The Reality of Trade:
The WTO and Developing Countries

The North-South Institute

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Table of Contents

Part III: Southern Perspectives on the WTO

Part IV: Conclusions

Part I: The Great North-South Bargain?
The Uruguay Round and Developing Countries

Introduction

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The 146 member countries of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations. This new round is meant to focus on the needs of developing countries. Indeed, at the last meeting of trade ministers in Qatar in 2001, WTO members agreed to a development agenda, in response to the growing sense among many developing countries that the organization and its agreements were not supportive of their economic and human development. This book addresses one of the sources of this "discontent": the agreements negotiated at the last round of trade talks, the Uruguay Round (UR) agreements.

The Uruguay Round was supposed to be a great "North-South bargain" (Ostry 2000). Industrial countries were to decrease their barriers to exports from the South, especially in the most important sectors (i.e., in textiles and clothing and in agriculture). In exchange for better market access, developing countries would agree to several new trade agreements which would mainly benefit industrial countries. The most important ones are the agreements on intellectual property and on services.

However, there have been increasing signs of the asymmetrical value of the North-South bargain. On one hand, it appears that the costs of implementing agreements such as Trade-Related Aspects of Intellectual Property Rights (TRIPS) are very high, even higher than expected. On the other hand, it is not clear that the promises of greater access to Northern markets have materialized yet for many developing countries. In agriculture, this was mostly expected, as the core of the Northern piece of the bargain was a commitment to further liberalization in new negotiations starting in 2000. Still, the Uruguay Round included commitments from industrial countries to decrease agricultural subsidies; but in the United States and the European Union, such subsidies have actually increased. In textiles, developing countries have complained of implementation tactics used to delay the opening of markets.

In order to document the value of this exchange of concessions and the trends in North-South trade, we brought together a group of researchers from the South and the North. The authors come from various backgrounds: academia, non-governmental research organizations or think tanks, and governments. They offer a diversity of perspectives. Given the wide range of issues now part of the WTO's domain, the authors were asked to focus on one specific aspect of the new regime or its impact on one region/country.

The Uruguay Round was the first of its kind in terms of developing country participation. Indeed, in earlier multilateral trade negotiations, developing countries were allowed to pick and choose which agreements they would sign. Developing countries were generally not very active in what was then called the General Agreements on Tariffs and Trade (GATT). With the Uruguay Round, in the so-called single undertaking, all members had to be signatories to all the agreements. In a way, developing countries became full-fledged members of the organization. For the actors involved in the current round of multilateral trade negotiations, there are many lessons to be learned from the earlier experiences, to ensure that the trade arrangements that are being discussed contribute to development and poverty reduction.

Overview

The first chapter by Pranav Kumar provides a succinct background paper on the WTO and an overview of the content of the Uruguay Round agreements. The author also reviews the recent institutional changes created by the new agreements and highlights key problems in their implementation.

The second part of the book examines to what extent the promise of greater access made to developing countries during the Uruguay Round has materialized. We scrutinize the trade policy of the four largest industrial economies, the so-called "Quad." Our objective is to highlight whether and how the Uruguay Round has improved market access. Which trade barriers have been removed and which remain? What kind of preferential access do Canada, the European Union, Japan, and the United States offer to developing countries? These evaluations also include information about trade-related technical assistance. The Uruguay Round agreements frequently refer to the technical assistance industrial countries should provide to developing countries to help with the implementation of the multiple WTO agreements. How well is the Quad doing on this commitment? In addition to providing detailed information on the regional and sectoral composition of North-South trade, each chapter offers insights into the trade issues peculiar to that WTO member. Thus, the chapter on the European Union by Stephanie Pfahl highlights how environmental labeling can raise trade barriers for developing countries. The chapter on Japan by Horimi Ohki and Shuichiro Nishioka discusses the issues of intellectual property protection in China, whereas agricultural subsidies receive extra attention in the chapter on the United States by Chantal Blouin. The chapter on Canada discusses the impact of the principle of reciprocity in North-South trade arrangements.

In the third part of this book, Southern researchers examine the Uruguay Round agreements from the point of view of developing countries. Yash Tandon evaluates the trade-related technical assistance provided to developing countries to fill the "capacity gap" within the multilateral trading system. He argues that this gap in trade policy capacity to negotiate and implement agreements is actually increasing, not decreasing. He underlines the limits of technical assistance and stresses that this is not a politically neutral activity: the policy preferences of industrial countries are embedded in the trade advice provided to developing countries.

The next two chapters focus on the domestic consequences of the implementation of the Uruguay Round agreements. Pranav Kumar's examination of the implementation of the WTO Agreement on Agriculture in India argues that trade liberalization did not have the expected negative effects in terms of a surge in and dumping of agricultural imports. The author also stresses the importance of domestic reforms and public investment to improve the Indian agricultural sector. Multilateral trade agreements, albeit important, are only one piece of a very complex puzzle. The third chapter in this section looks at the problems linked to the implementation of the Uruguay Round agreements in Southern Africa. Kennedy Mbekeani explains that these new obligations to implement reforms in standards, intellectual property, or customs require large investments from countries with very limited resources. He identifies the limited capacity to participate in WTO activities and negotiations as the main cause of this problem. The chapter concludes with recommendations on how to ensure that Southern African countries are involved in designing the rules of the trade regime.

What can we learn from the experience of the Uruguay Round for the new round? The book concludes with an outline of the policy recommendations drawn from the contributors. This last section also includes a chapter from Nizar Assanie on the role of development agencies in trade policy in general and in the Doha Round in particular. He suggests coalition building as a key function of development agencies working for a pro-development trade regime. Informed views and analytical discussions of trade policy are critical as the WTO members enter a new round, because information is a key resource when negotiators are at the table. To go beyond the "Development Round" rhetoric to concrete actions and policy changes, the North and the South need to rethink the current trade arrangements. This book aims to make a contribution to such rethinking.

* The editor would like to thank all the authors for their generous collaboration as well as Kristina Maud Bergeron, Lois Ross and Ann Weston for their assistance in this project.

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Chapter 1

Impact of the Uruguay Round on the Multilateral Trading System

Pranav Kumar

The Uruguay Round (Uruguay Round) of multilateral trade negotiations (1986-94) was an important milestone in over fifty years of GATT/WTO history. In the seven previous General Agreements on Tariffs and Trade (GATT) rounds of trade negotiations, discussions were mainly focused on tariff reductions. Developing countries focused most of their attention on obtaining preferential access to industrial country markets. Only a few developing countries participated actively in the core business of the negotiations — the exchange of market access concessions.

By contrast, many developing countries were very active participants in the Uruguay Round both individually and in coalitions with industrial countries. Not only did they participate in formulating new rules for the world trading system, but they also made important market access offers in the conventional area of reducing tariff protection on manufactures trade and in new areas, such as trade in services and trade in agricultural products.

The Uruguay Round trade negotiations, which went on for nearly 8 years, brought a sea change in the multilateral trading system. Its impact could be seen in the increase in participation and number of areas covered. While the early rounds of multilateral trade negotiations, up to the Dillon Round in 1961, typically involved some 20 to 30 countries, the Kennedy Round (1964-67) involved over 60 countries, the Tokyo Round (1973-79) involved more than 100 countries, and the Uruguay Round (1986-94) had 125 participants. The WTO's membership stands at 146 countries today, and this could potentially grow to over 160 in the next few years. With the accession of China as the 143rd member, the WTO members now account for more than 90% of world merchandise trade. Significant traders that are still outside the multilateral trading system, but in the process of accession to the WTO, are the Russian Federation and Saudi Arabia.

This chapter tries to examine the overall impact of the Uruguay Round on the multilateral trading system. Section 1 briefly highlights the results of the Uruguay Round. Section 2 discusses its institutional impact. Institutional reforms were one of the major tasks of Uruguay Round. In Section 3, we analyze the impact in terms of actual growth in exports of world merchandise and commercial services over the last decade. How much have developing and poor countries been able to increase their share in world trade and to diversify their exports? In Section 4, the paper highlights some major market access impediments faced by many developing and poor countries. How are developed and even some middle-income developing countries manipulating the provisions of the WTO to their own advantage? Finally, Section 5 concludes the paper with some policy implications.

Outcomes of the Uruguay Round

Unfinished business from the previous Tokyo Round was only a small part of the Uruguay Round negotiating agenda. Despite difficulties in launching the Uruguay Round, the negotiating agenda finally adopted in 1986 was wide-ranging and ambitious. The round encompassed traditional tariff cutting, and tackled long-standing and intractable issues such as textiles and clothing and agriculture. It also refurbished the dispute settlement system, instituted the trade policy review mechanism for examining the trade policies of individual countries, transformed aspects of the institution and the GATT's legal status, and took on the entirely new issues of trade in services and trade-related intellectual property rights.

In view of the extraordinary comprehensiveness of this agenda, it is not surprising that the Uruguay Round proved nearly as difficult to close as it was to launch. In December 1993, some decisions were adopted by the Trade Negotiations Committee. Even then, a few loose ends had to be tied up, and negotiations in various areas, most notably services, continued. The Uruguay Round really ended in April 1994, eight years after the negotiations had begun. The negotiations had proved challenging precisely because governments were seeking far-reaching agreement in difficult areas. No government could agree easily to such a wide-ranging package, knowing that important commitments were at stake which would involve significant policy changes.

The Uruguay Round is a complex agreement that covers six broad areas:

1. Tariff reductions in manufactured products.
2. The tariffication of non-tariff barriers in agriculture, as well as binding commitments to reduce the level of agricultural protection.
3. The elimination of voluntary export restraints (VERs) and of quotas in textiles and clothing.
4. Institutional and rule changes, such as the creation of the WTO and safeguards, anti-dumping, and countervailing duty measures.
5. New areas such as Trade-Related Investment Measures (TRIMs), Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the General Agreement on Trade in Services (GATS).
6. Areas receiving greater coverage than earlier, such as customs valuation.

In the field of tariffs, the Uruguay Round saw average cuts of 40% on industrial products. Prior to the Uruguay Round, developing countries had on average only bound 21% of their tariff lines. This figure rose to 73% after the Uruguay Round. Developed countries and transition economies increased their shares of bindings in total tariff lines from 78% and 73% to 99% and 98% respectively. These commitments added significantly to security and predictability in world trade (WTO 1998).

After more than four decades of futile efforts to bring trade liberalization to the agricultural sector, the Uruguay Round finally put in place a comprehensive program of reform, encompassing liberalization commitments with respect to tariffs, domestic supports, and export subsidies. All quantitative restrictions and other non-tariff measures used against imports were replaced by tariffs. In textiles, following years of special arrangements entailing discriminatory restrictions maintained by most developed countries against developing country exports, an agreement was reached to phase out these arrangements. Under the Agreement on Textiles and Clothing (ATC), country-specific quotas are to be phased out in three phases over a period of ten years, ending in 2005.

A new safeguards agreement was established in the Uruguay Round — an achievement that had eluded negotiators for many years. This new agreement instituted strengthened procedures and public accountability, combined with greater flexibility to allow governments to take the necessary temporary measures to deal with pressing adjustment problems. Its adoption entailed the elimination of "grey area" measures, such as voluntary export restrictions. Provisions relating to trade remedy measures such as anti-dumping and countervailing duties were strengthened, as were those on state trading, technical barriers to trade, customs valuation, and import licensing procedures. The provisions on subsidies were further developed, establishing a definition of subsidies for the first time, and making the rules and remedies clearer. Additional clarifications were made to GATT Article XXIV, dealing with customs unions and free trade areas.

New agreements were reached on sanitary and phytosanitary (SPS) measures, rules of origin, and import licensing procedures. An agreement on TRIMs, applying only in the area of goods, seeks to control the use of investment-linked measures that affect trade, such as local content and trade balancing requirements. The Uruguay Round General Agreement on Trade in Services (GATS) represented the first attempt to bring a sector of ever-growing importance into the multilateral framework of rule making. Built on the conceptual foundations of the GATT, the GATS is both a set of rules and a mechanism for progressively pursuing trade liberalization. Under the agreement, a framework was established for WTO members to bind, reduce, or eliminate impediments to the supply of services by foreign providers, followed up by the agreements on basic telecommunications and financial services in 1997.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is as remarkable as that on trade in services. It establishes standards for the protection of all the main intellectual property rights, copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits, and undisclosed information. The agreement also establishes a range of obligations designed to ensure that adequate enforcement mechanisms exist at the domestic level.

Impact on Institutional Setup

After more than four decades of legal limbo, during which the GATT was essentially a provisional arrangement, it was, on January 1, 1995, finally transformed into the WTO — a permanent organization with a sound legal basis. Under the GATT 1947, all decision-making authority was attributed to (and then delegated by) a single organ, the "Contracting Parties" acting jointly. The framers of the Agreement Establishing the WTO, however, carefully negotiated a more complex institutional structure under which separate judicial and political bodies are empowered to make binding decisions that confirm, define or alter the rights and obligations of members. The decision-making in the WTO is divided between:

- The membership of the WTO acting under the amendment and other rule-making provisions of the WTO Agreement (the "legislative branch");
- The political organs of the WTO, such as the Committee on Regional Trade Agreements, the Committee on Subsidies and Countervailing Measures, the Safeguards Committee, and the Committee on Balance-of-Payments Restrictions (the "executive authorities"); and
- The judicial organs of the WTO, in particular the panels, arbitrators, and the Appellate Body (the "judicial powers").

The Uruguay Round resulted in the most profound institutional reform of the multilateral trading system since the establishment of the GATT in 1947. The trading rules were reformed across the whole spectrum, and the new rules were brought in under the aegis of the WTO. Some of the distinct features, which make the WTO a potentially better-equipped organization to administer the world trading system, are discussed below in brief.

Trade Policy Review Mechanism

The first major result of Uruguay Round negotiations was the decision to establish a trade policy review mechanism. Participants agreed to start the reviews at the December 1988 ministerial meeting that was intended to be the mid-way assessment of the Uruguay Round. Initially, these reviews took place under the GATT, and like the GATT, they focused on trade in goods only. With the creation of the WTO in 1995, their scope was extended, like the WTO, to include services and intellectual property. The objective was to increase the transparency and understanding of countries' trade policies and practices, through regular monitoring, as well as to improve the quality of public and intergovernmental debate on the issues and to enable a multilateral assessment of the effects of policies on the world trading system. While the reviews focus on a member's own trade policies and practices, they also take into account countries' wider economic and developmental needs, their policies and objectives, and the external economic environment.

Dispute Settlement System

No review of the institutional achievements of the Uruguay Round would be complete without mention of the dispute settlement system. The dispute settlement procedures of the WTO are substantially stronger than those of the GATT. A procedure for settling disputes existed under the GATT too, but it had no fixed timetables, and rulings were easily blocked. Many cases dragged on over several months inconclusively. The Uruguay Round agreement introduced a more structured process with more clearly defined stages in the procedure. It introduced greater discipline for the length of time a case should take to be settled, with flexible deadlines set in various stages of the procedure, all on the understanding that prompt settlement was essential if the WTO was to function effectively. The Uruguay Round agreement also made it impossible for countries losing a case to block the adoption of a ruling, a complete reversal from the previous GATT provisions for settling disputes. Under the previous GATT procedure, rulings could only be adopted by consensus, meaning that a single objection could block the ruling. Now, a ruling is automatically adopted unless there is a consensus to reject it.

The new WTO system is stronger, more automatic, and more credible than its GATT predecessor. This is reflected in the diversity of countries now using it. In 2000, the number of complaints filed under the WTO's Dispute Settlement Understanding (DSU) since the start of the WTO had reached 200 (WTO 2001a). This indicates a continued heavy use of the dispute settlement procedures by WTO members. In contrast, only some 300 cases were brought before the GATT during its entire life span.

Technical Cooperation

Technical assistance to developing countries, least developed countries (LDCs) and countries in transition from centrally-planned economies is an integral part of WTO work. The objective is to help build the necessary institutions and to train officials. It aims to improve the understanding of the agreements and facilitate implementation of obligations. At the same time, emphasis is increasingly being placed on enhancing the capacity of countries to integrate into the world economy in order to realize the benefits of the market access opportunities that are available to them as a result of being WTO members.

Despite their vital nature, technical assistance and cooperation activities in 1999 and 2000 have been sustained only by the generous extra-budgetary voluntary donations of certain WTO members, given that the regular budget for such activities has remained inadequate to respond to needs, funding just 10% of activities in 1999 (WTO 2001a). Increased funding for technical assistance in the core budget of the WTO would create a more permanent basis for such activities. In the fourth Ministerial Conference at Doha, members agreed that there is a need for technical assistance to receive secure and predictable funding. Pursuant to this, in December 2001 the WTO's Committee on Budget, Finance and Administration agreed to the establishment of a "Doha Development Agenda Trust Fund" of at least 15 million Swiss Francs (CHF) — approximately US$9.1 million. This proposed amount would go toward the implementation of technical assistance commitments as mandated by the Doha Ministerial Declaration. The existing WTO Global Trust Fund was established in July 1999 to receive extra-budgetary donations from WTO members to finance technical cooperation activities carried out by the WTO.

Ministerial Conference

Negotiators also paid attention to other important institutional aspects of the multilateral trading system. In order to ensure an adequate degree of high-level political involvement in the WTO, it was agreed that members would meet at the ministerial level at least once every two years. The Ministerial Conference is the highest WTO body. So far, four WTO Ministerial Conferences have been held since 1995.

Impact on World Trade

The real success of the eight years of intensive Uruguay Round trade negotiations, followed by over seven years of implementation of WTO agreements, can be judged in terms of their contributions toward establishing a free and fair trade regime, and in terms of how far the integration of poor countries, especially LDCs, into the multilateral trading system has advanced. Potential indicators are the share of developing countries in world merchandise exports and the composition of their export basket.

World Exports of Merchandise

The 1990s witnessed a boom in world trade, with an average annual increase of 6.3% in the volume of global merchandise trade (1990-99). It outpaced global gross domestic product (GDP) growth by an average of 4.2% per year over the same time period. Exports grew faster than output in every major region (World Bank 2001). Developing countries made a significant contribution to the vigorous expansion of world trade in the last decade. The share of developing countries in global export markets rose by almost seven percentage points, to about 25% of world non-energy merchandise trade, primarily based on superior performance in manufacturing. They accounted for 27% of world exports of manufactures in 2000, a remarkable increase from their 17% share in 1990. However, the details behind these headlines reveal divergent trends. Some countries enjoyed exceptional growth, while others remained stagnant (Table 1).

Table 1: Share in World Merchandise Exports by Region, 2000

	Share in 1990 (%)	**Share in 2000 (%)**
North America	15.4	17.1
Latin America	4.3	5.8
Western Europe	48.3	39.5
Central/Eastern Europe/Baltic States/CIS	3.1	4.1
Africa	3.1	2.3
Middle East	4.0	4.2
Asia	21.8	26.7

Source: WTO, 2001b.

Developing countries as a whole improved their penetration of world markets, but the export share of the 49 LDCs shrank from 3% in the 1950s to around 0.5% in the early 1980s, and has hovered around this very low level over the last two decades (UNCTAD 2001). In the year 2000, aggregate merchandise exports from the LDCs were at a record level ($34 billion), while at the same time more than one-third of the LDCs saw their exports decline. The LDCs continue to depend on agriculture and labour-intensive manufactures, which together account for about 70% of their exports. The share of manufactures in total exports of Africa, where 33 of the 49 LDCs are located, is only 24.6% (Table 2). This is significantly lower than the world's share of 74.9%. The expansion of trade volumes in these sectors did not keep pace with world trade growth, which has undermined the LDCs' growth prospects and hindered their battle against poverty.

Table 2: Share of Manufactures in Total Merchandise Trade by Region, 2000

	Exports (%)	Imports (%)
World	74.9	74.9
North America	78.0	80.0
Latin America	60.5	76.9
Western Europe	80.3	75.4
Central/Eastern Europe/Baltic States/CIS	54.2	72.0
Africa	24.6	68.4
Middle East	21.7	74.6
Asia	84.2	70.5

Source: WTO, 2001b.

Further, progress in lowering trade barriers has lagged in agriculture and labour-intensive manufactures (such as textiles and clothing) — the two sectors with the most impact on poverty. Both these sectors are highly protected. Agriculture and other labour-intensive products matter to the world's poor because they represent more than half of the low-income countries' exports, and about 70% of the least-developed countries' export revenues.

World Exports of Commercial Services

Although the GATS commitments are of relatively recent vintage, a number of WTO members have actively pursued unilateral liberalization in the services sector. World exports of commercial services grew at the rate of 6% per annum from 1990 to 2000, reaching US$1.4 trillion. Western Europe alone accounted for almost 45% of world services trade in 2000. North America, Latin America, and Asia increased their share in world exports of services over the 1990s. Once again the share of Africa, which includes most LDCs, decreased to 2.1% in 2000 from 2.4% in 1990 (Table 3).

Table 3: World Exports of Commercial Services by Region, 2000

	Share in 1990 (%)	Share in 2000 (%)
North America	19.3	21.7
Latin America	3.8	4.2
Western Europe	53.0	45.0
Africa	2.4	2.1
Asia	16.8	21.1

Source: WTO, 2001b.

Some Serious Concerns

There is no doubt that the Uruguay Round of trade negotiations made a significant contribution toward lowering global barriers to merchandise trade on two fronts: improving market access, thanks to the reduction of tariffs and quantitative restrictions on a number of products; and extending multilateral disciplines to previously excluded sectors, particularly agriculture, and textiles and clothing.

However, the poor countries have still not been able to penetrate the markets of developed countries. Many tariff bindings are at levels much higher than the applied tariffs, creating a degree of uncertainty for exporters wishing to access these markets. While the overall use of non-tariff measures has declined, the use of certain trade remedy measures such as anti-dumping and countervailing measures is on the rise. Moreover, there is growing evidence of the difficulties faced by developing countries, especially LDCs, in implementing the WTO commitments in new areas such as TRIPS, SPS (the Agreement on the Application of Sanitary and Phytosanitary Measures), and TBT (the Agreement on Technical Barriers to Trade).

Slow Pace of Elimination of Quotas on Textiles and Clothing

For more than 30 years, an important part of world trade in textiles and clothing was governed by a special regime known as the Multi-Fibre Arrangement (MFA), which provided for waivers from GATT rules. The Uruguay Round Agreement on Textiles and Clothing (ATC) provides for the gradual phase-out of the country-specific quotas over a 10-year period ending in 2005. The ATC was an important step to improve developing countries' access to high-income countries' markets, because it made it very difficult for importers to introduce new quotas. However, the effectiveness of the ATC in freeing up markets has been limited by two main drawbacks. First, scheduled quota integration is "back-loaded," with quota-free market access for nearly half of all imports due only at the end of the transition (i.e., in 2005).

Second, the ATC rules for the removal of quotas are framed in terms of overall import shares in textiles and clothing, rather than in terms of the number of existing quotas. This allows importing countries the leeway to select the products to be freed of quota restrictions at each step, which slows the pace of liberalization. Up to 2000, more than 33% of trade was integrated, fulfilling the minimum ATC requirements. But products that were freed of quotas by the EU and the US at that time represented only small shares of their total textile and clothing imports — about 6% of 1995-97 imports for the US and less than 5% for the EU (ITCB 1999).

Distortions in Agriculture Trade

The WTO Agreement on Agriculture (AoA) marked an important step in improving access to sheltered agricultural markets in high-income countries. A wide range of non-tariff barriers were abolished and converted to ordinary tariffs (tariffication). Existing and new tariffs were bound, and these bindings were subject to reduction. Developing countries were allowed more flexibility through longer implementation periods and lower reduction commitments.

Even seven years following the implementation of the Uruguay Round Agreement on Agriculture (URAA), the agriculture market was still highly protected. Developed countries continued to apply several measures to protect their farm sectors. Some of them are discussed below in brief. Since the international agricultural prices in the base period for the URAA (1986-88) were way below high domestic prices supported by quotas, the conversion of quotas into tariff equivalents resulted in high rates of tariff protection (OECD 2001a). Tariff peaks in agriculture occur frequently on processed products and temperate commodities. They are less common on unprocessed fruits and vegetables and tropical commodities, which are not produced in high-income countries but are major export crops of LDCs.

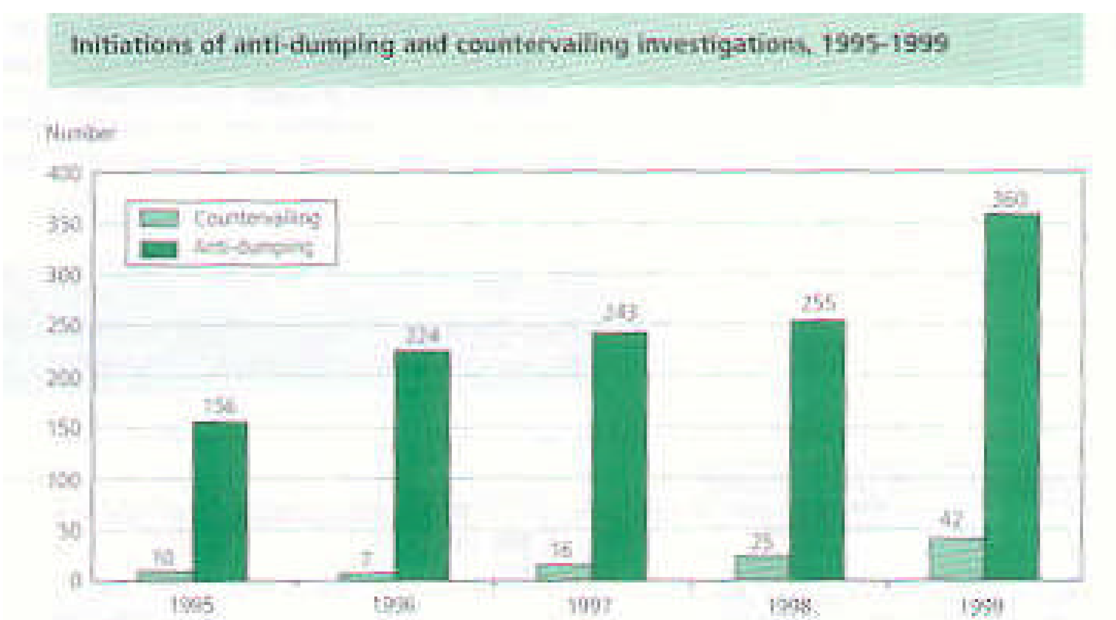
At an estimated $245 billion in 2000 (which was about five times the level of annual international development assistance), support to agricultural producers in high-income countries remained sizeable (OECD 2001b). Total support to agriculture (as defined by the Organisation for Economic Co-operation and Development (OECD)) was even higher, at about $327 billion in 2000 (i.e., 1.3% of OECD countries' GDP). Export subsidies in agriculture allow countries to export production surpluses to the world market at prices below the high prices prevailing in their domestic markets. In 1995-98, export subsidies were about $7 billion, on average, of which 95% was granted by the EU.

Rising Game of Anti-dumping and Countervailing Measures

Import-competing firms are often tempted to resort to anti-dumping laws, which are permitted by WTO rules, to allege unfair trade practices by foreign competitors. Anti-dumping laws enable nations to impose offsetting duties on imports found to be products dumped in the domestic market and causing "material injury" to a domestic industry. The main users of these laws initially were developed countries, but, increasingly, developing countries have had recourse to them. As can be seen from Figure 1, WTO members notified 360 initiations of anti-dumping investigations in 1999, up 42% over 1998 (WTO 2001a).

The use of countervailing duties — in terms of the number of WTO members using them, initiations, and measures in force — remains much lower than for anti-dumping, although also on a rising trend (Figure 1). As of mid-2000, an estimated 95 final countervailing measures were in place, of which the US had the most (46), mainly on steel products, followed by the European Union (13) and Mexico (10) (WTO 2001a).

Figure 1



Source: WTO, 2001a.

