

**Hong Kong Ministerial of the WTO:
Reflections on the Outcomes from Bangladesh Perspective**

This Policy Brief has been prepared at the Centre for Policy Dialogue (CPD)
under its Trade Policy Analysis Programme

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21 December 2005



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A four member CPD team participated in the Hong Kong Ministerial Conference and the related events organised in Hong Kong to coincide with the Ministerial during 12-18 December 2005. The CPD team included *Dr Debapriya Bhattacharya*, Executive Director, *Professor Mustafizur Rahman*, Research Director, *Dr Uttam Kumar Deb*, Senior Research Fellow and *Dr Fahmida Khatun*, Senior Research Fellow. One member of the CPD team also represented the government delegation of Bangladesh. In Hong Kong, the CPD team organised a dialogue on 14 December 2005, captioned *Post-Doha Marginalisation of LDC Concerns*, which highlighted the concerns of LDCs in the context of the WTO Conference. CPD co-organised a number of sessions with different international civil society organisations and think tanks. CPD team members also made several presentations and provided inputs as discussants at various seminars. CPD delegates regularly shared their views with the international media and Bangladesh's journalists attending the Conference. CPD team members also joined solidarity events organised by national and international civil society organisations who assembled in Hong Kong to promote fair trade.

1. OVERALL ASSESSMENT

The Ministerial Declaration of the WTO that was adopted on 18 December 2005 [WT/MIN(05)/W/3/Rev2 with amendments] is a document of crucial importance which is going to guide the final set of discussions towards the successful conclusion of the Doha Round. A careful reading of the negotiated text leads us to the following overall assessment.

- The Ministerial Declaration does not adequately project the pro-development promises of the Doha "Development" Agenda. The

bracketed texts of the latest Geneva draft (with brackets and options) were “cleaned” largely in favour of the developed countries.

- Among the developing countries, G-20 succeeded in withstanding the pressure of the developed countries, and extract substantial dividends from Hong Kong. It is obvious that the advanced developing countries such as Brazil, China, India and South Africa will continue to exert formidable influence in the upcoming negotiations.
- LDCs as a group received a limited market access deal. Some progress has been achieved in the areas of export subsidy in cotton, and in a few cases of special and differential treatment. Some promises have been made on “Aid for Trade”.
- Bangladesh’s ambitions from the Ministerial remain largely frustrated as it did not get meaningful market access, with no significant progress in other areas including Mode - 4.
- Bangladesh needs to reinvigorate its negotiating capacities during the last lap of the Doha Round. The country definitely needs to revisit its trade promotion and industrialisation strategies in the light of the Hong Kong outcomes.
- In order to realise the full potential of the HK Declaration, Bangladesh will need to devote more time, resources and energy over the next year. *Otherwise, there is a high and real possibility that Bangladesh may turn out to be a net loser from the final deals of the Doha Round.*

2. BACKGROUND

- The Doha “Development” Round (DDR), was launched at the end of the Fourth WTO Ministerial Conference held in Doha on 9-13 November 2001. The Doha Ministerial agreed on time schedules for negotiations and for reaching modalities for framework, and then translating those modalities into *single undertaking* by 1 January 2005.
- The Doha work programme suffered a major setback when the Fifth Cancun Ministerial Meeting of the WTO held on 10-14 September 2003 failed to hammer out a Ministerial Declaration.
- The DDR was put back on track through the Framework Package of July 2004. The *July Package* provided the broad principles for continuing the work on liberalising agricultural trade, industrial tariffs, services and other areas. The July decisions extended the deadline for negotiations under the DDR work plan from the previously agreed time line of January 2005 to the end of 2005 (i.e. till the Hong Kong Ministerial).
- During the run-up to the Hong Kong Ministerial, five clusters of negotiating issues were expected to be addressed. These were: (i) Agriculture, (ii) Non-Agriculture Market Access (NAMA), (iii) Services (GATS), (iv) Rules, and (v) “Development” provisions.
- Considering the slow pace of progress in negotiations in Geneva, ambition levels were lowered to three core areas of market access, i.e. in the area of agriculture, industrial goods and services.
- In November 2005, WTO members acknowledged the fact that progress in negotiations were far from achieving an agreement in Hong Kong in a manner that could fashion a detailed framework for subsidy and tariff cuts on Agriculture and NAMA.

