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EMERGING INTERNATIONAL TRADE REGIME : CHALLENGES BEFORE DEVELOPING COUNTRIES

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1. Introduction

The Uruguay Round Agreements and the establishment of the World Trade Organisation (WTO) in 1995 resulted in a major step forward by bringing the agriculture and services sectors under the disciplines of GATT, bringing down the levels of tariffs and putting in place a dispute settlement mechanism. In order to realise the potential gains from trade, developing countries made substantial progress in liberalising their own trade policy. Tariffs were cut, and fewer products were covered by quantitative restrictions. However, the outcome for the developing countries, both in terms of market access payoffs and the burden of implementing certain WTO agreements, remained far below expectations.

Despite efforts to liberalise trade by the developing countries, their success in integrating into the world economy is far from satisfactory. In fact, even after seven years of the establishment of the WTO, there exists a huge imbalance in the share of world trade between the rich and the poor. The share of the LDCs in world trade is still in decimals. It was just 0.49 percent in 2000, compared to a share of 35 percent for the EU alone.

The overall prevailing situation in world trade reflects continued practice of protectionist trade policies of developed country and the absence of complementary measures that are important to create an enabling environment for supply-side responses to changed incentives. 'Behind the border' barriers to trade integration – for example, lack of access to finance, high cost and low quality distribution and transport services are as important obstacles as border barriers such as tariffs (Hoekman, 2002).

This paper makes an attempt to provide an overview of the key challenges that confront developing countries. It briefly discusses the market access issues followed by the problems of private barriers and that of coping with TRIPs, and the opportunities that the recent weakening of TRIPs

* The views expressed in this paper are those of the author and do not necessarily represent those of the organisation he belongs to.

could bring. It also discusses the supply-side constraints and the regulatory responses. Towards the end, it gives a look at the so-called new issues and concludes with explorations of some options for the developing countries to face the emerging challenges.

2. Market Access – Major Hindrances

Market access negotiations in the WTO encompass trade in goods and services. Negotiations on goods are essentially concerned with tariff reductions and the elimination or reduction of non-tariff barriers. WTO rules like SPS, TBT, Anti-dumping, Subsidies and Countervailing Measures, etc., covering contingency protection, are not part of market access negotiations per se, although they can have an important effect on the conditions of market access. Acceptance of improved WTO rules can contribute to the security and predictability of market access.

There has been a significant advancement in the elimination of global barriers to merchandise trade– thanks to the reduction of tariffs and quantitative restrictions on a number of products; and extending multilateral disciplines to previously excluded sectors, particularly agriculture and textiles & clothing.

However, the poor countries have still not been able to penetrate the markets of developed countries. While the overall use of non-tariff measures has declined, the use of certain trade remedy measures such as anti-dumping and countervailing measures are on the rise. For poor countries, the major concerns are tariff peaks, tariff escalation, distortion in agriculture trade, restrictions on textiles & clothing, growing incidence of anti-dumping measures, etc.

2.1 Tariff Peaks and Tariff Escalation

The tariff structure in many industrial countries still contains rates above 100 percent. These tariff peaks are often concentrated in products that are of export interest to developing countries, including major agricultural products such as sugar, cereals, and fish; tobacco and certain alcoholic beverages; fruits and vegetables; clothing; and footwear (Ng and Olarreaga, 2002).

Imports at tariff peaks represent about five percent of total Quad (Canada, European Union, Japan, and USA) import from developing countries, and more than 11 percent of total Quad imports from LDCs (Hoekman et al, 2001). The trade regime in the US, the biggest market in the world, maintains a tariff structure that is scandalously against the developing countries' trade interests (Box 1).

Box 1: The US Trade Regime – Favouring Developed Countries !

The US trade regime today is a chaotic evolution of government policy and business community attitudes over the last eight decades. During the early twentieth century American manufactures were enthusiastic lobbyists for tariff protection against their European rivals. Textiles and apparel mills, as the kings of the economy, got the best deals.

Meanwhile, traditional developing country products – natural resources, and consumer goods like tea and rattan-matting unavailable from American sources – have always had largely free access to the American market. In newer industries like computers, biotechnology and civil aircraft etc. the US Manufacturers were always ahead of their rivals and never sought much protection.

As a result today's American trade regime looks like a fat man lying on its back: Low at each end, high in the middle.

