# From Uruguay Round novice to experienced trade negotiator



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**When I first joined the multilateral trade scene in 1996 as Joint Secretary in the Indian Ministry of Commerce, I must admit that I had no clue as to what I was going to do. I did have some experience in international trade, having directly exported pepper and other spices in one of my early assignments in 1976-77. Later, as chairman of the Spices Board, I acquired a broad understanding of the global scenario with respect to the spice trade and came to know many exporters and importers. In the Indian Administrative Service, we change jobs very frequently, and, from spices, I went to animal husbandry, fisheries, industries and public finance until I was picked up again in 1996 by the Ministry of Commerce for multilateral trade.**

The arcane set of rules that constitute the Legal Texts were clearly beyond me. In the initial days, I could make neither head nor tail of it. My predecessor, Anvarul Huda, who was later Deputy Director-General in the WTO, dropped into my room one day, and I confessed my ignorance to him. He told me: "Don't try to understand the whole text. As files come to you, as you are confronted with issues, go deep into them, studying the Analytical Texts, which also contain jurisprudence on each issue." I tried that, but I still couldn't understand how the rules hung together.

Then, I found a simple book explaining the GATT in question-and-answer form. This made things easier for me, and I understood the product of the Uruguay Round as the outcome of intense negotiations between countries and the manner in which it brought orderliness to world trade, even though there were limitations and even, in some cases, contradictions in the results of negotiations in different areas. I realized that the power of the dispute settlement mechanism brought about a specific discipline in global trade.

My next assignment was a stint as a diplomat in the Embassy of India in Brussels, where, again, I dealt with trade, primarily with the European Commission. The Commission was then at loggerheads with India on bringing the so-called Singapore issues - investment,

competition policy, government procurement and trade facilitation - into the ambit of the WTO. India opposed this with the support of several other developing countries, as we felt that we were still in the early stages of growth and needed freedom of action.

Now, 20 years later, with a great deal of foreign investment in India and many Indian corporates having ventured abroad and set up production units, our approach should be different. All issues assume different dimensions over time, and good and purposeful negotiation requires flexibility of approach.

The Singapore issues blew up and nearly broke negotiations at the Ministerial Conference in Doha in 2001. I was present at the meeting, as I had been posted as Ambassador to the WTO, even though I was still in Brussels at the time.

The Indian Minister, Murasoli Maran, was incredibly tough and quite willing to take on all the big powers, together with Michael Moore, then Director-General. Meetings lasted over 36 hours at a stretch, and on the evening of the final day, Mr Maran refused to join the consensus. A representative of the European Union is reputed to have gone out of the complex and said that a deal that was sure to accelerate growth in developing countries was being held up by the intransigence of a single "madman". Late in the night, some language was found to appease our minister, and he agreed to join the consensus. Thus started what was called the Doha Development Agenda or the Doha Work Programme.

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When I reached Geneva two months after the Doha meeting, the immediate briefing I got from my colleagues in the Mission was that India had virtually become an outcast in the diplomatic community. The first task was, therefore, to rebuild confidence and ensure that India regained its position as a premier negotiator.

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having been forced to give many more concessions than what other members had had to give in the Uruguay Round.

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If a country is not there at the start of a multilateral or regional agreement, it has to pay a much higher price to join later. The kind of concessions that were wrested from China, and later Russia, were, in a way, an endorsement of the wisdom our Indian negotiators had displayed in the early 1990s while signing agreements, despite the fact that there were many lacunae from our perspective. China and Russia could enter the WTO only after hard bargaining with individual member countries of the WTO. The US, EC and other developed countries drove hard bargains.

My immediate objective was to smooth ruffled feathers in the diplomatic community. I met more than 40 ambassadors, got on first-name terms with all of them, and became socially active. It was also my belief that an entirely negative stance in negotiation was not in our interest. It was better to indicate our desire to negotiate and gain the maximum possible benefits for the country. Before too long, I became accepted by my counterparts as a congenial colleague.

In Doha, I had come to realize that the public health issue was extremely important for the African group, spearheaded by the statuesque and dignified Ambassador of Kenya, Amina Mohamed, who had achieved great distinction in the academic field as well as in her career in international relations. She distinguished herself even further in later life, going on to become the Cabinet Secretary in charge of foreign affairs, initially, and later, of education.

India had not been particularly active in the negotiation on public health. Still, it was evident to me in Doha that Africa, battling all at once against disease and the non-affordability of patented medicine, lay great store by these negotiations. As a developing country faced with similar problems in the not-too-

distant past, I could empathize easily with them.

