SHIFTING COORDINATES OF INDIA'S STANCE AT THE WTO:

Understanding the Domestic and International Economic Drivers

Amit Shovon RAY[*]
Jawaharlal Nehru University, India and
Indian Council for Research on International Economic Relations (ICRIER), India

Sabyasachi SAHA
Indian Council for Research on International Economic Relations (ICRIER), India

[*] Contact Details:
e-mail: amit.shovon.ray@gmail.com; aray@icrier.res.in.
Phone: +91-11-24645218-19-20; Fax:+91-11-24618941, 24620810
Mailing address: Professor A.S. Ray, ICRIER, Core 6A, 4th Floor, India Habitat Centre, Lodi Road, New Delhi 110003, India

SHIFTING COORDINATES OF INDIA'S STANCE AT THE WTO:

Understanding the Domestic and International Economic Drivers[♣]

Abstract: *India's stance at the WTO has undergone a sea change since the beginning of the Uruguay Round of the multilateral trade negotiations. This paper attempts to trace the shifting coordinates of India's position at the WTO. By focussing on three specific areas of negotiations, namely agriculture, services and TRIPS, the paper presents a political economy analysis of how India's stance at the WTO has evolved over time and what have been the underlying key drivers, both domestic and international, responsible for this shifting position. We show that domestic drivers have played the critical role in shaping India's stance at the WTO, while the role of economic diplomacy cannot be ignored either. The paper concludes that India's heightened profile at the WTO at the present juncture, along with its economic success and material capability, presents an unprecedented opportunity to use the platform of WTO negotiations as a major foreign policy instrument to play a constructive leadership role.*

I. India at the WTO: A Brief Overview

India remained a virtually closed economy for nearly four decades after its independence in 1947. Its inward-looking development strategy was significantly inspired by the Soviet model of development. Trade received very little attention in the foundation of India's post-colonial development strategy. The notion of *self-reliance* played a major role in defining the *norm* of development in India. The aspiration was perhaps to mimic the development trajectories of the 'advanced' west, although very much within the framework of import substitution and self-reliance. It was perhaps important to the Indian policy makers to signal to the rest of the world that India could do whatever the advanced nations can. Accordingly, a diversified industrial production base was meticulously planned out for India, ranging from simple consumer items to sophisticated capital goods and heavy machinery. This drive towards self reliance also prompted India to engage in highly complex and resource intensive activities like space research or nuclear technology. The notion of natural comparative advantage took a back seat in this planning process.[1]

Notwithstanding India's closed economy policy stance, India has been one of the initial signatories to the GATT 1947, which was formed post World War II. GATT was as an effort on the part of the developed world faced with mixed fortunes at the end of the war, to discipline themselves in trade in goods and to limit the spread of proactive protectionist policies by individual national governments. India in-principle

♣ We are grateful for comments received from Saradindu Bhaduri and Siddharth Mallavarapu, as well as participants at the International Conference on *Developing Countries and the Future of the WTO* held in Pretoria, South Africa on 4-5 August 2008.

[1] Ray (2006)

was supposed to have accepted the mandate, but it remained firm on its trade and development policies aimed at self-reliance and import substitution.

The flipside of this protectionist trade policy regime soon revealed itself in the form of inefficiencies of various kinds. For one thing, there was no incentive to keep pace with the fast changing global technology frontier in many of the manufacturing sectors, which resulted in Indian industry becoming technologically backward and inefficient with respect to global standards of costs and quality. From the mid 1980s, a technological view of development started gaining momentum in India's development policy. It was increasingly realized that being able to produce everything could not be the end-all goal. It is very important to be able to do things 'efficiently' as well. That may require opening up the doors to latest technological development on the global frontier, quite a departure from its earlier protectionist policy regime. This, in a sense, marked the beginning of India's policy of liberalization.[2]

But initially (during the latter half of the 1980s), this process was mostly limited to liberalizing particular aspects of the control system both in the spheres of manufacturing and trade, without any major change affecting the system itself in any fundamental way. These attempts of liberalization have, however, been arguably piecemeal and somewhat ad-hoc without a comprehensive program of reforms that some of the other inward looking economies had already adopted (including China from 1978).

It was the year 1991 that marked a radical departure from the past when, faced with an exceptionally severe balance of payments crisis, India launched a massive economic reforms package consisting of short-term stabilization measures along with a longer-term program of comprehensive structural reforms. These reforms were much wider and deeper than earlier piecemeal attempts, and which ushered in a complete paradigmatic shift in policymaking that now emphasized not only liberalization of government controls, a larger role for the private sector as the engine of growth, freer operation of market and competitive forces in order to boost efficiency, but greater integration with the world economy through free and unrestricted trade flows.

Interestingly, the Uruguay Round of the GATT negotiations began in 1986, precisely when India's development policy making process was at a watershed. By the time India launched its massive economic reforms package in 1991, marking a paradigm shift in its policy, the Uruguay Round negotiations were well under way, paving the path towards Marrakesh in 1994 and the establishment of the WTO. India's attitude towards the WTO may be best understood against this perspective of the changing mental frame of the Indian policy makers from the mid 1980s onwards, both reinforcing each other.

It is hardly surprising that India remained a *cautious* and somewhat *passive* player during the initial years of the Uruguay Round negotiations, given its long legacy of inward looking development strategy and protectionist trade policy regime. With the liberalization of its trade regime from 1991, India could perhaps slowly perceive an alignment of its policy interests with the core philosophy of the WTO. Free trade and

---

[2] Ray (2006)

greater engagement with the world economy was therefore no more a taboo among Indian policy makers. However, this is not to suggest that the 1991-reforms made India euphoric about the prospects of WTO and its consequences for India. It is natural that the Indian intelligentsia remained rather skeptical about potential vulnerabilities of the nation from the sudden exposure to the world economy. It was only in the area of manufacturing that India's unilateral trade liberalization was carried out during the early1990s. Therefore during the Uruguay Round, India was clearly reluctant to move beyond trade in manufactured goods at the WTO.