Importers of sophisticated computers and jumbo jets pay no tariffs at all; neither do buyers of gourmet coffee or zinc. But in the middle, on clothes, US tariffs average nearly 18 percent. Food items have even tougher obstacles and footwear is not far behind.

So, as developing countries climb out of natural resources into manufacturing and export crops, they encounter band of trade protection.

The results are embarrassing. To choose an egregious case, the US now collects more tariff revenue from Cambodia than from Singapore.

The US revenue tables show more such surprises. American buys about US$40bn worth of goods a year from Britain and US$10bn from Indonesia, but Indonesian exporters to the US pay $200 mn more in tariffs than their British counterparts.

Likewise, business in the Philippines pay substantially more than those in France; and Bangladesh pays three times as much as Spain.

Source: The Straits Times, February 4, 2002.

Tariff escalation has been a matter of concern for developing countries in the context of market access because it tends to increase the rate of effective protection at higher stages of processing, thereby making market access more difficult for finished manufactured products. For example, in case of food products, the EU tariff rate was 15.7 percent, 17.6 percent and 24 percent, respectively, at primary, semi-processed and fully processed levels in 1997.

2.2 Distortions in Agriculture Trade

As a result of the round, agriculture was largely brought under the WTO disciplines. Import measures had to be eliminated or converted to tariffs ("tariffied"), and the tariffs were then subject to progressive reduction commitments, except for rice and some other staple foods that were subject to minimum access commitments – that is, Tariff Rate Quotas (TRQs). It was also agreed to reduce the level of domestic support, except for exempted "green box" policies and *de minimus* amounts.

However, support to agricultural producers in high-income countries remains sizeable. It is estimated at $245bn in 2000, which is about five times the level of international development assistance (OECD 2001). Export subsidies in agriculture allow countries to export production surpluses to the world market at prices below the high prices prevailing in their domestic markets. Export subsidies were about $7bn, on an average, in 1995-98, of which 95 percent was granted by the EU.

2.3 Restrictions on Textiles & Clothing

The world trade in textiles & clothing has been governed by a special regime called the Multifibre Arrangement (MFA), which provided for waivers from GATT rules. The Agreement on Textiles & Clothing (ATC) provides for the gradual phase out of the country-specific quotas over a 10-year period, ending in 2004. The ATC was an important step to improve developing countries' access to high-income countries' markets. However, the effectiveness of ATC in freeing up markets has been limited by the fact that scheduled quota integration is "back-loaded" with quota-free market access for nearly half of all imports due only at the end of the transition period. Up to 2000, more than 33 percent of trade was integrated, fulfilling the minimum ATC requirements. But products that have been freed of quotas by the EU and the US represent only small shares of their total textile & clothing imports – about 6 percent of 1995-97 imports for the US and less than five percent for the EU (ITCB, 1999).

2.4 Trade-remedy Measures

WTO rules covering contingency protection, standards and so on are not part of market access negotiations per se, but they have an important effect on the conditions of market access. WTO rules like Anti-dumping, Subsidies and Countervailing Measures (SCM) and Safeguard Measures are treated as trade-remedy measures. They are permitted by WTO rules to check alleged unfair trade practices by foreign competitors. However, the experience with these rules so far shows that Members are increasingly using them more as protectionist devices rather than trade-remedy measures.

— *Anti-dumping*

Among all the recommended trade remedy measures under WTO, anti-dumping is by far the most prevalent instrument for imposing restrictions to imports. Till recent past, the main users of these laws were developed countries, but increasingly developing countries have taken recourse to these laws, may be as a response to similar actions by developed countries. Initiations of anti-dumping investigations have steadily increased since 1995. About one-half of all investigations initiated by developed countries between 1995 and 1999 were targeted at developing countries, while 25 percent each were targeted at other developed countries and transition economies.

— *Subsidies and Countervailing Measures*

The use of countervailing measures – both in terms of the number of user WTO Members, initiations, and measures in force– remains much lower than for anti-dumping, although also on a rising trend. As of mid-2000, an estimated 95 final countervailing measures were in place, of which the US had the most (46), mainly on steel products, followed by the European Union (13) and Mexico (10) (WTO 2001b).

— *Rules on Standards and Technical Barriers*

While traditional trade barriers in agriculture such as tariffs continue to decline, technical and regulatory barriers are increasingly subject to debate. In the recent years Sanitary and Phyto-Sanitary (SPS) measures and Technical Barriers to Trade (TBT) have emerged as one of the greatest threats to poor countries' exports.

