

Multilateral Trading Regime-Challenges and Opportunities for Nepal



✉ Damodar Regmi *

Introduction

Nepal has already acceded to the rule based multilateral trading regime i.e. World Trade Organization (WTO) as its 147th member after completion of long formalities and pre defined very complex accession negotiation process on 23 April 2004. One more important thing in this context, associated with Nepal's membership, is Nepal is the 1st least developed country to accede to the world trading regime after its establishment in 1995.

WTO is a global forum for trade liberalization. At present there are 150 members including developed, developing & least developed countries in this common forum. WTO was established on 1 January 1995 by replacing its predecessor General Agreement on Tariffs and Trade (GATT) as a result of 8th round of Uruguay negotiation. It is the platform on which trade relation among member countries (i.e. separate custom territory) evolves through collective - ongoing discussions and negotiations. It provides the principle contractual obligation determining how government frame and implement domestic trade related legislation and concerned regulations in line with the framework of international trading environment. WTO is a forum of trade liberalization among member countries or separate custom territory. Main pillars of WTO system are non discrimination, transparency, predictability and progressive liberalization.

Overview of World Trade

Liberalization has become buzzword all over the world. It has two dimensions: Internal and External. Internally, the Government's policy of liberalization refers to the deregulation of capital and removal of controls on price and privatization of state owned enterprises. Externally, it advocates about liberalization in economic activities which refers free flow of products and services, technology, ideas and investment among trading partners. After the end of bipolar era trade has been taken as a engine of growth.

After the great depression of 30s and after the end of 2nd world war new concept in the field of world economy was emerged. This resulted establishment of regional organizations, International Monetary Fund (IMF), World Bank, International Trade Organization and General Agreement on Tariffs and Trade (GATT). All of these efforts were emphasized on liberalization especially in the

* Director, Department of Civil Personnel Records

trade sector. Trade, then, has been taken as a tool for interdependence and backbone of overall economy.

At present most of the countries are gathered in this global trade forum (WTO). There are altogether 150 member states (i.e. separate custom territory) in the multilateral trading regime named as World Trade Organization. The multilateralism has broadened the horizons of opportunities to accelerate economic activities, for all countries through trade.

Like in the other sectors we have now witnessed some paradigm shifts in the context of world trade also, which are listed as follows:

- (a) Trade may become as an engine of growth
- (b) Trade can be taken as a tool of economic diplomacy
- (c) The world community can set a golden 'horizon for prosperity' instead of 'hangover of political interferences.
- (e) Shortening the gap between developed and a developing country is a major concern of world trade.
- (f) Linking trade with socio economic sector so as to achieve the overall development must be the overarching goal of trade.
- (g) Strengthening North-South and South-South cooperation for the welfare of the people
- (h) Multilateralism may become as a 'forum of prosperity' so that everyone can be benefited from it.
- (i) There should be gradual reduction in the gaps between north and south.
- (j) Trade should support to achieve internationally committed goals, i.e. Millennium Development Goal
- (j) Trade liberalization not only supports to shortening the gaps, improves access, creates opportunities but also helps to maintain good governance.
- (k) Trade issues should be addressed through mutual understanding not from power domination.
- (l) Every country can fix their pace on the race according to their comparative and competitive advantages.
- (m) The world can be more interdependent through trade by fair trading system.

Objectives of WTO

Main objectives of WTO are as follows:

- (a) To increase production.
- (b) To ensure full employment.
- (c) To increase income.
- (d) To raise standard of living.
- (e) To promote the steady growth of real income & effective demand.
- (f) Expand the production of trade in goods & services.
- (g) Sustainable development & economic protection.

Main functions of WTO

Main functions of WTO are given as:

- (a) Implementation, administration & operation of the agreements covered by Marrakesh Agreement Establishing the World Trade Organization.
- (b) Forum for negotiations:- It provides platform and permanent forum for negotiation among member countries in any issues.

