. This would be against India's constitution, since most of the budget announcements related to tariffs come into effect within 24 hours. "We cannot change our constitution for WTO," said the official, adding that India has submitted an alternative proposal to this effect, wherein, budget-related announcement should be kept out of this clause since they need to become applicable immediately. "Deliberations are still on, we need to be given flexibility," he added.

Besides, India has sought a binding agreement on Customs cooperation under trade facilitation, which will ensure mandatory exchange of information between Customs administrations (on request) so as to prevent under-invoicing, overvaluation, tax evasion and illicit capital flows.

However, the developed countries want to agree to it only on 'best endeavour basis'. "It is important for us, and has been on the table for over 20 year. It is only for cross checking, as information is available at both ends. However, developed countries are putting in so many conditions, confidentiality laws, secrecy. So, we are not sure in what form it will finally look like," said the official.

India has also been pushing for a binding technical and financial assistance by the developed countries to the developing countries to accept trade facilitation agreement.

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# WTO Chief Says Coming Week Critical for Bali Preparatory Talks

Daniel Pruzin, WTO Reporter

4 November 2013: The head of the World Trade Organization declared November 1 that the coming week will be critical in determining whether WTO members will be able to secure a deal on a package of agreements for their upcoming December 3-6 ministerial conference in Bali, Indonesia, adding that he and other senior officials were prepared to make an assessment by November 11 on whether to keep pushing for a deal or admit defeat.

Speaking at an informal heads of delegation meeting, WTO Director-General Roberto Azevedo said the membership was essentially facing two scenarios: securing a deal on the so-called “deliverables” and reaffirming the viability of the WTO as a forum for multilateral negotiations or failing in this task and seeing the credibility of the organization fade, along with any prospects of reviving the moribund Doha Round of trade talks, according to officials in attendance.

Despite progress being made in recent weeks in the three pillars of the Bali package—trade facilitation, several issues related to agriculture and the concerns of least developed countries (LDCs)—there are serious worries about the absence of convergence in certain areas, and the window of opportunity is rapidly closing, the WTO chief said.

As a result, the upcoming week of talks will be critical, with the need to identify tradeoffs in the coming days. Azevedo said he planned to focus particular attention on the proposed trade facilitation agreement, considered the centerpiece of the Bali package.

## *November 11 Review*

The WTO chief said he would then sit down with the chairman of the WTO's ruling General Council, his four deputy director-generals and the chairmen of the Bali negotiating groups on November 11 to review the progress made and to make an assessment of whether a Bali package was still achievable. This assessment would be shared with WTO members at an informal meeting of the organization's Trade Negotiations Committee on November 12.

Azevedo was due to meet with key delegations over the weekend of November 2-3 to try and narrow differences on some of the key outstanding issues in the talks before broadening participation with the wider membership the week of November 4-8. Further talks are likely to take place over the following weekend before the WTO chief meets with the General Council chairman, his deputies and the WTO chairs to make their assessment on November 11.

WTO ambassadors agreed that the organization is facing a make-or-break moment.

“We agree with the director-general's assessment that we're on a very high wire now with no net.”

U.S. Ambassador Michael Punke “We agree with the director-general's assessment that we're on a very high wire now with no net,” U.S. ambassador to the WTO Michael Punke told journalists.

India's WTO ambassador Jayant Dasgupta told the informal meeting that Azevedo painted a “realistic but somber” picture of the state of play in the Bali talks.

### *Clear Warning*

Guatemala's WTO ambassador Eduardo Sperisen-Yurt, who is chairman of the trade facilitation talks, said Azevedo's message was a clear warning shot to members, adding that negotiators need to “stop playing games” and “start getting serious” about securing a Bali deal.

One of the main problems in trade facilitation continues to be the linkage between pledges of technical and financial assistance for developing countries and their acceptance of binding commitments. The draft trade facilitation text would allow developing countries to gradually phase in what they view as the more difficult commitments subject to the provision of implementation assistance.

### *ACP Proposal*

A proposal from the 60-strong African, Caribbean and Pacific (ACP) group of WTO member countries presented October 31 was seen as a potential breakthrough on the issue. The ACP proposal would allow a developing country or LDC to exempt itself from any commitment if it determines that promised implementation assistance is not forthcoming from donor countries; a donor country in turn could contest this determination, in which case a group of experts would be set up within the WTO's trade facilitation committee to review the complaint and issue a recommendation or decision.

Nevertheless, officials said certain members of the African Group of countries—Egypt and South Africa in particular—were taking a hard line on the assistance issue. The debate on assistance has also sidelined discussions on what specific commitments developing countries are prepared to make, with progress slow in this area.

On agriculture, officials said discussions on a “due restraint” agreement temporarily exempting India and other countries with large subsidy outlays for food security programs from WTO dispute proceedings was crystallizing into a manageable text, although agreements on several important details remain outstanding.

More problematic may be a rift between the U.S. and China over a proposal on tariff rate quota (TRQ) administration. One provision would require members with persistent TRQ underfill (65 percent or less for three consecutive years) to offer improved access to importers on a first-come, first-serve basis.

However, the draft text would exempt developing countries—including China—from any obligation to adjust their underfilled TRQs. This is an issue for U.S. farm exporters, given that China's fill rates for key commodities such as wheat, corn and rice have been well under their in-quota limits since China adopted the TRQs when joining the WTO in 2001.

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# Govt to Push for Exclusion of Electronics from FTAs

J Srikant, Economic Times

New Delhi, 13 November 2013: After refusing to participate in talks to allow more electronic merchandise to be traded dutyfree among WTO nations, India now wants to make sure no electronic hardware is included in future free trade agreements (FTAs) that the country signs.

The move forms part of a larger push by the government to encourage domestic manufacturing of electronic goods, which is slated to replace oil as the single biggest item on India's import bill by 2020. "We will look at all future FTAs and push for the removal of all those electronic products which are not included in Information Technology Agreement list," said a senior government official.

The agreement that he referred to was first signed in 1996 allowing for certain preagreed list of electronic merchandise to be traded dutyfree between WTO member nations.

The US and Europe are now lobbying for expanding the list as they look to get better access to emerging markets like India. "Allowing import of more electronic products under FTAs will be detrimental to domestic manufacturing and will defeat the whole purpose of India not joining the ITA expansion talks," he added.

India is currently engaged in some 22 trade negotiations including India-Australia Joint FTA, a Framework Agreement with Thailand, Comprehensive Economic Cooperation Agreement with Indonesia and a few other with countries such as Mongolia, Maldives and New Zealand.

The country has 19 trade agreements in place already.

Some industry associations in the country welcomed the government stand.

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# Beware the peace clause

Ashok Gulati and Anwar ul Hoda, Financial Express

11 November 2013: A 'peace clause' proposal on agricultural subsidies by developing countries is on the agenda of the Bali Ministerial Meeting of the WTO being held from December 3-6. The G33, which is a coalition of 46 developing countries including India, China, and Indonesia, had submitted a proposal asking for exemption of purchases from low-income and resource-poor farmers for public stockholding of grains for food security needs, even when these purchases were at a price higher than the fixed external reference price (ERP) committed by members in the WTO Agreement on Agriculture (AoA).

AoA envisages a reduction in the levels of domestic subsidies (the aggregate measurement of support or AMS) of the members from the levels notified by them for the period 1986-88. For those members whose subsidies' level was less than the de minimis level of 10% of the value of agricultural production, on both product-specific and non-product-specific basis, there is a requirement not to exceed this limit. The G33 proposal implies, in effect, that these purchases are not to be counted for determining whether the 10% limit on product-specific subsidies is being adhered to.

The developed countries' response to the proposal was initially negative, but they softened when the G33 made it known that without a movement on the public-stockholding-for-food-security proposal, no progress could be expected on the key proposal on trade facilitation, being given high priority by the developed countries. The developed countries are now willing to engage in negotiations on the proposal, and in the meantime they have offered a 'peace clause', whereby they will not raise any dispute if any developing countries appear to be in breach of the commitment on domestic subsidies.

Why is the G33 asking for an exemption of support for public-stockholding of grains? Perhaps there is a fear that very soon individual developing countries will breach the de minimis level of 10% of the AMS because of annual increases in the minimum support price (MSP). What is the reality in this regard, and what could be the alternative and, perhaps, better options that India could pursue to deal with this problem?

In the case of product-specific support, the AoA stipulates that the subsidy in a particular year is to be estimated on the basis of the difference between the administered price (MSP) and the fixed external reference price (ERP, 1986-88) notified by each member at the outset and incorporated in the original schedule. The fixed external reference price was the unit price of actual imports in an importing country and of actual exports in an exporting country. Price support in India exists primarily for wheat and rice, as it is only in these commodities that there are procurement operations on a regular basis. In the original schedule, India had notified its ERP in rupee, while in subsequent notifications it changed the currency to dollar. The WTO Agreement mandates that for determining whether the member concerned is abiding by its commitments, the constituent data and methodology of the original notification must be used. This implies that for the estimation of the current level of subsidies (current AMS), the same currency must be used as in the original notification.

Separately, another article (Article 18.4) of the Agreement provides that in the review of the implementation of the commitments "members shall give due consideration to the influence of excessive rates of inflation on the ability of any member to abide by its domestic support commitments".

In a recent paper on India's Agricultural Trade Policies and Sustainable Development Goals, (ICTSD, September, 2013), we estimated that in 2010-11, the MSP of rice and wheat was below the inflation-



adjusted ERP and the cushion of 10% provided by the WTO Agreement was not used at all. It is true that the rules require members to give 'due consideration' and there may be questions on what is 'excessive rates of inflation'. But the important point that is raised is whether, for India at least, there is any basis for taking a prima facie view that the country may have breached the WTO commitments. And if that is not the case, then where is the need of a 'peace clause'?

There is a structural flaw in the AoA in as much as it gives the freedom to those members who have notified high levels of subsidies in agriculture to continue to subsidise up to the notified level. On the other hand, countries like India, which had lower level of subsidies, are constrained by the 10% limit. Considering the unprecedented increase in international food prices, it is unimaginable that a WTO member can be put under an obligation to offer price support at the nominal prices prevailing in 1986-88. Also, in interpreting "due consideration" envisaged in Article 18.4, we see no reason to allow less than full adjustment for the high rates of inflation. Considering all these aspects, one cannot conclude that any member is already or is likely to be in breach of its obligations, and for this reason the talk of a 'peace clause' is premature.

In the discussions on the subject, the developed countries have taken the view that the developing countries must first notify their product-specific support and then the Committee on Agriculture will take a view on whether the inflation is excessive and what is 'due consideration'. There cannot be two opinions that developing countries must fulfil their transparency obligation by making notifications in time. However, to say that the Committee will take a decision on a case-by-case basis is the antithesis of the rule-based trading system embodied in the WTO Agreement.

The Committee must decide in advance what should be considered as 'excessive rates of inflation' and how much allowance should be given for it while taking a view on the notifications of current levels of subsidy. This is the crux of the issue and it is on this that G33 must concentrate.

For India, irrespective of these negotiations, there is also a need to think about policy instruments that can serve the cause of food security for the poor with minimal trade distortions. And the best way to do that is through income support to the poor; say, conditional cash transfers, which are discussed in detail in our paper mentioned above. That would make the discussions on 'peace clause' irrelevant.

*Gulati is chairman, CACP, and Hoda is the chair professor of ICRIER's Trade Policy and WTO Research Programme. Views are personal*

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# WTO: India hardens stance on food subsidies to protect farmers

Amiti Sen, Business Line (The Hindu)

14 November 2013: Says 'peace clause' should not come with time limit India has decided to harden its stance at the World Trade Organization to protect its food subsidies against penalties.

It now insists that the 'peace clause' offered by rich countries, allowing it to protect its farm subsidies for a short period, should not come with a time limit. Instead it should extend till WTO rules are amended to permit higher subsidy levels, a Commerce Ministry official told Business Line.

"By insisting that the peace clause should continue till WTO rules are amended we have ensured that developed countries do not go back on their word once they have got what they want in trade facilitation at the forthcoming Bali Ministerial meet," the official said.

The WTO rules allow a member to give farm subsidies up to 10 per cent of total value of agriculture production which India might breach soon after full implementation of its Food Security legislation.

New Delhi's decision not to settle for a 2-3 years peace clause could make it more difficult for WTO members to reach an agreement on a small package of trade issues at the meeting of Trade Ministers in Bali early next month, as there is not much convergence in other identified areas as well.

## *Developing countries*

India is negotiating with developed country members on the issue of food subsidies as part of the G-33 group of developing countries that support a large number of poor farmers.

WTO members are trying to reach an agreement in Bali on a handful of issues that include agriculture subsidies, trade facilitation by ensuring smooth movement of goods across borders and certain matters that would benefit Least Developed Countries such as elimination of cotton subsidies. The limited pact is aimed at giving a much needed boost to the languishing Doha Round of trade negotiations launched way back in November 2001.

While WTO Director General Roberto Azevedo, on Tuesday, painted a gloomy picture of what lay ahead and appealed to all members to make a last-ditch attempt to make the Bali Ministerial a success, New Delhi is firm on protecting the interests of its farmers.

Last month, India had tentatively agreed to a 'peace clause' offered by rich countries which laid down that no action will be taken against members for breaching subsidy limits for a given period. But, it came without a guarantee that WTO rules would be amended in a specified period drawing criticism from several quarters.

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# Food subsidies need protection from coercive WTO rules: Sharma

Puja Mehra, The Hindu

21 November 2013: Unless India's minimum support prices for farmers and food subsidies are safeguarded against the rules of the World Trade Organisation, the Ninth WTO Ministerial scheduled for next month in Bali could fail, Commerce and Industry Minister Anand Sharma has warned.

Mr. Sharma told WTO Director-General Roberto Azevedo on the phone on Tuesday that an outcome in Bali that addressed only the proposals of the developed countries would not be acceptable to India, according to sources in the government.

The Minister has sought an urgent meeting of the Cabinet Committee on WTO as the country's administered MSP was at "serious risk of breaching" the WTO's permissible subsidy levels. "Our estimation shows that India will exceed de minimis," top Commerce Ministry officials told *The Hindu*. Over the past weeks, India was locked in hectic negotiations in Geneva with the rich countries to find a way to permanently safeguard its food security and food subsidies from WTO disciplines. One of the most fiercely contested proposals in the Bali package is the one on permissible levels of subsidies in agriculture.

India has not managed to have its preferred position included in the draft for Bali. Proposed amendments will be reviewed on the morning of December 5, after which the final text will be submitted for the Ministerial.

Though the draft did not offer a permanent solution, it did propose a peace clause that offered India a breathing space on its MSP and food procurement programme until the 11th Ministerial, the officials said adding that the clause provided that no country would be able to initiate action against another that was in breach of the WTO caps.

"The peace clause averts the possibility of India's food security law running foul of the WTO's Agreement on Agriculture but not against the Agreement on Subsidies and Countervailing Measures for which negotiations are going on in Geneva," an official said.

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# Azevêdo Extends WTO Negotiating Deadline in Bid to Secure Bali Deal

Bridges Weekly Trade News Digest

14 November 2013: Negotiators in Geneva have just a few days left to finish putting together a “Bali package” ahead of next month’s WTO ministerial conference, after Director-General Roberto Azevêdo announced on Tuesday that he would be extending their original 12 November deadline.

The trade chief was originally expected to announce at Tuesday’s meeting of the Trade Negotiations Committee (TNC) whether a deal in Bali would actually be achievable. While members are far closer to a deal than they were a few months ago, Azevêdo confirmed this week, they are still toeing a dangerously fine line between success and failure, with the outcome of the past two months of negotiating too close to call.

“It was my sincere hope that by today I would be in a position to tell you that, although we have some difficulties ahead, we are in pretty good shape,” he said. “But I do not think I can tell you that.”

Instead, the Director-General announced that he would be giving negotiators an additional few days to sort out their differences, which traverse all three areas of the proposed Bali package - trade facilitation, agriculture, and development. The upcoming week, he said, will be a “last-ditch” effort to rescue the talks before the organisation’s ministerial conference kicks off on 3 December.

“If we insist on today’s hard deadline then, at this point, we don’t have a package,” Azevêdo said in announcing the extension. “However, I do not believe that that is what members want.”

Sources say that meetings over the next few days are likely to take place in a range of configurations, from the recent “Room W” meetings of ambassadors led by the Director-General to informal TNC gatherings and small group consultations.

A meeting of the WTO’s General Council, which is the organisation’s highest decision-making body outside of the ministerial conference, has now been set for 21 November, at which point it should be clear whether or not Geneva-based officials will have a package to transmit to their ministers. A formal TNC is likely to be held before then, in line with WTO procedures.

## *Race to the finish*

The Bali ministerial comes as the organisation faces growing questions over its role, in a changing trade climate where preferential agreements - such as the Trans-Pacific Partnership or the Trans-Atlantic Trade and Investment Partnership - have been increasingly capturing the limelight. Should a deal be confirmed for Bali, it would mark the first major advance in the Doha Round negotiations in several years.

The Bali package, as proposed, includes a small subset of the Doha agenda. Its key feature would be an agreement on trade facilitation, a topic that was formally added to the Doha negotiating mandate in 2004. The proposed Bali deal would also include select elements relating to agriculture, along with a few issues of relevance to the organisation’s developing and least developed country members.

As the December meeting has drawn closer, however, difficulties have emerged, leading the so-called “Bali package” to be slowly whittled down over the past few months as negotiators try to put together a “realistic” - though potentially less ambitious - outcome. Proposals relating to special and differential treatment (S&DT), such as the “Cancun-28” and six Agreement-specific S&DT proposals, were eventually dropped from the proposed deal. Meanwhile, other topics that initially looked easily resolved have met with unexpected hurdles, while long-standing disagreements in other areas have proven difficult to overcome.

WTO members and the Director-General alike have stressed that Bali cannot be a “negotiating ministerial,” and that all outstanding issues must be resolved in Geneva, leaving only political topics for the December conference.

“Let me be clear: we cannot work right up until the wire,” the trade chief said on Tuesday. “The duration of the flight [to Bali] would be enough time for positions to become entrenched. It would be the surest way to kill this agreement.”