It is generally agreed that some trade restrictions may be necessary and appropriate in order to ensure food safety and animal and plant health protection. But there has been increasingly arbitrary use of these measures by developed countries. Developed countries are adopting increasingly stricter standards for macro cleanliness, microbial loads, aflatoxin, and pesticide residues. For instance, Japan insists on DDT residues level of 0.4 PPM on unmanufactured tobacco while the international standard is as high as 6 PPM (Jha 2001).

Developing countries are vulnerable to regulatory changes in developed countries due to a relative scarcity of public resources to finance compliance with new and more restrictive SPS and TBT standards. The cost of compliance with WTO Agreements on SPS and TBT in the LDCs can exceed total government budgets for all expenditures.

3. Private Barriers

Although government barriers to trade are coming down, private barriers are replacing them. For example, there has been a sharp increase recently in global cartel activity. Consumers either directly or indirectly bear the cost of this unlawful conduct in higher prices and reduced choice. Simultaneously, enforcement agencies in rich countries have slapped multi-million dollar fines against vitamin companies, food additive makers, steel manufacturers etc. To date only a handful of countries have taken action to penalise transgressing companies or to recover compensation. No developing country, except Brazil, has taken any action on these cartels.

A World Bank study has shown that in 1997, developing countries imported $81.1bn of goods from industries in which price-fixing conspiracies have been discovered during the 1990s. These imports represented 6.7 percent of imports and 1.2 percent of GDP in developing countries (Levenstein and Suslow, 2001). There might have been several other price-fixing conspiracies, which remained undiscovered. Moreover, all of these cartels are made up of producers, who are mostly from industrialised OECD countries.

But this is just one side of the story. Cartelisation is not only about some loss in consumer welfare. It hampers the development of developing countries and growth of their firms through several ways. It has been observed that producers of raw materials and capital good are more prone to cartelisation as the goods produced by them are more homogenous in nature compared to consumer goods, which are more differentiated. The infamous vitamins cartel is a glaring example. This directly affects the firms of developing countries.

Similarly, India became one of the worst victims in the flat-rolled steel and heavy electrical equipments cartels. India has significant production capacity of flat-rolled steel but its producers were not part of the global cartel and they were sufficiently punished for that especially at the time of global recession in the sector. India also paid higher prices for some steel products for which it did not have indigenous capacity, when global business in the industry was rather buoyant. Steel being one of the basic goods for different industries and most developing countries, being in lack of indigenous capacity, had to suffer because of high prices.

Heavy electrical equipment is another item that almost all developing countries require, to install electricity generation plants to meet their growing energy demand. But higher prices of heavy electrical equipments due to cartelisation have significantly raised the cost of installing electricity generating plants and thereby making energy more expensive. Needless to mention that this has adversely affected the competitiveness of developing countries.

At another level, it was observed that the Swiss Watch Manufacturers Association prevented the Indian watch manufacturer, Titan, from exhibiting their products in Switzerland. They had then used the pretext of quantitative restrictions in India, which did not allow them to export to India. The globally dominant TNCs like Microsoft can significantly damage competitiveness of any country, especially the developing countries. However, it can be hauled up for indulging in anti-competitive practices in the US or EU, but developing countries dare not touch it.

4. Coping with TRIPs

The inclusion of TRIPs into the WTO acquis was a major setback for the developing countries. There are several reasons and among them the fundamental one being that it is an anti-thesis of trade liberalisation. A minimum protection period of 20 years for all products, especially when the technology is changing very fast and the lifecycle of product itself is getting shortened, may not be an appropriate step has the potential of hampering innovations, thus affecting dynamic efficiency and welfare both in developed and developing countries alike.

A strong IPR protection regime as envisaged by TRIPs may keep the prices of technology artificially high. Developing country producers will find it difficult to procure this crucial input to become or remain competitive in the world market. Developing countries, with weak regulatory regime, will also find it difficult to check abusive practices of IPR holders. In most developing countries, compliance with the TRIPs treaty involves a costly and time-consuming process of legal and institutional reforms. It may not actually benefit the country, because it may not have so many IPRs of its own to protect.

The Declaration on the TRIPs Agreement and Public Health at Doha, however, represents some weakening of the TRIPs Agreement in so far as access to medicines is concerned. The TRIPs declaration weakens the conditions under which member governments can issue compulsory licenses. It recognises each member's "right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted."

