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**Statement in the South Centre Conference on “WTO and the Multilateral Trade**

**System: The Fate of Doha, the Agenda Bali Ministerial and Beyond”**

Friends,

I deem it to be a great honour to be participating in the session on “WTO and the Multilateral Trade System: The Fate of Doha, the Agenda Bali Ministerial and Beyond”. At the outset, I would like to express my deep sense of gratitude to the South Centre and all of you for giving me this privilege.

I must confess that my feelings are mixed as I take the floor to speak on this topic. I think some of you would be aware that I was the first Indian Ambassador to WTO and that I had participated in the first four Ministerial Conferences, which took place at Singapore, Geneva, Seattle and Doha. In my capacity as the Indian Ambassador, I had intensely participated in the preparatory process for the Doha Ministerial Conference and was actively involved in assisting the Indian Commerce Minister at Doha. It was with great difficulty that consensus was achieved at Doha (In fact, the conference was extended by one day, beyond the original schedule of five-days in order to achieve the consensus). Developing countries, in spite of the doubts they had entertained at that stage regarding the desirability of launching a complex and ambitious new Round of Negotiations, decided to join the consensus taking into consideration, mainly, the following factors:

1. The assurance given by the Developed Countries that the needs and interests of Developing Countries will be placed at the heart of the Doha Work Programme (this assurance is incorporated in Para 2 of the Ministerial Declaration).
2. Provision in Paragraph 12 of the Ministerial Declaration for negotiations on all outstanding implementation issues as an integral part of the Doha Work Programme, within the framework of Single Undertaking.

3. A clear mandate for implementing the built-in agenda in Article 20 of the Agreement on Agriculture for liberalization of agricultural sector, a sector which had been kept out of the GATT system during its entire 46 years and a sector which did not see much of meaningful liberalization during the implementation period of Uruguay Round Agreement on Agriculture. Also the fact that the mandate for agriculture negotiations enables Developing Countries to effectively take account of their development needs, including Food Security and Rural Development.
4. Incorporation of 'less than full reciprocity' principle in the negotiating mandate for NAMA.
5. A clear mandate for implementing the built-in agenda for further liberalization of the services sector as provided for under Article XIX of the GATS and recognition of promoting development of Developing and least Developed Countries as one of the goals of negotiations.
6. A commitment to the objective of duty free, quota free market access for products originating from LDCs.
7. Postponement of decision on commencement of negotiations on Singapore Issues to the Fifth Session.

As somebody who had to work hard to convince my own delegation at that time to join the consensus, in spite of misgivings they had, it is not possible for me to talk about "Fate of Doha" without any emotion. Regretfully I realize today that out of the seven factors taken into consideration by a large number of developing countries for joining the consensus on 14 November 2001, six factors have not been realized even after a decade of negotiations. What is even more painful is the fact that the prospects for realizing these factors do not seem to be particularly bright. In short, the promised development round continues to elude developing countries. There is general agreement among trade negotiators and academics that the Doha consensus was arrived at on the basis of public statements made by developed countries and the then Director General that the key concern of the new round was to strengthen the developmental aspects of the WTO.

To me, it looks a bit ironical that powerful Members of WTO who, in November 2001, argued forcefully that effective counter to terrorism (reference to 9/11 attack) lies in launching and successfully completing multi-lateral trade negotiations, with development at its focus, today makes statements virtually implying that Doha Round is not do-able.

Trade negotiators, academics and researchers have identified a number of factors which according to them are stalling the Doha negotiations. Some of these factors are:

1. The issues covered by negotiations have a significant relationship to the overall economies of countries. Hence, the WTO Members are not in a hurry to yield ground and undertake new commitments.
2. Unlike during the Uruguay Round Negotiations, the Developing Countries are now acutely aware of the implications of the commitments they undertake in the WTO: (a) perpetual nature of the commitments undertaken in the WTO and (b) trade action by other Members, if the Member undertaking commitments does not live upto its commitments. Because of this awareness, Developing Countries try and resist pressures and unreasonable demands made on them.
3. Major Developed Countries are demanding significant concessions from the Developing Countries, especially from the so-called emerging economies like China, Brazil, India and South Africa. However, Developed Countries themselves are unwilling to offer adequate concessions to Developing Countries.
4. Poor economic environment since 2008 in major developed economies resulting in high rates of unemployment.
5. Unlike in the past, Developed Countries are not able to steer the negotiations in the directions of their choice because of the increased awareness of the implications of WTO commitments on the part of the developing countries as well as the formation

of a number of issue-based Developing Countries-alliances which enables them to resist undue pressures

