UN DESA

NATIONAL DEVELOPMENT STRATEGIES

POLICY NOTES

TRADE POLICY

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UNITED NATIONS

DEPARTMENT FOR ECONOMIC AND SOCIAL AFFAIRS (UNDESA)

-2007-

Acknowledgements

My special thanks go to Kamal Malhotra for his inputs and constant support, and particularly his contributions to Sections III and IV. I am also particularly grateful to Joseph Stiglitz for his valuable coments which have been incorporated to the extent possible. Furthermore, I would like to thank Lamin Manneh, Sebastian Matthew, Yilmaz Akyuz, Carlos Correa and the UNDP Geneva Trade and Human Development Unit staff for their comments on an earlier draft. I also wish to thank Margherita Musollino for the research assistance provided.

DESA gratefully acknowledges the financial support of UNDP for the project to produce this note.

New York, June 2007

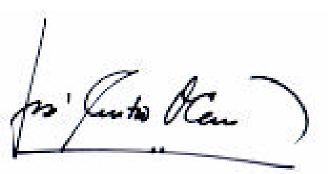
This Policy Note aims to foster consideration and discussion of policy options in the preparation of National Development Strategies. The analyses, assessments and data have been prepared by the authors and revised in response to feedback from various reviewers. They do not necessarily represent the views of UN DESA, and appropriate credit should be given to the author for citation purposes.

Preface

The outcome document of the 2005 United Nations World Summit called on countries to prepare national development strategies, taking into account the international development goals agreed in the various United Nations Summits and Conferences of the past two decades. In order to assist countries in this task, the United Nations Department of Economic and Social Affairs (DESA) commissioned a series of notes for policy-makers and policy-shapers both in the government and civil society, in major and interconnected areas relevant to the formulation of national development strategies: macroeconomic and growth policies, trade policy, investment and technology policies, financial policies, social policy and state-owned enterprise reform. The preparation of the notes received generous funding in part from the United Nations Development Programme (UNDP). Colleagues from UNDP also provided helpful suggestions for and comments on the notes.

The policy notes, authored by experts in these fields, draw on the experience and dialogues of the United Nations in the economic and social areas, complemented by outside knowledge. The notes provide concrete suggestions on the means to achieve at the national level, the internationally-agreed development goals synthesized in the United Nations Development Agenda. The policy notes are intended to provide those at the country level who shape and set policies, with a range of possible alternatives to the standard policy solutions that have prevailed over the past two decades, rather than to prescribe any single course of action. The notes serve to help countries take advantage of and expand their policy space - their effective room for maneuver in formulating and integrating national economic, social, and environmental policies.

I encourage readers to see these notes as complementary inputs into the debate at the country level on development challenges faced and the policies needed to meet them. The issues chosen are vital pieces of the policy mosaic that underlies national development strategies, which are ultimately geared to achieving sustained economic growth with social inclusion and environmental protection.



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New York, June 2007

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Acronyms

ACP	African, Caribbean and Pacific countries (members of Cotonou Convention
ATC	Agreement on Textiles and Clothing
EC	European Commission
EEZ	Exclusive Economic Zone
EPC	Engineering, Procurement and Construction
FAO	Food and Agricultural Organization
FDI	Foreign Direct Investment
FTAs	Free Trade Agreements
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GSP	Generalized System of Preferences
HACCP	Hazard Analysis and Critical Control Point
HDI	Human Development Index
LDCs	Least Developed Countries
MDGs	Millennium Development Goals
MEAs	Multilateral Environment Agreements
MFA	Multifibre Agreement
MFN	Most Favoured Nation
MNP	Movement of Natural Persons
MOU	Memorandum of Understanding
MTAs	Multilateral Trade Agreements
MTNs	Multilateral trade negotiations
NAMA	Non-Agricultural Market Access Group
OECD	Organization for Economic Cooperation and Development
PPPs	Public-Private Partnerships
PDUSA	Venezuelan State Oil Company
QRs	Quantitative Restrictions
RTA	Regional Trade Agreement
SIDS	Small Island Developing States
SP	Special Products (agriculture)
SPS	Sanitary and Phytosanitary measures or regulations
SSG, SSM	Special Safeguard Mechanisms (agriculture)

TNCs	Trans-National Corporations
TRIMs	Trade Related Investment Measures
TRIPS	Trade Related Intellectual Property Rights
TRQ	Tariff Rate Quotas
UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Education, Scientific and Cultural Organization
WHO	World Health Organization
WTO	World Trade Organization

I. AIMS AND OBJECTIVES

This Policy Note addresses (a) how governments can provide a specific pro-poor and pro-development focus to their trade policies in a manner that is supportive of MDG achievement, and suggests (b) how they can pursue these goals in international trade negotiations.

Background concepts, past and current debates

Trade policy can constitute a key tool for the achievement of the MDGs. Using trade policy as an instrument of industrial diversification and the creation of value added remains key. Moreover, exports of goods and services can provide increased incomes for poor people, government revenue, opportunities for employment, including high paid jobs abroad, particularly for women and young job-seekers. Exports can thus contribute to the achievement of MDGs, by lifting people out of poverty (MDG1) and empowering women (MDG3), while supporting MDG8, whose target 12 aims at a trading system in which developing countries can extract greater benefit from the international trading system.

However, the gains from exports may accrue to the richer segments of the population, and export industries can damage the environment and otherwise undermine the livelihoods of poor people. Imports of goods and services can crowd out domestic producers, undermine livelihoods, exacerbate inequalities and push people into poverty. At the same time, trade liberalization can bring vital capital and technology, as well as essential inputs for improving infrastructures and increasing productivity, including that of poor people.

All WTO members are taking part in the Doha Round of multilateral trade negotiations, and most are actively engaged in the negotiation of Free Trade Agreements (FTAs). In designing and pursuing a trade policy to achieve the MDGs, developing countries face the constraints posed by the trade agreements that they have accepted. The WTO Multilateral Trade Agreements (MTAs) are both extensive, i.e. they discipline a wide range of policy areas central to development strategies, and intrusive, i.e. they impose a detailed legal framework on national economic and social policies. In addition, many developing countries have entered into regional and bilateral, often extra-regional, FTAs which go beyond the WTO ("WTO plus") in terms of their scope and intrusiveness.

This new international trading system thus has the disadvantage of constricting the policy space available for countries to pursue a development oriented national trade policy. Nevertheless, this presents the opportunity for developing countries to press for international trade rules and seek commitments on the part of their trading partners that are supportive of their development goals - which is precisely what MDG8 is intended to achieve. However, this requires that developing countries are able (a) to define such goals in their national policies, and (b) effectively pursue these goals in international trade negotiations.

[*] This Policy Note has been prepared by Murray Gibbs. All comments and queries can be sent to esa@un.org

The case and options for widening the policy space

Trade negotiations are aimed at achieving the mutual reduction of tariffs and other barriers to trade in goods among the participants. However, they also deal with measures affecting trade in services (e.g. communications, finance, transportation, energy, immigration, even health and education and sanitation), the flow of investment and the enforcement of intellectual property rights. The prevailing underlying view is that this will lead to improved access to markets and a more efficient allocation of resources, stimulating economic growth and development.

Trade policy should be focused on achieving specific development goals such as the elimination of poverty and the achievement of the MDGs. It should aim at (a) enabling poorer people to compete in a globalized world market, by increasing their productivity. It should also (b) ensure the most equitable sharing of benefits of trade, so that poor people, women and other disadvantaged groups can draw benefits from exports and equality within the country and between social groups, regions and genders can be promoted. Such policies should (c) shield vulnerable groups from the impact of trade liberalization when this threatens their livelihoods and (d) ensure that the liberalization of goods and services effectively contributes to these objectives. It should be noted that some MDGs, such as access to energy, water and health services, are now the subject of international trade negotiations.

Governments must ensure that the international commitments they enter are supportive of these goals. International trade negotiations must aim at providing free access to markets for the goods and services of developing countries, while committing stronger trading partners to measures supportive of these goals. The overall outcomes of such initiatives will be central to the achievement of MDG8, the Global Partnership for Development.

Effective design and implementation

Government's ability to define such strategies and to defend and pursue them in international trade negotiations is enhanced by more active participation of civil society and other stakeholders, who stand to be affected either positively or negatively by trade agreements. This process should assist in identifying the pro-poor and pro-development elements of trade policy which should be incorporated in legislation and defended in trade negotiations. At the same time, the actions of other countries that could frustrate these objectives should also be identified, and pursued in trade negotiations both by seeking systemic improvements or specific concession by trading partners. A further essential element is to anticipate the actions of other countries and seek a national consensus on an appropriate reaction.

Coverage

This Policy Note is intended for policy makers seeking to pursue a development strategy through the application of trade policy. It addresses many of the questions which every trade policy "practitioner" will inevitably face over the next few years, and provides background facts and a set of tools available for the pursuit of the MDGs and the development objectives mentioned above. It contains the following Sections, in addition to this one and appropriate sectoral annexes:

Section II - Policy Space for Future National Development Strategies

Section III - Tariffs and Industrial Policy

Section IV – Exports and Poverty
Section V - Agriculture
Section VI - Trade in Services
Section VII - Investment
Section VIII - Movement of Natural Persons
Section IX - Intellectual Property for the Poor
Section X - The FTA Option
Section XI – Sectoral Annexes

II. POLICY SPACE FOR FUTURE NATIONAL DEVELOPMENT STRATEGIES

Theoretical Context

The purpose of this Policy Note is not to discuss or focus on trade theory. Nevertheless, some theoretical context is nevertheless useful to anchor the policy discussion elaborated in this paper. A brief theoretical context is, therefore, summarized below.[1]

Few branches of the literature on economics are richer or more controversial than that on international trade. There has been little consensus on the relationship between trade and short- to medium-term economic growth—and even less on its role in long-term economic development.

The principle of comparative advantage, first described by David Ricardo, forms the theoretical basis for traditional trade theory and provides the rationale for free trade. The principle states that even if a country produced all goods more cheaply than other countries, it would benefit by specializing in the export of its relatively cheapest good (or the good in which it has a comparative advantage).

Some classical economists believed that comparative advantage was driven by differences in production techniques. Later theoretical developments identified differences in factor endowments as the principal basis for comparative advantage. Traditional trade analysis acknowledged the argument for policy intervention (protectionism) if market failures created a need for temporary protection of infant industries—though direct subsidies were still considered preferable. Intervention was also justifiable, though still discouraged, if it could improve a nation's terms of trade by deploying market power. But these were exceptions to the general principle that free trade is best.

Traditional trade theory has been challenged because it often cannot explain actual trade patterns. Careful empirical investigations show that many of the theory's basic assumptions - perfect competition, full employment, perfect factor mobility within countries, immobile factors between countries—are unrealistic and do not conform to theoretical predictions. When these assumptions are relaxed, welfare and other

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[1] See UNDP et al., Making Global Trade Work for People (London and US: Earthscan, 2003) (www.earthscan.co.uk), p.25.

outcomes are less clear. Moreover, the introduction of assumptions on differential learning effects, positive externalities and technical changes associated with different economic activities creates the theoretical possibility of weak (if any) gains from trade for countries that specialize in low value-added, labour-intensive products.

Several analysts have tried to modify, expand or reject some of the conclusions of traditional trade theory. New trade theorists cite the role of scale economies and imperfectly competitive markets in determining intra-industry trade patterns among industrial countries. This view led strategic trade theorists to argue for subsidizing certain industries, to give them strategic advantage in oligopolistic international markets. The recent literature on trade and growth also emphasizes that, in dynamic terms, comparative advantage can be created based on human capital, learning, technology and productivity. It can also change over time based on economic policy.

Other responses come from theorists who question the validity of the comparative advantage principle, arguing that absolute or competitive advantage is a more reliable determinant of trade outcomes. One such response is a macro-level analysis that looks at trade in the context of low aggregate demand, structural unemployment and inflexible wage adjustments. Another argues that international industrial competitiveness is determined by the technology gaps between nations.

The common thread in these different theories is that trade can contribute to growth by expanding markets, facilitating competition and disseminating knowledge. Controversy continues to surround the efficacy of growth-promoting policy intervention. And the trade literature says little about how trade and trade policy relate to human development over time.

The Expanded Reach of International Trade Obligations

In addition to this theoretical context, national trade policies are formulated and implemented within the constraints of international trade commitments that cover a wide range of policy areas, many central to development strategies. As such, what is possible through national trade policy is being continuously redefined by the ongoing trade negotiating process. In parallel to their participatiion in the Doha Development Round, most WTO members are also actively engaged in the negotiation of free trade agreements (FTAs) with both regional and extra-regional partners. What is the scope for the application of pro-poor and pro-development trade policies in this context? How can developing countries ensure that the outcome of such negotiations is consistent with their development strategies and the pursuit of the MDGs?

International trade obligations at multilateral, regional and bilateral level have become increasingly more extensive and intrusive. Multilateral obligations were accepted as part of a package that was supposed to have given freer and more secure market access to developing countries, by bringing the textiles and clothing and agriculture sectors under multilateral disciplines. It was also expected to provide a dispute settlement mechanism that would strengthen the rights of smaller countries. The WTO "single undertaking"[2], agreed by founding WTO members, intensified existing multilateral rules relating to tariffs and subsidies, bringing developing countries under disciplines from which they had previously been exempt. It also

[2] For a complete assessment of the outcome of the Uruguay Round and insight into the adoption of the "single undertaking", see UNCTAD Trade and Development Report 1994, UNCTAD/TDR/14 and Supp.1 (Geneva: 1994).

extended trade obligations into new areas such as national policies on services (e.g. finance, communications, energy, environment, culture, immigration, transportation, health and education) and intellectual property rights. Those countries which have acceded to the WTO after its establishment find themselves subject to even greater constraints, as the major trading countries have followed a policy of seeking maximum, "WTO plus" concessions in their terms of accession.

Box 1: Terms of Accession[3]

Countries that have acceded to the WTO have been obliged to accept WTO-plus obligations and commitments as part of their terms of accession. These have included across the board tariff bindings often at low rates, extensive commitments on trade in services, going far beyond those made by developing countries in the Uruguay Round, lack of recourse to permitted TRIMs (e.g. on transfer of technology), abolition of export taxes, little or no recourse to special safeguards inn agriculture, additional commitments on energy prices in excess of the normal WTO disciplines on subsidies, no access to export subsidies even when their GDP is less than $1000. Furthermore, some acceding countries have been denied full WTO rights based on the argument that they are still in the category of "non-market economies" Acceding countries have more recently obtained recognition that the extensive commitments contained in their terms of accession should be taken into account in multilateral trade negotiations.

This has constricted the policy space available to developing countries to pursue development strategies.[4] The WTO Doha Development Round aims at continuing the process of liberalization with tighter disciplines. However, it also provides the opportunity for developing countries to address difficulties encountered in the implementation of the Uruguay Round results.

Some FTAs are More Constraining

All developing countries have been caught up in the proliferation of FTAs, both with other developing countries (South/South) and between developed and developing countries (North/South). Some of these manifest a more ambitious approach by developing countries to the pursuit of the traditional objective of regional integration. Others, however, are extra-regional, reflecting strategies of individual countries to seek privileged market access conditions which they consider cannot be achieved in multilateral negotiations. For certain developed countries, the negotiation of bilateral FTAs with developing countries has a highly political motivation. It also manifests a strategy on their part of imposing tighter and more extensive disciplines on their trading partner than can be achieved, at least in the near future, in the WTO, or to consolidate positions they are pursuing multilaterally vis-à-vis other major players in the WTO. Major trading countries are also involved in the pursuit of geopolitical objectives through some bilateral and regional trade negotiations, while smaller

[3] See, for example, UNCTAD, WTO Accessions and Development Policies (New York and Geneva: 2001). An acceding country is in a much weaker position under the WTO than it was previously under GATT, where the possibility of invoking the non-application clause was excluded once bilateral negotiations had been engaged.

[4] UNDP et al., *Making Global Trade Work for People* (London and US: Earthscan, 2003) (www.earthscan.co.uk).

countries struggle to ensure that their vital sectoral interests are protected.[5] The implications of such FTAs for development are discussed in Section X.

Box 2: Frontiers of the Trading System

Considerations of policy space should bear in mind that there has been a recent tendency for multilateral and bilateral trade agreements to overstep the "frontiers" of the trading system. As a result, governments find that their trade commitments may conflict with other instruments and commitments based on consensus, established in other international forums, which they have accepted. These include the Convention on Biodiversity, the FAO Treaty on Plant Genetic Material, the UN Convention on the Protection of Cultural Contents and Artistic Expression, the Johannesburg Sustainable Development Plan of Action, the Rome Declaration on Food Security and the Global Strategy on Health for All.

To carry the analogy further, WIPO accepted that the whole set of intellectual property instruments would be incorporated into the WTO TRIPS Agreement as this gave them more "teeth" under the WTO dispute settlement mechanism. On the other hand, there has been considerable resistance from WHO and UNESCO to subjecting what are seen as fundamental rights to health, education and cultural identity to trade disciplines. The FAO, on the other hand, is actively preparing technical papers on issues related to its central goals, such as food security. The "frontiers" between the WTO rules and the Multilateral Environmental Agreements (MEAs) are currently being defined under the Doha mandate.[6] The inclusion of labour standards was not accepted.

Development Strategies and Trade Negotiations

This new emerging trading system imposes rules on the exercise of trade policies (in the broadest sense) both through general obligations, which apply to all WTO members, and specific commitments that individual countries have accepted. All developing countries are being subject to intense pressures to enter into additional binding commitments, at multilateral, regional, sub-regional and bilateral levels, to liberalize trade and investment and accept intrusive disciplines over an ever widening scope of development policy areas. Governments in developing countries will need to make major decisions on the extent they are willing to constrict policy options in order to gain trade benefits. The dilemma they face is on how to preserve development strategies in the context of multiple negotiations with regional and extra-regional, developed and developing partners.

A prerequisite to participating in trade negotiations should be a clear definition of a pro-poor national trade and development policy. Such policy should be aimed at ensuring that the poor do not inordinately bear the burden of adjustment, but maximize the benefits from trade liberalization and trade disciplines. The pursuit of three complementary and mutually supportive goals, on (a) an industrial policy based on tariffs, investment and services, (b) a proactive attack on barriers to exports

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[5] See Gibbs, Murray and Swarnim Wagle, with Pedro Ortega, *The Great Maze: Regional and Bilateral Free Trade Agreements in Asia,* UNDP Asia Pacific Trade and Investment Initiative (Colombo: 2005) (http://www.undprcc.lk/Publications/Publications/Great_Maze_-_FTA_-_completed.pdf).

[6] See WTO document, "Matrix on Trade Measures Pursuant to Selected MEAs", WT/CTE/W/160/rev.1, 14 July 2001 (www.wto.org).

supported by measures that ensure that the benefits of export growth are shared equitably, and (c) the protection of food security and rural livelihoods, should set in play a virtuous spiral of growth, poverty reduction and human development. The objective of trade negotiations should be the preservation of national policy space needed for development and achievement of the MDGs, while obtaining commitments from trading partners supportive of these development objectives.

Preparing a Strategy

A first step would be to review trade policies (i.e. trade in the broad sense of covering all matters subject to "trade" concessions) to target those most conducive to pro-poor and pro-development outcomes and the achievement of the MDGs. These can be divided into those where the maintenance of domestic policy space would seem crucial, and those where the objective would be to obtain action on the part of other countries, with the support of policy measures at the national level. Policy measures at the national and international levels would focus on (a) preventing the poor from bearing the burden of trade disciplines and liberalization and (b) equipping poorer people to derive maximum benefit from trade and globalization. In both cases, the achievement of the MDGs would be a central objective.

Governments which have not clearly defined their interests and goals inevitably find themselves on the defensive in trade negotiations. A pro-development trade policy not solidly based on a broad national consensus will not be defensible for long in negotiations, as it will come under pressure from foreign trade negotiators, multilateral financial institutions and special interest groups within the country. A solid consensus building exercise should, therefore, be seen as a prerequisite for effective participation in trade negotiations. This is to preempt the risk of "elite capture", where special interests are successful in distorting priorities to serve their own interests at the expense of other segments of society. This can result in undermining development strategies and give rise to political conflict. An intensive consensus building process involving all stakeholders can greatly strengthen the ability of governments to achieve a pro development, pro-poor outcome in trade negotiations. A consensus should be reached on a list of priorities to be pursued in trade negotiations, whether at the multilateral, regional or bilateral level.

This strategy would incorporate pro-poor and pro-development objectives into national trade legislation and regulation, and anticipate the requests of trading partners so as to prepare to protect existing pro-MDG programmes and preserve policy space for future initiatives. A bottom-up pro-poor and pro-development trade strategy could be devised so as to attain the following goals in domestic policy and trade negotiations:

***Goal A*:** to protect the most vulnerable segments of the population and to ensure greater equality within national societies, notably by providing universal access to basic services, health, education, water and sanitation and energy, and to protect poor farmers from disruptive surges of imports that could threaten their livelihoods.