Growing Threats from Standards and Technical Barriers

While traditional trade barriers in agriculture, such as tariffs, continue to decline, technical and regulatory barriers are increasingly subject to debate. In recent years, Sanitary and Phytosanitary (SPS) measures and Technical Barriers to Trade (TBT) have emerged as the greatest threat for poor countries' exports. Both WTO agreements in this area, by their very nature, may result in restrictions on trade. All governments accept the fact that some trade restrictions may be necessary and appropriate in order to ensure food safety and animal and plant health protection. However, arbitrary use of these measures by developed countries has been increasing. In developed countries, consumer groups, environmental protection agencies, and food safety enforcement agencies are increasingly prescribing stricter and stricter standards for cleanliness, microbial loads, aflatoxin, and pesticide residues. For instance, Japan insists on a DDT residues level of 0.4 PPM on unmanufactured tobacco, while the international standard is as high as 6 PPM.

Developing countries are vulnerable to regulatory changes in developed countries because of a relative scarcity of public resources to finance compliance with new and more restrictive SPS and TBT standards. While middle-income developing countries have shifted their export to processed food to avoid complying with high SPS standards (though even here they can be onerous), countries in the lowest income regions (such as Africa) still largely depend on raw food exports. The cost of compliance with WTO Agreements on SPS and TBT in the LDCs can exceed total government budgets. Fast technological changes have enhanced inspection capacities in developed countries and allowed them to adopt progressively more restrictive SPS and TBT standards. Securing sales in these major markets is expected to become more challenging and costly over time.

Besides these major impediments to developing and poor countries' exports, some other equally serious barriers in market access, which have surfaced in the post-WTO period, are tariff escalation and tariff peaks. Tariffs often rise significantly with the level of processing (tariff escalation) in many high-income and developing countries. This has the potential of reducing demand for processed imports from developing countries, hampering diversification into higher value-added exports. Low average duties conceal high tariffs in place for major agricultural and industrial export products of developing countries. Extremely high and often prohibitive peak tariffs of 100-900% continue to be applied by many developed countries for such major agricultural products as sugar, rice, cereals, dairy products, and meat as well as for food industry products and footwear (Supper 2001).

Conclusions and Policy Implications

The overall impact of the Uruguay Round trade negotiations on the multilateral trading system is mixed. It brought some really significant institutional changes, which have resulted in relatively better governance of the world trading system under the aegis of the WTO. The Uruguay Round did also advance the integration of the world economy, especially the integration of developing countries into the multilateral trading system. It has contributed to the liberalization of developing countries' own trade regimes and improvements in the conditions affecting access to the major markets for their export products.

However, unilateral liberalization is not enough to integrate any economy into the world unless it is reciprocated. So far, the integration process has been especially impressive for only 15-20 middle- and higher-income countries in Latin America and Asia. For many others, especially LDCs, progress has been slower. The implementation record of Uruguay Round agreements is still very poor. Until the fourth Ministerial Conference at Doha, some 90 implementation issues raised by developing countries were unresolved. At Doha, trade ministers issued a separate declaration on implementation, addressing half of these issues.

Openness to trade has long been seen as an important element of good economic policy. Certainly, empirical evidence indicates that trade liberalization can be a positive contributor to poverty alleviation. If the international community is serious about establishing a free and fair multilateral trading system and sharing the fruits of global trade expansion with the poor countries, the factors enhancing their trading opportunities must be addressed on a priority basis. For the world's 2.8 billion poor, reducing barriers to agricultural products, textiles and clothing, apparel, and several other labour-intensive manufactures are crucial. Both the high- and middle-income countries will have to reduce their levels of protection in agriculture.

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Part II: Promises, promises? Access to industrial markets

Chapter 2

Canada

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This paper presents an overview of Canada's trade relationship with developing countries. It examines whether and how the Uruguay Round agreements translated into greater access to Canadian markets for developing countries. What are the remaining obstacles faced by imports from the South? The paper also discusses the main orientations of Canadian trade policy vis-à-vis developing countries and examines how coherent they are with Canada's international development objectives.

Canadian Trade with the South

Trade with developing countries constitutes a small part of Canada's external trade. Trade with the United States, from which 67% of imports originate and where 87% of Canadian exports are sold, predominantly defines Canada's trade policy priorities. Since Canada's signature of a free-trade agreement with its neighbour in 1988, the importance of exports for the Canadian economy grew from 25% to 43% of the GDP in 1999. The adoption of the free-trade agreement contributed to the acceleration of integration with the American economy.

Nevertheless, some developing countries are becoming more important trade partners for Canada. The share of imports into Canada originating from developing countries grew from 7.4% in 1990 to 11.1% in 1999 (see Table 1). This growth is highly concentrated and mostly reflects Canada's increasing trade with two countries: Mexico and China.[1] The rising share of these two countries reflects the growing integration of Mexico and China into the world economy. Between 1990 and 1999, they both experienced average annual export growth of 14%, one of the highest in their regions, and their share of world exports in 1999 reached 2.5% and 3.6% respectively (see Table 2). Therefore, if one compares the relative weight of these countries in the world economy to their importance for Canada's external trade, one should note that Mexico has become especially important, ranking as the third largest source of imports (supplying 3% of all Canadian imports, up from 1% ten years ago). China now ranks as the fourth largest source of imports for Canada (2.8% of all imports).

At a regional level, Asia represents the biggest source of imports from the developing world to Canada, with more than 45% of developing countries' imports into Canada, compared to only 30% less than 10 years ago. This trend reflects the growth of Asia in world merchandise trade in the last decade. Meanwhile, other developing regions (such as Africa, the Middle East, and South America) became less important trading partners for Canada. For instance, the share of imports from South America slipped from 22% of Southern imports in 1990 to 11% in 1999 (see Table 3).

It is also important to highlight how the African continent, more specifically Sub-saharan Africa, is weakly integrated into the global economy. The total of Canadian imports from Africa reflects this decreasing importance of Africa in the world exchange of goods and services. The level of African import

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[1] Together, Mexico and China represented 52% of all imports from developing countries coming to Canada in 1999 (from 44% in 1994).

participation in the total of developing countries for 1999 was approximately five percentage points lower than in 1990, decreasing from 11% at the beginning of the period, to 6% during the last two years (see Table 3). (The major suppliers were Algeria, South Africa, Nigeria, Namibia, and Morocco, which accounted for 84% of Canadian imports from Africa in 1999.)

At the aggregate level, there are no clear signs yet that the Uruguay Round agreements have considerably improved access to the Canadian market for developing countries. More than 60% of the total growth of developing countries' imports into Canada since 1995 is attributable to two countries: China and Mexico. What type of goods does Canada buy from developing countries? Are primary commodities still the main types of merchandise imported from the South? Table 5 shows that, as a group, developing countries have increased their exports of manufactured goods to Canada. Indeed, machinery and transportation equipment alone amounted to 38% of their sales to Canada in 1999. Sales of electric machinery (which covers a wide range of manufactured goods: television sets, domestic appliances, printed circuits, electrical tools, and so on) have particularly accelerated in the last years. Is this an indication that the South is finally out of the vicious circle of selling primary commodities or goods with low levels of value-added in exchange for manufactured merchandise, often with declining terms of trade?

Strong regional distinctions emerge here again. Imports from Mexico and Asia (China, Malaysia, and the Philippines especially) represent 95% of the electrical, electronic, and non-electric machinery equipment sold to Canada in 1999. For transportation equipment, Mexico alone is the source of 85% of imports, suggesting it has benefited from its membership in NAFTA. This confirms research findings recently presented by the World Bank that, if a developing country is to join a regional integration arrangement, the most beneficial arrangement is to join with one or several high-income countries. Developing countries' comparative advantage in labour-intensive manufacturing can lead to industry relocation and increase in the total income of a country. There is substantial evidence that such relocation of manufacturing firms took place between Mexico and the USA, boosting Mexico's production and export capacity (World Bank 2000).

Otherwise, the traditional patterns of trade in terms of the types of goods bought from Southern countries remain very strong. The textiles and clothing sector remains very important, especially in Asia, from where more than 77% of the textiles and clothing imports to Canada originate. Agricultural products also represents more than 10% of all imports to Canada; this sector being dominated by Latin America (with more than 55% when Mexico is included) with imports such as coffee, sugar, bananas, and other fruits. For Africa, the sectoral patterns have not changed. Imports have been highly concentrated in minerals, and to a lesser extent in agricultural products. Crude petroleum oils and oils obtained from bituminous minerals represented 46% of the total imports from the region in 1999. Other products imported are natural uranium, preparations of non-crude petroleum oils, and agricultural products such as oranges, other citrus fruits, and cocoa.

Barriers to Trade and Preferential Access

In general, imports to Canada from developing countries are subjected to higher tariffs than imports from developed countries, even if the United States is not included in the calculation (see Table 4) [2]. The reduction in tariffs resulting from the Uruguay Round did not change this state of affairs, as the reductions offered to developing countries were usually similar to those offered to industrial countries. Nevertheless, Canada offers a number of binding and non-binding preferential tariff regimes to developing countries. The most significant binding preferential access regime is the one for Mexico. As a member of NAFTA,

[2] In 2001, Canada collected almost $1.3 billion of tariff revenues on imports from developing countries, almost 45% of all its tariff revenues. See The North-South Institute, 2003, pp. 98-101.

Mexico enjoyed duty-free treatment on 77% of its exports to Canada in 1998. All remaining duties, except duties on agricultural goods subjected to quota, were to be abolished by 2003. The free trade agreement signed with Chile is also very favourable, with the elimination of 99% of tariffs by 2003.

Besides these free trade agreements with developing countries, Canada has begun to negotiate free trade agreements (FTAs) with a number of other countries: El Salvador, Guatemala, Honduras, Nicaragua and Costa Rica which was completed at the beginning of 2001. For the moment, most developing countries are eligible for the General Preferential Tariff (GPT), which provides duty-free treatment for 60% of tariff items. About 15% of imports from GPT-eligible countries benefited from this preferential treatment (WTO 1998, p.40). Canada also offers a preferential tariff regime for the Least Developed countries (LDC). This regime was improved in 2000 by increasing the number of duty-free items for LDCs from 82% to 90% of all item lines. In 2003, all remaining tariffs and quotas were removed on all imports from LDCs except poultry, eggs, and dairy products. For other developing countries, however, there are still tariff constraints. As a recent research report from the World Bank noted: "although tariff preferences granted to developing countries through different schemes tend to be relatively generous on average, this is not the case for tariff peak items, as 'sensitive' products are excluded from these schemes or some type of quantitative limitation is imposed" (Hoekman et al. 2001, 1). For Canada, these tariff peak items are concentrated in the apparel sector.

Indeed, there is one sector in which many developing countries have a comparative advantage, thanks to their plentiful labour supply, and where barriers for imports are especially high: the textiles and clothing sector. This is one of the few sectors where Canada maintains high tariffs. It is also subjected to tariff escalation, with clothing and made-up textiles being subjected to an average rate of 16.1% (see Table 4), whereas textiles are subjected to an average rate of 9.7%. Canada imposes quotas on textiles and clothing imports from 41 countries, most of them developing countries (until 2002, five of them were LDCs: Bangladesh, Laos, Cambodia, Lesotho, and Nepal).

The WTO's Agreement on Textiles and Clothing (ATC), which came into force in 1995 aims at the gradual elimination of quotas, a process due to end in 2005. This agreement was hailed as "the most significant set of market access changes" for developing countries in the Uruguay Round (Blackhurst, Enders and Francois 1995). However, the first stages of the process of integrating textiles and clothing in the WTO in 1995 and 1998 have been the target of several criticisms. In the case of Canada, the critics noted that clothing (which involves more processing and value-added) constituted a very small fraction of the products integrated in the ATC. This caused the share of "integrated products" (on which no quotas can be imposed) to be 3% lower than the target, if the share is expressed in dollar value of the imports and not in volume (Bhattacharya and Rahman 2000, p.15). Moreover, most of the products (86%) Canada included in its early implementation of the ATC had not been subject to quotas (Finger and Schuknecht 1999, p.22).

In December 2000, when Canada notified the WTO Secretariat of the details of the third phase of quota elimination under the ATC, the majority (25 out of 40) of the products included were subject to quotas. Moreover, most (22 out of 40) were clothing, not fabrics or textiles. One important question remains: did the quotas eliminated on January 1, 2002, pose a real restraint on imports from developing countries? For instance, in 2000, Bangladesh only used 55% of its quotas on babies' garments, and the Philippines, 6% of its quotas on swimwear (DFAIT, annual). Removing quotas on these products will not make a big difference, as they did not constitute a meaningful barrier to trade in the first place. However, on several other products, quotas are fully or almost fully utilized by the exporters. For example, in 1999, the quotas allocated on jackets were filled up to 96% by Bangladesh, 100% by China, and 98% by Indonesia. On Canada's list of quotas eliminated in 2002, only one was clearly a "restrictive quota" for several countries: woven blouses and shirts (for women, girls, men, and boys). In 2000, Bangladesh used 93% of that quota, China, 90%, Hong Kong, 96%, the Philippines, 90%, and Thailand, 96%. Otherwise, only the quota on swimwear from China constituted a restraint (with the quota used at 100% in 1999 and 73% in 2000). Experience shows that the removal of a "restrictive quota" can have a strong and immediate impact on the level and sources of imports. For example, when the quotas on women's and girls' ensembles were removed in 1998, imports from China skyrocketed from C$14 million in 1997 to C$127 million in 2000, whereas the sales of smaller countries like Bangladesh, Thailand, and Sri Lanka declined. The complete implementation of the Agreement on Textiles and Clothing (ATC) in 2005 will be a major challenge for the smaller players in this industry.

When all quotas are lifted in 2005, tariffs will remain on clothing imported to Canada. The sector is subjected to high tariff peaks: more than 30% of textile and clothing tariff lines have bound tariffs above 15% (WTO 2001, p.34). In the short term, there are strong domestic pressures to keep these measures in place to protect the Canadian clothing industry. For the time being, the implementation of the ATC has not translated into significant changes for developing countries, and the promises of access have fallen short. The next few years will show if the spirit of the Uruguay Round commitments will be respected and whether textiles and clothing will be treated any differently from other goods. Indeed, there are fears that anti-dumping measures may prevent the ATC from having its expected effects. Recently, the United States has been using these types of measures on imports in textiles and clothing, but Canada has not.

The barriers for imports to Canada from developing countries are also very important in the agriculture sector. The Agreement on Agriculture adopted in 1995 at the WTO aimed at making these barriers more transparent by replacing quotas with bound tariffs. It also aimed at reducing these barriers. Analysts have highlighted two general problems with the Agreement on Agriculture. First, for the majority of goods that were subjected to quotas and are now subjected to tariffs, there has not been a reduction of the pre-Uruguay Round protection. Tariff quotas have been the subject of even stronger criticisms. Tariff quotas function in the following manner: a lower bound tariff is applied to imports up to a certain quantity (the in-quota rate) and a much higher rate applies to imports above this quantity (the out-of-quota rate). The allocation of tariff quotas (who gets to import at the lower rate) relies on a mix of historical importers and new licenses. "The tariff quota system has had little effect on the amount of trade, and it has preserved the old system of political bargaining over the allocation among exporters of restricted import access — managed trade, not liberalized trade" (Finger and Schuknecht 1999, p.63). Such a system does not favour small countries or developing countries with little political clout.

Finger, Ingco and Reincke (1996) calculated that the tariff reduction for agricultural goods by Canada in the Uruguay Round was nil, if the estimation included the tariff equivalents of non-tariff restrictions such as quotas. When only tariff rates are included, the cut is 2.8% for developing countries and 2.4% for all WTO members (excluding FTA partners). In its commitments, Canada replaced quotas by bound tariffs on 136 items and created tariff quotas for 21 product groups such as chicken, beef and veal, and dairy products (WTO 1998). The results are very high average tariffs on food products (i.e., 27.2% for the General Preferential Tariff (GPT) (see Table 6), as the out-of-quota tariffs are usually extremely high. For example, the Most-Favoured Nation (MFN) in-quota tariff on chicken is 7.5%, and for countries with preferential access such as the US, New Zealand, Australia, and Chile, it is 0%. The out-of-quota rate is 264% for all suppliers. Consequently, the growth of imports for agricultural goods has been slower than for other products.

As for agricultural subsidies, Canada did greatly reduce the public funding funnelled to Canadian farmers, even beyond its commitment in the Agreement on Agriculture (WTO 2000b, p.39). Domestic fiscal restraints and cuts in the federal budget are the main factors for this decline, but the result is that Canada's subsidies for agriculture are much lower than in the United States or the European Union. These agricultural subsidies not only have an impact on developing countries through access to industrial markets, but strongly distort world prices, and place developing countries in a situation where they can hardly compete with American cotton, rice, or soybeans, even in their domestic markets.

In recent years, several developing countries have complained that industrial countries have been using anti-dumping duties and countervailing duties to limit access to their markets. Developing countries fear that this instrument is being used for protectionist purposes. Canada frequently resorts to anti-dumping measures.[3] The United States and the European Union have been the usual targets of these measures. Nevertheless, many cases are now aimed at imports from developing countries. As of January 2001, 14 of the 32 Canadian active anti-dumping cases involved at least one developing country, with a total of 16 economies in transition or development being the target. The steel industry in particular often resorts to anti-dumping actions against a wide range of countries, including China, Brazil, India, Argentina, Mexico, Indonesia, Thailand, South Africa, Russia, and Romania (Canada Customs and Revenue Agency 2001). Antidumping duties are usually high and have a direct, visible impact on the import of the specified goods. For instance, in 1997, Canada imposed anti-dumping duties of 18% to 26% on steel plate originating from Mexico, China, and South Africa; the import of these products from these three countries dropped abruptly, completely stopping in 1998 in the case of Mexico (see Table 7). An earlier study of Canadian anti-dumping actions confirmed the strong negative impact of these initiatives on the market shares of the targeted exporters (Kim and Weston 1993). What is the relative importance of these anti-dumping actions on trade with developing countries? The supporters of anti-dumping measures highlight that a very small fraction of trade flows is affected by these measures: in 1998, Canadian anti-dumping measures affected about $1 billion of imports, which is less than 1% of all imports. However, the opponents of this instrument stress that the impact is not as insignificant as it seems. Because the measures are concentrated in very specific sectors, they can have a strong impact in these industries.

Finally, several developing countries have raised the problem of technical standards as barriers to industrialized markets. Up to now, this discussion has focused on standards put forward by the European Union. Indeed, Europe has adopted standards on food products that are above the internationally set standards and its trade partners have complained that these costly measures offer little health protection. The World Bank has recently published an evaluation of the cost of a proposal for a higher European standard for aflatoxins on cereals, dried fruits, and nuts exports from African countries. The study reveals that "the EU standard, which would reduce health risk by approximately 1.4 deaths per billion a year, will decrease these African exports [from nine countries] by 64% or US$670 million in contrast to regulation set at an international standard" (Otsuki, Wilson and Sewadeh 2000). The trade-off between human health protection and the economic costs of technical standards is a controversial issue. Nevertheless, the development of international standards needs to take into account the fact that these standards can become an effective barrier to trade for developing countries. The WTO Agreement on Sanitary and Phytosanitary Measures (SPS) measures provides some guidance, as it encourages members to adopt international standards and codes. Members are free to adopt measures stricter than the international standards, "if there is scientific justification" and they are based on risk assessment methods. When the measures concern only plant or animal health/life, this assessment should include the economic costs of the standards. In assessing risks for human health or the like, it is not required to do so; but in establishing the appropriate level of protection, WTO members should try to minimize negative trade effects.

Empirical research on the cost of standards for developing countries is still limited, but a recent study from the University of Reading (Henson et al. 2000) provides some preliminary documentation on the impact of standards in the agricultural sector. Based on case studies from ten developing countries and on a survey of 65 governments in developing countries, SPS requirements are identified as the main factor influencing the ability to export agricultural and food products to the European Union, ahead of other factors such as tariffs, quotas, and transport costs. One example is the European Directive 92/46/EEC which requires dairy products to be manufactured from milk derived from cows that have been

[3] Canada imposed 114 anti-dumping measures between 1987 and 1997, ranking fourth behind the United States (269), the European Union (185), and Australia (120) (WTO 1998, p.50).

mechanically milked. "Given the predominance of hand milking in India, this effectively precludes smallholder producers and much of India's milk output from exports to the EU" (Henson 2000, p.15). On the other hand, the survey revealed that SPS requirements were not perceived to be a major obstacle to exporting to Canada (Henson 2000, p.13). Indeed, when asked how much of an impediment Canadian SPS requirements were in terms of the export of agricultural products, no respondent from developing country governments ranked them as important or very important. This result does not automatically mean that there are no technical barriers to trade in Canada, but could reflect the low level of agricultural trade with many developing regions — compared to the European Union, with whom developing countries, especially the former colonies, have a long history of trading experiences.

Is reciprocity good for development?

How can we assess Canadian trade relations with developing countries? The first question to ask is: have the benefits of the Uruguay Round for the South materialized? Have developing countries gained better access to the Canadian market? If not, what seem to be the main obstacles? From this overview, it seems that the benefits have yet to materialize. Canada did reduce tariffs in the last round of multilateral negotiations, but tariffs and quotas remain important barriers for imports from developing countries. This holds especially true for the two sectors of key interest to them: clothing and agriculture. Antidumping measures can also be identified as barriers to Canadian markets, but only in some sectors. As for Canadian technical standards and sanitary measures, the preliminary evidence tells us that this is not a major issue for developing countries. In conclusion, despite its generally open borders, Canada still maintains significant barriers for imports from developing countries. Except for recent changes in textiles, the Uruguay Round has yet to make a significant contribution to access to the Canadian market.

A broader question to ask is whether Canada's trade policy is coherent with its development assistance strategy to reduce poverty. To answer this question, one has to identify the principles that guide its trade policy toward developing countries. Recent developments indicate the nature of the Canadian expectations toward trade partners in the South. The key word is reciprocity: Canada is interested in signing trade agreements with developing countries if they do not request special and differential treatment. The Uruguay Round was a precursor to this new approach to developing countries, as it did not allow developing countries to pick and choose the agreements they wanted to sign (as they had done in previous rounds). The measures targeting developing countries focused on longer implementation periods and, as discussed earlier, promises of technical assistance to support the implementation of these agreements.

NAFTA was another important step toward this new vision of North-South trade relationships of complete reciprocity. Indeed, Mexico is treated as an equal partner in NAFTA. The subsequent negotiations with small economies such as El Salvador, Guatemala, Honduras, Nicaragua, and Costa Rica indicate that Canada prefers this approach to a differentiated treatment of developing countries[4]. This issue was raised early during the negotiations of the FTAA, as small countries were demanding special and differential treatment, and a consultative group on smaller economies was created. For now, the discussions of this group have focused on trade-related technical assistance. Otherwise, the negotiations take place on the basis of reciprocity, as all members are expected to be party to all the sections of the agreement.

[4] The Canada-Costa Rica Free Trade Agreement entered into force on November 1, 2002. The only special treatment for Costa Rica is in the speed of the market liberalization. "For example, in market access, Costa Rica will eliminate its tariffs immediately on some 67 percent of its tariff lines, and over a period of up to 14 years for the remaining goods. For its part, Canada will provide immediate duty-free access for some 86 percent of its tariff lines, the remaining goods being subject to tariff elimination over a period of up to eight years."

The literature on trade and development can contribute to the question of whether this principle of reciprocity is coherent with the Canadian development strategy of poverty reduction. Are special and differential treatment provisions in trade arrangements still needed to achieve development objectives? What types of special and differential (S&D) measures should be maintained? Historically, S&D treatment meant that developing countries received preferential tariffs on their imports and were not required to lower their tariffs and barriers to imports. Now that trade agreements go much beyond border measures to cover a range of domestic measures such as subsidies, intellectual property laws, and investment rules, reciprocity has far-reaching implications.

A large part of mainstream economics would argue that it is in developing countries' own interests to remove trade barriers, to eliminate export subsidies and reduce other type of subsidies, and to remove domestic content requirements and other trade-distorting measures (see Box 1 on trade and development debate). According to this perspective, allowing them to keep these protections and antiquated interventionist measures simply slows economic development. In a recent essay based on earlier work, Dani Rodrik (2001, 1999) reminded these advocates that the oft-quoted example of the Asian Tigers is not only about openness. Indeed, "these countries combined their outward orientation with unorthodox policies: high levels of tariff and non-tariff barriers, public ownership of large segments of banking and industry, export subsidies, domestic-content requirements, patent and copyright infringements, and restrictions on capital flows" (Rodrik 2001, p.59). A long-term strategy for economic development producing high growth needs to include a mobilization of domestic institutions and investors. Taking this into account, trade agreements based on the principle of reciprocity may not be coherent with development objectives of strong economic growth and poverty reduction. Trade rules can, and already do, preclude the use of a number of economic tools.

Export subsidies are one example of an instrument widely used by developing countries that can have a positive influence on export performance and growth. For instance, Helleiner's (1994) review of fourteen case studies of developing country trade policy highlighted that even though exchange rate policy is the most important variable to explain export performance and industrialization, direct and indirect export subsidies have "worked" in several instances. The trade regime of East Asia and other successful developing countries mixed moderate tariffs on consumer goods, low tariffs on capital goods, and a variety of export incentives (see Buffie 2001). The actual benefits of using export subsidies will vary from one case to another. But past experiences show that they can be a useful tool of a trade regime for developing countries trying to stimulate export and economic growth. However, the WTO Agreement on Subsidies and Countervailing Measures prohibits the use of export subsidies starting in 2003 for all developing countries, except the LDCs, thereby removing this potentially useful instrument from the development toolbox.

Another example of the impact of the reciprocity policy on developing countries' economic policy tools is the WTO Agreement on Trade-Related Investment Measures (TRIMs). This agreement is often described as very limited in coverage. Nevertheless, it prohibits the use of domestic content requirements (i.e. measures that require an investor to purchase inputs of domestic origin). In the past, this type of measure has been used with some success, even by industrial countries. The Canada-US Autopact of 1965, often credited for the modernization of the industrial sector in Canada, was based on such local content requirements: American car manufacturers received duty-free treatment on automotive products against a minimum and growing "Canadian value-added" content on cars produced in Canada. This type of policy is now prohibited.

Defenders of WTO agreements stress the importance of trade agreements as lock-in mechanisms, i.e. binding commitments at the WTO that prevent policy reversals. It becomes very difficult to change your trade and industrial policy regime once it is "constitutionalized" in a trade agreement. The "insurance policy" aspect of trade agreements may provide certainty for investors, but one key problem remains: economic policy-making often functions on a trialand error basis. Several governments that were using extremely high and non-uniform tariffs in the 1960s and 1970s recognized the problems linked to such policy and decided to unilaterally decrease their tariffs. If a developing country decides now to basically eliminate all tariffs and reduce its interventions at a minimum, but decides later that moderate protection and investment incentives would be more helpful to boost its economic growth, it cannot attempt this route. Lock-in mechanisms such as a democracy clause for trade agreement membership may be a good idea, however, when it comes to economic policy-making, greater flexibility is needed for developing countries searching for effective ways to generate economic growth and reduce poverty.

If Canada wishes to ensure that its trade policy is coherent with international development objectives, a serious and informed debate is needed on the impact of trade agreements on the capacity of developing country governments. Industrial countries such as Canada may want to forsake economic instruments they deem trade-distorting. However, developing countries many not have this luxury; pragmatism dictates that all tools with economic growth and poverty reduction potential remain within their reach. During the last round of trade negotiations, developing countries gave up some of these tools voluntarily, presumably in exchange for better access to industrial markets. If development needs were to be the focal point of trade agreements, instead of being based on reciprocal concessions, the results of negotiations would certainly be very different. The Canadian government should make the first step toward "development-friendly" trade policy by supporting greater flexibility in the application of the current agreements in all developing countries, not only the least-developed countries, and by making sure that future agreements do not make their governments impotent as economic actors.

Table 1: Canada:
Total Imports from Developing Countries as a percentage of total Imports from ALL countries

Year	% of total imports	Value in C$ millions	Annual rate of growth
1990	7.45%	10,154	
1991	8.12%	10,995	8.3%
1992	8.39%	12,419	13.0%
1993	9.36%	15,906	28.1%
1994	9.41%	19,068	19.9%
1995	9.94%	22,431	17.6%
1996	10.52%	24,465	9.1%
1997	10.79%	29,447	20.4%
1998	10.71%	31,942	8.5%
1999	11.10%	35,539	11.3%

Source: Industry Canada, Trade data online, www.strategis.gc.ca.

