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The World Trading System and Development Concerns
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Governance of Globalization

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<u>Introduction</u>

This paper deals with trade policy and the world trading system from a development perspective. It starts with a review of the debate on trade liberalization, openness and development (Section 2) and makes some points on trade, development and problems faced by developing countries in looking towards balancing the growth of their imports and exports (Section 3). The problems facing developing countries in their commodity exports are examined, in particular the income losses experienced from falling commodity prices (Section 4). While developing countries as a whole have increased the share of manufactures in their exports, and their share of world manufacturing exports, this picture is misleading as successful manufacturing exporting has been concentrated in relatively few countries, and the developing-country share of world manufacturing value-added has actually decreased (Section 5).

The paper then examines the global policy frameworks that influence developing countries' trade policy. It briefly reviews the role of loan conditionalities of the international financial institutions (IFIs) (Section 6). A review is then made of the World Trade Organization

(WTO), its objectives and principles, the problems arising from implementation of its rules, and specific agreements, including some recommendations on improving the situation (Section 7). The effects of inappropriate import liberalization on industry and agriculture in developing countries are briefly looked at (Section 8). Recent developments in the WTO, including the decision at its General Council meeting of July 2004, are analyzed (Section 9). The paper concludes with proposals on making the global trading system more oriented towards development needs (Section 10).

Liberalization, Openness and Development

The relationship between 'trade openness' and development has been one of the most contested issues in economic policy in recent times. The view from the 'Washington Consensus' is that trade openness is beneficial and indeed essential for the growth and development of a developing country. Countries that liberalize their imports and orientate production towards exports are assumed to have faster growth than those that do not, and the faster the rate of opening, the greater will be the prospect for development. This perspective underlies the policy conditionality of rapid or 'big-bang' liberalization of the Bretton Woods institutions, under which many developing countries have lowered their applied tariffs on a wide range of products. This view is also the implicit assumption underlying the goal of import liberalization in the World Trade Organization.

Recently, the orthodox view has been augmented with the caveat that liberalization measures are not sufficient by themselves and should also be accompanied by sound macroeconomic policy, good governance, modern legal infrastructure and other factors. However the basic approach, that liberalization has a direct positive link to growth and should be undertaken as fast as possible, remains intact.

In recent years, the orthodox view has been challenged by a number of empirical studies showing that there is a lack of relationship between the degree of trade liberalization and the rate of growth. These studies have raised doubts about the policy prescription of rapid trade liberalization. Empirical evidence is also growing on the negative consequences of rapid import liberalization on the industrial and agriculture sectors in many developing countries. There is an emerging paradigm that takes account of the complexities of the trade-development relationship, and stresses the importance of the context, sequencing, rate and extent of trade liberalization if this process is to contribute to and not detract from development. Unlike the orthodox approach which implicitly assumes that there are only benefits to be derived from trade liberalization, the emerging paradigm accepts that there are possible costs as well as potential benefits of trade liberalization to a particular developing country, depending on the conditions in that country, and the type of liberalization undertaken. In this approach, it is thus crucial that the correct choices are made, with an appropriate blend between liberalization and protection, in a country's trade policy.

The orthodox assumption that countries that are poor are not sufficiently participating in world trade is not backed up by evidence. Many of the poorer countries are dependent on exports and may have higher export-to-GNP ratios than some industrialized countries or more advanced developing countries. However, they are dependent in their exports on primary commodities, the prices of which have declined over the past decades, especially when measured against the prices of manufactured products. The old colonial division of labour, in which the colonized territories exported raw materials and the colonial master countries exported manufactures, has continued to a significant extent. Although a number of developing countries have significant manufactured exports, a large number still depend on primary commodity exports. For them, the continuing decline in the terms of trade for their commodity exports *vis-à-vis* their imports of manufactures have resulted in the transfer of a huge volume of real resources through the mechanism of income losses arising from terms-of-trade changes. Thus it is not their lack of integration into world trade, but their integration in inappropriate ways in the world trading system, that has contributed to the persistence of poverty in these countries.

In the case of commodity exporters, there is a paradox that an expansion of export volume may bring about decreasing returns. A major cause of the decline in commodity prices is that there is a situation of over-supply in many commodities, as the growth of supply outstrips demand. Thus it is not correct that 'trade expansion' necessarily results in better income.

On the other hand, developing countries are advised to liberalize their imports, on the expectation that this will result in welfare gain as consumers enjoy access to cheaper goods, and local producers are pressurized to become more efficient or to shift to more suitable activities in which they have a comparative advantage. In reality, many countries that rapidly liberalized their imports have experienced the collapse or reduced output of local industries, and the displacement of the market of local farmers. Moreover, as imports rose by more than exports, many countries suffered wider trade deficits, making it more difficult for them to improve their external debt situation.

The United Nations Conference on Trade and Development's (UNCTAD) *Trade and Development Report 1999* found that for developing countries (excluding China) the average trade deficit in the 1990s was higher than in the 1970s by 3 percentage points of GDP while the average growth rate was lower by 2 percentage points. In discussing why trade deficits have been increasing faster than income in developing countries, the report concludes: 'The evidence shows that a combination of declining terms of trade, slow growth in industrial countries and 'big bang' liberalization of trade and of the capital account in developing countries has been a decisive factor' (UNCTAD 1999: chap. VI).

On the role of rapid trade liberalization in generating the wider trade deficits, the report said: 'It (trade liberalization) led to a sharp increase in their import propensity, but exports failed to keep pace, particularly where liberalization was a response to the failure to establish competitive industries behind high barriers. With the notable exception of China, liberalization has resulted in a general widening of the gap between the annual growth of imports and exports in the 1990s, but the impact was particularly severe in Latin America, where the gap averaged about 4 percentage points'.

One conclusion that can be drawn from the report is that if trade liberalization is carried out in an inappropriate manner in countries that are not ready or able to cope, or which face conditions that are unfavorable, it can contribute to a vicious cycle of trade and balance-of-payments deficits, financial instability, debt and recession.

The UNCTAD report's findings correspond with some recent studies that show there is no automatic correlation between trade liberalization and growth. Countries that rapidly liberalized their imports did not necessarily grow faster than those that liberalized more gradually or in more strategic ways.

One of the earliest studies was by UNCTAD economist Mehdi Shafaeddin (1994), who surveyed 41 least developed countries (LDCs) and found ‘no clear and systematic association since the early 1980s between trade liberalization and devaluation, on the one hand, and the growth and diversification of output and growth of output and exports of LDCs on the other. In fact, trade liberalization has been accompanied by deindustrialization in many LDCs, and where export expanded it was not always accompanied by the expansion of supply capacity’. By contrast, the paper attributes success or failure of GDP and industrial growth to the volume of investment and availability of imports. ‘The design of trade policy reforms has also been an important factor in performance failure.’

Dani Rodrik (1999) argued that developing nations must participate in the world economy on their own terms, not the terms ‘dictated’ by global markets and multilateral institutions. Noting the premise that reducing barriers to imports and opening to capital flows would increase growth and reduce poverty in developing countries, Rodrik concluded there is no convincing evidence that openness (low barriers to trade and capital flows) systematically produces these results. ‘The lesson of history is that ultimately all successful countries develop their own brands of national capitalism. The States which have done best in the post-war period devised domestic investment plans to kick-start growth and established institutions of conflict management. An open trade regime, on its own, will not set an economy on a sustained growth path'.

Rodrik (2001: p22) also found that 'cross-national comparison of the literature reveals no systematic relationship between a country's average level of tariff and non-tariff restrictions and its subsequent economic growth rate. If anything, the evidence for the 1990s indicates a positive (but statistically insignificant) relationship between tariffs and economic growth. The only systematic relationship is that countries dismantle trade restrictions as they get richer. That accounts for the fact that today's rich countries, with few exceptions, embarked on modern economic growth behind protective barriers, but now have low trade barriers.' While few countries grew over long periods without having an increase in the share of their foreign trade in national product (and access to cheaper capital goods through imports is an important link between trade and growth), it is equally true that no country has developed simply by opening itself up to foreign trade and investment. The trick has been to combine the opportunities offered by world markets with a domestic investment and institution-building strategy, and almost all the outstanding cases (East Asia, China, India since the early 1980s) involve partial and gradual opening up to imports and foreign investment (Rodrik 2001: pp23-24).

The relation between trade policy and industrial policy is a crucial one. The orthodox Washington Consensus view is that a developing country should practice free trade and avoid an industrial policy targeted at developing selected sectors. The assumption is that if prices are right, there will be signals channeling resources to their most efficient use.

The poor record of such an approach led the orthodox thinkers to adopt what Rodrik calls the ‘augmented Washington Consensus’, which recognizes that liberalization and privatization are not sufficient in themselves and need to be accompanied by creating institutional aspects that support the market, such as financial regulation, governance and anti-corruption, legal and administrative reform, labour market flexibility and social safety nets. But these reforms have weaknesses. They are influenced by an Anglo-Saxon concept of desirable institutions, are driven by requirements for integrating into the world economy and provide no sense of priorities among a list of institutional prerequisites, being at odds with practical realities and the historical experience of today’s advanced economies (Rodrik 2001: pp15-16).

Rodrik (2001: pp16-21) outlines three types of investment strategies that have worked: import-substituting industrialization (which was quite successfully practised, with relatively high growth rates, by many developing countries until they experienced a debt crisis in the mid-1970s), East Asian-style outward-oriented industrialization, and the China-style ‘two-track strategy’ (based on a combination of state and market, gradualism and experimentation).

Ha-Joon Chang and Ilene Grabel (2004) also show that both the present industrialized countries and the successful industrializing developing countries, with few exceptions, did not practise free trade during their development phase. They used a combination of policies, among which were high tariffs, tariff rebates on imported inputs used in the production of exports, export subsidies, restrictions on the export of raw materials used by key industries, government provision of information on export markets and marketing assistance. These trade policies run counter to the present free-trade orthodoxy. They counter the orthodox view that the state should not shape industrial development, and that selective industrial policy creates inefficiency, promotes corruption, compromises growth and has not worked in developing countries. A large body of economic theory and empirical research provide a rationale for selective industrial policy, accompanied by a range of policies such as trade subsidies, licences, and the management of credit and capital allocation, prices and investment. Selective industrial policies have been successfully used in both industrialized and developing countries. In Japan, South Korea and Taiwan, governments used a mix of state intervention and market incentives to promote a range of domestic industries, and also used policy measures to modernize the industrial structure. These included infant-industry protection, export and other business subsidies, directed credit (where state-controlled banks provided subsidized credit to designated industries), indicative investment planning, regulation and coordination of industrial investment, research and development (R&D) and training. The automobile, steel and electronics industries in Japan and Korea, and electronics and chemicals in Taiwan, would not have developed without industrial policy. Other developing countries also successfully used industrial policy, notably Brazil with its aerospace industry, and after World War II many European countries (including France, Austria, Norway, Finland) aggressively used industrial policy (Chang and Grabel 2004: pp53-80).