- In this backdrop, it was hoped that in Hong Kong, members would strive to deliver at least a “Development Package” focussing on duty-free and quota-free market access for all exports from all LDCs.
- The first draft of the HK Ministerial Text was circulated on 26 November 2005. The second revised draft was circulated on 1 December 2005, and a further revised document was circulated on 7 December 2005. This latest document was the basis for negotiation at the Hong Kong Ministerial. At Hong Kong, Revision-1 of the Draft Ministerial Declaration was circulated on 16 December 2005, and Revision-2 was circulated on midday 18 December 2005. The Revision-2 with some last minute amendments at the Closing Session of the Ministerial Conference was adopted in the late evening of 18 December 2005.

3. HONG KONG MINISTERIAL AND BANGLADESH

3.1 Key Interests of Bangladesh and Outcomes

a. Major Areas of Interests

- Bangladesh's primary offensive interest in the context of Hong Kong was MARKET ACCESS in the areas industrial goods, services and agricultural commodities.
- *Secondary* priorities had been in improving the Special and Differential Treatment (S&DT) provisions, reducing trade distortion in cotton, ensuring food aid discipline, identifying and prohibiting harmful fisheries subsidies, and increasing real assistance for trade related supply-side capacities.
- It may be mentioned here that the defensive interests of Bangladesh were serviced through the July '04 text whereby Bangladesh and other LDCs

were not required to undertake any obligations under the Doha Round, and in particular cases were given derogation and various waivers.

b. Specific Issues

Agriculture

- Agriculture negotiations are related to three pillars: domestic support, market access and export subsidies. As agreed under paragraph 45 of the July Framework agreement, LDCs including Bangladesh are exempted from any tariff reduction commitment. Member countries which are not in a position to provide duty-free and quota-free market access shall provide market access for at least 97 percent of products originating from LDCs by 2008 or no later than the start of the implementation period. It is not yet clear how agricultural commodities will be selected for the exclusion list comprising 3 percent of the tariff lines. This will depend on outcomes of further negotiations to be held in Geneva by April 2006.
- On the issue of export subsidies, an end date for all export subsidies in agriculture by 2013 has been agreed. This was a major contentious issue between the EU and the developing countries. This was perceived to be a major success of the G20 countries. However, the elimination of export subsidies has limited value considering the fact that the share of export subsidies is only 3.5 percent of the overall agricultural support provided by the EU.
- On the issue of domestic support, it was agreed that there would be three bands for tariff reductions in Final Bound total AMS; in the overall cut in trade-distorting domestic support, there would be higher linear cuts in higher bands. However, the level of cuts would be decided later.

Cotton

- The HK Declaration provides a consensus on cotton issue. It was agreed that all forms of export subsidies for cotton would be eliminated by developed countries by 2006. LDCs will be provided duty-free and quota-free market access for cotton exports from the commencement of implementation date (to be agreed by April 2006), although they were already enjoying such preferential access. *What is important is that the issue of domestic support which was not in the Revision-2 text, but was included through an amendment during the Closing Session.* At the closing session members agreed that trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed, and that it should be implemented over a shorter period of time than is generally applicable. The members committed to give priority in the negotiations to reach such an outcome.

Food Aid

- On the issue of Food Aid, it was agreed that disciplines on in-kind food aid, monetization and re-exports would be made so that there was no loophole for continuing export subsidisation. The disciplines on export credits, export credit guarantees or insurance programmes, exporting state trading enterprises and food aid will be completed by 30 April 2006 as part of the modalities.
- The issue of discipline in food aid remains essentially unsettled although the text mentions that the level of food aid and interests of the net food importing countries will be safeguarded. This is expected to take care of food aid receiving countries. Bangladesh and other net food importing countries will need to carefully follow the negotiations on this issue.

NAMA

- As regards negotiations on NAMA (non-agricultural market access), the ambition level has been lowered significantly in Hong Kong. It was agreed that a non-linear Swiss-type formula, with multiple coefficients, would be used for the purpose of tariff cuts. Developing countries appear to have withstood their position in terms of undertaking lower commitments in NAMA.
- Although LDCs are not expected to take any reduction commitments under NAMA, any reduction in the MFN tariffs on industrial goods by the developed and developing countries is expected to lead to significant preference erosion for Bangladesh and other LDCs. Besides, LDCs are also expected to bind a substantial number of industrial tariffs.
- In some of the developed countries, under S&D provisions, LDCs will get duty-free access for all their industrial goods. However, in some others the share of goods will be 97 percent, and it is apprehended that many industrial goods of export interest to LDCs would be included in the 'exclusion list'. Accordingly, items such as Bangladesh's apparels will have to enter markets of some developed countries, most notably that of the USA, with MFN duties.

