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Empirical Review of the Singapore Issues

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Trade

APPENDIX 2

Empirical Review of the Singapore Issues

The inclusion of a domestic regulatory agenda in WTO negotiations represents a departure from the traditional 'market access' focus of the GATT rounds. The national regulations embodied in the 'Singapore Issues' have become more prominent as the liberalization of traditional trade protection instruments has highlighted the trade impact of remaining differences in national regulatory regimes.

Efforts to harmonize national regulation have commenced in competition law, FDI policy, transparency in government procurement, and trade facilitation. It has been argued that these issues are not priorities for low-income countries and should not form part of a so-called 'Development Round'. In particular, there is significant opposition from developing countries. In the space of a month from early June 2003, 77 developing countries, including over half the WTO membership, made public statements urging that new negotiations should not be launched as part of the Doha Round (CAFOD 2003).

Several developing countries see the Singapore Issues as incursions into their national sovereignty that are not justified by the benefits they bring. Multilateral regulatory disciplines threaten the specter of preventing individual governments from pursuing development policies based on their own national priorities and problems.

In addition there are concerns that the initiatives based on the Singapore Issues may impose a large burden on the administrative capacity of developing countries. There are significant costs associated with both the creation and enforcement of new regimes in competition policy, investment regulations, and trade and customs procedures. Moreover, the required institutional capacity and human expertise may not be available in developing countries. In OECD countries these critical inputs developed gradually over a long period of time. These considerations suggest that the payoff of requiring WTO members to implement rapidly the Singapore proposals may not be large relative to the costs. Furthermore, it suggests that any reform will require significant technical assistance from developed countries.

Finally, there is broad concern that the Doha agenda may be overloaded. The Doha Round has an ambitious work program involving multilateral negotiations on many issues. The inclusion of complex and controversial issues may slow progress on more fruitful initiatives.

As the debate on the Singapore Issues evolved, two other issues became more apparent. The first is that many of the Singapore Issues involve a detailed knowledge of complex public policy issues that goes well beyond the competence of trade ministers to negotiate. The outcomes, accordingly, might not be good even for the developed countries. There was a resonance with what had happened in the intellectual property negotiations (TRIPS) in the Uruguay Round, where both the Council of Economic Advisers and the US Office of Science and Technology Policy raised serious concerns, to which the US Trade Representatives paid little attention in the negotiations. The issues that were being debated under 'Competition' did not attempt to unify treatment of predatory pricing between domestic and foreign firms, a natural part of any attempt at developing a uniform competition code. The United States put highly controversial issues involving capital market liberalization on the agenda of the discussion of investment, which the IMF had revisited almost contemporaneously, raising questions about the potential economic benefits and costs.

This brings us to the second concern: some of the proposals would have actually been adverse to the development of the developing countries. They went against the entire spirit of the Development Round. Such was the case, for instance, with proposals for full capital market liberalization.

In the context of these concerns, we consider four criteria for prioritizing an issue in the current round of negotiations:

- Is the WTO justified by returns to international collective action that are higher than returns to unilateral action, i.e. are there spillovers or externalities which justify multilateralism?
- Are the benefits of the initiative large relative to other proposals? Are the benefits shared between developing and developed countries?
- Are the costs of implementation small relative to the benefits of the initiative?
- To what extent do multilateral commitments impede national development strategies?

Using these criteria, this appendix analyses the merits of including the Singapore Issues in the Doha Development Round. The merits are certainly not uniform across the four issues or even across the different initiatives within each issue.

Significantly more work needs to be done to quantify the potential benefits and costs flowing from the Singapore Issues. Indeed, the paucity of authoritative studies in this area is in itself a reason to advocate caution. Therefore the conclusions of this appendix are preliminary.

Nonetheless, the empirical survey below suggests that the current focus of the WTO's regulatory harmonization agenda is misdirected in some areas.

In the competition and investment arenas, the WTO should move away from imposing uniformity on manifestly different countries and focus its attention on areas where externalities generate returns to multilateralism. In investment policy, reducing the 'race to the bottom' incentive war would be a useful initiative. Similarly, competition policy initiatives should include anti-trust action against cartels which raise prices for developing countries, and a mechanism for analysing the global effects of merger decisions in developed countries. In government procurement and trade facilitation, progress should be made through national efforts aided by technical assistance, rather than through imposing additional obligations in the WTO.