The post Marrakesh period is primarily identified with negotiations at three Ministerial Meetings, namely Singapore (1996), Geneva (1998) and Seattle (1999). This phase saw multiple instances of loss of mutual confidence among negotiating partners, in spite of the Marrakesh agreement signed by all members that led to the establishment of the WTO with sector specific commitments to liberalize trade regimes. Developed countries tried to use the Singapore (1996) platform to broaden the agenda of WTO to areas popularly known as the Singapore Issues, namely, Investment, Competition Policy, Transparency in Government Procurement and Trade Facilitation. They also wanted to introduce core labour issues in the negotiations. Developing countries including India objected to such designs, arguing that the Singapore Issues were essentially non trade issues and for negotiating labour standards, ILO should be the right platform and not the WTO. Geneva (1998) was an intermediate phase where members were more keen on facilitating the process of negotiations by working on issues pertaining to agriculture and services, already mandated. Instead of whipping up the Singapore Issues, the Geneva Ministerial only endorsed the earlier mandate of continuing the *work programs* on these issues. But Seattle (1999) proved to be yet another failed attempt by the developed world to promote an expansionary agenda within the WTO, incorporating labour standards and issues of coherence in global economic architecture (the Singapore Issues). For the present analysis, it is worth noting that even towards the end of the Uruguay Round (Seattle in 1999), the US, EC and Japan remained stubborn on anti-dumping and agricultural subsidies.[3]

All this prompted India to take a hard line on not endorsing a new round at Doha in 2001, arguing that commitments of the Uruguay Round has not been fulfilled (especially on the part of the developed countries as mandated in Article 20 of the AoA) and hence it is pointless to initiate a new *round* of negotiating agenda. Perhaps India was also being wary of the various *dispute settlement* cases arising out of its Marrakesh commitments throughout the latter half of the 1990s.[4] This is hardly surprising, given India's lack of capacity to tackle these cases, especially against developed nations that were much better equipped with legal manpower and expertise in these matters.

However, finally India reluctantly signed the Doha Agreement in 2001. At the end, India was quite happy with the Doha outcome, because of its success on three issues: several concessions on implementation issues, weakening of the TRIPS to accommodate access to medicine and public health concerns of developing countries, and most significantly keeping the Singapore Issues at bay.[5] In fact, it was post-Doha

[3] http://www.indianembassy.org/Policy/WTO/overview.html
[4] Panagariya (2002b)
[5] Panagariya (2002a)

that India emerged as a leading and key negotiating partner at the WTO and assumed the role of a pro-active player in the whole process. There was a clear shift from its earlier position of cautious, or at best passive, participation.

II. India's Shifting Coordinates: Sectoral Perspectives

To understand the shifting coordinates of India's stance at the WTO, more specifically, let us briefly examine its position with respect to Agriculture, IPR and Services. These also happen to be some of the most important areas of India's engagement with the WTO.

II.1 Agriculture

Before the Uruguay, agriculture essentially remained outside the purview of the GATT.[6] GATT in a way allowed export subsidies on agricultural primary products and most certainly allowed import restrictions under certain conditions. Farm lobby politics in developed countries ensured high levels of domestic support for their agricultural sector, completely distorting agricultural trade. The Uruguay Round of multilateral trade deliberations thus rightly started approaching issues beyond import restrictions to bring down the prevailing scale of distortions in trade in agricultural products, primarily in the form of massive farm subsidies offered by developed countries. The Agreement on Agriculture, which came into force on January 1, 1995, intended to set the ground for a fair and market oriented agricultural trading system with reform programmes comprising of specific commitments to reduce farm support, export subsidies and to promote market access within a stipulated time frame.[7]

For India, agriculture is a major area of concern, as it supports the livelihood of 65-70 percent of India's population of 1.02 billion. Any multilateral negotiation on agricultural market access and farm subsidies is bound to have its implications for Indian agriculture and its vast population dependent on it. In an attempt to protect this vulnerability and to ensure food security, India continued with a protectionist trade policy in agriculture. Agricultural trade was never quite favourably considered, even to the extent of imposing export taxes on certain food crops. Moreover, India continued to pursue its commitment to provide various input subsides to agriculture, concomitant with its policy objectives of food security, rural development, rural employment and crop diversification.

Therefore, India's stance on agriculture at the WTO has always been somewhat defensive. It has maintained its demand for flexibilities to carry out with its measures of support for agriculture and rural development and therefore be exempt from any reduction commitments on these counts.[8] According to the initial submissions made by India at the WTO, it is seen that product specific support in India is negative while total amount of non-product specific support is well below the *de minimis* level.[9] This amounted to negative Aggregate Measure of Support (AMS) for India, implying that Indian agriculture is net taxed. On the tariff front, although India's bound rates have been quite high, the applied rates for major items, such as rice, wheat, pulses and

[6] Panagariya (2005)
[7] Panagariya (2005)
[8] Mattoo and Subramanian (2003)
[9] Pal (2005)

sugar, made them at par with world prices. Indian agricultural exports did not receive any form of direct export subsidies, although selected areas like horticulture and floriculture received some support in the form of export profit tax exemptions.[10]