Services

- Service sector (including Mode 4) was not slated for negotiation at Hong Kong. The Annex C of the Declaration was adopted without much amendments.
- However, Article 3 of Annex C is an important decision which states that "members shall pursue full and effective implementation of the Modalities for the Special Treatment for Least Developed Country Members in the Negotiations on trade in Services (LDC Modalities) adopted by the Special

Session of the Council for Trade in Services on 3 September 2003, with a view to the beneficial and meaningful integration of LDCs into multilateral trading system”.

- Further, Article 9 (a) of Annex C is also important for Bangladesh. It states that members shall develop appropriate mechanisms for the full and effective implementation of the LDC Modalities, including, expeditiously developing appropriate mechanisms for according special priority including to sectors and modes of supply of interests to LDCs in accordance with Article IV:3 of the GATS and paragraph 7 of the LDC Modalities.
- Finally, in Article 11 (c) of Annex C it is mentioned that a second round of revised offers shall be submitted by 31 July 2006. This implies that Bangladesh has to do a lot of home work to prepare for the negotiations on implementation of LDC Modalities for services including identification of sectors of our interests.

Fisheries Subsidies

- Fisheries subsidies may lead to over capacity, over fishing, and finally to exhaustion of fisheries resources. This was noted at the Ministerial Conference. The Ministerial calls for identification of subsidies and prohibition of harmful subsidies. The Declaration pointed out that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the negotiations since fisheries is an important sector for livelihood and food security in these countries.
- Fishery is an important source of income and employment for a large section of poor people and plays an important role in poverty reduction in Bangladesh.

- However, the sector suffers from lack of adequate support for its development. Therefore, Bangladesh should play an active role to include the provision of special and differential treatment in the fisheries subsidies negotiation, so that it retains flexibility to develop her fisheries sector.

Aid for Trade

- It is an emerging concept. A governance structure is yet to be in place to mobilise and disburse the committed resources. The Director General of the WTO is to constitute a Task Force to design the governance structure which will provide its recommendations by July 2006 (Article 7 of main text). Once again Bangladesh needs to take adequate preparations to take advantage of these aid flows.

Major concerns in this regard are the followings:

- It is not clear whether these resources are additional or being diverted from other commitments.
- More importantly, whether there is a double or triple counting on account of resource commitments to MDGs and PRSP.
- What is also not clear is whether disbursement of these funds will fall under the IMF and the World Bank conditionalities.
- These resources are for all developing countries, and it is not clear how this will be targeted to LDCs.

Special and Differential Provisions

Annex F includes LDC specific S and D proposals. Besides proposal 36 on Decision on Measures in favour of LDCs, which deal with DF-QF market access, there are four other LDC specific proposals which the members have agreed to adopt. These are: Proposal 23 relating to Understanding in Respect of Waivers

of Obligations under the GATT 1994; Proposal 38 relating to Decision on Measures in Favour of Least Developed Countries; Proposal 84 relating to Agreement on Trade Related Investment Measures and Proposal 88 relating to Decision on Measures in Favour of LDCs – Paragraph 1. The LDC-specific S&D proposals provide this specific group of countries preferential treatment in a number of areas including (a) waivers from taking obligations, (b) flexibility that allows LDCs to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs and their administrative and institutional capabilities, (c) allowing the LDCs to maintain, on a temporary basis, existing measures that deviate from their obligations under TRIMS and (d) call for coherence whereby development partners were asked not to subject LDCs to conditionalities on loans, grants and official development assistance that are inconsistent with their rights and obligations under the various WTO Agreements.

Waiver on TRIPS

According to the Marrakesh Agreement that established the WTO, LDCs were given 10 years to implement the TRIPS Agreement. This extension was to expire on January 1, 2006. This period has now been further extended by another seven and half years (up to July, 2013) with a possibility for further extension. LDCs have been asked to provide plans, within next two years, for implementation of the IP regime by their respective countries. Development partners are to provide the necessary support for implementation of this plan.