> *Negotiating strategy*: to defend national policies and regulations in negotiations on trade in services and investment, (Sections 6 and 7) and flexibilities in agricultural trade regimes, (Section 5), and of ensuring access to medicines (Section 9).

***Goal B*:** to empower people to become productive members of their national societies and compete in the world economy.

Negotiating strategy: to retain the flexibility to implement a coherent industrial policy, and export strategy setting off the virtuous upward spiral (Sections 3 and 4), obtaining advanced capital and technology, (Sections 5, 6, 7 and 8) while building upon traditional knowledge and community achievements (Section 9).

***Goal C*:** to establish a set of objectives which should be pursued as a *demandeur* in trade negotiations, seeking commitments from other trading partners either in terms of specific concessions on their part or acceptance of trade rules that will serve to make the international trading environment more supportive of the national development strategy[7].

Negotiating strategy: to pursue the elimination of tariffs and tighter disciplines over the application of restrictive trade measures in negotiations at the multilateral, regional, plurilateral and bilateral levels (Sections 2, 3 and 10).

The WTO Multilateral Negotiations and the MDGs

The goals of the Doha Declaration are consistent with the objectives outlined in this Policy Note. In this context, developing countries have been insisting that commitments be made to deal with measures most inimical to their exports (e.g. agricultural subsidies in developed countries) as a prerequisite to liberalization on their part. All WTO members are participating in the Doha Round whose final package was more clearly defined at the sixth WTO Ministerial Conference in Hong Kong in December 2005.[8]

While the Doha Declaration sets out objectives aimed at further liberalization, it also recognizes development objectives and the need to revisit certain obligations from a development perspective. Certain actions have already been taken, such as the Declaration on TRIPS and Public Health and some measures deriving from it (eg. Paragraph 6). Some of the new “Singapore” issues opposed by developing countries have also been withdrawn from the agenda as a result of the Cancun Ministerial Conference. What can be achieved in the multilateral trade negotiations that could be supportive of development strategies and is it possible to foresee the main elements of the Doha outcome that will set the multilateral framework within which trade policies will be formulated and pursued[9]

[7] See UNCTAD, *A Positive Agenda for Future Trade Negotiations* (UNCTAD/ITCD/TSB/10) (New York and Geneva: 2000), which sets out the spectrum of developing country goals in multilateral trade negotiations (http://www.unctad.org/en/docs/itcdtsb10_en.pdf).

[8] See Hong Kong Ministerial Declaration WT/MIN(05)/Dec, and other relevant documents on www.wto.org.

[9] See Das, Bhagirath Lal, *The Current Negotiations in the WTO, options, opportunities and risks for developing countries* (ZED books, London: 2005) www.zedbooks.co.uk.

Box 3: Doha Round Suspension

On 27 July 2006, the WTO General Council took note of the statements that had been made by delegations and the Director General to suspend the Doha Round multilateral trade negotiations. The talks broke down due to the inability to reach trade offs between the liberalization of industrial tariffs and the reduction of domestic subsidies and tariffs on agriculture.[10] In particular, the United States did not consider that it was in a position to accept a commitment to reduce its total trade distorting domestic support below $23 billion. Such breakdowns in multilateral negotiations are not new, (e.g. Brussels 1990)[11], and in January 2007 the WTO Director General announced the full resumption of the negotiations.

Policy space objectives:

Some action will require multilateral agreement, and thus must be pursued in concert with other interested countries, such as flexibilities to protect poor farmers (SP and SSM), maintenance or exclusion of plant varieties from patenting, more effective rules to prevent bio-piracy, more flexibility to raise bound tariff rates, resistance to excessive liberalization through formulas in tariffs and services. Other will involve defense of policy measures in direct negotiations with trade partners in response to requests for liberalization commitments on tariffs and services.

Box 4: Trade Policy Space Rationale

The question arises: why protect "space" for trade policy?

It can be argued that before 1995, developing countries largely "enjoyed" a free hand in the area of trade policy, and for the most part, with the exceptions that will be noted in the text, did not take advantage of this policy space to develop their economies.

The contraction of policy space which resulted through trade negotiations in GATT, but most dramatically after the entry into force of the WTO on an almost universal basis, was aimed to provide greater security of access for traders and investors, while the more stringent rule of law in the trade field was seen to be beneficial to developing countries as weaker partners in the international trading system.

Acceptance of the more intrusive and extensive trade disciplines described above is also seen as providing governments with an effective defense against protectionist pressures at home. For developing countries, such disciplines were viewed as needed to "lock in" the trade regimes imposed under temporary structural adjustment programmes imposed by the Bretton Woods institutions, which were considered as inherently beneficial for developing countries. These binding disciplines would provide the base for further trade liberalization and the further extension of the "frontiers" of the trading system to submit an ever widening range of policy measures to enforcement through the threat of trade sanctions. This was assumed to lead to ever increasing trade and accelerated economic growth.

However, this logic overlooked three important factors.

First, the process of development followed by successful countries, both those now considered highly developed, and those which have more recently industrialized (e.g. Asian

[10] See analysis by B.L. Das in SUNS, 2 August 2006 www.sunsonline.org.

[11] See comparison to breakdown of 1990 Brussels GATT Ministerial Meeting by Chakravarthi Raghavan in SUNS, 28 July 2006 www.sunsonline.org.

Tigers), has not followed the Bretton Woods model. These countries have applied a set of "tools" to protect infant industries, obtain advanced technologies and penetrate world markets that had been available under the more flexible GATT. These are now severely constrained under the WTO. Some of these countries were never GATT contracting parties and only recently acceded to the WTO. The intensified disciplines under the WTO have reduced the policy space available to other countries and precluded the possibility of their emulating some of the strategies which had proven successful earlier.

Second, the pursuit of ever more stringent trade disciplines did not take into account the potential conflict with other development objectives, particularly those aimed at improving the living conditions of poorer people in developing countries as set out in the MDGs. In one dramatic case, the Declaration on TRIPS and Public Health had to be introduced in Doha to literally save people's lives. Beginning most dramatically at the 1999 Seattle WTO Ministerial Conference, some governments and civil society groups have challenged the goals of the ongoing negotiating process, drawing attention to a serious conflict between the goals of evermore intrusive and extensive trade disciplines and the need for policy space to pursue pro-poor policies such as food and livelihood security (agriculture), universal access to basic services, access to technology (services) and traditional community interests (TRIPS). There has been a growing democratization of trade policy formulation in both developed and developing countries. A wider range of stakeholders have demanded that their vital interests be protected and have rejected a secretive negotiation process. They have also observed that with the establishment of the WTO, the multilateral trading system has also extended its "frontiers" into policy areas where international consensus had been reached in other organizations such as the FAO, UNESCO and WHO.

Third, the commitment of the major trading countries to the multilateral trading system has declined, as they have pursued the negotiation of reciprocal FTAs with developing countries that had previously enjoyed unilateral preferential access to their markets. Furthermore, the return to bilateralism has also reflected a resurgence of political considerations in trade relations, precisely what the post-war GATT system had been set up to avoid.[12] FTAs exacerbate the difficulties described above, as they often totally eliminate any policy space that developing countries may have succeeded in defending in the WTO. They represent a negotiating process that is more political, less transparent and less likely to be based on national consensus than the multilateral trade regime.

The most important decisions relating to policy space to be faced by policy makers in the WTO multilateral trade negotiations relate to (a) measures to protect food security (Section 5), (b) preservation of flexibility in industrial tariff negotiations (Section 3), and (c) response to formula approaches for commitments on trade in services (Section 6). However, by far the greatest overall challenge lies in devising a response to the proliferation of FTAs (Section 10), which cover all issues addressed in this Policy Note.

Market Access Objectives:

- elimination of agricultural export subsidies and meaningful reduction of production subsidies, including with respect to all "boxes", a significant increase in TRQs maintained by developed countries or the elimination of over quota tariff rates;

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[12] VanGrasstek, Craig, "U.S. Policy Towards Free Trade Agreements: Strategic Perspectives and Extrinsic Objectives", UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document (Hanoi: 2003) (available at www.undprcc.lk/Publications/Publications.asp?C=4).

- bound, duty- and quota-free access to developed country markets for all (not just 97%) exports of LDCs, i.e. including textiles and clothing; and duty-free access to developed country markets in other sectors of key export interest to developing countries;
- tighter multilateral rules on resort to contingency trade measures affecting exports (e.g. to introduce more stringent disciplines in resort to anti-dumping duties against developing country exports, and measures to reduce the impact of such duties when applied) ;
- improved access under Mode 4 of GATS for movement of service suppliers in occupations of export interest to developing countries, and the protection of traditional knowledge and prevention of bio-piracy for exported products (e.g. GIs)

Box 5: Trade Negotiations and Human Development

The UNDP Asia Pacific Initiative on Trade, Human Development and Economic Governance took on the task, (in 2002), of assessing the impact of various potential outcomes of trade negotiations on human development. The conduct of such analysis required at least a working definition of human development as applied to trade. The Asia Trade Initiative examined the literature on human development and identified four central components against which trade outcomes could be assessed, focusing on selected areas of trade negotiations for which the outcome could be expected to impact on a large number of people, particularly poor people (agriculture, fisheries, MNP, energy services, environmental services ,investment, TRIPs, and textiles and clothing as well as the WTO plus provisions of FTAs). Each trade measure proposed in the negotiations was assessed against whether it (a) would enhance the empowerment of poor people, i.e. would they gain more ability to shape the processes and events that affect their lives, (b) would permit poorer people to increase their productivity so as to enable them to compete in a globalised world economy, including through open and secure access for their exports, (c) would contribute to equity through increasing opportunities for those disadvantaged segments of the population (e.g. isolated regions, women, minority en ethnic groups), including through their access to vital services and (d) would be sustainable, in the sense that the measures could be implemented without entailing welfare losses for poorer groups of the population or future generations.

III. TARIFFS AND INDUSTRIAL POLICY

With the general elimination of quantitative restrictions, tariffs remain the main measure available for the protection of domestic industries. Tariffs are also a major source of revenue for the governments of many developing countries, particularly LDCs and small island developing states (SIDS). Tariffs are, therefore, an essential tool for industrial policy for both reasons. How can such policy be oriented to achieving the MDGs? What is the role of tariffs in industrial policy and how should governments react to requests for further tariff liberalization commitments?

Industrial Policy and Trade Negotiations

Industrial policy requires a coordinated approach to most of the spectrum of trade policies subject to international disciplines which are currently the subject of trade negotiations. These include tariff policy, subsidies, policies to develop an efficient services infrastructure and producer service sector, (e.g. telecommunications, financial services, transportation services, other producer services, policies with respect to movement of persons), investment policy, and intellectual property rights. The execution of a coherent industrial policy thus calls for a coordinated negotiating strategy covering all aspects of trade negotiations. The effectiveness of tariffs as a tool for industrialization is also linked to the monetary policy framework within which it operates. When the capital account is liberalized control over exchange rates may be lost and the appreciation of exchange rates can obviously undermine export competitiveness and the impact of tariff protection.

Box 6: Components of Trade Related Industrial Policy

In addition to formal trade measures, such as import and export tariffs and quantitative restrictions, other trade measures, which are currently the subject of trade agreements or negotiations, are also essential components of a coherent trade and industrial policy. These include:

- Export promotion policies, which provide employment, higher incomes and foreign exchange to finance industrialization (Section 4);
- Agricultural policies, which reduce dependence on imports of essential food products and provide support for agro-industrial export income where possible (Section 5);
- Policies aimed at establishing an efficient services infrastructure, obtaining advanced producer services and associated technology, and access to distribution channels (Section 6), as well as access to low cost energy;
- Investment policies that maximize the contribution of FDI to industrial development through access to capital and technology in key sectors. (Section 7);
- Intellectual property policies aimed at facilitating access to technology and low cost generic drug production (Section 9);
- Provisions to promote industrial cooperation in FTAs (Section 10);
- MNP can also be an important component of industrial policy, providing export income and upgrading the skills of industrial workers (Sections 6 and 8).[13]

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[13] See Vu Quoc Huy et al., "Trade in Services, Movement of Natural Persons and Human Development: Country Case Study - Vietnam", UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document (Hanoi: 2003) (available at www.undprcc.lk/Publications/Publications.asp?C=4).

Public-Private Partnerships

Industrial policy is likely to work best if it is based on a strategic partnership between the public and private sectors and if government policy is successful in eliciting relevant information from the private sector - on the most binding constraints and externalities which the private sector faces - and is able to effectively deal with them. This is most likely to stimulate the entrepreneurial spirits of the private sector which are a crucial ingredient of successful industrial policy. Nevertheless, while the government should be close to the private sector's concerns, it must avoid being captured by special private sector interest groups if this policy is to serve the broader national interest. Strong state institutions and a clear government vision will be crucial to achieving this.

Tariff Liberalization and Bindings

Tariffs are only one crucial ingredient of industrial policy, albeit an important one. Over the past twenty years developing countries have phased out quantitative restrictions and many have reduced tariffs, in some cases dramatically. The tariff reductions have usually been implemented as conditions for World Bank/IMF structural adjustment loans and programmes, which are by nature temporary. However, there has been strong pressure on developing countries to bind these low tariffs in the WTO, so as to "lock in" economic reforms, as an element in their Uruguay Round "package" of concessions. The pressure to do this has increased for countries newly acceding to the WTO or within the framework of FTAs. At present, developing countries are under pressure to further reduce, and bind, industrial tariffs in the Doha Round in line with a tariff cutting and harmonization formula being worked out in the NAMA (non-agricultural market access) group.[14]

Tariffs reductions can impact the achievement of the MDGs in at least three ways.

(a) They may lead to a surge in imports forcing domestic competitors out of business and causing increased unemployment in developing countries. Those so losing their jobs as a result are unlikely to find any alternative employment and many will sink below the poverty line.

(b) Tariff cuts can result in a reduction of government revenue, leaving the government with fewer resources for fighting poverty and for other social programmes.

(c) Tariff reductions may undermine industrialization policies in developing countries ("nip industrialization in the bud") by exposing industries to competition before they are strong enough to compete in the world.

Over 77 per cent of MFN tariffs in developing countries, and 44 per cent in LDCs, are bound[15] in the WTO, although many at relatively high rates, greatly exceeding current applied rates and allowing a considerable degree of flexibility. The use of tariffs as a tool of industrial policy is obviously a function of the flexibility that individual countries retain in their tariff schedules. Many developing countries have avoided

[14] The Third World Network had drawn up a table showing the tariff cuts that would result from the application of the "Swiss" tariff cutting formula using different coefficients. See www.twnside.org.sg.

[15] See Fernandez de Cordoba, Santiago, *Coping with Trade Reforms, Implications of the WTO Industrial Tariff Negotiations for Developing Countries,* UNCTAD (Geneva: 2005).

across the board tariff bindings. For a number of relatively advanced developing countries in Asia for example, the level of bindings on industrial products is around 60 percent of tariff lines. In Africa there is no set pattern. Almost one third of African countries have bound less than 10 percent of their industrial tariff schedules, while another third have bound over 90 per cent. Over 85 percent of Latin American countries have bound over 90 per cent.[16] Flexibility is also provided by the levels of tariffs, as many countries have bound their tariff at relatively high rates and maintain an applied tariff at much lower levels. These high tariff bindings generally cover all industrial products, without much variation among sectors. Tariff policy is also restrained by FTAs that eliminate tariff flexibility among partners, and can drastically affect the scope for industrial tariff policy.

Box 7: The Fiscal Implications of Trade Liberalization

Trade liberalization over the past 20 years has indeed primarily taken the form of reductions in tariffs levied on imports in the context of bi- or multilateral agreements. Yet, customs duties continue to represent a significant share of fiscal revenue in most developing regions – and in particular in the least developed countries and small island countries, where reliance on trade taxes may exceed 25 per cent. The net revenue-impact of trade liberalization, which has received much attention in the literature*, depends on assumptions that make it theoretically ambiguous. It has been argued that in addition to the marginal (assumed to be positive) effect of trade liberalization on growth, the introduction of consumption-based taxes –and of a Value Added Tax more specifically- would offset the short term negative impacts on government revenues.

Yet, empirical results suggest that such has not been the case, in particular for countries that rely most on trade taxes: for every dollar lost in tariffs, poor and middle-income countries have at best been able to recover 30 cents from other sources.[17] Even more troubling is the fact that these countries are those where government revenues as a share of GDP are already among the lowest for a variety of structural reasons – urbanization rates, population density, dependency ratio- and economic reasons, and where public investments are much needed to reduce poverty and achieve the MDGs. Explanations for the inability of poorer countries to make up for the loss in tariffs revenues include the institutional and administrative challenges posed by the introduction of VAT in economies where a sizeable share of transactions occurs in the informal sector, and where central and local tax authorities lack the technical capacities required to collect taxes, prevent leakages and tax evasion and implement necessary controls. Further, it has been argued[18] that a revenue-neutral reform of tariffs and VAT rates could be welfare-reducing in the context of highly informal economies where the increased reliance on VAT will exacerbate the distortions between the formal and informal sectors. It is clear, therefore, that trade liberalization has far-reaching fiscal and institutional implications and calls for the design of comprehensive technical assistance and capacity building programs that should be a priority of aid-for-trade initiatives (see Section III).

* Sources: Dollar, David and Aart Kraay 'Trade, Growth and Poverty' World Bank Working Paper 2615, 2001; Greenaway, David, Wyn Morgan and Peter Wright, "Trade Liberalization and Growth in Developing Countries", Journal of Development Economics, Vol. 67, 2002; and Rodriguez, Francisco and Dani Rodrik, "Trade Policy and Economic Growth: A Skeptic's Guide to the Cross National Evidence", NBER Working Paper 7081, 1999.

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[16] See Bacchetta, Marc and Bijit Bora, *Industrial Tariffs and the Doha Development Agenda*, WTO discussion paper (Geneva: 2003), http://www.wto.org/English/res_e/booksp_e/discussion_papers_e.pdf

[17] Baunsgaard, Thomas and Michael Keen, "Tax Revenue and (or?) Trade Liberalization", IMF Working Paper WP/05/112, June 2005.

[18] Stiglitz, Joseph and M. Shahe Emran, "Price Neutral Tax reform With an Informal Economy", Econometric Society, 2004 North American Summer Meetings 493.

Tariff Policy and Industrialization Strategy

A successful industrialization policy is one which allows a country to draw benefits from the globalization process by moving from static to dynamic comparative advantage. In this context, an appropriate balance in industrial policy design needs to be struck between the need for countries to take advantage of external effects that lead to the emergence of dynamic competitive advantage over time while at the same time recognizing that different countries will be better at producing different goods.

Within this framework, the starting point is typically resource-based and labour intensive manufactures, often, but not always, the development of a textile and clothing industry (see Annex A to Section 3). The industrialization process starting from this initial type of industry should lead to the production of medium technology consumer goods and then up the ladder to high technology consumer and capital goods production. The success of some developing countries in world trade (eg. Republic of Korea) has, to a significant effect, been a function of their ability to manufacture and export increasingly higher technology manufactured goods.

The need for tariff protection changes as countries move up this ladder. At the first stage, tariffs are required to develop domestic labour intensive consumer goods industries. At a subsequent stage, it is the relatively more advanced technology production that requires tariff protection to encourage investors to enter into technologically more complex activities. At this stage, the protection for the lower stage industries can be phased out. Such an approach can help attain the MDGs by ensuring that new, higher value added more advanced industries are established to provide better quality employment opportunities for those in the more labour intensive industries before the latter are exposed to international competition. This should also provide more decent and productive work for youth in higher technology industries (MDG8, Target 17), by stimulating a virtuous spiral of growth, poverty reduction and human development.[19]

Box 8: Social Sustainability Threshold

In the absence of the "virtual upward spiral" mentioned above there would be a risk of a w downward spiral that could drop below the "social sustainability threshold", i.e., the absolute limit of negative effects of policies or economic reform measures (such as trade liberalization), in terms of the deterioration of the situation or their economic prospects and opportunities, which a social group or society in general is willing to support without revolting in one way or another,. Below this threshold, a country enters a turbulent area of social disturbance, economic breakdown and overall instability where economic laws no longer hold (preventing anticipated future positive effects of reform from materializing).[20]

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[19] See also Malhotra, Kamal, "National Trade and Development Strategies: Suggested Policy Directions" (April 2006), background paper for UNDP Asia-Pacific Human Development Report, Trade on Human Terms: Transforming Trade for Human Development in Asia and the Pacific, UNDP, June 2006. See also Akyuz, Yilmaz, *The WTO Negotiations on Industrial Tariffs, What is at Stake for Developing Countries,* Geneva 2005.

[20] See Ivan Martin In Search of Development along the Southern Border: The Economic Models Underlying the Euro-Mediterranean Partnership and the European Neighbourhood Policy paper presented to Seminar on Free Trade Agreements in the Arab Region 9-11 December 2006

Such tariff policy should ensure that industries clearly perceive that high tariff protection will not be maintained indefinitely and industries that do not become competitive will be allowed to disappear. Moreover, it is important to assess whether tariffs are really forward looking and for genuine infant industry protection or whether they are actually for the protection of dying industries or those which have no chance of becoming viable and internationally competitive. They should be favoured for forward looking industries and purposes, not for dying or unviable industries.