Regretfully, powerful Developed Countries do not want to accept the existence of these factors. The reason given by powerful Developed Countries to explain their reluctance to move forward and complete Doha Round within the framework of Single Undertaking, as originally envisaged, is different. They are saying that there is “not enough on the table”. This argument has been refuted by many international trade experts. For example, some World Bank researchers have pointed out that what is on the table would constrain the scope of tariff protection in goods, ban agricultural export subsidy in the industrial countries and sharply reduce the scope for trade distorting domestic support. Patrick Messerlin, an academic has argued that the Doha Round would improve certainty. He has pointed out that in the industrial sector, emerging economies would cut their average-bound tariff to roughly 13-15 per cent, with very few tariffs remaining above 20 per cent. Developing Countries have also pointed out that there is an imbalance in the outcomes of the 2008 Text in agriculture and non-agricultural market access, in the sense that Developed Countries, while looking for ambitious tariff cuts by Developing Countries in respect of industrial goods, are not willing to accept an equal degree of ambition when it comes to reduction in agricultural subsidies by Developed Countries.

It is rather strange that some powerful developed Members like US are creating an image of themselves as aggressive trade liberalizers and are portraying some of the emerging economies as defensive in their response to requests for liberalization. It is very well-known that US has a defensive position with regard to a large numbers of issues like agricultural subsidies, carve out in agriculture market access, cotton issue, 100% DFQF, mode four market access in Services, etc. Most important of these issues is the issue of agriculture support. Basing on the notifications available in the WTO Secretariat many experts have shown that the total domestic support to agriculture increased from US\$ 60.9 billion to US\$ 130.3 billion during the period 1995 to 2010. It is also worth-recalling that US which made a statement, at a time when it was not enthusiastic about trade facilitation negotiations, that rules of origin constitute the single most important trade facilitation measure, is not allowing negotiations on non-preferential rules of origin, originally scheduled for completion by July 2008, to be completed. Again, if I am not

mistaken, MFN principle in Maritime services, which was suspended at the instance of US in 1996 or so remains suspended even till today.

US is also portraying as though the emerging economies are very strong and that they can easily undertake the commitments demanded by US. A recent World Bank study shows that in 2011 the per capita GDP of Brazil was at \$12,594, South Africa at \$8,070, China at \$5,445 and India at \$1,489, whilst the average per capita GDP in OECD countries was \$41,225, with the US per capita GDP being \$48112. An earlier World Bank study had found that during the currency of the Doha Round, the absolute per capita income gap between the key emerging economies and advanced economies has widened further.

Some recent studies have also shown that the emerging countries are still the home of a large number of poor people (living under \$1.25 per day); with over 200 million in China 456 million in India and 81 million in Brazil.

Therefore, the US position that the high growth of emerging Developing Countries should be associated with increasing “convergence” of these economies with OECD high-income countries is not correct. It is inexplicable as to why US should target 4 countries whose total GDP share is only 10%, who are low per capita income countries, who are home to a large number of world’s poorest people and who are nowhere near achieving convergence with OECD economies, in any foreseeable future.

The Developed Countries have expressed the feeling that the Doha Round is not do-able in the short-term and have argued for ‘early harvest’ of only Trade Facilitation suggesting that other subjects in the Doha Mandate should be kept on the backburner. They are also taking the stand, that since multilateral negotiations are stalling, plurilateral negotiations in areas of interest to them like Services should be initiated. They also want new issues including climate change, investment, competition and food security to be brought on the negotiating table. Their preference now for negotiating issues piece by piece, thus implicitly departing from the Single Undertaking concept. However, there is one difference between US and EU on plurilaterals. EU would like plurilaterals to be based on MFN principle. However, US does not want the plurilaterals on MFN basis.

Developing Countries who are extremely disturbed by the stance of major WTO players have rightly taken the following stand:

1. The Doha Round should be completed, with its development mandate in tact, on the basis of Single Undertaking.
2. Plurilateral approaches are not acceptable since they will exclude or marginalize a large number of Developing Countries.
3. The idea of focusing on new issues like investment, competition, energy, climate change, etc. keeping the Doha Mandate on the back burner is not acceptable.
4. There should be early harvest of issues of interest to the LDCs, such as cotton, duty free, quota free market access.