- (c) Dispute settlement:- If there arises any conflict between member states the WTO constructively settles the dispute within a given timeframe.
- (d) Review of national trade policies:- There is a provision in WTO to review trade policies of member countries in a periodic manner, i.e., developed country in every 2 year, developing country in every 4 year and least developed country in every 6 year.
- (e) Coherence in global economic policy making:-On going negotiation among members helps to set suitable economic policy.

Basic Principle of WTO

To make trade more fair and justifiable the WTO system adopted following principles:-

- (a) Trade without discrimination.
 - (i) Most Favored Nation (MFN) clause: - Any member should, immediately and unconditionally, grant no less favorable treatment to its trading partners. Therefore non discrimination is taken as a backbone of multilateral trading regime.
 - (ii) National Treatment:-A member should behave equal treatment to its own products and foreign products within its territory.
- (b) Transparency:-All related Acts, regulations, policies, declarations and procedures should be made publicly available before its enforcement. It helps to maintain predictability and reduces unexpected uncertainties.
- (c) Predictable & growing access to markets:- Consistency in related policies and transparency encourages predictability for the traders.

Coverage

The WTO Agreement basically covers the following areas-

- a. Trade in Goods.
 - (i) Binding of Tariffs for all tradable goods.
 - (ii) Prohibition of quantitative restrictions for both export and import.
 - (iii) Tariff Negotiations:- Progressive tariff reduction and elimination of non tariff barriers through ongoing negotiation among member countries according to their interest.
 - (iv) Emergency import measures: Members have the right to take Safeguard Measures under the following condition:-
 - (a) If there is import surge and imported products are sold below the cost of production the importing countries have the right to levy antidumping duty equivalent to the margin of dumping.
 - (b) Similarly, if the imported product is subsidized in exporting country then the importing country can levy countervailing duty equivalent to the amount of trade distortion made by subsidy.
 - (v) Tariff renegotiation: Tariff escalation in one product above the bound rate can lead compensation of equal amount of tariff rate to the other product.
- b. Trade in services (General Agreement on Trade in Services-GATS):
 - (i) Horizontal Commitments –applicable for all service sectors of the schedule
 - (ii) Specific Commitments -applicable for specific service sector of the schedule
 - (iii) Pillars are same- As in trade in goods non discrimination, transparency and predictability are main pillars.

- (iv) Central classification – Service sectors, classified into 12 sectors and 155 sub sectors according to classification of United Nations are covered in areas of service trade.
- (v) Four Modes of supply-Supply of services from provider to the receiver can take place from the following modes:
 - (a) Cross Boarder Supply- When Service receiver and provider are in different territory then both can be benefited from internet or any means of correspondence. e.g. consultation through correspondence.
 - (b) Consumption Abroad- Receiver goes to the territory of the provider to consume service, e.g. medical service, tourism etc.
 - (c) Commercial Presence- Service provider can open branch in the territory of receiver to provide the service, e.g. branch of bank.
 - (d) Presence of Natural Persons- Foreign employer may be granted to work in the branch by the government of receiver's territory.
- c. Trade Related Aspects of Intellectual Property Rights (TRIPS): Inclusion of intellectual property in coverage of WTO is one of outcome of establishment of WTO. Basically intellectual property rights consists of Copyright and related Rights, Trademarks, Geographical Indications, Industrial Designs, Patents, Layout designs (topographies) of Integrated circuits, Protection of undisclosed information, and Control of anti competitive practices in contractual licenses.

Benefits of WTO system

- (a) This system helps to promote peace.
- (b) Disputes are handled constructively.
- (c) Freer trade cuts the costs of living.
- (d) It provides more choice of products & qualities.
- (e) Trade raises incomes.
- (f) Trade stimulates economic growth.
- (g) The system encourages good governance.

Nepal's major comparative advantages sectors

Nepal's major comparative advantages sectors are:-

- (a) Carpets
- (b) Garments
- (c) Agriculture
- (d) Tourism
- (e) Tea
- (f) Hydropower
- (g) Jewellery
- (h) Labor Force
- (i) Computer Software

Nepal's desire to become the member of WTO

- (a) To integrate its economy into the global mainstream
- (b) To secure extended market for exports of potential goods & services.
- (c) To adopt policy stability & to confirm predictability.