Table 2: World merchandise exports by country and region, 1999
(In billions of US dollars and percentage)

	Value	Share of world goods trade	Annual percentage change, 1990-98
Mexico	137	2.5%	14%
Latin America	297	5.4%	8%
China	195	3.6%	14%
Asia (incl. Developed countries)	1394	25.5%	7%
Africa	112	2%	1%
Middle East	170	3.1%	3%
Central/Eastern Europe/Baltic States/CIS	214	3.9%	6%

Source: WTO, 2000a.

Table 3: Change in trade patterns
Canada — imports by regions — percentage of total imports from developing countries

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Africa	11%	10%	8%	9%	8%	8%	8%	7%	6%	6%
Central America	6%	6%	7%	5%	5%	5%	5%	4%	4%	4%
South America	22%	17%	14%	13%	13%	13%	13%	13%	12%	11%
Middle East	10%	7%	7%	6%	4%	4%	5%	5%	3%	3%
Asia*	30%	33%	39%	40%	41%	42%	40%	42%	45%	45%
Eastern Europe	4%	2%	2%	5%	5%	5%	4%	4%	5%	4%
Mexico	17%	23%	22%	23%	24%	24%	25%	24%	24%	27%

Source: Industry Canada, Trade data online, www.strategis.gc.ca.
Note: Excludes South Korea, Taiwan, Singapore, Hong Kong, and Macao.

Table 4: Level of MFN tariff rate reductions after the Uruguay Round by Canada
(percentage)

Product category	***Post-UR applied rate***		***Tariff reduction***	
	Developing	World	Developing	World
Agriculture	1.5	7.0	0	0
Fish	5.5	1.9	3.1	3.1
Petroleum oils	0.1	0	3.2	3.2
Wood, pulp, paper, furniture	8.4	0.6	5.9	7.2
Textiles and clothing	20.5	14.2	5.4	5.7
Leather, Rubber, Footwear	15.5	9.2	4.8	4.7
Metals	4.8	1.5	5.1	5.5
Chemical	6.7	2.6	6.7	5.9
Transport equipment	9.0	3.2	2.9	3
Non-electric machinery	6.3	1.2	3.7	4.1
Electric machinery	5.3	1.6	6.5	5.3
Minerals, Precious stones	2.9	0.8	6.1	5.3
Manufactured article	9.6	1.5	7.1	5.1

Source: Finger, Ingco and Reincke, 1995.
Note: Excludes imports from countries in a Free Trade Agreement with Canada.

Table 5: Imports from developing countries to Canada by sector
(in millions of Canadian dollars)

	1999	% of total	1994	% of total
Electric machinery	7,187	20%	2,724	14%
Minerals	4,138	12%	2,580	14%
Agriculture	3,858	11%	2,714	14%
Non-electric machinery	3,684	10%	1,402	7%
Textiles and clothing	3,439	10%	2,002	10%
Transportation equipment	2,824	8%	1,896	10%
Metals	1,818	5%	1,098	6%
Footwear, headgear	1,118	3%	680	4%
Plastics and rubber	810	2%	418	2%
Hides, skins and leathers	659	2%	490	3%
Others	6,004	17%	3,064	16%
TOTAL	35,539	100%	19,068	100%

Source: Industry Canada, Trade data online, www.strategis.gc.ca.

Table 6: Canadian tariff regime for developing countries, 1998

	MFN	MT/MUST	CT	CCCT	GPT	LDCT
% duty-free items	45	77/68	84	86	60	82
Average tariff on Non-duty-free lines	14	19/19	27	34	16	29
Food	28.3	23.5/28	24	24.1	27.2	26.1
Beverages	11.1	2.9/11.1	3	4.8	10.3	9.6
Agriculture/ livestock	8.7	5.5	6	5.5	7.7	6.7
Clothing	17.2	8.9/16.6	8.8	15.5	16.1	14.3
Textiles	11.1	5.7/11	5.7	9.6	9.7	7.8
Footwear	13	6.3/6.7	9.6	12.3	12.3	10.5

Source: WTO, 1998.

MFN: Most-Favoured Nation, MT/MUST: Mexico Tariff/Mexico-United States Tariff, CT: Chile Tariff, CCCT: Commonwealth Caribbean Countries Tariff, GPT: General Preferential Tariff, and LDCT: Least-Developed Countries Tariff.

Table 7: Import of hot-rolled carbon steel plate into Canada 1996-99
(in Canadian dollars)

	1996	1997	1998	1999
Mexico	13 639 433	4 579 054	0	450
China	6 737 769	12 516 316	3 657 381	1 934 389
South Africa	5 847 194	2 499 282	1 849 588	1551

Source: Industry Canada, trade data online, www.strategis.gc.ca.

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Chapter 3

The European Union

Stefanie Pfahl

The European Union's trade policy toward developing countries differs from that of other developed countries in so far as it has encompassed a set of distinct policies aimed at increasing exports of developing and least developed countries. However, the EU only grants preferential market access in those sectors where the competitive advantage of EU producers has not been threatened by increasing imports from developing countries. This policy approach came under pressure in the run-up to the WTO Ministerial Conference in Seattle (1999) where developing countries contributed to the failure of the conference and effectively blocked the EU's wish to launch a comprehensive round of trade negotiations. Developing countries felt that the economic benefits of past trade liberalization measures did not outweigh the economic disadvantages. Above all, they pointed to the remaining barriers to markets in developed countries.

Although the Seattle meeting did not only fail because of the opposition of developing countries, the EU became aware of the need to improve market access and technical capacities of developing countries. The WTO Ministerial Conference in Doha in November 2001 emphasized the special needs of developing countries as well as their importance to the WTO by calling the new round of trade liberalization the "Doha Development Agenda." Yet, it remains to be seen whether this title is mere rhetoric or if this new round of trade negotiations will substantially reduce market access barriers to EU markets in traditionally closed, but important sectors such as agriculture. As far as the negotiating agenda is concerned, developing countries were able to secure some concessions regarding the clarification of rules related to intellectual property rights and technical assistance for the implementation of existing and future trade agreements. To what extent these concessions will support the integration of developing countries into the international trading system and support sustainable development by facilitating social and environmental goals, depends on the support of the Doha Development Agenda by the EU and other developed WTO members.

The following chapter starts with a brief overview of the composition and level of trade between the EU and developing countries. The chapter then proceeds with a description of three different trade policies the EU designed to improve the access of specific developing countries to the EU market. These are the Generalized System of Preferences (GSP), the trade arrangements for African, Caribbean, and Pacific countries (ACP), and the "Everything But Arms" (EBA) initiative for LDCs. The GSP enables developed WTO members to grant developing countries market access beyond the most-favoured nation (MFN) market access rules within the GATT/WTO-system. The ACP trading arrangements grew out of the special relationship between the EC/EU members and their former colonies, and the EBA initiative was a direct reaction to the failure of the Seattle WTO Ministerial and a first concrete step to facilitate improved market access for the poorest countries.

Despite these policies, significant barriers remain. We examine the examples of intellectual property rights, trade barriers in the agricultural sector, and non-tariff barriers such as labeling standards. Finally, the chapter briefly addresses the technical assistance the EU grants to developing countries in the context of international trade, before it concludes with an outline of the future challenges for EU trade policy toward developing countries.

EU Trade with the South

The following summary of the level and composition of trade demonstrates the importance of the EU as a trading partner for many developing countries. As already mentioned, the EU initiated different preferential trade agreements, especially for the poorest developing countries. Therefore, the following overview will differentiate between medium-income developing countries and least developed countries (LDCs) as far as possible.

Trade liberalization, first in the context of the GATT (General Agreement on Tariffs and Trade) and since 1995 under the auspices of the WTO, has contributed significantly to worldwide growth in international trade. International trade grew steadily from 1950 and outpaced world economic output constantly. Between 1950 and 1998 the world economy grew sixfold, from US$6.7 trillion to US$41.6 trillion. During the same period exports increased 17-fold to US$5.4 trillion (French 2000, p.5). The general picture of the development in world merchandise trade is illustrated by Table 1.

Table 1: Growth in the value of world merchandise trade by region, 2000
(Billion dollars and percentage)

Exports					**Imports**			
Value	*Annual percentage change*				*Value*	*Annual percentage change*		
2000	**1990-00**	**1999**	**2000**		**2000**	**1990-00**	**1999**	**2000**
6186	6	4	12	**World**	6490	6	4	13
1058	7	5	12	**North America (Canada/USA)**	1504	9	11	17
359	9	7	20	**Latin America**	388	12	-3	16
2441	4	0	3	**Western Europe**	2567	4	1	5
2251	4	0	2	**European Union**	2362	4	2	5
271	7	0	26	**C/E. Europe/Baltic States/CIS**	242	5	-12	13
116	8	1	14	**Central and Eastern Europe**	146	10	-1	13
105	-	1	39	**Russian Federation**	46	-	-32	12
145	3	10	27	**Africa**	137	4	-3	7
263	7	28	46	**Middle East**	171	6	1	14
1649	8	7	18	**Asia**	1481	8	10	23
479	5	8	14	**Japan**	380	5	11	22
249	15	6	28	**China**	225	15	18	36
649	9	8	19	**Six East Asian Traders**	615	8	11	27

Source: WTO, 2001a: 20.

Although developing countries were able to follow the general trend of increasing exports, they did not achieve the same export growth rate as developed countries**.** As for the LDCs, their exports decreased constantly from 3.06% in 1954 to 0.42% in 1998. This was mainly because of deteriorating terms of trade for major LDC exports — mainly primary agricultural commodities — and rising energy prices. Up to the 1980s, agricultural products accounted for the largest share of trade; in 1998 they represented the smallest share (UNCTAD and Commonwealth Secretariat 2001, p.3).

For the 49 LDCs, growth varied between those that were exporters of oil or manufactures, and those that mostly exported a few primary commodities or suffered from civil strife (see Table 3).

Table 2: Trade and output growth of developing economies, 1990-2000
(Annual percentage change)

	Developing economies			World
	1999	*2000*	*1999-00*	*1990-00*
GDP	3.0	5.2	4.5	2.8
Merchandise export volume	7.0	15.0	9.0	7.0
Merchandise import volume	4.5	15.5	8.0	7.0
Merchandise export value	9.5	24.0	9.0	6.0
Merchandise import value	4.0	21.0	9.0	6.0

Source: WTO, 2001a, p.3.

Table 3: Merchandise exports of least developed countries by selected country groups, 1990-2000
(Billions of dollars and percentage)

	Value	Annual percentage change		
	2000	*1999*	*2000*	*1999-00*
Total LDC	34	12	28	7
Oil exporters	15	50	63	11
Manufactures exporters	11	5	23	14
Commodity exporters	8	-6	-3	1
LDC with civil strife	1	-8	-3	-7
World	6186	4.0	12.5	6.0

Source: WTO, 2001a, p.4.

Despite preferential trading agreements, the share of total merchandise imports by the EU from LDCs fell from 1.0% to 0.5% between 1980 and 2000. Whereas manufactures imports slightly increased from 0.3% to 0.4%, the import of mining products declined from 1.3% in 1980 to 0.8% in 2000 and the import of agricultural products declined from 2.3% to 1.1% (UNCTAD 2001). In 2000 the EU accounted for 48% of merchandise imports and exports from developing Africa.[5] Table 4 presents the major export products from Africa to the EU.

Table 4 illustrates the diversity of trading relations between the EU and developing countries in Africa and underlines that export growth and the economic benefit of export growth depend directly on the commodities that are traded. Since 1995 and the establishment of the WTO, developing country exports increased by an annual average of 15%, and they make up to 40% of EU imports. In 2000 this amounted to 432 billion Euros. As already mentioned, LDC exports to the EU declined over time, yet in 2000 the EU still received about 70% of all LDC exports (EU Commission 2002a). As much as 97% of LDC exports entered the EU duty-free. Yet the products that are taxed generally face import duties that are higher than 5%.

[5] Developing Africa is defined by the WTO as Africa except for South Africa.

Table 4: Merchandise imports of the EU from developing countries in Africa by product, 2000
(Billion dollars and percentage)

	Value	*Share*		*Annual percentage change*		
	2000	*1990*	*2000*	*1990-00*	*1999*	*2000*
Total merchandise imports	**58.4**	**100.0**	**100.0**	**1**	**-2**	**27**
Mining products	**33.8**	**62.3**	**57.8**	**0**	**10**	**63**
Fuels	31.9	55.5	54.7	1	12	68
Ores and other minerals	1.2	3.1	2.0	-3	-3	-2
Non-ferrous metal	0.7	3.7	1.1	-10	-12	9
Manufactures	**14.6**	**16.9**	**25.0**	**5**	**-1**	**2**
Clothing	6.5	6.3	11.2	7	-1	1
Other semi-manufactures	2.8	3.8	4.8	3	9	0
Agricultural products	**9.9**	**17.8**	**17.0**	**1**	**-7**	**-9**
Food	7.6	13.0	13.0	1	-5	-11
Raw materials	2.3	4.8	3.9	-1	-13	2

Source: WTO, 2001a: 80 (from Table III.61).

Table 5: Merchandise exports of the EU to developing countries in Africa by product, 2000
(Billion dollars and percentage)

	Value	*Share*		*Annual percentage change*		
	2000	*1990*	*2000*	*1990-00*	*1999*	*2000*
Total merchandise exports	**45.1**	**100.0**	**100.0**	**0**	**-6**	**-1**
Manufactures	**34.8**	**79.0**	**77.2**	**0**	**-4**	**-3**
Machinery and transport equipment	18.1	41.4	40.2	0	-2	-1
Power generating machinery	1.1	1.7	2.4	4	-6	6
Other non-electrical machinery	6.1	15.5	13.6	-1	-5	-12
Office and telecom equipment	3.5	4.6	7.8	6	13	14
Electrical machinery/apparatus	2.4	4.2	5.3	3	1	-6
Automotive products	3.3	9.8	7.4	-3	-4	-2
Other transport equipment	1.7	5.6	3.8	-4	-11	21
Chemicals	5.3	11.6	11.7	0	-5	-5
Other semi-manufactures	3.4	8.9	7.5	-1	-5	-7
Textiles	3.1	5.1	6.9	3	-3	-5
Iron and steel	1.1	4.5	2.4	-6	-32	2
Agricultural products	**6.7**	**15.6**	**14.9**	**0**	**-14**	**2**
Food	5.9	13.7	13.0	0	-13	2
Mining products	**2.7**	**4.0**	**5.9**	**4**	**-4**	**49**
Fuels	2.1	2.6	4.7	7	0	69

Source: WTO, 2001a:80 (from Table III.60).

The last two tables show two additional noteworthy facts: First, the EU achieved a trade deficit with developing countries in Africa, and second, as pointed out earlier, agricultural products are no longer the most important goods traded between Africa and the EU. This trend can also be observed in developing countries not belonging to the ACP group.

Preferential Access

The various schemes of trade preference are a major feature of the EU's trade policy toward developing countries. In addition, the EU has negotiated a number of bilateral agreements with specific countries like South Africa or Russia and economic entities like MERCOSUR (the common market for Latin America) and ASEAN (Association of Southeast Asian Nations) that also entail specific preferential trading arrangements. Thus, the EU's external trade policy is quite complex and a comprehensive analysis is not possible here. These preferential trading arrangements evolved from international trade policies in the GATT/WTO context (like the GSP) and from development policies targeted at former European colonies (as in the case of the Lomé Agreements with African, Caribbean and Pacific (ACP) countries). In 2000 the Lomé Agreement was replaced by the Cotonou Agreement, which yet again significantly changed the trading relations between the EU and ACP countries, as it moved from a non-reciprocal to a reciprocal approach.

The different degrees of preference for different groups of developing countries are not always related to their level of development. Moreover, the tariff levels keep changing according to product groups and quantities and because of the implementation of liberalization agreements during the Uruguay Round (Stevens and Kennan 2000, p.16). The following section will introduce the most important EU preferential trading schemes for developing countries (i.e., the GSP, the ACP and the "Everything But Arms" (EBA) initiative) in order to give an overview of the context and scope of these arrangements. The EU has always tried to increase its own economic benefits through trade agreements. Nevertheless, it must be noted that, so far, it has been the major actor at the nexus of trade and development by removing import barriers and developing trade agreements with developing country partners that entailed a significant degree of non-reciprocity (UNCTAD and Commonwealth Secretariat 2001, p.17).[6]

Generalized System of Preferences (GSP)

In 1971, the GATT Contracting Parties agreed upon an "enabling clause" that allowed exceptions from the MFN principle and provided the basis for countries to grant others even more favourable trading conditions than those they agreed to within the GATT. The EU implemented its first GSP in 1971, and it has been renewed annually. After the Uruguay Round, quantitative limitations (tariff quotas on a product/country basis) within the GSP were fully phased out. The EU GSP has been mostly relevant for those nine LDCs and some developing countries that are not part of the ACP group.[7] Preferences under the GSP are granted for exports of specific products from individual countries. The GSP preferences are granted for a given product as a percentage reduction of general MFN rates. The reduction depends on the "sensitivity" of a product (i.e., on the extent to which the product competes with EU products, the economic situation of that industry or sector, and competition with the manufacturing sector in the EU).

Products can fall into one out of four categories of sensitivity. Each of the categories applies a different preferential margin (this is called modulation). The four groups are:

- Very sensitive products (preferential margin: 15%)

[6] The trading arrangements with ACP countries under the Lomé Agreements are also non-reciprocal. However, since these agreements violate WTO rules (because they do not cover all developing countries) they required a waiver granted by the WTO members. The new Cotonou Agreement includes reciprocal trading arrangements in the framework of regional or bilateral economic partnership agreements because most non-ACP WTO members signaled that they were not willing to extend the Lomé waiver much longer.

[7] These LDCs are Yemen, Afghanistan, Bangladesh, Maldives, Nepal, Bhutan, Myanmar, Laos, and Cambodia. However, with the new "Everything But Arms" (EBA) initiative, the GSP is likely to lose its importance.

- Sensitive products (preferential margin: 30%)
- Semi-sensitive products (preferential margin: 35%)
- Non-sensitive products (duty-free entry)

Countries and products may be "graduated" from these groups as they become more competitive. Examples of sensitive products are rice, bananas, sugar, manioc, and beef. The EU considers these products sensitive because developing countries are already quite competitive and domestic producers may come under economic pressure if the EU import regime is further liberalized. Thus, the sensitive sectors can be protected with a two-tier mechanism: variable tariff margins and a discontinuation of preferences in cases of serious market disruption (EU Commission 1998).

In January 2002, the Commission tabled a proposal for the GSP scheme for 2002-04 to simplify the application of the GSP by deleting the sensitive and semi-sensitive categories (Lamy 2001). The proposal also included additional tariff reductions for countries that comply with international social and environmental standards.[8] Similarly, Latin and Central American countries can achieve additional tariff reductions if they comply with the anti-drug-trafficking arrangements of the Andean Pact. However, the conditions to qualify for additional preferences based on compliance with specific social, environmental, and anti-drug trade standards are complex and it remains to be seen whether the preferences are incentive enough for countries to engage in these procedures.

African, Caribbean, and Pacific Countries (ACP)

Since 1975, the Lomé Agreements shaped the trading relations between the EU and up to 77 developing countries (2002), according them better access to the European market. Roughly 94% of total ACP exports, 100% of industrial products, and 80% of agricultural products entered the EU on a duty-free basis (UNCTAD and Commonwealth Secretariat 2001, p.18). In addition, the agreements also guaranteed export earnings to a certain extent within the framework of stabilization agreements for raw materials (STABEX) and minerals (SYSMIN). Important exceptions to this favourable treatment are agricultural products and food products imported by the EU from ACP countries. These are subject to the marketing rules of the Common Agricultural Policy (CAP). Some product categories have low tariff preferences and also face high tariff peaks once they reach a certain export volume. To buffer the negative economic impacts of these measures for some exporters, the Lomé Agreements contained four commodity protocols that granted some countries access for selected sensitive products (beef, bananas, sugar, and rum). In the case of beef and sugar the exporters under the protocols benefited from the high prices in the EU Common Market.

After the fourth Lomé Convention expired in 2000, the ACP agreed to negotiate a post-Lomé regime that will be built upon reciprocal trading arrangements. In July 2000, the new Cotonou Agreement was finalized as a cooperation agreement that will be in force until 2020. It has been agreed that new reciprocal trading arrangements, within regional or bilateral economic partnership agreements (EPAs) between the EU and groups of ACP countries or single ACP countries, will be negotiated until 2008. The current Lomé arrangements are valid until then. Once new EPAs have been agreed, there will be a transitional implementation period of 12 years. During this period the EU will provide financial support to offset any export losses. One major goal of the Cotonou Agreement is the development of regional

[8] Many non-governmental organizations (NGOs) and other critics see these standards as inadequate and not suitable as a real incentive for sustainable development, because the additional tariff concessions are too low to offset the costs of complying with the additional rules of origin and labeling regulations.

economic integration within the ACP regions to stabilize their position in the world market (EU Commission 2001a).

Everything But Arms (EBA)

In March 2001, the European Commission enacted the "Everything But Arms" (EBA) initiative, a package of trade measures that grants 48 LDCs special access to the EU market for all their products, except arms, by 2009 (EU Commission 2001b). This initiative followed the announcement in June 2000 to grant duty-free access for essentially all products from LDCs, at the latest by 2005. The EBA package covers products in 919 tariff lines and also includes access for the most sensitive products — sugar, rice, and bananas. However, whereas products such as fruits and vegetables, meat, beverages, and dairy products are granted full duty- and quota-free access, the most sensitive products will gain this status only at a later stage and after several tariff reductions. The principal elements of EBA are:

- Full duty- and quota-free access for all goods except arms;

- Flexible longer phase-in periods for bananas (starting on January 1, 2002, with completion at the latest on January 1, 2006), sugar (starting on July 1, 2006, with completion at the latest on July 1, 2009), and rice (starting on October 1, 2006, with completion at the latest on October 1, 2009);

- As compensation for possible delays on sugar and rice, the creation of a duty-free quota to ensure increased market access in an interim period. The quota will be based on the LDCs' best export figures in the 1990s and increased annually by a cumulative growth rate of 15%.

EBA was adopted as an amendment to the existing GSP scheme in order to ensure its compatibility with WTO rules under the GATT/WTO enabling clause. Its functioning is going to be reviewed by the EU Commission in 2005. In the meantime specific safeguard measures enable the EU to suspend the duty-free access of specific products in case of serious market disruptions. For example, the Commission announced that whenever LDC imports of rice, sugar, and bananas exceed, or are likely to exceed, the previous year's level of imports by more than 25%, it will automatically examine whether the conditions for applying the safeguard measures are met (EU Commission 2001c).

Summary of Preferential Trading Arrangements

Although the EU grants a number of preferential trading conditions to developing countries, they have not been successful in significantly increasing exports from developing countries. Apart from generally deteriorating terms of trade for primary products, the main reason for this result is that the preferential arrangements served only a very small number of developing countries**.** The preferences in the GSP in fact covered only a quarter of the products facing import duties. Only 12 countries benefited from 80% of the preferences in the EU's GSP scheme. Often the margin between general GATT/WTO MFN arrangements and the GSP preferences was too low for exporters to bother to comply with the strict rules of origin and administrative obstacles (UNCTAD 1998, p.14).

The ACP countries were able neither to expand their exports nor to diversify their range of export products. Only 13 ACP countries export about 70% of all ACP exports to the EU (OECD 1997, p.20). Because most of the trade restrictions in the Lomé Agreements referred to agricultural products and most ACP countries are highly dependent on the export of these products, they were unable to significantly improve their export earnings. It remains to be seen whether the EBA scheme will help to improve their export record. A modeling exercise undertaken by the United Nations Conference on Trade and Development (UNCTAD) and the Commonwealth Secretariat (2001) showed that such uniform levels of preference are more beneficial to LDCs than other, more fragmented GSP arrangements.

At the same time, however, the reduction of MFN tariffs on industrial and agricultural products within the WTO framework has eroded tariff preferences. In general, with the implementation of the Uruguay Round agreements, the preferences granted by the EU decreased by 26%; for non-tropical agricultural products, they decreased by 29% (OECD 1997). Moreover, as general tariff levels are already quite low, especially for LDCs, the erosion of trade preferences is hardly significant, especially since only a small number of countries actually benefited from tariff preferences.

Main Trade Barriers

Tariffs are no longer the most significant barriers to increasing the exports of developing countries and their integration into the world trading system. Developing countries' access to the markets of industrialized countries remains restricted, despite wide-ranging tariff reductions under the Uruguay Round. Apart from delays in and incomplete implementation of relevant arrangements in sectors such as textiles and agricultural products, their exports have been impeded increasingly by non-tariff barriers, technical standards, and complex administrative procedures related among other things to national health and safety norms. These became more comprehensive as trade in specific products became more open. For example in March 2002, textile exporters such as Hong Kong, China, India, Egypt, Brazil, Bangladesh, and Guatemala pointed out that after seven years, developing countries have seen only a few quotas removed on their textile and clothing exports, despite the WTO Agreement on Textiles and Clothing, while new restrictions such as anti-dumping measures have been imposed (Bridges 2002).

Although the failure of the Seattle Ministerial Conference in 1999 was not only attributable to developing country opposition, this was a major factor, and by naming the trade negotiations launched in November 2001 in Doha the "Doha Development Agenda," the industrialized WTO members acknowledged that they have to take the concerns of developing countries increasingly into account.[9] Developing countries finally agreed to a new round of trade negotiations despite remaining united in their scepticism about the potential benefits of the Doha Development Agenda. The EU pushed through a number of subjects — such as investment, competition policies, and trade and environment issues — which developing countries strongly opposed. There had been allegations that countries were threatened that future development aid might be withheld in case they did not agree to a new round of trade negotiations.[10] Yet, many countries were also quite aware of the potential dangers associated with another failure of the Ministerial Conference. A failure would have weakened the WTO significantly. Developing countries are probably more dependent on a functioning WTO and its enforcement of trade agreements than powerful industrialized countries or the EU. Moreover, the WTO provides them with a framework where they can try to negotiate generally better market access conditions than they would be able to negotiate on a bilateral basis.

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[9] As this article does not provide space for a detailed analysis of the Seattle and Doha WTO Ministerial Conferences, it should be mentioned that Seattle failed mostly because the industrialized countries were unable to agree on common goals for future trade negotiations. The massive protests by civil society groups reinforced the reservations voiced by many WTO members about the goals and impacts of further trade liberalization. These reservations were only partly resolved in the run-up to Doha and the agreement to launch a new comprehensive round of trade negotiations can be attributed to changes in the economic and political environment. Apart from the US, most WTO members suffered from economic stagnation, and after the terrorist attacks of September 11, 2001 and subsequent fears of a major world wide economic recession, further trade liberalization was seen as essential.

[10] Martin Khor. [E-mail message to NGOs.] Third World Network after Doha. November 19, 2001 (on file with the author).

Because space is limited, a few examples will be highlighted, focusing on the main barriers of the EU to the exports by developing countries in the agricultural sector, intellectual property rights, and some specific non-tariff barriers related to health and environmental issues.

Agriculture

European trade restrictions in the agricultural sector are one of the most contentious issues in the WTO as well as in regional and bilateral trade relations, despite the fact that the importance of this sector for the EU has decreased in the last thirty years. Yet, the EU justifies its restrictions by arguing that it needs to support its farmers for social, cultural, and environmental reasons. According to the EU, agriculture performs a multifunctional role by providing food, preservation, management, and enhancement of the rural landscape, protection of the environment, including protection against natural hazards, and enhancement of the viability of rural areas (EU Commission 2001d, p.17). Many developing countries in principle support the argument of basing import restrictions on the multifunctional role of agriculture. In their case, they stress the need to resort to trade restrictions to ensure food security and protect local food crops. At the same time, they want to be able to restrict imports not least to prevent the EU from dumping subsidized surplus production onto their markets, destroying local production structures, and putting local producers out of business (Einarsson 2000).