A2.1 Investment

At the Singapore WTO Ministerial Meeting in 1996, members agreed to form a working group to study the relationship between trade and investment. Since then, some developed countries have attempted to move towards a negotiated investment agreement within the WTO.

The proponents of such an agreement seek internationally binding rules that would minimize the conditions and regulations on foreign investors entering or operating in host countries and would grant them national treatment. This would involve the removal of performance requirements and the adoption of a range of investor rights.

However, most developing countries are reluctant to agree to this because several believe that an investment regime is inappropriate within a trade organization. Others have concerns about the loss of autonomy over investment policy and the consequent limitations on industrial policy options.

Also, there are broadly expressed concerns that an investment agreement would divert time and human resources from other vital work in the WTO.

The fundamental premise of the argument in favor of a multilateral investment agreement is that it will increase investment flows to developing countries. An agreement which improves investor protections may stimulate domestic investment and alleviate the concerns of foreign investors.

However, there are several reasons to be cautious about the responsiveness of investment to new multilateral protections. First, the current absence of multilateral investment disciplines and the failure of previous attempts to establish them (such as the OECD's ill-fated Multilateral Agreement on Investment, MAI) has not deterred foreign investment. Foreign direct investment has grown rapidly over the last decade, outpacing both trade and output growth.

Additionally, the absence of a multilateral agreement has not prevented substantial unilateral liberalization of investment regimes. UNCTAD reports that between 1991 and 2001, a total of 1,393 changes were made to national investment regulations. More than 90 per cent of these were liberalizing changes. Figure A2.1 shows that in 2001, over 200 regulatory changes were made in 71 countries, only 6 per cent of which were restrictive changes. In this environment there does not seem to be a compelling rationale to force national governments to adopt a uniform multilateral agreement. Idiosyncratic national regimes are sensitive to national development proprieties and can be tailored to existing institutional arrangements to minimize implementation costs.

A third reason for caution comes from the historical experience of investment treaties in generating increased investment flows (see Fig. A2.2).

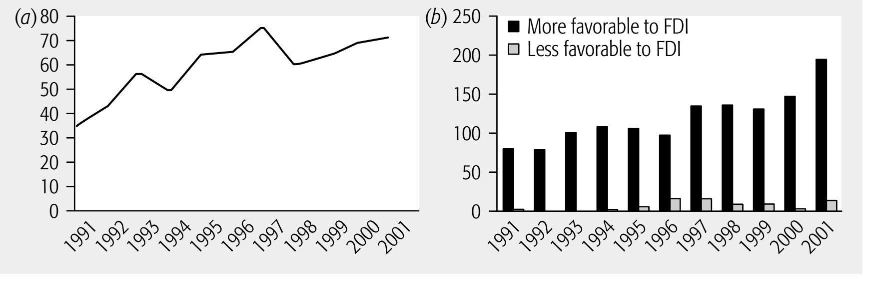

Figure A2.1. **Liberalization of investment regimes, 1991–2001**
(*a*) Number of countries changing their investment regulations
(*b*) Number of liberalizing and restrictive changes to investment regulations
Source: UNCTAD (2001)

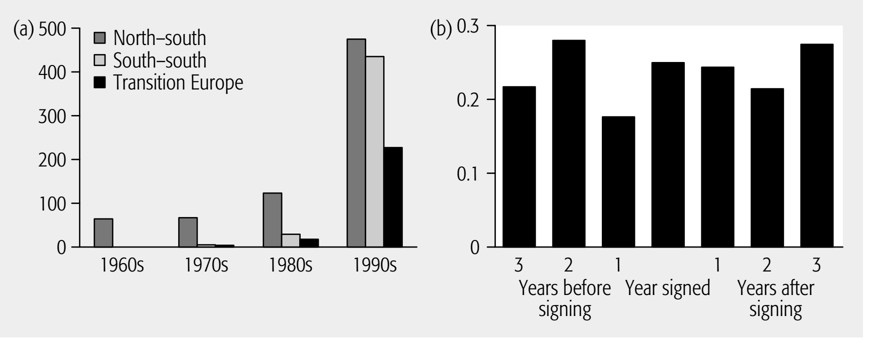

Figure A2.2. **Bilateral investment treaties, 1960s–1990s**
(*a*) Growth of BITs in developing countries (number of treaties in decade)
(*b*) The effect of BITs on FDI (share of annual FDI flow)

