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WORLD TRADE ORGANIZATION AND CONCERNS OF DEVELOPING COUNTRIES: AN INSTITUTIONAL NEED ASSESSMENT FOR PAKISTAN

Abstract

Development is the main subject of multilateral trade negotiations in the World Trade Organization (WTO). The current regulation of international trade is primarily concerned with liberalising markets, neglecting the development perspective, or reducing it to economic growth. Currently, international regulation reduces State intervention in the promotion of development strategies, which may have a relevant impact for developing countries like Pakistan for their capacity to implement national development strategies. The paper emphasises on the institutional need assessment for inserting the development concerns of the developing countries like Pakistan in the regulation of international trade.

“For those who recall the development experience of the late 19th century, it should be obvious that the process of globalisation will not reproduce or replicate United States everywhere just as it did not reproduce or replicate Britain everywhere a century earlier.”

Deepak Nayyar

1. Introduction

Despite being criticised universally, World Trade Organization (WTO) remains the most dominant international mechanism in terms of negotiation, adjudication, regulation, implementation and enforcement. Globalisation, the focal promise of WTO, is termed by many as the system of consumerist-materialist lifestyle, inequitable accumulation of wealth, monopoly, waste of scarce resources, ecological degradation, unfair trade relations, widening gap between the rich and poor of society, and the increasing indebtedness of the poor countries to richer countries¹. Regardless of the positive and negative impacts

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and effects of the organisation, Pakistan being one of the founder members and signatory to more than 90 percent agreements is obliged to comply with the standards required by WTO regulations. Pakistan needs to play its essential and effective role and should try to make most out of the pros and cons of the system, as being successfully utilised by Brazil and India.

Notwithstanding the claims made by the report of the Senate's Committee², there is an increased awareness about WTO among major stakeholders in Pakistan including government officials, trade representatives, media, NGOs and members of the civil society. Also, several groups and organisations, like Action Aid, Sustainable Development Policy Institute (SDPI), Labour Party Pakistan, Women Workers Helpline, The Sustainable Agriculture Action Group (SAAG), and others are working intensively on various issues related to globalisation. However, so far the affected people and diverse stake holders have not been involved by the government, while preparing the social and economic development strategies to participate in crucial rounds of WTO negotiations. Therefore, various decisions made by the government are not essentially based on studies of the impact of implementation of various WTO agreements. Due to poor performance of the official delegation at Cancun, Pakistan also lost the opportunity of enhancing its image at international level. Therefore, it necessitates on part of the government to carry out a comprehensive institutional need assessment by involving people from all spheres. This will help in identifying, bench marking and inserting its specific developmental concerns in the next round of negotiations at WTO.

Given this backdrop, the objectives of this paper are to review the role of Pakistan in WTO negotiations, highlight the specific challenges faced by Pakistan in WTO and underscore the importance of institutional approach to carry out the need assessment for Pakistan. The paper has been divided into five sections including the introductory one. Section Two gives a brief background of WTO which is essential to understand the importance of the world body and its mechanisms for liberalising trade. Section Three reviews the role of Pakistan in WTO negotiations. Section Four highlights the specific challenges faced by Pakistan in WTO. Section Five underscores the importance of institutional approach to carry out the need assessment for Pakistan and in Section Six concluding remarks have been made.

¹Antone S. Hope, "The challenges of globalization to religious education: Some experiences and reflections from Asia," *Religious Education*, Summer 2002, available at www.findarticles.com, accessed on 22 January, 2007

² Report of the Senate Special Committee Constituted by the House on 22nd September, 2003, available at <http://www.senate.gov.pk/reports/WTO/WTO.pdf>, accessed on 12 July 2011.

2. Background of WTO

WTO was founded on 01 January 1995 by the eighth round of negotiations on the General Agreement on Tariff and Trade (GATT), called the Uruguay Round. The GATT was incorporated into the WTO, and continues to be a central component of its trade rules. Beyond GATT, sector-specific agreements on trade in goods, such as the Agreement on Agriculture, are now in effect. WTO rules have been extended into new sectors by agreements such as the General Agreement on Trade in Services (GATS) and the Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement. The consequence is that WTO trade rules now cover many aspects of social and economic policy, and negotiations are underway on new agreements that would extend WTO rules into even more spheres such as investment and competition policy. Governments are also using the current negotiations to look at a wide array of domestic regulations to see whether or not they are ‘barriers to trade’.³

WTO’s basic objective is liberalisation of international trade, both goods and services, in order to reach sustainable economic growth and total prosperity of the signatory countries⁴. Alongside with negotiations and regulations, another key feature of the WTO is its Dispute Settlement system that gives equal weight to its entire member, with special and differential treatment for its developing and least developed members. The WTO is also a partner with the World Bank and the International Monetary Fund (IMF) in pursuing a broader economic liberalisation agenda.