Most developing countries now face or potentially face the major problem that loan conditionalities and WTO principles and rules frown on and in many cases prohibit them from making use of the strategic trade policies or selective industrial policies that were utilized by the present industrialized countries and by the successfully industrializing developing countries. Moreover, their having to increasingly implement orthodox free-trade policies has meant that the countries are open and vulnerable to their domestic industrial and agricultural sectors being damaged by competition from cheaper imports. The absence of industrial policy (as well as of an agriculture policy and a services policy) has also meant that they are unable to establish some of the crucial conditions and incentives required for development and growth, especially of the domestic economy.

Trade, Development, and the Need to Balance Imports and Exports

Trade is a means to and not a goal of development. To realize the potential of trade as a development instrument requires conditions tailored to the specific requirements of each country. These conditions for trade may differ from country to country, depending on such factors as the stage of development, resource endowment, and conditions relating to market access and prices of traded products. Thus, a one-size-fits-all approach will not work and, if enforced, might cause more harm than good. Each country has to make decisions on appropriate processes, degrees and sequencing of trade and trade liberalization. The multilateral trading system should, therefore, be sensitive to the different needs of different countries, and allow them to have sufficient ‘policy space’ to choose from different options.

The two main components of trade are imports and exports, and a balance between the two is important. The factors determining imports and those that determine exports may differ. A country has more control over how fast it liberalizes its imports, but is much less able to influence the level and rate of growth of its exports.

Developing countries face two types of problems that hinder their effective and beneficial participation in international trade: pressures to liberalize their imports, affecting local production units in various sectors, including industry and agriculture; and the lack of adequate export earnings, export capacity or opportunities. Under loan conditionalities of the international financial institutions, and under WTO rules, many developing countries have taken measures to rapidly liberalize their imports, and these have caused a rapid rise in imports. However, for many developing countries, the growth of export earnings has lagged, due to various factors, including a decline in commodity prices, continuing barriers to industrial exports and supply constraints. As a result, there have been greater imbalances between imports and exports in many developing countries, adding to their trade deficits and external debt problem.

Pressures for Rapid Import Liberalization

Pressures on developing countries to rapidly open their economies to imports come from the Bretton Woods institutions and the WTO (which set the global framework affecting trade policy) and the developed countries. According to orthodox theory, trade protection has negative effects, while trade liberalization brings benefits. While the negative effects of trade liberalization are sometimes recognized, they are seen as only temporary. According to the proponents of rapid liberalization, cheaper imports benefit the consumer, and generate greater efficiency in local firms that are forced to compete to survive. Inefficient firms should close down, freeing resources to move to more efficient sectors, including for exports, and this is expected to generate new jobs and higher revenues. Overall, the economy is expected to gain.

However, this theory has been challenged by empirical evidence that indicates that there is no straightforward correlation between trade liberalization and overall economic growth (see Section B).

Orthodox theory is also challenged by an emerging view that several other pre-conditions have to be present before trade openness can be of net benefit to developing countries. These include an adequate level of competitiveness of local firms or farms, the capacity to overcome supply-side constraints in producing for export, adequate levels of prices for the export products of developing countries, and the existence of export opportunities or adequate market access for their products. Other factors increasingly stressed by the international financial institutions include macroeconomic stability and good economic governance. In the absence of some or all of these prerequisites, import liberalization may not result in the projected benefits and may instead produce adverse results. It is thus critical to decide on the appropriate timing of liberalization in relation to the presence or absence of these prerequisites. It should be noted, however, that the IFIs and developed countries still insist on rapid liberalization in developing countries, even in those that do not have the conditions for successful liberalization. A more realistic and responsible approach would enable developing countries to first establish these conditions and integrate trade liberalization into their overall national development strategy when and where appropriate, rather than pressuring them to move towards an overly hasty liberalization of imports.

Constraints on Export Growth in Developing Countries

In many developing countries, the increase in imports was not matched by a corresponding expansion of export earnings. Many developing countries still depend on a few export commodities, and the continuous decline in their prices adversely affected export earnings. To realize its industrial export potential, a country must have the physical infrastructure and the human and enterprise capacity to produce competitively for both the local and export markets. This is a long and difficult process, making it unrealistic to expect that a developing country can quickly shift its resources from uncompetitive domestic industries threatened by the fast pace of import liberalization to globally competitive export industries.

It is rare for a developing country to be able to become a world-class exporter of modern industrial products based on its own locally owned enterprises. Japan and South Korea developed their industries in a pre-WTO environment. Today, with WTO rules that severely constrain the use of subsidies for local industries, prohibit investment measures favouring the use of local components, and hinder local industries from using patented technology, it is far more difficult for developing countries to take a similar route.

A few developing countries have export industries based primarily on foreign direct investment (FDI). However, most of the industries are labour-intensive and the host countries are finding it difficult to prevent foreign companies from shifting operations to lower-cost countries. Moreover, developing countries cannot realistically base their growth primarily on FDI, as there is insufficient FDI, even if spread evenly throughout the developing world, for it to be the main basis for investment and job creation. Thus, developing countries have to develop their local industry and services, and rely on domestic capital and enterprises to generate jobs, livelihoods, growth and exports, if they are to succeed as exporters. They also need mobilization and use of savings, and investment in health, education and skills development and technology. To export, companies must establish regional and international marketing channels, brand development, or strategic alliances with bigger companies. It is not impossible for a country to succeed, but it is a difficult task with no guarantee of success.

Even then, successful export performance will also depend on market access. Presently there are many barriers in the developed countries. As UNCTAD has pointed out, developing countries have been striving hard, often at considerable cost, to integrate more closely into the world economy. But protectionism in developed countries has prevented them from fully exploiting their existing or potential comparative advantage. The missed opportunities for them due to trade barriers are estimated at an additional $700 billion in annual export earnings in low-technology industries alone (UNCTAD 1999a: p143).

The Consequences of Poorly Planned Trade Liberalization

To maintain a sustainable trade policy which also assists development, a developing country has to have a balance between imports and exports. Persistent trade deficits will have adverse consequences. It is thus important to reorient trade policy and the WTO operational principles away from the simplistic assumption that trade liberalization necessarily has a positive impact on developing countries. If the trading system is to meet the development needs and goals of developing countries, the criterion by which a policy should be judged should be whether it is development-consistent or development-distortive, rather than whether it is trade-consistent or trade-distortive.

Commodity Prices and Terms of Trade

A major problem in the world trading system is the decline in and volatility of prices of export commodities, and the resulting huge losses of income for exporting nations and the producers. The commodities crisis has been a longstanding problem since developing countries attained their independence, and even before that. It used to be perhaps the major economic issue on the international agenda, and was a major impetus for the establishment and initial work of UNCTAD when negotiations on commodities were the main item on the international trade agenda. However, from the mid-1980s, there has been a steady decline in the priority accorded to this issue in the international agenda. This has been unfortunate, as the decline in commodity prices in general has continued, with devastating effects on many developing countries. The commodities crisis has been a major cause of the persistence or even increase in poverty in the developing world. The low levels of and decline in commodity prices decrease the incomes of rural producers, places a constraint on export earnings, increase trade deficits and keep many countries trapped in external debt. Resolving this problem is thus crucial.

From 1980 to 2000, world prices for 18 major export commodities fell by 25% in real terms. The decline was especially steep for cotton (47%), coffee (64%), rice (61%), cocoa (71%) and sugar (77%) (World Commission on the Social Dimension of Globalization 2004: p83).

The effects of falling commodity prices have been devastating for many countries. According to UN data, in sub-Saharan Africa, a 28% fall in the terms of trade between 1980 and 1989 led to an income loss of $l6 billion in 1989 alone. In the four years 1986-89, sub-Saharan Africa suffered a $56 billion income loss, or 15-l6% of GDP in 1987-89. For 15 middle-income highly indebted countries, there was a combined terms-of-trade decline of 28% between 1980 and 1989, causing an average loss of $45 billion per year in the 1986-89 period, or 5-6% of GDP (Khor 1993).

In the 1990s, the losses were higher. Non-oil primary commodity prices fell by 33.8% from the end of 1996 to February 1999, resulting in a cumulative terms-of-trade loss of more than 4.5% of income during 1997-98 for developing countries. 'Income losses were greater in the 1990s than in the 1980s not only because of larger terms-of-trade losses, but also because of the increased share of trade in GDP' (UNCTAD 1999a: p85). Moreover, the prices of some key manufactured products exported by developing countries have also declined. For example, the Republic of Korea experienced a 25% fall in the terms of trade of its manufactured exports between 1995 and 1997 due to a glut in the world market (UNCTAD 1999a: p87).

Among agricultural commodities exported by developing countries, some are in competition with the same commodities produced by developed countries. For such products, like cotton and sugar, the world prices are lower largely because of the high domestic and export subsidies attached to the developed countries' exports. The share of global export revenue accruing to developing countries has dropped in many cases, with the developed countries having an increased share. A large part of the problem facing developing countries is related to the subsidies of the rich countries, which give the latter an unfair advantage.

Besides competing with subsidized Northern products, developing countries face many problems, including their products being at the lower end of the value chain with the lack of capacity (or the lack of market access) to climb the value chain through processing and manufacturing. Another problem is a situation of global over-supply in the case of some commodities, which exerts a downward pressure on prices. This is partly the result of too many countries being advised by international agencies to expand the export of the same commodities. Yet another problem is that the developing countries have little bargaining power when selling their products to monopsonist buyers, which are usually transnational companies, and thus they get lower prices.

Following the collapse of the commodity agreements, there has been an absence of international institutions or mechanisms to tackle the key concerns of low level and volatility of commodity prices and the mismatch between supply and demand. Individual agencies such as the international financial institutions and UN organizations have suggested measures that individual producer countries can take to counter the fall in prices. However, as pointed out by Peter Robbins (2003), most of these suggested schemes have not worked, as they did not tackle the root problem of excess supply and the absence of a regulated framework. ‘They have suggested a number of solutions, including niche marketing, risk management, quality improvement, fair trade, sales promotion, and so on, but these strategies have often only intensified competition between producers. Several major development agencies still support programmes to increase production of primary products using technical innovations to improve yields or implementing policy changes to offer incentives to farmers to grow a particular commodity. Side by side with the new doctrine of laissez-faire economics these agencies have been spending aid money to help some poor countries compete more aggressively with other poor countries….It has now become obvious that tropical commodity prices will continue to fall unless the root cause of oversupply is tackled head on' (Robbins 2003: pp22-23).

In 2003, French President Jacques Chirac spoke of a 'conspiracy of silence' on the commodities crisis and attempted to have an initiative on it adopted at the Group of 8 Summit in Evian. It was not accepted due to objections from some major countries. However, there are recent initiatives to revive the commodities issue, including the report commissioned by the UN General Assembly of eminent persons on commodities, and the decision at the UNCTAD XI meeting in June 2004 to establish a task force on commodities. It remains to be seen whether interest and action on the problem can be generated at the international level.