Source: World Bank (2003)

Bilateral investment treaties (BITs) surged in the 1990s to more than 2,000 in 2001. There has been significant activity between developing countries, which accounted for 42 per cent of new BITs in 2001 (UNCTAD 2002). As noted earlier, BITs proscribe a range of investment protections that often go further than many of the realistic proposals before the WTO. Yet there is not much evidence that the signing of bilateral investment treaties increases the flow of investment. An UNCTAD (1998) study found no relationship between the level of FDI and the number of BITs signed by host countries. A more comprehensive study by Hallward-Driemeier (2002) looked at the bilateral flows of OECD countries to 31 developing countries over twenty years. After accounting for trends, they found little evidence that BITs increased investment to developing countries. More research needs to be done on the effects of investment treaties on investment volume, but the existing evidence suggests that the benefits of additional treaties may be small.

Fourthly, the most serious concern, nationalization of foreign investments, has already been addressed at both the national and international level, though national and multilateral agencies providing guarantees against such confiscations of property (MIGA, the Multilateral Investment Guarantee Association, is part of the World Bank Group). Going beyond this entails difficult judgments about what are 'legitimate' and illegitimate restrictions. Most fundamentally, each country has an incentive to develop an investment regime balancing provisions which might serve to attract more foreign investment with those protecting against potential adverse effects on the citizenry. International agreements might help developing countries provide assurances that they will abide by their commitments (which is what MIGA has responsibility for), but they should not dictate how each country should make that balance.

A further difficulty is that in providing further protection, even bilateral agreements negotiated by trade ministers often go too far, intruding on national sovereignty in unacceptable ways. The problem is that it often takes years before the full import is discovered, by which time the possibility of revising the treaty has become difficult and tendentious. The infamous Chapter 11 of NAFTA provides a compelling case in point, where foreign investors were given more rights than domestics (e.g. for compensation for changes in costs or profitability as a result of even fully justified regulations, in what are called regulatory takings). This is arguably having an adverse effect in the development of important regulations in areas like the environment and consumer protection. (The Clinton Administration was opposing attempts to provide such compensation in domestic legislation even as its trade negotiators were putting such a provision into NAFTA, without seeking prior approval of the Cabinet, the National Economic Council, or Congress. Once such provisions are put into an agreement, it is hard to take them out.) Even judicial protections, such as punitive damages, have come under question.

The attempt to impose restrictions on capital market liberalization illustrates the dangers of these non-trade-related investment agreements. (Trade-related capital flows are already covered within current IMF agreements.) There is compelling evidence that full liberalization has little effect on economic growth, but exposes countries to increased instability, a fact recognized even by the IMF in its recent Board paper.

For these reasons, the current direction of WTO negotiations on investment disciplines seems to offer few advantages to developing countries. An international agreement on investment rules of the type currently being proposed is ultimately designed to maximize foreign investors' rights while minimizing the authority of governments in developing countries. Instead the WTO should focus on improving the investment environment in ways which strengthen the bargaining position of governments *vis-à-vis* foreign investors rather than weakening it.

One area in which there is clear cause for multilateral action is the reduction of 'beggar-my-neighbor' investment incentive competition for foreign investment. Since the mid-1980s the efforts of national and subnational levels of government to attract direct investment to their jurisdictions have increased considerably (Charlton 2003).

Political pressure on governments to be seen as 'job winners' push policymakers to play a race-to-the-bottom game. Oxfam (2000) estimates that developing countries lose $35 billion per year due to a competitive pressure to reduce corporate tax rates combined with the transfer of profits out of developing countries to low-tax environments.

The potential negative consequences of investment competition are particularly acute in developing nations. The risk of 'overbidding' is exacerbated by institutional weaknesses, poor cost–benefit analysis and, in some cases, corruption. Moreover, the potential consequences of excessively generous incentives might be increased in those developing nations where fiscal positions are already weak.