The proposal to effectively abandon Doha Round and to negotiate on some issues of interest to Developed Countries on a stand alone basis is highly regrettable. Their main interest seems to be in the area of Trade Facilitation and Services.

The Developed Countries are trying to hard sell trade facilitation, as though it will contribute enormously to the export earnings of Developing Countries. As many Developing Countries have pointed out, infrastructure mainly ports, roads, railways, computerization, etc. plays an important role in export facilitation and the Developing Countries face significant problems in the area of infrastructure. It is no exaggeration to say that trade facilitation as is being currently negotiated in the WTO amounts to import facilitation by Developing Countries for the products of Developed Countries. Therefore, many developing countries are concerned about the current proposals on the table with regard to Trade Facilitation.

As far as the procedural issue is concerned, Developed Countries are citing Paragraph 47 of the Doha Ministerial Declaration which provides for “agreements reached at an early stage being implemented on a provisional or definitive basis”. This para also stipulates that early agreements shall be taken into account in assessing the overall balance of the

negotiations. More importantly, what is being forgotten is that the main purpose of Para 47 is to provide for Single Undertaking and that “early harvest” is only an enabling sub-clause in Para 47. It is rather strange that some Developed Countries are trying to use Para 47, which basically provides for Single Undertaking and recognizes the possibility of early harvest on some subjects without prejudice to overall balance of negotiations, to undermine Single Undertaking concept. Doha negotiations have been going on for almost 11 years as against the originally envisaged period of three years. I do not think developing countries should become a party to subversion of Para 47 by selective use of Para 47 by some developed countries.

As far as the thrust for a Plurilateral International Services Agreement is concerned, a plurilateral services agreement applicable only to its members is not tenable legally within the WTO system.

In terms of Article II.1 and Article III.2 of the Marrakesh Treaty, any negotiations for trade accord on any of the agreements in Annex -1 ought to be conducted with the WTO as forum for such negotiations. Article II.1 of GATS provides for MFN treatment. Thus, parties to a possible plurilateral agreement on Services have to respect MFN principle. Therefore, if a plurilateral services agreement has to coexist with GATS and has to get included in Annex-4 of plurilateral trade agreements, Marrakesh Treaty has to be amended and such an amendment has to be accepted by all Members, as envisaged in Article X.2 of the Marrakesh Treaty.

If the idea, however, is to have an agreement under Article V, such an agreement has to comply with the provisions of Article V of GATS. Article V.1(a) stipulates that such an agreement must have substantial sectoral coverage. The relevant footnote explains the term “substantial sectoral coverage” as follows: “This condition is understood in terms of number of sectors, volume of trade affected, and modes of supply. In order to meet this requirement, agreement should not provide for the a priori exclusion of any mode of supply”. It is doubtful whether those countries which are pushing for a plurilateral services agreement are really thinking in terms of “substantial sectoral coverage”.

It is curious that these very same Developed Countries, who are now saying that except for Trade Facilitation Doha Mandate is not do-able, were responsible for persuading Developing Countries to join the consensus for launching of Doha Round on the promise of delivering development to Developing Countries. Right from the early part of 2002 to the end of 2008, serious negotiations took place. The December 2008 Text represented the Fourth Revision with regard to Agriculture, NAMA, and Services negotiations. From 2009 onwards, US began to take the stand that there is not enough on the table and that negotiations cannot proceed on the basis of 2008 Texts. I have already explained as to why the argument 'not enough on the table' is a fallacious argument. Besides, all 2008 Texts represent about seven years of difficult negotiations. Obviously, some portions in these Texts are in square brackets. It is nobody's stand that these texts are consensus texts; however they are definitely texts based on 7 years of negotiations. It is the responsibility of Developed Countries to resume negotiations on the basis of 2008 texts and make efforts for final consensus in the area of Agriculture, NAMA and Services.