Despite these caveats, however, developing countries should ensure that they retain the ability to shift tariff protection from low to intermediate to high technology sectors as they move up the technology ladder, through a system of "cascading" tariffs. This could be achieved by not binding tariffs, or binding them at very high levels, or seeking exceptions for strategic sectors in the application of any tariff reduction formula. Ways should be sought to introduce more flexibility to tariff bindings accepted by countries at lower levels of industrialization, for example, a streamlined and more liberal interpretation of GATT Article XVIII:C which permits developing countries to deviate from their multilateral commitments, if necessary for the "establishment of a particular industry".[21] While it is true that some countries, especially LDCs, may not have all the necessary prerequisites to use tariff policy effectively in the manner described because of a small internal market or no clearly identifiable dynamic manufacturing industry, they should retain the policy space to pursue such strategies in the future in case either their circumstances change, or they are able to enter regional integration agreements with other developing countries which make such policies and industries viable.

Successful countries have used tariff treatment in tandem with other trade measures (quantitative restrictions, subsidies) and investment regulations (performance and ownership requirements, incentives) to achieve this upward spiral. As the WTO has reduced the scope to apply many of these measures (e.g. export subsidies, local content requirements, QRs), tariff policy has become relatively more important as a tool for industrialization in developing countries.

[21] This possibility was highlighted in the Decision on Implementation Issues and Concerns, annexed to the Doha Ministerial Declaration.

Box 9: The experience of the Republic of Korea

The Republic of Korea moved up the virtuous spiral, graduating in two decades from a largely agricultural country exporting cheap labour intensive products, such as textiles and clothing, to a fully industrialized country where manufactures represent 88% of exports and 37 % of GDP. GDP in 1960 was a mere US$82, lower than most LDCs today, while its per-capita GDP in 2005 was US$16,291 and is fast approaching US$20,000. It also has a very high HDI. The Republic of Korea prioritized export promotion as the means of financing higher value added industries on its way up the technological ladder. Its strategy was to use a range of "tools" including tariffs and quantitative restrictions (QRs), local content, transfer of technology and export performance requirements to increase bargaining power with foreign investors, favouring those willing to transfer technology or with more effective export distribution channels.[22] The formation of large conglomerates was actively promoted. Building on the success in the production and export of light industry products, The Republic of Korea established heavy industries such as steel, petrochemicals, shipbuilding, industrial machinery, non-ferrous metal refining and electrical industries. It has now prioritized high technology industries such as semi-conductors. There has been substantial development and transformation in the Republic of Korea in the last 45 years. The major industries during the 1960s were labour-intensive industries such as wigs, artificial eyelashes, clothes and plywood while in 2005 the major industries were shipbuilding, automobiles, semiconductors and steel. The top three export items in the 1970s were textiles, plywood and wigs while in 2005 these were semiconductors, automobiles and wireless telecom.[23]

In the example given above, the Republic of Korea relied on QRs to protect infant industries and as a "carrot" for investors. These were covered by the balance of payments provisions of Article XVIII:B of GATT. It lost the use of this instrument during the Uruguay Round. Countries unable to otherwise justify QRs (under balance of payments provisions) are not permitted to impose local content or trade balancing requirements which are prohibited under the TRIMs Agreement.

Tariff policy also has to address the question of the impact of tariffs on the cost of inputs for export industries. For example, should industries producing inputs be given tariff protection to foster backward linkages, or should all protection on inputs be eliminated to reduce costs for the processing industry? Tariffs can be an impediment to good export performance because they could raise the cost of inputs and make the final products uncompetitive. For example, in the case of Pakistan, protection against man-made fibre imports to shelter the cotton industry led to a decline in competitiveness for exports of made up articles and clothing.[24] Tariff draw back schemes can also be a solution, but they are often difficult to administer.

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[22] See Shin, Jang-Sup and Jang-Sup Chang, "Foreign Investment Policy and Human Development Country study: Republic of Korea", in Seih Mei Ling ed., Investment, Energy and Environmental Services: Promoting Human Development in WTO Negotiations, University of Malaya, UNDP, and Malaysian Institute of Economic Research (Kuala Lumpur, March 2004) http://www.um.edu.my. See also DoHoon Kim, *Presentation on Trade Promotion and Economic Development in Korea*, Korea Institute for Industrial Economics and Trade, 29 May 2006, in file with author.

[23] See DoHoon Kim, *op. cit.*.

[24] See Khan, Zubair, *The Impact of the post-ATC Environment on Pakistan's Textiles Trade,* UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document, (Hanoi: 2003) (www.undprcc.lk/Publications/Publications.asp?C=4).

Export duties can also be an element of an industrialization strategy, by ensuring supplies of lower cost raw material inputs for domestic industry[25].

Box 10: Mongolia - Removal of export restrictions and taxes

Mongolia was obliged to eliminate its export restrictions and phase out its export duties on raw cashmere under its terms of accession to the WTO. As a result, raw cashmere is now exported to China and the cashmere processing sector has all but disappeared.[26] It is estimated that if all raw cashmere produced in Mongolia were fully processed into finished knitted and woven products before export, such exports would generate $206 million in reserve, more than all T&C exports. Moreover, employment in the processing industry would more than double.[27] On the other hand, the poor herders were able to obtain higher prices for their raw cashmere from Chinese buyers who required the longer Mongolian fibres to improve the quality of their fabric.

Services and Industrial Policy

The services sector should also be seen as relevant to industrial policy. For some countries, it will simply make little sense, at least in the short-term, to develop a manufacturing sector. In such cases, priority should be given to the development of a dynamic non-manufacturing sector (eg. tourism).

Energy services will also be central to industrial policy, especially the ability to provide energy domestically at rates less than those prevailing on the world market. The Doha Round is the first time that energy policy has been seriously addressed in multilateral trade negotiations, covering subsidies, export restrictions and taxes, energy services, trade and environment and domestic excise taxes.[28] Concessions on energy policy have been made by countries acceding to the WTO.

However, a wide range of TRIMs are still permitted including transfer of technology and export performance requirements (see Section VII). Moreover, performance requirements are encouraged for developing countries as a means of acquiring technology or access to information networks and distribution channels in the services sector (see Section VI), even though some acceding countries have agreed to eliminate certain TRIMs and performance requirements that would otherwise have been permitted by the WTO.

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[25] Under the WTO export duties have the same status as import duties, they are limited only to the extent that they have been bound in multilateral trade negotiations.

[26] See Tsogbaatar, Damedin, *Mongolia's WTO Accession: Expectations and Realities of WTO Membership* (www.wto.org/English/res_e/booksp_e/casestudies_e/case29_e.htm).

[27] See Adhikari, Ratnakar and Yumito Yamamamoto, "Sewing Thoughts, How to Realize Human Development Gains in the Post-Quota World", UNDP Asia Pacific Trade and Investment Initiative, April 2006 (www.undprcc.lk/Publications/Publications/TC_Tracking_Report_April_2006.pdf).

[28] See Gibbs, Murray, *Energy in the WTO: What is at stake?*, in Sieh Mei Ling ed. *Investment, Energy and Environmental Services: Promoting Human Development in WTO Negotiations*, University of Malaya, UNDP, and Malaysian Institute of Economic Research, Kuala Lumpur, March 2004, (www.um.edu.my).

Subsidies

Developing countries are permitted to apply production subsidies unless these are shown to cause serious prejudice to the interests of other countries. Any subsidy that is not specific, in that it is generally available to all enterprises is "non actionable" under the WTO Agreement on Subsidies and Countervailing Measures. For example, the provision of energy at costs lower than those prevailing on the world market (dual price system) is not considered to constitute an actionable subsidy, so long as the cheaper access is generally available throughout the economy.[29] Export subsidies, i.e. subsidies contingent upon export performance are prohibited to all WTO members, except LDCs and a group of lower income countries which will enjoy this freedom until they reach $1000 per capita GNP.[30]

[29] See UNCTAD, *Energy and Environmental Services, Negotiating Objectives and Development Priorities*, (ed. Simonetta Zarrilli) UNCTAD/DITC/TNCD/2003/3, Geneva, July 2005.

[30] WTO Agreement on Subsides and Countervailing Measures Annex VII.

IV. EXPORTS AND POVERTY

Can developing countries "export their way out of poverty", can they export their way to achievement of the MDGs? How can the poor in developing countries achieve productivity and the means to compete in the world market? How can governments ensure that the benefits of exports are widely shared and that they reduce inequalities? How can it be assured that export industries are sustainable, that adequate working conditions are maintained, that environmental impacts do not undermine the livelihoods of people in other sectors. What are the constraints faced by governments in promoting exports? What contribution can "aid for trade" programmes make to addressing "supply side" constraints which inhibit a country's ability to export?

Export Growth and the MDGs

Increased exports of goods and services can provide increased incomes for poor people, government revenue, new opportunities for employment, including high paid jobs abroad, particularly for women and young jobseekers. Exports can contribute to the achievement of MDGs by lifting people out of poverty (MDG1) and empowering women (MDG3), and by contributing to the achievement of MDG8. MDG8 aims at a trading system in which developing countries can extract greater benefits from the international trading system.

Trade policies should be aimed at enabling poorer people to compete in the world market and derive benefits from globalization. The *simple orthodoxy* would suggest that trade liberalization will allow resources to be redeployed from low productivity to high productivity export sectors. However, it ignores the basic fact that there are already high levels of unemployment in developing countries. Human resources are available for the export sector, they do not have to be "liberated" by creating unemployment in other sectors.[31] Import and export policy should be twin elements of an overall industrialization strategy, targeting the import of essential food, fuels, raw materials, inputs, capital equipment, machinery, spare parts and intermediate inputs goods, supporting export growth and earning the foreign exchange necessary to finance such imports. Priority should be given to the expansion of those export sectors that will provide opportunities for achieving the MDGs and other development goals.

One problem is that many poorer developing countries have suffered a decline in their share in world exports, even when benefiting from tariff preferences which they now find eroding. Other countries have been able to rapidly increase exports in response to certain trade policy measures which have worked in their favour, but are finding themselves unable to compete when faced with a more open, competitive situation. One example is textiles and clothing, where many poorer countries have developed a successful export industry within the framework of the discriminatory structure of the Multi Fibre Agreement (MFA) and are now faced with the challenge of a more competitive environment as described in Annex A to this Section. Another example is the sugar sector where the erosion of EU preferences will cause inevitable adjustment costs to poor producers.

[31] See Stiglitz, Joseph and Andrew Charlton, *op. cit.*, p. 25-26.

Box 11: Aid-for-Trade

The need for scaling up aid-for-trade resources to LDCs and other low income countries was widely recognized by the international community in 2005, culminating with the inclusion in the December 2005 WTO Hong Kong Ministerial Declaration of key paragraphs on both an enhanced Integrated Framework for Trade Related Technical Assistance for the LDCs (IF) and broader aid-for-trade. Ministers in Hong Kong agreed to establish a new Aid-For-Trade Task Force with the mandate to provide recommendations on how to operationalize aid-for-trade components beyond an enhanced IF, so that it can most effectively contribute to the development dimension of the Doha Round. Following wide-ranging consultations with WTO member states, international agencies and other stakeholders, the Task Force submitted its report to the WTO General Council on 27 July 2006. The report, which was finalized after the suspension of the Doha negotiations, makes clear that aid-for-trade is a complement to the Doha Round and not conditional upon its success.

The main thrust of the Task Force's recommendations is that existing arrangements and commitments should be built upon in financing aid-for-trade needs, guided by the Paris Declaration on Aid Effectiveness. In this context, The WTO Director General is urged to "seek confirmation from donors and agencies that funds are readily available for the implementation of the aid-for-trade initiative …".

As for the scope of aid-for-trade, this should be broad enough to cover the diverse needs of developing countries, and clear enough to differentiate aid-for-trade from other development assistance (of which it is a part). Trade-related development priorities included in the recipients' national development strategies should be considered as falling under the aid-for-trade umbrella.

Specifically, aid-for-trade is expected to encompass trade policy and regulations; trade development; trade-related infrastructure; building productive capacity; and trade-related adjustment.

This is a broad enough definition to cover the wide array of supply side constraints affecting developing countries' competitiveness on world markets, including investments in projects addressing cross-country and regional impediments to trade development, such as regional transport corridors, standards, disease or pest issues - areas that have traditionally been neglected and require a much higher priority than they have received so far.

Another important area that is, quite innovatively, covered, even though there is no consensus on its inclusion, are short-term adjustment needs (i.e. fiscal loss of government revenue as a result of MFN tariff reduction, changes in terms of trade for net food importers, preference erosion through MFN or FTA tariff reductions, or the elimination of special preferential arrangements). The costs of adaptation to the elimination of the quota system on textiles and clothing, (see Annex 3A) and the implementation costs of trade agreements are also included in many definitions.

The Task Force's report also makes provision for AFT reporting requirements - either as donor or recipient - in periodic trade policy reviews of WTO member states. A global periodic aid-for-trade review is also recommended. This is to be convened by a monitoring body to be set up within the WTO. The Director-General is expected to establish an ad hoc consultative group to take forward the practical follow up of the Task Force's recommendations.

Source: UNDP Concept Note on Aid for Trade, January 2006 (http://www.undp.org/poverty/) and WTO document "Recommendations of the Task Force on Aid For Trade", WT/AFT/1, 27 July 2006 (www.wto.org).

Export growth is part of the virtuous spiral described in Section 3, providing financing for the import of new technologies needed to increase competitiveness and improve living standards.

Increase Productivity

Exports should, directly or indirectly, provide employment for poor people and women. The challenge is to provide them with the means to compete and to increase their **productivity**. This requires an understanding of factors contributing to competitiveness in the sector, and policy measures to enhance them. Some countries have achieved high export growth but with low value added since such exports have not emerged from the industrialization strategy described in Section 3. The move from static to dynamic comparative advantage is manifested in the continuous upgrading of the technological content of exports, which is the expected result of moving up the virtuous spiral described in Section 3. Success in exporting is a function of the capacity to domestically produce products that are "dynamic in world trade".[32]

Box 12: China's Industrialization

China has followed an approach to industrialization which is similar, in important respects, to that which was adopted by the Republic of Korea. Both have high technological content and value-added in the domestic economy, as described in Section 3. Tariff and quota protection and TRIMs were used as "carrots and sticks" to oblige firms to move up the technological ladder. China's impressive export performance has been a result of its ability to produce "dynamic" export products of ever increasing technological content. China's pattern of production and exports were not left to be determined by traditional forces of comparative advantage. Government policies have nurtured domestic capabilities in consumer electronics and other advanced technology products.[33]

Promote equity

In most cases, even when they have occurred, the benefits of impressive export gains have not always been widely shared In certain circumstances, exports have even undermined the livelihoods of poor people. Policies to increase exports should be mindful of equity concerns, ensuring that benefits of exports do not accrue mainly to richer segments of the population. Additional measures are necessary to ensure that poorer segments of the population derive direct gains from export expansion, rather than rely only on trickle-down benefits. Evidence shows that export growth built on an inequitable distribution of income, can simply exacerbate existing inequalities.[34]

Box 13: Equity Issues in Fisheries Sector

The fisheries sector is a good example where a successful export industry can actually undermine the livelihoods of poorer producers, unless a strict policy framework is imposed to protect the latter, as described in Annex B to this Paper. The main exporters are large fishing fleets which deplete the coastal water and thus reduce availability to small fishers. Similarly the great success of aquaculture exports has resulted in the saline pollution of agricultural lands.

[32] For a list of dynamic products in world trade and an analysis of their contribution to export performance, see UNCTAD World Investment Report 2002 (www.unctad.org).

[33] See Rodrik, Dani, *What is so Special about China's Exports?*, Centre for Economic Policy Research (London, February 2006) (www.cepr.org).

[34] See UNDP Human Development Report 2005, International Cooperation at a Crossroads: Aid, Trade and Security in an Unequal World, Chapter 4 (New York, 2005) (http://hdr.undp.org/reports/global/2005/).

Ensure sustainability

Export polices should also ensure that exports are sustainable in the sense that current gains do not prevent subsequent generations from improving their own welfare. The concept of sustainability encompasses environmental concerns, as well as human capabilities such as health and education. Export industries may damage the environment, exhausting resources and otherwise serving to undermine the livelihoods of people employed in other sectors. Employment opportunities may entail unhealthy and dangerous working conditions, resulting in workers not being able to sustain more than a few years employment in the export industries. Hence, export orientation should be part of a comprehensive development strategy that incorporates measures to ensure that these human development objectives are attained.

Elements of a Comprehensive pro -Poor Export Strategy

These should comprise the following:

(a) improving the infrastructure supporting export activities of small and poor producers, including access to credit and to land;

(b) providing them with access to training and technology to improve skills;

(c) assisting them in raising the quality of the goods and services they produce, to meet SPS, TBT and buyer preferences;

(d) ensuring adequate working conditions, health and safety standards;

(e) Obtaining freer and more secure access to markets for their products,

(f) Liberalization of trade in services should be targeted to sectors where investment supports the competitiveness of the export sectors, and should be subject to condition that enhance this positive contribution;

(g) Strengthening community participation in export benefits through such techniques as the protection and application of traditional knowledge and the encouragement and protection of geographical indications;

(h) Strengthening positive linkages with other sectors of the economy, and dealing with negative externalities, e.g. working conditions, environmental degradation;

(i) Facilitating the temporary movement of persons abroad to gain skills and foreign exchange.

Box 14: Export Policies and WTO and other Trade Agreements

The Agreement on Subsidies and Countervailing Measures (Article 27.2(a)) exempts LDCs from the prohibition on export subsidies. The same exemption is also provided to a list of countries (in Annex VII) as long as their per capita GDP remains below $1000. Note that some acceding countries have forsaken this right in their terms of accession to the WTO. The Agreement on Agriculture permits countries to subsidize exports up to the level of their negotiated commitments. Very few developing countries have negotiated such commitments, and thus cannot subsidize.

The TRIMs Agreement prohibits trade balancing requirements, i.e. that investing firms must export to the extent they import. However, it does permit export performance and transfer of technology requirements. The GATS Agreement permits performance requirements for developing countries in order to help strengthen services in developing countries and it has no effective disciplines on export subsidies.

However, many countries have given up the right to these and other performance requirements in their terms of accession or in bilateral agreements (BITs and FTAs).

Access to Export Markets

Export-led development strategies obviously require the most free and secure access to world markets possible. For several decades developing countries have enjoyed preferential access to developed countries' markets under the Generalized System of Preferences negotiated in UNCTAD. These had the advantage of being non-reciprocal, but the serious disadvantages of not being bound and thus insecure, and of containing many exceptions, precisely in sectors, (e.g. textiles and clothing and agriculture) where developing countries possess a comparative advantage. Some poorer developing countries, notably those in the ACP group, benefited from contractual preferences in the EU. Most developed countries (excluding the USA) have complied with their commitment to extend duty free treatment to LDCs. Other developing countries are granted autonomous preferences to assist them in dealing with specific problems, such as dependence on exports of illicit drugs.

Many developing countries are seeking to negotiate FTAs with major developed countries as a means of ensuring conditions of access equal to those of their competitors. Negotiations have already begun to convert ACP preferences into reciprocal FTAs ("Economic Partnership Agreements").

However, barriers and distortions to world trade, particularly subsidized agricultural production and exports in the industrialized countries, have heavily penalized many developing countries. Contingent measures such as anti-dumping duties have served to "nip in the bud" export expansion in developing countries, while stricter sanitary and technical regulations have also had a disproportionate impact on poor people, excluding them from export income. Stringent rules of origin have resulted in many exports not benefiting from available tariff preferences. Poorer people are much more adversely affected by insecure access to markets, as sudden disruptions to their exports can provoke immediate unemployment in export industries and bankrupt small independent producers.

Box 15: Catfish, Globalization and the Poor

Many poor communities have invested in aquaculture production in the Mekong Delta of Viet Nam. Exports of catfish were having impressive success in the United States market and became a model of how globalization can benefit the poor. However, protectionist groups in the United States launched a policy of trade harassment against Vietnamese catfish, first by attempting to portray the catfish as being produced in unsanitary conditions, a claim which was debunked by the US Department of Agriculture, then by obtaining legislation requiring the Vietnamese product to be sold as "basa" and "tra" rather than "catfish". When this measure had little effect on imports, anti-dumping action was taken, facilitated by Viet Nam's "non-market economy" status in United States law, and the fact that, as a non-member of WTO at that time, Viet Nam had no multilateral rights and no access to dispute settlement mechanisms.[35]

V. AGRICULTURE AND FOOD SECURITY

Agriculture and the MDGs

The large majority of people living in extreme poverty live in rural areas of developing countries. Most of them are engaged in the subsistence agricultural sector. In some poor countries, agriculture constitutes up to 80 per cent of the labour force. Thus, the achievement of MDG1, MDG 3 (e.g. in some countries women do over 60 per cent of cultivation work) and others in most developing countries will depend on the success of reforms aimed at providing higher standards of living in the agricultural sector. Trade policy is an essential component of any such reforms. These millions of poor people are extremely vulnerable; their livelihoods can be suddenly undermined by surges in imports of cheap agricultural products. Trade can provide opportunities for the poor, if their products are able to penetrate lucrative export markets. Success in policies to raise poor farmers' incomes at the national level will be directly linked to the direction taken in the ongoing process of reform of the international trade regime governing agricultural trade. Developing countries are actively participating in the current WTO negotiations with the objective of designing an international regime more coincident with development objectives. At the same time many are further liberalizing trade in agricultural products within the framework of FTAs.