*Customs cooperation “closed,” though broader TF difficulties remain*

Negotiators have been working late into the evening, and through weekends, in an effort to reduce the myriad brackets remaining in the trade facilitation (TF) draft text, which has been billed as the pinnacle of the Bali package. Some of those efforts, sources say, have lately paid dividends, with members able to close the controversial issue of customs cooperation early this week.

Customs cooperation involves how to exchange information between importing and exporting authorities of member countries, in order to address fraud. The topic has been difficult because of concerns such as how to handle the increased volume of requests for such data. Given its sensitive nature, it has lately been treated as its own “pillar,” even though it falls under the broader “Section I” heading of the trade facilitation draft text.

“It is not perfect, but the core of an agreement is there,” Azevêdo said on Monday in announcing the result. “This achievement is all the more notable for the fact that it was achieved so quickly.” Various other hurdles remain in Section I, he added, though Section II - which deals with implementation flexibilities for developing countries - remains the “hardest nut to crack.”

Developing countries have long said that they need definite assurances that they will receive the support needed to implement some of the new commitments being negotiated in Section I. Otherwise, they say, putting these into practice could prove both difficult and costly.

Developed countries, meanwhile, have stressed that Section I commitments must be binding in order for the deal to provide the hoped-for increases in trade flows.

A proposal by the ACP Group - the coalition representing African, Caribbean, and Pacific countries - on technical assistance is one of the topics that has been under discussion as a possible solution to the Section II standoff. Sources say that the proposal involves establishing an expert panel that would look at situations where technical assistance has been provided, in order to evaluate claims that more is needed in order for a country to meet its TF commitments.

*Agriculture*

The agriculture dimension of the Bali package involves three proposals: two from the G-20 coalition of developing countries, and one from a separate developing country group known as the G-33.

With regards to the G-33 proposal, which deals with allowing food purchases at administered prices in developing countries as part of public stockholding programmes, members have spent the last several weeks fine-tuning the details of a so-called “peace clause.” This legal mechanism would commit members to not bring legal disputes in this area against countries that wish to use the above-mentioned flexibility.

Though there has been a level of “constructive engagement” in recent discussions, Azevêdo said, questions remain over how long this “interim solution” will be in place and what safeguards other countries would be able to use in order to protect their own producers from trade distortions. A term of four years has been discussed by members, while others insist that this is too long, sources close to the talks told Bridges.

However, the G-20 proposal on how members manage their tariff rate quotas (TRQs) - which are used by some countries to charge higher tariffs on goods being imported after an initial quota has been filled - is “a different story,” Azevêdo reported.

The TRQ proposal had initially been welcomed as one of the more “calibrated” agriculture proposals on the table. Since then, a stand-off between the US and China has emerged on the special and differential treatment (S&DT) provisions for developing countries outlined in this proposal, specifically on how reforms will be enforced.

“China fully respects the sensitivity of other members on their red lines,” China’s deputy international trade representative Yu Jianhu said on Tuesday, according to a copy of his statement seen by Bridges. “We hope all others do the same to China. The text of the S&D provision on TRQ should not be reopened for negotiation.”

Members remain divided on the ambition sought by the G-20 in a proposal on export competition. The group has called for an elimination of export subsidies as envisioned in earlier Doha Round documents, while those providing the payments insist that these need to be dealt with as part of a broader trade deal.

### *Development issues*

Development-related issues involving the organisation’s poorest members are “progressing well,” Azevêdo said on Tuesday. The Director-General had reported last month that convergence had emerged on two draft decisions regarding least developed countries (LDCs), specifically on how to “operationalise” the services waiver agreed at the previous ministerial conference in 2011, and on rules-of-origin.

Despite these advances, discussions on the C-4 cotton proposal are reportedly still ongoing, sources say, while the impasse on duty-free quota-free market access remains. Negotiations have also continued on the Monitoring Mechanism, Azevêdo said, with only one or two paragraphs still left outstanding. The Mechanism, if agreed, would review the functioning of provisions in WTO rules for S&DT treatment in favour of developing countries and potentially suggest improvements.

Some delegates have cautioned privately, however, that whether the Mechanism will ultimately make it into the Bali package is still unclear, with some raising the possibility of it being treated instead post-ministerial, along with some of the other S&DT issues that did not make it into the package.

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## Draft Bali Ministerial Declaration (WT/MIN(13)/DEC/W/1, 6 December 2013)

(For full document [click here](#))

## Address by Shri Anand Sharma, Minister of Commerce & Industry at Plenary Session

(For full document [click here](#))

# Day 1: Bali Conference kicks off with warnings that failure will hurt the poor

WTO website, News Items

3 December 2013: A deal struck at the Bali Ministerial Conference would benefit a wide range of people, particularly the poor, while failure would weaken the multilateral trading system, which could also hurt the poor, speakers said in the conference's opening session.

"We must seize our opportunity. Our success here in Bali will provide the necessary impetus for an expansion of global trade, that in the end, will help reduce poverty around the world," said Indonesian president Susilo Bambang Yudhoyono.

"By failing to deliver this package we would fail businesses around the world. We would fail the unemployed and the underemployed. We would fail the poor, we would fail those who rely on food security schemes, we would fail developing country farmers, we would fail developing country cotton growers, and we would fail the least-developed economies as a whole," said WTO Director-General Roberto Azevêdo.

"I truly believe we can take a great step forward here in Bali. Success breeds success. We have an opportunity to give Geneva a sense of optimism and signal a new can-do attitude in the negotiations. It is up to each and every one of us to display a spirit of unity and collective resolve to set a new course for our Organization — the WTO," said Indonesia's Trade Minister Gita Wirjawan, who chairs the conference.

The formal statements echoed calls from a wide range of members for agreement in Bali, which they described as a "pivotal moment for the future of the negotiating arm of the multilateral trading system."

"We should reject the notion of 'North against South'—a term that exaggerates our differences rather than our complementarities. We should view one another as **partners**," said President Susilo Bambang Yudhoyono.

"Members want a deal. Well, now it's time to deliver," said Mr Azevêdo.

*More than what's on the table: law of the jungle?*

The focus of the ministerial conference — the WTO's top decision-making body, which meets approximately every two years — is on a package of issues that have been negotiated particularly intensively over the past few months. They are grouped under three headings:

- trade facilitation: cutting red tape and streamlining customs and port procedures

- agriculture: four issues out of a larger set negotiated in the Doha Round, including export subsidies, food stockpiling for food security in developing countries and a technical issue aimed at improving countries' ability to exports through importing countries' quotas.
- development: particularly least developed countries, monitoring special treatment given to developing countries in general, and cotton

Director-General Azevêdo said “a few, very limited, specific and localised issues” remain unresolved from talks among ambassadors and officials in Geneva. These obstacles “require political calls to overcome — political calls of a nature that we simply cannot make in Geneva”, he told the ministers.

If WTO members fail to agree within the next few days — and “it’s now or never,” he said — the loss would be more than the issues on the table themselves.

“What’s at stake is the cause of multilateralism itself. The multilateral trading system was never the only option for trade negotiations. It always co-existed with, and benefitted from, other initiatives — whether regional or bilateral,” he said, referring to the numerous trade agreements also being negotiated around the world.

“But if these non-multilateral undertakings become the sole negotiating channel, then we have a problem. In such fora the agenda is inevitably limited — issues of importance to developing countries, like agricultural subsidies, are not included.

“And developing countries also lose out [because they are often left out]. The smallest would be marginalised from virtually all trade negotiations. This would be a tragic outcome.”

Speaking at a press conference afterwards, Mr Azevêdo stressed that without the multilateral trading system the world would look like a jungle, and the poor would suffer the most.

He added that although the package will not be perfect for everyone, “no member is being asked to do the impossible.”

### *Brought from Geneva*

This is how Mr Azevêdo reported on the package brought from Geneva, containing 10 draft texts, under the three headings:

#### *Trade Facilitation*

“By minimizing unnecessary border delays in this way, it is estimated that we could provide a boost to the global economy worth up to \$1 trillion per year — thereby delivering much needed growth and jobs. The text that we brought from Geneva will also ensure the provision of technical assistance to support developing economies and the least developed economies to implement these reforms, and support their better integration into global trade flows.

“Customs modernisation and upgrading alone may not be sufficient to integrate developing countries and [least developed countries] into global patterns of supply. But it is clearly an indispensable and necessary step.

“And, indeed, developing countries would stand to gain the most. It is estimated that we could see an expansion in their exports of up to 10% — compared to a 4.5% expansion in developed countries. It is



significant that there is not, in this pillar or in the package as a whole, a developed versus developing divide.”

### *Agriculture*

“Agriculture is a cornerstone of the Doha Development Agenda — these issues are very dear to developing countries.

“And in this area our package also delivers important outcomes. The texts we brought from Geneva would set us on track for a reform of export subsidies and measures of similar effect, and it would provide for better implementation of tariff rate quota commitments. Both of these measures would potentially have very positive effects in boosting agricultural trade, and in setting the stage for future negotiations.

“The agriculture pillar would also provide temporary protection for food security programs under which countries stockpile grain for distribution to the poor.

“In certain developing countries these programs run the risk of legal action where they exceed agreed subsidy limits.

“So the text we brought from Geneva would not only provide this temporary shelter from legal action but, more importantly, it would put in place a work program to find a permanent solution to this issue.”

### *Development*

“Here, a monitoring mechanism [meetings and other means to monitor how special treatment for developing countries is being implemented] would provide for the review and strengthening of special and differential treatment provisions, which are contained in all WTO multilateral texts. This is a vital achievement for developing and least-developed countries.

“There are also a series of specific measures here to support the least developed countries.

“This includes reforms that would enable services providers in [least developed countries] to enjoy new export opportunities in developed country markets. There are steps that would simplify rules of origin requirements which would, again, open up new export opportunities for the [least developed countries]. Under this pillar we would also see improvements in trade preference arrangements which extend duty-free-quota-free treatment to [least developed countries’] exports.

“And, finally, we would see a commitment from WTO members to enhance the productive capacity of developing country cotton producers, especially [least developed countries] — and to improve transparency on the barriers that they encounter in major consumer markets.”

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# India trying to build broad consensus on WTO package

Puja Mehra, Business Line

Nusa Dua (Bali), 3 December 2013: On Day One of the Ninth Ministerial of the World Trade Organization (WTO), India tried to build a broad consensus among developing countries, which are “dissatisfied” with the Bali Package currently on the table.

Brazil and South Africa have conveyed their agreement with India’s position that the proposed Bali Package addresses only the concerns of rich countries, according to an official release.

“Nobody is feeling ‘I have got something’ as far as the developing world is concerned and their views need articulation,” a highly placed source told *Business Line*. “If this (Doha) was the Development Round, then how come food security is not the biggest thing in it?”

According to unconfirmed reports, Commerce and Industry Minister Anand Sharma may meet on Wednesday with US Trade Representative Michael Froman, who in his keynote address in October at the WTO Public Forum had said: “The loss of the WTO as a negotiating forum would have the greatest impact on the smallest countries ... Big countries will always have options.”

On Monday, India was blamed for the stalemate at the Bali conference.

Host Indonesia and WTO Director-General Roberto Azevedo are trying not to let the Bali Ministerial and, with it, the Doha Round, fail.

India has rejected two proposals in the Package: inadequate safeguards for farm subsidies for food security and the US proposal on trade facilitation.

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# Day 2: Consultations on ‘Bali package’ begin as Yemen’s membership accepted

WTO website, News Items

4 December 2013: Director-General Roberto Azevêdo told WTO ministers on 4 December 2013 that he would hold consultations — as urged by a large number of them — in the search for agreement on the set of issues known as the “Bali package”.

He was speaking at the end of an informal meeting of heads of delegations on the second day of the Bali Ministerial Conference, when ministers also agreed to accept Yemen as a new member — it will officially join the WTO 30 days after it has ratified the membership deal.

Many of the 55 speakers had urged Mr Azevêdo to work with those members that have serious concerns about the few remaining points that are unresolved, so that the conference can conclude with a deal on trade facilitation (cutting red tape and streamlining customs and port procedures), four agricultural issues and a set of topics on developing and least developed countries.

Several said a deal has to be struck in Bali for the economic and development benefits of the deal itself and for the credibility of the WTO. Many least-developed and developing countries also said that they would lose if a package is not agreed because of benefits they would gain.

Many members argued that leaving the deal to be concluded in Geneva after the conference would not work since the sticking points could not be resolved in Geneva in the weeks and months before the conference – the remaining issues are political and need ministers’ direct input, they said.

Some members reminded Mr Azevêdo that he had said the conference would not be for negotiation. They said negotiations should be fully transparent, with all members involved and no talks in small groups. If that does not produce agreement then the conference should agree on issues for least developed countries, with the other topics negotiated later.

Some also called the package “imbalanced”, in their view because the proposed trade facilitation deal would require developing countries to make commitments while the proposed agreements on agriculture and development would be promises that countries would do their best, but falling short of legal commitments.

Others called for flexibility so that agreement can be reached. “We can do this job here and now, so let’s do it,” said one. Several said that the work after Bali should focus on concluding the rest of the Doha Round negotiations.

Much of the discussion developed the themes struck on the opening day by Indonesia’s president Susilo Bambang Yudhoyono, Indonesia’s Trade Minister Gita Wirjawan , who chairs the conference, and Mr Azevêdo himself.

## *Yemen’s membership approved*

Immediately after the heads of delegations’ meeting, members formally accepted Yemen as a new WTO member — its “accession” to the WTO.

At a ceremony to celebrate the decision, Mr Azevêdo congratulated the Yemen government for the domestic reforms it is undertaking after 13 years to finally become a WTO member.

“We celebrate accessions both because of what it means for the individual country, but also because of what it means for this organization,” he said

The Republic of Yemen will be the 35th least developed country in the WTO.

“This group makes up a fifth of the whole WTO membership. It is an important constituency — and, as we have seen in recent days, it is one that is increasingly making its voice heard,” said the Director-General.

Yemen’s Industry and Trade Minister Sa’aduddin Bin Taleb expressed his country’s gratitude and excitement at finally becoming a WTO member.

“Sometimes things change for countries and fortunes change. But the very essence of a country and the history and the civilisation remains. Ours has been trading for the last at least five or six hundred years, in fact, since the spice route,” he told the assembled ministers from the WTO’s current membership.

“We aim to take back that road again and to connect with everybody in the world. ... I hope that after a few months, we will have a new Yemen born.”

The Yemeni Parliament will have six months, until 2 June 2014, to ratify its accession package. It will then inform the WTO and 30 days later it will officially become a member.

#### *Ministers’ statements*

Meanwhile, throughout the day, ministers began making their formal statements. The themes were similar to the comments in the informal heads of delegations meeting.

Many said that it is important to reach a deal in Bali to prove that the WTO members are able to achieve a multilaterally negotiated deal. The Bali package will preserve the credibility of the WTO and prepare the ground for a post Bali agenda which would include unresolved issues from the Doha Round, they said. Agreement would renew dynamism amongst the WTO countries and pave the way for further steps towards reducing trade barriers and improving market access, they said.

The ninth WTO ministerial conference must not be remembered as the “poisoned apple that sent Snow White into everlasting sleep”, said one (German Trade Minister Anne Ruth Herkes). “Future generations will judge us by what we achieved here at Bali”.

Many also warned that failure would have bad consequences, including countries pursuing opportunities outside the WTO such as bilateral and regional free trade agreements. Poorer countries could lose by being left out of these agreements, they said. However, some said they are optimistic that a Bali is within reach. Least developed countries emphasized that they have always benefited immensely from the multilateral trading system. The negotiated rules in the current package such as duty-free, quota-free access to richer countries’ markets and simplified rules of origin (which makes it easier for their products to qualify for preferential market access), cotton issues and the “services waiver” (allowing least developed countries preferential access to richer countries’ services markets) will bring huge economic benefits, create jobs and growth, they said. The majority of the members supported the draft texts on least developed countries’ issues.

Several ministers also outlined their differing positions on the sticking points in the draft Bali package.

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# Bali meeting: India in the spotlight

Surabhi, Indian Express

5 December 2013: Day two of the World Trade Organization's ninth ministerial conference started with a bang. After nearly a dozen countries including the United States and European Union and G-33 members such as Mexico and China spoke about compromise and flexibility to take through the Bali package and restore the credibility of the global trade body, India literally made everyone at the plenary session sit up and take notice.

Commerce minister Anand Sharma minced no words when he said India would not compromise on food security. Not only did India harden its stance on agriculture subsidies and food security but also said it would not support the trade facilitation agreement in its key forms. Both these proposals are crucial aspects of the Bali package. Little wonder then, that India's stance was the talking point for the day and even EU trade commissioner Karel De Gucht later in the day hoped India would pave the way for a conclusion of the talks.

The three-hour long informal meeting of member nations with the WTO Director General Roberto Azevedo in the afternoon to thrash out an accord also did not see India back down from this position. India faces problems because it is not the food subsidy being questioned but the price at which it is being run. Prices of agro commodities have risen drastically since 1994 the date of the last WTO accord on agriculture as India, meanwhile, has doled out huge rise in minimum support prices. A lower price level would have kept Sharma nicely within the 10 per cent WTO mandated cap on cost of subsidies despite rolling out the ambitious Food Security Act. If the talks fail, India risks being dragged to the WTO dispute settlement body every time it breaches the cap. According to officials, the subsidy for rice and wheat are almost there.

While Sharma is set to brief the international media on India's position on Thursday, Azevedo is set to take forward informal "green room" negotiations with dissenting member nations. The big question now is whether India wants to go in for a compromise settlement in Bali or would the talks remain inconclusive. But officials said the glass should be seen as half full rather than half empty.

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# No WTO deal is better than a bad deal, says Anand Sharma

Asit Ranjan Mishra, Mint

New Delhi, 5 December 2013: Refusing to back down from his stance that food security is non-negotiable at the World Trade Organization's (WTO) ministerial meeting in Bali, Indonesia, trade minister Anand Sharma said on Thursday that India would prefer to have no deal than a bad one.

But India still wants a positive outcome in Bali, and a deal is possible if a compromise is reached, he said, according to the audio transcript of a press conference addressed by the minister in the Indonesian city and posted on the WTO website.