Against this backdrop, we may look at India's stance on agriculture at Doha. Regarding market access, India demanded that developed countries must bring down their bound tariff rates, and suggested the creation of a separate safeguard mechanism, along the lines of SSG, for food security in developing countries. In fact, India continued to emphasize on food security as a prime *Non Trade Concern* and wanted that any measures adopted for its poverty alleviation programmes, food security and other social objectives, be exempt from any reduction commitments, while it demanded that developed countries should cut back their domestic farm support below the *de minimis* levels.[11]

Given that agriculture was recognised to be at the heart of the Doha Development Agenda,[12] the Doha Ministerial Declaration flagged off the Doha Round with promises of substantial improvements in agricultural market access and reductions in trade distorting domestic support in agriculture, while paying *equal* attention to developing country concerns:

> "*We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture for special and differential treatment to be made an integral part of agricultural negotiations and for including non-trade concerns in the negotiating agenda.*"[13]

Post Doha and in the lead up to Cancun, the EU failed to keep up to its Doha commitments to come up with a meaningful proposal for cutting down their enormous volumes of farm subsidies. Furthermore, the US Farm Bill 2002, meant to roll out additional support to their domestic agricultural sector, was a big blow to the progress made at Doha. Just a few weeks ahead of Cancun, the two main accused in the distortion of global trade in agriculture, the EU and the US, struck an alliance to come up with a joint text on agriculture. The developing country lobby was in no position to accept the EU-US mandate for Cancun negotiations. Led by Brazil, China, India, South Africa, the developing countries forged a broad-based alliance prior to Cancun, which took shape in the formation of G-20, to ensure a level playing field in agriculture trade and fulfilment of developmental objectives of the Doha Round. Cancun failed because of strong opposition of the chair's text (the Derbez Draft) by

---

[10] Mattoo and Subramanian (2003)
[11] Chakraborty (2004)
[12] Ismail (2007)
[13] Doha WTO Ministerial 2001: Ministerial Declaration, WT/MIN(01)/DEC/1, 20 November 2001, WTO, Geneva. http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm

the G-20, the African, Caribbean and Pacific (ACP) group and the LDC group. India strongly objected to the Derbez Draft on the basis of its concerns pertaining to the issue of domestic farm support as well as the draft's intention to initiate negotiations on Singapore issues without explicit consensus.[14]

India as a part of the G-20 continued its attempt to reach an agreement through informal negotiations with the US, the EU and other members in order to break the stalemate. But it was at the initiative of the US that an agriculture negotiating group comprising of the US, EU, Australia, India and Brazil was formed in the third week of March, 2004 (which already had several meetings earlier) and came up with a the July 2004 Draft. This draft emphasised the elimination of export subsidies, reduction in farm support, promises of substantial market access and lower reduction commitments (S&DT) for developing countries.[15]

There was minimal progress in Hong Kong beyond the July 2004 framework, the most significant being the hesitant offer by the EU to eliminate export subsidies by 2013. India was successful in getting conditional flexibilities in determining the products (under Special Products) which need to be safeguarded to ensure food security, rural development and the livelihood of poor farmers and under Special Safeguard Mechanism (SSM) to use both price and quantity instruments in curbing import surges.[16] Developing countries agreed to make concessions in NAMA, but linked it to market access negotiations in agriculture, so that possibilities that developed countries making more in roads into the developing country markets with developing countries still facing high levels of protection and distortions in global markets for products of export interest to them can be minimised.

But post Hong Kong, it turned out that the US became more cautious and inflexible on the issue of farm support, while the EU continued to appear somewhat flexible on market access. ***The three controversial issues of agricultural market access, agricultural domestic support and market access for industrial tariffs (NAMA) posed a serious threat to the ongoing negotiations. The EU had to improve its offer on agricultural market access, the US its offer on agricultural domestic support and the G-20 its offer on NAMA.***

To take forward the negotiations at this juncture, the G6 (a small group of major stakeholders in the above three issues: EU, US, Australia, Japan, India and Brazil) started having meetings to sort out the differences. The G-6 ministers, in spite of repeated meetings, failed to make any real progress on the core issue of agriculture. This resulted in the suspension of the Doha Round in July 2006 at Geneva. Later this G6 shrunk to the so-called G4 with US, EU, Brazil and India and The G-4 ministers negotiated in Delhi, Brussels and Potsdam during 2007 to invigorate the Round. But talks collapsed in Potsdam on June 21, 2007. Unlike in earlier occasions when EU was the most uncompromising party, it was now the US that adopted an extremely inflexible stance.[17]

[14] Ismail (2007)
[15] Ismail (2007)
[16] Oxfam (2005)
[17] Ismail (2007)

II.2 Intellectual Property Rights (IPR)

India's position on making IPR a standard for the Global Trading System has seen a sea change. India's *shifting* stance on IPR at the GATT/WTO spanning over entire period of the Uruguay and the Doha rounds (1986 till date) has drawn a lot of attention in contemporary analysis. India initially had a strong opposition to include Intellectual Property Rights within the ambit of trade negotiations. But over time this defensive approach became more moderate and finally turned somewhat aggressive with respect to specific dimensions.

