FACTS against MYTHS

VIKAS ADHYAYAN KENDRA Vol VII # 9/2001 INFORMATION BULLETIN

Bulldozing the South at Doha:

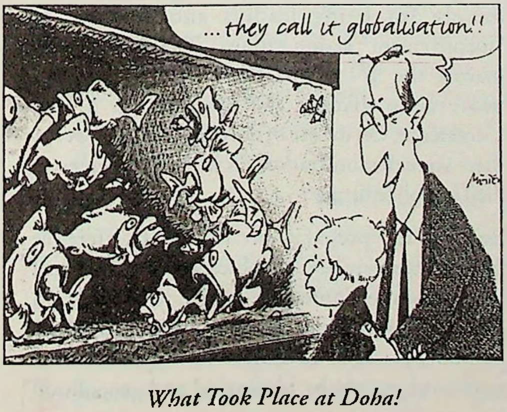
The MYTHS behind WTO's Ministerial Conference

"The very complexity and ambiguous nature of the WTO's Doha's work programme...may ultimately prove to be its Achilles heel. Or, to change the metaphor to suit the rhetoric of the `Bush Global War on Terrorism', it may be akin to an attempt at rebuilding the twin towers of the World Trade Centre on the desert sands of Doha without laying the necessary steel pile foundations."

– C. Raghavan in "Third World Resurgence", 2002

COMMENT

Despite the terrorist attack on the World Trade Centre, New York, and the global recession the WTO went ahead and held its 4th Ministerial Conference at the Sheraton Hotel, Doha, Qatar, from November 9-14,2001. The Conference was a follow-up to the Seattle fiasco, and was aimed to launch a new round of trade negotiations. Since Seattle, the worldwide demonstrations against WTO and other global forums – the World Bank, IMF and World Economic Forum and their agenda of corporate globalisation – had grown sharper. Given the massive stakes involved and trade interests the WTO in anxiety therefore chose this tiny country for their Conference as the autocratic regime would minimise the repeat of a Seattle-like mass protests. Doha was also seen as a way of placing it on the world conference-circuit map and making Qatar as famous as Uruguay, which (the emirate believed), before the Punta del Este GATT meeting, was known only for its soccer!! The WTC bombing had also added a new dimension to this fear. But with West Asia seen as a "terrorist" bastion, the Doha Conference was viewed as an easy target. Deferment of the Conference had therefore been very much on the cards.



What Took Place at Doha!

However, having succeeded in railroading most countries, including India behind it, against terrorism, the Organizers exploited this global unification. The WTO Conference was seen as an opportunity to restore confidence in the economy and get it out off the recession using global trade that the North is desperate to (further) prise open the markets of the South.

In Doha, unlike at Seattle, the group of rich countries called the QUAD (US, EU, Canada and Japan) came well prepared — ironing out the differences between themselves on their respective positions on some of the contentious issues — and ruthlessly pursued the agenda of introducing non-trade items into the negotiations. The negotiations were held in pressure-cooker conditions in which the QUAD just steamrolled the South to accept major elements of a "New Round" with new issues but masking it under another name viz., 'Work Programme" that most of the South had been rejecting right up to the scheduled final day. All kinds of stratagems — manipulations and Machiavellian maneuvers even outright lies and veiled threats – were resorted to. At the venue they had people going in and out to replace each other like a relay race. The representatives of the South on the other hand had the minister and one adviser who had to sit through from the afternoon until 4 a.m., so it required a combination of technical ability and ability to withstand fatigue!

Doha in the meanwhile had been transformed into a huge fortress with 21000 US marines deployed all around. The local Government even took permission from the WTO before issuing visas to foreign delegates some of who were denied this right merely for being leaders and activists of "inconvenient" action groups. The move was to placate the WTO that there were no "rowdy" protests to disrupt the proceedings of the Conference. On the eve of the Conference, however, there were demonstrations in which one protestor died in police firing.

