

Cancun crossroads for the WTO:

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The Cancun meeting of the WTO takes place at a time when the legitimacy of the institution is under question more than ever before.

The Cancun Ministerial Meeting of the World Trade Organisation is likely to be an absolutely crucial one, both for the organisation itself, and for the many developing country members who are already suffering from the impact of various operations of the WTO. Not since the Seattle meeting of December 1999, which famously collapsed amidst street protests and internal dissensions within the WTO, has there been such discord among the member countries before the event, or such unhappiness with the effects of the WTO among the vast majority of people across the world.

The ministerial meetings of the WTO are mandated to occur every two years, and they have now become focal points for both concern and protest, as such meetings can decide on lots of matters, including which issues can be taken up for fresh negotiation, how existing agreements can be changed, and so on. Since Seattle, these meetings have also become testing grounds for the international legitimacy of the WTO and its functioning.

Before the Seattle meeting, supporters of corporate globalisation were touting it as the beginning of a new "Millennium Round" that would introduce all sorts of new issues like investment and competition policy into the trade negotiations. In the event, the Seattle meeting became famous as the one that failed, and failed in a spectacular fashion.

It was not only that the entire event was disrupted by huge demonstrations and even occasional violence on the streets, as hundreds of thousands of people, including people from trade unions and social movements, came from across the world to protest at the dreadful effects that the operations of the GATT agreement and the WTO had so far. Even within the meeting rooms, agreement could not be reached on most of the more important issues.

Several developing countries' negotiators (including the Group of 24 from Africa and the Group of Caribbean and Latin American countries) objected that their genuine complaints with respect to the way the agreements has operated, must be first be addressed, before they would agree to even consider any other issues. There was deadlock, and finally not even an official declaration could emerge from the meeting.

So the "Millenium Round" could not take off then, and the new century began with the imperialist establishment becoming genuinely concerned about the future of the WTO itself. The next meeting was chosen to be hosted in a place which could provide maximum security and prevent the kind of public protests that were now expected.

In consequence, the meeting was held in Doha, the capital of Qatar - a Gulf Emirate state not known for its practice of democracy, run by a single powerful ruler. It was held under incredibly tight security, and very strict policing. Potential protestors were prevented from entering the country at all, and even when several hundred people would gather outside any venue of the meeting, they would be quickly cleared off the streets by the nervous authorities.

Also, the attempt was made to try and provide some crumbs of comfort to developing countries, so that they would feel less alienated by the process and the effects of the WTO. Mention was made of a "Doha Development Agenda" and there was a declaration on "TRIPS and public health", which addressed one very important concern of developing countries: the very high prices of essential and life-saving drugs that were resulting from the monopolies created by patents as a result of the TRIPS agreement (Agreement on Trade-Related Intellectual Property Rights).

However, these changes were mainly cosmetic, and did not really amount to much. The Doha Development Agenda amounted only to vague statements that developing countries could be given "Special and Differential Treatment" on certain issues, which remained to be specified and elaborated by further negotiations. There was also a promise to consider developing countries problems with respect to agriculture, which had become one of the most serious concerns in the whole of the developing world, in the ongoing negotiations on the Agreement on Agriculture.

Even the Declaration of TRIPS and Public Health, which was considered a great victory, was not legally binding because it did not change the wording of the agreement itself. It simply suggested that public health concerns should allow for a more flexible interpretation of clauses that were already in the TRIPS agreement. Once again, the issue was referred to further negotiations in the TRIPS Council of the WTO.

The chief positive feature of the Doha meeting was that it did not impose further pressure on developing countries. Thus, a new Round was once again averted, or at least postponed, by the combined pressure of developing countries including India. Of course, some of the more contentious issues (known as the "Singapore issues", because they first came up in the Ministerial Meeting in Singapore in 1997) were put into "Working Groups", which meant that the threat of these issues turning into negotiation items has not gone away.