"We have not come here to collapse any meeting," Sharma said. "India is also committed to a balanced and fair outcome. There have been past meetings where no result was there. It is better to have no agreement than to have a bad agreement."

India's stand has posed the risk that the ministerial meeting in Bali would end in failure, further eroding the credibility of an institution under which no multilateral deal has been concluded since its formation in 1995.

Sharma said at the plenary session of the meeting, attended by delegates from 159 WTO members, on Wednesday that the current offer on food security and trade facilitation—the latter aims to harmonize and streamline global customs rules—was not acceptable to India.

Both are key building blocks in attempts to lay down the rules of world trade that have been deadlocked since the launch of the Doha round of multilateral trade talks in 2001.

The present draft, prepared in Geneva, provides developing countries temporary relief of up to four years, known as a "peace clause", during which they cannot be challenged under the agreement on agriculture if they cross the permissible food subsidy ceilings.

But it does not provide such a guarantee under the agreement on subsidies and countervailing duties, which is supposed to regulate the actions countries can take to counter the effects of subsidies.

India wants a peace clause until a permanent solution is explored which developed countries are not inclined to agree to. But Sharma said the four-year clause was unacceptable.

"Should it be for the developing and poor countries to keep on compromising and show flexibility when it is their right to food security which is at stake?" he queried.

India initially showed flexibility on the food security pact and seemed to have agreed to the four-year peace clause. However, given the political sensitivity of the food security issue at home, particularly ahead of the general election due by May, it has since hardened its position.

India is concerned that it may be found in breach of a pact on public stockholding of food grains under WTO after it enacted the Food Security Act, legalizing the right to food for two-thirds of its population, earlier this year.

Under the WTO Agreement on Agriculture, which has not yet been agreed upon, developing countries have to keep their food subsidies under 10% of the value of the total food grains produced.

Though WTO does not monitor the food subsidy that the Indian government provides to its consumers, the breach could happen because India may be forced to procure more grains to meet demand and in the process may have to keep increasing the minimum support price for such procurement.

Sharma hinted that there could be a deal, provided eight out of the 10 texts proposed in the draft agreement are adopted, and trade facilitation and public stockholding of food grains are excluded.

“How can you say that heavens will fall if out of 10 texts proposed, eight are adopted and two have to be negotiated so that there is correct balance? I don’t know why this gloomy scenario is being painted that only if I sign away, as a country, our principles and the right to food security of the poor people, then only the WTO will be saved,” he said.

“Strengthening of WTO is a shared responsibility of both the developed and developing countries. Those who are speaking up for the poor and the hungry people cannot be blamed,” he added.

Explaining India’s compulsions in stressing a fairer deal in agriculture, Sharma cited the Food Security Act and said the government was legally bound to ensure that the prescribed quantity of food is made available to the targeted beneficiaries.

“We cannot possibly be expected to negotiate something which is in direct conflict with our food security,” he said.

“We have not come here as petitioner to beg for a peace clause. Is it binding on us to accept 1986-88 prices and (make) ourselves vulnerable to disputes and calculations? The answer is a firm no. This is a fundamental issue, we will never compromise,” Sharma said.

Pradeep S. Mehta, secretary-general of CUTS International, a non-government organization, and a member of WTO’s high-level panel on the future of trade, said in a statement that he is still optimistic about a positive outcome at the Bali ministerial meeting and asserted that the rules made in WTO are far more fair and equitable for developing countries.

“The deal could recognise the need to reformulate the subsidy equation within and not later than the agreed period of four years (peace clause), as the WTO farm agreement has been pegged on 1986 commodity prices, while today’s prices are much higher,” he added.

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# 'Stiff India' could soften; WTO may be nearing a breakthrough deal

Nayanima Basu, Business Standard

Nusa Dua (Bali), 6 December 2013: As the World Trade Organization's (WTO's) ninth ministerial conference (MC9) entered its third day, talks seemed gaining a peculiar momentum, even as there were loud murmurs of a "stiff India" — Commerce Minister Anand Sharma had ruled out compromise on the food security issue and urged developed countries to show grit and flexibility.

With an uncanny silence presiding over negotiations all day, the danger of an impending collapse loomed. Even rumours of Sharma "flying out of Indonesia" and "walking out from MC9" peaked, as he did not attend the gala dinner hosted by Indonesia, the chair country. The minister, however, was seen walking in and out of meetings as he shuttled from one venue to another, holding some "last-minute make-or-break talks" with WTO Director-General Roberto Azevêdo and US Trade Representative (USTR) Michael Froman, even past midnight.

"Talks are on... These are interesting times but I stand by what I said," Sharma said after his meeting with the USTR and the WTO D-G. At the time of going to press, talks were still on and there was a strong possibility of a breakthrough.

Sources told Business Standard Sharma maintained a "no compromise, non-negotiable" stance publicly, especially on the food security issue, while he sent out the message of a relaxed and conciliatory approach during his private negotiations with representatives of key countries.

After his meeting with Sharma, Azevêdo was believed to have called a meeting with the European Union delegation. According to highly-placed sources present at the closed-door meetings, "it will become easy to pursue the Europeans if the US comes on board. India is only asking for an interim solution to continue till a permanent one is put in place".

However, the Europeans were critical of India's position at the meet and termed Sharma's stand "political". A high-powered panel of Members of European Parliament lambasted India for not being ready to "compromise".

"For India, unfortunately, it is political. It is not an agriculture policy but a social one," said Vital Moreira, the head of the European Parliamentarian delegation, also the chairman of the Committee on International Trade.

He was not the only one criticising India's stance. According to Helmut Scholz, another member of the European Parliament and Committee on International Trade, India "cannot hold WTO hostage for its own domestic national interest".

The Europeans lashed out at India's food security programme, under which it was providing staple food to the poor at subsidised rates. They said India was "misusing the mechanism. The amendment of agreement on agriculture simply cannot be done. This is as simple as that. Why cannot India and China understand," Moreira asked.

Addressing a press conference earlier in the day, Sharma had said: "There's not going to be a collapse.

There have been past meetings that yielded no results and, shall we say, those who collapsed those meetings, but WTO survives. We have not come here to collapse any meeting. India is committed to a positive outcome from Bali. India is committed to a balanced and fair outcome, particularly in public stockholding and food security. It is better to have no agreement than to have a bad agreement.”

Sources said it was clear India was now looking beyond the horizons of Bali and taking negotiations back to the drawing table in Geneva.

At the time of going to press, major fire-fighting was on inside the negotiating rooms that were abuzz late in the night, even as the rest of the island was in deep slumber, with only the seas roaring.

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# World Trade Organization overcomes last-minute hitch to adopt Bali package

Surabhi, Financial Express

Bali, 8 December 2013: The World Trade Organization (WTO) reached its first ever trade reform deal on Saturday to a roar of approval from nearly 160 ministers, who had gathered on the Indonesian island of Bali to decide on the make-or-break agreement that could add \$1 trillion to the global economy. The approval came after Cuba dropped a last-gasp threat to veto the package.

“It always seems impossible until it’s done,” WTO director general Roberto Azevedo quoted, while describing the furious negotiations over the past two days.

Getting the first such declaration in over two decades was not easy. After India and developing nations were brought around by changes in the draft text on agriculture on Friday night, it was the turn of Cuba and Latin American countries, including Nicaragua, Bolivia and Venezuela, to put the deal on ice in the early hours of Saturday.

The talks, which had opened on Tuesday, nearly came unstuck at the last minute when Cuba refused to accept a deal that would not help pry open the US embargo of the Caribbean island. Cuba later agreed on a compromise with the US.

All member nations of the WTO adopted the Bali package consisting of 10 documents on trade facilitation, agriculture, cotton and development issues.

“The package provides flexibility to developing countries on vital food security programme. We will change the agreement on agriculture. In the meantime, it will allow developing nations to avoid disputes for food security,” said Indonesian minister of trade Gita Wirjawan, who, as the chair and host of the summit, brought the conference to an end.

Addressing the closing ceremony of the summit, a visibly emotional Azevedo said, “We have brought the ‘world’ back into the World Trade Organization. For the first time in our history, the WTO has truly delivered,” adding, “We’re back in business...Bali is just the beginning. We will be able to move on to the Doha round of global trade talks.” The WTO chief also thanked his wife with a catch in his voice and tears in his eyes.

“India has played a major role in reviving and re-energising the Doha round of talks. The Bali declaration is a positive step,” said Indian commerce and industry minister Anand Sharma.

The Bali declaration also includes five draft agreements on TRIPS non-violation and situation complaints, work programme on electronic commerce, work programme on small economies, aid for trade, besides trade and transfer of technology. As per the decision of the ninth ministerial meet, the WTO has been asked to prepare a work programme for the Doha round.

But there was scepticism how much had really been achieved. “Beyond papering over a serious dispute on food security, precious little progress was made at Bali,” said Simon Evenett, professor of international trade at the University of St Gallen in Switzerland. “Dealing with the fracas on food security sucked the oxygen out of the rest of the talks.”

A study by the Washington DC-based Peterson Institute of International Economics estimated the agreement would inject \$960 billion into the global economy and create 21 million jobs, 18 million of them in developing nations.

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# Success in Bali Sparks Questions over Doha, WTO Future

Bridges Weekly Trade News Digest

12 December 2013: Trade ministers meeting in Bali last week formally agreed on the WTO's first multilateral pact in nearly 20 years, in a feat that has been broadly welcomed as an "historic" achievement. In addition to the economic benefits that such a deal could provide - with some estimates placing its value at US\$1 trillion in global GDP - the news has also sparked renewed interest and debate over what 2014 may bring for the international organisation.

This year's Ministerial Conference, which is the WTO's highest decision-making body, was a particularly suspenseful one, with negotiations dragging into the night on multiple occasions. The event itself was extended by an extra day, in order to resolve a late push by Cuba to include language in the trade facilitation agreement that would have effectively targeted the US embargo.

The final outcome was a trade facilitation agreement, along with decisions and declarations on four agricultural issues, and select development-focused provisions - including four that are specific to least developed countries.

Though many have been quick to note that the package agreed in Bali represents just a fraction of the outstanding issues in the Doha Round negotiations - and has skirted the most difficult ones - trade officials have generally stressed that the achievement in Indonesia may have a much greater systemic value: that of reinstating confidence in the WTO's negotiating abilities.

The deal in Bali comes at a time where some in the trade community have worried that so-called mega-regionals, such as the Trans-Pacific Partnership (TPP) and the Trans-Atlantic Trade and Investment Partnership, have stolen the limelight from the multilateral talks at the WTO, particularly given the repeated setbacks that the Doha Round talks have faced over the past dozen years.

"We have strengthened this organisation; and we have bolstered the cause of multilateralism itself," Director-General Roberto Azevêdo said on Saturday. World leaders have echoed that sentiment, with US President Barack Obama praising the achievement in Bali as a "rejuvenation of the multilateral trading system." EU Commission President José Manuel Barroso similarly remarked that "the WTO is back on track and delivering reform."

## *Next steps for "Bali package"*

With the Bali conference in the rearview mirror, trade watchers are now looking to see what will come next for the 159-member body.

One question, sources say, will be how exactly to incorporate the trade facilitation deal into the existing WTO Agreement, a process that will begin after the necessary "legal scrubbing" of the text from Bali takes place. Another question is how long the ratification process itself will take in order to bring the new deal into force.

Two-thirds of WTO members will need to ratify the new trade facilitation deal for it to take effect for those members. Those who do not ratify it, meanwhile, will not be bound by it. Some trade officials have suggested that this process could take at least two years.

What also remains to be seen is how developing countries decide to use the new flexibility on food stocks provided for in the draft Bali package, and how quickly they do so. Other questions, such as when members will take the next steps for operationalising the services waiver for least developed countries, also remain.

### *New chapter for Doha?*

Last week's ministerial declaration includes a section referring to a post-Bali agenda for the organisation, mainly focusing on how to reinvigorate the rest of the Doha Round negotiations. The 12-year talks have been stalled for years, and many trade observers had been looking to Bali for signs on whether or not the beleaguered negotiations could be kick-started once more.

The need to find a solution for the broader Doha Round was highlighted repeatedly by officials last week, with conference chair Gita Wirjawan, Indonesia's trade minister, urging WTO members last week to "take the energy and optimism we have gained here and apply it in Geneva."

"We have crossed the finish line in Bali, but the race is not yet over - now we must complete the Doha Round," he said.

Azevêdo, in his closing remarks, similarly noted that the Bali decisions were a reaffirmation of members' commitment to the WTO, and to "the delivery of the Doha Round agenda."

According to the ministerial declaration issued last Saturday, work on issues in the Doha Round that were not fully addressed in Bali "will resume in the relevant Committees or Negotiating Groups of the WTO." It further states that the "work programme will be developed in a way that is consistent with the guidance provided at [the 2011 ministerial conference in Geneva], including the need to look at ways that may allow members to overcome the most critical and fundamental stumbling blocks" - language that observers are already parsing for an indication of what this could mean in practice.

For some, this refers to possibly pursuing plurilateral initiatives that could later be multilateralised to the whole WTO membership - a controversial topic.

While some subsets of the WTO membership have already begun exploring plurilateral deals, such as the Trade in Services Agreement currently under negotiation, others have warned that these efforts could actually serve as a distraction from the Doha Round talks. Others say that this work programme will likely take the form of future WTO "mini-packages," such as the one seen in Bali.

Though many have welcomed the renewed prospects for advancing the Doha Round talks, they have also noted that earlier pledges to advance the negotiations have only been met with stalemate. Whether the success in Bali could change the game, they say, is at this stage impossible to predict.

The next major meeting on the international trade calendar is the World Economic Forum in Davos, where various ministers traditionally meet on the event sidelines in order to assess the Doha Round's progress and begin making plans for the upcoming year. The WTO's first General Council meeting of the year, while not yet officially scheduled, is usually held a few weeks later, in February.

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# What 'victory' at Bali really means

T S Vishwanath, Business Standard

11 December 2013: In the first week of December 2013, the World Trade Organization (WTO) was resuscitated when 160 member-countries (which includes the latest entrant at Bali - Yemen) agreed on a package that addressed a few significant issues under the Doha Development Agenda.

Interestingly, the two most important issues - food security and trade facilitation - that saved the Doha Round from collapse were never part of the hot topics that were to be negotiated and completed by 2005 when the Round was originally to be concluded.

The paragraph on Agriculture in the Doha Declaration of November 2001 stated that under the Special and Differential Treatment provisions, developing countries could "effectively take account of their development needs, including food security and rural development".

On trade facilitation, it was decided that the Fifth Ministerial Conference (that is, the Cancun Ministerial in 2003) is when negotiations would begin on the basis "of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations".

The word "explicit consensus" was added on the insistence of India, which was not supportive of including any of the Singapore issues - competition, government procurement, investment or trade facilitation - that were taken up during the ministerial conference in that country in 1996 as part of the WTO agenda.

In fact, even an "early harvest" as has been achieved at Bali was not part of the mandate in the Doha declaration, which had sought all issues to be resolved as part of a "single undertaking". The declaration was explicit that "Nothing is agreed until everything is agreed".

So, what has been achieved at Bali is very different from what member countries had envisaged in 2001. Therefore, the euphoria surrounding this agreement at Bali needs some explanation.

Besides the fact that the Bali declaration has helped reinstate trust and support for a multilateral trade negotiation system, the important achievement is that after 12 years countries have decided to collaborate and take the WTO forward.

The most important aspect under this is the decision is on public stockholding for food security purposes, the issue that nearly caused the ministerial to fail. What India - Commerce Minister Anand Sharma and his team - have pulled off at the ministerial is truly remarkable. This is one of the first times a developing nation, despite being singled out for attack by nearly all other member countries, was able to drive a consensus that most felt was unachievable.

The question, therefore, is what India or rather the developing world has achieved. According to the decision, members have agreed to "put in place an interim mechanism" and "negotiate on an agreement for a permanent solution" for the issue of public stockholding for food security purposes for adoption by the 11th Ministerial Conference. In the interim, till a permanent solution is found, countries cannot file disputes against the developing countries that exceed the level of subsidy that is allowed under the WTO rules.

For India, this means that, the food security Bill that was passed recently in Parliament will not be challenged in Geneva. While this is a great win for countries such as India, it is important to note that the position beyond the 11th Ministerial (four years from now) is slightly ambivalent.

While the text does not state that the interim mechanism is only for four years, it also does not clarify that it would continue beyond four years. So, if the issue has not been successfully settled four years from now, then different interpretations of the text will emerge. From a plain reading of the text, though, the developing countries have nothing to fear even if countries fail to reach an accord on this issue within four years.

However, there will be notification requirements when developing countries exceed the permissible subsidy level. Beyond public stockholding for food security the other two achievements for developing countries in agriculture are the decisions on tariff rate quota administration, which will provide higher market access opportunities and also the one on export competition.

Trade facilitation is the other big deliverable of the Bali Ministerial, which is expected to help business across the globe. While some studies put the value of gains from this decision at about \$1 trillion, what it can actually achieve is supporting the creation of global and regional value chains, which is important for countries in developing and least developed countries.

Though Bali has been a success, it is important to now focus on the post-Bali agenda that is expected to gain momentum over the next few months. Indian industry must be clear that having given in to the government's food security demand, trade partners will now put a lot of pressure on New Delhi to provide meaningful openings for industrial goods and services sectors.

India may be pressed to become part of the plurilateral negotiations on services called the Trade in Services Agreement (TISA), which India has avoided in the past. China has recently evinced serious interest in joining these negotiations and countries will now look to India to join. Industry needs to do a quick analysis to understand the implication of TISA. India may also be asked to be more accommodative on liberalising tariffs on industrial goods.

Overall, Bali is expected to reignite interest in liberalising global trade through a multilateral process. Given the current global economic scenario, India may be compelled to take a more liberal stand on market access issues, which need to be used to our advantage.

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# Bali: The truth behind the spin

Amiti Sen, Business Line (The Hindu)

22 December 2013: While India continues to debate whether it won itself a good deal or got hammered by developed countries at the ninth ministerial Meeting of the World Trade Organisation, the clear losers of the five-day parleying in Bali unfortunately were the least developed countries (LDCs).