Even as the preparations for the Conference proceedings were being finalised a new element had influenced the Conference. A sudden shift in US foreign policy priorities owing to the WTC bombing presaged a return to development issues motivated mainly by ideological and geopolitical consideration[1] Accordingly, the Doha Declaration called for the WTO to cooperate more closely with the World Bank and IMF for the purposes of achieving greater coherence in global economic policy-making!

At the Conference one of the most important issues was whether the WTO should abide by its present mandate and focus urgently on redressing the imbalances in its rules, or expand its powers by negotiating new agreements that would further restrict development policies in the South. It issued a declaration, the Doha Declaration, the overall approach of which included negotiations on services — on agriculture, on industrial tariffs, and the implementation issues – including trade and the environment plus the so-called Work Programme to discuss the "Singapore Issues" (Investment, Competition and Transparency). Representatives of the South had however made it very clear before and even at Doha that they did not want negotiations to start on such new issues but needed to concentrate on the implementation issues. Their views were however disregarded and even squashed through manipulations, arm-twisting and through so-called Green Room sessions (that is, where a limited number of countries negotiating in secret) and drafts of declaration that were biased right from the start. The whole process that went into producing the Doha Declaration was highly lopsided and shocking in its blatant disregard of the sensitivities and concerns of some of the poorest countries of the South resorting to outright discrimination and manipulation. The end result was a Declaration that according to developed countries gave birth to a development agenda but in reality is absolutely anti-development. It failed to reflect the views of many countries of the South, placing them in a position of great disadvantage right from Day 1. Even the manner in which the negotiation processes were conducted failed to observe any sense of protocol or decorum. Facilitators or 'green men' selected to facilitate negotiations were allowed to decide on the procedures for consultations and drafting. They were also chosen from the same camp – those countries that simply wanted a new round of negotiations!

Thus, what happened at Doha was like no other conference, where normally a delegate agree to exchange views, which are then accurately (more or less) recorded in a report and eventually has a chance to be agreed on. Nothing of this occurred. Instead, the Doha Conference was trumpeted as a "great success"! The major northern powers had scripted an Agreement that created the mirage of a triumph for an "Equitable Global Trading System". They did so by waving an illusion that all countries, rich and poor, big and small had all gained something. However, the South and the World Development Movement, among others, described the whole Conference as a disaster for the world's poor. Indeed, the South gained merely peanuts in the form of an acknowledgement of their concerns but nothing concrete to undo or repair the damages and disadvantages they experience under the WTO regime. As for India, despite a vigorous fight in the early stages of the Conference its representative, Commerce Minister Murasoli Maran, finally caved in to the pressures by the Organisers! On November 12,2001 Kenya announced at a Meeting of the African group that India had decided to join the US and EU bandwagon. India had accepted the Final Declaration, including all the new issues, which further worsens the imbalances and deteriorates the situation in every sector of the economy, particularly agriculture. According to S.P. Shukla[2] "What has happened at Doha is the beginning of the final assault of global capital on the economic sovereignty of the nation states, particularly of the third world". This is an ominous development. It makes it essential to not only take a close, hard look at the whole Conference process but how a) the Conference was exploited by the WTO representatives in the North to manipulate the whole process in their favour that has very serious implications for the poor of the South and b) help piece together the farce behind the tall claim that the Doha Conference was pro-Development.

MYTH: ***Unlike the previous negotiations the Doha Conference was a Work Programme and not a new round of trade negotiations.***

FACT: This so-called Work Programme was nothing but a façade – just another name for what was completely a new round of negotiations — taking in new issues viz., investment, competition policy, government procurement and trade facilitation! These were issues that continue to be strongly opposed by majority of the South. Nowhere in the Doha Declaration it was mentioned as a "New Agenda" for a "New Round". Merely using a nomenclature like a Work Programme does not, however, alter the pith and substance of the process.

The earlier WTO "Rounds" were based on a specific pattern[3]: i) the Ministerial Declaration lays down a broad negotiating mandate for every subject on the agenda, a time-frame is indicated, a Trade Negotiations Committee is set up to supervise and direct the negotiations. The concept of treating the negotiations as a "single undertaking" was invented in the Uruguay Round. All these elements were unmistakably present at the Doha Ministerial Declaration.

