Pakistan’s Trade Interests and Suggested Positions on issues to be discussed at the Seattle WTO Ministerial Negotiations

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Pakistan’s Interests and Suggested Positions on issues to be discussed at the Seattle WTO Ministerial Negotiations
Faisal Haq Shaheen

As we draw closer to the dawn of a new millennium, Pakistan’s global economic position continues to be determined by numerous external influences. Many of the issues that we will be facing as a country will surface at the Seattle round of WTO negotiations this November. This policy brief summarizes relevant positions Pakistan could articulate in Seattle.

‘No’ to New Issues

Pakistan is, as are other Southern nations, suffering from ‘negotiation fatigue’ since the rounds began. The pace of negotiations has been set by the resource rich North leaving the rest struggling to keep up with the outcomes of secretive meetings and swift agreements. All Southern nations must insist in Seattle that no new negotiation round be initiated until stock is taken of the implementation issues stemming from the Uruguay round. It should also be noted that vacillation on the part of Northern nations with regard to implementation of already agreed upon commitments has lead to reservations on the part of most Southern countries. This is specifically due to the lack of action being taken by the Northern world on commitments made under the heading of Special and Differential Treatment (SDT). What we risk by discussing any new issues is a ‘storming of positions’ by the North which will force the South into ‘one size fits all’ agreements that are not in its’ best interests.

Investment

Broad sweeping multilateral agreements will be pushed by MNCs through their Northern governments as they attempt to gain easier access to Southern markets, investment niches and financial resources, unhindered by local laws and regulations. Southern countries are at great a risk as superior technologies will be allowed to muscle their way into local sectors and economies, eventually displacing weaker, local businesses.

Pakistan will be joined by other Southern nations in their attempts to keep MAI type agreements from becoming WTO issues by collectively voting against their adoption. While Northern forces will market short-term gains, long term economic, environmental and social losses may result in the South from such agreements.

Competition

The WTO has commissioned a working group to study the effects of allowing foreign firms the same rights and treatments within Southern markets as local firms. Southern countries may benefit from the inflow of investment and technology in the short term, but in the long term there will be a net departure of profits from the economy as large Northern companies strive to increase shareholder value. Furthermore, Pakistan’s strongest sectors are still weak in their ability to compete on a global (level) playing field and numerous ‘sick firms’

1. Thanks are due to Shahrukh Rafi Khan
2. North represents the rich or developed countries and South as the poor or less developed countries
must be nurtured until they prove themselves capable of competing with foreign MNCs. This may be accomplished by implementing local competition policies as were successfully illustrated in Korea.

Pakistan must protest any motion to move the study group to a working agreement and instead insist on further research. A sector by sector analysis of industries may envision a future of joint ventures and/or technology transfer with/to local firms, but such issues should be discussed during the next round or once a technologically sound base in the economy has been achieved. Meanwhile, the focus of “competition policy” should be on the non-competitive market power of Northern MNCs.

**Government Procurement**

Northern governments and their companies are also trying to increase their accessibility to rich public sector markets via project work in municipal infrastructure. As most Southern economies have public sector expenditures that are greater than their net exports, local firms which depend on those contracts for survival and growth risk decimation if they are expected to compete with the expertise of foreign firms.

Pakistan must oppose any discussion of regulations that would allow the free entry and equal solicitation and treatment of foreign bids for public projects and instead insist on monitored entry on a project by project basis. For example, foreign expertise in the form of technology or engineering ‘may’ be imported through consultation or project partnerships, but local labour and capacity must be favoured and utilized where possible. Since the North refuse to accept the free flow of Southern labour to the North, there is no reason to accept the free flow of Northern capital to the South. Also, factor flows do not fit under the WTO umbrella overseeing free flow of commodities and service.

**Industrial Tariffs**

Northern companies will push for further reductions in goods and services tariffs that will allow them easier access to Southern markets. While Southern countries have been forced to reduce their tariff rates by as much as 6.8 percent in many sectors, Northern countries have not delivered on any of their promises of reduction on tariff rates, especially on products of interest to Southern countries.