In theory, WTO agreements are based on two basic principles, both of which have to do with “non-discrimination”- countries should not treat some trading partners better than others, and they should not give preference to their own nationals over those of their trading partners⁵. The first principle requires that all WTO members grant all other WTO members Most Favoured Nation (MFN) trading status. Under the MFN agreements, countries can not normally discriminate between their partners. It is so important that it is the first article of the GATT, which governs trade in goods. MFN is also a priority in GATS Article 2 and the Agreement on TRIPS Article 4. Although in each agreement the principle is handled differently. Together, these agreements cover all three main areas of trade handled by the WTO.⁶

The second principle related to ‘non-discrimination,’ referred to as “national treatment,” requires that foreign companies operating within a given country must be treated the same as local companies. Imported goods must be treated the

³ *Canada's Voice in Global Governance: A Civil Society Handbook*, November 2005, available at www.foecanada.org, accessed on 22 January 2007.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Available at www.wto.org, accessed on 2 February 2007.

same as locally produced goods once they have entered the country, and foreign service-providers must be treated the same as local ones. The other principles being freer trade, predictability regarding investment, more competitive and beneficial for less developed countries. All these principles of WTO aim at liberalising international trade.

People passionately disagree about the nature of the globalisation process, as they are not involved in the decision making process by their respective governments and developing countries are increasingly resentful of the burdens of adjustment placed on them that they argue are not matched by commensurate commitments from developed countries⁷. During the WTO decade, economic conditions for the majority have deteriorated. The number and percentage of people living on less than 1 Purchasing Power Parity (PPP) dollar a day has increased since the WTO began operating, while the number and percentage of people living on less than PPP US\$2 a day has increased at the same time. Growth rates in these regions have also slowed dramatically since the implementation of the neo-liberal policy package. In Latin America, from 1960 to 1980, per capita income grew by 82 per cent, while income per person grew only 9 per cent from 1980 to 2000. From 2000 to 2005, income per head grew 4 per cent. Similarly, in Africa, per capita income grew around 40 per cent from 1960 to 1980 and decreased more than 10 per cent from 1980 to 1998. The number of people living in poverty has also increased in South Asia, while growth rates and the rate of reduction in poverty have slowed in most parts of the world — especially when one excludes China, where huge reductions in poverty have been accomplished, but not by following WTO-approved policies.⁸

Furthermore, according to Luis Fernando Jaramillo, former chairman of the Group of 77, the estimated gains of WTO reported by The World Bank, European Union and other agencies are highly embroidered especially for the developing economies and calculated that 70 per cent of the gains will go to the industrialised countries.⁹ He further advocated that out of the gains from trade liberalisation in the agriculture of US\$122 billion only US\$11.6 billion will go to the developing countries. Moreover, in the case of textiles, if quotas are fully

⁷ Robert E. Baldwin, and L. Alan Winters (editors), *Challenges to Globalization: Analyzing the Economics*, Spring 2004 Series: (NBER-C) National Bureau of Economic Research Conference Report.

⁸ “Beyond the “Blame Game”: Why the WTO Doha Round Talks Have Collapsed – and a Path Forward,” posted on 26 July 2006, available at http://www.citizen.org/documents/WTO%20Memo_FINAL.pdf, accessed on 12 July 2011.

⁹ Report of the Senate Special Committee Constituted by the House on 22nd September, 2003, available at <http://www.senate.gov.pk/reports/WTO/WTO.pdf>, accessed on 10 July 2011.

eliminated, the estimated welfare gains for developing countries would range between US\$13-122 billions.

Moreover, formation of a WTO initiative for “full private stewardry of labour” for the parts of Africa is acknowledged even by the WTO representative as being similar in many ways to slavery¹⁰. One of the critics went explained it as “system of a kind of indigestible excess that cannot be absorbed and must eventually be expelled in dramatic, possibly violent, ways”¹¹. It has been argued that globalisation is not a new phenomenon but something that has evolved through time, and that its impact is not only in economic terms but in cultural, political, ecological, and ideological terms as well¹². Conversely, WTO is one of the most important international institutions today because it has enormous enforcement powers, and constantly holds the potential threat of trade sanctions over all WTO member governments in relation to many issues and areas of activity.