The Doha meeting came nowhere near addressing developing countries' real concerns about the harm that had already occurred through the implementation of the various agreements. And the Cancun meeting is likely to be even less successful in this regard. In fact, all the indications so far suggest that developed country negotiators are planning to use this meeting to push through further more damaging liberalisation and opening up by developing countries for their own large capital, while themselves maintaining various kinds of subsidies and protection.

Just last week, at the penultimate moment, an agreement on TRIPS and public health was pushed through in Geneva. This has been presented a major concession to poor countries that need to import essential drugs in cases of national emergency, as well as a boon to generic drug manufacturers in countries like India. In reality, it is nothing of the sort. The US government and the multinational drug lobby, which had succeeded in stalling these negotiations for eight months, have now succeeded in imposing such strict conditions on the parallel import of drugs, that the supposed agreement will actually make very little difference.

In fact, the compromise that has been arrived at is still biased towards protecting the patent rights of Northern pharmaceutical companies

and preventing generic manufacturers from encroaching on their monopolies. Drug prices in poor countries - even for essential life-saving drugs such as for HIV-AIDS - are not likely to come down; and a poor country badly in need of medicines at affordable prices will not be able to import them quickly or easily from generic manufacturers. Indeed, this new statement actually reduces the flexibilities which were already written into the original TRIPs agreement by specifying the conditions and limiting the extent. So if anything, legally speaking, it is possibly a step backward for developing countries.

The reason it is being presented as such a big breakthrough with large "humanitarian" implications (which in reality do not exist) is because this enables the United States negotiating team to go to Cancun without facing opprobrium from the rest of the world, and it enables the WTO secretariat to claim that it is on track by having completed the "unfinished agenda" announced at Doha in this regard.

At the Cancun meeting itself, three important areas are to be discussed and possibly even decided. The first relates to agriculture, which is probably the most fraught and urgent issue for developing countries. Developing countries were persuaded to accept the many negative features of the 1994 Uruguay Round GATT agreement that created the WTO, because they thought they would gain in at least two areas: agriculture and textiles and clothing. But in fact in both of these areas, trade has become more difficult for developing countries, and the promises made at that time have not materialised into reality.

In agriculture especially, the problem has now become so acute that there is a real agrarian crisis being played out now in many parts of the developing world. According to the Agreement on Agriculture, developed countries were supposed to reduce their domestic support and subsidy measures as well as gradually eliminate export subsidies. In addition, they were supposed to provide much greater access to their own markets for exports of developing countries, by cutting tariffs. Developing countries also had to make similar concessions, but to a lesser extent.

At least, that was how most governments - and people - in developing countries interpreted the agreement. At that time, the concerns were much

more about food security and the impact of rising prices upon food importing countries and those people in other developing countries who were net buyers of food. Hardly anyone anticipated that precisely the opposite trends would be experienced: that in fact, prices of most agricultural commodities would fall in international markets.

And yet, that is actually what has happened. Between 1996 and early 2002, international prices of most primary commodities - and agricultural goods in particular - fell. They have since been increasing, but not by very much. One important reason for this is that developed countries have not reduced their aggregate support for their own farmers, which are supposed to be back to the levels of before the formation of the WTO. Also, developing countries have as much difficulty as before in exporting their agricultural products to the developed countries, because problems of high tariffs and other barriers to import persist.

Developing countries found to their dismay that the Agreement on Agriculture contained a number of loopholes which have actually allowed all this to be quite legal within the treaty. With regard to domestic support for agriculture, the damage was done in the 1994 agreement when the different kinds of farm subsidies were divided into three types. The first, called "Amber Box", consists of subsidies which are seen as distorting trade, and which have to be reduced. But other kinds of subsidy were allowed: "Green Box" subsidies which are for production restructuring and direct payments not linked to production, and "Blue Box" subsidies, which are not linked to current production but to past production or area.