It is important to note that there is an asymmetry in the way different members can benefit from the increased flexibility with respect to compulsory licensing. Article 39 of the TRIPs Agreement allows the authorisation of production by third parties "predominantly for the supply of the domestic market of the Member authorizing such use." Therefore, members that do not have domestic capability for such production will effectively be unable to benefit from the flexibility. The Declaration has instructed the Council for TRIPs "to find an expeditious solution to this problem and report to the General Council before the end of 2002." This has important implications for developing countries with substantial production capabilities, such as India.

The Declaration also explicitly mandates negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference in 2003. It goes on to state that issues related to the extension of geographical indications to products other than wines and spirits will be addressed in the Council for TRIPs as a part of the outstanding implementation issues. There remains disagreement on whether this amounts to a negotiating mandate on the extension of geographical indications to products other than wines and spirits. Countries opposed to such negotiations including the US and Cairns group argue that no mandate has been given. Those favouring such negotiations include EU, Bulgaria, India and Sri Lanka.

5. Supply-Side Constraints

Over the years, the problems vis-à-vis realisation of market access opportunities, which the developing countries have faced so far, emerge also from their own supply-side and institutional constraints, i.e., 'Behind the border' barriers to trade. If a country's investment climate is poor and its institutions and infrastructure are weak, simply changing relative price incentives through trade policy may do little to promote sustained growth.

A supporting legal and regulatory environment is vital for trade liberalisation to serve as an engine of growth. Elements of the associated 'behind the border' trade agenda that affect the investment climate include policies and institutions that support the participation of national firms in international markets and measures to enhance their competitiveness by ensuring access to crucial services inputs – both public and private.

Key areas in many low-income countries are product standards and services. Many low-income countries are not adequately equipped to deal with rapidly tightening product standards and labeling requirements and confront major investment requirements in order to do so (Henson et al. 2001; Wilson, 2002). The lack of an appropriate framework to maintain standards in many developing countries in respect of imported goods may lead to flooding of their markets with sub-standard and unsafe goods from abroad.

The availability of low cost, high quality financial, telecommunication and transportation services are critical determinants of the competitiveness of national firms. Telecommunications are both a vital intermediate input and crucial to the dissemination and diffusion of knowledge. Transportation costs are a major determinant of competitiveness – the cost of international transport is often above the applicable tariff in export markets, and intra-national transport costs can be a multiple of international costs (Fink, Mattoo and Neagu, 2000).

Whatever, the priorities are, in all countries there is a need for complementary macroeconomic, education, health and technology policies. Separating out the trade agenda from the more broadly defined development agenda is difficult, if not impossible (Hoekman, 2002). Concerted multilateral efforts are needed to mobilise additional financial and technical assistance, channeled through development institutions, specialised bodies and the private sector.

6. Regulatory Responses

Whenever, one talks about regulatory response to the new trade regime ushered in by the WTO, the first thing that comes up is an appropriate legal and enforcement mechanism to protect IPR. However, this is just about the commitment that the countries have made and they have to devise an IPR protection regime as envisaged by TRIPs. But countries also need to put in place appropriate regulatory mechanism in several areas to face the challenges of an open trade regime and taking advantages of the opportunities that it has brought in.

Many developing countries do not have an adequate mechanism to ensure standards of products and services. However, the consumer grievances redressal mechanism, to some extent, acts as deterrent. But in a liberalized environment, the consumer's right to information and redress will become limited i.e. consumers will have problems in finding avenues to obtain redress if the product is of foreign origin. Thus appropriate regulatory framework needs to be devised to ensure that sub-standard and unsafe goods do not enter the market at the first place.

Moreover, foreign competitors may sell substandard goods at cheaper prices causing injury to domestic industries, as the consumers may be unaware of the quality of such goods. Even though this may not continue for long but by the time consumers come to know about the quality of such goods, enough damage might have already been done to domestic industries.

As already mentioned an efficient, diversified and well-regulated financial sector is necessary to fund investment needs and allocate resources to where they have the highest returns. However, in most developing countries, financial sector is not efficient enough. It is indeed expensive for domestic industries to raise capital putting them into disadvantage vis-à-vis their foreign competitors. This sector needs major reform measures including that in the regulatory framework in the sector.