Pakistan needs to insist on specific market access and quota reductions that will benefit our export interests, specifically in the products of raw cotton, textiles (article 7.3), raw leather, leather goods and agricultural products (cotton, wheat and rice). Furthermore, the practice of tariff escalation needs to be dismantled by Northern countries, so that processed products may be exported from the South with greater ease. For example, EU and US tariff behaviour places a lower tariff on raw leather than it does on leather goods. This practice does not encourage export of Pakistan’s ‘value added’ products. Specifically, part IV of GATT 1994 (articles 36, 37 and 38) need to be improved upon to ensure market access and ease of exports from the South. These issues should be acted upon before a new round of tariff reductions are discussed.

**Review of Existing WTO Issues**

Southern countries are suffering from negotiation fatigue at present, and do not have the ability to monitor, study and examine the effects of implementing the agreements even of the last round of talks. Reviewing, reopening and “fixing” these agreements should be the first priority.
Clothing and Textiles
As per the Uruguay round, Southern nations have reduced tariffs only to find an aggregate reduction mechanism employed by the North, which enables them to selectively keep tariffs high on items of interest to the South. The high tariffs on such items are being felt by Pakistan’s clothing and textiles sector, for which exports to the US have not risen.

Pakistan needs to argue for the elimination of quota restrictions (assurance that backlogged restrictions are eliminated on time), discrepancies and protectionism being expressed through the exaggeration of safety valves in Article VI (paragraphs 2 and 3) and retaliatory bilateral agreements that threaten export development. The USA, in particular, should be pushed to dismantle textile tariffs as agreed to in the Uruguay Round.

General Agreement on Services
On paper, the agreement appears fair and Pakistan may be able to take advantage of liberal mobility of immigrants. However, labour movement is still restricted in the EU and in the US to engineers, doctors and professionals. Including businessmen with distributor oriented contacts may allow inroads to be established into these foreign markets. Distributorships are a global trend that Pakistan should take advantage of.

Pakistan should argue for freer access for expatriots to Northern labour markets and for the strengthening of Article IX which outlines a safeguard for and against anti competitive behaviour, specific to services. A wake up call emanating from this agreement is that Pakistan needs to organize and restructure its utilities and services sectors so as to be able to withstand foreign competition, especially in the areas of telecommunications, hydro and maritime transportation.

Trade Related to Intellectual Property Rights, Article 27.3 (b)
Article 27.3b at present calls for patents or sui generis rights on plant varieties developed by the ‘breeder’. This interpretation places indigenous farmers of Southern nations at the mercy of Northern breeders who would be permitted to globally patent all plant life, in essence ‘owning all of the byproducts’ of harvest. A Southern, positive interpretation of the clause distinguishes the all encompassing patents from the more tailored, sui generis systems. While both are intended to protect intellectual property rights, patents value the rights of the breeder exclusively whereas a sui generis system allows a government to develop its own system of intellectual property rights protection, by recognizing the farmer’s rights and rewarding the ‘breeder’.

Pakistan must insist on the elimination of patents and their replacement with a tailor made sui generis system which provide our farmers with rights and rewards for harvesting breeder formulated products. The proposal for the ‘sharing of benefits’ (breeder and farmer) tabled by the African group should be supported as this would see the farmer receive a royalty from the end product, countering the net departure of resources from the country. To this end, Pakistan should not sign the UPOV agreement as it provides Northern firms with rights and ownership of Southern biodiversity and crop byproducts. Pakistan’s position should support a government tailored, sui generis system that would recognize the rights of local farmers as breeders, allowing them to reuse the seeds and conduct limited research with them. Protection should be sought against Bio Piracy, for traditional farming and manufacturing of low cost pharmaceuticals.
Furthermore, while the South is committed to protect as best they can the intellectual property rights of individuals and their patents, they should not be held responsible for the effectiveness of their systems due to inadequate resources.