Complex Multilateral Regime

Trade in the agricultural sector is subject to a multilateral regime of extreme complexity. The process of "tariffication" conducted in the Uruguay Round under which non-tariff measures (e.g. quantitative restrictions) and variable levies were converted into equivalent tariff rates (and all tariff rates were bound) resulted in very high MFN tariffs in most major importing countries.[36] Market access (at least 5

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[35] See Lam Quoc Tuan, "Trade in Fisheries and Human Development - Country Case Study -Vietnam", UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document (Hanoi: 2003) (available at www.undprcc.lk/Publications/Publications.asp?C=4).

[36] An exception to the prohibition of QRs on Agricultural products is contained in Annex 5 to the Agreement on Agriculture .Section B in that Annex enables developing countries to maintain QRs on

percent of domestic consumption) was provided by a system of tariff rate quotas (TRQs),[37] at lower, but usually positive rates, often allocated to individual suppliers. As the out of quota tariffs are usually prohibitively high, imports of a large number of agricultural products into developed countries are in fact subject to de facto quantitative limits. This protective regime is supplemented by a Special Safeguard Mechanism (SSM), which permits additional import charges to be applied when imports of "tariffied" products exceed trigger prices or trigger volumes.

Thus, the new regime retained, in a somewhat different form, the quantitative restrictions (de facto) and variable levies that were central to the EU protective regime. It also established a framework for "micro-negotiation" for the granting of bilateral quotas reminiscent of the MFA. Within such a structure, analysis based on average tariff rates provides little useful guidance for policy makers.[38]

The WTO Agriculture Agreement also imposed some discipline on agricultural subsides. Export subsidies are subject to sectoral commitments, (volume and payments). Domestic production subsidies designed to have a distorting effect, (e.g.. price supports), are also subject to overall negotiated ceilings (based on AMS-aggregate measure of support) with a *de minimis* exception (5 per cent for developed, 10 per cent for developing countries). Two other categories of subsidies are not subject to limitations: (i) direct payments to producers when linked to supply reduction ("blue" box), and (ii) those determined to have minimal trade impact ("green" box). This structure has not served to limit agricultural subsidization, which has increased to almost $300 billion annually. Subsidy programmes have simply been directed to those 'boxes" where no limits are applied. [39]

Bound limits of domestic production subsidies (AMS) total $64 billion. However actual subsidization does not reach these limits. The utilization rate was 88 per cent in USA, 62 per cent in EU and 17 per cent in Japan.[40] Twenty nine WTO members have made AMS commitments. They are phrased in terms of overall payments, e.g. the European Community's commitment is EUR 67 billion, that of the United States $19 billion.

"a primary agricultural product that is the predominant staple in the traditional diet of a developing country". Only Korea, the Philippines and Israel make use of this provision

[37] In practice not all countries have met the 5 per cent access commitment and the TRQs have been significantly under utilized.

[38] Stiglitz and Charlton, *op. cit.*, pp. 217-234.

[39] There is a concise description of the subsidy boxes on the WTO website at http://www.wto.org/english/tratop_e/agric_e/agboxes_e.htm.

[40] See presentation by Ralf Peters UNCTAD at UNECA Ad Hoc Meeting on Agriculture, Tunis, November 2004, http://www.uneca.og/eca_programes/trade.

Box 16: Legal and Political Initiatives - Example of Cotton

Trade negotiations are not the only way of addressing the export interests of the poor in international trade. The WTO dispute settlement mechanism enables developing countries to challenge measures that are inconsistent with multilateral obligations. One example is the successful case launched by Brazil, with the support of numerous developing countries, against many elements of the United States subsidy schemes on cotton. The United States was found to have subsidized exports of cotton at a level exceeding its WTO commitments and in breach of other provisions of the Agreements on Agriculture and on Subsidies and Countervailing Measures (such as favouring the use of domestic over imported cotton).[41]

In parallel to this case, four poor African countries - Benin, Burkina Faso, Chad and Mali, introduced a "Sectoral Initiative in Favour of Cotton"[42] which described the damage caused to their poor cotton producers by the lavish subsidies offered to rich cotton producers in developed countries. The objective was to shame the major trading countries into taking action to eliminate these subsidies.

The initiative by Brazil was instrumental in dealing with United States export subsidies. As LDCs, these four countries should benefit from duty free treatment into all developed markets, however, the major issue of achieving the accelerated reduction of domestic production subsidies on cotton is still being pursued in the resumed Doha Round.Disputes against subsidies in the agricultural sector will likely proliferate with the expiry of the "peace clause".[43]

Further Agricultural Liberalization

The logic of the Uruguay Round was to ensure minimum access to markets, while placing ceilings on protection and subsidization, as a starting point for further agricultural liberalization in future multilateral rounds. For developing countries, however, this process, served to "lock in" World Bank structural adjustment programmes, resulting in an asymmetrical system that penalized developing countries, as they were not permitted to increase their existing levels of subsidies and tariff protection. Countries acceding to the WTO found themselves obliged to accept even more stringent conditions. Developing countries found themselves in a situation in which their markets became relatively open to imports (all agricultural tariffs were bound), even when such imports benefited from export subsidies in OECD countries, while their exports were restricted by restrictive tariff quotas and met subsidized competition from developed country competitors in third country markets. Overall, developing countries, once net exporters of agricultural products, have become net importers with a deficit of $11 billion in 2001. The major subsidizing developed countries, the EU and the United States, have gained at the expense of most

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[41] See "United States – Upland Cotton", WTO Dispute DS267, Appellate Body Report, circulated 3 March 2005 http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm

[42] See WTO document, Committee on Agriculture - Special Session -WTO Negotiations on Agriculture, "Poverty Reduction: Sectoral Initiative in Favour of Cotton" - Joint Proposal Benin, Burkina Faso, Chad and Mali, TN/AG/GEN/4, 16 May 2003 www.wto.org.

[43] Article 13 of the WTO Agreement on Agriculture. For an up-to-date analysis of current issues in the multilateral negotiations on agriculture at the time of their suspension see Blandford, David and Tim Josling, "Options for the WTO Modalities for Agriculture", International Food and Agricultural Trade Policy Council, May 2006, http://www.agritrade.org/Publications/DiscussionPapers/WTO%20Modalities.pdf

developing countries with a few notable exceptions, such as India and the most competitive southern hemisphere exporters (e.g. Argentina and Brazil).[44] For the net food importing developing countries (NFIDCs), taken as a group, imports represent 35 per cent of calorie intake. Paradoxically, those countries most dependent on agricultural exports witness higher levels of malnutrition.[45]

National trade policies must be designed to reflect the complexities of the agricultural sector in most developing countries. Some countries have been very successful in the export of widely traded agricultural commodities. However, in many cases small scale farmers have not benefited, production of export crops has resulted in the displacement of small scale farmers and exacerbated their plight by contributing to environmental degradation posing an overall threat to food security. Large segments of the population are small scale farmers whose livelihood can be suddenly eroded by imports of cheap, often subsidized imports. Countries have adopted both "offensive" and "defensive" strategies. On the one hand, they have pursued improved access to markets, and on the other hand, have sought to ensure protection of vulnerable segments of their populations.[46]

Developing counties are seeking an international regime that reflects these complexities, as well as the varying, often conflicting interests of different developing countries. They are seeking better market access and the reduction of subsidization by the developed countries, for example through the elimination of export subsidies, the drastic reduction in amber box commitments, capping and phasing out "blue box" limits , and imposing some meaningful disciplines on "green box" subsidies. Many argue that the reduction of agricultural support in OECD countries would be the most significant pro-poor result of the Doha Round. The refusal of the United States to accept limits on its total trade distorting subsidization (amber plus blue box plus *de minimis*), which are lower than its actual levels of subsidization, has been given as the main reason behind the suspension of the multilateral negotiations in July 2006.[47] The resumed negotiations are aimed at achieving a breakthrough on subsidies combined with liberalization of tariffs and tariff quotas and agreement on Special Products and a Special Safeguard Mechanism (see below).

Other areas of the international trade regime, which can affect the interests of small farmers, include notably sanitary and phytosanitary (SPS) regulations, liberalization of distribution services (see Section 6) and intellectual property rights.

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[44] See Stiglitz and Charlton, *op. cit.*, pp 217-234, notably table AI.3.

[45] Pal, *op. cit.*

[46] See for example Rahman, Abdul Aziz, "Trade in Agriculture, Food Security and Human Development: Country Case Study for Malaysia", UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document (Hanoi: 2003) (available at www.undprcc.lk/Publications/Publications.asp?C=4).

[47] See the statement by the EC Agriculture Commissioner, Mariann Fisher Boel, following the suspension of the WTO Doha Round negotiations: http://ec.europa.eu/commission_barroso/fischer-boel/doha/index_en.htm#2407. The United States, on the other hand, claims that the proposals of the G33 on SP would effectively block meaningful access to their markets for US agricultural exports.

Liberalization and Food Security

A key coalition of developing countries, the G33[48] are seeking to make any further liberalization in agricultural trade conditional upon the preservation of their policy space to intervene to protect livelihoods, and ensure food security. This approach has been manifested in the Special Products[49] and Special Safeguards proposals currently before the WTO. While it is recognized that such measure could increase import prices of foodstuffs for urban consumers, on balance rural producers are the poorest members of society in developing countries, far poorer than those segments of the population who purchase imported food.[50]

Box 17: Identifying Special Products

Criteria: The Special Products (SP) proposal aims at ensuring that future commitments on market access for agriculture will permit a special degree of flexibility for products central to the objectives of (a) food security (all people have physical and economic access to sufficient safe and nutritious food to meet their dietary needs for an active and healthy life), (b) livelihood security (adequate and sustainable access to resources or assets by household and individuals to realize a minimum standard of living, recognizing that poor farmers have very low risk thresholds) and (c) rural development (the potential of an agricultural product to improve the living standards of the rural population including both directly and through its forward linkages to non-farm rural activities).[51]

The question of the criteria to be used in determining which products are "spec ial" is the subject of current debate in the WTO and is also relevant to developing countries in their national agricultural trade policies. Basic indicators that should be examined include:

- **Food security**: the share of consumption of the product in total agricultural consumption, and the share of its domestic production in domestic consumption. These could be used as indicators of the importance of the product for food security. A certain percentage of domestic consumption of the basic food basket should be met by domestic production, since dependence on imports create high vulnerability for products for which world trade volume is relatively small compared to world demand;
- **Livelihood security:** the share of employment as a result of production of the product in the total agricultural labour force; if the majority of farmers producing a particular product are low income, and resource poor, any disruption caused by imports can cause deprivation and even starvation;
- **Rural development:** the share of production of the product in total agricultural production. This could serve as an indicator of the contribution of the product to rural development.[52]

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[48] G33 members are: Antigua and Barbuda, Barbados, Belize, Botswana, China, Congo, Cote d'Ivoire, Cuba, Dominican Republic, Grenada, Guyana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Mauritius, Madagascar, Mongolia, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Senegal, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.

[49] According to the terminology used in the WTO, "sensitive" products are those for which developed countries are seeking less than formula liberalization.

[50] See Stiglitz and Charlton op. cit p. 230

[51] See Proposal of G33 on the modalities for the design ation and treatment of any agricultural product as a Special Product (SP) by any developing country member, JOB(05)304, 22 November 2005 http://www.agtradepolicy.org/output/resource/G33_proposal_SPs_22Nov05.pdf.

[52] FAO Support to the WTO Negotiations (2003), www.fao.org.docrep/005.

Different products emerge at the top of the potential SP list when the criteria are applied in different countries, e.g. maize in Ethiopia, yams in Cote d'Ívoire, cassava in Nigeria and rice in Bangladesh[53].

These "macro" indicators should be supplemented by the additional factors listed below, to address the needs of the main target group, the rural poor, including women and small farmers.

- **Geographical concentration** of production and employment within the country, (for example, it has been possible to draw a food insecurity map of India[54]), with a focus on particularly disadvantaged regions. This should also be examined. [55]
- **Household incomes and production capacity** of small farmers.
- The potential that locally produced products could be displaced by substitute products, not produced in the country concerned.
- **Caloric intake**: Share of product at national or regional levels.
- **Expenditures**: Share of income spent on a particular product at the national or regional levels.

External factors should also be considered, including:

- Import Penetration, of identified products and directly competing products,
- Financial capacity of the country to finance food security programmes,
- Subsidization**,** the extent to which a product benefits from export or production subsidies in supplying countries.

Special Safeguard Mechanism (SSM) would provide developing countries with a facility comparable to those already available to "tariffied" products to deal with sudden surges. Additional duties could be imposed on imports "triggered" by increased import volumes or declining import prices.[56] It should be noted that the agricultural tariff profiles of the proponents of SSM vary considerably. The bound tariff rates of some members of G33 well exceed 100 per cent, which provides adequate margin at present to deal with import surges.[57]

[53] Ibid.

[54] See Pal, Parthapratim, *The Ongoing Negotiations on Agriculture: Some Observations*, presentation at the Workshop on "WTO-Related Issues for Government Officials in the SAARC Region", The Energy and Resources Institute (TERI), 1-3 May 2006, New Delhi, India http://www.teriin.org/events/docs/wtopresent/partha4.ppt.

[55] This discussion draws heavily from the paper by Bernal, Luisa, "Methodology for the Identification of Special Products and Products for Eligibility Under Special Safeguard Mechanism by Developing Countries", ITCSD (Geneva, October 2005) http://www.ictsd.org/dlogue/2005-10-14/Luisa%20Bernal%20Methodlogy%20paper.pdf.

[56] See proposal of the G33 Proposal on SSM for developing countries, JOB(06)64, 23 March 2006, available at: http://www.agtradepolicy.org/output/resource/G33_revised_proposal_SSM_23Mar06.pdf

[57] For an analysis of the bound tariff rates of G33 countries and their ability to respond to import surges, see Jales, Mario, "Tariff Reduction, Special Products and Special Safeguards: An Analysis of the Agricultural Tariff Structures of G33 countries", ICTSD Geneva, June 2005 http://www.ictsd.org/dlogue/2005-06-16/Jales.pdf.

Box 18: Applying Special Safeguards

Article 5 of the WTO Agreement in agriculture institutes a system of Special Safeguards (SSG) under which countries can apply additional charges to imports based on trigger volumes or trigger prices. This facility is available only for items which have been "tariffied" and have been designated for SSG by the country concerned. While some 21 developing countries have been able to make use of this facility it has been used overwhelmingly by developed countries.

Agricultural markets are by nature cyclical and are affected by natural factors such as weather. To this is added the man-made factors of subsidization and the behaviour of trading firms. The food price index has actually become more volatile since the WTO's establishment.[58].As a consequence of massive subsidization in the United States and the European Union, export prices of key food commodities are below the costs of production, for example wheat (by 43%), rice (by 35%) and maize (by 13%).[59]

The further reduction of bound tariff rates on agricultural imports could expose vulnerable producers in developing countries to severe external shocks that could drastically affect their livelihoods.[60] It was confirmed at the sixth WTO Ministerial Conference that developing countries should have access to a Special Safeguard Mechanism (SSM) which would be used to shield vulnerable producers from surges of low priced imports. The SSM would be activated by trigger volumes and prices. The G33 proposed that the trigger price would be the average monthly price of that product, and the trigger volume would equal the average annual volume, for the most recent three year period. The SSM would apply to all products and all trade including that under FTAs. The specifics of the proposal are yet to be agreed.

Defining the indicators for these special protective measures is a crucial element in both national trade policies and in the ongoing multilateral trade negotiations, as well as in FTAs. The SP criteria and SSG mechanisms should be incorporated into national regulations so as to provide the basis for their inclusion in the WTO agreement and any FTAs.

SPS regulations present a serious barrier to exports of agricultural products, particularly those of small scale farmers. Improvement in the implementation of the WTO SPS regime is being sought in the Doha Round. The aim is both giving more time to developing countries to adjust to new regulations, and seeking a commitment on the part of the importing country to provide the technical and financial assistance necessary to permit the developing country to meet the standards. This should also be a priority in any Aid for Trade programme.

Agricultural products have proven a complex issue in the negotiation of FTAs. In some cases, North South FTAs have excluded major export products of interest to the developing partner (rice, sugar), while failing to impose any disciplines on the subsidization provided by the developed partner (although agreements not to apply export subsidies to mutual trade have been included in some FTAs) FTAs often preclude the possibility of excluding "Special Products". While some FTAs include

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[58] Pal, *op. cit.*, and Paz, Julio, "Identificación de Productos Especiales y Mecanismos de Salvaguardia Especial en el Peru", ICTSD, Geneva 2005.

[59] IATP

[60] See Hathaway, Dale, "A Special Agricultural Safeguard: buttressing the market access reforms of developing countries", comments in FAO Papers on Selected Issues Relating to the WTO Negotiations on Agriculture, FAO, Rome 2002 (http://www.fao.org/docrep/005/Y3733E/y3733e05.htm).

safeguard measures on agricultural imports, these are often to be removed at the end of the phase - in period of the FTA. Paradoxically, some FTAs among developing countries target selected agricultural products for an "early harvest", while other agricultural products have been placed on sensitive or excluded lists. The various considerations involved in the "FTA option" are examined in Section X.

Gender and Agricultural Trade

The gender aspects of agricultural production are particularly complex, and therefore the effects of various agreements on the employment of women in the agricultural sector are also complex. Men and women in developing countries have different roles: the majority of women are engaged in subsistence agriculture and are responsible for food security in the household, while men are concentrated in the sector producing export crops. The liberalization of imports of agricultural products tends to disadvantage women producing subsistence food.[61]

In summary, pro-poor policy positions in negotiations on trade in agriculture should, at a minimum, include:

(a) acceleration of agreed elimination of export subsidies,

(b) substantial reduction in trade distorting subsidies (amber and blue boxes),

(c) reduction in tariffs and increase in TRQs in markets of developed countries,

(d) right to SP for developing countries,

(e) rights to SSM for developing countries,

(f) technical and financial assistance to meet SPS regulations

[61] See UNCTAD, "Trade and Gender: Opportunities, Challenges and the Policy Dimension", UNCTAD/TD/392, 2004, para. 25 (http://www.unctad.org/en/docs/edm20042_en.pdf).

VI. TRADE IN SERVICES AND DEVELOPMENT STRATEGIES

Trade in services, as defined in the GATS covers a wide range of policy areas, including investment, communications, transportation, finance, energy, environment, health, immigration and many others. Government policies to develop the services sector are essential to the attainment of the MDGs. Governments are now faced with the challenge of formulating domestic policies in the services sector which provide universal access for key social services, while faced with pressures to accept bound liberalization commitments in trade agreements. The services sector should simultaneously support efficiency and growth, and increase developing country participation in the world market for services.

Services and the MDGs

The provision of universal access to key services such as health, water and sanitation, energy and education is central to the achievement of the MDGs. Ill health, poor education and lack of access to electricity lock millions of people in a poverty trap. Access to these services enables poor people to become productive member of the economy and society and reduces rural/urban and gender disparities. The strengthening of national services sectors and the creation of an efficient services infrastructure, contributes to the productivity of other sectors and to international competitiveness. Trade in services can assist in the attainment of the MDGs by providing new and better employment opportunities, particularly for new job seekers, including women, by contributing to the productivity of poorer people, in both the agricultural and manufacturing sectors, and by facilitating access of domestic service providers to more lucrative world markets. The main objectives of a national services policy are thus, (a) to provide universal coverage for basic services such as health, water, sanitation, education and energy, (b) to strengthen the services infrastructure of the country to improve the competitiveness of the national economy, and (c) to penetrate international markets for trade in services.

Universal Access to Services

Many social and infrastructural services in developing countries have traditionally been under public ownership. A priority development objective has been to ensure universal access to key services, notably health, water and sanitation, education and, energy. For various reasons, including lack of ability to pay, geographical isolation or ethnic and gender factors, poor people have been excluded from access to the most basic services necessary to maintain their health, and to enable them to be productive members of the national economy. Governments have attempted to make basic services affordable to poor people by subsidizing free medical and education services, cross-subsidized prices for electricity, and investment incentives for sanitation and energy production in isolated areas. In some cases, the pressing need for capital and technology to increase supply has led governments to open up public services to private ownership, including the participation of foreign suppliers. This has brought these service sectors within the scope of trade negotiations[62]. The entry of foreign

[62] The implications of GATS negotiations in traditional public service sectors are discussed in Adlung, Rolf, *Public Services and the GATS,* WTO Working Paper, ERSD -2005-03, Geneva, July 2005, http://www.wto.org/English/res_e/reser_e/ersd200503_e.htm.

suppliers in the domestic market for key social services can often exacerbate inequalities and undermine policies aimed at ensuring universal access, for example, by draining off professionals (doctors, nurses, teachers) for the public system and exacerbating urban/rural disparities.