WTO, however, can be very effective for global growth and development as the decisions need to be based on negotiation and approval by consensus and ratification in all members’ parliaments. WTO agreements, if made in accordance with its principles, can be cost effective, give more choice to consumer, lead to growth stimulated by trade, and encourage good governance. Besides, it provides an international forum to all the member countries to voice their concerns and rich and poor countries have an equal right to challenge each other in dispute settlement procedures.

Given the gigantic mandate of WTO, Pakistan cannot avoid the consequences and concerns of the global regime. The suspension of Doha negotiations in 2006 offers an opportunity to developing countries like Pakistan to do their homework and prepare for the next round of negotiations. Pakistan should take the inventory of its performance at various meetings of the WTO and critically evaluate its current status as compared to other countries of Asia and the potential role it can play to derive maximum benefit from the successively failed negotiations at WTO.

¹⁰ WTO News: 2006 Press Releases. Press/388, available at www.wto.org, accessed on 13 November 2006.

¹¹ Rana Dasgupta, *The Residue Thu Oct 31 09:42:33 CET 2002*, available at www.mail.sarai.net, accessed on 12 July 2011.

¹² *Op.cit.* “The challenges of globalization to religious education: Some experiences and reflections from Asia.”

3. Role of Pakistan in WTO Negotiations

Pakistan has complied with almost all aspects of various WTO agreements.¹³ In September 2003, the Senate of Pakistan constituted a special committee with a term of reference to suggest ways and means to face the challenges of WTO. The committee in its report suggested many areas and negotiating strategies, within the framework of WTO agreements, through which Pakistan can benefit from the existing rules. Moreover the report offered policy measures for the government to optimise benefits from trade liberalisation.

Pakistan became a member of the WTO in 1995. Currently Pakistan is also a member of WTO's G33¹⁴, G20¹⁵, Cairns group¹⁶, Strategic Product Group¹⁷, and Like Minded Group (LMG)¹⁸. The ministerial conferences of WTO have clearly indicated the enthusiasm by the developing countries to build coalitions and groupings among themselves as a way of countering the supremacy of the rich countries during trade negotiations¹⁹; however, so far Pakistan has not taken any lead to organise an alliance.

The highest decision making body of the WTO is the Ministerial Conference, which oversees issues related to negotiations of new agreements. Pakistan's Minister of Commerce represents the country on this body; and the General Council, which is second in authority and runs the organisation, implements existing agreements and finalises the decisions on most significant issues related to the functioning of the body and its agreements. The General Council also performs both as the Dispute Settlement Body (DSB) and the Trade Policy Review Body of the WTO. The Trade Negotiations Committee (TNC) of WTO is the body where the negotiations begin and Pakistan is represented by its chief negotiator.

In 1996, the WTO's first Ministerial conference was held in Singapore. The Information Technology Agreement (ITA) was formally endorsed; Pakistan did

¹³ Report of the Senate Special Committee Constituted By The House On 22 September 2003. available at <http://www.senate.gov.pk/reports/WTO/WTO.pdf>, accessed on 12 July 2011.

¹⁴ G33 is led by Indonesia, spotlight proposals for special and differential treatment and special products.

¹⁵ G20 was formed by the efforts of Brazil, India, South Africa and China, based around an alternative proposal for agriculture.

¹⁶ A group of 18 countries that argues for agricultural trade liberalisation.

¹⁷ A group comprising of 23 developing countries, demanding special measures in support of their food security and rural livelihood.

¹⁸ Group of 13 countries which is solidly against addressing core labor standards, in the WTO, insisting that the right place to deal with labor standards is within the International Labor Organization (ILO).

¹⁹ Adriano Campolina Soares, *G20, G90 and G33: Challenges for Building a New Politic*, 23 January 2005, available at www.globalpolicy.org, accessed on 21 January, 2007

not participate in the meeting on E-Commerce and IT, either due to deficient know-how or lack of preparation. However, Pakistan responded to ITA by establishment of E-Commerce Working Group and E-Commerce Cell at the Ministry of Science and Technology (MoST), facilitation of internet merchant accounts by the State Bank of Pakistan (SBP), legal recognition to digital signatures and electronic documents, protection of the intellectual property rights through Electronic Transaction and Governance Ordinance and Electronic Funds Transfer (EFT) through 2000 branches in major cities.²⁰