Expecting the commodity problem to be solved by 'leaving it to the markets' is not realistic, as the experience of the past two decades shows. As over-supply is a major problem, there can be consideration of re-establishing producer-consumer commodity agreements, aimed at aligning supply more in line with demand, and at stabilizing prices. In the absence of political will to support such agreements, producer countries can consider cooperating with one another to plan their supply. The experience of the Organization of Petroleum-Exporting Countries (OPEC) is useful in this regard. Recently, three leading rubber-producing countries

(Indonesia, Thailand and Malaysia) also formed an agreement that included a measure for each to slightly reduce production, and the price increased significantly.

Developing Countries and Trade in Manufactures

Although many developing countries remain dependent on a few commodity exports, others have significantly expanded their exports of manufactures. Indeed, manufactures today account for 70% of the total exports of developing countries overall (rising from 20% in the 1970s and early 1980s), and their share in world manufactured exports exceeds 25% compared to 10% in the 1970s. Some developing countries are involved in technology-intensive manufactured exports such as transistors and conductors, computers and office machinery, through their participation in international production networks.

However, Akyuz (2004) points out that the gross statistics hide a less sanguine picture. Firstly, many developing countries have not shared in the rise of manufactures in their export basket. Most countries that shifted from inward-oriented to outward-oriented development through rapid import liberalization did not succeed in increasing manufactured exports but experienced import surges and mounting trade deficits. Much of the expansion in manufactured exports was concentrated in East Asia. Secondly, with a few exceptions (e.g., Korea, Taiwan), the exports are still concentrated on products relying on natural resources and unskilled or semi-skilled labour, which have limited prospects for productivity growth and lack dynamism in world markets.

Thirdly, Akyuz points out that statistics showing a rapid growth in technology-intensive exports from developing countries are misleading as those countries are often involved only in the low-skill assembly stages of production, using technology-intensive parts and components imported from industrial countries; the imported parts are counted in the value of the exports. Thus, while the developing countries' share in world manufacturing exports appears to have risen rapidly, the incomes earned from such activities have not risen correspondingly. The developed countries' share in world manufactured exports fell from more than 80 to about 70% between 1980 and the end of the 1990s, but they actually increased their share in world manufacturing value-added. Developing countries had a steeply rising ratio of manufactured exports to GDP but without a significant upward trend in the ratio of manufactured value-added to GDP. Moreover, this relates only to value-added, which includes profits of the foreign firms in developing countries; when these profits are deducted, the income in developing countries arising from manufactures would be even smaller.

There is a diversity among developing countries, which are broken up into four categories by Akyuz: (i) the mature industrializers (first-tier newly industrializing economies

(NIEs) notably Korea and Taiwan) which have rapid investment, growth in industrial employment and productivity and exports; (ii) the new generation of industrializers (second-tier NIEs like Malaysia, Thailand and China) with a rising share of manufactures in total output, employment and exports, upgrading from resource-based activities to labour-intensive manufactures and middle-range technology products; (iii) enclave industrializers which moved away from dependence on commodity exports by linking to international production networks with a heavy reliance on imported inputs and machinery, and whose overall performance in investment, value-added and productivity growth is poor; and (iv) deindustrializers, including most middle-income countries in Latin America, which could not sustain structural change through growth and often have stagnant or falling shares of manufactured exports, employment and output.

The developing countries also face the problem of competition and the fallacy of composition. Most of the industrial labour force is engaged in low-skill activity, and a simultaneous export drive by developing countries in labour-intensive manufacturing could flood the market and reduce their prices. The prices of manufactured exports from developing countries have been weakening *vis-à-vis* manufactures exported from developed countries in recent years. With more developing countries turning to export-oriented strategies, the middle-income countries in Latin America and Southeast Asia are most vulnerable; greater price competition in electronics products have exposed the traditional exporters to competition from lower-cost countries. Unless they rapidly upgrade to high-skill, high-value-added manufactures and compete with industrial countries, these exporters may be squeezed between the top and bottom ends of the markets for manufactures (Akyuz 2004: p12).

IFI Loan Conditionalities and Trade Policy

The trade policies of most developing countries are influenced by global frameworks, especially the loan conditionalities of the Bretton Woods institutions (for those countries which rely on the institutions' loans) and the rules of the WTO (for those which are members).

Several of the loan conditionalities of the World Bank and International Monetary Fund (IMF) relate to trade. These have led many developing countries to sharply reduce their applied tariff rates for agricultural and industrial products. Due to these conditions, many of the countries have not been allowed to raise the applied rates even when cheaper imports adversely affect local products, and even though the WTO rules allow these countries to increase their applied rates up to the bound rates.

The unilateral policies taken under structural adjustment have then been reinforced or complemented by multilateral commitments that the countries are obliged to implement under the WTO rules. This combination of policies initiated under loan conditionality and then reinforced under multilateral rules has bound the developing countries in a web of commitments and policy constraints and measures and they find it difficult within this context to manoeuvre or to be able to choose those policy options that are suitable for their development.

Recent studies conducted by the UN Food and Agriculture Organization (FAO) have revealed that many developing countries significantly liberalized their agricultural imports as a result of IFI loan conditionality, rather than WTO rules. According to the FAO (2003: p75), structural adjustment programmes over the past few decades resulted in radical agriculture reform in many developing countries, a period during which the majority of OECD agricultural sectors have continued to be heavily protected. The process adopted in many cases severely damaged the capacity of developing countries to increase levels of agricultural production and/or productivity. These unilateral reforms tend to have been reinforced by multilateral agreements.

The FAO adds that unilateral trade liberalization was undertaken in developing countries under pressure from the IFIs. By contrast, agricultural trade has only recently been impacted by multilateral agreements such as those under the WTO. 'This has resulted in a number of NGOs (non-governmental organizations) suggesting that the more negative aspects of unilateral liberalization in developing countries have been compounded by double standards in commitments to multilateral agreements, and maintaining the ‘you liberalize, we subsidize’ attitude is extremely damaging.’

According to the FAO: ‘The opening of markets in developing countries, in the context of a global agriculture still characterized by high levels of protection in developed countries, left the reforming developing countries less able to prevent (a) the flooding of their domestic market (import surges) with products sold on the world market at less than their cost of production; and (b) the displacement of local trading capacity which was intended to, and in some circumstances initially did, fill the void left following the deregulation of local markets and associated dismantling of parastatals. On point (a), the Washington institutions promoting structural adjustment did not take into account the existing imbalance in designing and proposing the reforms and therefore did not predict the resulting disincentive effects on local production in some regions. On point (b), rather than the emergence of sustained local private sector involvement, internal markets have often been overwhelmed by larger companies dominant in global value chains. The impact of the unilateral reforms preceding the first multilateral negotiations on agricultural trade (negotiations that essentially excluded developing countries) was to leave developing countries potentially more vulnerable to greater openness, and to impose further constraints on policy intervention aimed at promoting agricultural growth’ (FAO 2003: pp72-73).

An earlier study by the FAO (2001) on the effects on 14 developing countries of implementing the WTO Agriculture Agreement found that import liberalization had a significant adverse effect on small farmers and food security in many of the countries, and that the liberalization had been the result of loan conditionality of the IFIs, rather than the WTO rules. In fact the agricultural tariffs that were bound under the WTO were relatively high, but the applied rates were much lower, as a result of the structural adjustment policies that formed the loan conditionality. The effects of import liberalization on the countries surveyed were thus mainly the result of World Bank-IMF policies.

Similarly, there are several cases of deindustrialization resulting from the loan conditionality of rapid tariff reduction in industrial products (see Section H).

Many of the trade-related policies of the IFIs are not compatible with development, as they influence the loan-recipient countries to sharply reduce their applied tariffs, often to levels which enable cheaper imports to damage the interests of local producers which are unable to compete. Any review of the global framework influencing trade policy and performance in developing countries should therefore include a study and reform of the policies of the IFIs.

The WTO and the Multilateral Trading System

A large part (though not the whole part) of the multilateral trade system comes under the rubric and rules of the World Trade Organization. It sets principles and legally binding rules, and it houses a strong enforcement mechanism through its dispute settlement system. A systematic way of examining the WTO is the approach taken by BL Das (2003), in looking at its principles and structural aspects, instruments, rules and enforcement.

Objectives, Principles and Structure

The preamble to the Marrakesh Agreement Establishing the WTO does contain the objective that trade and economic endeavour should be conducted ‘with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development’. It also recognizes the need for positive efforts to ensure developing countries secure a share in the growth of international trade commensurate with the needs of economic development. The preamble also states the desire of ‘contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and the elimination of discriminatory treatment in international trade relations’.

It can be argued that the main stated objectives of the WTO are raising living standards, full employment and growth of real income as well as ensuring that developing countries secure a fair share in global trade growth, whilst reduction of tariffs and non-tariff barriers and elimination of discriminatory treatment are the means or instruments. However, in practice, in their proposals and positions in the WTO, the developed members of the WTO have placed much more stress on the obligations of developing countries to reduce their tariffs and to counter ‘discriminatory treatment’.

The scope of the WTO covers three main areas: trade in goods, services, and intellectual property. Rules for these are established respectively in the General Agreement on Tariffs and Trade (GATT) 1994, the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The GATT and TRIPS agreements contain the two general principles of ‘non-discrimination’, i.e. most-favoured nation (MFN) and ‘national treatment’ (that imported goods must not be accorded treatment less favourable than that accorded to like domestic products), whilst GATS has the MFN as a general principle.

The directive of tariff reduction and the national-treatment principle have been operationalized within the system in a way that pressurizes the developing countries to reduce their tariffs and non-tariff barriers, and to increasingly give up the policy options of giving preferences, subsidies and other forms of promoting local products, services and producers. This is often against the interests of development, which may require levels of tariff or non-tariff protection, and the provision of promotional measures for local producers, that are not permitted by the system. Although growth, employment and development may appear as the main objectives of the WTO, the driving forces in practice have been tariff reduction and trade liberalization, and the implementation of national treatment, to the extent that these have in effect become ends in themselves rather than the means.

Das (2003: pp186-188) has also pointed out a structural defect, in that ‘reciprocity’ as the basis for exchange of concessions is inappropriate in a multilateral system which has a large membership at widely differing levels of development. Reciprocity implies that trading partners receive the same concessions as they give. ‘This process of “give and get” implies get-more-if-give-more and get-less-if-give-less; it is thus a built-in mechanism for widening the gap between rich and poor countries, because those who can give go on getting more and more’ (Das 2003: p186).