No negotiations of the type envisaged have ever been completed in one Ministerial meeting; not even in two years. Postponing negotiations is not at all a "significant gain" and thereby shortens the duration of time to finalise the negotiations within two years i.e. 2003 and 2004. For instance,

- The Uruguay Round, lasted 8 years. It has always been the practice that the broad negotiating mandate in the ministerial declaration would be followed by a process of elaboration of the mandate into specific elements of the multilateral discipline;
- The process took anywhere between 3 to 5 years. It is this process that was launched at Doha and the talk of "postponement".
- On examining the language and content of this "Work Programme" under specific subjects one will see through this whole argument. For example, on all the 3 important new issues, viz., investment, competition, policy and government procurement, the mandate starts with the acknowledgement: "Recognising the case for a multilateral framework". This amounts to a clear decision in favour of elaboration of a multilateral discipline.

Given this background, the "Work Programme" is not at all a gain. This time, the duration period to complete and finalise negotiations in the agenda has been curtained only two and three years.

MYTH: ***The concerns and fears of the South over the Competition Agreement in the Doha Declaration is unfounded. It is instead in their***

best interest as it would have more enforcement of antitrust rules globally.

FACT: Competition, at face value, appears like a boon. But these are concerns that originate from a EU proposal to promot and enable TNCs to have the right to compete equally with local firms. This means putting an end to policies and practices that favour or give an advantage to local firms in the interest of building up domestic industry. Thus, they were concerned that such an Agreement, based on the EU's concepts and motivations, would lead to the problem of MNCs entering and wiping out the small locally owned companies. It was also felt that first there was the need to build capacity to understand the issue, and then to have a national infrastructure to deal with competition issues – both prior to commencing any negotiations, let alone having MNC rules. Thirdly, most of the South do not yet have competition laws or policies and are rightly concerned that a WTO Agreement would impose obligations on them to have a particular model of competition law and policy that would ironically, enable TNCs to monopolise their economies whilst rendering indigenous companies uncompetitive and thus redundant.

The concerns are also linked to the so-called Singapore issues and what impact it will have in limiting the ability and right of the South to formulate Development policies and strategies. For instance, the Investment issue would give unprecedented rights to MNC investors, such as right to sue governments for loss of future profits due to government regulations (a feature of NAFTA that is increasingly being invoked). There is a specific proposal that foreign capital have the freedom to move across national borders, without let or hindrance, caused by nation states. This will be introduced by a re-wording of the GATS to include, "comprehensive mulatilateral discipline on investments..." which will result in the removal of all controls on FIIs, FDIs, repatriation of profits; free entry of foreign capital into any and every sector, without any controls allowed by the local governments; and bringing currency convertibility on capital account (which has wrought havoc on the currencies of those countries that have already introduced this).

- A 'Competition Policy" would further entail the removal of all preferences to local industry, small scale sector, handicrafts, thereby treating mega TNCs on par with the small local business. This will act to only further destroy local industry, unable to face 'competition' from the TNCs.
- The so-called 'Transparency in Government Procurement' means that global capital will be able to tie the hands of government regarding the public sector, social welfare, public services and controls on any and every economic activity of local governments.
- And, 'Trade Facilitation' means breaking down trade barriers even more thoroughly than what has been achieved in the earlier WTO Rounds. It calls for further restrictions on customs tariffs, in the name of common norms.