At the second ministerial conference held in Geneva 1998, Pakistan made reservations that majority of the developing countries were sidestepped by the increased trade and investment. Therefore, it would be improbable to expect that the developing countries would accept new parts of liberalisation unless a balance is restored in gains from trade liberalisation; which otherwise have been disappointingly unbalanced. Besides, Pakistan showed apprehension about the level of protection by developed countries, like the US, EU and Japan - as they have maintained protectionist policies and have given diminutive gains in agriculture to developing countries in terms of market access. Whereas the unimplemented measures to neutralise the negative effects of agriculture reforms on the least developed and net food importing developing countries have further caused resentment. Pakistan accentuated on the requirement for restoring the irregularities against the developing countries innate in the composition of agricultural reforms²¹. Pakistan's voice was very effective as part of many similar speeches made by the delegates from developing countries. Besides, it succeeded in aligning itself with the developing world.

At Seattle in 1999, Pakistan presented its paper on agriculture²², asking for the instantaneous abolition of all kinds of export subsidies, domestic support and product specific subsidies by the developed countries. It further emphasised that the Agreement on Agriculture should either be simplified or amended so that developing countries should be given relief by excluding them from the discipline of import control and domestic support in the food product sector. Besides, Pakistan was supported by Egypt and New Zealand on its concern about the overvaluation of tariff equivalent, developed countries' use of collective domestic support schemes, discriminatory and opaque quota administration, as

²⁰ Yousaf Haroon Mujahid, *E-Commerce and WTO: Digitalizing Trade Liberalization*, available at www.pide.org.pk, accessed on 1 January 2007.

²¹ Penny Fowler, *Reports From Geneva WTO Conferences: Trade and the WTO (15-17 May, 1998) and Second WTO Ministerial Conference (18-20 May 1998)*, posted on May 27, 1998, available at www.ukabc.org, accessed on 21 January, 2007

²² International Center for Trade and Sustainable Development, *Agricultural Subsidies Again Emerge as Top Priority of New WTO Round*. WT/GC/W/ 161, available at <http://ictsd.org/i/news/bridges/19155/>, accessed on 30 December 2010.

well as irregularities in the fulfillment of commitments toward the Net Food-Importing Developing Countries.

At Doha in 2001, Pakistan participated along with varying groups to make proposals on structural Agreement on Special and Differential Treatment, organisation of a Working Group for the Study of the Inter-relationship between Trade and Transfer of Technology Foundation of a Working Group for the Study of the Inter-Relationship between Trade and Finance, and on association of a Working Group for the Study of the Inter-Relationship between Trade and Debt²³. Besides, it surfaced as the campaigner of the food security rights of the developing world²⁴.

In Cancun in 2003, against the will of the 70 developing countries²⁵, Pakistan's willingness to start negotiations on the Singapore issues²⁶ if they are linked to progress in agriculture. This can be equated as selling out the larger interest of others at one's own narrow interest. Except for some interest indicated by China and Malaysia, Pakistan's proposal was highly opposed by developing countries²⁷ and global organisations representing subsistence farmers, fisher folk and forest dwellers²⁸. Hence at Cancun, Pakistan exhausted an opportunity of enhancing its representation at the international level. The acts of the official delegation annoyed many who had looked forward to a progressive stance²⁹.

²³ Doha WTO Ministerial Conference 2001: Members' proposals and related statements, available at www.wto.org, accessed on 30 December 2006.

²⁴ Abid Qaiyum Suleri, "Report Cancun-let the games begin!", available at www.himalmag.com, accessed on: 31 October 2003.

²⁵ Martin Khor, WTO "Singapore Issues: What's At Stake and Why It Matters", *Briefing Paper 16*, October 2003, available at [www.twinside..sg/title/cancun3.doc.](http://www.twinside.sg/title/cancun3.doc.), accessed on 30 December 2010.

²⁶ "New issues" or "Singapore issues" are investment, competition, transparency in government procurement and trade facilitation. Ministers had a choice between two options: (1) Launch negotiations now and complete the agreements at super speed by January 2005; or (2) Continue discussing (and "clarifying" the issues back in Geneva. These two options are in the draft Cancun Declaration. Most of the developing countries were for Option 2.

²⁷ Third World Network (TWN) Lack of convergence continues on eve of General Council meeting, posted on 22 July 2005.

²⁸ Land Research Deal in the Action Network, "A Call to Action to Social Movements, Mass Organizations and All Civil Society Groups", available at www.landaction.org/display.php?article=351, accessed on 30 December 2010.