Das concludes that the fundamentals of the current GATT/WTO system are improper and inappropriate, and that the workings of the system since its inception in 1995 have given rise to ever-increasing discontent and frustration among the majority of the membership. In practice, in the areas of goods and services, ‘the entire structure of the rules, disciplines and procedures is built around liberalization. This goal is very much incompatible with the basic objective of benefit-sharing which is essential for the viability and stability of the system. The direct beneficiaries of liberalization are those countries that possess a developed supply capacity. Those with poor supply capacity, i.e. the majority of developing countries, will not reap much benefit even if the trade is totally open and liberal in other countries. The system has naturally resulted in gross imbalance and this trend is continuing.' Thus, both liberalization as the goal and reciprocity as the tool for this goal are improper and inappropriate in the current multilateral trade system. Also, a basic pillar of the system, i.e. national treatment, can be a major handicap and its application needs to be modified (Das 2003: pp186-187).

Imbalances in the Rules and Problems Facing Developing Countries

The WTO and its predecessor, GATT, have contributed to the global trade system through the provision of a framework of rules within which member countries conduct trade and other commercial relations among themselves. This has contributed to a measure of stability and predictability as contrasted to an alternative scenario in which arrangements are dominated by unilateral policies and bilateral arrangements.

However, there are many problems that the developing countries face with the structural features, rules and operations of the WTO system. First, some of the structural features of the system and many of the existing agreements are imbalanced against their interests. Second, the anticipated benefits to developing countries have not materialized, a major reason being that the developed countries have failed to fulfill their own commitments (e.g., in expanding market access in textiles and agriculture, or in providing special and differential treatment and assistance). Third, developing countries face mounting problems in attempting to implement their obligations under the rules. Fourth, there is increasing realization that many of the rules make it difficult or impossible for developing countries to choose policies required for their development process. Fifth, they face intense pressures to accept new obligations being proposed by developed countries under the Doha work programme which began in 2001. Sixth, the decision-making process is not transparent or fair and makes it difficult for developing countries to adequately participate or to have their views reflected in the decisions of the organization, especially at Ministerial Conferences.

The old GATT system dealt with trade in goods. There were already some imbalances even in the GATT system. For example, sectors of export interest to developing countries remained highly protected, particularly agriculture and textiles. In effect, developing countries had made major concessions to the developed countries which had asked for time to adjust. The expansion of the GATT system under the Uruguay Round of negotiations which established the WTO, through the introduction of the then new issues (services, intellectual property, investment measures), made the system even more imbalanced, as well as intrusive (as the system moved from its traditional concern with trade barriers at the border, to issues involving domestic economic and development structures and policies). The following are some of the major effects:

* Having to liberalize their industrial, services and agriculture sectors may cause dislocation to the local sectors, firms and farms as these are generally small or medium-sized and unable to compete with bigger foreign companies or cheaper imports.

* The Uruguay Round removed or severely curtailed the developing countries' space or ability to provide subsidies for local industries and to maintain some investment measures such as local-content requirement.

* The developing countries are under tremendous pressure from the developed countries to commit to liberalizing a wide range of services under GATS. These pressures could lead to their committing to open up their services to foreign ownership before their local service providers have the capacity to compete; and to the host governments having to curtail measures that promote the local providers, if a commitment of national treatment is given to the foreign providers.

* The TRIPS Agreement will severely hinder or prevent local firms from absorbing some modern technologies over which other corporations (mainly foreign firms) have intellectual

property rights (IPRs); this would curb the adoption of modern technology by domestic firms in developing countries. Also, the prices of medicines and other essential products are expected to rise significantly.

Thus, whilst a multilateral trading system can provide the benefits of predictability and stability, there is a danger that the WTO is also acting as a system that in many ways is making it difficult for appropriate policy measures for development to be taken.

Non-realization of Anticipated Benefits

When the Uruguay Round was concluded and the WTO established, developing countries had expected to benefit significantly from increased access to the markets of developed countries for products (especially in the textiles and agriculture sectors) for which they had a comparative advantage. However, there is now disillusionment as the expected benefits did not materialize.

It was expected that the two main sectors which the developed countries had heavily protected (agriculture and textiles) would be opened up. However, they have essentially remained closed. In agriculture, tariffs on many agricultural items of interest to developing countries are prohibitively high (some are over 200% and over 300%). Domestic subsidies in OECD countries have risen from US$275 billion (annual average for base period 1986-88) to

US$326 billion in 1999, according to OECD data (see OECD 2000), instead of declining as expected, as the increase in permitted subsidies more than offset the decrease in subsidy categories that are under discipline in the WTO Agriculture Agreement. There has been little expansion of access to developed-country markets.

For decades, developing countries had made a major concession in agreeing that their textiles and clothing exports to developed countries be curtailed through a quota system. In the Uruguay Round, the developed countries agreed to progressively phase out their quotas over 10 years to January 2005, but they have in fact retained most of their quotas even near the end of the implementation period. Genuine liberalization was avoided by the device of 'liberalizing' mainly products that were not actually restrained in the past. According to a submission at the WTO in June 2000 by the International Textiles and Clothing Bureau (see Hong Kong, China 2000), only a few quota restrictions (13 out of 750 by the US; 14 out of 219 by the EU; 29 out of 295 by Canada) had been eliminated by 2000 (the halfway point of the implementation period). There has also been little sign of 'structural adjustment' measures in the textiles sector in developed countries to prepare for the ending of the quotas. The endloading of implementation and the absence of structural adjustment raise doubts as to whether there will be liberalization at the deadline, or whether other trade measures (such as anti-dumping and safeguard measures) will be taken, besides high tariffs, to continue the high protection. Recent reports indicate that the textile industry in the US is lobbying the US administration to organize action to have the textile quota system extended, or to take action such as safeguard measures to prevent the expected flood of textile imports, especially from China, when the quota system ends.

Tariff peaks and tariff escalation continue to be maintained by developed countries on other industrial products in which developing countries have manufacturing export capacity.

The supposed improvement of market access through tariff reductions has to some extent been also offset by non-tariff barriers in the rich countries, such as the use of anti-dumping measures and the application of food safety and environmental standards.

Problems for Developing Countries When Implementing Their Own Obligations

Although the major developed countries have not lived up to their own liberalization commitments, they have continued to advocate that it is beneficial for developing countries to liberalize their imports and investments as fast as possible. Developing countries are asked to bear for a little while the pain of rapid adjustment, which is said to surely be good for them after a few years.

Implementing their obligations under the WTO agreements has brought many problems for developing countries. These are dealt with in some detail in Third World Network (2001).

These problems include: (a) the prohibition of trade-related investment measures and subsidies, making it harder for developing-country governments to encourage or promote domestic industry; (b) import liberalization in agriculture, threatening the viability and livelihoods of small farmers whose products face competition from cheaper imported foods, many of which are artificially cheapened through massive subsidies; (c) the effects of a high-standard intellectual property right regime that has led to exorbitant prices of medicines and other essentials, to the patenting by Northern corporations of biological materials originating in the South, and to higher cost for and lower access by developing countries to industrial technology; (d) increasing pressures on developing countries to open up their services sectors, which could result in local service providers being rendered non-viable; and (e) the recent negotiations (which began in 2001) for a new round of industrial tariff cuts are also likely to result in steep tariff reductions, which may unleash a level of import competition upon domestic industries that many may not be able to stand up to.

Thus, the issue is raised as to whether developing countries can still pursue development strategies and objectives, including technology upgrading, development of local industries, survival and growth of local farms and the agriculture sector, attainment of food security goals, and fulfillment of health and medicinal needs.

The problems arise from the structural imbalances and weaknesses of several of the WTO agreements. The developing countries have tabled in the WTO a list of the problems of implementation and proposals for addressing these, and summaries of these are contained in the WTO compilations on implementation issues (see WTO 2001d, 2001e, 2001f, 1999).

Requests by developing countries from 1999 to now that these problems be resolved first in the sequencing of the WTO's future activities have not been agreed to, and there has been little progress even though a set of these issues has been placed under the Doha negotiating agenda. The attitude of the developed countries seems to be that the developing countries had entered into legally binding commitments and must abide by them; any changes would require new concessions on their part. Such an attitude does not augur well for the WTO, for it implies that the state of imbalance will remain. At the WTO General Council meeting in July 2004, when a package of decisions was adopted in relation to the Doha work programme, there were no concrete results in resolving the ‘development issues’ of implementation issues and special and differential treatment. The meeting merely agreed on a new time-table for further discussions on these issues (see Section I).

Problems Arising from Specific Agreements or Sectors

Industrial Sector

The GATT and WTO system till now has by and large allowed developing countries the flexibility to choose the scope of tariff bindings (the number of products whose tariffs are to be bound) and the levels at which to bind their tariffs. However, under the Doha work programme, there are presently strong pressures from major developed countries to institute deep reductions in industrial tariffs of developing countries, through the application of a ‘non-linear formula’, in which there will be sharper cuts the higher the tariffs. It is also proposed that developing countries will have to bind almost all their unbound tariffs, with the new bound rates to be set after multiplying the applied rates by two and then subjecting these to the formula cut. Since many developing countries have relatively high bound tariffs (though their applied tariffs may be significantly lower), this may result in very sharp cuts to the existing bound tariffs, and also cuts to the presently unbound applied rates. It is also proposed that in several selected sectors, there will be accelerated tariff elimination on a fast-track basis. If these proposals are accepted, the developing countries would be subjected to the shock of having to cope very quickly with cheap imports competing with local industrial products. Their prospects for industrialization involving domestic firms would be seriously darkened.

Thus, it would be more appropriate instead to retain the flexibility that developing countries enjoyed, to choose their own scope of tariff bindings and the rate of their bound tariffs. During the Uruguay Round, developing countries were obliged to decrease their bound tariffs by an overall average rate of 27%, but they could set different rates for different tariff lines. At least a similar degree of flexibility should be provided under the Doha work programme, given that many developing countries are already experiencing a deindustrialization process.

On a more structural level, it should also be recognized that developing countries need to fine-tune their trade policy instruments to support the growth of specific sectors as a dynamic process, and thus require flexibility in raising and reducing tariffs. The current procedure for raising tariffs beyond the bound level is very cumbersome and should be made smoother and easier. For infant-industry purposes, countries should be allowed to raise tariffs for a limited period to promote the establishment of an industry. The method of balancing the gains and losses in tariff negotiations should also be changed; the offer from a developing country should be evaluated not merely in terms of current trade but mainly in terms of future prospects for developed countries when the developing country's growth would enlarge its market (Third World Network 2001: pp7, 80).

Trade-Related Investment Measures (TRIMs)

Under the Trade-Related Investment Measures (TRIMs) Agreement, governments are constrained from adopting certain investment measures that oblige or encourage investors to use local materials or restrict imports, as this is counter to GATT's Article III (on national treatment) and Article XI (on quantitative restrictions). The illustrative list of prohibited measures includes local-content policy (which developing countries had used to increase the use of local materials and improve linkages to the local economy) and some aspects of foreign exchange balancing (aimed at correcting balance-of-payments problems). The TRIMs Agreement is a notable example of a WTO rule that prevents developing countries from taking policy measures which promote domestic industrial development, and which had been used by the present industrial countries and by several developing countries previously.