Agreements to limit the size of incentives seems to be the most obvious approach to pursue within a multilateral framework. The European Union provides a good example of the kind of approach to policy coordination that might benefit developing countries. The EU has been operating state aid guidelines now for several decades. Although grants to foreign direct investment are not explicitly targeted by Commission policy, in practice they are one of the main forms of state aid regulated by it. The EU takes the general view that state aid is incompatible with the common market. The definition of state aid clearly encompasses traditional instruments of investment attraction. Indeed the European Commission classifies state aid as including (1) grants to firms; (2) loans and guarantees; (3) tax exemptions; and (4) infrastructure projects benefiting identifiable end-users. The European Commission claims some success in reducing subsidies in the EU. There is evidence that the Commission has used its guidelines to effectively restrict incentives in some areas. For example, before the introduction of guidelines for the support of small and medium-sized enterprises, it was not rare to find state-aid grants of as much as 20 per cent of an investment project. Under the new framework, the fixed maxima are 7.5 per cent for medium-sized enterprises and 15 per cent for small enterprises.[1]

A2.2 Competition policy

Strong competition policy backed by clearly enforced laws is beneficial to developing countries and should be encouraged in international forums. There is a clear concern that the benefits of a liberal trade regime would

[1] An example from the Czech Republic provides an illustration of how the Commission uses its power in practice. The Czech Republic planned to offer subsidies to the Volkswagen unit Skoda for an engine plant at Mlada Boleslav. After a year of negotiations with the EU, the government agreed to slash tax breaks and grants that it was offering to Skoda from $120m to $22m.

be undermined by domestic or international monopolies and cartels. Liberalization might largely simply transfer rents that had been accruing to the government to private sector monopolies, and not lead to lower consumer prices. However, competition policy disciplines as envisaged by the proponents of a WTO agreement may impinge on the ability of each country to choose a competition policy model which is suitable for its own development priorities, and the proposals under discussion do not address the most important concerns of developing countries. What is required is a paradigm for viewing competition from a development perspective. It is important to ensure that developing country producers receive treatment equal to that of domestic producers (which they currently do not), and to ensure that developing country consumers can be protected from non-competitive actions by global anti-trust action, including anti-trust actions centered in the developed countries. National competition law and policy should complement other national development objectives (such as industrial development). Moreover, such law and policy should not hinder government efforts to minimize adjustment costs resulting from structural change generated by WTO-driven liberalization in other areas. Some sensitive industrial sectors may require protection from advanced foreign firms for the time it takes to create local capacity. In addition, it needs to be recognized that the legal frameworks which have been developed in the advanced industrial countries to promote competition are costly to administer. Early on, there was an awareness of the risk of politicization of competition policy, providing one of the rationales for private enforcement actions. There is some reason to believe that those fears have been justified, and when competition policy is incorporated within a trade regime, there is often more a concern for the promotion of the interests of the country's corporations than on the well-being of consumers. Thus, a failure of a country's firms to do well in a market will be blamed on anti-competitive actions; but the attempt by a foreign government to protect its citizens from the anti-competitive practices of one's own company will be viewed with suspicion. Because of their costs, however, private enforcement actions are often not feasible for those harmed in developing countries.

For these reasons, some of the conventional models of competition which operate in developed countries may not be appropriate for a developing country. In the discussion below, we identify some policies that might redress the imbalance.

The theoretical benefits of the maintenance of competition are clear. Indeed, the benefits that are associated with free markets are only enjoyed if those markets are competitive. As we suggested before, trade liberalization and privatization will only deliver on their promised benefits in a competitive environment. But imperfections in competition are pervasive, especially in developing countries, where markets are often small. There is an abiding concern that a large multinational can use its economic power to become dominant in certain markets in developing countries—these companies often have sales that exceed the GDP of the economy.

While the case for strong competition policy is clear, there is regrettably only a small amount of evidence on the welfare effects of competition policy agreements. Kee and Hoekman (2002) investigate the impact of competition law on estimated industry mark-ups over cost. They use time series panel data from 28 industries in 42 countries. They conclude that anti-trust legislation has no individual impact on the size of mark-ups. By contrast they conclude that imports and lower entry barriers (which anti-trust policies can lead to) are associated with a larger payoff, a result supported by several studies (Djankov, La Porta, Lopez-de-Silanes *et al*. 2002; Hoekman, Kee, and Olarreaga 2001; Vandenbussche 2000).

By contrast, Clarke and Evenett (2003) show that in Latin America, Asia, and Western Europe, jurisdictions that did not enforce their cartel laws suffered greater overcharges than those nations that actively enforced them.