Services and Competitiveness

Services policies empower and enhance the productivity of poor people by (a) through the provision of advanced services as inputs into the productive process at all levels, and (b) by facilitating the export of services. Despite the heterogeneity of the service sector, governments should aim at devising an overall services development strategy that provides policy measures applicable to all services sectors. Such a strategy must address imports under "Mode 3" i.e. the conditions imposed on foreign investment in service sectors. Priority should be given to ensuring access to those key producer services that contribute to the competitiveness of other services, or of the manufacturing sector. The Annexes to this Section illustrate some of the considerations facing developing countries in negotiations on trade in selected service sectors where developing countries are faced with requests for liberalization commitments.

In services liberalization, priority should be given to services that serve as inputs into the productive process and, enhance productivity. Service strategies should ensure that imports do not exacerbate inequalities by reducing access to essential services, crowding out small suppliers or by giving control of key sectors to large TNCs. Liberalization of services with no productive role, but with a possible negative impact on social programmes, national sovereignty or cultural integrity should be avoided as far as possible.

Exports of Services

On the other hand, developing countries are major exporters of certain services, notably in areas where they posses a labour cost advantage, (comparable to textiles and clothing). Such exports usually involve the movement of persons as (a) consumers, e.g. tourism, (Mode 2) and (b) suppliers, movement of workers abroad (Mode 4). More recently some developing countries are exporting labour intensive services electronically (Mode1), a process which has been termed "outsourcing".Often, however, developing countries' exports of such services, where they can expect to have a comparative advantage (e.g. construction), are frustrated by lack of access to capital and constraints on the short-term movement of semi-skilled labour. Also restrictive business practices, such as those prevalent in the tourism sector, can greatly reduce the actual benefit of exports to the exporting developing country. Success in these areas requires a coherent strategy on the part of the developing countries, as well as secure access to markets (see Annex E to this Section) accompanied where relevant by sector specific provisions to deal with anti-competitive practices.

Negotiations on Trade in Services

The WTO GATS Agreement established a framework for the negotiation of multilateral commitments relating to trade in services, which were defined as covering four Modes of Supply (Mode 1- cross border movement, Mode 2-movement of consumers, Mode 3 - commercial presence i.e. investment, and Mode 4 - temporary movement of persons to supply services). GATS members accept the principle of progressive liberalization, but also that commitments should aim at strengthening the service sectors of developing countries through access to technology and to distribution channels and information networks as well as the liberalization of services of export interest to them. The GATS itself does not impose access commitments and these are to be negotiated in successive "rounds". However, the current GATS negotiations seem aimed at reaching agreement on a formula approach, requiring a certain degree of commitment from all participating countries. Developing countries have all made commitments in their WTO Service Schedules, and are in the process of negotiating further "progressive liberalization" in the Doha Round. FTAs include much more extensive commitments in services, often according to a structure and based on definitions that depart from GATS.

A Strong Regulatory Framework is Required

Trade in services is normally subject to detailed regulation. Some of the "tools" for such regulation are the subject of negotiation in GATS, (as set out in GATS Article XVI), and include limitations on the number of suppliers, or service operations, or the numbers of persons employed in the supply of services, or on the value of service assets or transactions, usually enforced by economic need tests, as well as measures which require specific types of legal entities or limit the participation of foreign capital. In most sectors, the focus of negotiations is on investment measures. In particular, there is no obligation under the GATS Agreement to grant national treatment to foreign suppliers. Rather, the national treatment of foreign firms is a subject for negotiations on a sectoral basis. It does not constitute a "right" for foreign firms. Governments are free to regulate services so long as these regulations do not constitute "unnecessary barriers to trade" in services. Regulations that apply equally to domestic and foreign suppliers would be in conformity with national treatment commitments. On the other hand, where commitments are made on commercial presence, and the cross border movement of capital is an essential part of the service itself, members are committed to allow such movement of capital.[63]

Performance requirements aimed at strengthening the service sectors in developing countries by acquiring access to technology or to distribution channels and information networks are specifically permitted by GATS. In their negotiations for the further liberalization of services, developing countries should focus on the extent to which imports of services effectively contribute to development. Liberalization of trade in services can have a positive impact on the development of the national services sector so long as there is a strong prior regulatory framework in place that supports national policy objectives. It is thus essential that the domestic regulations for the use of such imports be in place before engaging in negotiations on trade in services.

In addition, other measures that affect trade in services such as qualification requirements and procedures, technical standards and licensing requirements are subject to the general provision that such requirements should not constitute unnecessary barriers to trade in services. WTO members should be encouraged to enter into mutual recognition arrangements to overcome problems of this nature.

[63] See footnote 2 to GATS Article XVI.

Investment Policy is Central to Trade Negotiations on Services

In essence, the main thrust of the GATS negotiations is investment, with the developed countries as *demandeurs*. Thus, this section should be read in juxtaposition with Section 7. GATS provides a structure in which an optimum middle way can be negotiated in which foreign investors are granted access to markets subject to development related conditions which are inscribed in the GATS schedules. Neither the liberalization of export markets, nor liberalization of trade and investment in services, will necessarily improve the situation of the poor in developing countries without supportive policy measures by governments.

Requests to developing countries for liberalization of trade in services usually focus on Mode 3 commercial presence/investment. The challenge facing developing countries is to negotiate the optimum conditions of access for such investment. The situation in several selected sectors is described in relevant annexes.

The process of the proliferation of FTAs has covered trade in services and subjected services to more stringent disciplines at the bilateral or sub-regional levels. In some cases, definitions have departed from those used in GATS. The use of negative lists and the inclusion of GATS Mode 3 measures in "Investment" chapters covering both goods and services , are more than mere questions of form and can have an adverse developmental impact, as they can eliminate the possibility of conditioning access on the acceptance of development oriented performance requirements or social obligations.

VII. INVESTMENT, JOBS FOR YOUTH AND ACCESS TO TECHNOLOGIES

Developing countries are actively seeking FDI as a means of acquiring capital and technology and providing employment and export opportunities. Many governments wish to maintain an investment regime which, while attractive to investors, protects the national interest against potential adverse effects, such as crowding out of domestic producers and exacerbating inequalities. Such a regime should also channel investment toward development objectives. Investment measures, including incentives and performance requirements, are used to integrate FDI into development strategies, for example by assuring a transfer of technology and higher level employment for nationals, particularly young people (consistent with MDG targets 16 and 18). However, developing countries are increasingly faced with requests to accept commitments in trade agreements that would further reduce the scope for investment policy.

International Commitments on Investment Policy

The efforts of some developed countries to include the negotiation of a Multilateral Framework for Investment in the Doha Round were unsuccessful.[64] However, the ongoing GATS negotiations are primarily aimed at reducing conditions on FDI. These "Mode 3" negotiations are currently underway as discussed in Section VI and their objective is to agree on further limitations on investment policy in services. GATS

[64] As were similar efforts in the OECD

occupies a large part of the overall territory of investment measures and the services sector absorbs some two thirds of FDI flows. Moreover, the bulk of investment entry restrictions are in the services sector.[65]

GATS negotiations focus on limiting the tools for investment policy, both entry and establishment regulations (Article XVI), including limitations on foreign capital, restrictions on the type of legal entity or joint venture, limitations on the number of service suppliers or on the value or quantity of transactions, including through the application of economic needs tests, as well as and the extent to which the principle of national treatment is applied, including with respect to access to subsidies, (Article XVII). It should be noted that when making a market access commitment on a sector or sub-sector, a member is also committed to enable free movement of capital related to the provision of that service.[66] In drawing up their overall investment strategies, developing countries should therefore decide to what extent these various "tools" are essential to the accomplishment of their development objectives. If they are, they should be defended in trade negotiations.

Investment performance requirements: a tool for development

The use of performance requirements are not restricted under GATS and are actually encouraged, as a means of strengthening the service sectors in developing countries, through access to technology, or information channels or distribution networks. In the area of trade in goods, however, two important investment performance requirements are prohibited by the TRIMs Agreement, (a) local content requirements, and (b) trade balancing requirement under which, for example, imports by investors are conditional upon foreign exchange earnings or export volumes. Hence, the WTO permits a wide range of investment performance requirements, including export performance (those conditional on export volumes and earnings), and transfer of technology requirements, both of which have been used effectively by countries which have demonstrated rapid growth rates.[67] Given the failure of initiatives to establish general disciplines on investment policy in the WTO, capital exporting countries are pursuing the objective of eliminating performance requirements, as well as the gamut of other investment measures being negotiated in GATS, through FTAs and other bilateral agreements.

Transfer of technology performance requirements are aimed at increasing productivity by enhancing human potentials to compete in the world market. Export performance requirements orient production toward world markets and oblige firms to prepare people to compete more effectively in a world of globalized production and to seek new export opportunities. Performance requirements can also aim at improving equity, by channelling investment to poorer regions or disadvantaged segments of the population, or by ensuring universal provision of key services, such as electricity,

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[65] See Gibbs, Murray, *Statement on Investment Policy and Human Development* in Sieh Mei Ling Investment, Energy and Environmental Services: Promoting Human Development in WTO Negotiations, University of Malaya, UNDP, and Malaysian Institute of Economic Research Kuala Lumpur, March 2004 (http://www.um.edu.my).

[66] See footnote to GATS Article XVI:1.

[67] See case studies of Korea, China and Viet Nam in Seih Mei Ling (ed.), Investment Energy and Environmental Services: Promoting Human Development in WTO Negotiations (Kuala Lumpur, UNDP, MIER and University of Malaya, March 2004) (www.um.edu.my).

water and sanitation. Sustainability can be promoted by giving priority to environmentally friendly technologies.

Universal access to energy and environmental services, essential to the achievement of MDGs, will require huge amounts of investment over the next few decades. The terms under which this investment will take place are being defined in the current GATS negotiations, as described in Annexes A and B to Section V.

The same goals can be pursued through investment incentives of a fiscal and financial nature. However, such incentives may result in a loss of precious revenue for the government of the host country and provoke competition among host countries to attract investors, leading to a race to the bottom, which can undermine human development goals (e.g. suspension of labour rights in FTZs). Fiscal incentives may also be inconsistent with WTO rules (e.g the prohibition on export subsides). Incentives can be used in parallel and as a complement to performance requirements. However, fiscal incentives can lead to a race to the bottom scenario. It is estimated that developing countries lose $35 billion annually due to competitive pressures to reduce corporate tax rates combined with the transfer of profits out of developing countries to low tax regimes[68]

Among the different approaches to the use of investment measures, the example of the Republic of Korea has been cited as the most successful. Its strategy was to first encourage investment in labour intensive export industries, following the logic that export earnings should finance industrialization. The government of the Republic of Korea mobilized an arsenal of tools, including investment measures such as national ownership and export and transfer of technology requirements, combined with trade measures such as subsides, quantitative restrictions and tariffs (see Section 3), with the sole purpose of increasing its bargaining power with foreign firms. The objective was to move up the technological ladder, the virtuous spiral described in Section III.[69] China has followed similar goals, using some of the same techniques, moving rapidly up the technological ladder in export production.[70] Different countries have achieved considerable success following different approaches, the common factor being that overly successful countries have adopted selective and strategic, rather than ideological approaches that either uncritically welcoming or overly restrict foreign investment[71] Such investment measures have also been a component of a broader industrial strategy that incorporated trade measures (e.g. tariffs and QRs) as well as subsidies (see Section III).

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[68] See Stiglitz and Charlton, *op. cit.*, pp. 266-267, drawing from Charlton, Andrew, "Incentive Bidding Wars for Mobile Investment; Economic Consequences and Potential Reponses", OECD Development Centre technical paper 203, OECD (Paris, 2003) (http://www.oecd.org/dataoecd/39/63/2492289.pdf). See also OXFAM, *Tax Havens, Releasing the Hidden Billions for Poverty Eradication* (Oxford, 2000) (http://www.oxfam.org.uk/what_we_do/issues/debt_aid/tax_havens.htm).

[69] See Shin, Jang-Sup and Ha-Joon Chang, "Foreign Investment Policy and Human Development Country study: Republic of Korea", in Seih Mei Ling, *op. cit.*.

[70] See Rodrik, Dani, "What's So Special about China's Exports?" CEPR Discussion Paper No. 5484 (London: Centre for Economic Policy Research, February 2006) (www.nber.org/papers/w11947).

[71] See Shin and Chang, *op.cit.*

A “New Generation” of Bilateral Investment Treaties

There are now over 2000 Bilateral Investment Treaties (BITs) in force[72]. Traditionally used as instruments for the protection of investments, BITs are acquiring different characteristics. Some developed countries are pursuing a “new generation” of BITs which incorporate trade provisions, notably obligations on entry and establishment, and prohibitions on performance requirements. These usually apply to both goods and services and thus undermine the commitments included in the GATS services schedules. They also employ a wider definition of investment, including portfolio investment and cover a wide range of domestic regulation that can be challenged by the foreign investor. They also identify dispute settlement and arbitration mechanisms that allow foreign investors to bypass the national judicial system to a larger extent than was previously possible. Sometimes lack of coordination between the government ministry responsible for trade policy and that responsible for investment policy can lead to less than optimal results.

FTAs are being used to impose more stringent disciplines over the scope of investment polices. As will be discussed in Section 8, many FTAs make national treatment a general obligation for both goods and services, reducing or eliminating the various policy tools listed in GATS Article XVI. Often this is accomplished through the technique of dissecting the Services Chapter of such FTAs, and bringing all investment policy, on both goods and services, under the scope of an Investment Chapter. FTAs can also include mechanisms for promoting investment amongst the concerned parties. In fact, many developing countries believe that FTAs with major trading partners will attract FDI. However, evidence shows that, with few exceptions, BITs and FTAs generally have little impact on attracting FDI.[73]

VIII. MNP – ACCESS TO THE WORLD EMPLOYMENT MARKET

Movement of national persons (MNP) across frontiers to supply services provides a major source of potential employment and export income for many developing countries. However, it can also have negative social and economic impacts. What are the elements of a coherent strategy to maximize the contribution of MNP to development and the achievement of the MDGs?

MNP and the MDGs

The movement of persons across frontiers to supply services is a major potential source of employment for poor people and an opportunity to dramatically increase their earnings.[74] MNP provides a means for developing countries to draw upon their competitive advantage of lower wage costs in trade in services as they have

[72] UNCTAD World Investment Report 2002.

[73] See Stiglitz and Charlton, *op.cit.*, pp 149-152.

[74] We use the GATS acronym “MNP” rather than ”labour movement” (which would suggest unskilled workers) or “movement of persons” (which could imply permanent migration), so as to cover the whole range of the provision of services that involves suppliers moving temporarily from one country to another from unskilled agricultural workers to highly skilled medical, engineering and IT professionals.

traditionally done in trade in goods. Labour remittances are a major source of foreign exchange for many developing countries. These can help reduce the vulnerability of poor communities from the impact of domestic economic crises, finance small local businesses and support extended family safety nets. MNP can also increase equity since labour remittances often provide income to particularly disadvantaged regions of developing countries. Work abroad can provide women with opportunities for wage income that do not exist at the national level. MNP can this lift persons out of poverty, empower women, and provide job opportunities for youth i.e. MDG s 1, 3 and 8 (target 16). On the other hand, the permanent emigration of professionals can detract from efforts to establish universal, quality services in key public service sectors such as health and education and, if not properly managed through an inter-governmental bilateral or multilateral agreement, can contribute to “brain drain” rather than “brain circulation or ‘brain gain”.

Impact of MNP

Economic models suggest that expansion of MNP could generate impressive welfare gains for the exporting countries.[75] Even though this includes more than MNP, remittances by workers abroad to developing countries reached $167 billion in 2005 and this figure may be considerably higher since many transactions are realized through informal channels.[76] For a number of developing countries, such remittances account for over 10 percent of GNP.[77]

Short term movement of people is often essential for developing country enterprises to effectively participate in international trade in services. It is a necessary component of a services package offered by a service exporter, with payments being made to employees in the exporting country. MNP can also lead to an upgrading of skills; unskilled rural persons can become more productive by acquiring the capacity to perform as industrial workers and thus, upon their return improve their home country’s industrial competitiveness and attract investment to the manufacturing sector.

Restrictions on MNP can result in prohibitive barriers to developing countries exports in a variety of services exports, in sectors such as software, energy services and construction.

However, workers abroad can be subject to exploitative and degrading working conditions. While MNP can empower women by giving them a unique source of income, women are too often victims of harassment and sexual exploitation.[78] Foreign workers may be forced to work at lower salaries despite advanced levels of skills. Separation of family members can lead to neglect of children and other social

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[75] See discussion in Stiglitz and Charlton, *op. cit.*, pp 247-252

[76] See statement of UNCTAD Secretary-General to ECOSOC Round Table on Globalization and Labour Migration, 6 July 2006, United Nations, New York (www.unctad.org).

[77] Lesotho, Vanuatu, Jordan, Bosnia and Herzegovnia, Albania, Nicaragua, Yemen, Moldova, El Salvador and Jamaica. For more info visit www.migrationinformation.org.

[78] See Tullao, Tereso S. and Michael Angelo Cortez, *MNP and Human Development in Asia* and Jayanetti, Sanath, *Movement of Natural Persons and its Human Development Implications (Housemaids and Unskilled Migrant Workers)*, as well as other studies on MNP UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document (Hanoi: 2003) (available at www.undprcc.lk/Publications/Publications.asp?C=4).

problems. Labour earnings can be squandered on imported consumer goods without any investment in the communities. MNP is also vulnerable to political factors which can suddenly cut off access to markets.

Access for Service Suppliers

The inclusion of Mode 4 short term cross border movement of natural persons in the GATS framework enables developing countries to acquire secure access for their service workers as part of the overall balance of multilateral trade rights and obligations. The main barriers to MNP are economic needs tests, that permit the entry of foreign persons only when locals are not available to provide the services required. MNP is the subject of bilateral agreements (MOUs) and is now being included in FTAs. MNP is thus clearly an element of trade policy and trade negotiations, although it has been neglected in the GATS schedules of commitments.[79]

Skilled workers generally have better access to foreign markets, creating a shortage of skilled workers in the "exporting" country which may perpetuate since skilled workers are much more likely to remain in the "importing" country. MNP can in some cases increase inequalities, if only persons with skills and higher incomes are given access to foreign markets. This unequal treatment is reflected in the structure of GATS commitments where bound access is normally provided to high level employees and managers of TNCs, or for essential professionals and skilled workers, such as medical staff. However, it is unlikely that GATS commitments would exacerbate the flow of permanent emigration of skilled professionals in short supply in economically advanced countries. Contrary to such movement which often exacerbates "brain drain", MNP commitments may actually reduce "brain drain" as, given the security of access, individuals may see less need to seek permanent residence in the importing country. The idea of a "GATS visa" has been suggested as a means of facilitating entry of service suppliers covered under GATS commitments, while ensuring the temporary nature of their stay.

A strategy for MNP

MNP, if appropriately designed at the inter-governmental level, can support the attainment of the MDGs. However, this requires a clear strategy on the part of governments to maximize the benefits and deal with the adverse factors mentioned above. MNP exports should not be viewed as a manifestation of failure of national economic policy but rather as a means of drawing benefits from globalization. Governments should formulate clear, comprehensive strategies with regard to MNP and incorporate these into national development strategies and trade policies. Governments should view MNP from a competitive standpoint,.Workers can be trained in skills deemed to be in demand on the world market, and niche markets can be targeted.

Arrangements can be entered into with importing countries to upgrade skills to fit needs. Such policies should include measures to encourage the return of skilled migrants and incentives to discourage the emigration of people in occupations in short supply in developing countries.

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[79] It should be noted that most of the GCC countries, which are major importers of labour, only became WTO members at the end of the Uruguay Round, or subsequently, by accession.

Mode 1 service exports, often termed "outsourcing", have been a way for developing countries to export labour intensive services, without confronting the barriers to MNP. However, studies have shown that successful outsourcing operations are significantly dependent on the ability of technical staff to travel to their overseas market countries.[80]

Labour remittances could have a greater development impact if transferred through specialized financial services and financial instruments which lower the level of transaction costs. Micro-credit and micro-enterprise support can channel savings into investment in productive facilities in the worker's communities.