Implementation of the TRIMs Agreement has already given rise to problems in several developing countries. Several cases have been brought to the WTO dispute settlement process against developing countries, including Indonesia, the Philippines, India and Brazil (all in relation to the automobile sector) as well as against the Philippines (regarding pork and poultry), and Canada (regarding automobiles). In the Indonesia case, incentives under its national car programme were found to violate the TRIMs Agreement, and they had to be withdrawn (Third World Network 2001: p63). Some developing countries have also requested extension of the transition period to give them more time to adjust.

To rectify these problems, developing countries should be given another opportunity to notify existing TRIM, and the transition period should be extended for all developing countries in line with their development needs**.** Provisions should be introduced that allow developing countries flexibility to use investment measures for development objectives. The review process should consider exempting developing countries from the disciplines on local content and foreign exchange balancing policies. At the same time, there should not be an extension of the illustrative list, nor an attempt to extend the agreement to cover investment rules per se.

Subsidies

There is an imbalance in the treatment of subsidies. Subsidies mostly used by developed countries (e.g., for R&D and environmental adaptation) have been made non-actionable (immune from counter-action) while subsidies normally used by developing countries (for industrial upgrading, diversification, technological development, etc.) have come under actionable disciplines, and countervailing duties could be imposed on the products enjoying such subsidies. The prohibition of these subsidies is another encroachment on the policy space needed by developing countries for their industrial development. Thus, these subsidies need to be recognized as an instrument of development rather than one of trade distortion, and should be exempt from countervailing duty and other forms of counter-action.

Balance-of-Payments Provision

Article XVIIIB of GATT 1994 allows developing countries to restrict imports if they face balance-of-payments (BOP) problems. However, the method of operation and some new decisions have made this provision less effective, and an important instrument for reducing the imbalance in the system has thus been made almost non-operational. The WTO increasingly relies on IMF reports to determine whether or not a BOP problem exists. The IMF includes volatile and uncertain short-term flows (e.g., portfolio investments) and uncertain reserves in its assessment of a country's foreign reserves, thereby tending to overestimate them. The current criterion of deciding on whether a BOP problem exists thus appears faulty. Further, a recent decision in a dispute requires the developing country concerned to give priority to tariff-type action over direct import control measures. This has reduced the capacity of developing countries to deal with the problem quickly and effectively. To correct these problems, the rules should specify that the existence of a BOP problem will be determined on the basis of long-term and stable reserves and flows only, and that developing countries' foreign-exchange-reserve requirements will be assessed on the basis of future development programmes rather than on past trends. Also, the determination of the existence of a BOP problem should be made by the WTO General Council, based on the recommendation of the BOP Committee, using the IMF reports as inputs only. Current rules (designed to deal with temporary BOP problems) should be supplemented with new rules to provide relief for structural BOP problems (Third World Network 2001: pp42-43).

Agriculture

The WTO Agreement on Agriculture (AoA) established disciplines on three pillars – market access, domestic support and export subsidies – and the developed countries were expected to reduce their protection. In reality, however, the developed countries have been able to continue to maintain high levels of protection. Many of them set very high tariffs on several products; thus, even after the required 36% reductions, they remain prohibitively high. Domestic support has also remained very high; in fact, the total amount of domestic subsidies in OECD countries has actually risen as there was an increase in permitted types of subsidies which more than offset the decrease in those subsidies that come under discipline. The export subsidies budget in developed countries is also to be reduced by only 36% under the agreement.

Of the three aspects above, worldwide public criticism has focused most on the expansion of domestic subsidies. The AoA has a loophole allowing developed countries to increase their total domestic support by shifting from one type of subsidy, the Amber Box (price-based, which is directly trade-distorting), to two other types, the Blue Box and Green Box (grants to farmers to set aside production and direct payments to farmers, and other ‘indirect’ subsidies), that are exempted from reduction discipline. In reality, the Blue and Green Box subsidies also have significant effects on the market and trade, and are thus also trade-distorting. For the farmer, what is important is whether he can obtain sufficient revenue and make a profit. If a subsidy, in whatever form, is assisting the farmer to obtain revenue and to be economically viable, then that subsidy is having a significant effect on production and on the market.

The effect of agriculture subsidies in developed countries is that their farm production levels are kept artificially high and their producers dispose of their surplus in other countries, often by ‘dumping’ on world markets at less than the production cost. Farmers in developing countries incur losses in three ways: they lose export opportunities and revenues from having their market access blocked in the developed countries using the subsidies; they lose export opportunities in third countries, because the subsidizing country is exporting to these countries at artificially low prices; and they lose their market share in their own domestic market, or even lose their livelihoods altogether, due to the inflow of artificially cheap subsidized imports.

High protection in developed countries and further liberalization in developing countries has resulted in surges of imports to many developing countries across the world. In many cases these imports were artificially cheapened by domestic and/or export subsidies. There are many cases of dumping in which the developed-country products’ export price is below the cost of production. Often, the poorer countries may have more efficient farmers, but their livelihoods are threatened by products of subsidized inefficient farmers in rich countries.

Thus, developing countries are facing serious implementation problems in agriculture. They have had to remove non-tariff controls and convert these to tariffs. With the exception of LDCs, they are expected to reduce the bound tariff rates progressively. They also have had low domestic subsidies (due to financial constraints) and are now not allowed to raise these subsidies beyond a *de minimis* level and have (excepting LDCs) to reduce them if they are above this level. Increased competition from imports has threatened the small farm sectors in many developing countries and increased fears of food insecurity. An FAO study in 14 developing countries concluded that liberalization in the agriculture sector has led, variously, to an increase in the food import bill, a decline of local production in products facing competition from cheaper imports, and a general trend towards consolidation of farms and displacement of farm labour. Promises to provide food aid to net food-importing developing countries (NFIDCs) and LDCs have also not been fulfilled. Instead, food aid to these countries fell significantly and their ability to finance their increasing food bills deteriorated.

Proposals to rectify this situation have been given in Third World Network (2001: pp8, 83-84). The domestic and export subsidies and tariff peaks in agriculture in developed countries should be drastically reduced. The loopholes that allow domestic subsidies to be maintained or increased by shifting subsidies from one box (or category) to another should be plugged. Meanwhile, developing countries should be allowed greater flexibility on the grounds of food security, protection of rural livelihoods and poverty alleviation. Food production for domestic consumption in developing countries (as well as the products of their small and non-commercial farmers) should be exempt from the Agriculture Agreement's disciplines on import liberalization and domestic subsidy. At the least, developing countries should be allowed to self-designate 'special products' (which they rely on for food security, rural livelihoods and rural development), which should be exempted from further tariff reduction. Also, developing countries should be able to use a special safeguard mechanism enabling them to raise their tariff above the bound rate when surges of imports affect local producers. However, the chances for many of these proposals to be accepted are slim, in light of the decision of the WTO General Council on a framework for agriculture modalities in July 2004 (see Section I).

Services

Services enterprises in developed countries have far greater capacity than those in developing countries, and thus the liberalization of services under GATS will mainly be to the benefit of the former. This is the source of a basic imbalance in GATS. Enterprises in developing countries generally lack the supply capacity to benefit from liberalization in developed-country markets.

In an area where developing countries do have an advantage, such as the movement of labour, developed countries have not yet been prepared to undertake liberalization. Although developing countries are allowed under GATS to liberalize fewer sectors and transactions, it is not specified how this is to be operationalized. Instead negotiations on financial services, for example, showed that developed countries insisted on high levels of commitments from developing countries.

There is a lack of adequate data on the services trade, making it difficult to assess the effects (in terms of gains and losses to a country and to developing countries as a whole) of GATS and services liberalization. Other problems for developing countries include supply constraints and barriers to services exports to developed markets, and challenges faced from attempts by developed countries to alter the basic architecture of GATS. There have also been concerns that GATS would affect the provision of and access by the public to social services.

Measures to deal with these problems are suggested in Third World Network (2001: pp9-10, 84-85). The lack of data needs to be addressed, and until then, developing countries should not be expected to undertake further obligations. The special provisions for developing countries in GATS (Articles IV and XIX.2) should be seriously implemented, and a mechanism set up to monitor the implementation. Developed countries should take concrete steps (such as providing incentives to domestic firms) to encourage the import of services from developing countries. There should be concrete measures and time frames for liberalizing the movement of labour from developing countries to developed countries. The GATS provisions for flexibility in the choice of sectors and pace of liberalization for developing countries should be preserved. In discussions on developing new rules (including on domestic regulation), care should be taken to ensure that governments have both the options and the flexibility to make their own domestic services regulations and that their policies are not adversely affected. Clarification of the nature and scope of exceptions to GATS commitments for government services should be made, along with an assessment of whether (and to what extent) countries can have adequate flexibility in making national policies for basic services.

Intellectual Property Rights

Most of the world's registered intellectual property is owned by persons and enterprises in the developed countries. A strengthening of IPRs would thus benefit these countries more. A basic weakness of the TRIPS Agreement is that its benefits are inherently skewed to the rich countries, whilst the costs (in terms of royalties paid, and of high prices charged) are mainly borne by developing countries. Thus, there is no reciprocal benefit-sharing under TRIPS.

TRIPS sets high minimum standards of IPR protection for all WTO members. This one-size-fits-all approach is heavily tilted in favour of holders of technology as opposed to its consumers and users. Many critics of TRIPS have pointed out that such a lopsided agreement on intellectual property (which is not a trade issue) which facilitates monopolization does not belong in the WTO, which is a trade organization that is supposed to be working against protectionism.

The share of developing countries in the ownership of patents worldwide is minuscule and thus almost all the benefits from owning IPRs (such as royalties and extra profits resulting from the ability to charge higher prices) accrue to the developed countries' firms and institutions. The granting of monopoly rights to IPR holders has curbed competition and enabled them to charge higher and often exorbitant prices.

Under TRIPS, members cannot exempt medicines from patentability, in contrast to the pre-TRIPS situation where many countries did not allow patents for the pharmaceutical sector. The high prices of some medicines that have been facilitated by TRIPS have caused a public outcry, especially in relation to drugs for treating HIV/AIDS. The Doha Declaration on the TRIPS Agreement and Public Health adopted by the WTO's Doha Ministerial Conference in 2001, has only to a very limited extent softened the damage that is caused by TRIPS in this regard. The high-standard IPR regime is also making it more costly or difficult for local firms in developing countries to use patented technology. Further, TRIPS makes it mandatory for members to allow patenting of some life-forms and living processes, as well as IPR protection for plant varieties. This has facilitated the spread of ‘biopiracy’, in which indigenous knowledge and biological wealth of developing countries are patented mainly by developed-country firms. Promised technology transfer to poor countries has also not been forthcoming.