- (d) To enhance international image & credibility.
- (e) To institutionalize & to secure transit rights.
- (f) To safeguard from unexpected external shocks.
- (g) To benefit from fair trade rules.
- (h) To enjoy right of LDC special & deferential treatment, technical support for capability, General System of preferences and preferential treatment.
- (i) To diversify its international market.

Nepal's effort to join WTO

Various efforts made by Nepal to join the WTO are given as:

- (a) Application for General Agreement on Tariffs & Trade (GATT)--- (1989)
- (b) Re-applied for membership of WTO ---(1995)
- (c) Submission of memorandum of foreign trade regime ---(1998)
- (d) Clarification submitted ---(1999/2000)
- (e) First working party meeting ---(2000 May)
- (f) First bilateral market access meeting ---(2000 Sept)
- (g) Other working party & bilateral meetings---(2002,2003)
- (h) Finalization of terms of condition of Nepal's Membership---(15 August 2003)
- (i) Nepal's membership proposal accepted--- (11 Septmber,2003 ,5th WTO Cancun ministerial meeting)
- (j) Submission of instruments of ratification---(24 March 2004)
- (k) Full membership to the WTO-23 April 2004 (30 days after submission of instrument of ratification)

Nepal's Membership Package

Nepal has participated in several bilateral discussions with key WTO members (USA, Canada, Australia, New Zealand, India, China, European Union, Japan) which was held on different dates of 2000 and 2003. After a long interaction with these countries Nepal had finalized its terms and conditions for its accession to WTO. The membership package (Protocol of Nepal's accession) consists of

- (a) Bound Tariff Rates.
 - For agriculture products 52% at the date of accession & 42% after transition period of 3 years.
 - For non agriculture products 39% at the date of accession and 24% after transition period of 5 years.
- (b) Reduction of other duties and charges.
- (c) Applied rate of other duties & charges will be Zero on a gradual reduction basis from 2005 to 2013.
- (d) Service Sector Commitment
- (e) Out of 155 sub-sectors of 12 sectors Nepal has opened up more than 70 sub sectors on the basis of equity participation basis.

Opportunities of membership

WTO will lead to the enhancement of efficiency of Nepalese enterprises and make Nepalese economy more competitive by promoting better business environment. It will create expanded

market for Nepalese exports. Resources will be diverted to the sectors in which Nepal has comparative cost advantage. Some opportunities of being WTO membership are emancipated as below:

- (a) Availability of extended markets for Nepalese exports would be secured.
- (b) There will be chance of comparative advantage in the field of service export.
- (c) There will be high chance of attraction of foreign investment.
- (d) Nepal can have preferential market access to European Union (EU) through Everything But Arms (EBA) programme committed to paid to LDC. Recently Australia and Japan also declared duty free and quota free access for LDC originating goods.
- (e) There will be protection of consumer's rights.
- (f) Automatic Transit Rights should be provided by WTO mechanism.
- (g) There will be benefits from positive discrimination to LDCs.
- (h) Protection of domestic industries by high tariff can be achieved.
- (i) Increased transparency for traders will be maintained.
- (j) Participation in multilateral ongoing negotiation shall be ensured.
- (k) Import consistency for industrial inputs should be maintained.
- (l) There will be more supply stability for the benefit of the consumers
- (m) Possible assistance from WTO Secretariat and major trading partners will be given for domestic capability enhancement as promised by the major trading partners and as provided in the rules and principles of WTO
- (n) Well defined trade / transit rights as defined in WTO mechanism will be institutionalized and there will be no frequent transit related tussles with the neighbouring countries as used to be experiences in the past
- (o) There will be safeguard from unilateral decision of trading partners (such as by imposing quota restrictions and higher tariffs)
- (p) There will be benefit from the provision of positive discriminations in favour of least developed countries {For example, the Generalized System of Preferences (GSP) facility is continued under WTO}
- (q) Backward linkage with trans-nationals will be improved and it will increase production and employment
- (r) Nepal can protect domestic industry through tariff/domestic regulations.
- (s) A predictable trading environment will be created and uncertainty in trade regime will be created,
- (t) Only the member countries can exercise the right embodied in the WTO agreements
- (u) Transparency in trading regime and administrative procedure will be lessened.
- (v) It helps members to defend their trade rights through the Dispute Settlement Body (DSB).
- (w) It helps to increase foreign direct investment (FDI).
- (x) It creates more awareness in the society.
- (y) It helps in creating environment of a good governance.