It is unfortunate not just because the WTO is most supposed to serve the poorest nations and the Bali package has almost nothing for them.

What is so disappointing is the fact that the developed countries lobbied for the success of the Bali ministerial by selling it as an opportunity to deliver benefits to the LDCs while all that they were interested in was getting their way with the trade facilitation pact.

At the end of the hectic Bali negotiations, the developed world and several developing countries including India went back home pocketing gains — some real, others perceived.

## *Quiet victory*

The US and the EU glowed silently in their victory after getting the entire membership to sign a trade facilitation pact that mandates countries to upgrade infrastructure at ports, cut down paper work and expedite clearances within a specific time period, or face penalties.

The fact that the matter was not even part of the original negotiating agenda of the ongoing Doha Round made the win sweeter.

India and some other developing countries that were worried about their public procurement subsidies breaching caps came back smiling bravely with a half-baked 'interim' arrangement in their pockets offering immunity against legal action.

However, LDC issues, which are a list of mostly unfulfilled promises of the past, remained what they were — mere promises!

## *Misleading the media*

It is incredible how developed countries manage to influence public opinion in their favour by selectively giving out information to the media.

When India took a tough stand on the issue of its food security programme before and during the Bali negotiations, numerous articles appeared in the Western media on how the country was standing in the way of a deal that would largely favour poor countries.

The US trade office did not mince words while criticising India's defensive posture and painting it as the big villain that did not care about what happened to the poorest nations.

But not much was said about the content of the LDC package. Neither was it mentioned that most of the important issues in the package involved measures that the US had to implement.

At any point of time, before or during the negotiations, India was ready to ratify the LDC package irrespective of whether other things fell into place or not.

It was the US that maintained that there would be no LDC package if the Bali deal fell through. But the unfairness of this was hardly talked about.

The two biggest areas where the LDCs hoped to gain were commitments on fully implementing the duty-free-quota-free (DFQF) arrangement and elimination of cotton subsidies.

The DFQF lays down that LDCs would be given unrestricted access to markets of richer countries and was promised during the Hong Kong ministerial meeting of 2005. Developed countries and developing countries were supposed to offer duty-free access to 97 per cent goods from LDCs.

While India has fulfilled its obligations, bigger countries like the US are yet to fully bite the bullet.

### *Benign avoidance*

And does the Bali ministerial specify by when the DFQF mandate will be implemented? It doesn't. It just benignly states that developed countries that have not yet fully implemented it "shall seek" to improve their coverage so as to provide increasingly greater market access to LDCs, prior to the next ministerial conference. The word "seek" added after the word "shall" totally changes the tenor of the mandate and reduces it to just a best endeavour clause.

Elimination of cotton subsidies was another promise made to LDCs during the Hong Kong ministerial. The four cotton growing African countries — Benin, Burkina Faso, Chad and Mali — have been crying themselves hoarse since the beginning of the Doha round in 2001 begging that high cotton subsidies given by the US be eliminated as it was devastating their economies.

And what does the Bali ministerial declaration have to say on this vital issue of crucial importance to the world's poorest countries?

It merely expresses regret that members had not yet delivered on the trade-related components of the 2005 Hong Kong ministerial declaration, and goes on to add that members agreed on the importance of pursuing progress in this area.

### *Deliberate vagueness*

On other issues of importance to LDCs including more lenient rules of origin for their products and preferential treatment to services exports and service suppliers from the region, the language in the ministerial declaration is equally vague.

The Bali ministerial has been hailed as a historical meet where the first multilateral trade deal of the century was penned. It is in a way quite hilarious because the only deal that happened there was the one on trade facilitation, which was reluctantly supported by most developing countries.

It remains to be seen whether the Bali pact will translate into the paralysed Doha round getting recharged. But one thing that has emerged clear from the meet is the fact that the old world order where the rich countries dominate and the poor take whatever titbits are thrown at them is still alive and kicking.

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# Let's focus on trade facilitation

M. Rafeeqe Ahmed, Business Line (The Hindu)

29 December 2013: The WTO ministerial Summit at Bali ended on a positive note for India. The strong and clear message on food subsidy made India the undisputed leader of developing and least-developed nations. However, trade facilitation is an equally important area.

With tariff rates having fallen after the Uruguay Round, trade facilitation has become important in the context of dealing with non-tariff barriers. With more countries becoming part of the global supply chain, goods manufactured in a country are made of components assembled in many countries.

## *Transaction Costs*

Slow and complex procedures complicate supply chain dynamics. The sheer volume of Exim transactions forced countries to look at new measures to steer trade (Exim trade in India soared from \$123 billion in 2002-03 to \$792 billion in 2012-13). With “Just in time” becoming the norm in product delivery, the focus has shifted to facilitating efficiency in transactions.

Transaction cost hurts small and medium Indian companies, which dominate Exim transactions in volume terms. Government data show the transaction cost varies between 8-10 per cent of free on board value, which translates into a cost of \$63-79 billion for 2012-13 alone. Globally, the cost is \$1.3 trillion a year. Exporters/importers from both developing and developed countries have long pointed to the bottlenecks in moving goods across borders. Documentation requirements often lack transparency and are repetitive in many countries, including ours.

Despite advancements in information technology, data flows are a problem, barring to some extent between the Directorate General of Foreign Trade (DGFT) and Customs, and DGFT and banks. Other agencies are still asking for the same information, mostly in paper form.

As per the draft text of the agreement on Trade Facilitation at Bali, each member would be required to (a) promptly publish information on imports and exports; (b) establish or maintain one or more enquiry points to answer reasonable enquiries of governments, traders and other interested parties; (c) and provide an appropriate time period to traders to comment on the proposed introduction or amendment of laws on movement, release and clearance of goods.

There should be a systemic approach to identifying hindrances to efficient flow of trade. We need to look at both forward and backward linkages.

For backward linkages, the complete supply chain covering production, logistics, services infrastructure and regulatory frameworks — all with an impact on speed and cost — have to be addressed.

The forward linkages cover overseas transportation, logistical and financial frameworks, restrictive procedures, mainly technical standards above international benchmarks, high charges for registration and inspection followed by advanced countries.

The backward linkages require resolve on our part while forward ones need to be flagged at multilateral/bilateral forums.

### *Customs Handling*

Let me touch upon a couple of issues that should be addressed during the transition time available to us to meet trade facilitation mandate.

The Revised Kyoto Convention has recognised the importance of the use of Risk Management System (RMS), which comprises a series of technical processes meant to identify and quantify individual risks. The RMS has helped in faster customs clearances in India.

But the new RMS for imports has increased the percentage of physical examination, which is a great setback for users.

Customs authorities should ensure that the intended objective of adoption of RMS is not defeated and only high risk consignments are put to physical examination.

Another facet of risk management is to do away with obsolete practices. Most cases of duty drawback are held up due to non-filing or incorrect filing of Export General Manifest (EGM) by shipping/airline companies.

### *Duty Drawback*

We all know that shipment of exports takes place after endorsement of the Let Export Order (LEO) by Customs. Less than 0.05 per cent of shipments are withdrawn after LEO, and doing so requires following a complex procedure. So, the grant of drawback at the LEO stage will result in quick disbursal, adding to exporters' liquidity with no or negligible risk to the exchequer.

We can safely say most fees and charges appear nominal. No fee is charged for claiming benefits of promotional schemes and even duty drawback. But in the case of applications for an import authorisation, the amount of fees is based on the c.i.f value of authorisation. At times, the high fee for authorisations may breach what is prescribed as "reasonable fee" by WTO.

While Customs introduced advance ruling in 2004, its coverage is quite limited. Only foreign firms that want to invest in India through joint ventures or wholly-owned subsidiaries, or Indian firms who are getting into joint ventures with foreign firms can ask for advance ruling.

Thus the scope of the Authority for Advance Ruling is limited as the provision is not available to a solely Indian-owned company. The expansion of scope will benefit Indian entities.

The novel scheme of Authorised Economic Operator (AEO), which provides accelerated clearance both inside and outside India, has not yet taken off.

In a country where over 1,00,000 are eligible to avail of the facility, the figure of AEO has not touched even hundred. At port of Antwerp alone, there are over 600 AEOs.

The lack of publicity, stringent requirements and delay in registration contributed to its lacklustre performance. Aggressive marketing and fast clearance will go a long way in popularising the scheme.

### *Nodal Agency*

A consultative mechanism between trade and Government is already in place as the Government does consult the stakeholders and evaluates their inputs.

The draft circulars proposing procedural changes are put on the websites inviting suggestions. However, there is a need to institutionalise the process so that the same is invariably followed by all agencies.

The electronic media is already being used widely for dissemination of all trade-related information. DGFT should be made the single inquiry point to address all queries of the trade.

A backup office consisting of nodal officers in Customs, regulatory agencies, FIEO and other export promotion bodies can be set up to assist the single enquiry point.

A country that is unable to adopt effective and appropriate trade facilitation measures would be uncompetitive in the global trading environment on account of high transaction costs. Therefore, whether it is the requirement of the WTO or our own willingness, we have to take this agenda forward.

*(The author is President, FIEO.)*

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# WTO at Bali: Multilateralism versus regionalism in trade

Pradeep S Mehta, Economic Times

23 December 2013: It was touch and go over six intense days at Bali in early December. In the end, the World Trade Organization's Ninth Ministerial Conference delivered a trade liberalization package — the first-ever deal that the WTO could craft since it came into being in 1995.

And this came after a 12-year-old Doha Development Agenda (DDA) stalemate and a spaghetti bowl of regional trade agreements. Thus, the spirit of multilateralism prevailed. The seven-year Uruguay Round Agreement (URA) negotiations ended in the establishment of the WTO in 1995.

Getting the WTO itself was a big achievement in spite of opposition from the US. The WTO included a binding dispute-resolution system, and new disciplines on services, intellectual property, agriculture, textiles and so on. The deals were done in a single undertaking manner, which means "all or nothing". Following the WTO agreement, the first full-scale negotiation, DDA was launched in Doha in 2001. Its remit was to address problems with the URAs that were negotiated in the 1980s when the developing world had little understanding of complex issues.

It was launched against the backdrop of the 9/11 tragedy to tell the world that the global community will not be cowed down by terror attacks. The DDA had to be labelled a development round as that was the only way to get poor countries to join the talks.

As negotiations on the DDA progressed, the poor countries realised that the rich wanted only better market access, while paying lip service to development.

That was the reason for the stalemate. On the other hand, western agriculture subsidies turned out to be the spoiler. Europe, inter alia, wanted new deals on investment, competition and transparency in government procurement and trade facilitation as a trade-off against reforms in their farm subsidy regime. However, many in the developing world were opposed to all the four issues and the Cancun Ministerial of 2003 collapsed without a conclusion.

The Cancun collapse was salvaged in Geneva in July 2004 and it was agreed that DDA negotiations should continue, but retaining only trade facilitation among the four issues. Thus, WTO members have worked relentlessly on the DDA to arrive at a conclusion.

That came close in July 2008 when members agreed on 90% of the issues, but that too failed due to US' opposition to India and China's stand on special safeguards on farm product imports. Thus, India and China became the spoilsports. In fact, it was the US' reluctance to address its subsidy regime on cotton that was the deal breaker, as it affected many African countries.

Among others, trade facilitation featured at the Bali Ministerial as part of the Doha Lite deal. It was a way forward to harvest the low-hanging fruits of the DDA and move forward. As expected, ambition levels between the rich and the poor are always at crossroads.

Consensus seemed elusive on the text on trade facilitation, but was finally sorted out. This was possible after the agreement on public stockholding of food grains breaching the 10% subsidy limit was crafted

without tying it down to a four-year peace clause, but until a permanent solution is found. As India's trade minister Anand Sharma said, "A historic day for the WTO. India's food security concerns are addressed." The US was recalcitrant. It has little appetite for the DDA and has, therefore, been pursuing two mega regional deals. India's hard stand made pundits feel that we would be walking into a trap and, thus, negotiators would go back empty-handed. Miraculously, a deal was struck at Bali.

The US wanted the accord on trade facilitation badly. And that was the trade-off that India used for its demand on food security flexibility. However, trade facilitation — cutting down the red tape in customs procedures — is a win-win deal and has been welcomed by all. This deal is expected to generate about \$1-trillion gain to all countries, of which most will accrue to the developing world.

In the end, multilateralism stood its ground, and that is the best way forward for all countries. The scene will now shift to Geneva, where negotiators will work out the nuts and bolts of what they have agreed at Bali, and tackle the unfinished agenda of the DDA over 2014 and beyond.

*The writer is member, WTO's Panel on Defining the Future of Trade.*

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# WEF bats for supply chain reforms

India Blooms News Service

Davos-Klosters, 21 January 2014: Urgent implementation of the Bali trade accords and deeper behind-the-border reform is needed to sustainably meet world food demand, and foster industrial development, according to *Enabling Trade: From Valuation to Action*, a new report released on Tuesday by the World Economic Forum (WEF), in collaboration with Bain & Company.

Government leaders need to step out of traditional ministerial silos to lead value-chain reforms and reap the benefits in domestic investment and global trade.

The report finds that supply chain inefficiency contributes significantly to the 1.3 billion tons of food lost each year. Attacking these barriers would help improve the livelihoods of billions of the world's poorest people, and cut emissions, energy and water use. Lost or wasted food costs over \$750 billion per year.

Yet, agriculture and consumer policy remains focused on production and retail improvements, with insufficient action on supply chain and trade connections.

Major manufacturing investments could be unlocked by accelerating cross-border connectivity. Overcoming deep competitive differences, automotive executives align around the trade priority of faster and simpler border crossing.

According to the report, roughly US\$ 6 billion is spent each year by the automotive industry on inventory-carrying costs at borders. If redirected into product development, this could pay for up to 6 new car launches every year.

"The report highlights an important new opportunity for trade liberalization and economic growth, combining border and behind-the-border reforms to strengthen the competitiveness and job-creating potential of key economic sectors," said Richard Samans, a Managing Director of the World Economic Forum.

"Such a strategy has the potential to help countries and regions translate the recent WTO agreement on trade facilitation into tangible economic gains."

The report's call for implementing supply chain reform builds upon earlier *Enabling Trade* findings, that reducing supply chain barriers could increase global GDP six times more than eliminating all tariffs.

The report highlights bright spots of political will, including the Pacific Alliance in Latin America, where deeper economic integration and supply chain facilitation are being prioritized at the presidential level. Improved border management, a primary focus of recent negotiations at the World Trade Organization's Ministerial Conference in Bali, is emphasized in the report's call for accelerated co-development of e-logistics and smart customs systems.

"The WTO agreement announced in December in Bali was a tremendous step toward trade liberalization and efficiency," said Mark Gottfredson, a Partner at Bain & Company and co-author of the report.

"Now is the time for governments and businesses to take action on the detailed and difficult work ahead."



The Enabling Trade: From Valuation to Action report is based on pilot agricultural programmes in India, Kenya and Nigeria, an automotive CEO dialogue requested by the WTO, and supply chain surveys and case studies conducted with business and customs administrations. It illustrates:

In poorer regions, 94 percent of food loss and waste stems from supply chain inefficiencies. Yet only 5% of agricultural funding goes to postharvest improvements.

Supply chain improvements increase flexibility and early-stage value for food - and cut loss.

Overly strict product standards, poor transportation infrastructure, border delays, and poor business climates are the main supply chain barriers for agriculture.

Border crossing processes are priorities for automotive trade reform. For example, pallets shipped wet from Western Europe need reweighing when dry at the Russian border.

Simplifying parts re-export is another automotive trade priority, notably for pooled equipment.

Consistent safety and environmental standards in the EU/US would save billions - an important goal for the TTIP negotiations.

The Pacific Alliance, representing Chile, Mexico, Colombia and Peru, promises to create a 200 million people, \$2 trillion market, if supply chain reforms continue.

Better border management - "smart borders" - can dramatically improve supply chain efficiency. In Thailand and Kenya, process improvements have more than halved export times.

Each year, the World Economic Forum's Global Enabling Trade Report series focuses on measuring whether economies have in place the necessary attributes for enabling trade and where improvements are most needed.

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# Bali success may put Doha talks back on track: WTO

Financial Express

Bangalore, 29 January 2014: The success of the Bali Ministerial last month is expected to help put the stalled Doha round of trade negotiations back on track, the World Trade Organisation's Director General Roberto Azevedo said on Tuesday. The WTO is currently working on defining the steps to be taken towards reaching a conclusion of deliberations, he said. "We have a chance to make the year 2014 as the year that put the Doha round back on track. It will not be easy but it is achievable and we hope that together we can capitalize the success of Bali and seize the opportunity it has provided," Azevedo said at the CII Partnership Summit in Bangalore.

At the ninth ministerial conference held in Bali last month, countries had adopted the "Bali Package", which refers to a series of decisions aimed at streamlining trade, allowing developing countries more options for providing food security, boosting least-developed countries' trade and helping development. The Doha round of negotiations, meanwhile, had been launched at the WTO's fourth ministerial conference in November 2001.

"So our priority now will now be two things. First implement what we did in Bali, particularly the part where we have to provide technical assistance and build capacity in least developed countries. The second part of our programme is to define what to do next in terms of the Doha round, how do we move forward towards the conclusion of the round," he said. Asked how soon the WTO expected to conclude the round, Azevedo said: "We would like to conclude it as soon as possible. We clearly cannot wait another 13 years."

Some of the outcomes in Bali are estimated to provide benefits of upto \$1 trillion to the world economy and create upto 21 million jobs worldwide.

Commerce minister Anand Sharma said that member countries need to develop a unified view of the three pillars of agriculture, market access to non-agriculture goods and services. Trade facilitation is being driven by new technologies which will make exports much more competitive, he said.

*Sharma vows to protect UAE investors' interests*

Commerce minister Anand Sharma on Tuesday said the Indian government will do its best to protect the legal interests of investors from the United Arab Emirates (UAE). The minister has assured the UAE that the government is addressing legacy issues faced by Etisalat, TAQA, DP World and Emaar, said a statement from the commerce ministry.