New competition regimes are associated with significant implementation costs. Competition law is technical and requires institutional skills and resources that are in short supply in many developing countries. In addition, competition law enforcement is expensive. OECD and national sources indicate that the annual budget of the anti-trust office in OECD countries is in the range of $15–50 million plus. For developing countries with enforcement agencies the budgets are lower but still significant (Hoekman and Mavroidis 2002).[2]

Discussions under 'competition' center around two issues: preventing monopolization and anti-competitive practices, and preventing governments from acting in ways which give an 'unfair' competitive advantage to their firms, either by imposing requirements on foreign firms or by subsidizing their own firms.

Under the first rubric, preventing monopolization and anti-competitive practices, there are two important reforms. The first is the adoption of a single standard for predatory anti-competitive behavior between domestic and foreign firms. There is a large literature on the cost of dumping laws, and on their inequities (including those associated with the manner in which they are implemented).[3]

[2] For example, 20 noted earlier, the costs of anti-trust offices are large in Mexico ($14m), Poland ($4.1m), Argentina (1.4m), and Hungary ($2m).

[3] See for example Martinez-Giralt and Barros, (1997).

Another priority should be to protect purchasers in developing countries from paying excessively high prices as a result of monopolies and especially international cartels. National competition policy may ignore collusion by domestic firms to raise prices in export markets since there is no harm to those within the country. Moreover, developing countries without the resources to enforce competition policy effectively on international firms may suffer from international cartels. There is a small amount of (mainly informal) evidence on the effects of international cartels on developing countries. Levenstein, Oswald, and Suslow (2002) analyse sixteen goods whose supply was found to be internationally cartelized by American or European firms. They found that in 1997 developing countries purchased $36.4 billion of goods from a set of ten industries that had seen a price-fixing conspiracy in the 1990s. This amounts to 2.9 per cent of developing countries' total imports which may have been subject to collusive price-fixing by firms from developed countries. It has been estimated that cartels in developed countries cost consumers in developing countries up to $7 billion in the 1990s. Some of the worst-offending cartels have been found in the international maritime transport industry. Such cartels are often approved by national competition authorities but have been found to lead to higher prices for consumers. Fink, Mattoo and Rathindran (2001) estimate that collusive practices in the maritime transport industry have cost consumers in the US alone up to $2.1 billion. If developing countries were to save the same proportion of their shipping costs the savings would be $2.3 billion.

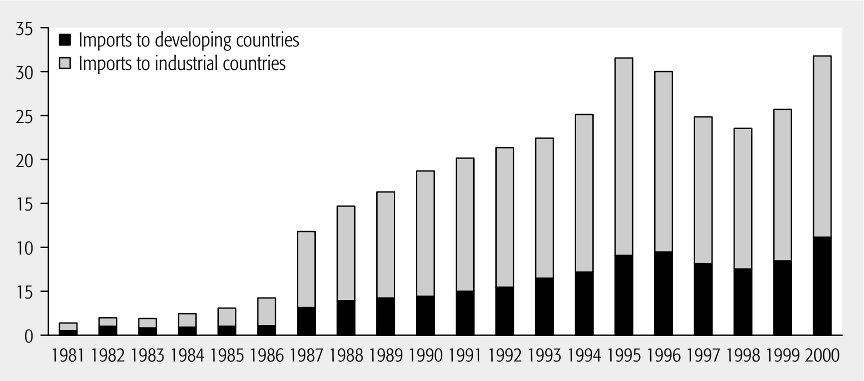

Figure A2.3. **Volume of imports affected by cartels, 1981–2000**

Total imports sixteen products where cartels have been proved to exit

Source: GEP (2003)

In the mid-1990s, as Russia moved from communism to a market economy, one of the few goods that it could easily sell internationally was aluminum, but its attempts to enter Western markets were hampered as American aluminum companies put pressure on the United States to create an international aluminum cartel that would strictly limit the extent to which Russia could enter Western markets and which would thereby maintain international prices at high levels. This is a case in which both Russia and consumers around the world were injured. But those affected had no recourse to anti-trust laws, especially since governments were involved in the very creation of the cartel.

Almost undoubtedly, the most important international cartel is OPEC, which attempts to control the price of oil. Though several OPEC members are developing countries, most of those in the developing world live in countries which are net importers of oil, and therefore are worse off as a result of the oil cartel.

This suggests there might be potential gains from multilateral action to ban export cartels, including those in which governments are a party.