At the Uruguay Round, developed nations (the US, in particular), under pressure from their pharmaceutical corporate lobby, proposed to introduce a uniformly strong IPR regime on all nations as part of a multilateral trading agreement through the TRIPS agreement.[18] This was in spite of the fact that a strong IPR goes against the core philosophy of the WTO's principle of promoting competition and free trade.[19] Moreover, there is now a large body of theoretical and empirical literature, firmly establishing that IPR regime must be endogenously determined within the economy, depending on the technological learning and capability levels of the country in question. Exogenous imposition of a strong IPR regime may severely hinder the process of technological catch up. Ironically, there is historical evidence to suggest that the developed world has had the flexibility to adopt an appropriate IPR regime during their process of development and technological learning. Countries like Switzerland, Germany, Japan and Italy did not adopt a strong product for a long time.[20]

India, beginning in the 1970s and well into the 1980s, was going through a phase of "know-why" oriented technological learning. It was building up process development capabilities through reverse engineering – both infringing process for off-patent items and non-infringing processes for patented ones. This was possible because of its 1970 patent act which allowed only process (and not product patents) on chemical substances.[21] Switching over to strong product patent regime at that point would have put a pre-mature halt to this technological capability building process. The Indian pharmaceutical industry lobby, which was experiencing a phenomenal growth and development based on its process development capabilities (often referred to as the *process revolution*), was extremely apprehensive about the TRIPS agreement. India's strong opposition to TRIPS in the initial years of the Uruguay Round appears to be natural and justified.

A clear shift in India's attitude was visible post-1989. Many believe that this sudden change of stance was a result of trade threats from the US (super 301). Perhaps, it was a merely strategic move for India to adopt this changing stance towards TRIPS in 1989, as a tool for extracting concessions in other aspects of WTO negotiations.

But during the 1990s, the domestic business interests also got sharply divided. The associations dominated by MNCs came out openly in support of the TRIPS. Some

---

[18] They wanted to enjoy their patent monopolies across countries by enforcing uniform IPR protection globally through the WTO.
[19] Machlup (1958) discusses how the free-trade movement of the 19th century strongly opposed patents.
[20] Ray and Bhaduri (2008)
[21] Ray (2005)

major domestic players, especially in pharmaceuticals, felt that the technological levels they had reached by then warranted a stronger patent regime for their long run business interests. But a large segment of the domestic industry, still at a nascent stage of technological catch up, continued to pose opposition.[22]

Having signed the TRIPS agreement in 1994, India was mandated to change its patent regime by 2005. The domestic pressure was now enormous. Concerns were expressed about the potential increase in drug prices and its adverse effects on access to medicine and public health in India. While the pressure from the industrial lobby was getting weaker and milder compared to what it was in the 1980s, the opposition from the civil society lobby against TRIPS was gaining momentum. This did have an influence on India's position on IPR yet again.

At Doha, India along with other developing countries notably Brazil and South Africa (constituting the IBSA group), pushed for an explicit acknowledgement of the primacy of the member countries' rights to protect public health and promote access to affordable medicines. This was achieved in the form of a declaration on TRIPS and public health at Doha that came as major victory for the developing world and an important feather in IBSA's cap at WTO negotiations. The declaration recognizes members' "right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted." Moreover it grants each member the "right to determine what constitutes a national emergency or other circumstances of extreme urgency" in implementing TRIPS.

Two other IPR related issues were raised by India at Doha. First, it wanted to extend protection under 'geographical indication' (GI) beyond wine and spirit, to other products. The entire episode of the artificial development of rice variety similar to the Indian *Basmati* rice by the US agro-company Ricetec was under scanner. Second, it demanded restrictions on misappropriation of biological and genetic resources and traditional knowledge (TK).[23]

India's position on TRIPS has remained unchanged post Doha up to Hong Kong. Presently it has focused on three prime concerns – technology transfer, biodiversity and geographical indications. India is of the view that LDCs face serious difficulties in procuring new technologies which could be overcome by suitable safeguards in the domestic IPR laws of LDCs and thereby check the sole rent seeking objectives of the developed country firms in many cases. The other aspect of north-south technology transfer is the growing tendency of intra-firm transfer of technology backed by market seeking motives that relies more on intellectual property protection. This has prompted India to take up the case of technology transfer at the WTO, so that adequate arrangements can be made to ensure such transfers cater to developmental and environmental needs also.

In patenting of organic inventions in terms of micro-organisms and microbiological processes, India proposed harmonisation of TRIPS agreement with the UN Convention on Biological Diversity (CBD) and suggested that TRIPS should conform to CBD rather than the other way round. The fault line between the two approaches

---

[22] Ramanna (2002) www.iprsonline.org/ictsd/docs/ResourcesTRIPSanita_ramanna.doc
[23] Panagariya (2002a)

i.e. CBD and TRIPS, is that CBD considers intellectual property protection as a means to achieving the end of sustainable development, while Agreement on TRIPS considers IPRs as an end in itself. India along with Brazil is at loggerheads with developed countries like the US and Japan in pushing for appropriate amendments in the TRIPS Agreement, to make disclosure of the origin of biological material and traditional knowledge mandatory during filing of patent applications. It should be noted that under present provisions a simple GI protection *per se* does not help preventing 'bio-piracy' since it can only protect the product but not the genetic uniqueness and the traditional knowledge (TK) associated with it.

II.3 Services

Although trade in services is not essentially a new phenomenon, its explicit recognition as an important component of trade flows is rather recent. Travel, transport and tourism services have always been traded, accounting for significant foreign exchange transactions for many countries. However, a major bulk of services has traditionally been regarded as 'non-tradable'. This perception has undergone a sea change especially with the initiation of the General Agreement on Trade in Services (GATS) under the WTO, with a wide range of services now being actively 'traded' worldwide through new organizational and modal channels. Indeed it during the UR that this new area (services) was brought under the purview of trade negotiations and the outcome was the GATS Agreement that came into force along with the WTO in 1995. GATS classify the provision of services into four modes, namely, cross border supply (Mode 1), consumption abroad (Mode 2), commercial presence (Mode 3), and movement of natural persons (Mode 4). It mandated liberalization of service trade, but adopted a "bottom-up" approach, giving the members full flexibility to undertake trade liberalization in services as per their own priorities and pace, under the provision of 'specific commitments'.