²⁹ 'Beyond the "Blame Game": Why the WTO Doha Round Talks Have Collapsed – and a Path Forward,' posted on 26 July 2006, available at http://www.citizen.org/documents/WTO%20Memo_FINAL.pdf, accessed on 30 December 2010.

Pakistan was used as a pawn by the developed countries and due to which Pakistan could not take a primary role among the G-21 partners.³⁰

Pakistan also made a proposal on Non-Agricultural Market Access (NAMA) which was based on the Swiss formula³¹. As NAMA is identified as self-interested “offensive agenda”. This proposal by Pakistan aroused extreme criticism by the developing countries as it was contrary to developmental strategies. NAMA is perceived as a scrupulous priority of developed countries, such as the USA and EU, which are now pushing the tempo of negotiations at the WTO, to attain a ruthless level of trade liberalisation for the benefit of the world’s richest countries, specifically to those multinational corporations seeking to expand into the emerging markets of the South by opening of industrial and manufacturing sectors. Developing countries believe in maintaining the policy freedom to choose their own course and speed of development and the current NAMA text hampers this policy freedom and intimidate developing countries with de-industrialisation and increased poverty.³²

Pakistan strongly supported the leadership role of Brazil and India in G-20 and more broadly of the low-income countries, in Hong Kong in 2005, where they refused to make any additional concessions demanded by developed countries on trade facilitation and tariff reductions on non-agricultural goods and services.³³

Dispute settlement process of WTO is based on rules; however, the enforcement of its rulings is subject to the power of the complaining state to implement them. This obviously favours the most potent countries. Pakistan has been involved in either as a complainant (3 cases), respondent (2 cases) or as a third party (8 cases). Pakistan also served as panellist in 3 cases and co-sponsored a paper (TN/DS/W/47) based on a number of proposals on Dispute Settlement Understanding (DSU) reform submitted by LMG. After going through the hardship at DSB, Pakistan established at its permanent mission office in Geneva a WTO in October 2000, to protect Pakistan’s export and other interest in international trade by intimating the changes in the system and rules to the relevant authorities in Pakistan. The Ministry of Commerce responded by

³⁰ *Ibid.*

³¹ Swiss formula was based on two coefficients, with values of 6% for developed countries and 30% for developing countries.

³² *Trade and WTO: Trade Justice - NAMA Watch*, available at www.waronwant.org, accessed on 07 January 2007.

³³ Shahrukh Rafi Khan, “Lessons from the Hong Kong WTO Ministerial.” *SDPI Research and News Bulletin*. Vol. 13, No. 2 & 3 (March - June, 2006).

immediately opening up of a WTO wing which now has a functioning cell, encircling six working groups on different WTO agreements.³⁴

The lessons learnt from Hong Kong are that negotiating environment to guard low-income country interests will become ever more difficult as the negotiating landscape becomes increasingly deceitful due to altering interests and shifting alliances. Similarly, Brazil and India's interests on numerous issues are now associated with those of high-income countries. Pakistan, as a conspicuously experienced and active negotiator, will have to take into account these changing dynamics. However, even as it defends its policy freedom as proficiently as possible through strategic alliances, it must stimulate internal competition policies, because in order to compete internationally is now on the sphere for all.³⁵

4. WTO Challenges Faced by Pakistan

Globalisation affected every country, its people and mainly the poor and disadvantaged. Without active participation of the affected people, the economic and social development strategies commenced by the governments are not people-centric. Pakistan being a developing country also faces challenges of globalisation, economic inequality, gigantic unemployment and the consequential poverty of the people. One of the major issues associated with WTO is that its regulations have inherent mechanism to reduce the intervention of State to device its development strategies and policies according to its specific realities. This tendency has the potential to put the sovereignty of the State in jeopardy. Pakistan faces numerous challenges to combat the WTO regime. The most fundamental amongst these is insertion of specific developmental strategies in accordance with Islam, to the negotiation process.

The relationship between Islam and trade is so secure that "one cannot be a Muslim and opposed to freedom of enterprise"³⁶, something, it is not well appreciated in the West. The rise of Islam did not change, nor did it seek to

³⁴ Turab Hussain, "Victory in Principle: Pakistan's Dispute Settlement Case on Combed Cotton Yarn Exports to the United States", *Managing the Challenges of WTO participation, Case Study 34*, available at www.wto.org accessed on January 5, 2007.