The current structure of international trade in agricultural products is an example of a highly complex and non-transparent system that evolved from the WTO Agreement on Agriculture. Although the Agreement aimed to transform quantitative restrictions into a more transparent and open tariff-based system, the specific rules still allow countries to effectively protect their agricultural producers. First, the method of prescribing appropriate tariff levels for products that were formerly protected by quantitative restrictions led to prohibitively high tariffs, as many countries reported equivalents unrelated to the protective effects of those restrictions. In the case of the EU, it had been assumed that this “dirty tariffication” led to tariff equivalents that were 60% higher than the actual protection of former quantitative restrictions (Anderson et al. 1999, p.9). Moreover, despite the fact that the EU had to reduce its tariffs on average by 36% between 1986 and 2000, it could retain high tariff levels for sensitive products by spreading tariff reductions unevenly, according to the sensitivity of the products. For example it is possible to lower the tariff of three products from 100% by 15% and still arrive at a general tariff reduction of 36%, if a tariff of, say 4% on a fourth product is abolished completely (i.e., reduced by 100%) (Fritz 2000, p.9).

To soften the impact of the high tariff equivalents, it is possible to grant a fixed minimum access for specific products on a preferential tariff basis. In addition to these preferential tariffs, it is possible to base tariffs on the monetary value of goods, or on a specific amount or volume of a specific good, or these methods can both be applied at the same time. In addition, the Agreement on Agriculture provides special safeguard measures allowing additional tariffs if imports of a specific product exceed a specific quantity or undermine domestic prices. This complex system also foresees tariff peaks (additional tariffs on products that have a relatively high import rate, exceed minimum access quotas, and reduce price levels). For example, the EU applies 96.8% of its tariff peaks on agricultural and fishing products (UNCTAD 1999). And lastly, tariff escalation (i.e., tariffs that increase with the manufacturing process) remains a significant barrier. In the EU, the average tariff escalation between raw and manufactured goods lies at about 17% (Lindland 1997, p.14).

Apart from this non-transparent tariff system and high tariffs, the main problem of European agricultural trade policy is the subsidies to European producers, which come in a variety of forms, such as direct income support and export subsidies (compensating for price differences on the world market). In recent years, more and more support to European agricultural producers was granted within the framework of “green box measures” that were explicitly exempted from the phase-out of support measures by the Agreement on Agriculture. Such measures include, for example, subsidies for environmental protection, rural development, and animal welfare. In Doha, the EU agreed for the first time to "substantial improvements in access; reduction of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support" (WTO 2001b, p.3). Thus, if developing countries are able to keep up their coordinated approach to the negotiation, they might achieve considerable concessions within the Doha Development Agenda from the EU.

Non-Product Related Non-Tariff Barriers

In recent years, the relationship between social and environmental standards addressing processes and production methods (PPMs) and WTO rules has been a cause for concern in developing countries, as these standards can impede the access of their products to the markets of developed countries. Unilateral technical standards addressing the social and environmental impacts of the processes and production methods, rather than the product itself, create very high obstacles to market entry for many developing countries. For example, they are either not aware of the environmental impacts of specific production processes, such as toxic feedstock agents involved in the production of flexible foams or other plastic products, or lack the financial and technical resources for more environmentally benign production methods. This problem became particularly evident in the case of eco-labeling which can have protectionist impacts, especially when exporters cannot participate in the development of specific labeling criteria (Appleton 1999).

However, in the run-up to the Doha WTO Ministerial Conference, the EU was pushing for clarification of the relationship between environmental labeling schemes and WTO rules, with a view to confirming them as a legitimate instrument to satisfy consumer concerns. Since the EU was successful in including the environment and eco-labeling in the Doha Development Agenda, the WTO Committee on Trade and Environment (CTE) has been forced to address this issue. Since the negotiations on how to treat non-product-related environmental processes and production methods are a cross-cutting issue that also affects the existing Agreement on Technical Barriers to Trade (TBT) and the Agreement on Sanitary and Phytosanitary Measures (SPS), these negotiations will be conducted in the respective negotiation bodies and not the CTE. The question for the WTO in this context is whether two products, both of which are indistinguishable as end products, can be treated differently if their processes and production methods are different.

In the absence of direction from earlier discussions in the CTE on the issue, WTO dispute panels have had to develop their own tests on a case-by-case basis. The results have not been helpful. Various criteria have been developed and applied, which affirm that "like" is not "identical."[11] However, it remains ambiguous as to whether PPM distinctions on the basis of multilateral environmental agreements (MEAs) are permissible. A recent WTO decision on Article III, concerning European import restrictions for asbestos-containing products,[12] broadened the concept of "likeness" by ruling that it is appropriate to take account of health risks in determining "likeness." The Appellate Body also affirmed that "the extent to which consumers are — or would be — willing to choose one product instead of another to perform" the same end-uses is highly relevant evidence in assessing "likeness" (Tarasofsky and Pfahl 2001).

The issue will not be fully resolved until Article III is broadened to permit processes and production methods, at the very least those derived from MEAs. This can only happen in a political negotiation and not in the context of a particular dispute. Such negotiations are likely to be extremely contentious as

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[11] See, for example, Japan — Taxes on Alcoholic Beverages; Spain — Tariff Treatment of Unroasted Coffee, 28th Supp. BISD 102 (1982, Japan — Customs Duties, Taxes and Labelling Practices on Imported Wines and Alcoholic Beverages, 34th Supp. BISD 83 (1988), Belgian Family Allowances (Allocations Familiales), GATT, 1st Supp. BISD 59-62, 1953.

[12] European Communities — Measures Affecting Asbestos and Asbestos-containing Products

developing countries have justified concerns that this will impede their exports by creating additional technical requirements and requiring investments in modernizing their production processes. They are also concerned that the labeling processes remain non-transparent and that developed countries do not provide them with the technology necessary to achieve these standards (CUTS 1999).

Outlook

This brief overview of EU trade policy toward developing countries illustrated that on the one hand, the EU introduced a number of specific development-oriented trade policies. On the other hand, the EU — mostly within the scope of WTO rules — effectively protected its domestic markets where developing countries had a significant competitive advantage over European producers. This ambivalent policy meant that the EU had to provide more incentives to developing countries in order to gain their support for a new and comprehensive round of WTO trade negotiations. The experience with the implementation of the Uruguay Round since 1995 has not been positive for developing countries. Therefore, they are reluctant to agree to new trade agreements. To gain their support, the EU and other developed country WTO members were willing to grant developing countries some trade-related concessions that culminated in a fairly detailed program for technical assistance.

As the Doha Ministerial Conference demonstrated, there are deep divisions and frictions between developed and developing WTO members about the scope and pace of further trade liberalization. Nevertheless, the future of the WTO is likely to depend directly on the success of this program. Subsequently, the EU Commission, especially the Directorate General for Development, must take care that the development-oriented goals of the program will not again be pushed aside by the overriding goal of trade liberalization and opening markets in developing countries. Rather than merely focusing on technical, implementation-related assistance, the EU and other industrialized WTO members must link their assistance to the goal of spreading the economic benefits of trade liberalization more equally across developing country societies and balance economic goals with social and environmental aspects to enable more sustainable trade reforms. This, however, can only be achieved if the EU and other developed WTO members complement their technical assistance with the effective phase-out of production subsidies, non-transparent tariff structures, technical standards, and other market access barriers.

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Chapter 4

Japan

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Developing countries are increasingly important trade partners for Japan. The share of Japanese exports to the developing world rose from 41.3% in 1990 to 49.1% in 2000. Over the same period, the developing world's share of imports entering Japan rose from 49.6% to 60.9% (Charts 1 and 2). East Asia occupies a prominent place within this North-South trade. Over the last 10 years, imports from East Asia climbed from 28.9% to 42.1%. Trade with East Asia, and particularly China, has powered the expansion of Japan's trade with developing countries since the end of the Uruguay Round.

The United States is still Japan's biggest trading partner, but between 1990 and 2000 its share of exports to Japan fell from 31.7% to 30.2% and its share of imports from Japan slipped from 22.5% to 19.2% (Table 1). Meanwhile, imports from East Asia have been growing rapidly, particularly from China, whose share was only 5.1% in 1990 but climbed to 10.7% in 1995 and 14.6% in 2000 (Table 2). The increase in imports from China resulted mainly from trade in manufactured goods, as their share of Japan's purchases from China rose from 50.8% in 1990 to 82.0% in 2000 (Chart 3). Manufactured imports from China were valued at $45.7 billion in 1990, which exceeded the European Union and was second only to the United States (Chart 4). The rise was fuelled by imports of Chinese-made clothing as well as of goods produced by Japanese manufacturers in China and by Chinese companies under contract. The latter two trends have sparked a sharp rise in imports of machinery products, such as consumer electronics and computer-related equipment. China is now a leading supplier to Japan in manufactured products such as color television sets, refrigerators, washing machines, vacuum cleaners, and irons.

Japan's major import since the 1960s has been crude and partially refined oil, but manufactured products have accounted for increasingly large shares since 1990. Automobiles and office equipment (including computers) entered the top-10 product ranking in 1990, followed by electronic parts and devices, clothing, audio and video equipment, and optical equipment (Table 3). Reflecting the appreciation of the yen and the shift to offshore production by Japanese manufacturers in the wake of the 1985 Plaza Accord, the structure of Japan's trade has shifted sharply. Previously, Japan imported raw materials from the developing world and exported manufactured products, but now goods such as computers and clothing are manufactured in East Asia and imported into Japan. Much of the growth in imports from East Asia has been because of offshore production by Japanese companies, an outgrowth of expanded direct investment, and an important reminder of the links between international trade and investment.

Barriers to Trade and Preferential Access

The Uruguay Round (UR) resulted in tariff reductions on an unprecedented scale in Japan. In all, approximately 11,000 tariffs were revised. As a result, customs duties as a percentage of total import value fell from 3.4% in fiscal 1994 to 2.4% in fiscal 1999. Japan's final average bound tariff rate declined to 1.5%, much lower than the rates in the United States (3.5%), the EU (3.6%), and Canada (4.8%) (Table 5). However, tariffs remain high for certain developing countries' exports. The remaining barriers, tariff peaks above 15%, are in textiles, footwear, and, most importantly, the agricultural sector. The post-

Uruguay Round rate on agricultural imports from developing countries, even though it was reduced by 26.7 points, remains at 42% (Finger, Ingco and Reincke 1996, p.32).

The Uruguay Round negotiations on agriculture focused on three elements: market access (border measures), domestic support, and export competition. In market access, it was agreed that quotas would be replaced with tariffs (a process called "tariffication") and that tariff levels would be decreased on average by at least 36% (and by at least 15% for each product) over a six-year period (1995-2000). A special provision allows countries to defer "tariffication" for six years for some agricultural products, if the following conditions apply: (1) that the import volume for 1986-88 was less than 3% of domestic consumption, (2) that no export subsidies were provided, and (3) that effective measures were taken to restrict production. In such cases, it is required that the level of minimum access opportunities be at least 4% initially, rising to 8% at the end of the six-year period. In Japan's case, this special provision was applied to rice, but tariffication was subsequently applied.

With respect to items on which import restraints were applied (wheat, barley, dairy products, starch, peas and beans, peanuts, *konnyaku* tubers, raw silk and silk cocoons, and pork), tariffs were raised in principle to a level corresponding to the difference between the domestic and foreign prices. A tariff quota system was introduced to apply tariffs at existing levels for amounts up to the previous volume of imports, thereby maintaining existing access opportunities. The number of Japanese import restrictions had been sharply reduced with respect to agricultural products in the 1960s, so by 1974 the number of remaining items was 22. Japan-US talks on beef and oranges in 1988, as well as other negotiations, led to partial lifting of these residual restrictions. Twelve import-restriction products remained in 1992, but the Uruguay Round liberalized these as well through tariffication.

Japan offers two preferential tariff regimes to developing countries. The Generalized System of Preferences (GSP), which offers duty-free access for imports from 162 developing countries, excludes a number of agricultural products and some manufactured goods such as apparel and footwear (WTO 2000). This regime gives, on average, a 48% preference to imports from developing countries (Hoekman, Ng and Olarreaga 2001). Japan's GSP system was enacted under a revision of the Temporary Tariff Measures Law in 1971 and was extended twice, in 1981 and 1991. It was due to expire on March 21, 2001, but a revision of the law in fiscal 2001 provided another 10-year extension. Except for China, a relatively small share of imports from beneficiaries receive GSP benefits (Table 4). In 1999, only 8.5% of all imports from GSP eligible countries benefited from this preferential access.

The other Japanese preferential regime is for Least-Developed Countries (LDCs) and offers their exports to Japan a 60% preference over imports from industrial countries, on average. The provisions of the 2001 revision include new preferential tariffs for LDCs. The revision establishes preferential treatment for 1,085 products, including 75 agricultural and fishery products. Japan's Customs Tariff Council stated: "While noting progress of the new round of negotiations under the World Trade Organization and also considering the impact on domestic industries, Japan should enhance its preferential treatment of LDC imports by greatly expanding the list of such products."

Safeguards and Antidumping Measures

In the past, safeguard measures (import restraints in case of emergency such as import surges) and anti-dumping measures were virtually always directed at Japan by other countries. But in recent years, some domestic Japanese industries have called for the imposition of safeguard restraints or anti-dumping measures in regard to imports of textiles and agricultural products.

On April 23, 2001, Japan imposed provisional safeguard measures on three imports from China: leeks, fresh shiitake mushrooms, and rush mats for tatami flooring. Previously the Japanese government had twice conducted investigations concerning the imposition of safeguards on textile imports, in 1995 and 1996, but the restraints were not implemented. It had imposed special safeguard restraints on pork imports, but it had never implemented general safeguards. On June 22, China retaliated by imposing 100% special tariffs on air conditioners, cellular phones, and automobiles. On December 21, the Japanese and Chinese governments reached an agreement under which Japan refrained from formal imposition of general safeguards against these three items and China removed its special tariffs; the two governments exchanged a memorandum under which they agreed to work to promote trade in an orderly fashion.

Antidumping measures are not a significant barrier to the Japanese market. As of the end of 1999, the United States was imposing 333 anti-dumping measures, the EU 192, South Africa 96, and Mexico 80. Japan, however, had only two anti-dumping tariffs. Japan conducted its first formal anti-dumping investigation in 1991 with respect to imports of ferrosilicon manganese from China, South Africa, and Norway. It was found that Chinese exporters were dumping and that this was causing losses for Japanese manufacturers, so an anti-dumping levy was imposed in 1993. In another anti-dumping case, which began in 1993, it was found that Pakistani cotton yarn was being dumped in Japan and causing losses for domestic companies, so an anti-dumping levy was imposed in 1995. An anti-dumping case was also brought against certain imports of polyester staple fibre from South Korea and Taiwan. Japan and many developing countries have been pushing for anti-dumping measures to be taken up in the next round of WTO negotiations, hoping to deal with the vagueness of the existing multilateral agreement and eliminate the arbitrary application of anti-dumping measures. The goal is to impose firmer discipline and achieve greater clarity of use.

Friction with China Over Protection of Intellectual Property

The Uruguay Round also resulted in the conclusion of an Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The TRIPS Agreement applies to copyrights and related rights, trademarks, industrial designs, patents, trade secrets, layout designs of integrated circuits, and other forms of intellectual property produced through creative intellectual activity. It has broadened the scope and strengthened the protections provided under earlier international agreements, such as the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works, and it requires strict compliance by all WTO member countries and regions. It also enhances the protection of such property with further provisions including “national treatment” (non-discrimination between domestic and foreign holders of rights), most-favoured-nation treatment (application of preferential treatment granted to third countries), application of WTO dispute settlement mechanisms, and arrangements for the exercise of rights within countries.

On December 11, 2001, China officially joined the WTO. The Chinese government promised that it would abide by the TRIPS Agreement from the date of its WTO accession, but there were various outstanding problems, such as illegal copying of trademarks and copyright violations, including the particularly serious problem of counterfeit goods. According to a 1996 survey by Japan’s Patent Office, Japanese-affiliated companies had suffered 197.4 billion yen in damages from imitations worldwide, of which China accounted for 34%. Counterfeit products made in China cover a wide variety of goods, including automobile parts, motorcycles, pharmaceuticals, and electrical goods. They extend to virtually every type of intellectual property, including trademarks, registered designs, and patents. These include: the use of brands like “Hongda” to imitate the Honda logo on motorcycles; production of items virtually identical to Japanese products in appearance and design; and unauthorized use of production technologies patented by Japanese companies. The injury has extended to other countries through the export of imitation goods from China to places such as Viet Nam and Indonesia. According to a recent survey of Japanese affiliates in China conducted by Japan’s Ministry of Economy, Trade, and Industry and JETRO, Beijing, 54% of the 672 responding companies have suffered from imitations; 11% of the respondents reported that their damages during the year 2000 exceeded 1 billion yen. Some of the characteristics of the Chinese imitations are as follows: their quality is so high that they are virtually indistinguishable from the originals; the plants producing the imitations are small and numerous, and they are generally in provincial locations, such as Guangdong; there are speedy manufacturing and sales systems that allow imitations of new and popular products to be sold very soon after the originals go on the market; and exports of imitations, especially motorcycles, are growing fast.

When Indonesia lowered its tariffs and eased other controls on imports of motorcycles, imports from China rose sharply. Imports of motorcycles in 2000 reached a record high of 173,834 units, mostly from China. Chinese motorcycles are extremely similar in appearance to Japanese models, and they are competitively priced, so their market share rose to 17%. But some of their parts infringe on patents held by Japanese companies, so in July 2001 imports of Chinese motorcycles were halted under an agreement on patent violations reached between three importers and a Japanese manufacturer. In January 2001, Indonesia implemented three laws to protect intellectual property in terms of industrial designs, layout designs of Integrated Circuits (ICs), and trade secrets. In June of the same year, the government started accepting applications for registration of industrial designs, thus enabling Japanese manufacturers to protect themselves from counterfeit products from China.

Japan's Trade-Related Technical Cooperation

Japanese technical cooperation carried out in connection with trade mainly takes the form of promoting imports from developing countries. The institution that implements this cooperation is the Japan External Trade Organization (JETRO), a public-sector organization under the Ministry of Economy, Trade, and Industry. JETRO was originally established in the 1950s to promote Japanese exports. Over the years, however, JETRO has adapted to the changing international economic situation by launching other activities, including the promotion of outward and inward investment, international cooperation between industries, and import promotion. JETRO focuses its technical cooperation on investment and trade, with the aim of promoting developing countries' exports to Japan. Activities are aimed specifically at fostering human resources, export industries, and supplier ("supporting") industries. The activities reflect JETRO's understanding of the needs of developing countries, which the organization has acquired through its network of 80 offices around the world. The scope includes private-sector activities, such as technological guidance for foreign companies, support for companies that wish to export to Japan, and technical support through direct investment by Japanese companies. Support is also provided through actual business, such as trade fairs and "reverse exhibitions[13]."

JETRO began promoting exports to Japan in 1979, supporting export-promotion missions by arranging meetings and providing information. It has extended such operations to include the hosting of researchers who visit Japan to study how to approach the market with particular products. JETRO also conducts studies on market demand, distribution channels, and other matters for items that developing countries are interested in exporting. In the 1990s, JETRO began to hold exhibitions of developing countries' products in Japan. These included exhibitions of product samples found by JETRO-dispatched specialists, exhibitions of countries' representative products, and trade fairs promoting international economic and technical cooperation. JETRO also started dispatching missions to promote exports to Japan, such as missions of Japanese importers and buyers, and dispatching Japanese marketers and trade-system specialists to developing countries to look for products with potential for import into Japan, as well as economic policy experts to support the implementation of economic reforms.

13 Japanese companies display samples of products they wish to procure from local suppliers overseas.

In financial terms, the amount of Japan's official development assistance that is directed at the promotion of developing-country trade and investment is not that large, accounting for only 0.4% of Japan's total ODA budget and 1.5% of its appropriations for technical cooperation. In fiscal 1999, however, even as the total ODA budget was being cut, this amount was increased by 11.4% from the previous year to 5,533 million yen, and in fiscal 2000 it grew by another 2.5% to 5,669 million yen (Table 6).

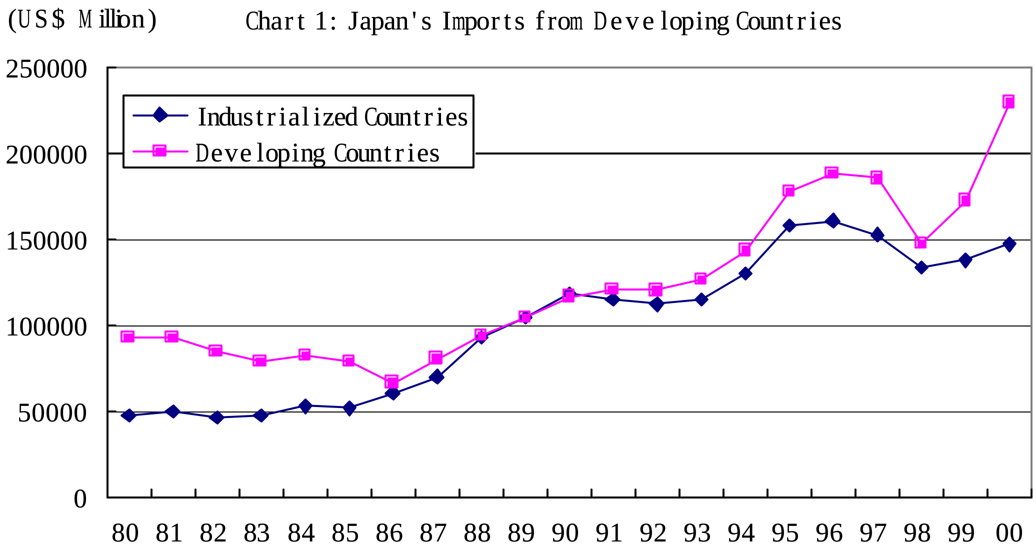
In March 2001, following the Group of Eight summit held in Okinawa the preceding July, Japan hosted the Okinawa Workshop on Trade-Related Capacity Building in conjunction with the WTO, the United Nations Development Program (UNDP), and the Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD). Participants included trade and foreign aid officials from industrial countries, developing countries, and international institutions. The workshop served as a forum for an exchange of views on how developing countries can implement and strengthen related activities. At the end of the Asia-Pacific Economic Cooperation trade ministers' meeting in June of that same year, the official statement declared that WTO negotiations should reflect developing countries' interests and concerns and that continued emphasis should be placed on human resource development.

Future Issues

The point of view of the Japanese private sector on the new WTO round of negotiations and developing countries was presented in Keidanren's (Japan Federation of Economic Organizations) proposal entitled "Challenges for the Upcoming WTO Negotiations and Agendas for Future Japanese Trade Policy" in May 1999. This document contains several key recommendations concerning developing countries. First, developing countries still impose high tariffs on a wide range of products, obstructing exports of products in areas where Japanese companies are highly competitive, such as transportation equipment, construction equipment, electrical machinery, steel, and chemicals. These high tariff rates should be reduced substantially. A relatively high proportion of developing countries' tariffs are not "bound"— meaning that the countries can raise tariff rates on many products. Sudden tariff hikes have obstructed many Japanese exports, so the private sector would like Japan to work toward more tariff bindings, in order to increase predictability. At the same time, however, consideration must be given to the economic conditions and stage of development of individual countries when seeking to reduce or eliminate tariff barriers; sufficient time frames should be allowed for the implementation of tariff cuts.

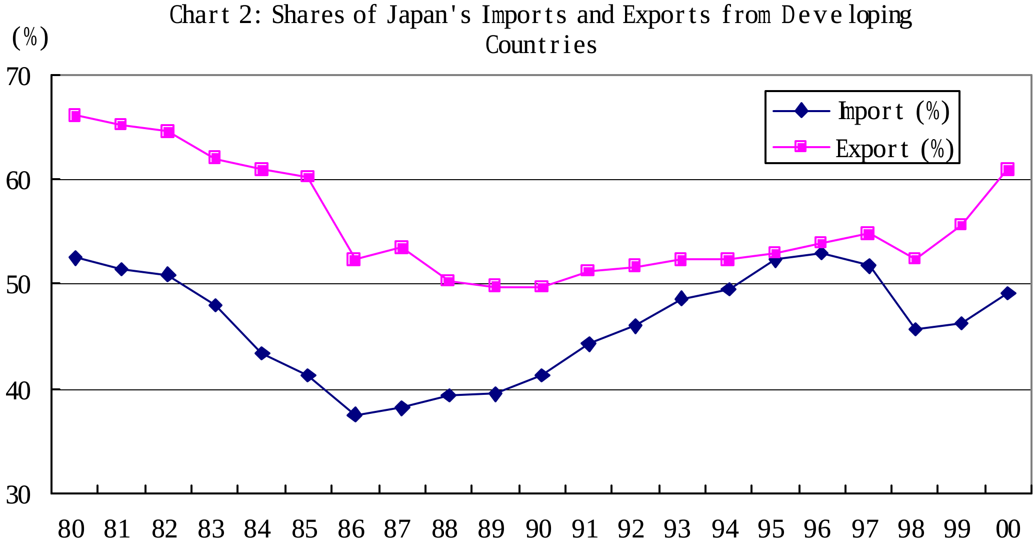
Second, counterfeit products and patent systems that do not conform to international norms have adversely affected the intellectual property rights of Japanese companies. In the next round of multilateral trade negotiations, the private sector would like to see the Japanese government take the initiative to strengthen intellectual property rights protection in developing countries and to standardize international patent systems. Keidanren suggests that the Japanese government increase its level of cooperation in building appropriate intellectual property systems and in training the necessary personnel. The organization claims that strengthening intellectual property rights protection in developing countries will also benefit developing countries themselves by promoting the transfer of technology from industrial countries.

Chart 1: Japan's Imports from Developing Countries



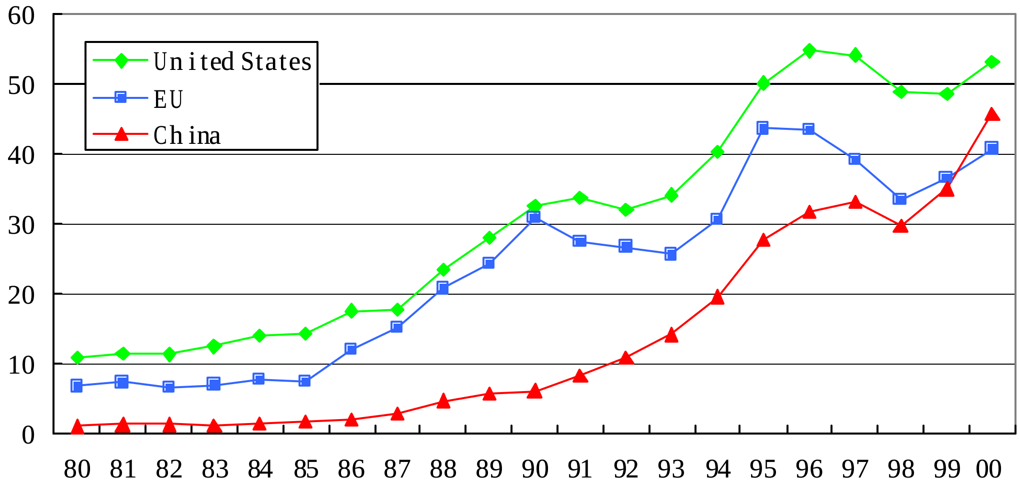
Source: *Direction of Trade Statistics*, IMF

Chart 2: Shares of Japan's Imports and Exports from Developing Countries



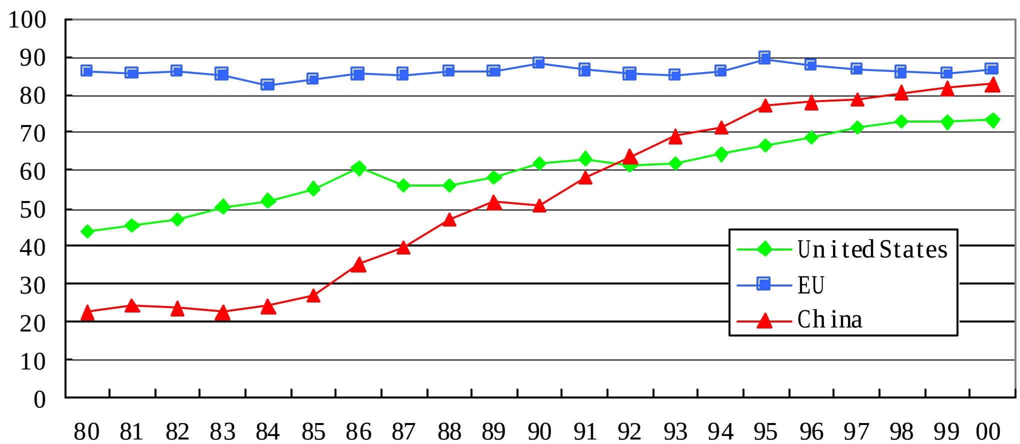
Source: *Direction of Trade Statistics*, IMF

(US$ billion) Chart 3: Japan's Manufactured Goods Imports



Source: *Trade statistics*, Ministry of Finance

(%) Chart 4: Share of Manufactured Goods Imports by Region



Source: *Trade statistics*, Ministry of Finance

Table 1: Japan's Imports from Developing Countries
(percentage)

	Average Growth Rate			*World Share*		
	1986-90	**1991-95**	**1996-2000**	**1990**	**1995**	**2000**
World	16.5	9.2	1.9	100.0	100.0	100.0
Industrialized Countries	18.2	8.2	2.2	50.2	47.0	39.0
United States	15.8	9.1	2.4	22.5	22.6	19.2
Developing Countries	15.0	10.0	5.1	49.6	52.9	60.9
Africa	0.6	5.7	0.6	1.6	1.3	1.3
Asia	17.2	13.6	4.8	28.9	36.9	42.1
Europe	15.5	8.0	4.1	1.8	1.7	1.6
Middle East	13.9	2.0	8.8	13.3	9.4	13.1
Western hemisphere	11.8	5.2	1.2	4.0	3.4	2.8

Source: *Direction of Trade Statistics*, IMF.