Similar to the case of IPR, India, in the initial years of the UR, strongly opposed any proposal for the inclusion of services in the WTO agreement. Indeed during the 1980s, the contribution of services to India's GDP remained quite modest (35-40 percent). Clearly, it was difficult for Indian policy makers to foresee India's service led growth that the country is experiencing currently.

The upturn of India's services sector began only in the mid-1990s and it has expanded very rapidly in the last decade and a half. Between 1994 and 2004, the services sector grew at the rate of 7.9%, much higher than the growth rates of other sectors as well as that of total GDP (3% for agriculture and allied, 5.3% for manufacturing and 5.9% for total GDP). The share of the services sector in India's GDP increased from 29% in the 1980s to 41% in the 1990s and to 50% in this decade. The expansion of the services sector has been accompanied with a rising trade in services for India. India's share in world services exports almost doubled between 1998-99 and 2004-05 (from 0.99 % to 1.8%). Nearly 50% of India's exports of services are software services.[24]

Mode 3 (commercial presence) has been the most important mode, accounting for 57% of India's services trade. The inflow of FDI in services is mostly concentrated in the telecommunications and the financial services sectors. There is also a rising trend

---

[24] Banga (2006)

in outward FDI (OFDI) in services from India. In fact, services account for 30% of total Indian OFDI. Indian OFDI in services is primarily concentrated in IT and ITES.

India's Mode 1 (cross border supply) trade in services, accounting for 28% of India's total services trade, is also dominated by IT and ITES. India's competitive advantage in off-shoring is attributed to its growing pool of highly skilled, low cost workers. The growth in service industry particularly in the high-end software and business services has been immensely facilitated by on-site delivery in many cases in addition to offshore provisioning.

Mode 2 (consumption abroad) is gaining importance, especially in areas of health education and tourism. It accounts of 14% of India's total trade in services.

Finally, Mode 4 (movement of natural persons) remains an insignificant fraction (1%) of India's total services trade, primarily due to restrictions and regulations on movement of natural persons imposed by member nations. This is one area where trade liberalisation has been resisted the most.

Against this backdrop, it is easy to understand how India, from the mid-1990s, slowly started shifting away from its rigid opposition to service trade and finally by the mid-2000s adopted an aggressive pro-service trade liberalisation posture.

Post 1995, negotiations continued on four major areas of services – financial services, telecom, maritime transport and Mode 4. Agreements on the first two were reached in 1997. India complied without much hesitation and the consequences are evident in terms of a paradigm shift especially in telecom in India, also to some extent in banking. Negotiations on maritime transport were suspended and not much progress was made in the negotiations on Mode 4. India remained, by and large, conservative during the post Uruguay Round negotiations in services, particularly in making commitments in sectors like energy, distribution, environment, education and professional services. In Mode 4, India did not undertake any commitments, like most other members.[25]

Services negotiations entered a new era under the GATS 2000 framework that became an integral part of the Doha Development Agenda since November 2001. This framework, resulting from proposals made by India and other developing countries, recognised the need for appropriate flexibilities to developing countries and the importance of bilateral *request-offer* approach as the main method of negotiations. This approach of *bilateral request-offer* does not lead to a direct outcome in terms of arriving at any bilateral understanding between two countries or groups, rather it involves a process of repeated offers, negotiation, and reorientation before it is finally accepted as a GATS schedule.

Under this approach, India received requests for full commitments under Modes 1, 2, and 3 stressing on the removal of Mode 3 restrictions. On the other hand India submitted requests to more than 60 countries, including some major developed countries like US, EU, Japan, Australia, Canada and New Zealand and developing countries like China, Mexico, Brazil, Malaysia and Indonesia mostly in architectural

[25] Das (2006)

services, audio-visual services, computer and related services, tourism and travel related services, health and maritime transport services across all modes with significant focus on Mode 4 and stressed subsequent dismantling of the existing levels of *domestic regulation* in the trading countries.

Although in the Conditional Initial Offer of January 2004, India was regarded as conservative, in its Revised Offer the very next year, August 2005, India's stance became one of the most ambitious in liberalising service trade. India was practically offensive in all four Modes with improved horizontal commitments and minimal restrictions under Market Access (MA) or National Treatment (NT).

Given that the services negotiation under bilateral request-offer approach lacked momentum, at Hong Kong (2005), at the behest of developed countries, a new methodology of *plurilateral request-offer* was suggested in a manner that could put pressure on LDCs. According to this method, a group of members may place a collective request, on a specific sector or mode, directly to a target country, which in turn is obliged to *consider* it while submitting its revised offers.[26] India was seen as colluding with developed countries in pushing this agenda. Not surprisingly, India, by December 2005 had realised its potential gain from service trade liberalisation and took an aggressive stance in this regard, even at the cost of annoying and dissociating with some of its long standing developing country allies. India was accused of digressing from more serious issues of agriculture and NAMA at Hong Kong, to run after its perceived immediate benefits arising out of service trade liberalisation.

III. India's Shifting Coordinates: Political Economy Analysis

In the previous section, we have discussed how India adopted its stance on these three issues (agriculture, IPR and services) at the WTO at different points in time. Based on these evidences, we now attempt to analyse the underlying political economy forces that have shaped India's stance at the WTO. We may offer *two hypotheses* to begin with – one suggesting that India's stance has been consistently domestic interest driven, while the other indicates towards international economic diplomacy as the important driver.