I entered the health negotiation, therefore, with great gusto. I was virtually visiting the Kenya mission every day, talking to African ambassadors and holding meetings with them - to the extent that the Kenyan Ambassador wondered whether she would be required to give me a room in her Mission. These negotiations were essential to Africa and other developing countries because patent holders in developed countries were providing medicines at very high prices. At the same time, they could buy them at low cost from other developing countries like India.

This negotiation took a great deal of time and stretched the patience of developing countries to the utmost limit. The suggestion made was that Article 31(f) of the TRIPS Agreement, which stipulates that compulsory licences may be issued "predominantly" for the local market, may be waived.

At this time, the window available to developing countries to import from cheaper sources such as India was rapidly closing, as the patent regime had to be enforced by all developing countries by 1 January 2005. The US was initially isolated, but thanks to the efforts of the US Ambassador, Linnet Deily, the pharmaceutical industry came closer to a solution. We finally reached a situation where we could live with an arrangement that served the interests of Africa and other developing countries yet, at the same time, was agreeable to the US.

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This protracted negotiation taught me, a novice in multilateral trade diplomacy, an important lesson. At some stage in every negotiation, a settlement has to be found - not necessarily the best from one country's point of view, but the best that is attainable under the circumstances.

Today, I watch as a trade war is being relentlessly waged between the two most

significant economic powers in the world. I recall those halcyon days of intense but polite diplomacy, where we could vigorously contest one another's position in the rooms of the WTO yet have a drink and smoke a cigar with one's adversary after the meeting.

At the same time, intense negotiation took place regarding other elements of the Doha Work Programme. As far as we were concerned, the Singapore issues and agriculture were top priority.

Regarding the Singapore issues, initially, India was virtually isolated and ploughed a lonely furrow in the negotiations. Gradually, we acquired momentum with the support of China, who had entered the WTO after the Doha Ministerial Conference. We managed to turn the negotiation on its head by presenting a paper where we stressed the fact that any agreement would strengthen not merely the investor but also facilitate conditions laid down by destination countries. With this, the US, which had been backing the leading proponent, the EU, lost some of its enthusiasm.

The other central area of negotiation was agriculture. Initially, we were with countries that had defensive interests in agriculture, led by the EU, and we were pitched against the Cairns Group, countries with massive exporting interests.

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In the Uruguay Round, the US and EU had their way with the Blair House accord of 1992. This time, too, they worked out a similar agreement, taking care of each other's interests and leaving the rest of us out in the wild. At this point, Brazil and India came together, gathering the support of China first. This was followed by Egypt, Thailand, South Africa, some Latin American countries and several others, forming what came to be known as the "G20" in the WTO context.

At the Cancun Ministerial Conference in late 2003, the focus was on the Singapore issues. Agriculture, too, was negotiated hard by the G20,

led by Brazil on one side and the US and the EU on the other, but with little success.

By this time, the African Group had also come around to our view that we were not yet ready to expand the scope of the dispute settlement system to areas outside trade in goods and services. We were not prepared to start negotiations in other places, and, finally, despite the pressure, the EU Trade Commissioner, Pascal Lamy, had to agree to drop investment and competition policy from the agenda of the Doha Work Programme. Yet, the Chairman of the Conference abruptly announced the termination of the meeting.

I was disappointed, as were other Geneva-based negotiators. The failure of a multilateral negotiating process can send a negative signal on the importance that WTO members attach to progress on issues of critical importance to people across the globe.

We had to salvage the situation back in Geneva. Otherwise, the Doha Work Programme would collapse. Hence, we talked intensely with one another, made compromises where necessary, and the negotiations were revived in Geneva through what came to be known as the July Framework of 2004. Shortly thereafter, I left Geneva and went back to Delhi.

I never went back to Geneva thereafter, but I noted with pain the tortuous route the negotiations took in Hong Kong, Paris, Potsdam and Geneva. I heard of the talks breaking down in Geneva in 2008 and the flicker of hope that arose in Bali in 2013.

Perhaps negotiators were too ambitious at Doha. It could have been retrieved had the negotiators taken, as DG Pascal Lamy said in May 2012, “small steps, gradually moving forward the parts of the Doha Round which were mature, and re-thinking those where greater differences remained”.

It must be said that similar challenges still confront the multilateral trading system, and members continue to explore solutions. The US, whom I have always perceived as an unbending champion of free trade, have been unable to allow for the confirmation of Appellate Body members, resulting in the effective blockage of the appellate jurisdiction of the dispute settlement system. New policy approaches have heightened

trade tensions, leading to policy inertia and uncertainty.

A global depression is predicted by many economists as orderliness in trade is cast to the wind. There is little doubt that future negotiators have a humongous rebuilding task on their hands.