Table 2: Japan's Imports from East Asia
(percentage)

	Average Growth Rate			*World Share*		
	1986-90	**1991-95**	**1996-2000**	**1990**	**1995**	**2000**
World	16.5	9.2	1.9	100.0	100.0	100.0
Asia	17.2	13.6	4.8	28.9	36.9	42.1
China	20.5	26.0	8.1	5.1	10.7	14.6
ASEAN 4	15.0	9.3	3.9	10.4	11.4	12.9
Indonesia	14.6	2.7	1.8	5.4	4.2	4.3
Malaysia	7.9	13.0	5.4	2.3	3.1	3.8
Philippines	14.9	10.5	12.4	0.9	1.0	1.9
Thailand	31.3	17.8	0.8	1.8	3.0	2.8

Source: *Direction of Trade Statistics*, IMF.

Table 3: Japan's Top-10 Imports 1990-99
(percentage)

	1990	Share
1	**Crude Oil**	13.2
2	**Petro products**	4.1
3	**Lumber**	3.2
4	**Liquefied methane**	2.8
5	**Automobiles**	2.7
6	**Coal**	2.6
7	**Office equipment**	2.2
8	**Aluminium**	2.0
9	**Organic compounds**	1.9
10	**Non ferrous metal**	1.9
	Total	36.7

	1999	Share
1	**Crude Oil**	8.6
2	**Office equipment**	6.4
3	**Electronic parts**	4.3
4	**Fishery products**	4.0
5	**Petroleum gases**	3.7
6	**Apparel (outerwear)**	2.6
7	**Optical instruments**	2.4
8	**Apparel (knit products)**	2.2
9	**Organic compounds**	2.1
10	**Automobiles**	2.0
	Total	38.4

Source: *Trade Statistics*, Ministry of Finance.

Table 4: Main beneficiaries of Japan's GSP scheme, 2000
(percentage of imports benefiting from GSP)

	2000
China	52.6%
Thailand	10.6%
Indonesia	8%
Malaysia	7%
Philippines	5.2%
Morocco	1.9%
India	1.7%
Viet Nam	1.5%
Brazil	1.5%
Chile	1.3%

Source: Kanzei Nenpo 2002, Summary of Tarrif 2001, Japan Tariff Association.
Note: In 2000, the Japanese government removed a number of countries that were listed as high-income countries by the World Bank from the list of GSP beneficiaries, including Korea, Singapore, Hong Kong, Macau, and Taiwan.

Table 5: Comparison of Average Bound Tariff Rates
(percentage)

	Japan	US	EU	Canada
All Products	4.8	3.8	7.2	5.0
Industrial Products	1.5	3.5	3.6	4.8

Source: *Fukosei Boeki Hakusho* (White Paper on Unfair Trade), 2001 edition, METI.

Notes: Figures are simple averages of bound tariff rates as of 1999. Industrial products are all products except those covered under the Agreement on Agriculture. The industrial product rates given here are trade-weighted averages excluding petroleum. The industrial product average for Japan also excludes forestry and fishery products; if these are included, the figure comes to 1.7%.

Table 6: Japan's Official Development Assistance Budget
(billion yen)

	Fiscal 1999	Fiscal 2000
Donation	886	920
Bilateral donations	630	631
Economic development assistance	200	208
Grant aid	240	241
Trade insurance	13	11
Technical cooperation	376	380
Though JETRO	5	6
Contribution to international organizations	257	289
UN organizations	76	79
International financial institutions	181	210
Loans	846	976
Overseas Economic Cooperation Fund	810	--
Export-Import Bank of Japan	--	--
Japan Bank for International Cooperation	--	930
Other	36	--
Repayments	-343	-375
Net loans	5.3	592
ODA operating budget total	1,389	1,512

Source: *ODA Annual Reports,* Ministry of Foreign Affairs.

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Chapter 5

The United States

Chantal Blouin

> Since the 1970s, the US [trade] policy has become increasingly schizophrenic. On one hand, there has been support for successive GATT rounds and other trade-liberalizing measures. At the same time, however, the United States has increasingly resorted to restrictive trade measures both in practice and rhetoric and is no longer unswerving in its support of multilateralism (Krueger 1995, p.30).

The co-existence of trade liberalization policy and protectionism within American trade policy is not a new issue. For decades now, this policy has shifted from multilateral liberalization to aggressive unilateralism, with detours through old-fashioned protectionism and creative subsidization of agriculture. US trade policy toward developing countries parallels this general pattern. On one hand, the American market offers great opportunities for imports from developing countries and several have taken advantage of this openness. Yet a number of important barriers still block the US market. These can take the form of tariffs and non-tariffs barriers, contingent protection such as anti-dumping duties and "unfair practice" provisions, and subsidies to the agricultural sector.

This chapter will show that the Uruguay Round had only modest impacts on the barriers faced by developing country imports when entering the American market. First, we will review tariffs and non-tariff barriers and then, the anti-dumping measures used to protect the American markets from imports. A key element in the North-South trade deal struck during the Uruguay Round was the reduction of agricultural subsidies, seen by many as one of the main distortions in global trade. We will examine how the Uruguay Round did not significantly affect US agricultural subsidies and their impact on farmers in developing countries.

Market Access and Market Barriers

The level of international trade is still relatively small in the United States, in comparison to other industrialized nations. Exports represent only 10% of the US GDP, whereas in the EU and Canada they amount respectively to 26% and 43% of GDP. However, because of the sheer size of the American economy, it is the largest importer in the world. It is the destination for 23.6% of world merchandise trade (excluding intra-EU trade) (WTO 2000, p.20). Since the end of the Uruguay Round, developing countries' imports into the US have increased, and they now represent a bit more than 38% of all US imports (see Table 1). This growth is not shared by all countries, as some developing countries were able to capture an important part of this market. Mexico and China have, by far, become the most important trade partners for the United States in the developing world. These two countries provide a wide range of manufactured products to the American market. Besides the traditional sectors of textiles and footwear in which developing countries often specialize, they sell transportation equipment (cars and auto parts), electronic equipment, and toys. Therefore, one would be hard-pressed to say that the changes triggered by the Uruguay Round are important factors underlying the growth of imports from the South into the United States, as other factors such as the signature of the North American Free Trade Agreement (NAFTA) and the growth of Chinese production capacity appear as key variables.

The tariffs on imports to the United States from developing countries are generally low, but they are higher than the tariffs applied on imports from developed countries (see Table 4). The most restrictive barriers to the American market for Southern products are concentrated in sectors such as textiles and clothing and agriculture. As we can see in Table 2, the average tariff on imports from developing countries under the Generalized System of Preferences is only 4%. However, in textiles, footwear and agri-food, these tariffs climb beyond the 10% mark. The Uruguay Round tariff reductions in these key sectors were modest in most sectors, ranging from 0.9% in transport equipment to over 5% in manufactured and chemical products (see Table 4). In sectors of particular interest to developing counties such as agriculture, textiles and clothing, the reductions were under 2%. Tariff peaks (more than 15% tariffs) against developing countries' imports also remain relatively frequent; for instance, more than 15% of imports from the least-developed countries face tariffs above 15% (Hoekman and al. 2001).

In addition to tariffs, the United States uses an extensive system of quotas to limit developing countries' access to its domestic market in the textile and clothing sector. In 2005, all these quotas must be removed given the commitments taken by the US during the Uruguay Round negotiations. As in Canada (see Chapter 2), the first phases of the gradual removal of quotas focused on the least sensitive products (i.e., the products on which no quotas were actually imposed or products for which there were few domestic competitors) (WTO 2001). Some countries have expressed concerns that once the quotas are removed in 2005, the use of anti-dumping and other contingent protections measures by the US may increase in order to continue protection for the textiles and clothing industry. Close monitoring will be needed in the following years to ensure that the benefits of the Uruguay Round actually become a reality in this sector.

A discussion on market access should note that the US maintains varied preferential tariff regimes for developing countries (see Table 3). The best-known is the North American Free Trade Agreement (NAFTA), which offers zero tariff access for most products from Mexico. The exceptions to duty-free treatment are in the agricultural sectors as well as in clothing and footwear, where diminishing levels of protection apply. Since the adoption of NAFTA, imports from Mexico have increased steadily, and now represent 30% of developing countries' imports into the US. NAFTA has created many headaches for the Caribbean region. Indeed, thanks to the lower tariffs imposed on its products, Mexico became more attractive than the Caribbean for investors in the manufacturing sectors. Such trade and investment diversion has been observed in Jamaica (WB 2000). This may have contributed to the gradual decline in Caribbean Community (CARICOM) manufacturing exports from 1995, when they peaked at $531 million (up from $284 million in 1990) (CARICOM 2000). In order to prevent further trade diversion, especially in the garment industry, the Caribbean countries requested "NAFTA parity" from the US government (i.e., access to the US markets on terms similar to Mexico. Only in May 2000 did the US Congress adopt legislation expanding trade preferences to include textiles and clothing, and all other previously excluded products, subject to strict rules of origin. However, this new Caribbean Basin Trade Partnership Act (CBTPA), in effect since October 2000, does not amount to NAFTA parity (Leon and Salazar-Xirinachs 2001), as the duty-free treatment for some of these products is limited by a tariff-rate quota. Also, it will expire in 2008 or when the FTAA enters into force.

Another preferential regime of the US is the Andean Trade Preference Act (ATPA), which was adopted in 1991 as an economic tool to combat illegal drug trade in Colombia, Peru, Ecuador, and Bolivia. This treatment helped these countries to increase their exports to the US by 97% (WTO 2001). However, the program lapsed for a year or so, as it was linked to the renewal of the President's fast-track authority. The delay caused important economic problems in the region and highlights the problems linked to preferential tariff regimes, which are not binding commitments and can be eliminated at any time.

The most recent US preferential regime focused on Sub-saharan Africa. The African Growth and Opportunity Act of 2000 (AGOA) allows all products, including clothing, to enter the United States duty-free and quota-free until 2008. However, this regime imposes several conditions on exporters: notably, the clothes have to be manufactured with American or African textiles. This condition does not apply to the least-developed countries. To be eligible for this regime, each country has to be certified by the American government, on the basis of a long list of criteria which includes progress toward the establishment of a free market economy and the rule of law, elimination of barriers to American investments and exports, adoption of poverty reduction policies, and adoption of policies to reduce corruption and to respect labour rights. To be certified, the country cannot be engaged in activities that threaten US national security or interests, and cannot commit grave violations of human rights or support terrorist activities. Ten countries have been evaluated as non-eligible: Angola, Burkina Faso, Burundi, Ivory Coast, Republic of Congo, Guinea, the Gambia, Liberia, Togo, and Zimbabwe. What has been the impact of this initiative? Before its adoption in 2000, the US International Trade Commission predicted an increase of 25-45% in Sub-saharan African exports. The International Trade Commission identified 16 countries, such as Mauritius, South Africa, and Lesotho, as having the industrial infrastructure or the potential to take advantage of this preferential access to the US market. It is too early to determine whether they have indeed benefited, but the new regime is a good example of an important feature of American trade policy (i.e., strong linkages between trade policy and broader foreign policy considerations).

Antidumping Duties

Dumping is defined as the sale of a good in an export country at a price below the one charged in the country of origin. If the product in question is not sold in the domestic market, dumping will occur when the sale price is below the cost of production. In principle, anti-dumping duties are set by the government in the receiving countries to protect local competitors from this unfair competition. However, in the real world, anti-dumping duties have become tools to protect domestic producers against foreign competition, and authorities have adopted a very broad definition of dumping. The use of anti-dumping duties in the United States is a good example of this tendency. "The manner in which US trade law remedies are administered gives them protectionist content beyond what might reasonably be defended on economic grounds. […] Those procedures clearly have a bias against importers and in favour of domestic producers. As the anti-dumping and countervailing duty tests have become easier, American firms seeking protection from imports have increasingly used those provisions" (Krueger 1995, p.49).

A domestic firm or group of firms can petition the US government to initiate an investigation against a foreign competitor. Once the petition is filed, the Department of Commerce (DOC) has to determine whether and to what level there has been dumping on the American market. The preliminary determination by the Commerce Department provides an estimate of the margin of dumping and temporary duties are applied. Meanwhile, the International Trade Commission has to determine whether there is a reasonable likelihood of injury to the US industry. If the findings of the International Trade Commission and the DOC are both positive, the Department of Commerce engages in the second phase and makes the final determination. If dumping and injury are found, the International Trade Commission imposes duties at a level equivalent to the margin of dumping on the contested import. Given the criteria used to establish dumping, the preliminary determinations usually lead to the imposition of temporary duties on foreign imports (Krueger 1995). Therefore, even for those cases that do not end with a duty order (53% of cases between 1987 and 2000), the temporary duties affect the exporter's performance and position on the US market.

Antidumping measures are an important obstacle for developing countries' access to the American market, and the Uruguay Round did not significantly improve this state of affairs. Table 5 shows a slight decrease in the number of anti-dumping investigations and measures imposed during the period before the conclusion of the Uruguay Round and between 1995 and 1999. The Uruguay Round Agreement included minor changes to anti-dumping laws, such as an obligation for members to include sunset clauses in their anti-dumping laws. This slight decrease may reflect those changes. The difference between these two periods could also be explained by macroeconomic conditions. During a recession, such as the one in 1991-92, one tends to see more firms file dumping cases against foreign competitors (Leidy 1997). The United States may have slightly moderated its use of anti-dumping measures since the adoption of the Uruguay Round agreements, but the US "remains one of the most aggressive users of anti-dumping laws in the world. The duties it imposes are a substantial impediment to trade in the goods at issue" (CBO 2001). Indeed, the US is still the country with the highest number of active anti-dumping measures (267 on January 1, 2000) and, with an average duty rate of 47%, these anti-dumping duties are real barriers to trade.

Of the 267 anti-dumping measures in effect on January 1, 2000, 36% were targeting imports from developing countries. China was the first target in that group, with 40 measures aiming at its exports (CBO 2001). Given the high level of US imports from China, it is not surprising to see that it now stands as one of the main targets of anti-dumping measures, just behind the EU, which faced 55 active cases in the US. The majority of these cases related to steel products, but a wide variety of goods were also affected, such as textiles and clothing, chemical products, vegetable products, and other foodstuffs (WTO 2001).

The number of anti-dumping measures against developing countries is only part of the picture when one wants to understand the impact of such protection. For instance, research published by the National Bureau of Economic Research calculated that the mere act of investigating anti-dumping complaints results in an important drop in the level of trade (Prusa 1999). Moreover, "frequent investigations, even if the complaints are rejected in the end by the agency, amount to a kind of harassment of the defendants because of the uncertainty and expenses such actions create" (Tharakan 1999, p.183). The legal and administrative costs of the procedures can be particularly heavy for smaller or developing countries. The value of the Southern imports directly affected by anti-dumping measures may be less than 1% of the total value of developing countries' sale to the US. However, the threat of such contingent protection is an important problem in the current trade regime, as it is against one of the basic principles of trade agreements: predictability. When a tariff for a product is bound at a specific level at the WTO, traders know what barriers to expect. Uncertainty has increased now that many developing countries have created anti-dumping laws based on the protectionist American model.

Domestic Support in Agriculture

The United States is the largest agricultural exporter and its production has a significant impact on agricultural world prices. The agri-food sector is the largest recipient of subsidies in the US. During the fiscal year 2000, the US Department of Agriculture distributed a record US$28 billion in direct assistance to farmers and ranchers (USDA 2000). Figures on total government support for agriculture vary according to the way one measures it. For instance, the WTO uses a different way to measure support than the OECD, based on the classification of the types of support in the Agreement on Agriculture (see Chapter 1 in this book). The OECD's Producer Support Estimate (PSE) measures transfers to producers, which exceeded US$50 billion in the US for the crop year 1999.[14] This was about half of what the European Union governments provided to their farmers that year. However, unlike the EU and other

[14] If one includes all US government support to the sector, including marketing and promotion services, the level of support reached US$93 billion for the 1999 crop year (WTO 2001). In 2002, the US Congress adopted legislation that will further increase the level of subsidies in this sector: the Farm Security and Rural Investment Act of 2002. The new law was received with disappointment and outrage around the world.

countries, the US subsidies are concentrated in a limited number of commodities such as corn, wheat, cotton, soybeans, and rice. If we compare the level of support per product, the difference between the two is much lower (Roberts and Jotzo 2001).

Substantial financial support for agriculture can increase the level of production of American farmers and thus decrease world prices. For example, it is estimated that an increase by 10% in one year of US production of wheat, coarse grains, and oilseeds would cause world market price to fall by around 8% for wheat, 13% for coarse grains, and 14% for oilseeds (Roberts and Jotzo 2001). The decline in agricultural prices has negative consequences for producers around the globe, and especially acute ones for poor farmers in the developing world. Indeed, the impact of the heavy subsidization of agriculture in the United States on developing countries is wide-ranging, especially when compounded by the subsidies from the EU and other industrialized countries. In some commodities, it is next to impossible for Southern farmers to compete with US farmers, even in their local markets. For instance, US corn producers receive, on average, $20,000 a year from the federal government. Research conducted by Oxfam showed that exposing corn farmers on the island of Mindanao, in the Philippines, to competition from heavily subsidized US corn was leaving many of the poorest households worse off (Oxfam 2002, p.116; Watkins 1996). The World Bank estimates that the removal of US subsidies on cotton would increase revenues from this crop alone by about USD 250 million in West and Central Africa (Wolfenson 2001). Instead the new Farm Bill of 2002 will increase cotton subsidies by at least 16% (Thurow and Kilman 2002).

The WTO's Agreement on Agriculture adopted in the Uruguay Round was supposed to limit the use of such subsidies and was seen as a gain for developing countries in general; but positive results have yet to be witnessed. If we look at the levels of financial support in the United States since the end of the Uruguay Round, we do not observe a decline of total US support. On the contrary, assistance for American farmers almost tripled between 1997 and 2000 (WTO 2001). Agricultural subsidies are one of the most crucial trade and development issues. A pro-poor trade policy has to start with a decrease in the level of support for American farmers. The majority of the people who survive on less than a dollar a day live in rural areas, most of them as small-scale farmers producing for local markets, as well as for export markets. These farmers and their communities are directly affected by agricultural subsidies.

Conclusions

US trade policy is the outcome of a complex process where the executive and the legislative branches battle for authority and policy initiative and where business groups with exporting interests meet with groups with protectionist preferences. It is a process where the agricultural lobby has an established and powerful presence in Congress and is able to ensure large government payments for its production, and where the textiles and clothing industry is powerful enough to secure high tariffs to protect itself from foreign competition. The result is a trade policy with a rhetoric of free trade but a reality of many barriers to trade for developing countries. The Uruguay Round has offered some improvements, but the problems created by anti-dumping measures and by the large subsidies for agricultural commodities have worsened since 1995.

Therefore, the new round of negotiations at the WTO is crucial for developing countries. At the WTO Ministerial meeting in Doha in 2001, developing countries were able to achieve their goal of including rules on anti-dumping on the negotiating agenda, despite resistance from the US. The negotiating mandate is formulated in conservative terms; that is, it does not require a complete overhaul of these rules, but does "aim to clarify and improve disciplines while preserving the basic, concepts, principles of these agreements, and taking into account the needs of developing and least-developed participants" (WTO website).

Negotiations on agriculture have been taking place at the WTO since 2000 and they include discussions on agricultural subsidies (called domestic support at the WTO). In Doha in 2001, the trade ministers declared that "we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support" (WTO website). The new round has been launched with a development agenda, in response to developing countries expressing their many disappointments with the current trade regime. If industrial countries such as the United States are serious about the idea of a development round, the reduction of domestic support for agriculture has to be at the centre of the new trade arrangements.

Table 1: US Imports from Developing Countries

Year	% of all US imports	In US$ millions
1992	30.56%	162,787
1993	30.92%	179,458
1994	31.37%	208,069
1995	32.51%	241,699
1996	34.65%	275,593
1997	35.74%	310,790
1998	35.52%	323,907
1999	36.10%	369,920
2000	38.11%	463,790
2001	38.70%	441,968

Source: Industry Canada, Trade data online, www.strategis.gc.ca.

Table 2: US Preferential trade regimes for developing countries, 2000

	MFN	Mexico	CBERA	ATPA	GSP	AGOA	LDC
Average tariff (%)	5.5	1.1	2.6	2.7	4	0	2.9
Tariff on prepared food	13.2	6.7	8.7	8.7	11.4	0	8.8
Tariff on textiles and clothing	10.2	0.6	8.5	9.4	10	0	10
Tariff on footwear	13.5	5.8	12	12.1	12.4	0	12.4
Tariff on animals and animal products	12.2	3.7	8	8	11.9		8

Source: WTO, 2001.

CBERA: Caribbean Basin Economic Recovery Act
ATPA: Andean Trade Preference Act
GSP: Generalized System of Preferences
AGOA: African Growth and Opportunity Act

Table 3: US imports by region
(percentage of total imports from Developing Countries)

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Africa	8%	8%	6%	6%	6%	6%	5%	4%	6%	6%
Central America	6%	6%	6%	5%	5%	5%	5%	5%	5%	5%
South America	15%	13%	13%	12%	13%	12%	10%	11%	11%	10%
Middle East	8%	7%	6%	6%	6%	5%	4%	5%	6%	6%
Asia*	41%	44%	45%	45%	43%	44%	47%	45%	43%	43%
Mexico	22%	22%	24%	26%	27%	28%	29%	30%	29%	30%

Source: Industry Canada, Trade data online, www.strategis.gc.ca
* Excludes South Korea, Taiwan, Singapore, Hong Kong, and Macao.

Table 4: US MFN tariff rates and reduction after the Uruguay Round
(percentage)

Product category	*Post-UR applied rate*		*Tariff reduction*	
	Developing	World	Developing	World
Agriculture	**10.5**	**10.8**	1.3	1.5
Fish	1.5	0.9	2.9	2.3
Petroleum Oils	0.7	0.7	0	0
Wood, Pulp, Paper and Furniture	3.7	0.2	4.2	3.4
Textiles and Clothing	**17.1**	**14.8**	1.8	2.0
Leather, Rubber, Footwear	**8.3**	**6.9**	2.0	1.9
Metals	2.9	1.1	3.3	3.8
Chemical	4.8	2.5	5.5	4.9
Transport Equipment	3.1	3.4	0.9	1.1
Non-Electric Machinery	3.1	0.9	2.8	2.8
Electric Machinery	3.5	1.7	3.0	2.5
Minerals, Precious Stones	2.7	1.7	2.9	2.7
Manufactured articles	5.8	1.4	5.1	4.0

Source: Finger, Ingco and Reincke, 1996.
Note: Excludes imports from countries in a Free Trade Agreement with the United States.

Table 5: US anti-dumping activity before and after the Uruguay round

	Before UR (1990-94)	**After UR (1995-99)**
Average number of cases initiated per year	53.4	26.4
Average number of new measures imposed per year	23.2	16.4
Number of active measures	281	267
Initial duty rate, Mean (Per cent)	56.2	47.6

Source: Congressional Budget Office, 2001.

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Part III: Southern Perspectives on the WTO

Chapter 6

Technical Assistance as a Political Instrument

Yash Tandon

There is a generally recognized "capacity gap" within the multilateral trading system between the more developed and less developed countries. The developing countries have a lesser capacity to negotiate trade agreements and to implement them. There is a gap between what they commit themselves to and what they are effectively able to implement. In the agreements of the Uruguay Round and at every conference of the World Trade Organisation (WTO) since 1995, rich countries have promised to address the issue of building the capacity of developing countries to fully integrate into the global trading system. The objective of this paper is to examine the extent to which these objectives have been achieved, the problems encountered, and some possible ways to move the process forward. Having examined evidence on the ground, the paper concludes that, if anything, *the capacity gap is increasing, not decreasing*. There are three principal reasons for this. One is the speed with which matters are moving within the WTO. New issues are constantly added to the negotiating agenda even before developing countries have had time to adjust to the demands of the previous negotiations. In other words, the capacity-building efforts lag behind. The second is that the developed countries regularly use the offer of technical assistance as a means of expanding the mandate of the WTO. In other words, developing countries are persuaded to accept the expanded agenda on the promise that they will be given adequate technical assistance to cope with the new situation. The third main reason that the capacity gap is increasing is the fact that most technical assistance programs are supply-driven. Contrary to their stated objectives, the real intent of technical assistance programs is not to develop developing country capacity to negotiate but to get the developing countries to conform to the expanded trading agenda of the OECD countries. In other words, capacity building is not a politically neutral process. It is a tool to advance the interests of those who supply funds and technical experts. The paper ends by making some recommendations on how trade-related technical assistance may be genuinely improved.

Rationale for Building the Developing Countries' Capacity

One of the more serious anomalies of the contemporary global trading system is the lopsided, asymmetrical negotiating capacity of developing countries in relation to industrialized countries. Except for some large countries among them, such as India, developing countries generally do not have the capacity to respond adequately to the increasing demands of the multilateral trading system. The basic rationale for building the trade negotiating and implementing capacity of developing countries, then, is that, in a fast-globalizing world, they need to catch up with industrialized countries, for otherwise they risk being even further marginalized, and left out of the development process. There are several assumptions behind this proposition that are not necessarily valid, but it is not essential for the purpose of this paper to question them here. There is a widely recognized capacity deficit in developing countries' ability both to negotiate trade agreements and to fulfil their obligations. This is especially the case with countries in Africa and the Least Developed Countries (LDCs), most of which also happen to be within Africa. So Africa tends to be the major target for trade (and other related) capacity-building efforts.

There is yet another reason for bringing the developing countries and LDCs to the level of the industrialized countries, or as near their level as possible, in matters of trade negotiation and implementation. No system can sustain itself without a minimal confidence in the system by those who are supposed to benefit from it. Without such confidence, the system loses legitimacy. This is widely recognized. For example, at a Farming Conference in Oxford¸ England on January 4, 2001, the EC's Trade Commissioner, Pascal Lamy, said that "capacity building" for developing countries "will make our life difficult for us, but that's good for us; it improves WTO's legitimacy." [15]

The Evolution of Capacity Building: From the WTO's Compliance Focus to Third World Collective Self-Reliance

In the early years of the WTO, and until recently, "capacity building" was conceived narrowly in terms of "compliance." The objective of "technical assistance" was to assist the developing countries in complying with the obligations they had undertaken on signing the Uruguay Round Agreements. Amongst these compliance demands, the most numerous and mind-numbing were the so-called "notification requirements." These were to enable the WTO to monitor the extent to which members were fulfilling their obligations under the Uruguay Round Agreements. Annex 1A of the Uruguay Round Agreements listed some 175 notification obligations, 26 of which were classified as of the "regular" type — those that were made at semi-annual, annual, or biennial intervals. To these were added another 40 notification obligations under the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), and some others, making a total of about 215 notification agreements (UNCTAD 1998, p.64). An analysis of these, some 22 months after the Uruguay Round Agreements came into force, revealed that only 50% of the members (both developed as well as developing countries) had completed their notification obligations (WTO 1996, p.13). The compliance rate of the LDCs was below 16%, and in several cases there had been no response from the LDCs at all (UNCTAD 1998, p.64). Falling behind compliance entailed a cost. For example, those not complying would not then be able to take advantage of the transitional provisions in specific agreements. Also, they could theoretically be subject to the disputes settlement system of the WTO.