Similarly, sectoral regulators for utilities are to be established, or reinforced where they already exist, in the sectors where there is natural monopoly or the possibility of market failure is typically high. The idea is to regulate the firms in a way that even when a competitive market cannot be ensured, the market outcome would be nearly the same had there been competition in the market.

Establishment of sectoral regulators however does not negate the necessity of having a generic competition law with an adequate enforcement mechanism. More so because it has been observed that restrictive business practices have been and continue to be a part of the modus operandi of TNCs in developing countries where security is less stringent (Stewart, 2000).

The competition authority may have overlap with sectoral regulators governing key utility sectors. Ideally, the sectoral regulators would concentrate on tariffs and setting of performance standards. The role of the competition authority would be to deal with abuse of dominance or such other anti-competitive practices when they arise.

The competition law should also have adequate provisions for dealing with anti-competitive practices arising out of dominance gained through IPR as has been provided in TRIPs. Some countries, including India, proposed to deal with such issues in the IPR law. However, it should be noted that the focus of the IPR authority would be the protection of IPR and not check abuses of dominance. Hence the competition authority would be the right institution to deal with the issue.

Developing country competition authorities, in general, do not have the resources or the experience to tackle international competition challenges. Cartel cases are notoriously difficult to prove, even for the American and European authorities dealing with companies based in their territories. It will therefore be almost impossible for a developing country to carry out the tedious case work, and conduct necessary investigations leading to prosecution in international cartels. One way to deal with such constraints would be to have better cooperation among competition enforcement agencies.

7. New Issues

Developing countries in general have always been against the inclusion of new issues at the WTO. The new (Singapore) issues, namely, trade and investment, trade and competition policy, trade facilitation and transparency in government procurement, are no exception. However, there is a fundamental difference between the Singapore issues and other non-trade issues under discussions. While other issues are potentially trade-restrictive, Singapore issues, by and large, can facilitate liberalisation of trade, which is the overall objective of the WTO. Yet, many developing countries feel that these issues are better kept outside the WTO, at least for the time being.

However, five years after its introduction in the World Trade Organisation (WTO) arena through Singapore Ministerial Declaration in 1995, WTO Members have finally recognised the case for these issues and there are high possibilities that the negotiations maybe launched after the Fifth Ministerial, to be held by the end of 2003. Many countries are still sceptical about the benefits and rationale of such agreements. Although the experience of realpolitik at the WTO indicates that negotiations on these issues are most likely to be launched.

On competition policy, the main objection of developing countries is that they do not have adequate experience. However, it is interesting to note that the developing countries, which once promoted the idea of converting the UNCTAD Set to binding instruments, are now not so enthusiastic with the idea of a multilateral competition framework within WTO. This is in spite the fact that they are likely to benefit most if such a framework is developed and enforced in a fair manner. Their skepticism, however, is not without reason.

One of the main reasons for the skepticism is their unsatisfactory experience with the Uruguay Round of negotiations and the present functioning of the multilateral trading system under the WTO. They had to sacrifice a lot without receiving anything significant in return. Special and differential treatment in favour of poor countries was, by and large, just good endeavour clauses, while those in favour of rich countries (such as in textiles & clothing, and agriculture) were binding.

The approach of both the EU and Japan on the issue of competition policy at the WTO is seen by the developing world as a 'market access' push only. Even in many developed countries, the recent soft line taken by the US vis-à-vis the issue is viewed as an effort to enable smooth cross-border mergers, in which US based corporations have a significant stake. Moreover, they believe, even if such an arrangement is arrived at, it may not be sufficient to provide solutions to every problem.

Regarding investment policy they feel that countries are trying their best to provide an investor friendly environment unilaterally and hence there is no need for a multilateral agreement. Moreover, they are not convinced that an international investment agreement would increase the investment flows to developing countries. On the whole, the multilateral framework under the WTO includes many of the provisions that the exporters of capital have been demanding so far. Hence, it was expected that the post-UR era would significantly increase the flow of FDI to developing countries. However, investment flows to developing countries have actually gone down as a proportion of total FDI since the establishment of the WTO.

The developing countries are not very comfortable with the existing investment related provisions in the WTO acquis. The proposed agreement on investment, they fear, would further limit the scope for domestic control of transnational corporations. The agreement would tie the hands of governments trying to channel investment flows according to their national development strategies.