Bilateral labour agreements can be pursued in certain circumstances. However, bound commitments in GATS or FTAs would provide greater security of access and stronger negotiating leverage for the exporting country. Specific commitments for access of clearly defined occupations can be negotiated in the framework of GATS or in FTAs. These can include the elimination of economic needs tests, the facilitation of visas and quotas for entry of workers in specific sectors or occupations.[81] Mutual Recognition Agreements or "occupational certificates" [82] can facilitate export of skilled and professional services, and ensure that remuneration is commensurate with qualifications. Similarly, trade agreements should contain obligations to protect the rights of foreign workers and shield them, particularly women, from exploitation.

IX. INTELLECTUAL PROPERTY RIGHTS FOR THE POOR

The WTO TRIPS Agreement has probably been the most onerous and intrusive of all WTO commitments for developing countries. It dramatically increased the scope of multilateral trade obligations by bringing the whole set of intellectual property instruments negotiated in WIPO into the WTO, where they are enforced through the possibility of trade sanctions. The TRIPS Agreement establishes minimum standards, but provides governments with considerable flexibility as to the mechanisms through which they meet their obligations. It is precisely with a view to reducing this flexibility that bilateral pressures have been exercised on developing countries to adopt "TRIPS plus" legislation. The provisions of the TRIPS Agreement that relate to the exclusion of plants and animals and biological processes for their production are open for review and possible amendment. Against this background, governments are faced with the challenge of making IPRs useful for poor people and supportive of the MDGs, by ensuring their access to medicines, protecting against bio-piracy and protecting and consolidating community ownership of traditional knowledge.

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[80] See Chanda, Rupa, "Intermodal Linkages to Services Trade", OECD Trade Policy Working Paper No. 30, 2006.

[81] See suggestions in Butkeviciene, Jolita, "Movement of Natural Persons under GATS", *in* A Positive Agenda, UNCTAD, op.cit. See also UNCTAD "Report of Expert Meeting on Market Access Issues under Mode 4", document TD/B/COM.1/64, 27 November 2003.

[82] See various papers presented at the Joint WTO/World Bank Symposium on Movement of Natural Persons (Mode 4) under GATT, Geneva, 11-12 April 2002 (available at www.wto.org/english/tratop_e/serv_e/symp_mov_natur_perso_april02_e.htm)

TRIPS and MDGs

The implications of the TRIPS Agreement (and of subsequent bilateral pressures on developing countries to further tighten its provisions) for the attainment of the MDGs - notably MDG 6, have already been recognized by the international community. The Declaration on TRIPS and Public Health was agreed by the international community to ensure that the TRIPS Agreement's prioritized public health concerns. Developing countries must also draw up IPR legislation that ensures that the attainment of the MDGs will not be frustrated, while protecting the right of poor people to use their traditional knowledge and genetic resources.

Developing countries are faced with policy decisions at three levels, first to ensure that the results of the current multilateral review of the TRIPS regime, and related initiatives in WIPO[83] are supportive of their pursuit of the MDGs; second, to draw up national legislation and regulations aimed at achieving these goals and targets within the framework of their international obligations; and third to effectively thwart pressures to accept "TRIPS plus" commitments at the bilateral level. The manner in which developing countries adapt to the TRIPS regime and pressures from developed countries is crucial to their attainment not only of the MDGs directly related to health (e.g. MDG to combat HIV/AIDS, malaria and other diseases, MDG8 provision of access to affordable essential drugs in developing countries), but given the relevance to the agricultural sector, that of eradicating poverty and hunger (MDG1) as well.

One of the key elements of FTAs has been the inclusion of "TRIPS plus" provisions dealing with (a) restrictions on the use of compulsory licences, (b) restrictions on parallel imports, (c) greater protection of undisclosed data through market exclusivity, (d) broadening of the spectrum of patentability, (e) extension of the duration of patents and (f) links between patents and health registration.(see Section X).

Health

There had been concern that the TRIPS Agreement will have a negative impact on human development by resulting in higher prices for essential medicines in poor countries. It was a result of concerted action by private firms and some countries to pressure developing countries into giving up certain crucial rights under the TRIPS Agreement that provoked the negotiation of the Doha Declaration on TRIPS and Public Health. The Declaration was agreed at the Doha Ministerial Conference to confirm the right of governments to impose compulsory licenses when faced with national public health issues. However, one aspect, that of permitting countries having no domestic capacity to produce medicines to issue compulsory licenses to producers in other countries for import into the affected country, required an amendment to the TRIPS Agreement. This was finally accomplished in December 2005 after a period of protracted negotiations.[84]

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[83] Negotiations of a Substantive Patent Law Treaty have been initiated in WIPO. For an analysis of the development implications, see Correa, Carlos, *An Agenda for Patent Reform and Harmonization for Developing Countries*, paper presented to Open Forum, 1 March 2006, available at www.wipo.int/meetings/2006/sep_of_ge_06/presentations. See also GRAIN, "One global patent system? WIPO's Substantive Patent Law Treaty", GRAIN briefings 2003 (http://www.grain.org/briefings/?id=159).

[84] WTO document, Amendment of the TRIPs Agreement, Decision of 6 December 2005 (WT/L/641).

It is now incumbent on developing countries to ratify this Amendment, and to draw up legislation to govern compulsory licensing. Such legislation may also require provisions to ensure the admissibility of parallel imports. However, such legislation is only part of the comprehensive approach required to ensure that public health objectives can be met within the framework of TRIPS.[85]

Competition

The need for the acceptance of parallel imports and the use of compulsory licensing are not confined to the health sector, although this is where they are most urgently needed. Both mechanisms can be used to ensure that patents are not abused for anti-competitive purposes. Under the principle of the "exhaustion" of IPRs, once a patent holder has placed patented goods on the market or allowed a licensee to market, the patent holder has no right to control the resale of such goods, i.e. "parallel" imports are permitted.[86] The TRIPS Agreement, however, leaves WTO members to decide whether or not to incorporate this provision into their legislation. Developing country governments should draw up legislation confirming the admissibility of parallel imports. This will avoid patent holders imposing high prices on the domestic markets for essential goods that are available, under the same patent, at lower prices in other countries. At the same time, compulsory licensing legislation should be drawn up to ensure that patents are not used to block further innovation by competitors. A desire to acquire control over the patents of competitors has been one of the motives behind the dramatic increase of mergers and acquisitions resulting in a high level of concentration in many developing country markets.

Genetic resources, agriculture and bio-piracy

The TRIPS Agreement permits members to exclude plants and animals other than "micro-organisms" from patentability. Plant varieties must be protected, but members are free to accomplish this by effective *sui generis* systems[87]. These provisions are currently under review by the WTO TRIPS Council.[88].

One major concern is that the patenting of plants and plant varieties can lead to situations where farmers become dependent on industrial suppliers for vital inputs such as seeds.[89] This has prompted a number of developing countries to pass legislation to exclude the patenting of all genetic materials. These countries have met their obligation to protect plant varieties through *sui generis* legislation, usually based on a "breeder's rights" system which allows farmers the possibility of saving and replanting seeds, and the right to use a protected variety as a source for further

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[85] See Carlos Correa, *Integrating Public Health Concerns into Patent Legislation in Developing Countries,* South Centre (Geneva, 2000) (www.southcentre.org).

[86] See Carlos Correa, Intellectual Property Rights, the WTO and Developing Countries, (Zed book, New York, 2000).

[87] See "Beyond UPOV - Examples of countries preparing non-UPOV sui generis plant variety protection systems for compliance with TRIPs", GRAIN briefings 1999 (http://www.grain.org/briefings/?id=127).

[88] As provided in TRIPs Article 27:3(b).

[89] See Vandana Shiva and Radha Hola-Bhar, *Piracy by Patent; the case of the Neem Tree,* quoted in Correa op.cit.

research and breeding (the prevalent practice in developing countries).[90] They should incorporate the concept of Farmers Rights as embodied in the International Treaty on Plant Genetic Resources, and draw on the experiences of those developing countries which have drawn up legislation on these matters.

Another concern is the possible conflict between the TRIPS Agreement and the Convention on Biodiversity (CPD), which stresses the sovereignty of States over their genetic resources, and respect for the innovations, knowledge and practices of indigenous and local communities. The focus has been on the need to prevent bio-piracy, defined by the CPD as "unauthorized access to use of biological resources or traditional knowledge of the indigenous peoples by third parties without compensation and without necessary authorization". In addition, patents derived from such genetic material may not involve significant innovation or novelty. National laws should be drawn up to prevent bio-piracy containing obligations such as declaring the country of origin, and demonstrating its prior consent, or of a particular indigenous community if applicable, and to compensate such communities for the development of new varieties, based on material that they have supplied.[91] Such laws should also raise the threshold of plant variety protection so that protection is limited to significant innovations or inventive steps deemed socially beneficial.[92] Many documented cases of bio-piracy have been submitted by developing countries in support of their proposal[93] aiming at the inclusion in the TRIPS Agreement of an obligation to require the disclosure of the origin of genetic resources and/or associated traditional knowledge,[94] which they consider necessary for the effective application of such laws.

GIs and Traditional Knowledge

Developing countries are using a variety of legal mechanisms to protect traditional knowledge. Geographical indications (GIs) may provide one effective means to this end.[95] Unlike patents and trade marks GIs are community owned, cannot be sold and do not expire. They empower indigenous communities by providing recognition and

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[90] For detailed suggestions as to how IPR legislation can make use of the flexibilities in the TRIPs Agreement in pursuit of the MDGs and development friendly outcomes see Correa, Carlos M., Intellectual Property Rights, the WTO and Developing Countries: The TRIPS Agreement and Policy Options (Zed books: London/New York, 2000) (www.zedbooks.co.uk).

[91] See Carlos Correa, "Reviewing the TRIPS Agreement" in A Positive Agenda for Future Trade Negotiations, op.cit..

[92] See recommendation by the Commission on Intellectual Property Rights, "Integrating Intellectual Property Rights and Development Policy" (London: 2002) (www.iprcommission.org/graphic/documents/final_report.htm).

[93] See submission from Brazil, Cuba, Ecuador, India, Peru, Thailand and Venezuela IP/C/W/420 on www.wto.org.

[94] For example, the case of camu-camu recently submitted by Peru in WTO document IP/C/W458 describes in detail how a traditional product native to Peru's Amazon region had served as a basis for patents in developing countries without the knowledge or consent of Peru (www.wto.org).

[95] The TRIPS Agreement (Article 22:1) defines GIs as "*indications which identify a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin*".

commercial value to their traditional knowledge and production techniques[96]. GIs have been associated with luxury products (e.g. champagne), but the fact is that these producers became wealthy because of the GI system.[97] For example, some developing countries have viewed GIs as one way to mitigate low commodity prices in the coffee sector. Partly in reaction to the theft of geographical expressions (e.g. Ceylon tea, basmati rice, Phu Quouc fish sauce) many developing countries are supporting the objective of extending the more stringent GI protection of wines and spirits to all products, in order to reduce the difficulties and costs of enforcing GIs in foreign jurisdictions which limit the effectiveness of GIs in protecting traditional knowledge. The outcome of these negotiations will become an important element of the Doha package in this area.

However, effective use of GIs requires government actions at the national level to (a) pass legislation to protect GIs, and (b) adopt measures to identify and promote GIs, as public investment is required to establish the reputation of little known GIs in developing countries.

While the development of GIs at the national level and participation in a multilateral register as has been proposed in the WTO will inevitably involve significant costs, these should be viewed against the long-term perspective of the losses that will occur if such products are appropriated by TNCs. In addition, there will be costs associated with monitoring and challenging IPRs issued around the world.[98] Moreover, if geographical expression becomes an accepted generic term, it will become freely useable by all.

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[96] See Swarnim Wagle, Geographical Indications TRIPs and Promoting Human Development in Asi, and The development dimensions of the Sri Lankan Geographical Indication of Camellia Sinensis (Ceylon Tea), UNDP Asia Trade Initiative Hanoi 2003.

[97] See, Dwijien Rangnekar, The Socio-Economics of Geographical Indications, at www.iprsonline.org/unctadictsd/docs .

[98] Commission on Intellectual Property, op.cit.

Box 19: Thailand's "One Tambon, One Product"

Thailand's "One Tambon, One Product" program, launched in 2003, stands out. The government has set out to select 60 community products and has upgraded and certified their quality with the intention of expanding, first, their domestic market, followed by exports. Trade Fairs organized to generate incomes and develop local products at the grassroots in all the country's 76 provinces have led to the identification of distinctive fabrics, artistic creations, processed food and fruit, utensils, wickerwork and fermented liquor that the government now seeks to promote. It has already begun to pro-actively showcase its famous produce of Hom Mali rice in big regional markets.[99] This Thai example offers a rural development example for bottom-up engineering of awareness and action on promoting traditional community products. The irony, however, is that this rural development program has not been overtly linked with the idea of GIs because of insufficient inter-ministry coordination. This missing link is noteworthy because GIs are the only form of modern IP that grassroots communities are likely to own. The risk of driving GI awareness with a top-down legislative decree, possibly triggered only by external treaty obligations, or supply-driven foreign aid programs is that it may not command enough national ownership for effective enforcement.

X. THE FTA OPTION

Whilst continuing to participate in the Doha Round of multilateral trade negotiations, virtually all developing countries have been caught up in the proliferation of FTAs. Many countries are actively engaged in sub-regional and regional integration, and at the same time involved in bilateral FTAs with extra-regional partners, including the major trading countries. Involvement in multiple trade negotiations at different levels gives rise to a series of implications for development strategies. Developing countries are faced with major policy choices, whether to enter into FTAs, if so with which partners, as well the challenge of undertaking an analysis of costs and benefits of each potential agreement.

FTAs and the MDGs

FTAs, by definition, reduce policy space to a much greater extent than multilateral obligations and would seem, at first glance, to be in conflict with MDG8 target 12, which calls for a non-discriminatory trading system. FTAs are high risk in the sense that their potential negative impact for the attainment of MDGs can be exacerbated through the further contraction of policy space. This is likely to be particularly true for North-South FTAs, where political considerations are often paramount. On the other hand, FTAs (especially those involving South-South cooperation between countries at roughly similar stages of development) can provide innovative, pro-development provisions that would be difficult to apply at the multilateral level. The outcome of FTAs depends largely on the power relationships between the parties and the extent to which all stakeholders can exert an influence on the negotiating process.

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[99] Visit www.boi.go.th/thai/focus/prd_03jan13.html#2. The Commerce Minister led a delegation in December 2002 to promote the sale of Thai Hom Mali rice to China where in 2001, 240,000 tons of Jasmine rice was exported, compared with 200,000 tons to the US. Another small example of conscious Thai promotion is gifts of GIs such as 20g boxes of Longan fruits from Lamphun province on Thai Airways flights during 2003.

The Proliferation of FTAs

Over recent years developing countries have been involved in an ever intensifying process involving the negotiation of Free Trade Agreements (FTAs), with a multitude of partners (only one WTO member has not entered into an FTA). These have included:

(a) a more positive and ambitious approach to traditional efforts at sub-regional and regional integration between developing countries,

(b) extra-regional FTAs with major developed countries (North/South FTAs,)

(c) extra-regional FTAs with other developing countries.

Each of these involves different policy considerations, both economic and political. Access to Northern markets, once extended on an autonomous, preferential and non-reciprocal basis, is now increasingly subject to reciprocal concessions by developing countries within the framework of FTAs. This has created a chain reaction based on the "fear of exclusion", which has been exacerbated by the real or anticipated fear of the withdrawal of existing non-contractual preferences, even though a large percentage of exports often enter MFN duty free.[100]. The exclusion of key products, such as clothing, from certain GSP schemes has also contributed to this pressure.[101] The negotiation of an FTA between one developing country and a major trading country creates pressure on competing developing countries to seek to enter into a similar agreement for fear of losing out to its competitors in terms of exports and incoming FDI.[102]

Developing countries are making broad concessions in a variety of areas, often adversely affecting human development prospects, in order to obtain the elimination of tariff rates that should be obtainable in the multilateral negotiations at much less cost in terms of reciprocal concessions. FTA negotiations are less transparent and more political than WTO multilateral rounds. They are thus more vulnerable to "capture" by those vitally interested sectors that can gain immediate benefits from concessions granted in return for broader reciprocal concessions which can adversely affect a wide range of less informed stakeholders and seriously restrict development policy options. This creates a bias towards inequitable results. FTA negotiations should, therefore, be subject to at least the same degree of transparency as WTO negotiating proposals and should be accessible and subject to public discussion.

Development Implications of FTAs

It is difficult for developing countries to achieve symmetry in North-South FTAs. They start from a situation where many of their industrial goods exports enter duty free under the GSP, albeit unbound. Bound MFN tariff rates in the OECD countries are quite low, and have been eliminated in many sectors of interest to developing countries, although tariff peaks remain in key sectors such as T&C and agriculture. Bound MFN rates in developing countries are often considerably higher. Thus, the

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[100] For example, the expiry of the USA Andean Trade Preference Scheme on 31 December 2006 has placed the beneficiary countries under considerable pressure to conclude FTAs with the United States.

[101] Se discussion in Annex 3A

[102] See UNDP Asia Trade and Investment Initiative, *The Great Maze, Regional and Bilateral Free Trade Agreements in Asia,* Colombo, December 2005 www.undpprcc.lk.

burden of tariff liberalization in North-South RTAs weighs asymmetrically on developing countries. While it is estimated that trade among RTA and FTA partners makes up nearly 40 per cent of world trade, a much smaller amount of this trade actually benefits from preferential tariff margins as much of the trade among these countries is in items where the MFN rate is zero..[103] On the other hand, FTAs among developing countries may result in meaningful tariff reductions and substantial margins of preference.[104]

More than Spaghetti!

There is a need to assess the potential concrete gains from FTAs before entering into their negotiation, examining such aspects as the real improvement in access that can be achieved, the likelihood that comparable results can be obtained from multilateral negotiations and the extent to which the real access problems require a multilateral solution.[105] There is also the need to examine the objectives of the trading partner. These may have a strong political content, or may reflect positions they have taken and strategies they are pursuing at the global level. Far from being the confused "spaghetti bowl" described by some observers, FTAs are the manifestation of coherent geopolitical strategies on the part of the major trading countries.

Developed countries are using FTAs as a means of furthering their multilateral agendas by locking in developing partners to commitments that reflect their positions in the WTO negotiations. One example is the treatment of GIs, where the EU FTAs impose a TRIPS plus protection, while United States FTAs impose TRIPS minus (eliminating the possibility of sui generic GI systems and replacing them with regular trademark systems of protection).[106]

Sectoral interests in developing countries may gain from the elimination of duties on products not covered by preferences where MFN tariff rates present a significant barrier to trade, such as in textiles or agriculture. However, duty free entry of textiles and clothing is often subject to complicated rules of origin, while sensitive agricultural products may be excluded. Furthermore, most FTAs do not establish disciplines on agricultural subsidies in the major developed countries, thus exposing farmers in the developing partner to unfair competition, even though some involve bilateral disciplines on export subsidies.[107] Furthermore, agriculture safeguard mechanisms may only be applied over the implementation period.[108] Developing countries generally do not have the competitive strengths to take advantage of

[103] See World Bank , Global Economic Prospects, 2005 p.41

[104] For example only one per cent of India's tariff lines had M FN rates of zero, Ibid.p41

[105] The FTAA negotiations have not succeeded largely because the MERCOSUR countries perceived that the main barriers facing their access to the USA market (agricultural subsidies and anti-dumping measures) could not be effectively addressed at the regional level.

[106] See Vivas, David and Christophe Spennemann, "Dialogo Regional sobre Propiedad Intelectual, Innovación y Desarrollo Sostenible" (UNCTAD/ICTSD Project on Intellectual Property and Sustainable Development, Costa Rica, May 2006) (www.ictsd.org).

[107] Some attempt has been made to deal with agricultural export subsidies in the Chile/USA FTA, however.

[108] Bellmann, Cristophe, "Latin American Countries in Bilateral and Multilateral Agricultural negotiations", presentation to the Andean Development Corporation, (www.caf.com/attach/11/default/Lat_am_Ag.pdf).

services liberalization in these agreements, particularly as many new opportunities are not provided for the short-term movement of persons (GATS Mode 4).

FTAs with the North

From the perspective of national development strategy, the advantages and disadvantages of FTAs differ considerably according to the choice of partners. In FTA negotiations with developed countries, developing countries often find themselves confronted with requests for commitments that may undermine their WTO rights and/or include commitments in areas which developing countries have not accepted as part of the WTO agenda. Thus, where the main objective of developing countries in FTAs is to obtain free access for their key export products, and avoid or preempt negative margins of tariff preferences in favour of their competitors, they find themselves subject to commitments of an even wider scope and deeper intrusiveness than those in WTO agreements. Some developed countries appear to be pursuing a parallel trade agenda in their FTAs, aimed at achieving commitments form their FTA partners that they have been unable to achieve in the multilateral context. In some cases, the developed partner follows a set "template" which it seeks to apply in each FTA it negotiates.[109]

…and the South

The expanding FTAs among developing countries generally adopt a different format. They may contain an "early harvest" of items to be liberalized immediately, with many issues left to be negotiated in subsequent stages. In some cases, this early harvest includes textiles and horticultural products normally considered as sensitive in North South FTAs. Commitments on services follow the GATS positive list format, adding regional and bilateral commitments to the multilateral schedules.[110] The proliferation of bilateral FTAs with regional trading partners is often conducted under a broad framework agreement intended to eventually lead to extensive regional integration. Individual countries and groupings of developing countries are entering into FTAs with extra regional developing partners. These usually contain considerably flexibility and are aimed at gaining a foothold in new, and growing markets.