Developed countries simply shifted their subsidies to "Green" or "Blue" box categories, and did not cut them down in the aggregate. This has meant that farmers in the North are heavily subsidised, often to the tune of as much as \$3,000 per hectare, and therefore their products can be sold at much lower prices in international markets. These products then compete with crops produced by small cultivators in developing countries, who get the benefit of hardly any subsidies.

In fact, cultivators in most developing countries now faced quite the opposite problem. They have been facing higher costs because governments have been raising user charges on water and electricity and cutting subsidies

on inputs like fertiliser. And, because the WTO forced developing countries to liberalise agricultural trade, move from quota import controls to tariffs and reduce tariffs on agricultural products, these cultivators have had to compete with the threat of highly subsidised imports even in their own domestic markets.

The extent of the consequent agricultural crisis across the world is truly mind-boggling. Across the developing world, including in India, farmers are in distress. The threat of import competition has sometimes even affected the viability of subsistence cultivation. Thus, in Central America small subsistence farmers who used to produce beans for own consumption, are finding that import beans from the US are selling for lower prices such that their own cultivation is no longer viable.

It is no wonder that developing countries have realised that in the present circumstances, there is a real possibility of cultivation becoming unviable. Since agriculture still accounts for a significant part of the labour force (more than 60 per cent in countries like India) this means there is a problem of livelihood security, in addition to the other problem of food security.

The attempts to resolve this extremely contentious issue through negotiations at the WTO in Geneva have failed. The European Union is determined to preserve "Blue Box" subsidies for its agriculture, which it says is not just about production but also about a culture, and a way of life and of preserving the environment. The US will carry on using and increasing "Green Box" subsidies, as the Farm Bill introduced last year by George Bush showed.

The US and the European Union have now put forward a joint proposal which more or less allows the present level of Northern subsidies to continue, but asks for large cuts in tariff rates from developing countries. In response, a group of 14 developing countries, led by India, China and Brazil, have put forward an alternative proposal. This asks for large cuts in subsidies and tariffs of developed countries, and lower tariff cuts for developing countries. It also has a category of "Special Products" which are important from the food or livelihood security point of view, which will be exempt. But even this draft does not make the necessary demand that as

long as developed countries persist with their subsidies, developing countries should be allowed to protect their own agriculture through more and newer import controls.

The WTO secretariat has prepared a "Draft Ministerial Declaration" for Cancun, in which the discussion on agriculture broadly follows the lines laid down by the US-EU draft. This reflects the power balance in the WTO, but is fundamentally against the interests of developing countries. The meeting in Cancun will decide which side wins in this context. At stake are the material conditions and even the very lives, of more than a billion small cultivators in the developing world. Given the prevailing conditions, a breakdown of these talks is greatly preferable to agreeing on anything along the lines of the draft declaration of the WTO secretariat.

The second important area that is to be decided in Cancun relates to industrial tariffs, or "Non-Agricultural Market Access" (NAMA) as it is now called in WTO-speak. This has not received sufficient attention in India, but it is of crucial importance. Already in the NAMA negotiating group at Geneva, it became clear that there are deep divisions, along North-South lines, on how to approach the liberalisation of industrial and other "non-agriculture" goods.

The draft declaration proposed by the WTO Secretariat has taken the "northern" positions, with several elements that developing countries are opposed to. This includes very deep tariff cuts using a formula in which those with higher tariffs (typically developing countries who end to be less competitive in industrial goods) would make the largest cuts in tariffs. There is also provision for rapid elimination of tariffs for seven sectors, and broadening the scope of tariff bindings to a mandatory minimum of 95 percent.

Most developing countries have objected to one, two or all three of these elements. They have complained that this set of policies would lead to further deindustrialisation of their countries, which have already been ravaged by the trade liberalisation that has been forced upon them so far. By contrast, developed countries felt that even these swingeing cuts were "not ambitious enough". At the current time, introducing NAMA into the negotiations at all is a retrograde step for developing countries, and the

best that can be hoped for in this area is that no agreement is reached, and so there are no further obligations for tariff cuts in developing countries.