If all these Clauses are to be implemented, together with another 15 areas proposed, it will result in the total dismemberment of a country's sovereignty, placing it completely at the mercy of global capital. The disastrous impact of the decade of 'liberalisation' is already to be seen. One can imagine the extent of devastation caused by such excessive dismantling of economic and political controls

MYTH: *The Doha Conference was conducted democratically with transparency and thus legitimacy and all decisions had been arrived at on the basis of a consensus.*

FACT: On the contrary! The decision-making process, among others, had not only been undemocratic but a dangerous process too. (This point was dealt with in the earlier issue of FAM viz.,#8,1999). That is, a process that emerged since 2000 with the so-called Consultation Process where the Chair of the General Council or a Deputy Director General present at a closed-door meeting, now dubbed "Small open-ended Meetings", will submit a briefing of their "understanding" of the decisions reached at the meeting, or their "sense" of where members are with regards to positions.[4] This "understanding" and "sense" is then reflected in Drafts such as the Ministerial Text and the Implementation Text or the Agriculture Text or the TRIPS and Health Ministerial Text. As will be noted

Average Size of Missions

The North: 7.38 persons

The South: 3.51

Range of Disparities within the South missions: India has 6 delegates while Mozambique has 1

There are 29 non-resident delegations in Geneva. These missions do not attend Meetings nor raise an opinion. They are counted as "consensus" into the process.

WTO Staff: 410 from the North, 94 from the South, 512 total WTO Staff.

Regular Meetings of the WTO: 10 Daily Meetings. Many of them overlap so that smaller delegations cannot be represented at even the regular meetings of the WTO.

Representations at Meetings: When some delegations are physically present at some of these meetings they represent themselves strongly as blocks. The African group often speak on behalf of 41 countries, but rather than looking at this group statement as that of 41 countries, it is instead seen as a statement of 1 member! Similarly, with the LDCs! Tanzania speaks on behalf of 30 LDCs, but (again) it is represented as Tanzania! Even though most of the time, at least 6 LDCs speak up in support of the LDC position (Bangladesh, Djibouti, Guinea, Haiti, Lesotho, Senegal, Uganda and Zambia), the LDC position is referred to as 1! Similarly, while some African delegations give support to Zimbabwe, the spokesperson to the African Group, the position is weighted as 1.This creates serious problem of misrepresentation and the weight behind statements. The LDCs and the African Group combined make up exactly half of the membership of the WTO!

the people who provide the outcome of the "consultations" poorly reflect (see below) this "sense". At best, it is inaccurate and imbalanced, at worst, it is biased to the interests of the North and most powerful countries of the WTO. (In this context see Box on next page on some statistics based on survey of delegations)

MYTH: *The environment/trade link has always been a regular feature of previous trade negotiations and was present even prior to the Uruguay Round of GATT. It cannot therefore be deemed a new factor as made out to be. This pro-ecology concern is clearly evident even in the WTO text, Art.XX of GATT.*

FACT: First and foremost, from a historical angle, there is no record of environment-related issue on eco-friendly industrialisation during the 18th and 19th centuries when countries, now dubbed the Developed Market Economies (DMEs) had industrialised. This period was also an era when most of the South were its colonies. The issue, therefore, is of a recent origin and introduced mainly when the large economies in the South e.g. China, etc. themselves have started to industrialise.

The WTO is indeed inherently anti-ecological! Though it is true that this (infamous) Art. does concern itself with the environment it, however, allows restrictions on trade on the grounds of environmental and health protection arising from the consumption of a good or service. However, this is not the same when it comes to the production of goods and services![5]

"The WTO does appear to allow trade restriction in order to prevent Environmental damage which results from the consumption of a good. However, with regard to damage resulting from the production of a good or service, trade restrictions are generally not allowed under the WTO...in support of regulations which control those foreign production processes which are not detectable in the final product. Furthermore, the WTO does not allow nations to implement trade restrictions in response to environmental damage which occurs outside their jurisdiction".

In short, what this means is that under WTO rules there are no grounds for restricting "like" goods and services that are produced under different conditions. So a good produced using methods that are extremely environmentally damaging but that is otherwise the "same" as like goods produced, using different production methods, cannot be subject to trade restrictions on the grounds that it was produced using or resulting in environmental degradation or pollution. This is untenable:

"The WTO does not allow nations to distinguish between "like" products which have very different production methods. Nations have traditionally been allowed to do as they please within their own borders, but in an ecologically interdependent world, where production processes in one country can affect the global environment, such a notion may be outdated". Hence, the well known environmentalist view of the "trade liberalisation" agenda and the WTO in particular as inherently anti-ecological.