III.1 Domestic Compulsions

To illustrate how domestic compulsions have shaped India's negotiating stance at the WTO, we review instances from amongst all three issues discussed above. We must remember that domestic compulsions may arise out of a complex interplay of conflicting interests of different constituencies and their ability to influence the decision making process, leveraged by the democratic fabric as well as the changing economic profile of the nation.[27] Hence one may not expect domestic compulsions, as

[26] As noted by Das (2006), the insertion of the word 'consider' in the final text was an improvement over the original version, which obliged members to enter into negotiations rather than merely considering doing so.
[27] See Zahrnt (2008) for a candid discussion of the influences exerted by various domestic constituents in shaping the negotiating positions adopted by member states.

perceived by the government, to remain static over time even on the same negotiating issue.

India's approach towards the TRIPS agreement may be cited to exemplify the importance of this changing nature of domestic compulsions in shaping the stance. India's vehement opposition to TRIPS pre-1989 is perfectly understood in the light of the interests of its pharmaceutical industry, still at a nascent stage of technological maturity, which required a weak patent regime to prosper and develop. Eventually, during the 1990s, the industry got divided with one segment, perhaps the more powerful one, beginning to support TRIPS in their *own* business interest. When India signed the TRIPS agreement in 1994, it did not face much opposition from the industry lobby therefore. However, now there was stiff opposition from the civil society lobby against TRIPS on grounds of public health and access to medicine. India's democratic polity ensured that these civil society outcries get reflected in its stance at the WTO. [28] This was what we find in Doha and the resultant declaration on 'TRIPS and public health'. One may also argue that apart from the civil society lobby, the Indian pharmaceutical industry with competitive strength in the global generic market had a clear business interest in this Doha declaration on public health.[29] Subsequently, India's persistent initiative for the extension of *Geographical Indications* and mandatory disclosure of the origin of biological materials and traditional knowledge also reflects its domestic interest driven stance, given its rich biodiversity and traditional knowledge resources.

In agriculture, India's stance has not undergone much change. Its demand for flexibilities and S&D treatment to take care of developmental concerns, including food security, livelihood and rural development, is a result of a strong agricultural lobby in India's domestic politics as well as its declared policy priority towards the poor and the vulnerable. Indeed, it has been noted that India's preoccupation with developmental concerns perhaps indicates its greater alignment with G-33 on agricultural negotiations, rather than with G-20 which aimed to achieve a more ambitious outcome in liberalising agricultural trade by reducing farm subsidies and trade restrictions in the US and the EU.[30] But this is not to suggest that there were any major divergence of interests of the two groups. Both were fighting against the US/EU coalition in agricultural negotiation.

Services negotiations perhaps illustrate the most noticeable shift in India's stance at the WTO, entirely driven by domestic imperatives. From being a strong opponent of GATS during the Uruguay Round, India became one of the most aggressive proponents of service trade liberalisation in the Doha round especially at the Hong Kong Ministerial in 2005. While Indian policy makers failed to foresee in the 1980s, the importance and the enormous potential of the services sector in India's economic prosperity, by 2005 it was evident that India's emergence in the world economy was largely driven by its services sector boom. It was, therefore, in India's interest now to push for liberalisation of trade in services, especially through Modes 1, 2 and 4. Of course, India's aggressive stance on Mode 4 reflects its inclination to please its vast

[28] This might appear to be in line with Zahrnt's (2008) conlcusion that non-economic interests lobbied by influential civil society organizations exert greater influence on the negotiating positions of member states than pure trade/ economic interests of the nations.
[29] This point was brought to our notice during discussions with Saradindu Bhaduri.
[30] Ismail (2007)

constituency of the upwardly mobile educated middle class, who have been the prime beneficiary of India's service sector boom and have been on board *India Incorporated* taking off into the world economy.

In spite of the apparent eagerness to liberalise trade in services, certain areas pertaining to Mode 3 has always been cautiously guarded in India, because of their traditional role in generating mass employment through direct and indirect linkages (as in retail trade) or else for being the principally trusted channel (like government provision) for services like education and health (even in specialised forms) and most certainly fulfilling the needs of a large segment of its population. Possible benefits, if any, due to foreign presence in these services are perceived to be outweighed by possible welfare losses in terms of equity, universality and employment. This has perhaps deterred unconditional opening up of these sectors to foreign players by India.

III.2 International Economic Diplomacy

The way in which WTO negotiations are carried out, one gets the impression that it is more of striking 'deals' among conflicting members rather than engaging in debates on matters of principles. Members, driven by their narrow domestic imperatives, strive to strike a balance between its gains and losses from striking a deal and arrive at an agreement that optimises their payoff subject to the constraints of unequal bargaining power. The role of economic diplomacy in this respect can not be denied. Let us take a look the extent to which this factor has shaped India's stance at the WTO, again with reference to the three issues of TRIPS, agriculture and services.

India's sudden turn around on TRIPS way back in 1989 has often been linked to economic threats from the US. India perhaps changed its course of action by softening on TRIPS to receive concessions on other aspects of trade liberalisation as well as its domestic economic needs. This is a clear case of economic diplomacy at work in determining India's WTO stance.

India went to Doha with a negative attitude towards initiating a new round of negotiations. But it gave in and signed the Doha Declaration on the last day. One may again notice the role of international economic diplomacy in this shifting position. India did make a long list of submissions to push for developmental concerns in various aspects of WTO negotiations, TRIPS and public health and agriculture being the most prominent among these. While agreeing to a new round, India could succeed in extracting clear mandates on many of these developmental concerns being explicitly mentioned in the declaration. This was indeed seen as a major victory for India at Doha, the reversal of its stance on a new round notwithstanding.