"We will do the best under the circumstances to protect the legal interests of the UAE investors, without violating any judicial orders," he said at a bilateral meeting with UAE's minister of economy, Sultan bin Sayeed Al Mansouri, on the sidelines of the CII Partnership Summit 2014 in Bangalore on Tuesday. The total trade between India and UAE crossed US\$75 billion in FY13. Both the leaders discussed follow-up action on decisions taken during the inaugural meeting of the India-UAE High Level Task Force on Investment, according to a statement.

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# WTO should capitalise on success of Bali meeting: Anand Sharma

Barun Jha, Mint

Davos, 24 January 2014: India wants the WTO to capitalise on the success of the ministerial meeting in Bali and move ahead with the Doha development agenda for a global trade deal.

The issues were discussed during the meeting of commerce and industry minister Anand Sharma and WTO director general Roberto Azevedo in Davos on the sidelines of World Economic Forum Annual meeting. Both the leaders took stock of the progress of post-Bali programme of WTO negotiations.

“We must capitalise on the momentum gained in Bali and push ahead with the work programmes that we agreed to establish on the Doha Development Agenda and food security,” Sharma said.

Overcoming a string of failures over the years, the WTO reached a landmark agreement in the Bali meeting in December last year that can help boost global trade by USD 1 trillion, while taking on board concerns of countries like India to protect its food security scheme providing subsidised grains to the poor.

Congratulating WTO’s chief on the Bali success, Sharma said that all the members worked together, showed flexibilities where required and demonstrated the willingness to work for the greater good of the multilateral trading system.

Azevedo is coming to India next week to address a session on trade in Bengaluru. He will also have discussions with Sharma and senior officials in the capital city of Karnataka.

Although the WTO succeeded on a few issues in the Bali meeting last year, the Doha Round of negotiations launched in 2001 have remained virtually stalled due to differences between the rich and the developing nations mainly on the level of protection for farmers in developing countries.

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# Post-Bali Discussions Must Find Balance On Agriculture, Market Access, Services

Madhur Singh, WTO Reporter

29 January 2014: Discussion to build on the 10 agreements reached at the World Trade Organization ministerial meeting in Bali in December 2013 must aim to find a balance between members' interests in issues including agriculture, non-agricultural market access (NAMA) and the inclusion of services in the multilateral trade regime, WTO Director-General Roberto Azevedo said at a trade conference in Bangalore.

“Overall, Bali was a leap forward,” he said, “By the end of this year we must have an agreement on the remaining DDA [Doha Development Agenda] issues – agriculture, of course, but also industrial goods and services.”

Azevedo said parameters must be realistic on the achievables and how countries will get their domestic constituencies on board; interconnected issues must be tackled together; and members must be flexible, creative and open.

He said development must remain the basic pillar of efforts, the poorest members must see tangible results for the poorest members and the process must be inclusive and transparent at every step.

## *Single-Undertaking Principle*

India's trade minister Anand Sharma agreed, saying the single-undertaking principle must not be diluted even if an incremental approach is taken to reach agreement on various issues over which there are conflicts and disagreements.

“Many countries are in a position to do more than they have conceded,” Sharma said, giving the example of India's concessions on trade facilitation, which is an area in which India has been taking steps under its trade policy of 2009 to install or improve systems for e-payment, e-filing, linkages of cargo terminals and ports, for example. “We also want to bring down prices to make our exports competitive,” he said.

The speakers agreed that agreement is necessary on non-tariff barriers, as well as market access and trade facilitation, for which it is necessary for businesses to directly engage with the WTO.

B. Muthuraman, vice chairman of Tata Steel Ltd., said developing countries are interested in including services in the multilateral regime, but services depend on the movement of people, against which many developed countries have objections. He said some developed countries are known to be forming “regional groups of friends” within the WTO to reach a plurilateral arrangement in the services sector, which is against the spirit of the WTO.

## *Involve SMEs*

Arancha Gonzales, executive director of the International Trade Centre, said any movement forward for the WTO must involve small and medium enterprises (MSMEs) more meaningfully. Such enterprises are witnessing a blurring frontier between goods and services, as exemplified by India's expertise in the

services as well as the manufacturing sectors, Gonzales said.

However, she said, the competitiveness of the small and medium enterprises sector depends to a large extent on regulatory frameworks, and they need a trade agenda that reflects these realities. She said an MSME friendly trade regime would have more focus on services, would bring down non-tariff barriers substantially, and would be ready for rapid implementation.

### *Change Face of Trade*

Mega FTAs or large plurilateral trade pacts such as the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP) will change the nature, volume and patterns of international trade while having significant economic and political fallouts, speakers said. Many countries are part of regional and plurilateral trade agreements in addition to being WTO members.

“The TPP and the TTIP will change the architecture of global trade as companies will choose to operate in blocs where they get better protection and terms,” Kamal bin Ahmed Mohamed, minister of transportation and acting chief executive of the Economic Development Board of Bahrain said. “In the Middle East, we have not done enough to integrate ourselves except through the GCC [Gulf Cooperation Council].”

Norihiko Ishiguro, vice minister for international affairs at the Ministry of Economy, Trade and Industry of Japan, said Japan is involved in negotiating four mega FTAs – the TPP, the Regional Comprehensive Economic Partnership, the Japan-EU FTA and the China-Korea-Japan FTA. Japan also has bilateral pacts with some members of the ASEAN and a comprehensive economic partnership agreement with India. He said his country is benefiting from all these pacts, although there are problems – for example, Japanese companies face some difficulty as they deal with different rules, standards and procedures in different blocs. “We still value the WTO because it imposes discipline and helps us trade with developing countries,” he said.

Rizal Affandi Lukman, deputy minister for International Economic Cooperation, Indonesia, said regionalism of the sort enshrined in the RCEP is a step forward on the road to multilateralism — for many developing countries, regionalism is a stepping stone to multilateralism. The benefit of regionalism is that barriers can be removed more easily as technical and other standards are not very different within a region. Since regional standards are easier to meet, verify and maintain, one product approved in one region does not have to go through proof of procedure in another market. This brings down time and costs, and issues of connectivity and inclusivity are also easier to address so that development gaps can be narrowed.

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# WTO Members Differ Over Approach Toward Negotiations

Daniel Pruzin, WTO Reporter

7 February 2014: Members of the World Trade Organization offered different views February 6 on how the WTO should move forward with the multilateral negotiating agenda following the successful conclusion of the global trade facilitation agreement in Bali, Indonesia, in December.

Members such as the U.S., the European Union, Japan and Canada stressed the need to be realistic and open-minded on how the remaining issues on the stalled Doha Round agenda should be addressed, including the possibility of adding new “21st Century” issues to the mix.

However, India was joined by a number of developed and least-developed countries in insisting that the future priority must be the existing Doha agenda and that the principle of the “single undertaking”—whereby an agreement on one issue is dependent on agreement on all issues—must be maintained.

In the first discussion among the entire WTO membership on the organization's post-Bali negotiating priorities, WTO Director-General Roberto Azevedo said the first priority must be ensuring the implementation of the trade facilitation agreement, followed by the preparation of a “clearly defined work program” on the remaining Doha agenda issues by the end of 2014.

## *Azevedo's Parameters*

Azevedo largely repeated the message he delivered to a smaller gathering of trade ministers in Davos, Switzerland, Jan. 25, namely that discussions on the WTO's post-Bali work program should be framed by certain parameters.

These include being realistic and focusing on issues that are doable; recognizing that the big issues still on the Doha agenda—agriculture, industrial tariffs and services—are interconnected and must be tackled together; and keeping an open mind to new ideas that could help overcome stumbling blocks, the WTO chief said.

He said that “2014 should be the year that we implement our first negotiated outcomes—and the year that the Doha Round is put back on track.”

Azevedo said it would be difficult to replicate the approach taken in Bali of avoiding the big issues and focusing on separate deals on other Doha agenda items.

“Most likely, any future multilateral engagement will require outcomes in agriculture,” he said. If agriculture comes into play “then so do the other two legs of the tripod: industrial goods and services.”

“We may even conclude that we're not ready yet to properly tackle these three areas,” he acknowledged, “but we can't avoid the conversation.”

## *U.S., Canada, EU Input*

The interventions from several key WTO members also closely followed their statements in Davos. The U.S. reiterated that the first priority was ensuring implementation of the trade facilitation agreement. The U.S. also said it was “open-minded” about what should be put on the post-Bali work program.

WTO members should also consider updating databases and use better tools to capture trade and subsidization patterns in order to reflect how trade has changed in the last decade, the U.S. said.

Canada's WTO ambassador Jonathan Fried repeated his minister's message in Davos that the WTO needed to address new issues such as the digital economy, investment, competition policy, the environment and energy. He urged WTO members not to get bogged down in procedural wrangling over the future trade agenda.

The EU's WTO ambassador Angelos Pangratis also stressed the need to avoid procedural bickering and focus on substantive work, adding that WTO members need to be realistic about what could be achieved. He echoed the U.S. call for updated information on trade flows and subsidies, with Japan also underlining the need to take account of developments in global trade since the launch of Doha in 2001.

### *India's Agenda*

India, which did not send any representatives to the Davos ministerial meeting, said the mandate from Bali was very clear—the priority for WTO members is to address the implementation of the trade facilitation agreement as well as issues in the Bali package where legally binding outcomes could not be achieved, one of which was India's demands for changes in WTO agriculture rules to grant developing countries greater flexibility for spending on food security programs.

India's WTO ambassador Jayant Dasgupta also stressed the need for a frank and open discussion on what was achievable in terms of post-Bali negotiations and what WTO members were prepared to do to secure agreements on the remaining Doha agenda items.

“We need an honest conversation,” he told Bloomberg BNA after the Feb. 6 meeting, particularly in regard to demands from the U.S. and others for more ambition from emerging markets on improved market access. “What are people prepared to give in order to achieve this?”

Dasgupta also stressed the need to maintain the single undertaking principle, telling WTO members that the organization “cannot keep breaking it up into little pieces,” according to officials in attendance.

Cuba, Egypt and Kenya, speaking for the African, Caribbean and Pacific (ACP) group of countries, echoed India in arguing the single undertaking principle must be maintained.

WTO members agreed at the trade body's 2011 ministerial conference in Geneva that it was unlikely all issues on the agenda of the stalled Doha Round talks could be completed simultaneously and that members should focus their efforts on issues where agreement was most likely to be achieved.

That decision prompted members to hive off trade facilitation, considered the “low-hanging fruit” of the Doha package, and to secure a separate deal in Bali. Negotiations on high-tech tariffs, services and environmental goods are also taking place outside the Doha framework among a smaller group of WTO members.

### *Don't Add Issues to Doha, LDCs Say*

Uganda, speaking for the WTO's group of least developed countries, were joined by Bangladesh and Ecuador in rejecting the idea of adding any new issues to the existing Doha agenda. Brazil added that WTO members needed to focus on the unfulfilled agenda of the 20th century, especially the issue of agriculture.

China's WTO ambassador Yu Jianhua adopted a more moderate position, arguing that the level of ambition for the post-Bali work program should be “doable.”

“We have less than 12 months to go, so let's roll up our sleeves and get down to work,” Yu said. “Let's start from something easier while deliberating on how to tackle the tough ones.”

Azevedo said the chairmen of the various Doha negotiating groups would now consult with WTO members on the post-Bali work program and provide some initial feedback when members gather for a WTO General Council meeting on March 14.

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# WTO Agrees on Sequence of Steps To Resolve Issues on Trade Facilitation Pact

Daniel Pruzin, WTO Reporter

25 February 2014: Members of the World Trade Organization have agreed on a sequence of steps to address outstanding issues related to the WTO's new agreement on trade facilitation, with a legal review of the text taking priority.

At an informal meeting February 24 of the new Preparatory Committee on Trade Facilitation, members agreed in principle that the legal review will be undertaken first, followed by the drafting of a protocol, in the form of an amendment, formally inserting the trade facilitation agreement as an annex to the 1994 Marrakesh Agreement establishing the WTO.

The insertion of the trade facilitation text into the 1994 agreement means that WTO dispute resolution procedures will apply to the new agreement.

The final step will be receiving notifications from developing country and least developed country (LDC) members of the WTO outlining which commitments under the trade facilitation agreement they intend to implement immediately upon entry into force of the agreement (Category A commitments). LDCs will be given one year from entry into force to implement their Category A commitments.

All three steps are to be completed by the end of July. The sequencing arrangement is due to be endorsed at the first formal meeting of the Preparatory Committee on March 6.

## *Product of Ministerial Conference*

The trade facilitation text was the key deliverable from the WTO's December 3-7 ministerial conference. Under WTO rules, the agreement needs two-thirds of the WTO's 160 members to ratify the pact before it enters into force, a process that may take several years to complete.

Once it enters into force, developing and LDC countries will submit notifications for Category B commitments (those to be implemented after a transition period) and Category C commitments (those to be implemented after a transition period with technical assistance from developed countries, the World Bank or regional development banks).

Differences are already emerging among WTO members whether the first step should be a simple scrub of the trade facilitation text or instead a more detailed examination of the agreement adopted in Bali.

Officials attending the meeting said the U.S. fell into the former camp, arguing the scrub should not take longer than three months. Others such as India, Egypt and Venezuela fell into the latter camp, arguing that time pressures in Bali produced a "rushed" agreement with some elements requiring clarification.

Esteban Conejos, the Philippine ambassador to the WTO and chairman of the Preparatory Committee, reminded members that ministers agreed in Bali the legal review would be for rectifications of a "purely formal character that do not affect the substance of the Agreement."

Conejos cited as examples of rectifications numbering changes, grammatical corrections and consistent use of terminology in the text. He called on members to submit any proposed changes by the end of March so that the legal review could be completed by the end of April.

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# No movement in WTO's Bali package worries India

Nayanima Basu, Business Standard

New Delhi, 22 April 2014: After the euphoria over an "Indian victory" at the ninth ministerial meeting of the World Trade Organization (WTO) in Bali, Indonesia, not much has moved on the agreed agenda.

The 159 members of the WTO managed to adopt the 'Bali package' after last December's meeting, the global trade body's first pact to be approved by all its members.

"There is no movement on the main issues, such as trade facilitation, food stockholding, export subsidies and a package for LDCs (least-developed countries)... The binding commitments have not been forthcoming, no discussion is happening at all. It is a concern," a senior commerce department official who did not want to be named told Business Standard.

In Bali, ministers endorsed the Trade Facilitation Agreement aimed at making Customs procedures more trade-friendly and lowering transaction costs. More importantly, the US and European Union (EU) and the developing countries signed several agreements on agriculture, an issue that has deeply divided them on matters like market access and subsidies.

A package for LDCs was also agreed upon to help them improve their market access opportunities.

The agreement arrived at in Bali was only "endorsed" by all the member countries. It has to now be legally vetted and, following a tenuous process, has to be inducted in the main Doha agenda. All that was agreed upon would come into force after all the members issued notifications, the official said.

"The Bali Ministerial endorsed a draft agreement, so a legal vetting of the agreement is still under way in Geneva. The agreement will be effective once the protocol is negotiated," Commerce Secretary Rajeev Kher said recently while addressing the Federation of Indian Chambers of Commerce and Industry.

The Trade Facilitation Agreement, which seeks to ease Customs regulations on international borders and which is expected to induce \$1 trillion into the global economy, has to be finalised by July 31, but there has been no progress in developing countries, including India, on how to implement the rules.

The Trade Facilitation Agreement was crucial for India as exports and imports contributed 40 per cent to the country's gross domestic product, Kher said.

In January, a Preparatory Committee within the WTO secretariat in Geneva was constituted to ensure early enforcement of the agreement, prepare for its efficient operation, conduct its legal review, and receive notifications of members' commitments. But there had been no progress on the committee's work, officials said.

"It should be recognised that the Bali deal was merely temporary succour. The challenge for WTO members is two-fold. One, they will have to move the Bali decisions towards implementation and two, they will have to provide momentum to the contentious areas of the Doha mandate," said Biswajit Dhar, director-general, Research and Information System for Developing Countries, a think-tank. In agriculture, though India was able to secure temporary relief in continuing food subsidies that are not allowed by

WTO, it committed itself to seeking a permanent solution along with other developing countries. There has been no movement on that as well.

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## DISPUTES

# Solar mission: US takes India to WTO, again

Nayanima Basu, Business Standard

**New Delhi, 12 February 2014:** The government on Tuesday said it hadn't violated global trading norms under the World Trade Organization (WTO), even as the US filed a second case against India on the second phase of the Jawaharlal Nehru National Solar Mission (JNNSM).

In February 2013, the US had filed a similar case related to the first phase of the mission. However, it didn't pursue that case.

On Monday, US Trade Representative Michael Froman said the compulsory domestic content requirements "discriminate against US exports" by requiring solar power developers to use Indian-manufactured equipment instead of American products. "This kind of discrimination is against WTO rules and we are determined to stand up for US workers and businesses," Froman said.

Under WTO dispute-settlement body norms, a complainant first seeks consultations with the target country, which typically takes 60 days. Subsequently, a panel of lawyers is constituted and the case is officially registered as a trade dispute.

Commerce Secretary Rajeev Kher said, "Now, they have come in for a second-phase challenge. It is not a surprise. It has happened earlier. They have had a consultation and now, they are going to have a consultation again. We will participate in that consultation. Our policy is WTO-compliant."

He said in JNNSM phase-II, most contracts had been awarded to American firms. Bids were invited in October 2013, when the second phase was launched. The final results of the bids will be announced on February 20.

Kher alleged it was the US that was following restrictive policies for its local solar panel manufacturers in 13 states. Last year, India had filed a report to WTO's subsidies and countervailing measures committee, saying the US was running a subsidies programme for local content requirements, primarily in the states of Connecticut, Delaware, Massachusetts and Minnesota.

India was yet to receive an official consultation request from the US, Kher said. On Wednesday, the Ministry of New and Renewable Energy will hold a meeting, at which the matter will be discussed.

Sources indicated the US was keen on furthering the interests of just one company from that country — First Solar Inc, the world's largest solar thin-film manufacturer. The company is promoted by the Walton family that owns Walmart stores. Apparently, their solar films were based on cadmium telluride, which was "harmful and poisonous", said an official involved in the talks, on condition of anonymity.