Finally, a review of WTO rulings on environmental or conservation measures reveals two consistent and common themes. The first is the expansive reading given to rules that limit government options that might, even indirectly, interfere with trade. The second is the exceedingly narrow interpretation given to trade provisions that might create space for environmental exceptions to the free-trade orthodoxy. This double whammy has spelled disaster for every environmental or conservation regulation that has found itself in the cross hairs of a trade dispute panel. In fact, none has survived the encounter and, in every case, trade panels have found several grounds on which to rule against the environmental regulation.[6]

At best, the environmental concerns – listed in the Doha Declaration – have been part of the discussions on CTE, which was set up in 1995 but till date no conclusions have been successfully arrived at.

MYTH: *The Doha Conference was a great success. It helped reverse the recession in the US, EU, Japan, etc, and also had a positive impact on the countries of the South in terms of trade gain,etc.*

FACT: On the contrary! Whatever the gains of global trade and its rules trade in its immediate effects only distributes or redistributes benefits. Recovery and growth out of the current recession depends not on trade nor on further shifting the burdens of adjustment from the North to the South, but on co-ordinated global macroeconomic expansion and policies to enable the poorer countries to buy the goods and services of the North.[7] Besides, mere measures to force open the markets of the South, or attempting to create 'high-consumption' enclaves in the economies of the South for Northern suppliers (of goods and services) cannot lift the world economy of recession. And, indeed, there are few signs of this happening, not even as a result of the so-called global war on terrorism and the boosts that war and military build-up supposedly provide to economies.

Furthermore, apart from the 'Negotiating Agenda', the Doha Conference had issued two other declarations – one, on some 40 implementation issues, and the second, a policy statement dealing with patents and public health. The latter two are more statement of intentions and no way impinge on the main 'Negotiating Agenda'.

All the implementation concerns of the South, except that on the imposition of anti-dumping duties by the rich North, that were part of the final Statement, were merely statements of good intention. All the important implementation issues were made a part of the negotiations of the Doha Round. This was exactly what India had been opposing; yet it claimed that Doha was a victory! Moreover, the US stonewalled on a minor relaxation of textile quotas (India's largest export item), which was slated for settlement at the Conference. Also, under TRIPS, India wanted an extension of the scope of protection provide the Geographical Indication (GI) over Basmati rice, Darjeeling (for tea), Kolhapure for chappals, and Alfonso for mangoes. This extension was also not given in the Declaration!

In the area of Dispute Settlement, India specifically wanted the exclusion of any NGO or referee to interfere in the dispute. This too was rejected.

In the area of agriculture and services the outcome of Doha was no better. In agriculture, the perspective of negotiations will continue to be biased towards the heavily subsidised goods of the developed countries. Even on the much-disputed question of export subsidies in agriculture, France was able to dilute the provision for the phasing out of all export subsidies.

In services, many new aspects have been introduced. There was no departure from the very narrow approach regarding the movement of labour. Moreover no cognisance has been taken about the basic importance of the delivery of basic services, particularly health and education, nothwithstanding the much trumpeted separate statement on public health as a gain for the poor in the South.[8]

The related claim that medicines pertaining to endemic illnesses such as HIV/AIDS and diseases such as TB and Malaria, etc. has been excluded from the purview of TRIPS cannot be considered a "significant gain". For the North has already agreed to exclude such medicines anyway but confined only during times of emergency.[9] The concerned country can issue compulsory license to produce medicines and import medicines, pertaining to these illnesses and diseases Moreover, it was not in India's interest but 'de facto', what is already being implemented in Brazil, and to a lesser extent South Africa. Second, the practical advantages of this statement are minimal.