Many measures are required for TRIPS to become more balanced in its rules and implementation. Developing countries must be allowed to make maximum use of the flexibilities in the agreement. They should be allowed to choose between various options in devising intellectual property legislation, without being subjected to external pressure or influence. The mandated review of Article 27.3b of TRIPS should eliminate the artificial distinctions between those organisms and biological processes that can be excluded from patents and those that cannot. One way to do this, as proposed by the Africa Group of countries in the WTO, is to agree that all living organisms and their parts, and all living processes, cannot be patented. With the adoption of the Doha Declaration on the TRIPS Agreement and Public Health, developing countries should make full use of the flexibilities to take public health measures, including compulsory licensing and parallel importation, which can make medicines more accessible and affordable. Least developed countries should also make use of the extra flexibilities afforded to them under the same Declaration. The TRIPS objectives and transfer-of-technology provisions (including Articles 7, 8 and 66.2) should be operationalized. Developing countries should also be given flexibility to exempt certain products and sectors on the grounds of public welfare and the need to meet development objectives.

Finally, WTO members should consider whether the WTO is the appropriate institution to house an agreement such as TRIPS, which is basically a protectionist device.

Attempts to Introduce New Issues and Agreements in the WTO

Investment, Competition and Government Procurement

Proposals have been made (mainly by developed countries) to expand the WTO's mandate by negotiating agreements on several new issues. The first set of 'new issues' includes investment rules, competition policy and government procurement. These three issues have a similar theme: to expand the rights and access of foreign firms and their products in developing countries' markets, and to curb or prohibit government policies that encourage or favour local firms and the domestic economy.

The proposed investment rules would place governments under greater pressure to grant the right of establishment to foreign investors, to liberalize foreign investments (defined broadly) and to bind the level of liberalization; prohibit or otherwise discipline 'performance requirements' imposed on investors (such as limits to foreign equity participation, obligations on technology transfer, geographical location of the investment, etc); allow free inflows and outflows of funds; and protect investors' rights, for example through strict standards on compensation for 'expropriation'. The rules would also grant 'national treatment' to foreign firms, thus extending this GATT principle (which applies to goods) to the whole new domain of investment.

The proposed rules on competition would require members to establish national competition law and policy. Within that framework, it is proposed that the WTO non-discrimination principles be applied, so that foreign products and firms can compete freely in the local market on the basis of 'effective equality of opportunity'. Thus, policies and practices that give an advantage to local firms and products could be prohibited or otherwise disciplined.

Developed countries have also been advocating for government procurement policies (presently exempt from the WTO's multilateral disciplines) to be brought under the system, whereby the non-discrimination principles would apply with the effect that governments would have to open their procurement business to foreigners and the current practice of favouring locals would be curbed or prohibited. This serious step is unpopular with developing countries. Thus a two-step process was proposed by the developed countries. Firstly, an agreement confined to transparency in government procurement would be established. Secondly, attempts would then be made to extend it to the market-access dimension, whereby national treatment would have to be given to foreign firms and products. Local producers would lose their preference.

Developed countries have advocated that this set of new issues be taken up in a new round of negotiations. Many developing countries have objected to this. Their concerns include that: (i) the new obligations arising from these issues would further curtail their development options and prospects; (ii) these are non-trade issues and bringing them into the WTO would be inappropriate and distort and overload the trading system; (iii) the WTO should focus on resolving problems arising from existing agreements and the mandated agriculture and services negotiations instead of launching negotiations in new areas that would divert attention; (iv) they have a serious lack of understanding of the issues and of resources to negotiate on them.

Despite these objections, the developed countries (particularly the EU) pushed hard for negotiations on these issues to be launched during the Doha Ministerial Conference in 2001. They partially succeeded, by having the adoption of a declaration that negotiations would begin on these issues at the next Ministerial Conference on the basis of an explicit consensus. However, at the following Ministerial Conference at Cancun in 2003, most developing countries opposed the launch of negotiations, and the meeting ended without any decision taken. In July 2004, the WTO General Council decided that no further work towards negotiations on these three issues would be undertaken during the period of the Doha work programme. The issues are however expected to be revived, by the developed countries, after completion of the Doha programme.

Labour and Environmental Standards

The second set of new issues relates to labour and environmental standards. Attempts to bring these issues for discussion (and possible rules) in the WTO have been strongly resisted by developing countries, which fear they are likely to be used as protectionist devices against their products. The argument of some proponents of these standards is that countries that have low social and environmental standards (or that do not adhere to some minimum standards) are practising 'social dumping' or 'eco-dumping'. Their production costs are said to be artificially low because, unlike others, they are not recognizing labour standards or adhering to minimum wages, and not spending on environmentally sound technology. There is a possibility that a next step in the argument is that countervailing duty can be placed on the products of these countries as an action against such 'dumping.' The developing countries fear that they would not be able to meet the standards that could be set, due to their lack of financial and technical resources, and would thus be punished. They therefore oppose a linkage between trade rules and these standards. These issues had figured prominently in 1995-1996, up to the WTO

Ministerial meeting in Singapore in December 1996. Although it was agreed then that the issue of labour standards does not belong in the WTO, the issue keeps reappearing, especially at Ministerial meetings. The issue of environmental standards also reappears often, usually in the form of proposals to incorporate ‘processes and production methods’ (PPMs), or the way in which a product is made, into discussions on trade and environment.

Transparency and Participation in the WTO

Unequal capacity has led to unequal degrees of participation by developing countries, a problem made worse by the relative lack of transparency in key WTO operations. To start with, developing countries are in general seriously understaffed both in capitals and in Geneva and are thus unable to adequately follow or take part in the WTO's deliberations**.** In addition, despite the ‘one country one vote’ rule, in practice, a few major countries have been able to dominate decision-making in critical aspects, using informal meetings to make decisions among a small group of members that are then passed along to the other members. The so-called ‘Green Room’ process of exclusive decision-making is especially prevalent at and before Ministerial Conferences, where important decisions are taken. ‘Consensus-building’ is also normally embarked on when proposed by the major players as opposed to the developing countries.

The WTO needs to evolve more inclusive, participatory and transparent methods of discussion and decision-making, in which all members are fully enabled to participate and make proposals. Decision-making procedures and practices that are non-transparent and non-inclusive (including the 'Green Room' meetings), especially before and during Ministerial Conferences, should be discontinued. The WTO secretariat should also be impartial and seen to be impartial. In particular, it should not be seen to be taking sides with the more powerful countries at the expense of the interests of developing countries. The system must reflect the fact that the majority of members are developing countries and must provide them with adequate means and with appropriate procedures to enable them to voice their interests and exercise their rights. Further, citizen groups must be allowed to follow developments in the WTO and channels opened to make their views better heard.

Effects of Import Liberalization on Developing Countries

Empirical evidence of the negative effects of inappropriate import liberalization has been increasing. Below are examples of effects in the industrial and agricultural sectors in developing countries.

In the industrial sector, disturbing evidence of post-1980 liberalization episodes in the African and Latin American regions has been described by Buffie (2001: pp190-91). For example, Senegal experienced large job losses following liberalization in the late 1980s; by the early nineties, employment cuts had eliminated one-third of all manufacturing jobs. The chemical, textile, shoe and automobile assembly industries virtually collapsed in Cote d'Ivoire after tariffs were abruptly lowered by 40% in 1986. Similar problems have plagued liberalization attempts in Nigeria. In Sierra Leone, Zambia, Zaire, Uganda, Tanzania and the Sudan, liberalization in the eighties brought a tremendous surge in consumer imports and sharp cutbacks in foreign exchange available for purchases of intermediate inputs and capital goods, with devastating effects on industrial output and employment. In Ghana, industrial sector employment plunged from 78,700 in 1987 to 28,000 in 1993 due mainly to the fact that 'large swathes of the manufacturing sector had been devastated by import competition'.

Adjustment in the nineties has also been difficult for much of the manufacturing sector in Mozambique, Cameroon, Tanzania, Malawi and Zambia. Import competition precipitated sharp contractions in output and employment in the short run, with many firms closing down operations entirely.

Some developing countries outside Africa have also experienced similar problems. According to Buffie (2001: p190): 'Liberalization in the early nineties seems to have resulted in large job losses in the formal sector and a substantial worsening in underemployment in Peru, Nicaragua, Ecuador and Brazil. Nor is the evidence from other parts of Latin America particularly encouraging.' The regional record suggests that the normal outcome is a sharp deterioration in income distribution, with no clear evidence that this shift is temporary in character.

In the agriculture sector, there are now many case studies of the incidence and damaging effects of import liberalization on local communities and rural producers in developing countries. These studies show how farmers in many sectors (staple crops like rice and wheat; milk and other dairy products; vegetables and fruits; poultry; sugar) have had their incomes reduced and their livelihoods threatened by the influx of imports. The problems caused to small rural producers in developing countries are now very widespread. A compilation of such cases is found in Meenakshi Raman (2004).

An FAO paper (FAO 2003) shows very high incidences of import surges in 1984-2000 for 8 key products in 28 developing countries, with the incidence rising after 1994. For example, Kenya experienced 45 cases of import surges, the Philippines 72 cases, Bangladesh 43, Benin 43, Botswana 43, Burkina Faso 50, Cote d'Ivoire 41, Dominican Republic 28, Haiti 40, Honduras 49, Jamaica 32, Malawi 50, Mauritius 27, Morocco 38, Peru 43, Uganda 41, Tanzania 50, and Zambia 41.

The import surges documented by the FAO were also accompanied in some cases by production shortfalls in some of the same products where there were import surges. For example, in Kenya, in wheat there were 11 cases of import surges and 7 cases of production shortfall; in maize there were 5 cases of import surges and 4 cases of production shortfall. This indicates that the import surges were sometimes linked to declines in output by the farmers in the importing countries. The rise in imports led to declines in output and incomes of the farmers, affecting their livelihoods. As the FAO report concluded, 'Given the large number of cases of import surges and increasing reports of the phenomenon from around the world, this could be potentially a serious problem.'

The FAO study also cites several recent studies on import surges which trace the problem to unfair trade practices (e.g., dumping), export subsidies and domestic production subsidies. Import surges are more common for products where there are high subsidies (e.g., dairy/livestock products (milk powder, poultry parts), certain fruit and vegetable preparations and sugar).