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[109] See www.ustr.gov/TradeAgreements/bilateral (USA FTAs), and www.ecdpm.org (EU FTAs), and www.bilaterals.org for overview of all FTA negotiations and links to many sources.

[110] See Marconini, Mario, Acordos Regionais e o Comercio de Servicos: normativa internacional e interesse brasiliero (Sao Paulo: Aduanieras 2003).

Box 20: The New or "Singapore" Issues

At the Marrakech Conference which concluded the Uruguay Round and established the WTO, the concluding remarks of the Chairman set out the elements of a possible work programme for the new Organization.[111] In addition to trade and labour standards strongly advocated by the United States, the list included a wide range of items such as the relationship between immigration policies and international trade, international trade and company law, the establishment of a compensation mechanism for the erosion of trade preferences and the link between trade, development, political stability, and the alleviation of poverty. Only two of these, trade and investment and trade and competition policy were retained at the first WTO Ministerial Conference in Singapore in 1996 to which were added transparency in government procurement and trade facilitation (i.e. the Singapore issues). All but trade facilitation were dropped at the Cancun Conference in 2003.[112] Nevertheless, the developed country proponents of the Singapore Issues have continued to pursue the missing three in FTAs with developing countries.

Policy Space within FTAs

While it should be expected that a FTA will result in the elimination of tariff protection for "substantially all" of the mutual trade between its members, (i.e. in conformity with Article XXIV of GATT), many FTAs involve additional commitments that can severely reduce or eliminate "policy space" permitted by WTO agreements. Such commitments negatively affect the ability of developing countries to pursue development objectives.Attention should be given to Policy Space in such areas as:

(a) Intellectual property. Particular attention should be given to provisions of FTAs which may impose commitments which eliminate flexibilities provided by the TRIPS Agreement, by seriously constraining the scope to impose compulsory licensing, even those applied to pharmaceuticals for health purposes[113]. Such provisions undermine both the spirit and the intent of the Doha Declaration on TRIPS and Public Health, in addition to permitting patent holders to block parallel imports[114]. FTAs in this area may also require the patenting of plants and/or animals or even all life forms and undermine measures intended to prevent bio-piracy[115]. Trade marks may be given precedence so as to pre-empt the use of GIs by communities, while patent and

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[111] See document MTN.TNC/Min(94)/6 (www.wto.org).

[112] For an insight into the events leading to this decision see Supperamaniam M. *Epilogue*, in Sieh Mei Ling op.cit.

[113] See Sanya Reid Smith, *TRIPs provisions in US free trade agreements that effect medicine prices paper* paper presented to Regional meeting of Civil Society organizations on FTAs .in the Arab region , Cairo 9-11 December 2006

[114] Recent United States legislation discourages the inclusion of provisions restricting parallel importation in future FTAs Sec. 631 of Science, State, Justice and Commerce and Related Appropriations Act 2006, Public Law 109-108,..

[115] See Silvia Rodriguez Cervantes, *FTAs: Trading Away Traditional Knowledge*, GRAIN briefings 2006 (http://www.grain.org/briefings_files/fta-tk-03-2006-en.pdf).

copyright protection may be extended beyond the limits established in TRIPS. Data exclusivity provisions effectively extend patent protection for periods in excess of the TRIPS limits

(b) Investment provisions may prohibit performance requirements permitted by the WTO TRIMs Agreement, e.g. transfer of technology, export performance, or those on investment in services which are actually encouraged by the WTO GATS Agreement as a means of strengthening the service sector of developing countries. Investment chapters usually provide for across the board national treatment and right of establishment undermining the commitments that have been carefully negotiated in GATS. This is most significant when "Investment" chapters provide for the "absolute right to transfer funds", thus undermining the prudential provisions built into financial service commitments in GATS. "Expropriation" maybe interpreted in such a way that private investors can challenge states and obtain compensation for opportunities lost due to action by governments at different levels to protect the environment or attain other social goals. Dispute settlement provisions may permit investors to seek settlement outside of the State's domestic courts through alternative dispute resolution mechanisms, in particular but not limited to binding international arbitration.

(c) The cumulative effect of FTA chapters on "Investment", "Trade in Services", and "Electronic Commerce" may undermine government measures to promote social and cultural goals (e.g. universal coverage, cultural integrity etc.). Negative lists for trade in services leave no policy space to deal with new technologically advanced services when they emerge. Particular attention should be given to the cultural sector where the combination of negative lists for services and provisions aimed at the free movement of electronic commerce (including digital products) can result in undermining reservations made in GATS schedules to preserve the "cultural exception" [116].

(d) Safeguards on agricultural trade can be subject to a phase out period after which total liberalization applies. Liberalization can take the form of a staged increase of TRQs to a point where no limits apply. This is often combined with a phase out of the over quota tariff rate.[117] Attention should be given to incorporating such safeguards into FTAs using the same criteria as used in the WTO, in order to protect food security, livelihoods and promote rural development. Legislation for safeguard measures (SSM) e.g. trigger mechanisms, should be in place before entering into FTA negotiations. The issue of whether an agreement in the WTO on on SSM and SP would prevail over existing FTAs has not been resolved.

(g) Tariff protection on sensitive products may not be permitted indefinitely, but should be subject to a longer phase out period.

(h) Obligations on Government Procurement are included. These can have the same structure as the WTO plurilateral agreement, but are applied on a discriminatory basis and cover both goods and services.

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[116] See Bernier, Ivan, *Recent FTAs of the United States as Illustrations of their New Strategy Regarding the Audio-Visual Sector* (2004) (www.mcc.gouv.qc.ca/international/diversite-culteiurelle/eng/pdf/conf_seoul_ang_2004.pdf).

[117] In the Peru USA Agreement, for example, safeguards in the form of a "snap back" to MFN tariffs are triggered by imports exceeding the TRQ .by a certain percentage.

(i) Commitments on subsidies may prohibit dual price systems for energy, which are permitted under the WTO.

FTAs may also fall short of their objectives in terms of market access for developing countries:Key export products (e.g. rice, sugar, beef) or services (e.g. MNP) may be excluded, or subject to minimal liberalization,

(j) Rules of origin requirements may be difficult to meet and ,thus, many exports may not benefit from duty free treatment.. Attention should be given to ensuring that stringent rules of origin do not undermine the competitiveness of industries, and that cumulative origin provisions are included. “Yarn forward” type rules of origin may undermine the competitive position of the beneficiary exporting country to the extent that the preferential tariff margin is not sufficient to offset competition from non-preferential suppliers.

(k) Non tariff barriers (e.g. SPS) may still impede exports,

(l) Some measures distorting mutual trade may not lend themselves to bilateral or regional solutions (e.g. agricultural subsidies, anti-dumping measures). Yet, they could nullify the expected benefits of the FTA provision aimed at eliminating export subsidies which has been included in some agreements.[118]

Conversely, on the positive side of the balance sheet, FTAs may provide an opportunity to deal with issues not easily amenable to multilateral solutions, including:

(m) MNP commitments, such as access for MNP at an occupational level. Measures for protection of foreign workers may be easier to negotiate at a bilateral level[119]

(n) Negotiations of Mutual Recognition Agreements, with respect to testing facilities (e.g. SPS) as well as the certification of service professionals are often better facilitated in a sub-regional or bilateral context.[120]

(o) Assistance for net-food importing countries.[121]

(p) Cooperation measures in areas such as cultural services and transportation can be worked out in FTAs.

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[118] Some attempts have been made, e.g. Canada /Chile prohibits anti-dumping duties on mutual trade, Chile/USA and Peru /USA provide for the elimination of export subsidies in mutual trade , so long as action is taken to confront export subsidies from third countries, see www.ustr.gov/Trade_Agreements/bilateral/Peru_TPA and www.ustr.gov/Trade_Agreements/bilateral/Chile_TPA.

[119] The last issue to be resolved in the negotiations of a Philippine Japan FTA was the quota for the entry of nurses and respect for their professional qualifications. For a description of the issues involved see Tullao, Tereso S .and M. A. Cortez, *Movement of Natural Persons between the Philippines and Japan: Issues and Prospects*, presentation at De La Salle University, Manila, September 2003 (available at http://pascn.pids.gov.ph/jpepa/docs/tullao-revised_sept%209.PDF).

[120] See for example the approach of Singapore, www.fta.gov.sg

[121] See draft Economic Partnership Agreement between the EU and the COMESA countries, 4th draft EPA/8th RNF/24-8-2006 (available at www.bilaterals.org).

(q) SPS and TBT. Within the framework of FTAs, developing countries can obtain provisions for financial and technical assistance to overcome barriers, information exchange, guidelines for verification, certification and import checks that can provide greater security for exporters.[122] FTAs can also include provisions for technical and financial assistance in a wide range of sectors, such as energy, fisheries, protection of traditional knowledge, commodity diversification as well as infrastructural development.[123]

(r) Measures to promote trade and investment (incentives, trade fairs) and address problems of competition (e.g. tourism). Also some FTAs contain programmes under which assistance is provided to upgrade the competitiveness of enterprises in the partner country.[124]

(s) Rules of origin tailored to the needs of the developing partners.

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[122] See Rudloff, B. and J. Simon, "Comparing EU FTAs, Sanitary and Phytosanitary Regulations", ECDPM in Brief (Maastricht: 2004) (www.ecdpm.org).

[123] See draft Economic Partnership Agreement between the EU and the COMESA countries, op. cit.

[124] An example is the "mise a niveau" programme financed by the EU in its Mediterranean partners. See Lakhoua, Faycal, "The Tunisian Experience of 'Mise à Niveau', Conceptual Issues and Policy Orientations", Marrakech, September 1998 (http://www.worldbank.org/mdf/mdf2/papers/benefit/finance/lakhoua.pdf).

XI. SECTORAL ANNEXES

Annex 3A: Textiles and Clothing: Still the first step to Industrialization?

The textiles and clothing (T&C) sector has provided the first step to industrialization for a large number of countries, including those which are now highly developed. It currently provides a major source of employment and foreign exchange for a large number of poor countries. However, these governments are faced with the question of devising a strategy for enabling their T&C sectors to continue this role in the more competitive world market that emerged after the full phase-out of quotas with the implementation of the Agreement on Textiles and Clothing on 1 January 2005.

T&C and the MDGs

The T&C sector has provided an impetus for economic growth and industrialization in a large number of countries, including those now highly developed. It provides crucial export earnings and world exports exceeded $453 billion in 2004.[125] T&C was among the top two most dynamic sectors in world trade over the past two decades despite being subject to high tariffs and quotas in the main importing countries. The growth in the world market for clothing in particular can be expected to be maintained, providing continuing opportunities of all efficient producers. Most importantly, the T&C sector is a major employer of over 40 million people, particularly women, providing them with otherwise unavailable employment opportunities. In many developing countries the achievement of the MDGs is closely linked to the future of the T&C sector.

For many developing countries, the opportunities for export oriented growth and employment were a result of the artificial regime (the MFA and it predecessors) that governed world trade in this sector for a half century. The full implementation of the WTO Agreement on Textiles and Clothing (ATC) on 1 January 2005, which "integrated" this sector within the normal multilateral rules, has placed in question the ability of many developing countries, particularly LDCs, to compete against larger and more efficient suppliers. Developing countries, both current and potential exporters of textiles and clothing, are faced with the need for a policy response to a more competitive trading environment.

Potential new suppliers must assess whether the T&C sector, and especially the clothing sub-sector still provides opportunities for growth and employment and warrants priority in development strategies. These strategies have involved (a) the pursuit of improved access conditions to major markets, (b) national strategies to enhance productivity and competitiveness (c) actions to ensure that the benefits of exports are widely shared and (d) improvement of working conditions.[126]

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[125] www.wto.org

[126] The Section draws heavily from UNDP Asia Pacific Trade and Investment Initiative, *International Trade in Textiles and Clothing and Development Policy Options: After the Full Implementation of the WTO Agreement on Textiles and Clothing (ATC) on 1 January 2005*, policy paper (Colombo: 2005) (www.undprcc.lk/Publications/Publications/T&CPolicyPaper.pdf). See also publications of the International Textiles and Clothing Bureau at www.itcb.org.

Market Access

Even after the abolition of the quota system, exporting countries face difficult conditions of access to the major markets. A number of exporting countries are partners with the United States or the European Union in FTAs or otherwise benefit from preferential tariff treatment. Most major countries have complied with their obligation (MDG 8), to provide duty free access all imports from LDCs. However, the USA appears unwilling to extend such treatment to T&C. Other developing countries benefit from GSP treatment in the T&C sector, again except in the United States. Tariff protection thus remains high in this sector. [127]

However, exporting countries are obviously extremely concerned that they should receive the most favourable access conditions possible to meet international competition. They can pursue multilateral initiatives to secure duty free treatment in the context of the GSP, or special duty free regimes for LDCs. LDCs are pressing for this treatment to be bound, i.e. that it would constitute a "right"" in the WTO and become defensible under the dispute settlement mechanism. However this has not yet been accepted. LDCs suffered a setback at the Hong Kong Ministerial Conference when it was agreed that developed countries could exempt 3 percent of their imports from LDCs from the duty free obligation after the deadline of 2008! LDCs should continue to pursue 100% duty free, quota free access which coincides with MDG 8, target 13, as the best means of ensuring preferential access to major world markets.

The Doha Round NAMA negotiating group has also considered the zero-zero option, (i.e. sectoral free trade) in T&C. The most likely outcome would seem to be a tariff harmonizing formula.

The remaining tariff barriers to T&C imports have led to pressures from the industries in exporting developing countries to negotiate FTAs with major importing countries, particularly the USA, which does not accord GSP treatment in this sector. Duty free access for textiles and clothing is usually subject to complex rules of origin which accord different treatment to different preferential trading partners. These rules of origin usually are intended to ensure a "captive market" for yarn and fabric exporters of the "importing" country. FTAs usually require important reciprocal concessions on the part of the exporting developing country. The FTA option entails the risk that T&C exporters will have excessive influence on the FTA negotiation, leading to apparent gains for T&C exporters being "purchased" at the expense of excessive reciprocal concessions in other sectors which could undermine development efforts by the exporting developing country. In negotiating FTAs, rules of origin which maximize the scope for sourcing of inputs, and contain reasonable value added criteria are crucial, if real benefits are to be derived by the developing T&C exporting country. The various considerations involved in following the FTA option are set out in Section X.

T&C has been included in FTAs among developing countries, and in some cases, given priority in an "early harvest list". Some countries such as Thailand have made

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[127] See Chapter 4 of the UNDP Human Development Report 2005, *International Cooperation at a Crossroads: Aid, Trade and Security in an Unequal World* (New York, 2005) (http://hdr.undp.org/reports/global/2005/).

use of regional agreements between developing countries to diversify their export markets.[128]

Rules of Origin

Preferential tariff treatment inevitably involves rules of origin. The US FTAs, for example, impose "yarn forward" rules of origin, under which duty free treatment is granted only to those T&C exports made from yarns and fabrics originating in either the USA or the exporting county. FTAs with different partners contain variations of the "yarn forward" rules, some more liberal than others. The EU preferences include a double transformation criterion. Stringent and complicated Rules of Origin may result in either (a) the non-compliance of exports do not comply with the criteria, thereby disqualifying them from preferential treatment. They are thus, dutiable at MFN rates, (b) the compliance of exports with the rules which allow them to enter duty free. However, they are so burdened by the criteria that they cannot compete, even with the benefit of preferential tariff margins. It is obvious that rules of origin permitting inputs from the cheapest and highest quality sources would be preferable. The extent to which the exporting country produces input (i.e. textiles and fabrics) determines the impact of such rules. Nevertheless, even major producers of raw materials have found it necessary to use imported inputs to remain competitive.

Experience has shown that rules of origin are a major determining factor in access to T&C markets. When Canada relaxed its rules of origin for clothing imports from LDCs, eliminating double transformation and reducing value added to 25 percent, imports from LDCs increased exponentially! Stringent rules of origin may explain why preferential exporters are losing their share of markets despite tariff margins[129]. Cumulation provisions can facilitate conformity with rules of origin and promote trade among developing countries.

The post ATC trade flows (for 2005) indicate that most preferential suppliers, are losing their market shares, particularly in the United States market to China and a few other Asian countries (e.g. India, Pakistan, Bangladesh, Indonesia and Cambodia), which have held their own in the post ATC scenario. In the absence of quotas, preferential tariff margins generally do not provide an adequate cost advantage over more competitive suppliers, particularly when handicapped by "yarn forward" types of rules of origin. In other smaller countries, where textile and clothing industries

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[128] See Adhikari, Ratnakar and Yumiko Yamamoto, *Sewing Thoughts, How to realize Human Development gains in the post-Quota World, Tracking Report* (Colombo: UNDP Asia Pacific Trade and Investment Initiative, April 2006) (www.undprcc.lk/Publications/Publications/TC_Tracking_Report_April_2006.pdf).

[129] The submission by the relevant sectoral advisory committee (ITAC-5) on the USA Bahrain FTA is quite eloquent on the impact of the yarn forward rule. *A survey of major apparel retailers conducted by the National Retail Federation confirms the deficiencies of the yarn forward rules of origin. It was the unanimous view of survey respondents that a yarn forward rule is not cost effective and results in a net increase in the cost of apparel production, even when the savings from the elimination of tariffs and quota charges are factored in. All retailers participating in the survey further reported that yarn forward rules of origin have affected their sourcing operations by accelerating the shift in apparel trade away from preferential trading partner countries, such as Mexico, that are subject to this rule to certain large Asian suppliers, notably China. Although segments of the US textile industry have strongly advocated a yarn forward rule of origin in FTAs as necessary to protect domestic yarn and fabric production from Chinese competition, experience has shown that such a rule has the opposite effect and has resulted in an accelerated shift of apparel sourcing to China.*

were established almost exclusively to escape quotas, the industries have already collapsed (e.g. Lesotho, Maldives and Nepal)[130].

Increasing Productivity and Competitiveness

In the short run, governments can improve competitiveness by reducing direct input costs, (such as labour and fabric) through (a) removal of tariff, fiscal and other impediments on imports of yarns or fabrics, (b) improvements in labour productivity, through training programmes. Higher levels of education and skills of workers can facilitate successful specialization in niche markets of more complicated clothing, such as the case of Sri Lanka in women's garments.[131]

A series of other indirect costs can be reduced through programmes to improve infrastructure and logistics, streamline bureaucratic procedures, provide facilities for specialized education and develop human resources in design. Other factors being comparable, buyers will give priority to suppliers who can deliver new styles quickly and replenish inventory rapidly. Reduction of these indirect costs is crucial to meeting buyers' needs. With the elimination of the quota regime, buyers will inevitably reduce their number of suppliers and deal with factories that can meet their requirements. On the other hand, they will want to spread their country risk and seek competitive suppliers in several countries.

National policy measures to strengthen competitiveness and export performance, through trade facilitation, export credit facilities, particularly for SMEs will also be important. Over the longer run, government can encourage the creation of brands and nurture reputations. The stakes are very high because the development of an export capacity in the textiles and garment sector was the first step in the industrialization process for many countries. Given this historical context, the premature disappearance of this sector before new industries can be developed could severely constrict possibilities of creating the virtuous spiral described in Sections III and IV.

Equity: Sharing of Benefits

T&C exporters must also deal with the legacy of poor working conditions and abuse which have plagued the sector. The T&C sector has been associated with "sweatshop" working conditions and abuse of workers, especially women, which has raised international concern. In some cases, working conditions are unsustainable.It has beenclaimed that women working in the garment industry in Bangladesh are obliged to leave their jobs after five years due to deteriorating health caused by the working conditions. Such treatment is counterproductive as poor working conditions reduce productivity. Successful countries have been those which have invested in upgrading skills of workers.

Increased competition may result in reduced employment and a further deterioration in working conditions. Measures such as new legislation are needed to ensure that ILO Conventions are respected. Buyers have also become sensitive to social issues, and wish to be assured that their suppliers cannot be accused of not meeting minimum

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[130] Ibid.

[131] See Adhikari, Ratnakar and Yumiko Yamamoto, *Flying Colours, Broken Threads: One Year of Evidence from Asia after the Phase-out of Textiles and Clothing Quotas, Tracking Report* (Colombo: UNDP Asia Pacific Trade and Investment Initiative, December 2005) (www.undprcc.lk).

labour standards. For example, Cambodia's efforts to respect labour standards seem to have been appreciated by buyers[132].

[132] Ibid.