³⁵ *Op.cit.*, *SDPI Research and News Bulletin*.

³⁶ "Islam enshrines private property as a sacred trust and specifies the terms for its wholesome and just enjoyment and employment. It should neither be used wastefully nor in a way that will deprive others of their justly acquired property (2:188). Inheritance rights are not only respected (4:33), but expanded to include women (4:7). Property rights of women are as sacred as those of men in other cases as well (4:24, 4:32) and the treatment of women as chattel is prohibited (4:19). Besides, Qur'an mandates the respect for property rights be extended to all human beings regardless of religious faith (3:75)". Imad A. Ahmad, *Islam and Markets*, available at www.minaret.org, accessed on 30 December 2006.

change, the centrality of trade and commerce to the Arab way of life. Muhammad (MPUH) respected the market's ability to set just prices and disliked price controls and limited his interventions to the prohibition of practices like fraud and *ribâ* (interest). The establishment of commercial law, the expansion of property rights for women, the prohibition of fraud, the call for the establishment of clear standards of weights and measures, and the uncompromising defense of property rights pushed the Islamic civilisation to the front of the world's economic stage and made the Muslim world the defining force in international trade for over 800 years.³⁷ Therefore, WTO regulations and Islamic principles can coexist provided implemented in letter and spirit and can improve the precarious prevailing environment towards development objective.

GATS, Agreement on Agriculture, NAMA, and the Trade Related Aspects of Intellectual Rights, all require opening all sectors of the economy of underdeveloped and developing countries. This generates the apprehension of Pakistan's right to restrict the import of goods prohibited under Islam, including alcohol, pork and pornography. Therefore, further talks are vital to be carried out at the relevant forum to clarify the position of the Muslim countries in this vicinity.

Secondly, observance of labour standards is not a prescribed obligation; however, Pakistan and other LDCs face substantial pressure to pursue core labour standards in connection with their trade liberalisation policies. On the contrary, the developed nations trading associates, seek pledges, upon intimidation of economic sanctions that LDCs' export products are made in accordance with accepted labour standards in order to defend their own industries and to evade scandals associated with child labour. However, these demands from the developed nations do not acknowledge the economic veracities of lesser developed nations.³⁸

Thirdly, "Mode 4" is related to movement of Natural Persons in liberalisation of international trade in services under GATS which allows the supply of service by a service supplier of one constituent, through presence of natural persons of an associate in the terrain of any other constituent. Notwithstanding the fact that mode four is one of the four possible ways of trading a service under GATS; it remains one of the least negotiated issues of trade policy.

Approximation based on narrow empirical information suggest that "Mode 3", related to commercial presence reports for more than 50 per cent of world trade in services and "Mode 1", cross border trade, for about a 25 per cent, while "Mode 2", associated with consumption abroad represents less than 20 per cent.

³⁷ *Ibid.*

³⁸ Asna Afzal, "Pakistan, the WTO, and Labor Reform," in *Boston College International and Comparative Law Review*, Volume. 29 no107 (Winter 2006), available at www.bc.edu. accessed on 30 December 2010.

Mode 4 was found to be nearly trivial involving for just over one percent of world service trade³⁹. Although there is a basic convergence of economic interest between the developed and the developing world for liberalising Mode 4, yet the multilateral trading system has not facilitated greater workers mobility between the labour-surplus and labour-scarce countries⁴⁰. Pakistan's key area of interest is in the movement of its unskilled and skilled workers and highly skilled professionals through the "Mode 4" route. Moreover, problems like wage depression, insecurity of employment, discrimination, lack of access to services, and repression of democratic rights of the migrant workers of countries like Pakistan, who seek employment overseas, needs to be addressed at negotiations. However, the rich countries on one pretext or the other are not willing to negotiate on this in the immediate future.⁴¹

Given the challenges of WTO, it has become quite obvious that developed countries do not follow the recipes that they stipulate to the rest of the world. There is more self-interest inherent in the mechanism than the shared one. Therefore, a more realistic approach would be to make ones views heard. There is no denying how pro-west these global bodies can turn out to be, but staying away from such organisations, or being a part of the proceedings half-heartedly, also serves no purpose. A more informed intervention by Pakistan may hasten this process of change, and this information can only come if we are aware of the happenings around us, rather than taking the easy option of remaining aloof from these happenings. It is, therefore, pertinent for Pakistan to evaluate whether it is ready to embrace the regulations of liberalisation in totality, and can reform its economy at the stake of its own industries and prevalent environment? Besides, it is also significant to appraise the stock of technical capacity of the country in order to present these issues most effectively on the global forum. Thus, Pakistan needs to protect its policy space to facilitate globalisation until it is ready to compete.