Recent Developments in the Trading System

The WTO system gives the appearance of being rather unstable, as the outcome of negotiations is often unpredictable, and often the result of intense pressures, horse-trading and untransparent methods of work. Of the last three Ministerial meetings, two (Seattle 1999 and Cancun 2003) have ended in a state of some chaos without results, while the third (Doha 2001) was controversial for its last-night exclusive Green Room meeting and the methods by which drafts of the Doha Declaration appeared without the participation or knowledge of most members. The most disputed parts of the Declaration involved the sections on the four so-called ‘Singapore issues’ (investment, competition, transparency in government procurement and trade facilitation), which contained a decision to launch negotiations (for new agreements) at the next Ministerial meeting on the basis of explicit consensus on the modalities of the negotiations. The Doha Declaration launched an ambitious work programme that included negotiations on agriculture, non-agricultural market access (NAMA), services, intellectual property, environment, implementation issues, special and differential treatment, and rules; it also mandated focused discussions on the Singapore issues with a view to launching negotiations at the next Ministerial meeting.

At the Cancun Ministerial meeting of 2003, there was strong opposition from a majority of developing countries to launching negotiations on the four Singapore issues. The meeting ended without a declaration, when agreement could not be reached on this issue. The conference was also marked by intense negotiations on the agriculture issue, as well as on cotton, industrial tariffs and proposals on special and differential treatment for developing countries.

The WTO went through a low point after the failure of the Cancun meeting. However, its confidence has picked up recently when a meeting of its General Council in Geneva at the end of July managed to conclude with a decision (dated 31 July 2004) incorporating frameworks for modalities of negotiations for agriculture, non-agricultural market access and trade facilitation, and guidelines for services, cotton, implementation issues and special and differential treatment. It also notably decided not to proceed with work towards negotiations on three of the Singapore issues (investment, competition and transparency in government procurement) during the period of the Doha work programme, whilst launching negotiations on the remaining Singapore issue, trade facilitation. A preliminary analysis of the July decision is in Khor (2004).

From a development perspective, there were a few significant gains from the decision but also losses in some critical areas.

On the positive side, the developed countries agreed in principle to eliminate agricultural export subsidies and deal with export-subsidy-like measures like export credits. However, an end date for the elimination is still to be decided on. It is expected that the eventual elimination of export subsidies will get rid of some of the most trade-distorting of the developed countries' subsidies that have unfairly kept out the developing countries' farm products.

Another positive development was the dropping of three of the unpopular Singapore issues (investment, competition and transparency in government procurement) from the WTO's negotiating agenda, at least during the period of the Doha programme. Most of the developing countries had opposed these issues, which they believed would interfere with their freedom to formulate national development policies, particularly those designed to encourage and promote local producers. The attempts by the rich countries to set up new agreements on these issues had generated heated controversy for years and were a major factor in derailing the Cancun meeting. The decision left it vague as to whether discussions (as contrasted to negotiations) would continue even now at the WTO, and left open the possibility of their making a comeback after the Doha programme is finished. However, doing away with negotiations on these issues for the time being is a relief for developing countries.

Against these two positive developments were some setbacks. The most serious negative development was the adoption of a framework on trade in industrial goods which could lead to the threat of cheap industrial imports overwhelming local goods and industries. The framework on NAMA, contained in Annex B of the July decision, advocates a non-linear formula for reducing tariffs sharply, with steeper cuts for higher tariffs. For example, under a variation of this formula, a 40% tariff on a product would have to be reduced to 7%. Many developing countries have relatively high bound industrial tariffs to protect their local industries, and thus they will be much harder hit. In the history of GATT and the WTO, the developing countries have never had to come under a ‘formula approach’, let alone an aggressive non-linear formula, not even during the Uruguay Round.

The NAMA framework also obliges developing countries to give up the WTO’s present flexibilities for countries to choose how many of their industrial products’ tariffs they would like to bind and at what rate. The July decision advocates that at least 95% of their tariff lines will have to be bound, many at very low rates. The reason is that to calculate the new bound rates, the applied tariff rates of the presently unbound products will be taken and multiplied by two (this figure is to be negotiated further) and then subjected to the harsh non-linear formula. The new bound rates could end up being significantly lower than the present applied rates. There would also, in these cases, no longer be a gap (as now exists) between applied and bound rates, thus eliminating or narrowing the ‘safety zone’. As many developing countries have low applied rates for many products (as a result of structural adjustment loan conditionalities), the result of the NAMA exercise may be to depress the industrial tariffs (both bound and applied) of developing countries to unbearably low levels.

There is also a ‘sectoral tariff component’ in which many sectors (an earlier draft mentioned seven) would be slated for fast-track total elimination of tariffs. If sectors are selected that are important in a developing country's domestic production, then the risks to its domestic industries will be heightened.

If the negotiations that follow are not handled properly, and these measures are accepted, they could threaten the share and the very survival of many local firms and industries in developing countries. They may not be able to compete with imports if tariffs are brought down to zero or to low levels. Many developing countries (in Africa, Latin America and the Caribbean) have already suffered from a deindustrialization process as cheap imports overwhelmed the local firms as a result of rapid liberalization under structural adjustment.

Most developing countries (especially from Africa and the Caribbean) had opposed the same draft on NAMA for many months, but the Chairman of the negotiations insisted on maintaining the text to the end, to the frustration of the opposing countries. The only concession was the insertion of a first paragraph indicating that the text on NAMA contains 'the initial elements' for future work, and that 'additional negotiations are required to reach agreement on the specifics of some of these elements.' This paragraph provides the developing countries a little space from which to continue to battle for a better framework.

On agriculture, there was a mixed result. As stated above, the commitment to eliminate export subsidies was a positive development. However, the decision on domestic subsidies is complex, with mixed results. While there is a commitment to further reduce the Amber Box subsidies, which are recognized as being trade-distorting, there is also a move to allow the criteria for the Blue Box subsidies to be altered, to enable the United States to maintain some types of subsidies under its Farm Bill that had been found to be trade-distorting. The expansion of the Blue Box is seen as a concession to the developed countries. Moreover, the Green Box subsidies, which are now permitted without disciplines, will continue to be allowed without a maximum limit, thus paving the way for the developed countries to shift the bulk of their domestic subsidies to this Box, and thus continue legally to maintain high overall subsidies.

On market access for agricultural products, it was agreed that all countries (except the LDCs) would be subjected to a 'tiered formula' for tariff reductions, with 'deeper cuts in higher tariffs, with flexibilities for sensitive products.' There will be special and differential treatment for developing countries, which probably will be manifested in lower tariff cuts than for the developed countries. Though not mentioned in the Geneva decision, it is understood that the tiered approach will have a number of bands, with each band specifying the tariff range (e.g. 1-10%, 11-30%, 31-50% etc), and presumably the bands with higher tariffs will be subjected to deeper cuts. What kind of formula to use within each band is to be discussed. With this kind of tiered approach, there will be much less flexibility for developing countries than in the Uruguay Round approach (which had a guideline for developing countries of an overall average reduction of 24% and a minimum reduction of 10% in each tariff line). For developing countries, generally, tariffs will have to be reduced and probably by more than during the Uruguay Round; and especially affected would be the products with higher tariffs. There is thus ground for serious concern that further liberalization may increase the import surges and displacement of local products that have already been evident in recent years.

A concession to developing countries is that they would be able to designate some agricultural products as ‘Special Products’, based on criteria of food security, livelihood security and rural development needs, and these products are eligible for ‘more flexible treatment.’ The number, criteria and treatment will be specified during further negotiations. A special safeguard mechanism will also be established, but further details are also to be negotiated. On the other hand, the developed countries also won a major concession, with the creation of a category of ‘sensitive products’ which would enjoy special treatment in relation to the standard tariff-cutting formula. There is concern that the developed countries will be able to place their high-tariff products in this category and thereby avoid having to significantly reduce tariffs on these key products, thus continuing to prevent or limit market access of developing-country agricultural goods.

Another negative development was that the Geneva meeting again failed to agree on concrete measures on the ‘development issues’, i.e. to provide special and differential treatment for developing countries, and to resolve their many problems of implementing the WTO rules. It merely set new deadlines (since the old deadlines have long expired) for the issues to be considered and for reports on these issues to be submitted. In fact the Geneva meeting marked another sad step in the steady decline in status and action on these development issues. There have been hardly any concrete results for years on them.

When the Doha negotiations were launched in 2001, it was with a lot of rhetoric on the need to put developing countries' interests at the centre. Sadly, the negative aspects far outweighed the positive developments at the Geneva meeting. Thus 'development' remains rhetoric, whilst some of the new decisions (especially on industrial tariffs) are potentially threatening to development prospects.

Rethinking Trade, Trade Policy and the Trade System

Rethinking Trade Policy

This is an opportune moment to rethink the role of trade in development, trade policy and the rules of the multilateral trading system. For the past many years, the basic assumption in the Washington Consensus and the GATT/WTO system has been that trade liberalization is a positive element for development and is even an essential prerequisite. The empirical evidence and new theories and approaches, however, point the way to another, emerging paradigm.

If import liberalization proceeds whilst the conditions for successful export growth are not yet in place, there are likely to be adverse results. Thus, trade liberalization should not be pursued automatically or rapidly, as an end in itself. It is important to choose the appropriate timing, sequencing and scope of liberalization and to have other required factors present.

Developing countries must thus have adequate policy space and freedom to choose between different options in relation to their trade policies. They must have the scope and flexibility to make strategic choices in trade policies and related policies in the areas of finance, investment and technology, in order to make decisions on the rate and scope of liberalization. This principle should be integrated into the WTO's principles and rules and in the policies of the IFIs.

Reorienting the WTO to Development

The preamble to the Marrakesh Agreement Establishing the WTO recognizes the objective of sustainable development and also the need for positive efforts to ensure the developing countries secure a share in international trade growth commensurate with the needs of their economic development. However, in practice so far, development is not seen as a primary WTO objective, nor was it a primary purpose of the Uruguay Round or the Marrakesh Agreement.

Although the substance of the Doha Declaration has not been development-friendly (and is in many ways contrary to the interests of development), the Declaration does make the following statement: 'The majority of WTO members are developing countries. We seek to place their needs and interests at the heart of the work programme adopted in this Declaration' (para 2).

If the priority for the WTO is to promote the trade and development of developing countries, what would it take to orient the WTO to become such a pro-development organization?

Facilitating development should become the overriding principle guiding the work of the WTO, whose rules and operations should be designed to produce development as the outcome. The test of a rule, proposal or policy being considered in the WTO should not be whether it is 'trade-distorting' but whether it is 'development-distorting.' Since development is the ultimate objective, whilst reduction of trade barriers is only a means, the need to avoid development distortions should have primacy over the avoidance of trade distortion. So-called 'trade distortions' could in some circumstances constitute a necessary condition for meeting development objectives. From this perspective, the prevention of development-distorting rules, measures, policies and approaches should be the overriding concern of the WTO.

The reorientation of the WTO towards this perspective and approach is essential if there is to be progress towards a fair and balanced multilateral trading system with more benefits rather than costs for developing countries. Such a reorientation would make the rules and the judgment of future proposals more in line with empirical reality and practical necessities.

Taking this approach, the goal for developing countries would be to attain ‘appropriate liberalization’ rather than ‘maximum liberalization’.