The third major area to be discussed in Cancun is that of the "Singapore issues". Developed countries - more particularly, large capital in developed countries - have been agitating for some time to force these issues onto the negotiating table in the WTO. Quite apart from the negative implications of each of these issues, taken together they will imply very deep erosion of whatever autonomy of decision-making still exists for the governments of member countries.

The proposed "modalities for negotiation" in the area of the first "Singapore issue", that is trade and investment, for example, suggest a consistent framework for all countries to adopt with respect to rules for international capital. This may not seem to be such a bad idea: after all, since countries that are competing for foreign investment already make all sorts of concessions that are potentially harmful, this would at least make everyone conform to the same discipline. But the proposals for such rules are heavily biased towards greater freedom for large capital from the North, and imply much less power for home country governments to regulate or control such capital.

A number of studies have shown that the type of investment agreement being proposed at the WTO would seriously harm developing countries' interests as their policy space to regulate and channel investment would be severely restricted. In any case, developing countries have been arguing for some time that WTO is the wrong venue for an investment agreement as the principles governing trade are not suitable for investment. In particular, the application of non-discrimination and national treatment are inappropriate and can damage development.

The same holds true for the second "Singapore issue", which is competition policy. Even Northern-based international trade unions, such as the ICFTU, have pointed out that "national treatment" amounts to simply increasing market access for multinational companies in developing countries. Economists have argued that the proposed competition policy has serious negative implications for development.

Thus, as Ajit Singh of Cambridge University has pointed out, "what is required is greater policy autonomy for developing countries and at the same time a more stringent framework for dealing with mammoth multinational companies and their endless appetite for overseas expansion, often through mergers and takeovers." Instead, precisely the opposite kinds of policies are being proposed.

The third "Singapore issue" relates to public procurement. This has potentially huge implications, since governments are the largest single purchasers in every country in the world. Once again, there are deep divisions between North and South on this. The developed country governments are trying to force developing countries to submit to rules which would not allow any preferential treatment to national producers. Within the WTO at Geneva, there has been substantial lack of agreement on such critical elements as the definition of "transparency", the scope or what should be covered, whether there should be a threshold value, and whether there should be a link to the WTO's dispute settlement system. Obviously, bringing such an agreement into the negotiations would be against developing country interests at the moment.

Finally, the last "Singapore issue" of trade facilitation covers areas such as customs and port handling rules. Developing countries have felt that this is an area which is best left to autonomous decisions of countries and not subject to binding rules. In any case, the proposed changes would be very expensive for developing countries to fulfil, and the Agriculture Agreement has already shown that binding rules are not a solution to problems.

So, as far as the "Singapore issues" are concerned, the best that developing countries can hope for is that they are once again kept out of future negotiations. Given the way the "modalities for negotiation" are being presented, they are generally very strongly against developing countries' interests.

So, the current situation suggests that developing countries have almost nothing to gain from Cancun. Not only have all the promises of the "Development Box" made in Doha turned sour, but there are new pressures for changes which would affect developing countries in even worse ways.

Another lesson from past experience with the WTO is that the small print matters critically, so that even agreements which may appear at first sight to be positive in their effects, turn out to have very different and adverse implications.

Given all this, the best option for the South is actually a derailment of the Cancun meeting, rather than some kind of flawed compromise deal. This could even be possible: several of the features responsible for the collapse at Seattle are once again evident. Thus, the dispute over agriculture is sharply in focus; developing country governments are more resentful than ever; and internationally, civil society is being mobilised to protest against all this.

Of course, there is always the possibility that developing country government will once again be persuaded and pressurised into sacrificing the interests of their own people at the actual meeting. The ability of the current NDA government in India to sell out has already been shown many times. So it may not be wise to be too optimistic in this regard. But it remains true that the biggest success of the people of the world could be, ironically, the failure of the meeting at Cancun.