The inherent conflicts between the Convention on Biological Diversity (CBD) and the Agreement on Trade Related Intellectual Property Rights (TRIPS) places the South at a great disadvantage. The former is a scheme, which assigns countries a great deal of control over their indigenous resources; not just at the governmental level, but devolving to the communities that have traditionally used these resources. While the latter seeks to commercialize traditional knowledge; it fails to recognize the relationships between communities and biological resources. It is structured so as to give an unequal advantage to the commercial interests of the North. The conflict between the two agreements could be resolved in favor of the affected Southern communities by taking full advantage of the scope of sui generis legislation, which would protect the interests of the groups involved in Southern countries by providing governments with the right to design their own system of balance and reward for farmers and breeders.

The CBD acknowledges sovereignty and the rights of communities to share in the benefits of biological diversity, neither of which are acknowledged by TRIPs. Pakistan must be firm in insisting on amending TRIPs to bring it in line with CBD.

**Agriculture and Food Security**

Southern nations are being pressured to further reduce tariffs and domestic support while Northern subsidies (categorized as non actionable subsidies) continue to enable their farmers and MNCs to sell at lower prices, while maintaining higher costs, than their Southern counterparts. This is despite the fact that the labor intensive Southern farmers are at a disadvantage in terms of the economies of scale realized by capital intensive Northern farmers.

Southern nations need to sustain the livelihoods of groups traditionally involved in food production, such as small farmers and fisherpersons. Genuine competitiveness, which is the underpinning of free trade, is clearly not being given an opportunity in this sector through tariff and non-tariff barriers raised by the North. The current agreement on agriculture will promote mono cropping (detrimental to the environment), increase food costs (as foreign firms set the pricing for most crops), increase risks (smaller farmers and local breeders will be vulnerable to outside competition and allow for economic sanctions to be imposed on countries through bi and multilateral agreements.

In order for Pakistan and other Northern nations to participate in genuine competitiveness, the protectionism of the North needs to be removed as soon as possible. Pakistan should argue that aggregate sector reductions that protect Northern markets (sensitive items of most interest to Southern farmers) need to be removed, along with the prohibitive tariffs that still restrict many export markets. Furthermore, as Pakistan’s foreign exchange position is precarious, they along with other Southern nations should be encouraged to produce food for themselves and develop food self-sufficiency, rather than depend upon imports. This need is doubled with the forecasted reduction in food aid to the South. Articles III and IV should be changed to balance the domestic playing field between local farmers and MNCs.

**Environment and Social Linkages**

Environment and social issues are increasingly being pushed onto the trade agenda along with process and production methods (PPMs). PPM based restrictions should not be imposed on resource strapped Southern economies in which some sectors utilize out of date and
perhaps polluting technology out of necessity. As far as social and environmental linkages are concerned, there are national and international mechanisms designed to address these problems. A trade regime dealing with export related activity is neither an appropriate nor an effective device to achieve these objectives as they will be used by countries to raise non-tariff barriers. Similarly, labor standards are clearly the domain of the ILO. The argument put forward by the Northern world, that the ILO has no teeth, should be met with strategies to give teeth to the ILO. In this way, the Southern countries may buy time to set their house in order. Also, as earlier attention should be drawn to the barriers to international movement of labor due to which Southern countries are at a disadvantage.

Pakistan should communicate its commitment to improving the environment as it realizes that the health, livelihood and living conditions of the majority of its population depend upon a clean environment. In order to create a sound technology base, Pakistan should take advantage of technical assistance offered through the WTO. In this regard, shifting certification and registration for standards like ISO 14,000 to the South to promote clean technologies and meet the requirements of the Rio Protocol should be first priorities. We must also trumpet the fact that Pakistan was one of the first countries to draft its National Conservation Strategy (NCS) and has developed a set of National Environmental Quality Standards (NEQS) and is in the process of implementing them.

Conclusions

The abundance of resources possessed by ‘the quad’ (US, EU, Japan and Canada) and their political influence has enabled them to push various agreements through the system without allowing democratic discussion and discourse with Southern nations. Given the ‘unfinished business’ of issues from previous rounds, specifically agriculture, services, TRIPs and TRIM; Pakistan must side with other Southern nations and resist a new round for new issues. Previous issues should be reopened and renegotiated, in spite of the MNC agendas of ‘hijacking’ MNCs.