On trade facilitation, everybody accepts that that there are merits in it. The losses that business suffers through delays at borders, complicated and unnecessary documentation requirements are estimated to exceed in many cases the costs of tariffs. It may also be the case that developing country traders are probably more constrained than their developed country counterparts because of these hindrances. Since developing country traders are relatively smaller in size and also exporting or importing in smaller consignments, they find the cost of documentation etc., disproportionately higher, as such costs are very often fixed irrespective of the size of the consignment.

However, there is a feeling that a multilateral agreement on trade facilitation will place substantial financial burden on developing countries. The Doha Declaration has promised to ensure adequate technical assistance and support for capacity building in this area. But the developing countries are not impressed. They believe, in reality, as the experience has shown, the assistance may not come through, while the agreement will come into force making the situation difficult for them.

It has been proposed that there will a cut-off clause in relation to the dispute settlement on trade facilitation matters, to save dispute settlement mechanism from excessive strain (Shin 2001). However, there is a chance that the WTO dispute settlement panel may be flooded with trade facilitation cases, if the cut-off point is low. Alternatively, if the cut-off point is set at a high level, the agreement will benefit only the developed country traders and the developing countries, especially the smaller ones, will not be eligible to bring their complaints to the WTO.

Regarding the other Singapore issue, although nobody is against ensuring transparency in government procurement as such, it is widely believed that it maybe Trojan Horse for a market access agenda. Their suspicion is not without reason. If one looks at the existing plurilateral agreement on government procurement (GPA) at the WTO, one can see that it is not only about transparency. Governments are required to apply the principle of non-discrimination to the goods and services, and suppliers of other parties to the GPA. In terms of services of course GPA takes a GATS-type positive list approach (Evenett, 2002).

Developing countries also feel that any more obligations at multilateral level means more expenditure on structural adjustment and enforcement mechanism to meet such obligations. They think the costs of making such adjustment may turn out to be larger than the expected benefits. Even if the benefits outweigh costs, it is widely believed that the development payoff might be greater if those resources were spent elsewhere.

8. Options Before Developing Countries

No doubt, the WTO had some positive impact on the integration of the developing countries into the multilateral trading system. In the end, however, the issue of market access – the traditional domain of the GATT/WTO and the enhancement of supply-side capacity are critical for creating trade as a vehicle for poverty reduction. Developing countries need a multi-pronged approach both inside and outside the WTO to face this multi-faceted challenge.

In the short-term one of the immediate objectives of developing countries is, how to extract a better deal out of the Doha Development Agenda. Supply-side capacity building really cannot be done in a short span of time. It is of much greater importance and has numerous dimensions. It is up to the national governments to devise beneficial policy changes and to set priorities in the context of an overall development strategy and to allocate scarce resources accordingly.

To secure a better market access in the North, developing countries need to try a different approach. Firstly, they must learn to persist in negotiations. Secondly, they should try to forge alliances not necessarily with developing countries only but with developed countries as well, wherever there are common interests, such as the Cairns Group. In other words try to break the alliances of developed countries. Lastly, developing countries should also think strategically – formulate an issue-wise strategy and always look for trade-offs.

With respect to the new issues, developing countries are indeed at crossroads. Resisting them altogether may not be a good idea. It may not be possible for the poor countries to actually be able to participate fully. However, it must be recognised that if the South has to sign onto a plurilateral or multilateral agreement on any of these issues in future, without having taken part in the discussions, they would clearly end up being a loser.

The South could also pressurize the developed countries to break away from the single undertaking approach. For example they may agree to go for an agreement on competition only, which has potential benefits, and leave others behind. They can also use 'competition' as a trade-off in order to gain in other areas. In any case there is a high possibility that an agreement on competition could be beneficial to developing countries if negotiated properly.

Regarding the issue of investment, it may be noted that the Multilateral Agreement on Investment negotiated in the OECD from 1995 that involved the 27 rich countries with five developing countries as observers ultimately ended in failure. The reservations expressed in this context are not very different from those being expressed by the developing countries. Hence, the developing countries are not likely to be left alone on this issue, as there are divisions even among the EU members and between EU and the US.

On the issue of transparency in government procurement, negotiating on it may not do any harm if they stick to transparency only. Trade facilitation itself is not a bad idea. But they must ensure that if the agreement is finally signed, it must benefit all and not the developed countries only.

For the poor countries, they will need operational special and differential treatment clauses in each. Moreover, if at all they sign it they may link its enforcement, contingent upon the actual receipt of capacity building and technical assistance rather than putting them under the 'best endeavour' clause.

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