A key issue is how developing countries can respond to anti-competitive actions, including export cartels. No small developing country could force the break-up of a cartel; each would find it expensive to bring a court case, and even if one of them could bring such a case in its own jurisdiction, enforcement of a judgment would be difficult. One option would be to allow governments of detrimentally affected countries to use the court system of OECD countries to prosecute offending firms. Further, adversely affected parties (including governments acting on behalf of citizens) should be allowed to be a plaintiff in civil actions in the courts of the advanced industrial countries, and there should be a provision for class-action suits, with flexible standards for class certification, which would in particular encourage purchasers of products in foreign countries to be able to join in with each other and with other purchasers in the advanced industrial countries. Given the limited resources of developing countries and the high costs of suits, assistance from OECD countries would be desirable. Hoekman and Mavroidis (2002) suggest the creation of a 'special prosecutor' within the WTO with authority to bring cases in the relevant jurisdiction on behalf of developing country consumers.

Merger policy is another area in which national competition policies may have international spillover effects. The concern is that nationalistic approval criteria may allow mergers between domestic firms even when the global welfare effect is negative, so long as the welfare benefits within the country are positive. If these firms have a larger combined market share in some smaller foreign markets than they do in the domestic market, a merger may be domestically acceptable but globally undesirable.

Both from the perspective of developed and less developed countries, there is concern about attempts to harmonize national competition policies, for, in doing so, there is a real risk that the 'least common denominator' will be accepted, that is, one which will provide the least protection for consumers. Even a movement towards a common framework, a common framework which inevitably would be close to a 'least common denominator', would risk overlooking the differing circumstances of the developing countries *and* encouraging governments to move towards this low standard. This is especially the case because corporate interests tend to be far better represented in trade negotiations than consumer interests.

It would be better to use the discussion of competition issues within the WTO to encourage countries to develop high competition standards, and to recognize some of the ways that countries may legitimately do so. For instance, the United States has, on several occasions, recognized that concerns about competition 'trump' intellectual property; standard intellectual property protections, which give temporary monopoly power, have been circumscribed when they lead to excessive monopolization of particular markets. This is a principle which should be more widely recognized: it should be made explicit that such actions are not a violation of the TRIPS Agreement. As a second example, *per se* rules may be easier and less costly to enforce than 'rule of reason' judgments, which require the careful balancing of costs and benefits of certain potentially anti-competitive practices. Strong *per se* rules (such as limiting the share of the country's market that any firm may have) should be allowed, even if they have the effect of limiting entry by international firms (for whom, say, entry into a market would only be worthwhile if they had a dominant position).

On the second rubric, actions taken to give a competitive advantage to a country's own firms (or impose a competitive disadvantage on foreign firms), development concerns should be given priority, and actions which arguably have a development objective should be allowed, at least on a medium-term basis, even if they put foreign firms at a disadvantage. Inevitably, firms from developing and developed countries are in different circumstances—each has some advantages over the others. Firms from advanced industrial countries often have access to lower-cost capital and to government-financed research, especially by-products of the huge expenditures on defense. Local firms may have more local knowledge, and that may give them a competitive advantage. Inevitably, there will be some vagueness in what is meant by 'levelling the playing field'. But approaching the issue from the development perspective provides some guidance into what kinds of policies should be allowed by developing countries. Developing countries should be allowed to provide capital to domestic firms at 'reasonable terms', which may be significantly below the very high interest rates that are imposed on them as a condition of IMF loans, or which they feel they have to maintain in order to prevent a currency crisis. Imposing 'community reinvestment act' requirements on banks to lend a certain fraction of their money to particular groups, e.g. underserved minorities, or small or medium-sized domestic enterprises, is a legitimate restriction. Giving preferences to small and medium-sized enterprises for government contracts (see below) should also be legitimate, *even if in doing so, multinational firms are in effect discriminated against*. At the same time, the standards for judging whether the provision of infrastructure which, in the first instance, may be directed at a particular enterprise is a subsidy or not should be looked at from different perspectives for a developing country than for a developed country. While advanced industrial countries have long been critical of local content requirements, such requirements may in fact facilitate developmental objectives.

A2.3 **Government procurement**

Government purchases of goods and services are a significant proportion of world GDP. Recent analysis by the OECD indicates that total central government expenditure of OECD countries was almost $2 trillion in 1998.[4] In developing countries this figure was $300 billion—equal to six times the total annual multilateral and bilateral aid currently given to developing countries (Evenett 2003).