Some leading Indian solar photovoltaic (PV) module manufacturers such as Tata Power Solar and Moser Baer have told Business Standard there are various difficulties in penetrating the US market due to the support provided to the domestic manufacturers there by the government of that country. "The US seems to be completely misguided in this issue and is just showing double standards. The policy of government procurement is allowed. The US seems upset because it is not able to sell products in its market. Maybe, it is feeling threatened, as other solar panel producers from Japan and China are aggressively entering

India,” said Ajay Goel, chief executive officer, Tata Power Solar.

He added the matter would be raised during the India-US energy dialogue, for which US Energy Secretary Ernest Moniz was coming to India for two days. Initially, the dialogue was scheduled for January, but was delayed due to a diplomatic row between both countries.

Deepak Puri of Moser Baer said the requirement for JNNSM was meagre compared to the requirements of governments in countries that didn’t have domestic content requirement.

India is also looking into an anti-dumping case involving supplies of solar panels from China and the US.

JNNSM was launched in January 2010 with an aim to secure 20,000 Mw of solar power by 2022.

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# WTO Set to Issue Mixed Ruling on Indian Challenge to U.S. Steel Duties

Daniel Pruzin and Madhur Singh, WTO Reporter

24 February 2014: A World Trade Organization dispute panel is expected to issue a mixed ruling in April on a challenge filed by India against U.S. countervailing (CV) duties on imports of Indian hot-rolled carbon steel flat products.

A confidential preliminary ruling issued by the panel on Jan. 31 backed a number of key claims made by India against a U.S. Commerce Department investigation, which led to the imposition of the CV duties in 2001 and a renewal of the duty order in 2007, according to sources who spoke on condition of anonymity because the panel's findings are still confidential.

However, the panel rejected several additional claims made by India against the U.S. investigation, as well as the legal measures that served as the basis for the investigation, the sources said.

The preliminary findings are still subject to further review and may change when the panel issues its final ruling to the two parties in the second week of April. Should the preliminary findings be maintained, both sides are expected to claim various degrees of victory.

The final panel ruling is expected to be appealed, most likely by both parties, meaning that a final verdict wouldn't be expected from the WTO's Appellate Body until sometime in 2015.

Commerce concluded that the Indian government, at both the central and state levels, provided a wide range of subsidies to Indian manufacturers of hot-rolled steel products. The U.S. International Trade Commission later determined that those subsidies resulted in material injury to U.S. producers of hot-rolled steel.

The original duties ranged between 8.28 percent and 31.89 percent.

## *Status of NMDC*

One of India's claims reviewed by the panel concerned the status of an Indian entity at the heart of the investigation, the National Mineral Development Corp. Ltd. (NMDC), which was found by U.S. investigators to be a "public entity" under WTO rules providing countervailable subsidies to Indian steel producers through low-cost iron ore.

India argued that the NMDC wasn't a government or public body and therefore couldn't be providing countervailable subsidies. The Indian argument is based on a March 2011 ruling by the Appellate Body which found that the U.S. Commerce Department violated WTO rules by determining that state-owned suppliers of goods to Chinese producers targeted by CV duties were "public bodies" because they were majority-owned by the Chinese government, a criteria used by Commerce in other CV investigations.

"(A)part from an express delegation of authority in a legal instrument, the existence of mere formal links between an entity and government in the narrow sense is unlikely to suffice to establish the necessary possession of governmental authority," the Appellate Body said.

The U.S. said in its arguments before the panel that, even if the panel agreed with India that Commerce should have applied the Appellate Body's standard of providing evidence other than majority state ownership as proof of government control, the “record evidence indicates that the NMDC is a public body because it is over 98 percent owned by India and has the authority to perform Indian governmental functions.”

India also argued that the iron ore sold by NMDC isn't being supplied at subsidized prices but at prices based on that at which iron ore is exported to markets such as Japan and South Korea, noted one trade analyst familiar with the case, who added that India is one of the top 10 exporters of raw materials that go into the making of steel.

India also says that the U.S. rules serving as the basis for the duty order, Title 19, Part 351 of the U.S. Code of Federal Regulations, as well as certain provisions of the 1930 U.S. Tariff Act, are “as such” in violation of WTO subsidy rules in that they require various practices such as the automatic adoption of benchmark prices and “delivered” prices, as well as the automatic use of adverse facts available.

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# India says it is WTO-compliant on Solar Mission

Dilasha Seth & Dipanjan Roy Chaudhury, Economic Times

New Delhi, 21 February 2014: Nearly 10 days after the US filed a dispute against India at WTO over discriminating against its producers in the second phase of the solar mission, India has readied a strong counter against the US for providing export credits to its solar products like thin film panels and preferential treatment for purchase of power produced from US-made solar products in 13 of that country's states.

Firmly maintaining that India's solar mission was fully WTO-complaint, Indian government officials pointed out that there were significant concerns over importing 'thin-film technology' for solar panels 'overwhelmingly' from the US.

The US has alleged that in phase II of the Jawaharlal Nehru National Solar Mission (JNNSM), the domestic content requirement was expanded to cover thin film technology, which was exempt from such requirements under phase I, which will likely cause even greater harm to the US producers than under phase 1 as thin film comprised a majority of the solar product exports to India.

"One or two of the major US producers of thin films have got export credits from the US government which is encouraging an inflow of older technology into India. Moreover, the cost of products sourced from the US and China are suspiciously lower than the known production cost," a ministry of external affairs official said.

Moreover, there are over a dozen states in the US that have schemes in place to offer preference to purchase of power produced by US-made solar products.

"It is India that has a case to file against the US in the WTO on solar energy products instead of the other way round," the official added.

The commerce department is examining the evidence of 13 US states which follow equally restrictive policies on solar power.

Thin film panels made from cadmium telluride are environmentally damaging and hence, banned in a few countries and is not even a preferred choice worldwide.

Thin film panels are known to be less efficient in power generation than crystalline technology. Due to the heavy imports from the US, thin film usage in India is estimated to be over 55% of the total installed photovoltaic capacity, against just 10% globally.

US has alleged that the domestic content requirements discriminated against US solar cells and modules by requiring solar power developers participating in phase II to use Indianmanufactured solar cells and modules instead of US or other imported equipment.

However, India counters that claim based on facts. In phase 1 of the solar mission, of the 140 mw capacity generated under batch 1 and 340 mw generated under batch 2, 25 mw and 140 mw of power was

produced from US-made modules and cells. "US firms have actually been a major beneficiary of the solar mission," the official pointed out.

Power procurement from all grid-connected solar power projects is carried out by central government agencies, which is subsequently bought by the state distribution companies to sell to consumers.

"There is no level of subsidy offered in selling power to the distribution companies, so basically the procurement is for government use, which is fully WTO compliant," the official added. India has not signed the government procurement agreement of the WTO.

In India, there is no local sourcing requirement for any power purchased by the state government, the official maintained. "Of the 2,180 megawatts of solar plants commissioned in India, about 1519 mw worth of energy comes from the state government schemes."

The department of commerce is currently examining the consultation document and preparing a reply. The countries would get 60 days to resolve the matter and if they fail to do that, the US could request the establishment of a WTO dispute settlement panel.

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# U.S. To Seek WTO Panel On India Solar Program, Charges GATT, TRIMS Violations

World Trade Online

16 April 2014: The United States next week will request a World Trade Organization panel to challenge India's local content requirements in both phases of the Jawaharlal Nehru National Solar Mission (JNNSM), an initiative designed to boost the country's solar power sector.

Under the initiative, purchasing domestic solar cells and modules is a condition for companies to enter into power purchase agreements with Indian power companies and get benefits such as favorable rates for electricity purchases, according to the text of the U.S. panel request as released by the WTO.

The U.S. is charging that India applies this local content requirement to both Phase I and Phase II of the JNNSM and is thereby violating the national treatment obligations of Article III.4 of the General Agreement on Tariffs and Trade. It also charges a violation of Article 2.1 of the Agreement on Trade-Related Investment Measures, which forbids countries from applying investment measures that are inconsistent with its national treatment obligations.

The panel request does not challenge India as violating its obligations under the Agreement on Subsidies and Countervailing Measures (ASCM), which prohibits subsidies contingent on the use of domestic over imported goods.

The U.S. claimed India violated Article 3 of the ASCM in its formal WTO consultation request complaining about Phase I of the JNNSM, which it filed in February 2013. But it did not do so in its formal consultation request for Phase II of the JNNSM.

The U.S. and India held consultations over the first and second phases of the JNNSM on March 20, 2013, and March 20, 2014, respectively, but those consultations did not resolve the dispute, according to the panel request.

The U.S. plans to make its first panel request at the April 25 meeting of the Dispute Settlement Body (DSB), where India will be able to reject the request. Under WTO rules, the U.S. can then wait for the next DSB meeting in May or request a special meeting to take place before then. India cannot reject the second U.S. request for a panel.

The U.S. panel request against the Indian solar program is coming at a time when the Indian parliamentary elections are underway. USTR Michael Froman did not address the solar dispute at an April 3 House Ways and Means Committee hearing. But he indicated he favors resolving U.S. problems relating to Indian intellectual property policies through negotiation rather than litigation.

"USTR is standing up for American workers and businesses who manufacture and export solar energy products as well as taking decisive action to make solar energy more affordable and accessible in India, in line with President Obama's commitment to address climate change," a USTR spokeswoman said in an email to *Inside U.S. Trade*.

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## RELATED

# WTO warns of trade slowdown due to protectionism

Reported by Steve Sedgwick, written by Kiran Moodley, CNBC

6 September 2013: The director-general of the World Trade Organization (WTO) has told CNBC it will downgrade global trade growth estimates for both 2013 and 2014, despite hopes that the world economy is recovering.

In an exclusive interview with CNBC, Brazilian Roberto Azevedo said world trade growth estimates for this year would be revised down to 2.5 percent next week from the previous estimate of 3.3 percent. Next year's global trade growth estimate of 5 percent would also be downgraded to 4.5 percent for 2014.

Azevedo said that while the global trade environment looked difficult, he was still hopeful, arguing that the world economy was picking up a little bit, with more positive numbers and a better mood in terms of trade negotiations.

*WTO boss: protectionism is increasing*

Roberto Azevedo, director-general of the World Trade Organization (WTO) discusses the uptick in global protectionism. The 55-year-old Brazilian said that trade numbers were weaker due to protectionism across the globe.

"Protectionism is going up, it's going up slowly, gradually, inching up; but it's also growing in different ways, it's become more sophisticated, it's become more complex, more difficult to detect," he said. "It's no longer tariffs and export subsidies and things which are really obvious. It's now become regulations and regulations; they find a niche in the grey areas of current agreements."

A report on Monday by the European Commission said that trade protectionism has continued to increase across the world over the last year, with over 150 new trade restrictions created and almost 700 introduced since October 2008. The report highlighted Russia as one of the chief offenders.

Azevedo took over as head of the WTO on September 1, succeeding Pascal Lamy and becoming the first official from the BRIC (Brazil, Russia, India and China) group of emerging economies to head the organization.

Azevedo also played down the impact of an US-EU trade deal in boosting global trade. The two parties hope to introduce an agreement by the end of 2014.

"Those bilateral deals are limited because of the nature of those deals, so there are less topics covered, there are less countries involved...tariffs are not really that high so most of the advances that will happen will happen in terms of disciplines," he said. "It doesn't have the global automatic multilateral effect that you have when you have negotiations in the WTO."

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# WTO scales down global trade growth projection in 2013

Business Line (The Hindu)

New Delhi, 19 September 2013: The World Trade Organisation (WTO) has lowered growth projections for global trade in 2013 for the second time, but added that the conditions for improved trade were already falling into place.

WTO economists now predict growth in 2013 at 2.5 per cent against 3.3 per cent in April and the initial forecast of 4.5 per cent, an official release said on Thursday. The projection is still higher than the two per cent growth in world trade achieved in 2012.

The multilateral body blamed developing economies for the lower projections, stating that slower revival in imports was harming trade. It also expressed concerns about India's economy still being in the midst of a sharp contraction.

The slow revival in demand for imports in developing economies has hindered growth of exports from developed and developing countries in the first half of 2013, and was the reason for the lower forecast, the economists said.

On a positive note, the WTO believes that the conditions of improved trade are already falling into place as encouraging data coming from Europe, the US, Japan and China suggest that the economic slowdown has bottomed out and a tentative recovery is underway. This is expected to be reflected in rising quarterly growth in the months ahead, the economists said.

While China's industrial production suggests that the country may be regaining some of its dynamism, India's economy is still in the midst of a sharp contraction, according to composite leading indicators calculated by the Organisation for Economic Co-operation and Development (OECD), the release added. WTO has also lowered growth projections for 2014 to 4.5 per cent from five per cent predicted in April.

Although the trade slowdown was mostly caused by adverse macroeconomic shocks, there are strong indications that protectionism also played a part and is now taking new forms, which are harder to detect, said WTO Director-General Roberto Azevêdo in the release.

"Fortunately, there is something we can do about this. Negotiations underway in Geneva can address these problems, facilitating greater trade and opportunities to spur economic growth," he said.

The WTO's Doha Round of negotiation, in limbo for the past four years, may see some movement in the Ministerial Meeting scheduled in December in Indonesia, as members are trying to work out a limited pact on food security and trade facilitation.

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# WTO members are talking of trade-offs

Sidhartha, Times of India

24 September 2013: *It's only been a few weeks since **Roberto Azevedo** took charge as the director general of the World Trade Organization (WTO). But Brazil's former trade negotiator is sensing a new urgency to get derailed talks back on track. In his first interview since taking charge, the WTO chief tells **TOI** that ahead of the Bali ministerial, there is good news for India's demand to relax the cap on farm subsidies, which has become critical in the wake of the new food security law. **Excerpts:***

***How do you view your first few weeks in office? Is there some progress?***

They have been very challenging but very positive. Before starting consultations with WTO members, I was afraid we would end up having old-style negotiations, which was basically no consultation. But, we are discovering a very positive mood. We haven't seen this mood since 2008. People are suddenly talking about trade-offs and what needs to be done to take the process forward. This is happening not just inside the room but even outside as they are trying to find flexibility for reaching an agreement in Bali. Of course, we still have a very long way to go. The positions we are starting from are positions which are far apart. But, the process is conducive for convergence.

***Can you tell us about the progress that has been made in trade facilitation?***

We are still lagging behind because the conversation is not very advanced on customs cooperation. We need to find landing zones. When it comes to disciplines, the technical work has been done and now we need to make a political call, and we need to do it fast.

***On agriculture, what is the movement on the G-33 proposal (India's key demand) on subsidies and the G-20's demands?***

On G-33's proposal, at least now we have an agreement that we have to look for an interim solution like a peace clause. Before the consultations started, we did not know what kind of solution we would have. We need to work on some of the areas.

On G-20, there are two issues. The first is the administration of tariff rate quotas, which is pretty straightforward and members should be able to do it in some shape. The second issue, export competition, is more complex but some kind of outcome is possible although I am not sure if we will have a complete formulation in Bali.

***Is there some way forward for the least-developed countries, the fourth element of the Bali agenda?***

On rules of origin, we are in good shape but we are still waiting for the text (of the agreement) for cotton subsidies and services waiver. On duty-free quota-free (access for LDCs), we still have to do something meaningful.

***We understand you will be in India on October 7. What's the agenda?***

I am planning to come but it depends on my visit to Bali for the Apec meet. The agenda is very simple — talk to commerce minister Anand Sharma and discuss how things are moving in Geneva.

***Are you also working on life post-Bali since none of the Doha Round issues — agriculture, services or industrial goods — are being discussed?***

Bali is not the end of the road. But, what happens post-Bali depends on what happens in Bali. There seems to be some urgency. Members know that it is a very difficult conversation but we need to have that conversation.

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# WTO Reports Increase in Antidumping Actions, With Emerging Markets in Lead

Daniel Pruzin, WTO Reporter

29 October 2013: The World Trade Organization has reported an increase in the number of antidumping investigations launched by its members over the past year, with emerging markets such as Brazil and India reporting the sharpest jump.

In its annual report for 2013 circulated Oct. 29, the WTO's antidumping committee said that 209 new AD investigations were initiated between July 1, 2012 and June 30, 2013, up slightly from the 200 investigations initiated over the previous year.

Brazil led the way with 38 new AD investigations, up from 31 the previous year. India ranked second with 31 new investigations, almost double the 16 investigations in the earlier reporting period.

Rounding out the top five were: Argentina (15 investigations), China (13) and Turkey (12). Malaysia, Mexico and South Africa reported six new investigations apiece.

The U.S. reported 11 new AD investigations for the year ending June 30, down from 13 the previous year, while the European Union reported nine investigations, down from 16 the previous year. Australia and Canada reported 11 new investigations apiece, both down from the previous year.

Japan and Russia both reported no new AD investigations over the past year.

The overall figure for new AD investigations is certainly larger due to the exclusion of Indonesia. The antidumping committee said that while Indonesia submitted figures on its antidumping actions to the WTO, the figures were not included in its report pending technical corrections.

The initiation of an antidumping investigation often has an immediate trade-dampening impact because affected exporters reduce shipments of the targeted good due to market uncertainty.

WTO members reported the imposition of 133 final AD duty orders between July 1, 2012 and June 30, 2013, up from 103 the previous year.

India ranked first with 28 new AD duty orders, the same as the previous year, followed by Australia and Russia (10 apiece), the U.S., the EU and Malaysia (9 apiece), and Canada, China, Pakistan and Thailand (8 apiece).

WTO members reported that 103 existing AD duty orders were revoked over the past year, down from 116 the previous year. India revoked 29 duty orders over the past year, followed by the EU (21), Argentina (11) and the U.S. (7).

As of June 30, WTO members had a total of 1,374 AD duty orders in force, up from 1,336 in mid-2012. The U.S. has the most duty orders in force (243), followed by India (215), Turkey (120), China (118) and the EU (111).

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# WTO Reports Sharp Increase In New Safeguard Measures

Daniel Pruzin, WTO Reporter

5 November 2013: Members of the World Trade Organization have sharply increased the number of new safeguard actions aimed at protecting domestic producers from increased imports, according to the latest figures circulated by the WTO October 29.