Included among the compliance demands of the WTO was the implementation of specific agreements. One of these involved enacting new legislation in order to bring domestic law into conformity with the WTO provisions. This meant not only eliminating trade measures and practices that were inconsistent with the Uruguay Round Agreements, but also setting up new institutions, or restructuring old ones. In the case of TRIPS, for example, it meant not only changing existing laws (e.g., on geographical indications, and on plant varieties), but also changing judicial procedures, and putting in place administration (e.g., customs administration) where none existed previously.

In early years, most of the technical assistance took the form of short courses (from one week to six months) either in Geneva or in the capitals of the developing countries. These were provided by a variety of organizations, including the WTO, the United Nations Conference on Trade and Development (UNCTAD), and the International Trade Centre (ITC). Mainly bureaucrats and trade officials from developing countries and LDCs attended these courses. The six-month WTO courses included a visit to one of the OECD countries for the participants to see how things were done in industrialized countries.

However, these workshops had severe limitations. Apart from raising the awareness of the participants about the multilateral trading system and their countries' obligations under the Uruguay Round Agreements, these courses did not help very much. The courses did not, for example, analyze for the participants how the Uruguay Round Agreements, as negotiated, prejudiced their countries, and how they might negotiate a better deal for themselves at subsequent rounds of negotiations. On the contrary, they

[15] From notes taken at the meeting.

were told, generally, that it was in the interest of the developing countries to "integrate" into the multilateral trading system, an argument that often left the developing country participants dissatisfied, since no debate was encouraged on this issue.[16]

There were, furthermore, difficulties about applying what they learned from these workshops to their countries. The problems lay primarily within the countries, where there were serious administrative, financial, and staffing problems. Poorly staffed and regulated administrative machinery, an absence of specialized legal and administrative skills, and a general lack of social infrastructure, meant that the value of much of these courses was wasted. In relation, for example, to investment possibilities, an IMF official had this to say: "The huge amount of resources required for building up the necessary administrative capacities to ensure effective protection of intellectual property rights in LDCs with weak administrative capacities will almost certainly absorb investment capital and create or worsen financial imbalances, which will in turn depress private investment and economic growth" (Vocke 1997, p.7). Keith Maskus, an economist at the University of Colorado, reckoned that it cost a poor country roughly $1.5-2 million just to build a bare-bones infrastructure to implement TRIPS (*The Economist* 2001).

In other words, no serious effort was made to properly analyze the infrastructure and other requirements for technical assistance programs to be effective in the home countries of the participants. The courses tended to be largely formalistic exercises, aimed mainly to give the impression that "something was being done" to provide the developing countries with "capacity building." This was no fault of those who actually administered these courses (the staff of the WTO and invited consultants). The fault lay in the very conceptualization of the program by those who negotiated the inclusion of technical assistance as a means of reaching trade agreements. Looking back at the way the Uruguay Round Agreements were negotiated, it is clear that the industrialized country negotiators used promises of technical assistance as a means of persuading developing countries to sign the Uruguay Round Agreements. Once this was done, it then became a formalistic exercise to execute the technical assistance program, and this is what the WTO seminars did.

Compliance with the requirements of the WTO was only one (and in the early years perceived as the most urgent) matter for technical assistance. It was soon realized that this was not enough. Something more was needed if developing countries were to take advantage of the opportunities that globalization and market liberalization were supposed to offer to them. And so, many of the above institutions started looking into market access possibilities for the developing countries that the Uruguay Round Agreements were supposed to open up, for example, in agriculture and textiles. The United Nations Industrial Development Organization (UNIDO), as well as the ITC and UNCTAD undertook several studies to explore exporting possibilities for developing countries. So did several bilateral lending and development-oriented institutions, such as CIDA in Canada and the Department for International Development (DFID) in the UK. Some of these studies were useful. By and large, however, they were not. Once again, with compliance training, it was soon understood that the major problem lay with supply constraints within these countries, and not much could be done unless these constraints were addressed.

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[16] The author was asked to speak at one of these course visits in Helsinki. In talking with the participants from Africa, Asia, and Latin America, he gathered that they benefited from these courses by increasing their knowledge about the WTO; but very few had concrete ideas on how they would apply this knowledge once they got back to their respective countries. Also they confirmed that no debate was encouraged on the inequities of the system, or how they might negotiate for better terms for their countries in future trade negotiations.

Limitations of Technical Assistance

Thus, barely three years into the birth and functioning of the WTO, it was becoming abundantly clear that the provision of "technical assistance" by the various agencies of the UN (UNCTAD, UNIDO, ITC) and by the WTO itself, as well as by several bilateral intergovernmental programs meant, in effect, very little. They helped to increase the individual knowledge of the participants who attended the various courses organized by these agencies, but they did very little to help build the infrastructural capacity of these countries, nor to develop their supply capacity, nor to overcome the many hurdles the industrialized countries erected against imports from the developing countries.

It became clear, in other words, that the technical assistance programs of the WTO, and also in many instances those of UNCTAD and the ITC (created, essentially, to help the developing countries), were really programs to assist the industrialized countries rather than the developing countries. They were formal exercises that served the purpose of proving that the industrialized countries were fulfilling their obligations to the developing countries. In fact, they were largely donor-driven exercises that served the interest of the donors more than they did those of the recipients.

Oddly, years after the OECD and UN systems had changed their language from technical "assistance" to technical "cooperation," on the grounds that the word "assistance" denoted a top-down process, one in which the donors were assumed to possess all knowledge and the recipients were simply passive agents, the WTO stuck to the term "technical assistance."[17] This was not accidental. The vocabulary of "assistance" was indeed the top-down ethos indicative of the patronizing and overbearing style of much of the "technical assistance" that was offered by the WTO to the developing countries.

It also became clear that the developing countries could not take full advantage of the globalization process unless industrialized countries fulfilled their part of the deal, especially in relation to the provision of special and differential treatment to the developing countries and the LDCs. In other words, the problems did not lie solely with the "capacity gap" of the developing countries to implement their obligations. Nor did they lie solely in the supply constraints within these countries. An important area that had to be looked into was the "capacity gap" within industrialized countries as well, for evidently they lacked the capacity, or the will, to fulfil their part in creating an enabling environment in which the developing countries could benefit from the process of globalization. It also became clear that for the developing countries to take full advantage of the multilateral trading system, they needed to prepare themselves better in the art and skills of negotiation.

Building Negotiating Capacity and Moving Toward Alternative Modes of Capacity Building and Developing Country Self-Reliance

Once a critical mass of developing country negotiators in Geneva became aware that they needed to prepare better for future negotiations, it was clear that it was not enough to adapt and conform to the compliance demands of the Uruguay Round Agreements, *ex post*. It was also necessary, *ex ante*, to prepare to negotiate on matters of concern to them. And once it became evident that the WTO could not be counted on to provide support that was genuinely needed by developing countries, Third World Intergovernmental Organizations (IGOs) and NGOs began to address this matter for themselves.

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17 In 1991 the DAC/OECD [The Organisation for Economic Co-operation and Development's (OECD) Development Assistance Committee] issued "Principles for New Orientations in Technical Co-operation," a document that emphasized local control and capacity development rather than a top-down approach to what was until then called technical "assistance."

Foremost among these was the Third World Network (TWN), an NGO based in Penang, Malaysia, that started out as a consumer association and branched into issues of the environment and trade. The TWN began by organizing briefing sessions with trade negotiators based in Geneva, and developing close links with a number of Third World countries that were later to form the "Like-Minded Group" (LMG). The LMG became an important nucleus of a few countries from the South (the numbers varied from 13 to 20, depending on personalities and circumstances) whose Geneva-based delegations sought to provide an independent analysis of trade-related issues, and to develop collective negotiating positions.

UNCTAD soon saw a niche role in the process. It took the initiative for developing a "positive list" of items that developing countries could advance in future negotiations as a way of proactively engaging in the negotiations rather than waiting for the industrialized countries to dictate the agenda to them. In 1997, it issued an important new initiative called, "Uruguay Round and its Follow-up: Building a Positive Agenda for Developing Countries." Concurrently, the South Centre, a centre created at the end of the Nyerere-led South Commission, started a program of training and analysis of trade-related issues of concern to developing countries. Not much later came an initiative from Southern Africa. Called the Southern and Eastern African Trade Information and Negotiations Initiative (SEATINI), it aimed at facilitating the creation of real capacity for trade analysis and negotiations among African countries.

UNCTAD, TWN, the South Centre and SEATINI are mentioned here because they are best known to the author, but they were not the only bodies that provided alternative sources of information and analysis to those provided by the WTO and other mainstream "technical assistance" providers. The WTO and trade issues were becoming major issues of concern for an increasing number of civil society organizations, locally and globally, which began to question the presumed benefits of globalization and liberalization. The movement received encouragement and an inspiring boost when they were able, collectively, to defeat the OECD-shepherded attempt to negotiate the Multilateral Agreement on Investment (MAI), which could have freed the movement of capital from all national regulatory and control mechanisms. The French government finally relented under pressure and the MAI died — only, however, to be resurrected later at the WTO Doha Ministerial.

Among the civil society organizations and movements, there were those that were opposed to the capitalist system as a whole, and there were others that were single-issue oriented, focusing on issues such as agriculture, TRIPS, health, environment, labour standards, women's rights, human rights, and so on. The various actors were not necessarily in agreement on several of these issues. The important point is that the developing country negotiators in Geneva and in the capitals now had access to a plethora of organizations and initiatives other than the mainstream bodies such as the WTO, the ITC, the IMF, the World Bank, and the official bilateral donor agencies. Among these alternative sources were organizations such as the International Centre for Trade and Sustainable Development (ICTSD), the Centre for International Environmental Law (CIEL), Médecins sans frontières, Oxfam, the Institute for Agriculture and Trade Policy (IATP), the Development Gap, ActionAid, World Development Movement (WDM), the World Council of Churches (WCC), Environnement et développement du tiers monde (ENDA), Women's Environment and Development Organization (WEDO), Lawyers for Human Rights, and scores of others.

All these developments were converging just as the WTO was preparing for the third WTO Ministerial Conference in Seattle, USA, in November 1999. Before proceeding further, it would be useful to recapitulate and summarize some of the developments that had direct bearing on the capacity-building efforts of the developing countries:

- The increasing awareness of the limitations and futility of the compliance-focused technical assistance program of mainstream technical assistance agencies, especially the WTO.

- The assumed benefits of globalization without debate or discussion in the WTO, UNCTAD, the ITC, and other bilateral organized technical assistance programs.
- The supply and infrastructural constraints within developing countries, especially LDCs.
- The non-tariff barriers, subsidies, and other anomalies in the system that prevented developing countries from making full gains from the system.
- The capacity deficit, or lack of will, on the part of the industrialized countries to fulfil their commitments to the developing countries within the Uruguay Round Agreements.
- The need for developing countries to better prepare for future negotiations, *ex ante* rather than adjust to the industrialized country-dominated agenda *ex post*.
- The emergence on the scene of independent efforts by Geneva-based developing country ambassadors and by IGOs and NGOs from the developing countries to develop methods based on collective self-reliance.
- The global movement against globalization and the appearance on the scene of a plethora of independent bodies concerned about the inequities of the WTO and the Bretton Woods system.

As indicated earlier, matters came to a head just before the third WTO Ministerial Conference. The increasing awareness, especially among African trade negotiators about the inequities of the system, as well as institutional support from bodies that could provide an alternative analysis, created the possibility, for the first time, for a real challenge to the industrialized countries. This possibility was aided, furthermore, by the fact that, fortuitously, the Tanzanian Ambassador to Geneva, Ali Mchumo, held the chairmanship of the General Council at the time. The combination of these factors enabled the developing countries to put upfront not only a list of their own "positive agenda" for the Seattle Ministerial, but also a list of over 200 issues left over from Marrakech and Singapore that needed to be implemented.

These "Implementation Issues" arose as a result of identifying the asymmetries and imbalances in the Uruguay Round Agreements, and the discovery that industrialized countries lacked the will to play their own part in making the system work so that the developing countries could derive legitimate benefits from the WTO and the multilateral trading system. The developing countries argued that these asymmetries within the system should be remedied without reciprocal concessions from the developing countries because they were inherent anomalies in the system. The industrialized countries, on the other hand, argued that they could not do so, and that the "implementation issues" formed part of the package that was to be negotiated at Seattle. They insisted on a "new round". So the technical assistance programs mounted by the mainstream organizations (especially the WTO) and donor-financed technical assistance programs began to concentrate on persuading developing country negotiators that the best solution lay in placing implementation issues within the context of a new round of trade negotiations, expected to be launched at Seattle.

The controversy between "new round" versus "implementation issues" became the central focus of debate and of "technical assistance" programs preceding Seattle. The story of what happened at Seattle is well known. Of relevance to this paper is the manner in which the promise of "technical assistance" became, once again, a ploy to get the developing countries to agree to a new round of negotiations. The Canadian Minister of Trade, for example, was chair of one of the six committees that were set up at Seattle in order to carry out "hearings" from the delegates whilst, behind-the-scenes, hard negotiations were proceeding in the so-called "green" rooms, from which most of the developing countries were excluded. In the committee chaired by the Canadian minister, developing country members raised several issues on implementation. But every time such an issue was raised, the chairman turned it into an issue for technical assistance. His point, which he pursued doggedly, was that the Committee should endorse negotiations for a "new round" because the implementation issues could always be taken care of by asking the WTO and the donors to provide "technical assistance" to the developing countries. In other words, he either completely missed the point made by the developing country delegates, or was consciously manipulating the process away from the concerns of the developing countries.[18]

While developing countries, through their own initiatives, shifted toward collective self-reliance on matters of analysis and in preparing for negotiations, the WTO remained within its old paradigm of providing "technical assistance" to enable the developing countries to comply with and conform to the demands of the Uruguay Round Agreements. However, at the Second Ministerial Conference in Singapore in November 1996, the developed countries agreed to hold a special conference to examine the special needs of the Least Developed Countries (LDCs) in an integrated manner. It was becoming clear that the LDCs faced serious supply-side and institutional problems, and that technical assistance that was limited to compliance issues was not good enough. In October 1997, the WTO organized a High-Level Meeting for LDCs, where it was decided that six agencies — the ITC, the IMF, UNCTAD, the UNDP, the World Bank, and the WTO — would take joint responsibility for the implementation of an integrated framework (IF) for delivering trade-related technical assistance to the Least Developed Countries.

The integrated framework, however, did not function as well as expected. According to a July 6, 2000 press release, the heads of the six agencies met in New York "to discuss better ways of delivering trade-related technical assistance to the world's poorest countries." WTO Director-General Mike Moore, who chaired the meeting, said: "We all know the IF has not been working as well as it should and we are putting in place new arrangements to rectify the situation. We have a responsibility, shared with governments and other agencies and institutions, to do better in assisting the LDCs to integrate into the world economy." In a joint statement, the six heads set out the following new points for the IF:

> **Agree** to seek donor support for and voluntary contributions to an Integrated Framework Trust Fund (IFTF) for the purpose of mainstreaming trade and trade-related assistance into development architecture. The IFTF would finance: i) the formulation by countries of trade integration strategies as part of their Poverty Reduction Strategy Papers (PRSPs); ii) project preparation and design of trade capacity-building projects in areas that are identified as priorities in the PRSP; iii) regional projects that do not fall within the scope of the CG/RT process; and, iv) limited and urgent capacity-building activities for LDCs for which no PRSP will be prepared or where CGs/UNDP Round Tables are not taking place (including in an appropriate time-frame). The funding objective for the period 2001-2003 is set at US$20 million.

In other words, trade was now seen as part of the broader framework of "poverty reduction."

Another development that the main agencies undertook was the JITAP — Joint Integrated Technical Assistance Programme. Whilst the IF was directed at the 49 LDCs, the JITAP was initially targeted at eight countries — four LDCs and four developing countries. It set itself five objectives:

1. Develop national capacity to understand and manage WTO Agreements;
2. Strengthen trade and export policy and negotiating capabilities;
3. Improve institutional mechanisms to carry out the WTO Agreements;
4. Develop supply-side response to multilateral trading system opportunities;
5. Improve access to export business services and performance tools.

JITAP set up a Common Trust Fund of US$10 million, to be disbursed under two windows. Window I was for unearmarked contributions, which would be used to finance national needs assessments, project

[18] The author, then a member of the Zimbabwe delegation, was an eye-witness to the above scenario.

development and advisory missions, activities for the collective benefit of participating countries, and complementary or full financing of country projects. Window II, for earmarked contributions, would be allocated to specific country projects. Managed by the ITC, the Fund would be guided by a Steering Group consisting of donors, beneficiary countries, and the secretariats of the ITC, the WTO and UNCTAD.

JITAP, like the IF, has not done as well as expected. An independent evaluation of JITAP undertaken in 2000 analyzed, among the reasons for its poor performance, the excessive centralization of decision-making in Geneva. Since then efforts have been made to make JITAP more sensitive to the local and regional environment, but a new evaluation is awaited to see if the new arrangements have made any difference.

As we move into the present period, it is necessary to acknowledge that at the Doha Ministerial in November 2001, the industrialized countries managed to regain control over the process that they had lost at Seattle. Through a skilful use of pre-Doha seminars (heavily funded by the donors), massive public relations work energetically carried out by the WTO's Mike Moore and the EC's Pascal Lamy (among others), and skilful manipulation of the processes at Doha itself, the industrialized countries were able to secure more or less what they had wanted at Seattle. They have also been able to get the consensus of the developing country trade ministers on a new program of action in the name of a "development round."

On the question of technical assistance, as in all previous Ministerial conferences, the promise of "technical assistance" became, once again, one of the means of securing the consensus of developing country ministers on a new round. For example, the same Canadian trade minister who had chaired one of the committees at Seattle was, once again, one of the six "facilitators" appointed by the Chair at the Doha Conference. He used exactly the same methods to secure compliance of the African ministers with regard to a new round, that is, promising that matters that worried them would be "taken care of" under technical assistance programs.[19] Technical assistance provisions are included in paragraphs 16, 22, 25-27, 33, 38-40, 42, and 43 of the Doha Ministerial Declaration (WTO 2001). Two observations need be made about this. One is that paragraphs 16, 22, and 25-27 deal with the "new issues" (the so-called Singapore issues of investment policy, competition policy, government procurement and trade facilitation) that were strongly opposed by a bulk of the developing countries as items for future negotiations. Consensus was derived at the last minute by the Chairman of the Conference by clarifying, at the insistence of India, that negotiations on these issues would begin only if there was "explicit consensus" on them at the next Ministerial. The other measure that apparently enabled to secure developing country, especially African, compliance was the offer of technical assistance in these issues. Technical assistance, then, becomes a vital part of these paragraphs as a means of ensuring that by the time the next Ministerial takes place (in Mexico in September 2003), the industrialized countries are in a position to argue that the developing countries have been given ample "technical assistance" in these matters, and so they cannot now refuse to negotiate on them. Following the Doha Conference, the WTO/UNCTAD set up the Doha Development Agenda Global Trust Fund of about US$17.5 million for technical assistance. Two-thirds of the fund is reserved for technical assistance on the four Singapore issues — 50% on the issue of investment alone (Patel 2002).

The second observation about the provisions of technical assistance in the Doha declaration is that the WTO has gone back to the IF and the JITAP as the "models" for technical assistance, even though independent evaluators have been critical of these models, and the agencies know this. Paragraph 39 of the Doha Declaration reads:

[19] The author was in attendance at the particular meeting chaired by the Canadian minister, this time as an official in the Uganda delegation.

> 39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

Before drawing conclusions, it may be instructive to analyze why donor-driven programs, such as those in the WTO itself, the IF, and JITAP, have not performed as well as programs that are in the control of the developing countries themselves.

Why Donor-Driven Technical Assistance Tends to Under-Perform

In the mid-1980s, the UNDP initiated a recipient-driven exercise in evaluating technical cooperation called NaTCAPs — National Technical Cooperation Assessment and Programmes. Based on some 15 African country studies, the final report came out as "Rethinking Technical Cooperation: Reforms for Capacity Building in Africa," (UNDP 1993. Berg Report). In its conclusions it made this very important observation:

> Two generations ago, technical cooperation was universally esteemed. Early students of economic development and all who were concerned with world poverty believed it to be a straightforward and powerful device … Quite suddenly, all this has changed. In the 1980s, technical cooperation has been subjected to a growing barrage of criticism (UNDP 1993, pp.243-44).

Almost a decade later, the UNDP brought out another study — "Capacity for Development: New Solutions to Old Problems" (UNDP 2002). In summarizing the past experience of technical cooperation, it stated that donor-driven technical assistance is frequently criticized for the following:

> *Undermining local capacity:* Rather than helping to build sustainable institutions and other capabilities, technical cooperation tends to displace or inhibit local alternatives.
>
> *Distorting priorities:* The funding for technical cooperation generally bypasses normal budgetary processes, escaping the priority-setting disciplines of formal reviews.
>
> *Choosing high-profile activities:* Donors frequently cherry-pick the more visible activities that appeal to their home constituencies, leaving recipient governments to finance the other routine but necessary functions as best they can.
>
> *Fragmenting management:* Each donor sends its own package of funds and other resources for individual programs, and demands that recipients follow distinctive procedures, formats and standards for reporting, all of which absorb scarce time and resources.
>
> *Using expensive methods:* Donors often require that projects purchase goods and hire experts from the donor country, although it would be far cheaper to source them elsewhere.
>
> *Ignoring local wishes:* The donors pay too little attention either to the communities who are supposed to benefit from development activities, to the local authorities, or to NGOs, all of whom should comprise the foundation on which to develop stronger local capacity.

> *Fixating on targets:* Donors prefer activities that display clear profiles and tangible outputs. Successful capacity development, on the other hand, is only intrinsically included.

Another study by a Tanzanian economist argues along similar lines. In a keynote address to the African Capacity Building Foundation (ACBF) conference in Bamako, Mali, in October 2001, he had this to say on the question of "Sources of Donor Assistance Failures":

> The problem with donor assistance can be summed up as being rooted in supply-driven approaches to capacity building. Much donor-financed capacity building has been based on donor analysis rather than country demand as their starting point and has consisted of transfer models and approaches developed by outsiders. …. Most African governments do not play a meaningful role in the analysis of capacity problems and in the design of solutions to address them. The "African Voice" in designing capacity building projects and programs is often muted or unheard and as a result, there is a tendency to reproduce donor notions and preferences for capacity, and subvert local ownership. Most efforts therefore end up as supply driven exercises, which are unsuccessful (Wangwe 2001).

In the landmark UNDP 2002 study, an intergovernmental agency, for the first time, tried to go below the surface and identify the reasons why the problems of technical assistance continue to persist. This is what it says:

> The old model has been based on two mistaken assumptions in particular. The first is that it is possible simply to ignore existing capacities in developing countries and replace them with knowledge and systems produced elsewhere — a form of development as displacement, rather than development as transformation. The second assumption concerns the asymmetric donor-recipient relationship — the belief that it is possible for donors ultimately to control the process and yet consider the recipients to be equal partners.

To put it bluntly, it is essentially the lack of ownership that explains the poor performance of donor-driven technical assistance. Underlying the ownership issue are the asymmetrical power relations between the donor and the recipient. "The asymmetry issue," the UNDP study says, "is inevitable. Donors will always ultimately control the funds and where they are disbursed. The recipient's final recourse is the exit option — simply to reject any assistance with which it is dissatisfied." That, however, is not always easy. There is a strong inclination on the part of the recipients to conform to what the donors desire. In the process, however, the recipients receive the money, the consultants, and much else in the technical assistance "baggage" that is not really necessary for the success of the project. And so the old problems persist.

Conclusions and Recommendations

One lesson that emerges from a close analysis of technical assistance provision under the dominant WTO (and Bretton Woods) system is that "technical assistance" is not a value-free project. It is, in fact, a deeply political project. The industrialized countries that provide the funds and the technical experts drive the process and consciously use "technical assistance" to secure a certain politically motivated agenda. In the case of the WTO, the industrialized countries have consciously, and deliberately, used the promise of technical assistance both to divert the attention of the developing countries from issues of central concern to them, and to get them to agree to the agenda set by industrialized countries.

The second interesting observation to make specifically about the WTO is that it has learned nothing from the previous experience of the UNDP and other bilateral and multilateral providers of technical assistance. Strangely, even the donor countries that, under other structures such as those of the DAC/OECD (The Organisation for Economic Co-operation and Development's (OECD) Development Assistance Committee) and the UNDP, have recognized and moved away from top-down approaches to the provision of technical assistance, and have recognized the importance of ownership when it comes to the WTO are strangely oblivious to the obvious contradictions in their own positions. The WTO appears to be an odd animal that continues to feed on outdated, and failed, concepts of technical assistance.

The only answer to this dilemma is for developing countries to create their own capacity, with or without donor assistance. After all, as the 2002 UNDP study argues, capacity building is not a means to something else; it is an end in itself. The developing countries must build their capacity for their own sake. Only then can they own the process of developing independent skills and institutions for trade negotiations and for the larger development effort itself. In other words, capacity building cannot be reduced to "human resource" development. Developing individual skills is important. But it is also necessary to develop sustainable institutional structures, and societal resources that sustain both the individuals and the institutions.

Where do the mainstream provisions of technical assistance, such as those provided for in the WTO, and the UNCTAD/WTO post-Doha "Plan" for technical assistance to the developing countries, fit into this paradigm? In fact, they do not. They are anomalies in the context of the knowledge we already have about the futility of donor-driven technical assistance programs. Nonetheless, they are a reality. Rightly or wrongly, those are the programs where the money is. All that the developing countries can hope for is that at least some of the donors recognize the fact that it is not in their interest to put money into concepts that have failed. Also, within the context of the WTO, the developing country representatives in Geneva and in capitals could seek to influence the allocation of the Doha-promised Trust Fund so that it is directed into processes and projects that arise out of their own needs rather than out of the needs of the donors.

The other alternative for the developing countries is to take advantage of the scores of NGOs and civil society alternative movements that have accumulated knowledge, done analysis, and gained experience through activist work. Many of them are located within industrialized countries, and share the general perception of the developing countries that the WTO is an unjust system and needs to be put right. But there are many that are based in the developing countries themselves, and which now have some expertise on trade-related issues and modes of negotiation.

We end with one final word for EC Trade Commissioner Pascal Lamy. He was earlier quoted to say that the rich countries must help develop developing countries' build capacity to negotiate in the WTO, even if this goes against the immediate interests of the industrialized countries, because it would help improve the WTO's legitimacy. He is right. But the way the WTO is going about it is not the right way to build its legitimacy. There are better ways. Pascal Lamy might want to exercise his considerable influence to point the WTO in the right direction.

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Chapter 7

Implementation of the WTO Agreement on Agriculture in India

Pranav Kumar

The Uruguay Round (UR) of multilateral trade negotiations was completed in 1994 with the signing of the Marrakesh Declaration. Among the most significant accomplishments of the Uruguay Round was its focus on agricultural trade and the resulting new disciplines on agricultural trade policy. Up to 1995, the rules of the General Agreement on Tariffs and Trade (GATT) were largely ineffective in disciplining key aspects of agricultural trade. In particular, export and domestic subsidies came to dominate many areas of world agricultural trade, while the stricter disciplines on import restrictions were often flouted. The Uruguay Round negotiations went a long way toward changing all that. This chapter will first outline the results of these negotiations, the WTO Agreement on Agriculture (AoA). Next, it will examine the implementation and the impact of this agreement on the agricultural sector in India.