Pakistan may take advantage of win-win situations on an individual basis, using full discretion when foreign companies export adequate via joint ventures. Pakistan should support initiatives which will:

• Reduce Northern tariff and non tariff barriers on products of interest to our economy, namely cotton, textiles and processed goods;
• Shelter local firms and farmers from stiff competition from larger MNCs.
• Allow governments to retain ‘economic sovereignty’ and control over the business dealings within their economies;
• Support indigenous farming and labour intensive business practices;
• Resist free capital mobility as the North resist free labour mobility;
• Keep environmental and social ‘enforcements and influences’ out of the WTO;
• Provide technical assistance through the WTO (Article 67 of TRIPS and treatment of ‘Net Food Importing Southern Countries’ of Agriculture) to allow for the identification of impacts of implementing agreements from the Uruguay Round.

Pakistan should insist, along with other Southern states, that all processes and meetings, general or small group, be transparent, slow in pace, and available for civil society to advise and comment on. As vice chair of the conference, Pakistan may also wish to take a position on the options for future negotiations. The more Northern countries will be pushing for broad sector by sector negotiations which will give them higher leverage and the fastest turnaround in terms of reaching agreement. Pakistan may want to push for phased negotiations, as suggested by Najam (1999), which will allow for a principled hierarchy of negotiations that could begin simultaneously but mature differently, allowing for the
monitoring of market effects and repercussions on a sector by sector basis as indicated below.

**Options for Future Negotiations**

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<tr>
<th>#</th>
<th>Option</th>
<th>Champions</th>
<th>Pros</th>
<th>Cons</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Sector-by-Sector negotiation</td>
<td>USA</td>
<td>Specific agreements could be reached in relatively short periods of time.</td>
<td>Gives unfair advantage to Northern countries with greatest say on agenda.</td>
</tr>
<tr>
<td>2</td>
<td>A new 'Round' of negotiation</td>
<td>EU, NZ, Aus, Honk Kong, Argentina, Mexico</td>
<td>Ensures that all issues under consideration are dealt with. Theoretically this gives a veto to every country on every issue.</td>
<td>Tends to be very slow; requires very high level of resources and effort which places Southern countries at a disadvantage.</td>
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<tr>
<td>3</td>
<td>'Clusters' of negotiations</td>
<td>Canada and other Northern countries</td>
<td>Allows for efficient packaging of issues important to most parties within manageable time frames.</td>
<td>Details remain unclear. Definition of and prioritization between packages could be contentious and skewed to Northern countries.</td>
</tr>
<tr>
<td>4</td>
<td>'Phased' negotiation</td>
<td>Pakistan??</td>
<td>Provides a clear and principled hierarchy of deliberations that could begin simultaneously but 'mature' differentially.</td>
<td>Non-implementation of existing agreements could hold future negotiations hostage.</td>
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*Source:* Najam (1999)

The proposal is for Pakistan to build on the arguments already outlined in the paper under review, raise concerns about 'negotiation fatigue' and marshal support of other like-minded delegations for a *slow-but-steady approach* to future negotiations. The phased negotiation option would create a clear hierarchy of WTO deliberations building upon the hierarchy implied in the Geneva Ministerial Declaration:

1. The highest priority would be given to monitoring the implementation of existing agreements and decisions and devising ways to keep these on track.
2. Concurrently, negotiation would begin on 'clusters' of sectors where a clear commitment to negotiate has been made by the Ministerial Conference. This would include mandated negotiations and reviews.
3. At a lower level of intensity, discussions may begin in working groups on identifying options and preferences in areas where there is no commitment yet for negotiation but which have been identified as possible areas for future deliberations. However, these discussions would not be considered formal negotiations until the earlier negotiations (#2) have been completed and progress on implementation (#1) is deemed satisfactory by the General Council.
4. At the lowest level, working groups may be initiated to prepare background investigation and review reports of possible new issues that may be raised by WTO members. The purpose of this exercise would be, for example, to gauge whether these issues are appropriate for consideration within WTO.
5. Provide for sector by sector agreements that will retain the rights and maintain a balance between weaker, local firms and the stronger MNCs while allowing some international market access.

**References and Selected Sources**