If we look at the Doha Ministerial Declaration, in the Work Programme, the first item relates to implementation related issues and concerns and the second item is Agriculture. The Uruguay Round Agreement on Agriculture, in its Article 20, has a built-in provision for further liberalisation of Agricultural Sector. If the Doha Work Programme is abandoned, or put on hold it would imply that the Membership has not implemented Article 20 of the Agreement on Agriculture faithfully. If there is no further liberalization in Agriculture, it would mean that the balance of rights and obligations arrived at in the Uruguay Round is upset. It is very well-known that Developing Countries have a comparative advantage in the area of agriculture and Developed Countries kept agriculture out of the GATT system for 46 years. In order to make Developed Countries agree to include Agriculture as a subject for negotiations in the Uruguay Round, Developing Countries agreed to the demand of Developed Countries for including subjects like intellectual property rights and services in the Uruguay Round mandate. If Developed Countries now want to avoid negotiations on Agriculture, with obvious objective of avoiding any further liberalisation in this sector through reduction of domestic support, tariffs and export subsidies, the Developing Countries can legitimately claim that the balance of rights and obligations arrived in the Marrakesh Agreement has been upset and that action should be taken to restore the balance of rights and obligations.

I recall that whenever Developing Countries raised the implementation issue before Seattle, at Seattle, before Doha and at Doha, the standard response of powerful Developed Countries was that we were trying to upset the fine balance of rights and obligations arrived at in the form of Uruguay Round Agreements.

I recognise that there is a big challenge confronting the Developing Countries in the on-going Doha Round now. Powerful Developed Countries are trying to scuttle the Doha Mandate except to the extent it relates to Trade Facilitation.

It is obvious that it is completely against the interests of Developing Countries to abandon Doha Round and do only Trade Facilitation. There is no way that the development mandate of Doha Round can be realized by giving a go-by to the concept of Single Undertaking. The Developing Countries should point out to countries like US that they want the Doha Round to be completed as per the original mandate, even if it takes more time. It is possible that US may not pay heed to the plea of the Developing Countries. In that situation, in my view, the only option available to Developing Countries is to remain steadfast in their opposition to the approach of the Developed Countries. They should avoid falling into the trap of Plurilateral International Services Agreement. If the Developing Countries, especially emerging economies, maintain their opposition to plurilateral services agreement, the Developed Countries will have no option but to come back to the multilateral forum. Therefore, in my view, there is a great responsibility on the shoulders of emerging economies. Developed Countries seem to be hoping that either the fear of exclusion on the part of some emerging economies or inter-se competition among some emerging economies to capture the Services Market of the Developed Countries will do the trick for them and that the proposed International Services Agreement will become a reality. In this context, I am of the view that emerging economies have a great responsibility towards the multilateral trading system as well as less influential other Developing Countries.

Recently, an academic has argued through his newspaper articles that the WTO should be “de-democratized”. It is very strange that a scholar of this calibre should be saying that “WTO suffers from too much democracy and associated blocking process”. He should know that the present stalemate in the WTO is the result of US refusal to continue the

negotiations on the basis of December 2008 Texts. It is not as if some small country has blocked the progress in negotiations. It is the refusal of US to continue negotiations on the basis of December 2008 Texts (which have evolved as a result of painful negotiations over a period of seven years) that has resulted in the current stalemate. It is the proposal of US and EU to virtually abandon the Doha Mandate except in respect of trade facilitation that is responsible for the present crisis, and not any act of commission or omission by any small country. On the basis of my 7 years experience as Ambassador to WTO and as an Observer of WTO activities subsequent to my demitting office, I would like to say that it is extremely unfair to blame small countries for any crisis, present or past, in the WTO. The Article presents a totally misleading picture by creating an impression as if small countries exercise disproportionate influence in the WTO and they are frequently using their blocking power. This is nothing but adding insult to injury. In my assessment, only US and EU exercise real blocking power in the WTO, though sometimes countries like India may be accused of blocking something or the other. It is the duty of scholars to point out that the responsibility is primarily on the US to abandon its mercantilistic approach and recognize the significance of what is already on the table. They should also urge the US to review the unfair demands it has been making on Developing Countries, especially emerging economies. It is also the responsibility of these scholars to highlight the fact that US, which is the world's largest and richest economy and which has benefited most from liberalization under GATT and also WTO agreements like TRIPS has a moral responsibility to deliver on the development promise of Doha Round.

Mr. Joseph Stiglitz, the famous economist, wrote an article about two years back, titled "Of the 1%, by the 1%, for the 1%". In this article, he has dealt with the subject of growing inequality in American Society. He has used, in this article, the phrase 'self-interest, properly understood' and has argued that the real interest of 1% lies in improving the living standards of the other 99%. Similarly, the Developed Countries should realize that their long-term interest lies in enabling Developing Countries to develop by ensuring that the WTO system provides the required degree of policy space to Developing Countries. If the Doha Mandate centered on the development is fully

implemented and the Developing Countries are enabled to reap some benefits, it will be good not only for Developing Countries but for Developed Countries as well.