Agriculture trade is now firmly established within the multilateral trading system. Under the Agreement on Agriculture, member countries agreed to reduce agricultural support and protection substantially by establishing disciplines in the areas of market access, domestic support, and export subsidies. Under market access, countries agreed to open markets by prohibiting non-tariff barriers, converting existing non-tariff barriers to tariffs, and reducing tariffs. Members also agreed to reduce expenditures on export subsidies and the quantity of agricultural products exported with subsidies. Domestic support reductions were realized through commitments to reduce the Aggregate Measure of Support (AMS), a numerical measure of the value of most trade-distorting domestic policies. The agreement was implemented over a 6-year period, to 2000.

Though the original GATT 1947 applied to trade in agriculture, it allowed various exceptions to the rules, which led to severe distortions in world agricultural trade. For instance, the GATT 1947 allowed countries to use export subsidies on agricultural primary products, whereas export subsidies on industrial products were prohibited. The GATT rules also allowed countries to resort to import restrictions (e.g. import quotas) in the agricultural sector under certain conditions, notably when these restrictions were necessary to enforce measures to effectively limit domestic production. The result of all this was a proliferation of impediments to world agricultural trade. When the Uruguay Round of trade negotiations started in 1986, one of the most important goals was to remove trade distortions in the agricultural sector resulting from different levels of input subsidies, price and market support, export subsidies, and other kinds of trade-distorting support across countries.

WTO Agreement on Agriculture

Prior to the Uruguay Round Agreement on Agriculture (URAA), GATT rules on trade in agricultural products were limited and often ineffective. A number of exceptions exempted agricultural products from most of the disciplines applying to manufactured goods. As a result, countries often resorted to measures such as export subsidies, which are not permitted in other sectors, as well as a multitude of non-tariff barriers that restricted agricultural trade. The URAA was a turning point in the reform of the agricultural trade system. Countries agreed to reduce agricultural support and protection substantially by establishing disciplines and rules on market access; export competition; toward domestic policies. These three sets of disciplines on agricultural policy are sometimes referred to as the three "pillars" of the URAA.

In addition to the three "pillars", a new Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) was signed. The SPS provides for countries to take measures to protect human, animal, and plant health, while at the same time establishing rules to prevent countries from using arbitrary and unjustified health and environmental regulations as disguised barriers to trade.

The URAA has produced positive results, principally:

- Non-tariff barriers (including quantitative import restrictions, variable import levies, discretionary import licensing, and voluntary export restraints) were converted to tariffs, which are bound and subject to reduction commitments.
- Export subsidies on agricultural products are for the first time subject to disciplines.
- Domestic policies that affect the production and trade of agricultural products are subject to a set of rules and bindings, in the process are becoming more transparent.
- The AoA acknowledged the need for special and differential (S&D) treatment for developing countries; these are reflected only as differences in phasing and percentage reduction (Table 1).

Table 1: Uruguay Round targets for cutting subsidies and protection in agriculture

Category	**Developed Countries** **6 years: 1995-2000**	**Developing Countries** **10 years: 1995-2004**
Tariffs		
Average cut for all agricultural products	-36%	-24%
Minimum cut per product	-15%	-13%
Domestic Support		
Cuts in total 'AMS' support	-20%	-13%
Exports		
Value of subsidies-outlays	-36%	-24%
Subsidised quantities	-21%	-14%

Source: WTO, 2002.

Note: Least-developed countries do not have to reduce tariffs or subsidies.

These are important systemic changes from the pre-Uruguay Round period. However, distortions to agricultural production and trade remain high. In practice, the URAA achieved only limited reduction in effective protection. For example, the differences in commitments in respect of reduction in tariffs between developed and developing countries is illusory in as much as: developed countries had protected their agriculture substantially before the Uruguay Round so that even after a 36% reduction, their rates are absolutely and relatively very high; the AoA did not mandate reductions in absolute terms but only in relative terms; and allowing mandatory reductions to be established on an unweighted basis enabled developed countries to lower higher tariffs on products of export interest to developing countries by the minimum level of 15% and to avoid making substantial reductions on items of importance to them.

WTO Agreements Related to Agriculture

The AoA is only one of 28 Uruguay Round agreements. There are other WTO agreements that influence free and fair trade in agriculture. The agreement on Sanitary and Phytosanitary (SPS) measures is one that has direct bearing on agricultural trade. In other agreements, a few provisions influence trade in agriculture. The issue of patenting plant varieties, as per the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), is an example. Some of these WTO agreements are briefly presented below:

Agreement on Sanitary and Phytosanitary Measures (SPS)

The agreement on SPS recognizes the right of a government to take measures to ensure food safety and to protect animal and plant health. The agreement requires that such measures be applied only to the extent necessary to meet these ends. The measures must be based on scientific criteria and not serve as disguised protectionist measures. A number of relevant international standards are provided by specialized institutions, such as the Codex Alimentarius Commission for Human Health, the Office International des Epizooties (OIE, World Organisation for Animal Health), and the International Plant Protection Convention (IPPC). These standards are recognised by the WTO and the protection measures pertaining to them are accepted. On the other hand, any national legislation leading to a stricter protection of trade must be justified scientifically.

Agreement on Technical Barriers to Trade (TBT)

The agreement on TBT is another amongst the WTO agreements that have indirect bearing on trade in agriculture. It covers all technical regulations and procedures to evaluate conformity other than those concerning human, animal, and plant health covered by the SPS agreement. The agreement requires that technical standards and regulations should not be drawn up with the aim of restricting trade. It encourages the use of international standards and calls for national testing and certifying bodies to avoid discrimination against imports, and as far as possible, recognition of other countries' tests and certificates. It also includes elaborate procedures for notification and consultation, and provisions for technical assistance to developing countries and for greater flexibility for these countries.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

This is a very important agreement because it incorporates the trade in "ideas" within the sphere of the WTO's activities. It obliges signatory countries to define in their national legislation the minimal standards for protecting intellectual property, as well as the means to ensure compliance with these norms. Agriculture in developing countries is very much affected, since this agreement covers all living organisms (animals, plants, micro-organisms, genes, etc.). It clearly addresses the question of the appropriation of seeds, biological resources, or traditional knowledge and, in exchange, the cost of access to them and their use. In a country like India where a significant proportion of the population is still living below the poverty line, farmers losing rights over seeds will adversely affect food security for millions of poor people.

Indian Agricultural Trade: A Brief Overview

A major proportion of Indian farm produce goes toward supplying food for the country's population and raw materials for industry. Seventy-five per cent of the country's population is still in rural areas and hilly terrain and 60-70% of GDP from agriculture comes from subsistence agriculture. Although agriculture contributes about 25% of GDP, India's share in total world merchandise trade is not significant. Overall, with a negligible 0.7% share in world imports and 0.6% in exports, India is not very visible in the arena of international trade. For the last few years, India has experienced record foodgrains production. The year 1999-2000 registered foodgrains output of 208.9 million tonnes, which included 89.5 million tonnes of rice and 75.6 million tonnes of wheat. Commercial crops too did fairly well, except for oilseeds and cotton. But at the same time, more than 200 million people are living below the poverty line and go to bed hungry.

Liberalization of world trade in agriculture has opened up new vistas of growth. India has a competitive advantage in several agricultural commodities because of near self-sufficiency of inputs, relatively low labour costs and diverse agro-climatic conditions. These factors have enabled the export of several agricultural commodities over the years, such as cereals, cashews, tea, coffee, spices, oil meals, fruits and vegetables, castor, and tobacco. For certain commodities, like basmati rice, India has a niche market access in spite of competition. Agricultural exports have a sizeable share of about 18-20% in India's total exports. Agricultural imports are about 5-6% of total imports in the country. Only a few commodities, like edible oil, cotton, pulses, and wood and wood products, are imported.

In the post-WTO period, raising the level of productivity and quality standards to internationally competitive levels is one of the major challenges before the Indian agriculture sector. As per the WTO AoA, India has also dismantled quantitative restrictions on nearly all items during 1990-2001, with a view to enabling better market access for the rest of the world and also to making its products competitive. At present, for several commodities, India's national productivity is less than the world average.

Pursuant to the Uruguay Round agreements, India has also undertaken many steps toward reforming its agricultural sector. India has dismantled quantitative restrictions in five phases to enable better market access and provide quality and cheap products to domestic consumers. This step was taken to fulfill the commitments under the AoA market access clause. As shown below, the Aggregate Measurement of Support (AMS) has already been proven negative in the case of India. Therefore, India does not need to reduce its subsidies. On the export subsidy front, not many significant measures were required from India, as Indian exporters do not get any direct export subsidy. Apart from these measures, India also took some unilateral steps to liberalize its agricultural sector. For example, in January 1994, the government abolished the minimum export price of basmati rice; in March 1994, import controls on sugar and cotton were removed; in February 1995, a major decision was taken to put almost all edible oils (except coconut oil) under open general license.

India's Obligations Under AoA and Implementation Status

Market Access

All member countries are required to convert non-tariff barriers into tariff barriers and submit ceiling tariff bindings for all commodities. In other words, the AoA states that there can be no restrictions on farm trade except through tariffs. Tariffs resulting from this "tariffication process" as well as other tariffs are to be reduced by a simple average of 36% over 6 years in the case of developed countries and 24% over 10 years in the case of developing countries.

India has submitted high tariff bindings of 100%, 150%, and 300% respectively for primary products, processed products and edible oils, except for certain items (comprising about 119 tariff lines), which were historically bound at a lower level in the earlier negotiations. Out of these low-bound tariff lines, bindings on 15 tariff lines, which included skimmed milk powder, spelt wheat, corn, paddy, rice, maize, millet, sorghum, rape, colza and mustard oil, fresh grapes, and other items, were successfully negotiated under GATT Article XXVIII in December 1999 and the binding levels were revised upward to provide adequate protection to the domestic producers.

India has maintained quantitative restrictions for balance of payment reasons. It has followed a consistent policy of gradual removal of restrictions on imports since 1991, when the domestic economic reforms were initiated. The process of removing import restrictions on balance of payment grounds has been completed with the removal of restrictions on 715 remaining items in the Export-Import Policy announced on March 31, 2001. Quantitative restrictions are, however, still being maintained on about 5% of tariff lines (538 items), as permissible under Article XX and XXI of GATT, on grounds of health, safety, and moral conduct. Most of them are agricultural products (GOI 2002).

Out of the 715 items on which quantitative restrictions were removed, there were 342 textile products, 147 agricultural products including alcoholic beverages, and 226 other manufactured products, including automobiles. Imports of agricultural products like wheat, rice, maize, other coarse cereals, copra, and coconut oil were placed in the category of State Trading. The nominated State Trading Enterprise will conduct the imports of these commodities according to commercial considerations (GOI 2001a). India has not made any commitment to provide minimum market access opportunities. Other countries that had tariffied their quantitative restrictions had to offer minimum access to the extent of 3% of their domestic consumption, going up to 5% at the end of the implementation period. India is not entitled to use the Special Safeguard Mechanism of the Agreement, as only countries that have tariffied can use it. India can, however, take safeguard action under the WTO Agreement on Safeguards if there is a surge in imports causing serious injury or if there is a threat of serious injury to domestic producers.

Domestic Support

The AoA distinguishes between three types of production support, grouped into "boxes": green (permitted), amber (to be reduced, with an upper limit), and blue (subsidies that are tied to programs that limit production). There are also exemptions for developing countries in the form of special and differential (S&D) treatment.

Domestic support measures, according to the agreement, are meant to identify acceptable measures of support to farmers and curtail unacceptable trade-distorting support to farmers. Trade-distorting domestic support is measured in terms of what is called the "Total Aggregate Measurement of Support," which is expressed as a percentage of the total value of agricultural output and includes both product-specific and non-product-specific support. The AoA stipulates a reduction commitment of total AMS by 20% for developed countries in six years (1995-2000) and by 13-1/3% for developing countries in 10 years (1995-2004), taking 1986-88 as the base period. However, domestic support given to the agricultural sector is allowed — up to 10% of the total value of agricultural produce in developing countries and 5% in developed countries. In other words, AMS within this limit is not subject to any reduction commitment.

India has basically two types of support operation for farmers. First, market price support, which takes the form of minimum support prices announced every year by the government for different commodities. In 1998, 24 important crops were covered by the price control measures (WTO 1998). These measures have two policy goals. First, they aim at ensuring that farmers receive a minimum remunerative price. But also, traditionally, prices were maintained at lower than market prices, to ensure low costs of food procurement. Because domestic prices are below international prices, India's total product-specific AMS is negative. In India, the level of product specific support in the year 1995-96 (the year for which the latest official information from WTO is available) was negative to the extent of 38.5% (Gulati 2001).

The second support is in the form of input subsidies on inputs like fertilizers, irrigation, electricity, credit, and seeds, which amounted to US$5.8 billion in 1995-96. Direct payments are not given to farmers in

India. Since non-product specific support, such as, power, irrigation, fertilizers, etc., amounts to 7.5% of the value of agricultural production, the AMS to Indian agriculture could still be well below the level of 10% in terms of Uruguay Round stipulations. A negative AMS exempts India from reducing its domestic support levels either in aggregate terms or for any individual crops.

In its proposals on the negotiations on AoA, India has suggested that the AMS, as the term suggests, be calculated as a sum of the product-specific and non-product specific support (WTO 2001). If the product-specific support is still negative in the case of India, then the AMS would be below 7.5% of the value of agricultural production. As it is, input subsidies to help poor farmers, which come under non-product specific support, are exempt from reduction commitments under the WTO provisions. If India avails of this, the non-product specific support may come down further, to less than half of what is being shown today (Gulati 2001). In view of this, it may not be in India's interest to fight within the WTO for greater domestic support to agriculture, especially if this blunts India's opposition to farm support and its criticism of inadequate access to markets in industrialized countries.

Export Subsidies

Export subsidies were subject to a reduction commitment under the AoA, though several kinds of direct payment were exempted. The export subsidy commitment was in the form of a cut either in budgetary outlay or in export quantity. Export subsidy budgets were to be reduced by 36% for developed countries and 24% for developing countries. The volume of exports receiving subsidies was to be reduced by 21% per product or group of products for developed countries and by 16% for developing countries. The LDCs were not subject to any reduction commitments. The commitments were defined over commodity aggregates rather than individual tariff lines.

Indian exporters of agricultural commodities do not get direct export subsidy. The only subsidies available to exporters of agricultural commodities are in the form of: income tax exemptions on profits from export sales, and subsidies on freight costs for certain products like fruits, vegetables, and floricultural products.

Since these payments are exempt from reduction commitments by developing countries during the implementation period, they will not cause any adverse impact on agricultural exports from India, at least during this period. Therefore, India is making use of these subsidies in certain schemes of the Agricultural and Processed Food Products Export Development Authority (APEDA), especially for facilitating horticultural exports. Once the export supplies become self-sustaining, the subsidies will be withdrawn.

Thus, it appears that, of the three commitments that India has made under the URA, at least two are unlikely to have any impact on Indian agriculture because: India is not required to reduce its domestic subsidy levels, as its AMS is below the cut-off point of 10% (being in fact negative); and India has not subsidized its exports of agricultural commodities, and hence it remains unaffected by the export subsidy reduction commitments. So the only commitment that can affect Indian agriculture is that of market access or tariffication of quantitative restrictions for balance of payments reasons. However, the balance of payments justification for India's continued use of quantitative restrictions has come under increasing pressure recently because of the increase in its foreign exchange reserves.

Impact of AoA and Trade Liberalization on India

The momentum to open up Indian agriculture to world markets has mostly come from India's own program of economic liberalization, initiated in July 1991. In the beginning, agricultural trade liberalization was never a part of the liberalization agenda. The focus of the structural adjustment program was on industry, which was increasingly exposed to foreign competition. But the real policy changes on the agricultural front came only when India signed the WTO AoA. Steps to liberalize agricultural trade were initiated in early 1994, followed by a number of bolder reforms during 1995 and 1996.

With exchange rate liberalization and an opening up of the economy, the terms of trade for agriculture have shown a significant improvement. As a result, private investment in agriculture registered a steep rise in the post-reform period. At 1993-94 prices, private investment in agriculture was over 50% higher in 1999-2000 when compared to 1993-94. Exports of agricultural commodities, particularly foodgrains, accelerated in this period. For example, for the first time since independence, India has been a net exporter of foodgrains consecutively for the last six years — net exports amounting, on an average, to around 1.8mn tonnes per annum (GOI 2001b).

The Export-Import (Exim) Policy 2001 completed the process of dismantling quantitative restrictions on balance on payments grounds on the remaining 715 items from April 1, 2001. There was concern that the removal of quantitative restrictions might result in a surge and dumping of imports in the country, thus affecting adversely the domestic industry. However, these apprehensions were not borne out by actual import growth over this period. Import data for the full financial year 2000-01 on 714 items, on which restrictions were removed with effect from March 31, 2000, do not reveal any surge in their imports (GOI 2002). In the light of this evidence, the fears being expressed in certain quarters that foodgrain imports under the new liberalized trade regime would dampen foodgrain prices in the country were misplaced.

In the post-WTO era, although private investment in agriculture was stepped up in response to the liberalization of the economy and favourable terms of trade, real public investment continued to decline because of fiscal compression. As a result, the development of infrastructure like irrigation, rural electrification, roads, and markets was a major casualty. These shortfalls in public investment and in the provision of agricultural services account for the failure of agricultural supplies to respond to the favourable incentive framework created by macroeconomic reforms, including trade liberalization, in the 1990s. The average annual growth of GDP in agriculture and allied sectors slowed down in the 1990s when compared to the preceding decade, while the growth of crop output, especially foodgrains, decelerated (GOI 2001b). The experience of the 1990s clearly demonstrates that, far from trade liberalization dampening the performance of agriculture, the failure of public investment was responsible for the inability to increase and diversify agricultural output in a cost-effective way, and thus, the inability to benefit from trade liberalization (Rao 2001).

Future Strategy

India's stand on agriculture in the WTO has to be an integral part of the overall position it takes on trade liberalization. Domestic policy changes must follow the developments taking place at the WTO. On the external front, the major challenge to the viability of agriculture of most developing countries, including India, is posed by developed countries' high domestic support, export subsidies, and denial of market access through various tariff and non-tariff barriers. India has been fighting in league with other developing countries in the WTO for the removal of such barriers. In the Doha Declaration, members once again committed themselves to comprehensive negotiations on substantial improvement in market access, as well as reductions of, with a view to phasing out, all forms of export subsidies and toward domestic support.

There is also a need for extreme vigilance so as to be able to take timely measures, within the existing tariff bindings, to arrest large imports of certain commodities. Also, since the philosophy behind trade liberalization is the maximization of global welfare through efficiency gains, mapping out comparative advantages across countries for different commodities in a dynamic setting is necessary as a basis for meaningful negotiations in the WTO. The developed countries are very well equipped with technical and legal expertise, even though these capabilities are used to advance their case for the perpetuation of domestic support to agriculture and the restriction of market access, both of which are quite untenable. On the other hand, the capabilities of developing countries, including India, are poor in this respect. Therefore, there is a need to give a high priority to the development of these skills in the country (Rao 2001).

On the domestic front, a major effort is required raise farm sector productivity by stepping up public investment, by accelerating the evolution and adoption of cost-reducing technologies, and by removing restrictions on agricultural trade, and marketing processing within the country. All this needs to be achieved through major reforms in governance and institutions, particularly at the state level (Rao 2001).

In September 2000, the Government of India appointed a Task Force on Agriculture (TFA) to assess the impact of WTO commitments on Indian agriculture and to suggest steps to safeguard the interests of the sector, while exploiting the opportunities presented by this treaty. The TFA, in its final report submitted in August 2001, came out with some very interesting findings. It highlighted the practical difficulties (Box 1) in the form of structural defects and deficiencies of the Indian economy that are hampering the prospects of farm exports. The TFA also identified some other areas where India can reap advantages in the international market (Box 2).

Stepping up public investment, bringing timely changes in domestic policy, in tune with development at the international level, and identifying unexplored markets should be the focus of policy-making in India. Further, in the post-quota-free regime, it has become essential for the Indian government to monitor the inflow of imports and fluctuations in international prices of farm products and take desirable action to protect the interests of farmers and consumers. The TFA has already listed a few virgin fields where India can reap a considerable comparative advantage. The national agricultural policy should take this into account and diversify cropping patterns accordingly. Production of organic agricultural products and eco-friendly products has to be encouraged.

At the WTO, India should further step up pressure on developed countries to reduce and phase out their trade-distorting domestic support measures and export subsidies. India, in its submission to the WTO, has called for a "food security box" or a "Development Box" to address the livelihood and food security concerns of developing and poor countries. But it also must be ensured that livelihood and food security concerns should not be equated with non-trade concerns, such as the "multifunctionality of agriculture," used by some developed countries to provide legitimacy to their trade-distorting practices.

Box 1: Practical difficulties

The prospects of agricultural exports are bleak because of certain structural defects and deficiencies of the Indian economy and of the agricultural environment:

- A serious practical difficulty arises from the weak infrastructure. The Farm-gate prices in India suggest it has a substantial comparative advantage in several products. But, by the time the produce is packaged and transported to port of embarkation, most of that advantage is eroded.
- The land reform legislation, including tenancy laws and ceiling acts, does not permit cultivation specifically targeted for exports. There is little varietal uniformity and standardization of packaging technology. If an enterprising person with modern know-how wishes to enter the field, that person is discouraged by the fact that even a marginal consolidation of fragmented pieces of land is not permitted for more than three years under the land legislation.
- Most Indian agriculture is small-scale, quite innocent of large-scale modern organizational structure. Large-scale corporations handle 85-90% of international trade, yet in India a considerable amount of export is handled by mini-enterprises.
- Dependence on erratic monsoons is a perpetual threat that jeopardizes regularity of supply and standardization of quality; this is a very serious handicap in the export business.
- Most agricultural inputs are more expensive in India than elsewhere. Fertilizers, agricultural machinery, pesticides, and petro-products cost much more in India than abroad. The comparative advantage of Indian produce at the farm-gate is largely because of cheap rural labour.
- The uncertainty in government policies regarding exports and imports, the absence of future markets, the poor banking infrastructure, and the sheer crudeness of the agricultural marketing mechanism result in wide fluctuations in prices. Attempts at contract farming have run into trouble, as farmers who are anxious to supply their produce for processing and export in years of lean prices are reluctant when the prices are high and rising.

Source: Government of India, 2001.

Box 2: Prospects for Expanding Exports

There are a few virgin fields, which show great promise for exports from India:

- About 40% of agricultural land in India has not been touched by any chemicals — pesticides or fertilizers. There is a growing demand, particularly in the European countries, for certified organic food. India could take advantage of this market.
- A number of Indian herbals and medicinal plants are attracting the inquisitive attention of pharmaceutical giants abroad. Some of the latter have established bases in India with a view to collecting specific plants growing in forests, mountainsides, and wilderness. Collecting these plants or undertaking their cultivation offers considerable promise.
- Rural workers, particularly women, have demonstrated a very high degree of dexterity in cross-pollination operations. This should permit India to enter the seed-multiplication market.

Source: Government of India, 2001.

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Chapter 8

Implementation of WTO Agreements in Southern Africa

Kennedy K. Mbekeani

The Uruguay Round approved a number of agreements, including those on Subsidies and Countervailing Measures, Trade-Related Aspects of Intellectual Property (TRIPS), Trade Related Investment Measures (TRIMs), Customs Valuation, and Sanitary and Phytosanitary (SPS) Measures. Southern Africa Development Community (SADC) countries, like most developing countries, took on unprecedented obligations not only to reduce tariffs but also to implement reforms in areas such as standards, customs, and intellectual property law. These agreements affect many areas of regulation. Implementation of such obligations differs from the implementation of commitments such as tariff reduction, in that it requires huge investments such as purchase of equipment, training of people, and legislative reforms.

Five years after the agreements that emerged from the Uruguay Round took effect, SADC countries still experience difficulties with their implementation. On the one hand, they are hampered by the lack of adequate financial, institutional, and technical capacities. On the other hand, developed countries have failed to implement the agreements in a way that would foster SADC countries' participation in global trade. The problems experienced by the SADC countries are a result of their limited capacity to participate in the Uruguay Round negotiations when they took on commitments they could not meet. There is no sense of ownership of the reforms to which the agreements obligate them. The WTO rules on customs valuation, intellectual property rights, and SPS, for instance, require the purchase and installation of equipment and procedures, training of staff, and changes in legislation. In this paper we examine the challenges the SADC countries have experienced in implementing agreements relating to customs valuation, SPS measures, intellectual property, and TRIMs. The paper also examines the implementation of special and differential (S&D) treatment by the developed countries.

SADC Region

The SADC region has a combined population of 190 million people and a Gross Domestic Product of over US$150 billion. The region comprises an extremely heterogeneous group, spanning an unusually wide spectrum of economic and demographic indicators. For example, based on World Bank estimates, GNP per capita in the region ranges from low values of US$200 in Malawi to high values of US$3,700 in Mauritius (a ratio of 1 to 18.5 from the poorest to richest nation) (World Bank 1999). In terms of absolute economic size, the range is 1 to over 100, from smallest (Swaziland, with a GDP of US$1.2 billion) to the largest (South Africa, with a GDP of US$130 billion). Population ranges from 950,000 (for Swaziland) to 41 million (for South Africa). In terms of WTO membership, five SADC countries are classified as developing countries (Botswana, Mauritius, Namibia, Swaziland, and Zimbabwe), and seven as least developed (Angola, Democratic Republic of Congo, Lesotho, Malawi, Mozambique, Tanzania, and Zambia), while South Africa is classified as a developed country and Seychelles is not yet a member of the WTO.

Implementing Uruguay Round Commitments

SADC countries have identified several difficulties they face in implementing the WTO agreements. The main ones are the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Agreement on Trade-Related Investment Measures (TRIMs), the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS), and Customs Valuation. They also have problems with how the Special and Differential provisions are applied.

TRIPS

The SADC developing countries (Botswana, Mauritius, Namibia, Swaziland, and Zimbabwe) were given until January 1, 2000 to implement the TRIPS Agreement; the least-developed SADC countries (Angola, Democratic Republic of Congo, Lesotho, Malawi, Mozambique, Tanzania, and Zambia) have, since the Doha Declaration, until January 1, 2016 to provide patent protection for pharmaceuticals. The agreement requires each WTO member to adhere to the provisions (with a few provisions excepted) of international intellectual property rights conventions, whether or not the member is party to those conventions. This is a major burden for most SADC countries, as it means amending or introducing new intellectual property legislation and new or more effective means of enforcement. The technical complexity and specificity of many intellectual property rights issues requires training of judges, customs officials, and others involved in enforcing these rights.

Because of the difficulties with the TRIPS Agreement, SADC countries are proposing that, instead of the arbitrary five-year implementation period granted to developing countries, they should be allowed to apply different degrees of intellectual property protection, depending on their level of development. They should be allowed more time and greater flexibility to implement the Agreement until detailed studies are conducted to determine how long it will take and how much it will cost to do so. They recommend strengthening the technology transfer provisions (Articles 7 and 8), and tightening the obligations for developed countries to provide incentives for their enterprises and institutions to transfer technology to least-developed countries (Article 66.2).

Trade Related Investment Measures (TRIMs)

The Trade-Related Investment Measures (TRIMs) Agreement specifies which policies are now considered inconsistent with WTO rules such as minimum local content and trade balancing requirements. Developing countries had to eliminate inconsistent measures by January 1, 2000, least developed countries by January 1, 2002. SADC countries would like to retain the flexibility to choose investment promotion policies that they consider necessary to fulfil their developmental needs, including some of those listed as inconsistent with the GATT. The TRIMS Agreement poses problems with respect to the short transitional period which should be extended to allow review of the provisions on local-content requirements.

The SADC countries have proposed a reaffirmation that the TRIMs Agreement recognizes the trade, development, and financial needs of developing countries (Article 5.3), noting that the mandated review of the agreement shall entail *inter alia* an examination of the effects of this Agreement on the development prospects of developing countries. They propose also that the prohibition on domestic content requirements should be removed. Requiring an investor to use a certain minimum amount of domestic inputs may be necessary to encourage the expansion of industrial activity, and also to enhance the beneficial impact of the investment on domestic economic activities.