TRIMS

One of the potential areas of S&DT agreed in Hong Kong relates Trade-Related Investment Measures (TRIMS). The transition period has been extended by seven years, i.e. till 2013. The LDC proposal was to extend it up to 2021. More importantly, LDCs cannot only continue with old TRIMS (subject to notification) but also introduce new ones. One needs to explore to what extent Bangladesh

can use this provision to support its strategic trade policy funding by withstanding the pressures from the World Bank and the IMF.

3.2 An Explanation of the Outcome

Bangladesh's ambition for market access was justified; but a number of factors contributed to the non-realisation of this ambition. Indeed, from Bangladesh point of view, the adopted Declaration was of lower value in comparison to the Geneva text.

Option 2 of the Annex F of the Geneva text was adopted with modification which effectively deprived Bangladesh.

Regretably, there was a self deceptive attitude on the part of Bangladesh which impressed on others that DF-QF for all countries would pass through at the Conference. Bangladesh also failed to understand about the depth of the resistance on the part of the USA. The campaign for US TRADE Bill also generated a sense of false optimism.

We also did not adequately appreciate that Bangladesh is situated at a 'peculiar' level of development. Bangladesh neither generates sympathy as sub-Saharan African LDCs, nor does it command reverence as emerging developing economies such as India and Brazil. Too much emphasis on LDC cap did not deliver, particularly in case of apparels. When it was much needed, Bangladesh could not draw on the sympathy of the AGOA beneficiary African LDCs.

Role of Developing Countries

- Bangladesh did not anticipate adequately that certain textile importing developing countries would play such an open and active role against Bangladesh. The role of Pakistan and, partly, Sri Lanka was to the detriment of Bangladesh's interests. Our South Asian solidarity was of no help to Bangladesh.

Countervailing Political Clout

Bangladesh failed to activate its political connections and mobilise political clout to withstand these pressures.

Formation of G14 +1

The initiative Bangladesh to set up a separate *G14 +1* was done on a very ad hoc basis and at a late stage of the negotiations (on the fourth day). There was no analytical and conceptual background paper explaining the rationale, articulating the objective and setting the concrete goals. The initiative diverted scarce negotiating capacity at critical juncture of negotiations.

4. AGENDA FOR THE FUTURE

- *Raising National Capacities:* At the end of the day Bangladesh has to competently fight for its national trade interests. What is necessary in such cases, apart from technical preparation, is political steadfastness, familiarity with the WTO process, effective political outreach and the nerve to withstand pressure. Regrettably, Bangladesh was not sufficiently endowed with all those.
- *Export Diversification:* Export diversification should have always been a top priority for Bangladesh. Given the overwhelming dependence of Bangladesh on one product, apparels and clothing, the real possibility of textiles being excluded from preferential market access opportunities reinforces the need for identifying new products which are to be promoted through appropriate trade and investment strategies.
- *Revisiting Export Strategies:* Bangladesh also needs to revisit its export promotion strategies from another perspective. Bangladesh has quite often tried to promote its exports through tariff concessions. In the light of

the Hong Kong Declaration, as well as MFN liberalisation in general under the NAMA and Agriculture negotiations, this possibility is getting increasingly thin. Bangladesh now needs to put more emphasis on acquiring competitive advantage through efficiency gains in the area of trade supportive infrastructure (port, electricity, telecommunications) as well as overall economic governance.

- *Work on Modalities for Market Access in USA:* The Chairman in his concluding speech has mentioned that the modalities for designing the 3 percent exclusion list will be thrashed out in Geneva in 2006 through negotiations on a framework. Whilst this may give the LDCs an opportunity to voice their concerns and interests in terms of items to be included in the inclusion list, it is difficult to imagine that developed countries such as the USA which opposed the idea of 100 percent duty free access for LDCs in Hong Kong would be ready to demonstrate a high degree of flexibility in negotiations pertaining to modalities on 'Exclusion List'.

Strengthening of MoC's Consultative Process on WTO

There is a mechanism of consultative process in place in the Ministry of Commerce (MoC) for seeking advice from the stakeholders on WTO related issues. An apex Advisory Committee and five Working Groups on WTO have been set up under the initiative of the MoC. This consultative process needs to be further strengthened to ensure more effective contribution to safeguarding Bangladesh's interests in the WTO. The consultations should be held more regularly, presence of major stakeholders should be ensured and the preparations for the meetings should be made in a manner that encourages concrete proposals to emerge from these meetings.