Finally, at the Hong Kong Ministerial, India was seen to align with the US and the EU in pushing for an ambitious services agenda. It was even accused of being a party to the initial version of the infamous *Annex C* of the Hong Kong Ministerial Declaration. At this point, India's economic diplomacy prompted it to align with long standing adversaries at the WTO (for immediate gains from trade in services), even at the cost of dissociating itself from its developing country allies and digressing from its development agenda.

III.3 Summary

On balance, we conclude that the primacy of domestic drivers in shaping India's stance at the WTO, especially on specific issues, is clearly evident. Indeed, in many cases, India has *reversed* its position with its changing economic structures and parameters that completely altered its domestic imperatives. This is most clearly visible in case of services and also to an extent in case of TRIPS.

Nevertheless, the role of economic diplomacy can not be ignored either. India has also been a part of this negotiating game based on striking deals and balancing priorities through economic diplomacy. Interestingly, even the character of its economic diplomacy has changed over time as it achieved a heightened profile at the WTO. For instance, India succumbing to the US pressure on TRIPS in 1989 reflects a very different diplomatic profile compared to India's more assertive post Hong Kong stance as part of the G4.

This brings us to the concluding section of our paper which critically looks at India's heightened profile and its potential leadership role at the WTO.

IV. Will a "high profile" India succeed in playing a constructive leadership role?

To answer this loaded question, it is necessary to understand the genesis of India's heightened profile at the WTO. India at the beginning of the Uruguay Round was a nearly closed economy and a negligible player in the world economy (and world trade) and it is of little surprise that India never received much importance and attention during the initial phase of the multilateral trade negotiations.

However, the decades to follow witnessed a phenomenal transformation of the Indian economy, resulting in India's emergence as a major player in the world economy, with the 4th largest GDP in PPP terms, experiencing growth rates of 7-9 percent for consecutive years, and trade-GDP ratio of more than 35 percent. As a result, India now hogs the limelight of global economic attention along with China and a few other emerging economies. Given the dynamics of mutual interdependence in the global economy, the prosperity of the world becomes critically linked to the parameters of economic policies and performance of the key players. India's emergence as a major economic player in the world has, therefore, definitely contributed to its heightened profile at the WTO.

India's increasing attention from the world on WTO negotiations can perhaps be traced back to Singapore (1996), where India posed a stiff opposition to the inclusion of the so-called *Singapore Issues*. Again in Seattle (1999), India played an active role in scuttling the issue of labour standards, championing the cause of developing countries. Later in Doha (2001), India received a lot of criticism and negative publicity, especially from the western media for its stand on resisting a new round.[31] While India was being branded as having a negative attitude towards negotiations in the sense of adopting a position of what *should not* be included rather than a positive

[31] Panagariya (2002a)

stand on what *could* conceivably be included for its own interests, the publicity brought India to the limelight and conveyed a signal that India could potentially block the progress of multilateral negotiations and India's withdrawal from the negotiating table might prove costly.

Indeed, India's claimed victory on counts of developmental concerns being acceded to at Doha, gave it a renewed confidence to adopt a more pro-active and enthusiastic posture at the WTO negotiations. Later in the run up to Cancun, the formation of G20 to resist the US-EU agenda on agriculture, India again played a leading role along with its allies Brazil, South Africa and China and this further contributed to India's importance at the WTO.

Finally, when the Doha round was suspended at Geneva (2006), India was considered to be among the select key members, which could salvage the round. Along with the US, the EU and Brazil, India became a part of the high profile G4 to take forward the round and break the stalemate. There could, of course, be several interpretations of India's inclusion in this group. But, there is a strong perception that the US and the EU, which enjoyed the maximum bargaining power and could easily drive the WTO agenda/ negotiations in the early days, were now losing ground. Especially post-Doha, with developmental concerns being explicitly recognised, the US-EU coalition found it increasingly difficult to ignore the developing country voices, that were vehemently put forward by countries like India (among others) with global support from civil society lobbies. Under the circumstances, the only sensible step was to co-opt some of these countries into a closed group to seek out solutions. India, being a large emerging economy with a large poor population (giving it legitimacy to fight for developmental concerns) and already acknowledged as an important negotiator at the WTO, was a natural choice. In addition, India's aggressive pro-liberalisation stance on services at Hong Kong perhaps convinced the developed countries that there could be potential overlap of their interest with that of India's.

Against the backdrop of this heightened profile, the immediate question that comes to one's mind is how far India could use its profile to give a mature and constructive leadership to the developing world without having to stall the progress made in the multilateral trade negotiations made so far.

There is clearly a large overlap between India's domestic interests and the larger interests of the developing world. India's developmental concerns at the WTO, especially with respect to food security, livelihood and public health have, therefore, nicely championed the cause of the developing world, although much of it India has adopted for its own domestic priorities. Likewise, India's focus on traditional knowledge and bio-piracy reflects its own interests which also coincide with the interests of many developing countries.[32] Nevertheless, there is evidence to suggest that India's stance at the WTO has not always been driven by narrow domestic priorities. For instance, India's concern for technology transfer (to cater to environmental and developmental needs) and preservation of biodiversity as part of its TRIPS negotiating agenda during the Doha Round is a clear reflection of its global

[32] Note that more than 80 percent of the biodiversity hotspots are located in the developing world. www.biodiversityhotspots.org.

concern for sustainable development, as expected from a mature player in the world economy.