In an attempt to harness this part of the international economy, several WTO members signed the 'plurilateral' (only binding to those members that choose to sign) Agreement on Government Procurement (GPA) at the Uruguay Round in 1994. One of the GPA's primary long-term objectives is to ensure that government decisions to purchase goods and services do not depend on the location of production or the affiliation of the supplier.

Many developed countries, principally the US and the EU, would like to see the GPA develop into a multilateral agreement which in the first stage draws all members into an agreement on transparency, and in the second

[4] This figure excludes military expenditure and the payment of state employees.

stage extends the scope to due process and national treatment for foreign firms.

Estimates of the value of a broad multilateral procurement agreement (encompassing both transparency and non-discrimination) depend on the size of the government procurement market, the size of preference margins extended to domestic suppliers, and the general equilibrium gains and losses derived from the elimination of these preferences.

As described above, government procurement accounts for an average of about 10–15 per cent of GDP for developed countries and as much as 20 per cent of GDP for developing countries. National domestic preference margins are estimated by analysing either national policies or the price wedges that explain government purchasing choices. Francois, Palmeter, and Nelson (1997) estimate the margin of preference for OECD countries to be in the 13–50 per cent range.

However, the proportion of government purchases whose prices are inflated by preferential treatment may not be large. In a procurement auction, preferences only raise prices when domestic bidders are not the lowest but are within the preference margin, or when the domestic bidders are the lowest but there is only one of them (in which case the domestic bidder raises its sell price to the lowest foreign price plus the preference margin). However, in other circumstances a preferential procurement policy may actually reduce procurement costs. McAfee and McMillan (1989) show that preferential polices can cause foreign suppliers to reduce their sell price so as to bid under the domestic firms receiving preferences.

Government procurement policies have important economic and social roles in developing countries which would be curtailed if governments were mandated to observe national treatment principles. The level of expenditure and the attempt to direct the expenditure to locally produced materials is a major macroeconomic instrument, especially during recessionary periods, to counter economic downturn (Kohr 2003). If the foreign share increased, there would be a leakage in government attempts to boost the economy through increased spending during a downturn.

Additionally, procurement policies might be used to boost domestic industries or encourage development in specific sectors of national interest. Social objectives could also be advanced by preferences for specific groups or communities, especially those that are under-represented in economic standing.

Finally, while developed countries (and especially, particular firms within developed countries) have much to gain from increased access to government procurement in developing countries, it is not likely that the gains are fully reciprocal. Even the EU has had difficulty making inroads into US government defense procurement. Furthermore, the consequences of procurement liberalization will inevitably depend on liberalization of services and labor flows. If the US government decides to subcontract army meal services, will it allow a foreign firm to provide the service? Almost surely, security concerns will demand that the firm be American. But since defense is a larger portion of expenditures for America, it means that a larger portion of government procurement will be exempt. Some communities in the United States have moved towards contracting out a range of public services, including schools and prisons. It is unlikely that foreign firms have equal access.

In the context of the important government objectives achieved by procurement policy and the lack of any externalities to justify international action, it seems important that developing countries retain their autonomy over this area of policy.[5]

A2.4 **Trade facilitation**

Trade facilitation initiatives hold out the promise of increasing trade and efficiency by reducing onerous trade-related costs.[6] Such costs include: regulatory compliance costs; charges for trade-related services; procedural delays; lack of predictability; and lost business opportunities (Lucenti 2003).

The benefits of improving trade facilitation include: increasing trade in goods and services; promoting competition, which can spur productivity gains as well as lower prices; enhancing efficiency in both the state sector and the private sector; improving the business environment and so encouraging foreign direct investment; and increasing participation of small and medium-sized enterprises in international trade.

[5] Moreover, it will be difficult to implement any procurement policy in a way which would be widely acceptable. For example, since a large proportion of American expenditures are for defense, it will almost surely claim a defense exception. Much of government procurement is for services, but the provision of such services requires the temporary movement of natural persons. Contract specification can often be used to give local firms a preference; ascertaining whether the contract specification is 'reasonable' will be extremely tendentious.

[6] The Doha Declaration (para. 27) states that until the Fifth Ministerial the WTO Council for Trade in Goods shall review and as appropriate clarify and improve relevant aspects of Arts. V, VIII, and X of GATT 1994 and identify the trade facilitation needs and priorities of members, particularly developing and least developed countries. (Article V is on freedom of transit, Art. VIII concerns fees and formalities connected with import and export, and Art. X is on publication and administration of trade regulations.)