SPS Measures

SPS measures deal with animal and plant health and safety, and food safety standards. The WTO does not set standards; rather, the SPS Agreement encourages member countries to use standards set by international organizations, but it also allows countries to set their own standards. These standards can be higher than the internationally agreed ones, but the agreement says they should be based on scientific evidence, should not discriminate between countries, and should not be a disguised restriction to trade. Industrial countries have been leaders in establishing these international conventions, the conventions being, in significant part, generalizations of industrial country practices and standards. The agreement, therefore, places a heavier burden on developing than on industrial countries. It means standards already in place in the industrial countries were established as the standards to which the developing countries must comply.

For SADC countries to use the WTO agreement effectively to defend their export rights or justify their import restrictions, they will have to upgrade their SPS system to international standards. This will require upgrading veterinary services; laboratories; quarantine stations; disease and pest eradication programs; training, facilities, and equipment for seed certifications and registration; training, facilities, and equipment control for certification to ensure the absence of chemical residues in exported meat; and staff and equipment for research aimed at reducing chemical residues. The SPS Agreement requires members to take into account the special needs of developing countries when they prepare these regulations. However, SADC countries feel they are excluded from the creation of international standards and are often expected to comply with standards that go beyond their technical ability or financial capacity. The SADC countries have proposed that technical and financial assistance commitments made by developed countries, such as those under Article 9 of the SPS Agreement, should be operationalized to allow them more flexibility in applying food, animal, and plant health and safety measures to their products.

Customs Valuation

The Customs Valuation Agreement establishes the transaction value of the shipment in question as the primary basis for customs value. In order to achieve the goals of the Customs Valuation Agreement, there is need for an overall customs reform. Customs valuation is a just a small part of customs reform process required to meet the objectives of the agreement. The agreement assumes that already well-functioning and automated customs systems exist, as they do in developed countries. It did not take into account the existing infrastructure in developing countries, even though it provided for delayed application (until January 1, 2000) by those countries that were not signatories to the Tokyo Round customs valuation code. Customs processes in most SADC countries exhibit excessive procedures that are not codified, lack of equipment, poorly trained officials, and low-paid staff. Customs reforms will require technical assistance, training, computerization, reform of administrative and valuation procedures, and legal reforms. Such reforms are very costly.

Special and Differential Treatment

The TRIPS, Customs Valuation, and SPS Agreements, as well as several others, suggest that developed country members provide technical assistance to developing country members that request it. The provisions are designed both to help developing countries implement the Uruguay Round agreements and to accentuate the benefits they might enjoy. The provisions are in two broad categories:

- More flexible terms within specified time limits (for example, longer transition periods and smaller commitments); and

- Clauses that say in broad terms that developed countries should help developing countries in specific areas (such as technology transfer under intellectual property protection) but without defining exactly what action is needed.

Nevertheless, in the seven years after the Uruguay Round Agreements were adopted, special and differential (S&D) provisions have failed to serve the purposes of developing countries. The more specific S&D provisions of category (a) are usually insufficient and that the broader requirements of category (b) are too vague and often ignored. In most of the WTO provisions, S&D provisions are phrased only as best endeavour clauses, the implementation of which has remained ineffectual. All S&D provisions should be converted into binding commitments, especially to help developing countries address their supply-side constraints.

Obstacles to Effective Participation

The problems experienced by the SADC countries in implementing these agreements are a result of the limited capacity to participate in WTO negotiations. The "WTO process" is complex. It has a number of very different dimensions, such as: involvement in designing the rules of the multilateral trading system itself; participation in multilateral trade negotiations; implementation of measures necessary to meet a country's obligations to the system as a whole and to its trading partners; and use of the rules and institutions of the system to ensure a country's trading partners respect its rights.

For effective participation in the WTO, a country must have the capacity to fully understand and internalize the contents, implications and constraints imposed by WTO Agreements. It must also articulate national trade objectives and pursue them effectively in multilateral negotiations; formulate and pursue trade and development strategies consistent with the country's WTO obligations; and assert and defend its trade-related rights against infringements. Participation in the WTO process involves a variety of national institutions: staff in the home capital responsible for *formulating* national trade policy; the Geneva delegation (if the country has one) responsible for *negotiating* trade agreements; and staff in the home country responsible for *implementing* trade policy agreements.

In principle, WTO membership allows SADC countries to participate fully in the WTO process and in decisions about the future development of the global trading system. In practice, however, the SADC countries (like other developing countries) face a number of obstacles to effective participation in the WTO process. These obstacles make it difficult for the SADC countries to draft appropriate legislation and regulations, to meet the requirements for procedural notifications, to staff government institutions with technical personnel able to implement the policies and commitments undertaken, to monitor trading partners' implementation of WTO obligations in order to assess whether market access has been unfairly denied or trade rights infringed, and to prepare appropriate responses to such infringements.

SADC policy-makers have identified a number of problems that prevent them from participating effectively in the WTO process. Many of these countries are very small: as a result, in the research community there are relatively few economists who are familiar with modern trade theory, empirical trade analysis, and the global trading system. There are severe constraints on the availability of funds to support the research necessary to underpin high-quality analytical and technical work. There is a correspondingly limited capacity to absorb research and analysis within the policy community. There are typically only a small number of well-trained economists in government and even fewer who are knowledgeable on trade issues. Few of these countries participated directly in the Uruguay Round. If they did provide input into the negotiations, it was typically channelled through a developing countries' coalition rather than through active participation in the negotiations. As a result, there are few officials in the SADC countries with any extensive personal experience of multilateral trade negotiations. Many

SADC countries are not properly represented in Geneva, if indeed they are represented at all.[20] Only eight of the fourteen SADC countries (Botswana, Angola, Lesotho, Mauritius, Mozambique, South Africa, Zambia, and Zimbabwe) have some form of representation at the WTO. Even their representation is inadequate, since the delegations must also cover other UN agencies in Geneva.

There is limited availability and quality of up-to-date trade statistics, let alone suitable computing equipment giving access to information available in electronic format (in a number of countries the officers responsible for external trade share a single computer).[21] Responsibility for trade policy formulation is concentrated in one ministry (the ministry responsible for commerce and industry).[22] There is no satisfactory mechanism to coordinate work on WTO issues with other ministries, the Geneva delegation, the private sector, and the research and academic communities. There are few if any mechanisms and modalities to link the activities of the academic and research institutions with the policy-makers. The private sector and civil society more generally are not effective participants in trade policy formulation, and do not play a role in articulating negotiating interests.

The SADC countries are constantly engaged in "catching up." The developed countries pack the WTO negotiating agenda with issues of concern to them, introducing new issues such as investment and competition policy, before the developing countries have learned enough to discuss them meaningfully. Policy-makers argue that these problems make it difficult to prepare for WTO negotiations and to effectively participate in the workings of the system. The SADC countries lack the capacity (within both government and the research community) to do analytical work that will assist the negotiators in dealing with the many complex WTO issues. The policy-makers have identified the key issues that they wish to see addressed in the next round of multilateral negotiations. They are of the view, however, that even though the issues may have been identified, much more analytical work and training is needed to support policy-makers during the actual negotiations and to ensure that they have a thorough understanding of the implications and potential impact of the agreements under discussion at the WTO.

[20] The countries have, on average, four professionals in Geneva. Only South Africa has one professional working specifically on WTO issues.
[21] Communication between SADC capitals and Geneva is mostly by fax or letters.
[22] Only Swaziland and Mauritius combine commerce and industry with foreign affairs.

Part IV:Conclusions

Chapter 9

The Doha Round: What Role for Bilateral Development Agencies?

Nizar Assanie

The Doha WTO Ministerial Conference launched a new round of multilateral trade negotiations that, for the first time, are intended to have development issues at the core of the WTO's Work Programme (see WTO 2001). Success of these negotiations will, therefore, depend on the ability of the membership of the WTO to advance the interests of developing countries. In part, this recognition by ministers at Doha is the result of the growing importance of developing countries in international trade. As a group, these countries represented 35% of world trade in 2000 and three-quarters of WTO membership. At the same time, the consensus reached at Doha is also an acknowledgement by developing countries themselves that international trade is an important tool to further their economic development.

The Doha Work Programme is ambitious in its scope. It not only includes the traditional areas of trade negotiations (industrial tariffs, agriculture, WTO rules), but also will involve relatively newer areas such as services, investment, competition policy, government procurement, and trade facilitation. Given this ambitious agenda, the key question that we try to answer here is: What can bilateral donor agencies do to further development goals through involvement in trade policy development during the Doha Round?

This question is very pertinent from a public administration perspective. At one level, donor agencies need to get involved in the trade policies of their own countries in a substantial manner. This type of policy engagement is new to most donor agencies that tend to have relatively small policy departments focused on corporate functions. Therefore, greater engagement in this area would involve allocating more staff resources in the policy units of donor agencies to trade issues. Perhaps more importantly, donor agencies' involvement in trade policies implies a shift in the "policy dynamic" in capitals where more influential departments such as Finance, Industry, Trade, and Agriculture, traditionally hold the "policy strings." At another level, involvement by donor agencies means accelerating their efforts in Trade Capacity Building (TCB) in partner countries. The ultimate objective of TCB is to develop the "machinery of government" in the area of trade policy as a means by which partner countries can develop sustainable trade policies that are consistent with their domestic interests.

The remainder of this chapter is organized as follows: Section 1 provides details on the constraints and opportunities that shape industrial countries' trade policies and negotiating positions vis-à-vis developing countries, focusing on the Canadian example; Section 2 highlights the constraints and opportunities faced by bilateral donors such as the Canadian International Development Agency (CIDA) in trade policy-making. Given these constraints, we provide recommendations on future roles for bilateral donors.

Prospects for Improved Market Access in the New Round

Residual Protectionism

That trade policies of developed countries matter to economic growth in poor countries is no longer an empirical question. Nowhere is this clearer than in the area of market access for goods. In addition to anecdotal evidence, recent modeling work using various partial and general equilibrium approaches by Hoekman et al. (2001), Ianchovichina et al. (2001), and UNCTAD (2001) shows that enhanced and preferential goods market access would result in growth and welfare gains for some of the poorest countries of the world.

Nevertheless, the fact that remaining trade barriers in most developed countries occur in sensitive, indeed residual, domestic industries creates an interesting and difficult dynamic for policy-makers. For example, in the 2000 Trade Policy Review of Canada, it is recognized that Canada's trade and investment regime is "amongst the world's most transparent and liberal" (WTO 2000, p.4). On the issue of goods market access, over 90% of Canada's imports enter duty-free under MFN or preferential rules, and Canada's trade-weighted tariff was only 0.87% in 1999 (WTO 2000a, p.14).

As discussed in Chapter 2 of this report, this overall trade and investment regime is marked by protectionism in specific sectors, some of which are of export interest to developing countries. For Canada, these sectors include: textiles, apparel, footwear, sugar, and supply-managed agriculture. The average tariff rate on peak products is 22.8% in Canada's Least Developed Country Tariff schedule (Hoekman et al. 2001, p.16)[30].

Given this context of relative openness, policy-makers are faced with the difficult task of trading off relatively small efficiency gains in residual sectors of the economy with large potential political losses that may result from special interest lobbying. Further, while the economic losses in national terms may be relatively small, these tend to be localized in particular provinces or political ridings. Combine this with the manner in which trade policies are traditionally formulated (i.e., in close contact with business interests), and we can see why trade policy-makers hesitate to use unilateral actions to further liberalize sensitive sectors in the absence of tangible business benefits.

Let us illustrate the above dilemma of policy-makers with an example. The apparel sector is one of the more sensitive sectors in terms of goods market access for Canada and the most important in terms of developing country export interests. As shown in Table 1, this sector employed 93,000 Canadian workers — representing 0.6% of total employment in Canada. Many of these workers are immigrants whose first language is not English or French and most are women. In terms of adjustment costs, it is likely that large investments in job retraining, language skills development, placement services, and employment insurance would be required to transfer employment skills to other occupations successfully. Further, employment in the apparel sector is concentrated in four provinces, with Quebec accounting for 58% of the provincial breakdown. Within provinces, apparel sector employment tends to be further concentrated in the metropolitan areas, with Montreal, Toronto, Vancouver, and Winnipeg being major centers.

[30] This predates the removal of nearly all tariffs under the LDC initiative in January 2003.

Table 1: Canadian Apparel Sector: Vital Statistics

	1995	1996	1997	1998	1999	2000	% Change 1992-00
Employment	84,328	84,977	87,936	90,365	89,389	93,152	22.9%
Domestic Shipments (C$ million)	6,568	6,678	6,947	6,968	7,392	7,380	26.3%
Exports (C$ million)	1,355	1,661	2,036	2,496	2,750	3,042	394.6%
Imports (All Countries, C$ million)	3,589	3,373	4,062	4,705	4,718	5,308	84.7%
Provincial Apparel Sector Employment (% of total)							
Ontario	26.1	25.0	26.1	27.5	27.7	27.4	-35.8%*
Quebec	57.3	59.5	58.9	57.6	57.5	57.5	+20.5%*
Manitoba	5.9	5.8	5.4	5.3	5.1	5.2	-20.9%*
British Columbia	6.4	5.0	5.0	4.8	5.0	5.3	+29.7%*
Others	4.3	4.7	4.7	4.8	4.6	4.6	n/a

Source: Government of Canada, 2002.

*Percentage change in employment between 1983 and 2000 ("n/a" stands for "not available").

How would policy-makers react to the above constraints? In terms of negotiating stances, the optimal approach that delays potentially large political losses is to negotiate liberalization in the multilateral context. These not only take a longer period of time, but also provide advantages of using multilateral institutional structures such as WTO negotiations as the hook to increase domestic efficiency and make the necessary trade-offs and adjustments throughout the economy.

Agricultural subsidies

Another pillar of Canadian trade policy vis-à-vis developing countries that flows from its relative smallness is its inability to match the large treasuries of the United States and the European Union, especially in the agricultural sector. For example, the Produce Support Estimate (PSE) for Canada in 2000 amounted to US$4.3 billion compared to US$90.2 billion for the European Union and US$50 billion for the United States (OECD 2001, pp.26-27). On a per-farmer basis, Producer Support Estimates for Canada (at about $8,000) are well below the support given to farmers in Europe ($16,000) and the US ($18,000).

This inability to subsidize, together with Canada's location, has resulted in a relatively open agricultural sector.[31] Canada is largely open to products exported by developing countries. All raw and nearly all processed tropical agricultural products enter duty-free on a WTO-bound basis, and the average MFN duty on temperate agricultural products is less than 5% (Gifford 2002, p.2). Compared to other developed countries, Canada's agricultural import regime is notably open, with no threshold requirements (as is the case for US citrus and sugar tariffs) or significant preferential treatment (as is the case for the EU, whose preferential tariff system is skewed to favour former colonies).

[31] This is illustrated by the Producer Nominal Protection Coefficient (NPC: ratio of average farm-gate price to border price) and the Producer Nominal Assistance Coefficient (NAC: ratio of gross farm receipts including support and gross farm receipts valued at world market prices without support). These numbers for Canada in 2000 were 1.16 and 1.24, respectively — the 5th lowest in the OECD (OECD 2001, p.26).

However, pockets of residual protectionism remain — notably in the supply-managed sectors (dairy, poultry, and eggs). Here again, increasing market access outside the multilateral context would erode a system based on import and production controls and cost-plus pricing (Gifford 2002, p.6). It would also lead to an erosion of farm values that have been capitalized as a result of production quotas (Gifford 2002, p.6).[32]

How have Canadian policy-makers reacted to the above constraints? Again, like the apparel sector, multilateral negotiations rather than unilateral action provide significant advantages to Canadian agricultural interests. As pointed out by Gifford, on the export side, Canadian grain, oilseeds, meat, and processed food producers are internationally competitive and would benefit significantly from further market openings and reduction in subsidies. This emphasis on multilateral negotiations is complemented by the building of strategic partnerships with like-minded countries, such as members of the Cairns Group of agricultural exporting countries. These export interests are balanced by interests on the import side, for which multilateral negotiations offer the best chance of maintaining a much cherished and politically sensitive outcome.

Trade Policy-making: What Role for Bilateral Donors?

Given the importance of trade and development issues in the ongoing Doha Round of trade negotiations, what is the role of bilateral donors in the trade policy-making of their own countries? How can bilateral donors influence those trade policies that, on the one hand, may have a negative impact on development; while on the other, are in the interests of domestic businesses?

In answering these questions, it is useful to keep in mind that trade policy-making is a dynamic process involving many players. As new trade issues (such as environment, health, government procurement, and development) begin to receive negotiating attention, various government organizations and various levels of government not previously involved in trade policy will engage on trade issues. For example, in the area of intellectual property and its relationship to health outcomes of Canadians, we have seen increasing involvement by Health Canada (the Canadian federal health ministry) and can also expect provincial governments to take a keen interest, since health is primarily a provincial area of responsibility in Canada.

Relative to other government departments, however, bilateral donor agencies are in a particularly difficult position when it comes to their role in trade policy-making. Two reasons may be given for this. First, since their mandate is primarily international, bilateral donors do not have an established domestic policy constituency on trade issues. Continuing on our intellectual property example, Health Canada may have a mandate to ensure that the intellectual property rights of innovators are balanced by the health needs of the population. In this sense, a Ministry of Health has various definable domestic constituencies that have standing on intellectual property issues — domestic innovators, generic drug manufacturers, provinces, and citizens — with the "national" interest emerging from the dynamic between these players and government. Donor agencies, however, have a more general mandate of ensuring good health outcomes in developing countries — one aspect of which is the global intellectual property regime. As such, they have no clear domestic constituency, outside perhaps of domestic NGOs engaged in intellectual property and health issues in developing countries. While this lack of a domestic constituency and mandate does not preclude bilateral donor agencies from advocating sound development thinking within the policy-making process, it is clear that such advocacy functions will need to be sustained over a long period of time for them to be recognized within policy circles.

[32] The current estimated value of production quotas is now more than double that of the $7 billion estimated at the end of the Uruguay Round.

The second reason why bilateral donors are in a particularly difficult position when it comes to their role on trade policy issues is the internal government policy dynamic in developed countries. Traditionally (as in developing countries), the more powerful ministries in developed countries tend to be the central ministries (like Finance) or those with a large, established, and prominent domestic/international portfolio (like Industry, Agriculture, International Trade, and Foreign Affairs). At the helm of these ministries are relatively more powerful politicians and bureaucrats wielding considerable influence over the shape that government policy takes. In short, the "policy strings" on trade policy issues lie with ministries other than development agencies.

Given this context, what is the role of development agencies in trade policy-making? On the domestic side, there is one broad function — "coalition building." By this, we mean that even if bilateral donor agencies do not have a clearly defined domestic constituency and even if policy strings lie with other ministries; bringing the development dimension into the policy dialogue provides opportunities to balance this process and give it more coherence with development policies.

Given the nature of globalization, there will always be some domestic interests that are congruent with pro-development policies. So, for example, on the issue of agriculture subsidies, there is a significant Canadian constituency that opposes the subsidy policies of the United States and the European Union. This constituency has been successful at translating its interests into Canadian negotiating stances — which happen to be broadly congruent with the demands of developing countries at the WTO. The role of CIDA, as a bilateral donor agency involved in the domestic policy-making process, is to highlight the development dimensions of these stances and seek to build domestic coalitions of like-minded interests to improve upon such negotiating stances, at the margins.

This "coalition building" role can also extend to other, more controversial, issues. Using the intellectual property example once again, there is a domestic Canadian consensus on the importance of intellectual property protection and need for strong multilateral intellectual property laws. This may change in the future, particularly if it is determined by key stakeholders (such as citizens' groups and provinces) that intellectual property protection comes at high costs (such as lack of access for medicines within Canada for the poor or inflating health care costs for the provinces). Here again, the role of bilateral donors should be to push the envelope and continue to build upon existing synergies between good development outcomes and domestic interests.

This requires significant commitment by bilateral donors to dedicate staff resources over a long period of time in capitals to engage in the policy-making process. Such engagement has public administration opportunities and risks for bilateral donors. On the one hand, it gives donor agencies a say in the policy-making process *as it evolves* in capitals. On the other hand, the linkages between such policy functions and their impact on development are not clear at this stage. Let us take the example of Canadian agricultural trade policy. Here, even if Canadian interests were perfectly aligned with development interests (they are quite close at this stage), it does not necessarily mean that desired outcomes will be achieved in regional or multilateral negotiations, either for Canada or for developing countries. This is because outcomes in such negotiations involve many countries — with any single country influencing directions of negotiations at the margins. How much influence bilateral donor agencies have to change the directions of multilateral negotiations to achieve good development outcomes is, therefore, not clear, particularly for the vast majority of donor agencies in Europe, where the European trade policy-making process is even more layered than those of other single trading entities like Canada.

On the international side, there is a strong role for bilateral donors to support trade policy development in poor countries. This falls well within the traditional mandates of donor aid agencies, and allows developing countries to develop policies and negotiating stances that they deem to be in their best interests.

The much more prominent role played by developing countries in the mandated negotiations on Agriculture and Services at the WTO, and at the Doha Ministerial itself, is a testament not only to the increased importance that developing countries are attaching to defending their interests at the WTO, but also to the success of past efforts by donor agencies in helping developing countries formulate their trade policies — both in capitals and in Geneva. Of course, the overall result in a negotiating environment is that the trade policies of developed countries are nuanced by the development dimension as expressed by developing countries at the WTO.

We provide two examples here from CIDA programming in this area. Over the past few years, CIDA has spent or approved more than $9 million to help Caribbean countries develop policies and mechanisms to meet the growing challenges of trade liberalization. With the erosion of preferential trade agreements, and the launch of new trade negotiations, the stakes are high for the island economies of the Caribbean. In order to meet this challenge, CIDA provided early support to help in the start-up of the Regional Negotiating Machinery (RNM), which is responsible for preparing the region to participate in international trade negotiations. To further develop the region's capacity to undertake international negotiations, the RNM will also receive $2.5 million in direct support through the five-year, $5 million Regional Trade Policy Responsive Fund. This new project will further assist the RNM to participate in international negotiation forums such as the WTO and the Free Trade Agreement of the Americas (FTAA). The RNM also has links with the Organisation of Eastern Caribbean States (OECS) Trade Policy Project funded by CIDA. This five-year, $3 million project builds the capacity of member states and the OECS Secretariat to participate in and benefit from regional and international trade liberalization. The project will help develop an international trade strategy for the OECS subregion; strengthen the capacity of OECS member states to meet their obligations under regional and international trade agreements such as the WTO; and increase their ability to participate in hemispheric trade liberalization, in particular the FTAA. The project also encourages the secretariat, individual government ministries, and subregional institutions to work more effectively with local private sector players and labour groups.

As key players in the international community's commitment to halve world poverty by 2015, bilateral aid agencies have a role to play in shaping the trade policies of their own countries and ensuring that these policies make an important contribution to achieving this goal. While we see significant inroads that can be made by bilateral donor agencies in shaping trade policies, the process will require significant increases in staff resources and a sustained commitment to engage in the policy-making process. At any given time, it would seem that the development impact is a function more of global political economy considerations than of the trade policies of any single country. However, a sustained effort by donor agencies over the longer term — both in their domestic policy-making processes and in helping developing countries formulate their trade policies — should yield better development outcomes from multilateral trade negotiations.

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Chapter 10

Lessons for the Doha Round

Chantal Blouin

This book aimed at evaluating the exchange of concessions as it took place between the North and the South during the Uruguay Round of multilateral trade negotiations in the late 1980s and early 1990s.

Our assessment points to the asymmetrical nature of the Uruguay Round deal. Industrial countries slightly improved access to their markets, but in the important sectors such as agriculture and apparel, barriers remain for imports from developing countries. In the chapters on Canada, the European Union, Japan and the United States, the authors highlight how the impact of the Uruguay Round in terms of market access is very limited and describe the key instruments used to restrain Southern imports in some sectors. As for the Southern part of the deal, the implementation of several of WTO agreements ended up being much more costly than expected, beyond the resources and capacity of many developing countries, especially the poorest ones.

Beyond this assessment, the papers collected here also offer a number of lessons and recommendations for the new Doha round of WTO negotiations. Yash Tandon underlines the importance of the capacity of policy-makers: capacity to participate, to negotiate, and to defend one's interests. In order not to repeat the mistakes of the past, he stresses the need to build self-reliant policy capacity. The example of the role of the loose network of non-governmental organizations (NGOs) and intergovernmental organizations like UNCTAD, as sources of information for trade negotiators from developing countries, shows that alternative modes of capacity building can be effective. Trade-related technical assistance was promised to developing countries in the Uruguay Round; in the new round, the question should be: What type of capacity building is being offered?

Kennedy Mbekeani also draws attention to the importance of capacity building to improve the participation of developing countries at the WTO and in various international bodies now involved in trade-related issues through standard-setting. The poorest countries are especially disadvantaged here given the very small size of their research and policy community. Many of these countries in Africa, for instance, did not participate actively in the Uruguay round and did not gain experience in multilateral trade negotiations as larger developing countries did. Even now, many of them are not represented in Geneva. Moreover, industrial countries keep adding new issues onto the negotiation agenda, adding to the complexity facing African and other smaller developing countries. In Cancún in September 2003, WTO ministers are considering whether negotiations should be launched on new issues such as investment protection and antitrust policy. If the Quad is serious about the participation of developing countries, including the smaller and poorer countries, these issues should not be included in the Doha Round negotiations.

Another conclusion from our contributors is the central role that agricultural subsidies need to have in the next North-South deal. Agricultural subsidies in Europe and in the United States not only block access to these markets but also strongly distort world markets in a number of commodities. Developing countries' own domestic markets become overwhelmed with highly subsidized grains and foodstuffs against which the local farmers can hardly compete. These same farmers cannot compete in third markets with such artificially cheap exports from the North. Moreover, the world prices are depressed, given the increase in supply caused by domestic support; indeed, subsidies create incentives for Northern farmers to increase production. The depressed world prices have disastrous effects on Southern farmers whose livelihoods rely on export crops. The new round of WTO negotiations needs to address this problem urgently.

The Uruguay Round presented an important case of asymmetrical negotiations. The "North-South grand bargain" was struck between actors of very different levels of economic development. Traditionally, international relations theorists predict that in negotiations where one country or group of countries has much more power than the other, the outcome will be in favour of the most powerful actor. In the Realpolitik of trade negotiations, the most powerful actors will have more influence on the content of the agreements. According to this perspective, the asymmetrical outcome of the Uruguay Round was predictable: Americans, with their Quad allies, were able to convince developing countries through bilateral pressures to sign agreements that involve high costs and relatively little benefits for them. The inclusion of intellectual property, services, and investment was strongly pushed onto the multilateral agenda by the United States government. Indeed, in the two-level game involved in international negotiations, the American domestic arena was dominated by very active and vocal business groups asking for the protection of the intellectual property rights on their computer software, movie productions, and genetically-modified seeds in foreign markets. Services firms in telecommunication, transportation, and financial sectors also mobilized to create a powerful political force pushing for the inclusion of international services transactions to be subjected to the disciplines of the GATT and to open new markets abroad.

Nevertheless, there are many instances of international negotiations where weaker states achieved their preferences, or at least some of their preferred outcomes. Critics of international relations theory stress that aggregate structural power is not a good variable to explain the outcome of international negotiations. Rather, the key variable is "issue-specific" power. A state can be smaller or weaker overall than the state on the other side of the negotiating table, but have more resources in one specific area, and therefore succeed in attaining its objectives in this issue area. The other variable that has been proposed in the literature to help explain trade negotiations is the tactical variable. It is not sufficient to possess issue-specific power; also critical are the strategies to deploy and use one's resources. Some studies have examined trade negotiations between partners of differential economic strength to evaluate these variables, for instance, how Mexico and Canada succeeded in achieving several of their goals in negotiating free trade agreements with the United States (Robert 2000). Why did such a scenario not happen at the GATT at the beginning of the 1990s? How can we ensure that this experience does not repeat itself in the Doha Round of WTO negotiations? Through coalition-building and improvement of tactical capacity, developing countries have already been much more active at the WTO. This process needs to continue and broaden to include not only the large developing countries like India or Brazil, but also smaller and poorer economies, especially those in Africa. Allies in developed countries, such as citizens' groups and aid agencies, will also be important players by applying pressure from inside to achieve real change in the global trade regime.

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