But, as in any other democracy, much of India's negotiating stance at the WTO has naturally focussed on domestic drivers and that too largely determined by political-economy forces based on the relative strengths and influence of various interest lobbies within the framework of democratic polity. No wonder, we see India at Hong Kong, trying to push for services with over–enthusiasm. Perhaps India could have been a little more cautious and particular in signalling its equally enthusiastic posture on its long standing developmental concerns that it had championed so far. This could have prevented developing countries from accusing India of aligning with developed nations to make headway in specific sectors of interest, and the possible doubts that it might have created among developing nations about India's sincerity in championing the cause of development at the WTO. Later, of course, we do find India back on track its clear developmental focus at the G6 and G4 meetings post Hong Kong. India's candid statement in the latest Economic Survey vindicates this point:

> "*While safeguarding the interests of India's low income and resource poor agricultural producers (which cannot be traded off against any gains elsewhere in the negotiations) remains paramount for India, making real gains in services negotiations where it is a demander is no less important. In the case of industrial tariffs, India's growth and development concerns need to be addressed where India has taken a stand along with NAMA-11 coalition. These concerns are reflected in India's position on different WTO issues for negotiations*"[33]

On balance, there is absolutely no reason to believe that India will be sold out to the US-EU pressure. But in case, India sees that its own economic interest lies in aligning with this group, it would perhaps adopt a balanced approach towards its negotiating stance without compromising on its firm commitment to global developmental issues.

We conclude our paper with a general observation about India's engagement with the world. It is worth noting that India's ideational influence on the world, in its immediate post-independence period (1950s), far exceeded its material capability at that juncture. India was proactive in generating new ideas of world order that attracted the world's attention.[34] Even at this present juncture in the new millennium, India is drawing a lot of attention from the world, but much of it is primarily attributable to economic parameters. Diplomacy nowadays is used as tool for exploring possibilities of trade and economic cooperation. It is, therefore, understandable that India's foreign policy has become economics driven with specific business interests playing a major role in defining the coordinates. India is busy forging *strategic* alliances, primarily on the basis of its economic needs and priorities.

Presently, when India is in a much more comfortable economic position, enjoying unprecedented growth rates and economic prosperity at the macro level, India *can* aim at a grand foreign policy design to promote a fair and equitable world order. Indeed, India's heightened profile at the WTO at this juncture provides a golden opportunity

---

[33] Government of India (2008)
[34] This point was brought to our notice during discussions with Siddharth Mallavarapu.

for the country to capitalise on the platform of WTO negotiations as a major *foreign policy instrument* to play a competent leadership role for the developing world.

REFERENCES

Banga, R. (2006), 'Statistical Overview of India's Trade in Services', in Rupa Chanda (eds) *Trade in Services & India, Prospects and Strategies,* New Delhi: CENTAD and New Delhi: Wiley India (P) Ltd.

Chakraborty, D. (2004), 'Recent Negotiation Trends on Agriculture under WTO', *RGCIS Working Paper,* No. 47, September

Das, K. (2006), 'GATS Negotiations and India, Evolution and State of Play', *Centad Working Paper,* No. 7

Government of India (2008), *Economic Survey 2007-2008,* New Delhi: Ministry of Finance, Government of India.

Green, D. (2005), 'What Happened in Hong Kong? Initial Analysis of the WTO Ministerial', *Oxfam Briefing Paper,* No. 85, December

Ismail, F. (2007), *Mainstreaming Development in the WTO, Developing Countries in the Doha Round,* Jaipur: CUTS International and Geneva: FRIEDRICH EBERT STIFTUNG

Machlup, F. (1958), *An Economic Review of the Patent System,* Study of the Sub Committee on Patents, Trademarks and Copyrights of the Committee on the Judiciary, United States Senate, US Govt Printing Press: Washington DC.

Mattoo, A. and Subramanian, A. (2003), 'India and the Multilateral Trading System Post-Doha: Defensive or Proactive?', in Aaditya Mattoo and Robert M. Stern (eds) *India and The WTO,* Washington, DC: The World Bank and Oxford University Press

Pal, P. (2005), 'Current WTO Negotiations on Domestic Subsidies in Agriculture: Implications for India', *ICRIER Working Paper,* No.177, December

Panagariya, A. (2002a), 'India at Doha: Retrospect and Prospect', *Economic and Political Weekly*, January 26

Panagariya, A. (2002b), 'Developing Countries at Doha: A Political Economy Analysis', *World Economy*, 25(9), September 2002, pp. 1205-33

Panagariya, A. (2005), 'Why an Agreement in Agriculture is within Reach', *Foreign Affairs*, Special Issue "Free Trade?", December

Ramanna, A. (2002), 'India's Patent Policy and Negotiations in TRIPS: Future options for India and other Developing Countries', Paper presented in the *National Conference on TRIPS - Next Agenda for Developing Countries*, Shyamprasad Institute for Social Service, Hyderabad, October 11-12

Ray, A.S. (2005) 'The Indian Pharmaceutical Industry at Crossroads: Implications for India's Health Care', in Amiya Bagchi and Krishna Soman (eds) *Maladies,* *Preventives and Curatives: Debates in Public Health in India*, New Delhi: Tulika Books.

Ray, A.S. (2006), 'India's Economic Reforms: Opportunities, Challenges and Political Economy Perspectives', in Lyal White (eds) *Is there an Economic Orthodoxy? Growth and Reform in Africa, Asia and Latin America,* Johannesburg: South African Institute of International Affairs

Ray, A.S. and Bhaduri, S. (2008), 'Co-evolution of IPR Policy and Technological Learning in Developing Countries: A Game-theoretic Model', Paper accepted for *Globelics 6th International Conference, Mexico City,* September 2008 (forthcoming).

Zahrnt, V. (2008), 'Domestic Constituents and the Formulations of WTO Negotiating Positions: What the Delegates Say', *World Trade Review*, 7(2), pp. 393-421.