The empirical evidence below suggests that many of these benefits may be economically significant but are associated with large implementation costs. Rather than imposing new obligations within the WTO, progress on trade facilitation should be achieved through national efforts aided by technical assistance.

Few studies have explicitly examined the potential gains from trade facilitation. There are dramatic anecdotal stories: e.g. Costa Rica's commitment to trade facilitation was arguably critical in attracting the large Intel plant. Modern manufacturing has increasingly relied on just-in-time inventory methods, and these cannot operate if there are costly delays at borders.

Moreover, the studies presented below differ in terms of the scope of trade facilitation considered and the breadth of countries and commodities analysed. This makes their results difficult to compare meaningfully. However, the results below do highlight the magnitude of potential gains from trade facilitation.

Ernst and Whinney (1987) surveyed EC business costs for the European Commission. The customs compliance costs associated with intra-EC trade were estimated to be 1.5 per cent of the total value of trade between member countries.

The US National Committee on International Documentation (US NCITD) analysed the benefits of trade facilitation in a 1971 study, subsequently updated in the 1990s by Raven (1996). These studies found that the costs of documentation and compliance with export and import regulations (at both ends of the transaction) represented more than 7.5 per cent of the total value of US shipments.

A study by the Swedish Trade Procedures Council (SWEPRO) in 1995 used data from companies and government sources to estimate the cost of compliance with Swedish trade procedures. It concluded that these costs could be as much as 4 per cent of the value of imports and exports.

More recently, a study by Wilson, Mann, and Otsuki (2003) used a computable general equilibrium framework to estimate gains from trade facilitation. They estimated the effect of bringing the below-average Asia Pacific Economic Cooperation (APEC) members halfway to the APEC average in four key areas of trade facilitation (administrative transparency, e-commerce, logistics, and standards harmonization). They estimate this type of facilitation would increase APEC trade by $280 billion.

Wilson *et al.* compare the relative benefits from trade facilitation with those from traditional market access initiatives. They estimate that a reduction of all tariffs to zero from an APEC average of 6.5 per cent would create a gain of $27.8 billion. By comparison they find that the improvement in trade facilitation necessary to achieve the same gains is small. Relatively minor improvements in port efficiency, customs procedures, and e-business usage deliver similar-sized gains.

This brief survey suggests that there is a wide span of estimates regarding the costs of trade procedures, ranging from 1.5 to 7.5 per cent of the value of trade flows.

The implementation costs associated with realizing gains from trade facilitation are also significant. Administrative changes are associated with obvious costs to both governments (the creation of new systems and enforcement of new regulations) and business (compliance). For developing countries, a large part of the costs to government should be borne by technical assistance from developing countries.

The costs of trade facilitation depend on the type of reform proposed. For example, as noted earlier, the World Bank assisted Tunisia in its program of streamlining and modernizing its customs procedures. The total value of World Bank loans to Tunisia for this purpose was $35 million in 1999. Similarly the World Bank lent $38 million to Poland for upgrading the physical and managerial infrastructure of its port facilities (Wilson 2001 and WTO 2000). In some cases, streamlining procedures will both facilitate trade *and* save the government money.

Developing countries should therefore put forward the view that improvements in trade facilitation should be made through national efforts aided by technical assistance, rather than through imposing additional obligations in the WTO. If the consideration of the problems in these areas results in some solutions, these should, at best, be adopted only as guiding principles or as flexible best-endeavour provisions, not enforceable through the dispute settlement process (Das 2002).

Discussion here, as elsewhere, has focused more on the concerns of developed countries in gaining access to developing countries than on what should be the concern of the Development Round, i.e. developing countries gaining access to developed countries' markets. Of intense concern in the last few years have been America's visa restrictions. Such restrictions may or may not be justified by legitimate concerns for security. However, it is certainly true that the existence of these security concerns illustrates that the developed countries often put non-trade concerns over trade concerns but often criticize developing countries when they attempt to do the same. Yet the inability to send businessmen to America to market their goods and the long delays and high costs (especially in time) in obtaining a visa are clearly important impediments to trade. This is an issue that would be high on a development-oriented agenda for trade facilitation. The fact that it has not been on the agenda at all is just another illustration of the gap between what has been sold as a Development Round agenda and an agenda that would truly promote the interests of the developing world.