Thirty-two new safeguard investigations were initiated between mid-October 2012 and mid-October 2013, according to notifications submitted by WTO members and compiled by the organization's safeguards committee. That compares with 15 safeguard investigations initiated over the previous year-on-year period.

Indonesia and India led the way with five new investigations apiece over the past year, followed by Chile, Colombia and Thailand with three apiece. All but two of the new investigations were initiated by developing countries.

Eleven provisional safeguard measures were imposed over the same period, led by Colombia and Egypt with two apiece. In addition, 14 definitive safeguard duty measures were either announced or imposed, led by Indonesia with four and Russia, Thailand and Ukraine with three apiece.

WTO rules allow members to impose a safeguard in the form of increased tariffs or import quotas for up to four years if it determines that increased imports of a particular product are causing, or threatening to cause, serious injury to its domestic industry.

## *Irrespective of Country of Origin*

Unlike antidumping duties, safeguards apply to a specific product irrespective of the country of origin, thus affecting more trade. While the requirements for imposing a safeguard are considered less onerous than those for antidumping duties, a country imposing a safeguard must normally offer compensation—in the form of tariff concessions on other products, for example—to counter the adverse effects of the measure on trade, or risk seeing its goods targeted with countermeasures.

Turkey became the first WTO member to impose countermeasures in reaction to a safeguard measure when it announced in June that it would impose a 23 percent duty on imported walnuts from Ukraine in retaliation for its safeguard duties on imported motor vehicles. The additional duties on the Ukrainian imports took effect on July 12.

Russia also announced in July it would impose additional duties amounting to \$36.2 million per year on Ukraine in order to compensate for export earnings lost from the auto safeguard measure.

In a joint communication circulated to WTO members in October 2012, the U.S. joined the European Union, Australia, Canada, Japan, New Zealand, Norway, Singapore, South Korea, and Taiwan in criticizing what they claimed was “an emerging and serious disregard of multilateral rules” in safeguard

proceedings.

The group cited concerns about ongoing systemic issues relating to certain safeguard investigations, including procedural, transparency, and due process issues, adding that the “hastiness with which some Members have imposed provisional measures brings into question whether Members are making proper preliminary determinations” as required under WTO rules.

According to the WTO, 43 dispute cases have been initiated alleging a violation of WTO safeguard rules since the organization was established in 1995. Japan initiated the most recent dispute case when it requested WTO consultations with Ukraine October 30 to address the auto safeguard duties.

WTO rulings have been issued in 20 of the disputes, with one case alone—the 2003 ruling condemning U.S. safeguard duties on steel imports—involving eight complaining parties.

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# EU takes India's curbs on marble imports to WTO

Amiti Sen, Business Line (The Hindu)

New Delhi, 23 December 2013: The European Union has questioned import restrictions by India on rough marbles and marble products at the World Trade Organisation (WTO) and sought the rationale behind such curbs.

India has in place a quota of six lakh tonne for import of rough marble and travertine blocks and a minimum import price of \$325 a tonne for 2013-14, the same as last year.

In a submission to the Import Licensing Committee of WTO last week, the EU's representative asked India to clarify how unrestricted import of marble and marble products would pose safety issues for the country.

The EU also wants India to state how imposition of quantitative restrictions on import of marbles relates to security concerns.

While WTO rules do not ordinarily allow imposition of import restrictions, it is permitted if a country shows that such imports can result in a safety or security hazard.

India, like most other member countries, at times resorts to the safety and security caveat if it wants to impose import restrictions on certain products.

The EU further asked India to specify how safety and security issues are handled with regards to India's domestic natural stone and stone processing industry.

Since India had earlier stated that the minimum import price is justified for quality reasons, the EU said the country should indicate measures put in place to ensure commensurate quality for India's domestic industry.

An important reason for India's restrictive import policy on marbles is protection of the local industry which employs a large number of poor and vulnerable people. The marble industry in Rajasthan reportedly employs more than two lakh families belonging to backward classes, minorities and tribal groups.

India will now have to provide detailed answers to the EU queries at the WTO.

"We have provided answers to other queries on the same issue earlier posed by other members. We would do the same this time as well," a Commerce Ministry official told *Business Line*.

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# India guarded against WTO services pact negotiations

Business Line (The Hindu)

24 December 2013: India should participate in the services pact being negotiated at the World Trade Organisation (WTO) by members such as the US, the EU and China as the cost of exclusion will be high, a senior official of the World Bank has warned.

The US-led Trade in Services Agreement (TISA), which focuses on opening up the global market in services further, is being currently negotiated between 21 members of the WTO that mostly includes developed nations.

## *Big Bait*

“The agreement will result in regulatory cooperation that will deepen regulatory complementarities. When China realised it would benefit from the agreement, is India so different? India should not be left out in the cold,” Aaditya Mattoo, World Bank, Research Manager (Trade and Integration) said at a seminar on increasing services exports organised by CII.

India, however, prefers to wait and watch. In response to Mattoo’s suggestion, Commerce Special Secretary Rajiv Kher said India was not averse to joining the negotiations but could not jump into it without analysing the pros and cons. If the country’s policy deficit is at a level where it can’t handle competition, it cannot just jump into negotiations for opening up the sector, Kher said.

Admitting that TISA could be an opportunity to reform the sector domestically, Kher said there was also a downside to it. “If the services sector doesn’t respond to reforms, then we are done in. Right now, we are not comfortable about the pace of reforms,” he said.

The Commerce Department has started the process of formulating an action blue print for the development of the services sector and exports in collaboration with the industry and experts.

The Government wants to take steps to reform the services sector at large and also have sector-specific policies to boost exports from identified areas such as animation, media and entertainment, legal servicing, architecture, healthcare, tourism and medical tourism. India wants its share in the global market for services to expand to 5 per cent from the present 3 per cent. The global services trade is valued at \$4 trillion an annum.

‘If the country’s policy deficit is at a level where it can’t handle competition, it cannot just jump into negotiations for opening up the sector.’ — Commerce Special Secretary Rajiv Kher

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# Canada, Pakistan frown at India's foodgrain exports, farm subsidies

Amiti Sen, Business Line (The Hindu)

New Delhi, 27 January 2014: Rice and wheat exporting countries have raised fresh concerns about India's food stocks and farm subsidies at the World Trade Organisation (WTO).

This comes less than two months after Western countries promised India that no action would be taken against it for breaching food subsidy levels prescribed by the multilateral body at least for the next four years. The WTO's Committee on Agriculture (CoA) will take up the questions raised by Canada and Pakistan on India's wheat and non-Basmati rice exports, existing levels of stocks and the subsidies extended, in a meeting scheduled on January 29, a Commerce Department official told Business Line. Canada has asked India to give details on the volume of wheat stocks held by the Food Corporation of India (FCI) in the light of recent reports that the country would be exporting up to 20 lakh tonne of wheat due to surplus stocks.

In a representation to the CoA, Canada has also asked India to specify how it calculates the floor price (minimum price) for wheat exports. "Reports (news) indicate that the Government of India has lowered the floor price for wheat to \$260 per tonne from \$300 per tonne which is lower than the price of the same quality wheat from Canada (and other countries) sold in the range of \$270 to \$275 per tonne," the representation said.

## *WTO concession*

India and a number of other developing countries have been granted a reprieve by the WTO against legal action for breaching farm subsidy limits, fixed at 10 per cent of total produce, on items covered under the country's food security programmes.

This was part of the deal struck at the WTO Ministerial meet in Bali, Indonesia, in December. Members are now supposed to work on a permanent solution to the problem.

India is likely to breach the prescribed subsidy limits once it fully implements its Food Security Programme which offers 5 kg of subsidised foodgrain to about two-thirds of its population. The reprieve, however, would not be applicable if the subsidised foodgrain is released in the export market and affects global prices. India is also obligated to supply all data related to production, pricing, procurement and subsidies demanded by WTO members who would want to ensure that subsidised food was not distorting the global market.

A number of civil society organisations, such as Right to Food Campaign, Action Aid and Third World Network, had earlier warned that the temporary reprieve, called the Peace Clause, would lead to insufficient protection and onerous data sharing obligation.

Pakistan, in its representation to the CoA, has asked India to furnish details of rice exports in the last two years. It has also asked the country to clarify if all non-Basmati rice varieties were eligible for market price support. "India will get some time to reply to the questions," the official said.

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# India's wheat, rice exports raise hackles at WTO

Sidhartha, Times of India

New Delhi, 3 February 2014: The US, Canada and Pakistan have questioned India's export of wheat and rice, suggesting that subsidized grains have been shipped out providing gains to local traders.

The queries at the World Trade Organization (WTO) come weeks after these countries reluctantly agreed to India's demand for renegotiating the agreement related to food subsidies that turned into a make-or-break issue at the Bali ministerial meeting in December.

The government has denied the suggestions and said that India is complying with all international norms. "We are on the right track," said a top government official, dismissing the charges.

On January 29, at a meeting of the WTO's committee on agriculture, the US and Canada asked India about reports that it exported two million tonnes of wheat because of surplus stock, sources familiar with the discussions said. Canada then went on to ask if the floor price had been lowered to \$260 a tonne from \$300 a tonne proposed earlier, which was lower than the Canadian export price.

Similarly, the US calculated the cost of wheat at the port at \$310 a tonne and asked the government to supply data on the costs and the prices of the winning bid.

During the meeting itself, India tried to dismiss the allegations saying that the exports were contracted at \$279-289 a tonne, which is higher than the floor price. But discussions could not be undertaken further as the US sent its questions late and India will furnish the data over the next few weeks.

Pakistan - which was part of the developing country alliance seeking easier regime for food subsidies before doing a U-turn - has raised questions over India's rice export figures and how basmati and non-basmati were graded.

Although the developed countries led by the US had opposed "renegotiating" the agreement on agriculture settled nearly two decades ago, one of the major concerns was over grains procured at a high minimum support price slipping into international markets.

In fact, India has explicitly assured that it restricted such practices but experts had warned that future exports would come under a cloud as the developed countries would raise the issue and go to the extent of seeking damages or restriction on shipments.

India, which was virtually isolated at Bali, managed to get a deal under which the cost of building stocks for food security will not be counted against a country's domestic support limits.

For India, the issue is especially critical as its procurement of staples may breach the prescribed cap in the coming years.

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# Azevêdo's health-check on global trade: Growth recovering but restrictions on the rise

WTO Website

17 February 2014: Director-General Roberto Azevêdo, in presenting his first global trade-monitoring report to WTO members on 17 February 2014, said that trade growth projections for this year are “much improved, hovering somewhere between 4.0% and 4.5%.” However, he said “407 new restrictive measures were reported during the review period,” affecting 1.3 % of world merchandise imports—valued at \$240 billion. This is what he said:

The Bali Package was an historic achievement, representing a significant boost for trade, growth and development around the world. But its true significance lies in what it allows us to do next — to conclude the Doha Development Agenda.

As we prepare to seize this opportunity in 2014, it is timely to look back on the challenges which emerged in the international trading environment in 2013 and to consider how members might respond.

You have all received my report on developments in the international trading environment which was circulated on 31 January. It was posted on the WTO website on the same date, according to approved procedures concerning unrestricted documents.

The report aims to provide Members with an assessment of a range of trade and trade-related issues and trends during the period from mid-October 2012 to mid-November 2013.

Put simply, it is a health-check on global trade — and I think the diagnosis is cautiously positive although there are still reasons to be concerned about trade restrictive measures. We were not in great shape last year — and we have picked up a few bad habits which we need to shake off. But overall trade growth is beginning to recover and we have a healthier outlook for 2014.

Before I go into detail on the findings of the report, I'd just like to give you some background on its preparation.

## *Preparing the Report*

As in the past, the information on the measures included in this Report has been collected from inputs submitted by Members and Observers, as well as from other official and public sources.

56 Members replied to the initial request for information on measures taken during the period under review.

All country-specific information reflected in the annexes was then sent for verification to the delegation concerned. And if it was not possible to verify the information then this has been noted in the annexes. I would like to thank those delegations who have participated in this important exercise.



Unfortunately, however, the number of Members that responded to the request for information on their new trade measures still remains small. In fact it slightly declined from 38% of the membership in 2012 to 35% in 2013.

Although many were also very helpful in responding to the request for verification of the accuracy of the information contained in the annexes, the reply rate was still only around 50% — which again is slightly down from last year's report.

The lack of sufficient information has sometimes been a criticism of the monitoring reports — particularly when it comes to behind-the-border measures, including general economic support measures. As a first step towards improved transparency, and following the proposal made by several members at last year's meeting which was welcomed by all delegations, the Report includes a comprehensive overview of WTO notification obligations and the status of their implementation by members.

We should now consider what more we can do to improve the transparency of general economic support measures and the overall participation in the monitoring of such measures.

### *Findings of the Report*

Let me now turn to some of the substantive findings of the Report.

The context is all important here. The backdrop to the review period was one of slow and uneven growth in the global economy. We should bear this in mind when considering our findings.

First, in terms of trade in goods, its volume expanded by less than 2.5% in 2013.

Growth projections for 2014 are much improved, hovering somewhere between 4.0% and 4.5% — but this is still below the historical average since 1990 of 5.5%.

We are, of course, keeping a close eye on recent developments in the global economy and their impact on these projections.

The WTO will be releasing its preliminary trade statistics for 2013 and updated forecasts for both 2014 and 2015 in early April.

Regarding developments in trade measures, there are two specific categories: trade remedy actions; and other trade measures.

Counting both categories together the Report shows that overall 407 new restrictive measures were reported during the review period.

This is compared to 308 in the same period a year earlier.

These new restrictive measures affect about 1.3% of world merchandise imports — valued at 240 billion dollars.

Moreover, they add to the existing stock of restrictions and other impediments to the flow of international trade.

Looking specifically at trade remedy actions — which were mostly anti-dumping and safeguard measures — we saw 217 initiations of new trade remedy investigations. This covers around 0.2% of world imports,

and compares to 138 terminations of either investigations or existing duties covering around 0.1% of world imports.

As was the case in 2012, therefore, more trade remedy actions were initiated than were terminated in 2013.

Trade remedy activity is therefore clearly on the rise, and Members should reflect on what the causes of that might be.

The number of new other trade measures also increased from 164 in the previous year to 190 during the review period.

The majority of such new measures were applied to imports mostly in the form of import tariff increases and customs procedures, covering around 1.1% of world goods imports.

Compared to the trend in new restrictive measures, the number of new trade-facilitating measures reported by Members fell to 107 in 2013, well down from 162 a year earlier. These measures cover the equivalent of 1.4% of world merchandise imports — which is approximately 258 billion dollars.

These measures, plus the number of terminations of trade remedy actions, represent little more than one-third of the total measures covered in the Report.

This paints a rather unflattering picture of the ratio of trade restrictive measures to facilitation measures. The Individual Trade Policy Reviews undertaken in 2013 show that some WTO Members are making genuine efforts to resist domestic pressures to erect trade barriers.

But we must acknowledge that the stock of current trade restrictions and distortions continues to accumulate.

I strongly believe we have a collective responsibility to attend to the risk posed by the cumulative effect of new and existing trade restrictions.

The Trade Facilitation Agreement passed in Bali takes on even greater significance against this backdrop — and it reinforces the importance of implementing that Agreement in a timely and efficient way.

Let me also draw your attention to the issues of regional trade agreements.

During the period covered by this Report, Members notified 23 new RTAs to the WTO, bringing the total number in force today to 250.

Negotiations on new RTAs are also continuing, in some cases between parties that collectively account for very substantial shares of world trade and GDP.

My view is that these initiatives are positive and are to be welcomed — but they can only ever be one part of the wider picture. Agreements such as these cannot be sufficient on their own to ensure gains which can be realised on a global scale. In fact, the proliferation of regulations and standards could multiply costs rather than reduce them.

As we all know, the multilateral trading system was never the only option for international trade negotiations. It has always co-existed with, and benefitted from, other initiatives. They are not mutually exclusive alternatives.

As the RTAs progress and result in deeper liberalization and rules-making, the WTO must follow with an update of its own disciplines, so as to ensure a sound foundation for a level playing field to all Members. We must think about how the two processes can move forward together to reduce costs effectively and to curb protectionism.

### *Issues and Challenges*

As I have said before, 2014 is a pivotal year for the WTO. It is the year that we will implement our first negotiated outcomes — and the year that the Doha Round is put back on track.

So, in closing, I would like to highlight some of the key issues and challenges that we face in moving forward with our work in 2014.

- First, I have already made reference to the continued accumulation of trade restrictions and the new and significant developments in the area of RTAs. Both areas have significant ramifications for the evolution of the multilateral trading system and they merit priority attention by policymakers.
- Second, I think transparency is another area where we should have a frank discussion. Clearly, better transparency of trade and trade-related measures is a key factor affecting all aspects of the WTO's core functions.

This Report shows that there is considerable scope to improve the compliance with the many obligatory transparency mechanisms that exist and that underpin the effectiveness of WTO rules generally. The sharing of information among Members is not just essential for the WTO's surveillance activities through the Trade Policy Review Mechanism and the trade monitoring exercise. It is also essential for the proper implementation of WTO agreements; avoiding unnecessary trade disputes; and completing successful negotiations.

Improving this aspect of the functioning of the WTO requires no new mandate; we simply have to be better at applying the existing rules. In this sense the Report is a call to action.

- Third, the positive outcome of Bali creates an opportunity for you, the members, to take steps to reinvigorate the multilateral trading system.

Building on the commitment to multilateralism which Ministers showed in Bali, we should now consider how to create a better understanding of, and support for, the benefits of multilateral trade cooperation. And in doing so we must always bear in mind the many remaining traditional trade barriers and distortions that persist in the trading system, and the need to address them.

Full statement available at [http://www.wto.org/english/news\\_e/spra\\_e/spra8\\_e.htm](http://www.wto.org/english/news_e/spra_e/spra8_e.htm)

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# Targeting India's IP laws undermines WTO's legitimacy

Lalit K Jha,PTI

Washington, 6 March 2014: A Geneva-based intergovernmental organisation of developing countries has slammed America and developed world countries for pressurising India over its IP (intellectual property) laws, which it alleged undermines the legitimacy of WTO.