Further Strengthening of the WTO Cell

The setting up of the WTO-cell within the Ministry of Commerce was a decision in the right direction. This has evidently strengthened the Ministry's capacity to deal with WTO related issues. The WTO-cell will need to be further strengthened with human and logistics support to enable the cell to work more effectively. Adequate attention should be given to skill upgradation, training and appropriate incentive package to attract and retain cadres. This is also essential to support the Geneva process with substantive inputs.

Strengthening of the Geneva Mission

Bangladesh's Mission in Geneva has been doing a commendable job under very difficult conditions. However, in view of the tasks ahead and the demands of negotiations under the Doha Work agenda, the Mission needs to be further strengthened and there is a need to allocate more resources to the Mission. This would allow Bangladesh to participate more effectively in the various important meetings being held in Geneva in the context of the ongoing negotiations. Besides, Bangladesh is also looked upon by the other LDCs to fight for the interests of the LDCs as a group. Strengthening of the Geneva Mission is important from this perspective as well.

Dedicated Commerce Secretary to deal with WTO Issues

In order to deal with and address WTO related issues in a more informed manner and on an ongoing basis many developing countries have restructured their administrative and bureaucratic set up. In many countries there is a dedicated Commerce Secretary supported by Joint Secretaries and other officers down the line to provide the necessary support. At present the Commerce Secretary of Bangladesh has to deal with both domestic and international trade related issues which puts a lot of pressure on his time. The demands originating from the WTO work plan in the coming days call for an appropriate restructuring of responsibilities within the Commerce Ministry to enable it deal adequately with the tasks at hand.

BFTI and Trade Related Capacity Building in Bangladesh

The decision to establish the Bangladesh Foreign Trade Institute (BFTI) as part of developing national capacities in trade related research, training and education was a commendable initiative. The BFTI was to be established on private-public partnership basis and was envisaged to provide support both to the GoB and the private sectors in trade related matters including negotiations. Regrettably, the BFTI has been facing a lot of problems and is yet to live up to its initial promise. In view of the emerging needs, the GoB and the Ministry of Commerce should take all necessary initiatives to make BFTI up and running on an urgent basis.

Private Sector Representative in Geneva

It goes without saying that Bangladesh's private sector has interests in the ongoing negotiations in Geneva and their possible outcomes. The decisions made through the WTO negotiations are going to have important implications for Bangladesh's external sector performance and interests of the business. As such, there is a need for the private sector to be better informed about the negotiations in Geneva and to strategise accordingly. The private sector should seriously consider the idea of having a representative in Geneva who could monitor the negotiations and study the possible implications for business, and provide feedbacks to the trade bodies and Chambers the Ministry of Commerce and the Geneva Mission. A number of countries have such representatives in Geneva whose work complement the work of their respective national Missions.

Setting up a National Committee to Review the Hong Kong Declaration

The Ministerial Declaration coming out of Hong Kong needs careful scrutiny by all stakeholders in Bangladesh. This is required for three reasons. Firstly, the declaration provides important guidelines for future negotiations in a number of key areas of interests to Bangladesh including NAMA, Agriculture and Services. Bangladesh will need to articulate its negotiating strategies in view of these guidelines. Bangladesh will also need to identify products which it would like to

ensure for inclusion in the 97 per cent list of market access in a manner that best suits her export interests. Secondly, the Ministerial Declaration provides for a number of opportunities to Bangladesh. These include such areas as market access (DF-QF market access for all products in many developed countries and up to 97 per cent of tariff lines in some countries), waivers in TRIMS, extension in TRIPS and LDC modalities in GATS. In view of this Bangladesh will need to design appropriate strategies to take advantage of the emerging opportunities. Thirdly, Bangladesh will need to get on with task of designing a medium to long-term strategy to make the aid for trade package work for the purpose of trade-related capacity building in Bangladesh. Bangladesh will need to make best use of the available windows of opportunity and try to make the most out of the flexibilities provided under the various S&D provisions, particularly in terms of TRIPS and TRIMS. Thus an indepth analysis of attendant opportunities and risks will need to be carried out by the government, through wide and indepth consultations with the trade bodies, experts, and other stakeholder groups. In implementing these tasks the Ministry of Commerce will have to device means and methods to effectively draw on other trade analysis capacities available in the country.