5. Institutional Need Assessment for Pakistan

Pakistan has been active in participating in the global negotiations within the domain of various groups. However, now it needs to work out the internal modalities according to its current compulsions. This will help in the process of persuasion and negotiation at the international levels. As manifest from the structure and working of WTO, it is more of an institution as defined by various economists rather than an organisation. Hence, it would be apposite to take an

³⁹ Joint WTO –World Bank Symposium on Movement of Natural Persons (Mode4) Under the GATS, WTO, Geneva, 11-12 April, 2002.

⁴⁰ Pradip Bhatnagar, "Liberalizing the Movement of Natural Persons: A Lost Decade?", *World Economy*, Vol 27, No. 3, pp. 459-472, March 2004.

⁴¹ Commerce Minister meets Director General of the WTO, Press Release, available at www.wto-pakistan.org, accessed on 24 January 2007.

institutional course not only to counter the negative implications of the global body but also to make optimal use of the loopholes of such mechanisms. The indefinite suspension of the negotiations has given Pakistan an opportunity to reassess its strategies, policies, and capabilities. It allows Pakistan to make definite strides towards the final objective of a liberal competitive trading country, without compromising its Islamic identity. In the mean time, it can engage in active debate about what might and might not work in its unique socio-economic, political, and cultural environment.

As also recommended by the report of the Senate Committee, institutional development is the key factor to be taken into consideration for evolving a comprehensive strategy and policy measure to counter the challenges of the trade liberalisation regime. Pakistan at this junction needs to carry out a comprehensive Institutional Need Assessment (INA), which will enable the country to devise a clear and coherent policy towards WTO and optimal mechanisms to reap the benefits within the framework of the international body. Institutions have been defined as a set of formal rules and are distinct from the public organisations that emerge to administer and enforce them. Hence institutional development is a move from a less efficient to a more efficient set of rules. INA in Pakistan's context can be defined as stock taking and evaluation of the laws, rules, regulations, policies, methods, procedures, and plans devised over the period of time. This will lead to selection of optimal measures towards development and phasing out and elimination of those that are counterproductive for development.

INA to development is critical to bring about credible and sustainable change with emphasis on reducing the transaction costs. A credible assessment in all the sectors is required that come under the jurisdiction of WTO mandate by involving people from various spheres of life to identify the deficiencies in their relevant fields. Given the importance of INA, some of the areas that are vital to be looked into by the government, officials and relevant authorities to make effective and efficient use of WTO mechanisms are identified below:

- An appropriate point of departure would be to start with taking the inventory of legal infrastructure that is created so far and the one that is necessitated for the optimal discourse to development to tackle the intricacies of WTO. The process of enactment of laws in Pakistan is not democratic, specifically in terms of WTO. The law should be framed according to the larger interest of the people and having a desired outcome. On the contrary, the practice is that laws are made just to fulfill the requirements of the regulations of WTO without even initiating a debate about it. Therefore, while framing laws, the holistic rather than partial framework should be taken into account. For example, beside others, one of the principles of WTO states that regulation (and hence the laws of the respective countries) - "more beneficial for less developed countries" should be taken into consideration.

- Law enforcement mechanisms need to be strengthened. Enforcement of laws should be strict to achieve the desirable results. Otherwise, the entire exercise of framing and enacting the laws become futile, e.g. Pakistan has accepted TRIPS but has failed in implementing it. Pakistan agreed to it without taking account of the fact that it will be able to curb copy right violations given the weak infrastructure and resources. An estimate of losses due to violation of copyright law in piracy and reprinting of the books alone is US\$ 30 million. The price level of foreign books is much higher than the ability of the users in the developing countries like Pakistan; this is the main cause of book piracy benefiting the local publishers and booksellers. No action can curtail book piracy until measures are taken to make them available at low price for the local readers.⁴²
- Besides, it is interesting to note that all the public sector universities in Pakistan resort to inexpensive and reprinted books to meet their needs. Given the ineffectiveness of such laws, it would be prudent on part of the government to involve the stake holders and affected people before framing such laws and they should be debated in the parliament as well to muster effective support.
- Pakistan should also look into the mechanism of participation in the WTO meetings. The latest web information regarding the working of Pakistan's Permanent Mission to WTO Geneva disclose that Pakistan's highest representative at the WTO is the Commerce Minister, besides, minister of state for commerce and federal secretary and additional secretary of commerce also attend the ministerial meetings. Pakistan's Ambassador and permanent representative (also acts as the chairman of council for TRIPS on special session), along with the staff of its Permanent Mission to WTO, essentially performs the ongoing WTO work. They represent Pakistan in the routine affairs of the organisations, and have divided the work load and responsibilities to attend various meetings in the absence of appropriate representatives besides serving as the liaison with the WTO Secretariat for Pakistan. For negotiations of WTO rounds, Pakistan is not led by any chief negotiator along with a relevant team of specialists in particular area of trade policy under discussion. There is no formal framework of specialised representation by Pakistan at TNC and its other auxiliary bodies, mini-ministerial meetings and in more unofficial negotiations with other countries and negotiating community. Moreover, during the dispute settlement process, it was learnt that Pakistan does not have any financial provision to