"The Indian IP laws include balanced provisions to ensure that IP rights do not hinder the ability of the government to adopt measures for promoting development priorities, particularly in the area of public health," South Center said in a statement Tuesday vehemently opposing any US move to take any action against India.

"These are fully in line with the TRIPS Agreement and reaffirmed by the Doha Declaration on TRIPS and Public Health," it said.

The statement comes after the US International Trade Commission (USITC), a federal American agency, has initiated a probe against India's domestic trade and investment policies particularly intellectual property laws. Several US-based organisations have urged the US Trade Representative (USTR) to include India as a priority foreign country in the Special 301 review for 2014, alleging that India lacks adequate and effective protection of intellectual property rights (IPRs).

"The South Centre views these recent developments as most inappropriate, as it is against the spirit of the landmark Ministerial Declaration on TRIPS Agreement and Public Health," it said in a statement.

"India and other developing and least developed countries have the right to use the flexibilities in the TRIPS Agreement to the fullest extent for advancing public health needs and other development priorities," South Centre said.

The legal and regulatory measures that India has used for protecting public health are fully consistent with the WTO TRIPS Agreement. The continued threat of unilateral trade sanctions by the US to developing countries through USITC investigations and the Special 301 review undermines the legitimacy of the WTO, particularly the TRIPS Agreement and the WTO's dispute settlement system.

"It is regrettable that India or any other developing countries may be designated as a "priority foreign country" under the "Special 301" provisions of the US Trade Act of 1974," the South Center said adding that the mere threat of sanctions by placing a country in any specific category in the US watch list would appear to violate the WTO Dispute Settlement Understanding.

A WTO panel noted, in a dispute brought in 1999 by the EU against Section 301 of the US law, that "the threat alone of conduct prohibited by the WTO would enable the Member concerned to exert undue leverage on other Members." It would disrupt the very stability and equilibrium which multilateral dispute resolution was meant to foster and consequently establish, namely equal protection of both large and small, powerful and less powerful Members through the consistent application of a set of rules and procedures," the statement said.

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# WTO to the rescue

Financial Express

New Delhi, 8 March 2014: Though ostensibly committed to the WTO process, over the years, India has been on a spree to sign bilateral free trade agreements—sometimes Comprehensive Economic Cooperation Agreements—with a host of countries. Over the past decade, India has signed such pacts with 10 countries, including Singapore and Mauritius, and is currently negotiating a pact with the European Union. Everyone knows the multilateral process is better for developing countries like India, in the sense that it gives them more time to, say, open up their agriculture markets to imports. But, given how the WTO process has been so badly stuck for years—it has been 12 years since Doha Development Round of negotiations were launched—India has probably felt that it is better to go ahead with not-so-favourable bilateral deals than it is to wait forever for a good multilateral deal. And while developed countries have upheld their end of the bargain—on agriculture subsidies for instance—it has been more in form than in substance. So, for instance, in response to the stipulation that farm subsidies be restricted to 10% of the value of the crop, developed countries simply switched to a per acre subsidy instead of a crop-linked one. Not surprising, therefore, that at times India has been willing to not have a deal at the WTO—India's position on the Food Security Act, for instance, almost derailed the Bali ministerial.

So it has to come as a pleasant surprise that when confronted with US pressure on India's intellectual property laws—visiting US assistant secretary of state for south and central Asia Nisha Biswal repeated this on Thursday—and the threat of levying trade sanctions, India has chosen to invoke the WTO process. Section 3(d) of the Indian Patents Act, which deals with what is, and therefore what is not, patentable, is what US pharma firms are objecting to. The government, however, points out that India's IPR law is fully compliant with the WTO's requirements—indeed, in the recent Novartis Glivec case, India's Supreme Court upheld the view that Article 1(1) of the TRIPS agreement allowed member countries to decide how they would protect IP. In which case, if US pharma firms have a problem with India's IP protection, India is arguing, the US has to take India to the WTO's dispute resolution board. That said, it remains true that neither the government nor industry has done a particularly good job of pointing to how India's record in granting new patents has not been niggardly—1,500 patents since 2005 to the top nine global pharma firms. Perhaps the fact that large parts of Indian industry also feel aggrieved—with price controls or laws pertaining to clinical trials—has ensured that Indian industry is divided in its opposition to the US stance.

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# WTO becomes India's protector, not predator

SA Aiyar, Times of India

New Delhi, 2 March 2014: When the World Trade Organisation (WTO) was created in 1995, critics protested that India must not join this vehicle of US imperialism, whose tough patent rules would ruin India's agriculture and pharmaceutical industry. They could not have been more wrong. Both Indian agriculture and pharma have flourished under WTO rules. And today, the WTO is India's greatest ally against US pressure on patents.

US drug companies complain that India has rejected patents for some blockbuster drugs (like Novartis' Gleevec), while issuing a compulsory licence (which ignores patent rights) for Bayer's anti-cancer drug. They say India is flouting established norms on intellectual property rights (IPR), cheating patent owners of billions, and conferring a bonanza on Indian producers of cheap substitutes (generic drugs). US companies want the US International Trade Commission to investigate India's treatment of IPR, and recommend sanctions (under Section 301 of US trade laws) if required.

Few countries stand up to the threat of US sanctions : the costs typically exceed the benefits. But India has refused to co-operate even in a USITC visit to New Delhi, saying its bureaucrats are too busy with other things. India has told the US that WTO rules provide for all members to settle patent disputes through that body, not through unilateral action. India is confident that its IPR rules are WTO compliant. For that very reason, the US has avoided WTO, and is attempting bilateral pressure instead.

Indian patent laws are far more restrictive than those of the US or Europe, but WTO rules allow this. Critics claimed falsely in 1995 that WTO rules would condemn India to servitude. In fact they allowed India considerable freedom to be strict on patents, allowed price control, and allowed the forced issue of compulsory licences for drugs critical to public health.

Foreign companies complain that India rejects patents given widely across the globe (as with Gleevec). India says it has since 2005 granted over 4,000 drug patents (mainly to US companies) and issued just one compulsory licence. This conforms fully to WTO rules.

If the issue goes to the WTO, India will point out that even the US courts have rejected hundreds of drug patent applications. The US government itself has used compulsory licensing and price control for drugs regarded as critical for public health (as in the anthrax scare after 9/11). So, India looks on a good wicket.

Still, the dispute will not disappear. The US says that although thousands of patents may have been given, only 45 are for innovative drugs, of which nine are being contested. It accuses the government of trying to favour Indian companies making cheap generics. This is not untrue.

Some Indian NGOs want wholesale rejection of patents to keep medicines cheap. That would be cheating on India's pledges to WTO. It would also be counterproductive, inviting retaliatory sanctions. India is full of adulterated, sub-standard and bogus drugs, so let nobody pretend our conditions are ideal, or that all Indian drug producers are noble promoters of cheap medicine.

In a recent study, India ranks at the bottom of 25 countries in IPR protection. Arguably this classification is unfair (strictness in issuing patents is interpreted as weakness). But certainly IPR protection in India

leaves a lot to be desired. Bollywood will tell you how piracy plays havoc with copyright, echoing complaints from Hollywood. Software piracy is rampant, hurting Indian IT companies as well as foreign ones.

Finding the WTO inadequate, the US now aims to forge one free trade deal with Europe (Transatlantic Trade and Investment Partnership), and another with Japan and the Pacific Coast (Trans Pacific Partnership), apart from dozens of bilateral deals. All these will have far stricter IPR rules than the WTO, and indeed aim to make WTO irrelevant. India needs to guard against this by being more pro-active in WTO, and not revel (as in the past) in the role of a spoiler.

India's future lies in high-tech areas. Let's be clear: these need IPR protection. By rejecting labour flexibility, India has forsaken the labour-intensive export route to prosperity taken by the Asian tigers and China. Its key export successes are in brain-intensive areas — software, BPO, pharmaceuticals, engineering goods. India will keep rising up the brainpower ladder.

Its comparative advantage lies in skills, and need a climate encouraging such skills. India should be strict on drug patents. But it must reject the NGO attempt to sabotage all IPRs, claiming these are western impositions on the poor. Brainpower should be paid for no less than manual labour. We need a proper balance between the needs of consumers and brainpower producers. The US goes too far, but so do our NGOs.

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# US insists India give WTO data on food security scheme

Amiti Sen, Business Line (The Hindu)

17 March 2014: Targeting India's food security programme, the US has questioned its efficiency and has said that the country should spell out measures to increase the programme's effectiveness. It has also demanded that India submit all relevant statistics and documents on the programme to the World Trade Organisation (WTO) in order to gain immunity against penalties in case subsidies breach specified limits.

"The matter would come up for detailed discussion at the meeting of the WTO's Committee on Agriculture next week," a Government official told Business Line. India fought hard at the WTO's Ministerial Meeting in Bali in December to keep procurement subsidies under India's Food Security Programme out of the list of subsidies classified as 'trade distorting'. In case 'trade distorting' subsidies breach 10 per cent of production value, a country is subject to penalties.

## *Conditional reprieve*

While a permanent solution to the problem was deferred in Bali, developed countries promised not to take any action if subsidies breached the given caps. However, the reprieve is subject to the condition that India submits all information and documentation that are sought by members on particular programmes involving subsidies.

Attacking India's food subsidy programmes, the US said that the cost of India's food subsidy bill is approximately twice the amount it would cost to provide all households living below poverty with enough cash to cross the poverty line. "This highlights the large costs the Government incurs in procuring, storing, and distributing foodgrains that could otherwise be more effectively used to alleviate poverty in India," a US submission to the WTO pointed out. Pointing specifically at the National Food Security Act 2013, the US said that India should point out if there is any specific language in the Act to address these concerns (related to efficiency). It also asked India to highlight the steps being taken to implement its current policies more efficiently.

"The US has started treading into India's sovereign policy making space under the guise of need for increased transparency for subsidy programmes. The country has no business questioning the efficiency of India's programmes," a trade expert from a Delhi-based research organisation said.

## *Complicated process*

India has also been asked to submit the documentation on the domestic subsidy involved in the Food Security Programme. The process could be complicated as it would involve taking into account all the procurement done by the Government at various stages in every State, the prevailing market price at that time and the minimum support prices (MSP) paid to farmers.

While India has not yet breached the 'trade distorting' subsidy cap, it may do so, especially in case of rice, once the Food Security Programme is fully implemented. India has long been fighting for exclusion of subsidies for procurement under the food security programme.

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# Raw sugar export subsidy under WTO scrutiny

Amiti Sen, Business Line (The Hindu)

New Delhi, 19 March 2014: India's recent decision to give subsidies to exporters of raw sugar is facing international flak with many countries questioning its validity under global trade rules. Major nations such as Australia, Colombia and Brazil, which export agricultural products, have said that the subsidies would affect their interests and distort the world market.

In February, the Cabinet approved a subsidy of Rs3,333 a tonne for export of raw sugar in response to rising stocks of white sugar in the country. The incentive is valid till this month-end. The incentive will then be reviewed by the Government before it decides if the subsidies should continue.

## *Under pressure*

"The pressure being piled on India at the WTO is largely to ensure that the subsidies do not get extended for a longer period of time," a Government official told *Business Line*.

The opposing countries, in separate representations to the WTO, have asked India to explain the legal validity of the move under multi-lateral trade rules that do not allow new subsidies for exports. The issue will be taken up at the meeting of the Committee on Agriculture on Friday where India, the world's second largest producer of sugar, will have to explain its move.

"India's defence is that WTO rules prohibit export subsidies only on finished products and raw sugar is a semi-processed item. It is, therefore, exempt from such restrictions," a Government official told *Business Line*. But other exporting countries, including the world's top sugar producer Brazil, are not willing to buy the argument.

Brazil, in its submission, has pointed out that developing countries are allowed flexibilities for giving export subsidy (under Article 9.4 of the Agreement on Agriculture) only to meet marketing or transportation costs and there was no legally-binding decision by the WTO to extend its scope. It also said that in case India says that the subsidies are for reducing marketing or transportation costs, it should give evidence of how it is happening. Australia, Colombia and the European Union have asked India to specify the quantities of export that has already happened at the subsidised price and the period for which the subsidies will continue.

## *Output, exports*

White sugar stocks in the country at the beginning of the current sugar year (October 2013-September 2014) was a whopping 8.8 million tonnes (mt). Sugar output in the on-going year is expected to be 25 mt against domestic demand of 22 mt.

Due to low global prices, Indian mills have exported less than 0.8 mt of raw sugar this season. If the Government continues its subsidy programme for the remaining months of the season, exports could touch an estimated 4 mt.

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# Sugar export subsidies ‘will not cross \$ 80 million’

Amiti Sen, Business Line (The Hindu)

New Delhi, 24 March 2014: India's export subsidies on sugar announced last month will not exceed \$80 million and is essentially designed to encourage diversification away from white sugar to raw sugar, the country has clarified to the World Trade Organisation.

This would translate into roughly 1.4 million tonne of subsidised sugar exports going by the current exchange rate and the subsidy amount of Rs3,333 a tonne. Defending its action at a recent meeting of the WTO Committee on Agriculture (CoA) where several members including Brazil and Australia attacked the sops, India said the subsidies were aimed at discouraging white sugar production of which there was a glut in the global market, a WTO official told *Business Line*.

While the WTO does not allow any new export subsidies, some allowance is made for marketing and transportation. There are disciplines in place for members to gradually eliminate existing subsidies.

## *Drawing flak*

Coming down heavily on India at the CoA meeting last Friday, Australia said the Rs3,333/tonne incentive payment is equivalent of 14-16 per cent of the world price and threatens to seriously destroy trade as India is the third largest exporter of sugar. It demanded that India immediately discontinue the subsidies.

World's top sugar producer Brazil asked how India could justify the subsidies since there has been no consensus to extend special provisions for developing countries. Other members that questioned the subsidies include Colombia, the EU, Paraguay, Thailand, El Salvador, Canada, the US, Pakistan and New Zealand.

The subsidy amount of Rs3,333 of raw sugar export announced by the Cabinet last month is for exports made in February and March. Fresh calculations will be made for April based on existing exchange rate.

## *Rising inventories*

Meanwhile, India's white sugar stock is on the rise. At the beginning of the current sugar year (October-September 2013-14), stocks were at 8.8 million tonnes (mt). Sugar output in the on-going year is expected to be 23.8 mt, according to industry estimates, against a domestic demand of 22 mt.

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# **Anjali Prasad appointed Ambassador to WTO, Geneva**

Bureaucracy Today

Geneva, 31 March 2014: Anjali Prasad, IAS (UT:83), has been appointed as Ambassador and Permanent Representative of India to the World Trade Organisation, Geneva. Prasad who is presently serving as Additional Secretary with DIPP will be relieved from her present responsibility by the first week of April.

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# India threatens to drag EU to WTO on mango

Asian Age

3 May 2014: India on Friday threatened to take European Union (EU) to the World Trade Organisation (WTO), if it did not lift its ban on the import of Indian mangoes and vegetables. "We do hope that the EU will see sense, considering the strength of the economic partnership between India and EU, and not precipitate the situation any further, which leads us to go to the WTO," said Union commerce and industry minister Anand Sharma.

He termed EU's move to ban Indian mangoes as an "arbitrary action without any consultation." The minister said that government has invested in creating world-class laboratories through the Agricultural and Processed Food Products Export Development Authority (APEDA) and their certification processes are acceptable to the EU, the US and other countries.

Mr Sharma noted that he had already written a letter on the matter to EU trade commissioner Karel De Gucht. "The EU has no justification and I have said in my communication that it will definitely have a very negative fallout in respect of our economic relationship," Mr Sharma said.

EU has banned the import of Alphonso mangoes and four vegetables from India for the period from May 1 to December 2015 after authorities allegedly found consignments infested with fruit flies. He said APEDA has the mandate of certification of agri produce exports and that is acceptable to all countries. "That is why APEDA and the commerce ministry have taken up this matter," he said, expressing hope that the issue would be resolved. On Thursday, commerce secretary Rajeev Kher said that the issue should be addressed through consultation and not preferably at WTO.

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# WTO talks: Don't harp only on fishery sops, says India

Amiti Sen, Business Line (The Hindu)

New Delhi, 19 May 2014: India has said that negotiations on tightening fishery subsidies at the World Trade Organization (WTO) pushed by the European Union, New Zealand and Chile should take place only after there is substantial progress in the areas of agriculture, industrial goods and services.

Warning against 'cherry-picking' of issues, the Centre said that the proposal to curb such subsidies to clamp down on over-fishing should not be singled out as several other related areas such as anti-dumping are part of the working programme on rules.

In a recent meeting of the WTO's Negotiation Group on Rules, a handful of countries, including the EU, New Zealand, Chile, the US, the Philippines and Australia, said discipline in this area should be central to any Doha Round work programme. They argued that global fish stocks continued to fall while harmful fish subsidies continued to increase.

"There is an ongoing attempt at WTO by developed countries to identify individual issues and try to push for an agreement, completely ignoring the agenda of the Doha Development Round. We have to guard against it," a Commerce Ministry official told *Business Line*.

India has called for exclusion of small and marginal fishermen from the multilateral curbs in the negotiations on fishery subsidies, stating that livelihoods of lakhs of poor families in India depend on fishing.

The Doha Round, launched in 2001 to open up markets in agriculture and industrial goods and services, is in a logjam, but members agreed to deliver on a small package of issues at Bali last year, reviving interest in the round.

In Bali, the developed countries managed to get through an agreement on trade facilitation — a pact to smoothen trade by improving infrastructure and reducing paperwork.

In return, India and some other developing countries were given a reprieve against action on the subsidies given by them to farmers for buying crops for their food security programme. A promise was made that a long-term solution to the issue would be taken on priority-basis after the Bali meeting.

"Although we agreed on a trade facilitation pact, we do not want pacts on individual issues to become a rule. The Doha Round has to be agreed upon in full and the developed countries can't cherry-pick issues that they want to push. We are also determined to ensure that our problems related to subsidising our food security programme is settled at the earliest," the official said.

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