Challenges

We must bear in mind that along with opportunities, challenges accompany with the membership. The Government of Nepal may face the fiscal adjustment cost of finding new sources of revenue to replace the several new import surcharges, competition, technical barriers, sanitary & phytosanitary condition. Legal adjustment, institutional adjustment and capacity development may be costly for Nepal. The other potential challenges are:-

- (a) No automatic benefit because it is only a means not an end.
- (b) Potential cost for policy compatibility.
- (c) Disputable small and Medium Enterprises'(SMEs) privilege can be disputed.
- (d) Difficulties in patenting & documenting bio resources.
- (e) Non compliance cost & risks.
- (f) Absence of business advocacy.
- (g) Weak inter and intra co-ordination mechanism.
- (h) Lack of trained human resources.
- (i) High cost for dispute.
- (j) Threats to domestic producers from import surge.
- (k) Loss of autonomy in policy making as the policies will be dictated by the WTO rules and accession commitments.
- (l) Weaker negotiating skills of the Nepalese government and private sector leaders.
- (m) Displacement possibility for non-competitive goods and services

Strategies to be taken to address challenges perceived as a member of WTO.

Nepal has to adopt following measures to address the challenges faced after the WTO membership.

- (a) Smooth co-ordination among concerned government agencies.
- (b) Inter and intra networking between government & private sector.
- (c) Search for potential markets of exportable items through trade point.
- (d) Utilizing LDC & SAARC forum to protect the rights of small & vulnerable economies.
- (e) Regular sensitization & advocacy for concerned stakeholders.
- (f) Expansion of trade by utilizing Nepalese diplomatic missions (Economic Diplomacy)
- (g) Institutional strengthening and capacity building by utilizing technical assistance.
- (h) Negotiation capacity building
- (i) The private sector should acting as a watchdog.
- (j) Stakeholders' participation in each and every level of policy making, implementation and evaluation. This ensures sustainability.
- (k) Leading role in LDCs forum to protect interest of the group.
- (l) Administrative and political commitment required.
- (m) Alertness on supply side constraints.
- (n) Takeing measure against possible import surge
- (o) Enhancing technical capacity in the field of customs, technical barriers to trade, and Sanitary and Phytosanitary measures and in the field of intellectual property.
- (p) Taking WTO as a cross cutting issues for better coordination among government institute.
- (q) The government should act as a facilitator for private sector to increase their participation in implementing WTO system.
- (r) Apprehending WTO as a major component of Nepal's Economic Diplomacy.
- (s) Keeping WTO in the curriculam of Higher Secondary and Campus level in order to generate manpower for world trade regime.
- (t) Publishing biodiversity resources as soon as possible to protect them.

Conclusions

Being a small least developed country (LDC) and vulnerable economy, Nepal cannot remain alone from the paradigm of globalization and trade liberalization. It is therefore imperative for the country to explore the forum to integrate its economy into the global mainstream.

After 14 years (for WTO 9 years & for GATT 5 years) of intense & patience efforts, lobbying with key members, regular interaction with relevant stakeholders, continuous support of donor agency, Nepal finally acceded to the global trade mainstream. To accede to the WTO is not an end, it is only a mean. To get membership is a very hard task but to fulfill the obligations after the membership has both challenges & opportunities. We can achieve the target by capitalizing opportunities and minimizing challenges. If there is lack of coordination among related agencies and lack of commitments and ownership from any corner, that will lead us to the dark room. Therefore we need coordinated effort, collective responsibility and equal ownership to benefit from the global trade mainstream.

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