To take the first point. Starting in 1994, the Brazilian government urged local companies to start making drugs to treat AIDS. The government invoked "national emergency" provisions, in its patent laws to start manufacturing low cost anti-AIDS drugs. The US took Brazil to the WTO disputes panel, but later retracted in the face of adverse public opinion. It is now this that has been legitimised.

Second, in the countries of the South there is perpetual 'public health emergency' yet rarely has one ever been proclaimed. For all the propaganda around AIDS, TB, malaria, Diarrhoea, etc., continue to be the regular killers. For example, less than two-fifths of Indians and Bangladeshis, have firm access to modern medicine. So, in order words, it means that TRIPS must be implemented for the regular daily killers, and only on an exceptional conditions (an emergency) could it be bypassed. In addition the statement is itself vague, its legal values is uncertain, and it simultaneously reiterates the member's commitment to the TRIPS agreement. In addition, the 'concession' excludes imports/exports from compulsory licensing. That means that most of the South like Africa, etc., lacking an indigenous manufacturing base, cannot procure essential drugs cheaply. Nor can competitive Indian manufacturers export them.

So, notwithstanding all the media hype, the actual benefits from this statement will be minimal, while the TRIPS regime will continue to get implemented, giving windfall profits to the mega drug TNCs.

MYTH: *The principles of free trade and the market were also part of the target of the attack on the World Trade Centre by terrorists and anti-globalisation elements.*

FACT: The North conveniently exploited the WTC bombing as a pretext for launching a new round of negotiations at Doha. Even as bodies were being extricated from the WTC debris, the US Trade Representative (USTR), R. Zoelick, stated, the "...role that trade had in fighting terrorism...". As Bush's hatchet man, he had argued in a speech that "...trade legislation was needed to signal that the US would not retreat from its responsibility to defend free trade against the terrorists and critics of globalisation...". In this way, anti-globalisation activists were being lumped together with the 'terrorists'. The Chairperson of the Federal Reserve Bank, A. Greenspan, was even cruder in linking the new trade round to September 11. He stated, "...as a consequence of the spontaneous and almost universal support that we received from around the world, an agreement on a new round of multilateral trade negotiations now seems feasible...". This sinister campaign to link new trade round to the so-called war against terrorism was orchestrated jointly by the EU Trade Commissioner, Pascal Lamy, and Zoelick who argued that the best response to the 'terrorist' attacks would be to launch a new round!

So, it is not surprising that the revised Draft Ministerial Declaration, released on October 27 (i.e. not even a fortnight before the Doha Meet) which had been arbitrarily prepared by the Chairperson of the General Council at US behest, was far more damaging to the South than the earlier draft. It negated most of the earlier objections from countries like India; it failed to consider the various alternative viewpoints, and, in fact added a host of new points that had never been discussed previously!

MYTH: *The Doha Conference was also a Development Round that will lead to all-round* *economic development for all countries including the South.*

FACT: More than being a Development agenda, the outcome of the Doha Conference was profoundly anti-Development. The Conference was rather the realisation of the American vision of the 'free market' or as expressed in the book, the Rogue State (Blum, 2001), the 'privatisation of the world or globalisation'. Along with the EU, the US succeeded in taking a big leap in their drive to open up new markets and new economic sectors in the South

By advancing the so-called Singapore issues into the WTO machinery, Doha brought nearer a development disaster of great proportion as the proposed new agreements would close off many development policies and possibilities and result in re-colonisation and unprecedented power to mega TNCs at the cost of sovereignty and people's rights and needs (under the facade of 'efficiency' and 'competitiveness').

In addition, the Conference also adopted a separate Declaration on the TRIPS Agreement and Public Health, and a decision on implementation issues that, despite many claims, is devoid of any serious economic content to benefit the South (The 3 texts are available on the WTO website, www.wto.org.) The Declaration appears as a big gain for the South but it is a political declaration with no legal or binding effect; the powerful pharmaceutical lobby which has benefited from the TRIPS-sanctioned global TNC money can be depended upon (when the interests of civil society groups moves on to other issues) to try and undercut the political gain.

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