The Bali Ministerial Conference will, no doubt, be influenced by the course of action set out at the Eighth Ministerial Conference held in Geneva in November 2011. In that Conference, the Ministers had acknowledged that the Doha Development Agenda could not be delivered as expected in the near future and that “we need to more fully explore different negotiating approaches and advance negotiations where progress could be achieved”. The WTO Membership is looking at various subjects like trade facilitation, S&D monitoring mechanism, 28 Agreement specific proposal, the LCDs issues, Dispute Settlement Understanding, G-20 proposal on TRQ administration, G-33 proposal on Food Security for possible decisions at Bali. I do not want to go into details but I would say that issues of great interest to LDCs, and Agreement Specific Proposals relating to implementation should find a resolution, on priority, at Bali. I would also like to make a brief reference to the G33 proposal on Food Security. This proposal is based on what is already negotiated and available without square brackets in the December 2008 document. This proposal essentially means that acquisition of foodstuffs by Developing Countries with the objective of supporting low income or resource-poor farmers and provision of food stuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor should not have any implication for their AMS. Therefore, formalizing this as a Decision at Bali should give great comfort to a large number of Developing Countries who have to take care of the interest of their vulnerable farmers and poor consumers. I am a bit surprised that one major delegation had observed that TNC in December ‘there are real questions about the scale and do-ability of the proposal by G33’. The amount of subsidy provided to the Agriculture Sector by major Developing Countries is something well-known and does not need repetition here. Against this backdrop, the G33 proposal is a very tiny proposal and it will be extremely unfair to reject even such a modest proposal.

In my view, the challenge for Developing Countries at Bali will not only be with regard to decisions on subjects like Trade Facilitation, LDC issues G33 proposal on Food Security, etc., but with regard to the Developed Countries' game plan with regard to the remaining portion of Doha Mandate, especially Agriculture.

I am deeply conscious of the fact that the Doha Round is not going to be completed at Bali. My anxiety is that the Doha Round should not be given a farewell at Bali. I am particularly heartened by the fact that more than 100 Developing Countries have formally stated that the Doha Round should be completed on its current mandate on the basis of Single Undertaking and Consensus. In this context, some of you will recall Mr. Lamy's statement at the General Council Meeting of 11<sup>th</sup> December 2012, while summarizing the statements of Members' assessment about the possibilities for the Bali Meeting; 'what we heard on Friday is loud and clear: MC9 is not the end of line, but rather a stepping stone on a longer term road map leading to the conclusion of the Round, which now needs to be framed'. Therefore, it is the responsibility of the Developing Countries at Bali Ministerial to ensure that a roadmap for completing Doha Round of Negotiations as envisaged in the Doha Ministerial Declaration is finalised and adopted at Bali.

I feel yet another challenge Developing Countries may face at Bali might relate to the very structure and mode of decision making in the WTO. It is likely that at Bali, some Developed Countries would implicitly argue that Single Undertaking, Consensus and Member-driven nature of the WTO constitute an impossible trinity and might come up with some proposal to marginalise Developing Countries even further in the WTO system. Developing Countries should ready themselves to counter any onslaught on the WTO structure and system of decision making which are primarily aimed at weakening Developing Countries' influence in the WTO system.

I find that some scholars are trying to argue that greater inclusiveness and transparency in the WTO system is detrimental to WTO's efficiency. It is inconceivable that greater inclusiveness and transparency in any international organization could adversely impact on the efficiency of the organization. I am afraid these scholars look at efficiency from the perspective of some powerful Members of the WTO who naturally would like to achieve their objectives within as short a time as possible. But the issue is whether the

objectives sought to be achieved by these powerful Members are in the interests of a large number of poor countries. It is likely that this argument of transparency and inclusiveness vis-a-vis efficiency will be used to scuttle Doha Mandate. Developing Countries should get themselves prepared to meet this self-serving argument head-on.

Before concluding, I would like to say that I am deeply conscious of the difficult and challenging times Developing Countries are passing through in the multilateral trading system. They deserve to be complimented for the energy with which they have been trying to defend their interest in spite of heavy odds. I would also like to compliment South Centre for their role in helping the Developing Countries.

Before concluding, I would like to express my good-wishes to all the Developing Countries and wish them all the best in dealing with complex challenges confronting them here in Geneva now and in future, at Bali.

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