The rules of the WTO should be reviewed to screen out those that are ‘development-distorting’, and a decision could be made that, at the least, developing countries be exempted from being obliged to follow rules or measures that prevent them from meeting their development objectives. These exemptions can be on the basis of special and differential treatment.

Improving the Basic Structure

As pointed out by Das (2003), many of the problems facing developing countries in the WTO arise from the basic structure which stresses trade liberalization, using reciprocity in the exchange of concessions as the main instrument (see Section G). WTO member states have widely different levels of capacities and development. Reciprocity between members with different capacities leads to unequal outcomes. As the problem with this was recognized, the principle of special and differential (S and D) treatment for developing countries was incorporated in Part IV of GATT. But the principle was not seriously implemented and it was further eroded in the Uruguay Round agreements (Third World Network 2001: p38).

Addressing these problems requires a system that effectively takes into account the different capacities of different categories of members at different stages of development, so that the outcome will be an equitable sharing of benefits. Given the inadequacy of the structure based on reciprocity, there should be some structural improvement to redress the problem of overall imbalance, and structural changes to compensate for the handicaps of developing countries in the WTO system.

Suggestions for improving this structural defect, including the following, have been provided in Das (2001) and Third World Network (2001: p79):

(a) Differential and more favourable treatment for developing countries should not be considered as a concession, but rather as a way of redressing imbalances inherent in the system. Developing countries should not be treated as seekers of favors, nor called upon to make special concessions in order to get S and D treatment in any area.

(b) Developing countries should be allowed under S and D treatment to undertake comparatively lesser levels of obligations than developed countries. S and D treatment should not be limited to a longer time frame for implementation, as is usually the case at present.

(c) On the Doha programme agenda is a review of how to enhance and strengthen the provisions on S and D treatment in the various agreements, and to create provisions where they are needed but absent. However, there has not been enough priority accorded to finding solutions so far, and this should be rectified.

(d) Obligations of developed countries to provide benefits to developing countries should be made into binding commitments, rather than remaining as 'best-endeavor' clauses.

(e) Developing countries should not be called upon to give up or refrain from adopting policies and measures to support technological development and upgrading as well as diversification of their production and exports. There should be a formal and enforceable waiver in this regard rather than merely a 'best-endeavor' provision.

(f) Developed countries should establish specific and concrete arrangements for encouraging imports of products of developing countries.

Enabling Developing Countries to Have Policy Space for Development

In light of the above, some important principles and rules in the WTO should be modified to take into account the need for developing countries to have policy space to undertake measures required by their development needs. Among these are the following.

National treatment: The national-treatment provision handicaps developing countries as it prohibits preferences to domestic products *vis-à-vis* like imported products. Since developing countries and their firms have less capacity than developed countries, the inability to provide advantages to local products would make these less viable, especially in an environment of tariff reductions. Many developing countries are thus likely to become more dependent on foreign goods. Therefore, there is a need for developing countries to adopt policies and measures to support and encourage the domestic production of goods and services. Thus, the national-treatment principle should be relaxed, and developing countries be allowed to provide special facilities and preference to domestic products, at least in selected sectors (Das 2003: p191). The relevant rules in GATT, for example, provisions relating to national treatment and TRIMs, need to be suitably modified to enable developing countries to support domestic production and supply. In particular, developing countries should be allowed to apply the domestic-content requirement to their industries (Third World Network 2001: p80).

Subsidies: Subsidies in developing countries, in both industry and agriculture, should be recognized as an instrument of development, rather than as measures distorting trade. The rules should clearly say this, and they should contain enabling provisions for developing countries to use subsidies for technological development, upgrading of production and diversification of production and trade. Such subsidies should be exempt from imposition of countervailing duty and other types of counter-action (Third World Network 2001: p81).

Tariffs: To pursue effective development strategies, developing countries have to modulate and fine-tune their trade policy instruments so as to support and encourage the growth of infant industries and specific sectors, the choice of which will vary with time depending on the need. As part of this dynamic process, developing countries need flexibility in the matter of raising and reducing tariffs. The current procedure of raising tariffs beyond the bound level is very cumbersome and should be made smoother and easier (Das 2001). If there were systemic assurance that countries could raise tariffs (under appropriate multilateral surveillance) for a limited period to promote infant industries to get established and become operational, it would be to the benefit of all (Third World Network 2001: p80).

Treatment of Proposals for 'New Issues' in the WTO

Before achieving the reorientation and reform of the WTO towards development objectives, it would be counter-productive to introduce yet more 'new issues' into the WTO which would further burden the developing countries with inappropriate obligations and which would make the system even more imbalanced. There should thus be a consideration of the proposed new issues from a development perspective.

The proposals for bringing in new issues (the Singapore issues, especially investment, competition and transparency in government procurement; and environmental and social standards) are inappropriate. These are *non-trade* issues whilst the WTO as a multilateral trade organization should stick to its mandate for dealing with *trade* issues. Principles such as national treatment that were created for a regime dealing with trade issues may not be suitable when applied to non-trade issues. If the new issues are to be discussed internationally, other, more appropriate venues should be found for them. If they are nevertheless brought into the WTO, they will lead to a distortion and possibly to a destabilization of the multilateral trade system, to the detriment of world trade.

The major proponents are seeking to bring non-trade issues into the WTO not because this would strengthen the trade system, but because the WTO has a strong enforcement mechanism, i.e. its dispute settlement system, which means that developing countries would be more likely to comply with rules lodged in the WTO. However, the 'contamination' of a system created for trade issues with non-trade issues may cause serious damage to the WTO. Moreover, the fact that developing countries are likely to comply with binding rules backed by a strong enforcement mechanism does not necessarily mean that the outcome is appropriate. If the rules are inappropriate, then the fact that they are binding and complied with would actually worsen an inappropriate outcome.

If these non-trade issues are brought into the WTO, and WTO principles as interpreted by developed countries are applied to them, developing countries will be at a serious disadvantage, and would lose a great deal of their policy flexibility and the ability to make national policies of their own. During the Uruguay Round, the developed countries already brought in new issues: intellectual property, services and investment measures. The agreements in these areas (TRIPS, GATS and TRIMs respectively) are already causing many serious problems, giving rise to the implementation issues. Prof. Jagdish Bhagwati, the renowned trade economist, and advisor to the GATT Director-General Arthur Dunkel during the Uruguay Round, has commented in the *Financial Times* that it was a mistake to have introduced intellectual property into the WTO as it is not a trade issue, has distorted the trade system and has been non-reciprocal (as most patents belong to developed countries and the developing countries have had to bear the high costs of royalty payment), and that the TRIPS Agreement should be taken out of the WTO. The lesson should be learnt from the inappropriate introduction of non-trade issues in the Uruguay Round, so that this is not repeated.

Even without the new issues, the present agenda of the WTO is overloaded. Introducing new issues into the WTO will make the overload much worse, and distract from the WTO's trade work. Developing countries do not have the manpower and financial resources to cope with negotiations on new issues as well as the other items on the agenda.

The WTO should therefore be limited in scope to dealing with trade issues which have a legitimate place within a system of multilateral trade rules, and these rules and the system must primarily be designed or redesigned to benefit developing countries, which form the majority of the WTO membership. There is at present no system for determining if or how new issues are brought into the WTO. Such a system should be established. Issues to be brought under the competence of the WTO should meet certain criteria, such as that: the issue is a trade issue appropriate for a system of multilateral trade rules; the WTO is the appropriate venue; the issue is sufficiently 'mature' in that members have an understanding of it and how it relates to the WTO and to their interests; if brought into the WTO, the issue (and how it will be interpreted) will clearly be in the interests of developing countries, which constitute the majority; there must be a consensus of all members that the issue should be brought in, and on how it should be brought in. And this should be a genuine consensus based on a full understanding by members, all of which should be allowed to participate fully in the decision-making process in Geneva and at the Ministerial Conference itself.

Rethinking the Scope of the WTO's Mandate and the Role of Other Agencies

It is not correct to equate the WTO with the 'multilateral trading system'. In fact the WTO is both less than and more than the global trade system. There are key issues regarding world trade that the WTO is not seriously concerned with, including the trends and problems of the terms of trade of its members, and the commodity problem. There are other organizations, especially UNCTAD, that deal with aspects of international trade, including aspects that are not in the purview of the WTO. They should be considered vital parts of the multilateral trading system.

On the other hand, the WTO has become deeply involved in issues beyond trade, especially domestic policy issues such as intellectual property laws, domestic investment and subsidy policies. There are also proposals to bring in other non-trade issues. Thus the WTO is more than a trade organization. The question is whether its mandate should have been extended beyond trade and whether it should be further extended.

GATT and the WTO evolved trade principles (such as non-discrimination, MFN and national treatment) that were derived from the context of trade in goods. The application of the same principles to areas outside of trade may not be appropriate and could have negative outcomes. Moreover, incorporation of non-trade issues into the WTO system could distort the work of the WTO itself and the multilateral trading system.

Therefore, a fundamental rethinking of the mandate and scope of the WTO is required. Firstly, issues that are not trade issues should not be introduced in the WTO as subjects for rules.

This rule should apply at least until the question of the appropriateness and criteria of proposed issues is dealt with satisfactorily in a systemic manner.

Secondly, a review should be made of the issues that are currently in the WTO to determine whether the WTO is indeed the appropriate venue for them. Prominent orthodox trade economists such as Professor J Bhagwati and Professor T N Srinivasan have concluded that it was a mistake to have incorporated intellectual property as an issue in the Uruguay Round and in the WTO. There should be a serious consideration, starting with the mandated review process, of transferring the TRIPS Agreement from the WTO to a more suitable forum.

Within its traditional ambit of trade in goods, the WTO should reorientate its primary operational objectives and principles towards development, as elaborated above. The imbalances in the agreements relating to goods should be ironed out, with the ‘rebalancing’ designed to meet the development needs of developing countries and to be more in line with the realities of the liberalization and development processes.

With these changes, the WTO could better play its role in the design and maintenance of fair rules for trade, and thus contribute towards a balanced, predictable international trading system which is designed to produce and promote development.

The WTO, reformed along the lines above, should then be seen as a key component of the international trading system, coexisting with, complementing and cooperating with other organizations, and together the WTO and these other organizations would operate within the framework of the trading system.

Other critical trade issues should be dealt with by other organizations, which should be given the mandate, support and resources to carry out their tasks effectively. These other issues should include: (i) assisting developing countries to build their capacity for production, marketing, distribution and trade; (ii) the need for monitoring and stabilizing commodity markets, with a view to ensuring reasonable prices and earnings for commodity-producing developing countries; (iii) addressing the restrictive business and trade practices of transnational corporations that hamper the ability of smaller firms to engage in production and trade; (iv) addressing the problems of low commodity prices and developing countries' terms of trade. These issues can be dealt with by various UN bodies, especially a revitalized UNCTAD.

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