⁴² Khalid Mehmood and Mohammad Ilyas, "Copyright and Book Piracy in Pakistan", *IFLA Journal*, Vol. 31, No. 4, 2005. pp. 324-332.

contest these costly and time consuming propositions. Therefore, Pakistan should look into the matter as to “who will be speaking for the country” at WTO and “who will be making the decisions for the country”. Hence it is suggested that Pakistan should devise a proper structure where appropriate responsibilities should be assigned to relevant and specialised people to speak for its interest in the WTO. Also, it would be appropriate that the Federal Cabinet on the recommendation of the Parliament should decide on behalf of the country. This will help in making appropriate, transparent, and well supported decisions that can lead to an efficient and coherent policy for the WTO challenges.

- There is an urgent and continuous need for capacity building to develop relevant expertise through awareness, education, training, and other modes to produce effective and efficient professionals who can speak for the country internationally and also to make internal decisions for effective policy. Besides, appropriate measures like allocation of funds for DSBs and other bodies should be made, so that Pakistan’s propositions can effectively be contested and its image improved.
- Finally, the government should initiate a continuous critical evaluation of the process for corrective measures through inviting debates and seminars on WTO related issues, including experts, politicians, and persons from the civil society and media. The resultants from such initiatives should be inserted into decision making process. Thus, Pakistan will have the required backing for its policies when they are initiated at the WTO forum.

6. Conclusion

Since inception, WTO has provoked much controversy globally. It has been criticised for being selective and exclusionary, non-transparent, biased, false, and highly compelling. However, its presence provides opportunity for developing countries like Pakistan to increase its trade and acquire the much needed development. When the negotiations start again, Pakistan along with the other developing countries and LDCs should stress upon the point of ensuring respectable living conditions for people — ordinary people — as the well-being of human race is the spirit of development. The pursuit for a more fair distribution of income, wealth, and power between countries will have to be a central part of any effort to move from a global economy to a global community. Regardless of what the critics of multilateralism and globalisation say, the real battle around the WTO is going to be fought from within. Be it the countries of South Asia or other developing countries, they can gain by evolving a common strategy to create a just and free trade world order, and seek due share in the world market.

Despite being a founding member of the WTO, Pakistan has not been able to play its due and effective role in international negotiations. The non-serious approach by the successive governments and deficient institutional capacity are the main obstacles in Pakistan's passive performance at international negotiations that are vital to its own development. Furthermore, Pakistan still does not have a coherent policy towards WTO, which halts its progress to lock into effective development dialogue internally and internationally. Moreover, capacity building initiatives have altogether been ignored through out the decade of negotiations, which is the core reason for its poor and ineffective growth of human resources.

Pakistan needs to develop its institutional infrastructure and carry out need assessment to identify and evaluate its current deficiencies and future needs towards development. Its policy towards WTO should be proactive instead of reactive. It should assert and put its weight behind the arguments emphasising its developmental objectives. Meanwhile the continuous process of institutional development and capacity building will enable the country to have effective mechanism to voice its concerns and formulate its policies accordingly. Moreover, this mechanism will further help in decision making process, which currently needs overhauling by including the excluded, e.g., stakeholders and affected groups of WTO agreements. Pakistan should come up with the proposals at the international negotiations to make adjustments to defuse the negative impacts of the delays of implementation of reforms by the rich countries. Emphasis should be put on gaining more concessions from the developed countries rather than making commitments at this stage. This will provide an even playing ground for all the players to a certain extent.