Annex 3B: Fisheries, Putting the products of the poor on world markets

The fisheries sector is a source of nutrition and employment to millions of poor people and has provided them with opportunities to access lucrative export markets. However, exports of fishery products give rise to a series of challenges relating to environmental protection and distribution of benefits. Developing countries are faced with the challenge of maximizing the contribution of this sector to the achievement of the MDGs. While the fisheries sector is unique in many aspects, other export industries in developing countries encounter similar challenges of distribution of benefits and environmental impact.

Fisheries and MDGs

Fishermen are among the poorest segments of the population, small scale fishing contributes to a more equitable distribution of resources while being a source of food and employment.[133] This is particularly true of those who have no access to agricultural land, credit and capital equipment. According to the FAO, 38 million people were directly involved in marine fisheries and aquaculture in the year 2002, of whom 20 per cent may be in the small-scale sub-sector earning less than US$1 a day. Another 17 million income-poor, including a high proportion of women, are employed in boatbuilding, net making, marketing and processing.. Fisher folk are often in the lowest segments of the population in terms of human development indicators such as literacy, and maternal mortality. The fisheries sector is vulnerable to weather conditions and natural disasters; the December 2004 Indian Ocean tsunami destroyed the livelihoods of millions of poor fish workers. Thus, development of the fisheries sector can play an important role in helping coastal communities reach the United Nations Millennium Development Goals (MDGs), especially Goal 1, eradicating extreme poverty and hunger.

Fisheries and aquaculture exports have been growing rapidly. Globally, fish has become a highly traded commodity, with about 37 per cent of total fisheries production (live weight equivalent) entering international trade in various forms. Net seafood export trade from developing countries has increased from US$10 billion in 1990 to US$18 billion in 2002 Total production (capture and aquaculture) rose from 118 million tons in 1997 to 132 million in 2003, although capture fish production remained stable at around 84 million tons... The small scale fisheries sub-sector accounts for nearly 50 percent of global capture fisheries. Wherever poor people have been been provided opportunities to participate in the higher value market of export species, they have increased their income substantially.

However, in the absence of effective fisheries management measures, exports may have a tremendous adverse impact on fisheries resources in developing countries. High prices for fish exports has led to overcapacity - excessive fishing effort, investment in modern, destructive fishing gear, and over fishing in several commercially important fisheries. In many countries this has led to a rapid depletion in coastal fisheries with a serious adverse impact on small scale fisheries. Foreign

[133] See publications and reports of International Collective in Support of Fishworkers at www.icsf.net and www.icsf.org. See also Deere, Carolyn, *Net Gains: Linking Fisheries Management, International Trade and Sustainable Development* (IUCN, The World Conservation Union, 2000). (www.users.ox.ac.uk).

fleets from developed countries, often benefiting from subsidies, and imbalanced bilateral agreements, are also contributing to the depletion of national fishing zones, often illegally [134]. Overall, in 12 of the 16 fishing regions identified by FAO, fish stocks are either fully exploited or depleted.

Aquaculture has caused environmental degradation, for example by causing increased salinity of rice farms, and its expansion has been severely limited in many developing countries. Poor fishermen have not been able to acquire the capital to participate in aquaculture. Thus increased exports of fish and fish products have not benefited the majority of fisher folk and in many cases have actually led to increased poverty among fishermen.[135]

Barriers to Exports of Fish Products

Tariffs on fresh, frozen or chilled fish, or primary fish products, are low in most developed country export markets with the exception of the EC. Seafood is covered by the Generalised System of Preferences (GSP) of the major developed trading countries. Tariff escalation presents the main barrier as tariffs on processed fish and fish products can rise to 20 per cent, and there are greater in-quota and off-quota variations. Processing industries provide employment opportunities for women and supplement household income of fisher families. Additional trade barriers are being erected against developing country fisheries exports, (e.g. anti-dumping duties are proliferating). Sanitary and phyto-sanitary measures, such as food safety standards, environmental measures, such as eco-labelling and certification programmes, and compliance requirements with MEAs, present serious barriers to the participation of small fishermen in export markets.

It is recognized that subsidies have contributed to an artificial increase in fishing fleets and fishing capacity which has contributed to the depletion of stocks It is estimated that such subsides account for up to 20% of dock side revenues. A consensus seems to be emerging in the Doha Round "Rules negotiations that such subsides should be drastically reduced. However, there is also recognition of the need for public support to small scale fishers[136].

Food Safety Standards and Small-scale Fisheries

SPS regulations have become more stringent, excluding many producers, particularly poorer fishermen, from export markets. Hazard Analysis and Critical Control Point (HACCP) – based systems and scientifically based risk assessment methods have been adopted by the United States, EC and Japan that together account for 75 to 80 per cent in value of seafood imports (FAO 2004). The international regulatory framework for fish safety and quality is embodied in two agreements (SPS and TBT) of the WTO, and the standards, guidelines and recommendations developed by the relevant committees of the *Codex Alimentarius*. These safety and quality concepts are

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[134] See Chapter 4 of the UNDP Human Development Report 2005, op. cit.

[135] The section draws heavily from Tokrishna, Ruangrai, "The Fisheries Sector in Asian Countries, Sustainable Fisheries, Human Development and Trade Liberalization", UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document (Hanoi: 2003) (available at www.undprcc.lk/Publications/Publications.asp?C=4).

[136] See, for example, recent proposals by Brazil TN/RL/GEN/79/Rev.4 and the United States TN/RL/GEN/145 on www.wto.org

also enshrined in the Code of Conduct for Responsible Fisheries, particularly Articles 6 and 11 (FAO 2004). Environmental regulations (e.g. shrimp/turtle issue) are also serious barriers for small fishermen. Voluntary eco-labeling schemes, designed to promote sustainable fisheries can also be a barrier as small scale fishermen are usually unable to organize so as to qualify.

Box 21: Examples of How SPS Can Penalize the Poor

From a small-scale fisheries perspective, in addition to the cost aspects, one of the main problems in adopting a HACCP plan would be the difficulty in implementing such a plan at the level of fish catch, especially for beach landing fishing units like *kattumaram* and canoes, for example, in India. According to EU and US standards, fish need to be stored in ice or to be kept in frozen storage as soon as they are harvested. Storage of fish in iceboxes would be difficult on board traditional fishing craft like *kattumaram*, which is made of lashed logs. Yet, many *kattumaram* using long lining and bottom set gillnets are used for catching fish for the export market. Strict implementation of HACCP plans could result in small producers which use such fishing craft being excluded from the export market.

On reaching the fishing harbour or landing centre, traditional fishers are expected to handle fish for export markets without exposing them to the beach-sand as a result of the fish handling standards of import markets. Many of the fishing villages that harvest fish, shrimp and cephalopods for the export market have only the beach for landing their catch and it would be difficult for them to comply with a HACCP plan unless they invest in iceboxes and maintain them in a hygienic manner.

While tariff escalation is a significant barrier, sanitary and environmental regulations pose the greatest barrier facing the entry of small fishermen in the world market as non-tariff barriers. These can be addressed at the multilateral level through negotiated improvements in the WTO SPS Agreement relating to equivalence of standards, and rules governing the use of eco-labeling. However, action is required at the bilateral level to provide financial and technical assistance and facilities to enable poor fishermen to meet national regulations of the importing country.

A number of Multilateral Environmental Agreements are aimed at preventing the depletion of fishery resources, particularly of migratory species. Some of these have trade provisions. It is important to ensure that the provisions of the WTO or FTAs cannot be used to frustrate the effective implementation of these MEAs.

Developing countries are legislating to protect the interests of small fishermen, particularly by reducing capture of fish in EEZ waters and reserving portions of territorial waters for small fishermen.[137] Credit facilities to assist poor people to construct aquaculture facilities and export to world markets also provide strong support to poor fishermen. Measures to support the processing of fish products before export can also increase incomes and provide additional employment opportunities in this sector.

[137] See Mathew, Sebastian, *Trade in Fisheries and Human Development in India*, UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document (Hanoi: 2003) (available at www.undprcc.lk/Publications/Publications.asp?C=4).

Annex 5A: Environmental Services

The provision of environmental services is crucial to the achievement of MDG 7 which includes targets to halve the proportion of people without sustainable access to safe water and basic sanitation and to significantly improve the lives of at least 100 million slum dwellers by 2015. Governments are faced with the challenge of obtaining investment to upgrade and modernize water and sanitation services, while ensuring access to the poorer segments of the population.

It is estimated that 1.1 billion people lack access to safe drinking water, while 2.6 billion people lack adequate sanitation.[138] Almost half the people in the developing world have one or more diseases or infections associated with inadequate water supply and sanitation, of which 1.8 million die every year from diarrhoeal diseases. Inadequate water supply and sanitation are the main cause of child mortality, which MDG 4 aims at reducing by two-thirds. MDG 4 targets 10 and 11 aim at reducing by half the number of people without sustainable access to safe drinking water, and to achieve significant improvement in the lives of 100 million slum dwellers.

Huge amounts of investment are required to achieve this goal, The investment requirements to meet the world's water needs are estimated at up to $180 billion annually and it is widely believed that such resources, and associated technology, are available mainly from the private sector. Given the large investments required in water projects and the long period of return on such investment, investors give priority to effective control. This can be facilitated by trade commitments on environmental services under GATS and other trade agreements. The WTO Doha Declaration singled out environmental goods and services as priorities for liberalization. Plurilateral requests have sought full commercial presence for waste water and other environmental services (water for human consumption is not covered by these requests).

The privatization of infrastructure services, however, has taken place in the context of a tense debate about the appropriate roles for the private sector in this area, and has led to major conflicts, especially around large-scale projects involving multinational companies. As an alternative to full-fledged privatization, several countries have opted for Public-Private Partnerships (PPPs), where private partners are to differing extents involved in the design and construction of infrastructure and/or in the management, operation and/or the financing of assets. The privatization of the collection, purification and distribution of water is often met with opposition, particularly from those who stand to pay increasing costs to finance the improvements in water supply. In addition, there is concern that the benefits of these improvements flow to more affluent segments of the population. Transnational water companies operating in developing countries have shown a tendency to cherry pick – concentrating on supplying large cities and those consumers who can pay market prices, while rural areas, small and medium cities and poor neighbourhoods have been disregarded.[139] In addition, liberalization in the waste management sub-sector of the environmental services market presents high risks of employment displacement, since excessive mechanization and modernization target the livelihoods of some of the

[138] World Water Council: www.worldwatercouncil.org

[139] OECD, "Public-Private Partnerships in the Urban Water Sector", Policy Brief (Paris: April 2003) (www.oecd.org/dataoecd/31/50/2510696.pdf).

poorest people.[140] Governments in developing countries are thus faced with a dilemma: how to obtain the necessary investment and related technology while ensuring that benefits are shared by all.

Box 22: The 4th World Water Forum

The Ministerial Declaration of the 4th World Water Forum held in Mexico city in March 2006 reaffirmed that "governments have the primary role in promoting improved access to safe drinking water, basic sanitation, sustainable and secure tenure, and adequate shelter, through improved governance at all levels, and appropriate enabling environment and regulatory frameworks, adapting a pro-poor approach with the active involvement of all stakeholders" (see www.worldwaterforum4.org.mx).

Environmental services are big business. The global market for environmental services sector exceeded $365 billion, in 2002, 80 percent accounted for by water, sewage and solid waste management. The industry has a dual structure, with a small number of large firms accounting for about 50 per cent of output in individual market segments,(the three largest water operators account for more than 50 percent of the global market)[141] while a large number of smaller firms account for the remainder. In developing countries, the emphasis has been on sewage treatment and water delivery. Private investment projects have targeted high and middle income countries: LDCs have hardly been touched. For instance, less than 0.2 percent of all private sector investments in the water and sanitation sector of developing countries went to Sub-Saharan Africa. Only 3 percent of the developing country population is provided with drinking water through private operators.

Box 23: Buenos Aires Water Supply Privatization

Questions remain about the assumption that market liberalization automatically produces improvements in the efficiency of water utilities and in the connection of new customers. In 1993, following the advice of the IMF, the water supply system of Buenos Aires was privatized and placed in the hands of a consortium led by the French giant firm Suez. Although there were initially impressive gains in the extension of water infrastructure, the majority of the concessions' negative impacts have been most deeply felt in the poorest sections of Buenos Aires[142]. Many poor households fell into serious arrears and were disconnected from the network, especially prior to 1998. Environmentally, those living in the poorest areas of the city have also been faced with the negative effects of rising groundwater and the health risks associated with nitrate-contaminated aquifers. These municipalities have some of the lowest average incomes in the Greater Buenos Aires area and yet a large part of the financial burden for extending the network has fallen on these households.[143]. In March 2006, the Government of Argentina cancelled the contract with Suez.

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[140] UNDP, *International Trade in Environmental and Energy Services and Human Development*, Discussion Paper, Asia-Pacific Trade and Investment Initiative (Colombo, 2005) at p. 22, (www.undprcc.lk/Publications/Publications/International_trade-completed.pdf).

[141] Hilary, John, *GATS and Water: The threat of services negotiations at the WTO*, Save the Children UK (London, 2003) at p.16.

[142] See www.cbc.ca/fourth/deadinthewater/argentia2

[143] Loftus A. L. and D. A. McDonald, *Of liquid dreams: A political ecology of water privatization in Buenos Aires*, Environment&Urbanization, Vol 13 No 2, October 2001 (www.queensu.ca/msp/pages/Project_Publications/Journals/Loftus.pdf). See also Hilary, John, *GATS and Water*, *op. cit.*

The UN Millennium Project Task force on Water and Sanitation requested countries to elaborate coherent water resources development and management plans to support the achievement of these goals. These plans should constitute a prerequisite to the negotiation of commitments in the environmental services sector.

Annex 5B: Energy services

Attainment of the MDGs will require that modern energy be made available to a large proportion of the nearly two billion people who currently are reliant on traditional energy sources. Lack of access to energy not only undermines the productivity of an estimated one third of the world's people but causes insecurity and hardship and threatens their health and future well being[144]. It constitutes a particular burden for women, and provokes reduced life expectancy and higher rates of child mortality. Again, developing countries are faced with the need to obtain capital and technology while ensuring universal access and control over this strategic sector.

Enormous investment required to meet world demand

The World Energy Council estimates that enormous investments – about $100 billion annually – will be required to maintain adequate supplies of energy, and this alone will not ensure delivery to the poor.[145] Energy services constitute the value added in the chain from the location of the potential energy source to its distribution to the final consumer. The dynamism of trade in the energy services sector is accelerating due to the increasing demand for energy, the liberalization of energy markets, increased investment in the energy sector, and the introduction of new technologies.

Many developing countries are engaged in structural reforms of the energy sector meant to cut costs and improve the economic performance and efficiency of the energy sector by imposing free-market disciplines and commercial criteria.[146] These can include deregulation (covering both the removal of regulations and the reassessment of regulatory methods), corporatization, (placing public energy utilities under commercial discipline), unbundling (i.e. breaking up vertically integrated state monopolies), increased private sector participation and outright privatization. Efforts to ensure competition require provisions to ensure access (third party access-TPA) to networks (grids, pipelines).

The dismantling of state monopolies has provided lucrative possibilities for the private sector and led to considerable interest in obtaining bound commitments on trade in energy services, which are the subject of requests in GATS and covered in FTAs. Such requests are aimed at gaining a share of dynamic "downstream" energy, particularly electricity trading markets, while seeking to gain control of "upstream" services to improve security of supply. The energy services market is estimated at $100 billion, but it implies control over the $3 billion global trade in energy. [147]

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[144] See Sieh Mei Ling (ed.), Investment, Energy and Environmental Services: Promoting Human Development in WTO Negotiations, University of Malaya, UNDP and Malaysian Institute of Economic Research (Kuala Lumpur, March 2004) (www.um.edu.my).

[145] 1.6 billion people did not have access to electricity in 2002. According to the International Energy Agency's estimates, 1.4 billion people will still lack access to electricity in 2030.

[146] UNCTAD, "Managing "Request-Offer" Negotiations under the GATS: The Case of Energy Services", UNCTAD/DITC/TNCD/2003/5 (Geneva: 2003).

[147] See UNDP, *International Trade in Environmental and Energy Services and Human Development, op. cit.*

How to ensure universal access?

Governments of developing countries are seeking private sector participation to obtain the necessary capital and technology. The dilemma often faced by governments is how to obtain foreign investment to increase capacity and efficiency, whilst simultaneously keeping the price of electricity, in particular, at levels accessible to the poor. In the energy sector, conditions for entry and performance requirements are essential tools for ensuring that liberalization attains the ultimate objective of universal coverage. Such conditions may include price undertakings (as liberalization tends to result in increased prices if not controlled), universal service obligations and transfer of technology requirements. On the other hand, governments may need to subsidize investors in isolated regions, particularly those involved in renewable energy production (e.g. solar or wind energy). Fair and transparent rules governing TPA and cross subsidization can also encourage investors. The energy sector can be a source of employment for youth, providing higher paying jobs, both at home and abroad through MNP. In addition, it may be necessary to retain energy subsidies, but with more focus on the poor. Such requirements should be stipulated in GATS commitments or in FTA "reservations".

The scope of WTO negotiations on energy extends beyond the services sector. Energy importing countries are seeking to expand the rules on subsides to restrict "dual pricing" practices under which energy producing countries maintain prices for domestic consumers at levels below those prevailing on the world market. There are also initiatives to eliminate exports taxes, as a policy tool frequently used in the energy sector.

Box 24: Energy Services Liberalization in Latin America

Country-case studies carried out in Latin America in 2001 show that energy market liberalization has, on balance, been beneficial to countries that have implemented it. Both energy availability and the quality of the service have been enhanced, mostly through (too broad in its sweep) rapid transfer of technology and systems, and more efficient modern management. However, energy accessibility and affordability, although better overall, has not improved for marginal populations. In general, market liberalization has tended to reduce employment in the sector as public monopoly enterprises tended to be over-staffed. Reductions in personnel in privatized companies have been accompanied, however, by increases in the number of jobs in contracting companies as a result of the increasing outsourcing of many activities.[148] Within the context of heavy reliance on services companies, there is still a great variety in the degree to which energy companies vertically integrate backwards or outsource services to external providers.

[148] World Energy Council (2001), *Energy Markets in Transition: The Latin American and Caribbean Experience*, London.

Box 25: Strategies for Strengthening Energy Services Competitiveness –

The case of Venezuela

Some energy-producing developing countries have adopted successful polices aimed at developing a strong domestic upstream energy service sector (exploration, extraction, drilling and other construction services) as a stimulus to development. For example, in 1980 PDVSA - the Venezuelan state oil company - established a policy aimed at the development of Venezuelan engineering, procurement and construction (EPC) companies. Foreign EPC companies had to establish partnerships or joint ventures with local companies to be invited as bidders for contracts. The partnerships had to produce transfer of technology and training. The management of the projects had to be shared between foreign and Venezuelan executives. On the other hand, attractive contracting conditions were applied and stable work loads were offered. As a result, in 2001, 90 percent of EPC contracts were executed by local EPC companies, up from 20 percent in 1980. In the same year, there were more than 140 firms of various sizes and degrees of specialization.

Annex 5C: Financial services

Stability in the financial sector is essential for the achievement of the MDGs. Financial crises have plunged millions of people into poverty and set development efforts back decades. The burden of adjustment in such crises is inevitably borne by the poor. Nevertheless, developing countries are again confronted with requests to further liberalize their financial service regimes.

Differing Commitments to Financial Reform

Enhanced competition in the financial services sector was expected to result in lower fees; improved quality and choice of services; access to new products and technologies; and access to new sources of capital. Liberalization measures have included the withdrawal of government intervention by privatizing state-owned financial entities; freeing interest rates and leaving credit allocation to be determined by the market; the removal of regulations, either quantitative or qualitative that discriminate against foreign financial entities; and the removal of restrictions on intra-sectoral activities by financial entities. The approach of developing countries to financial reform has varied including (a) deregulation of domestic markets with restrictions on new entrants, either general or only to foreign providers, (b) reform has been accompanied by the liberalization of the capital account, while in other cases regulations restricting movement of capital were maintained, (c) withdrawal of all state ownership of financial entities was terminated, or the maintenance of state participation in development banks, (d) full liberalization of commercial presence combined with restrictions on cross-border trade, (e) different approaches to the speed of the reform and in the sequencing between financial sector liberalization and regulatory upgrading.

The liberalization of financial services has been given specific focus in the WTO, as a result of acute pressure by developed countries, to the extent that additional negotiations (concluding in 1998) were held in this sector, after the Uruguay Round, to obtain further liberalization. The GATS commitments reflect the policy tools that developing country governments have retained to manage the financial sector. These include limitations on the opening of new banks, restrictions on foreign ownership, nationality requirements for directors, no commitments regarding “new financial services” etc. Some have been aimed at reserving segments of the financial sector for disadvantaged segments of the population.[149] Despite the experience of financial crises over recent years, some FTAs have pushed financial liberalization even further.

Impact of Liberalization

Countries undertaking liberalization of the financial sector have experienced a fast increase in the participation of foreign financial entities in the market at the expense of domestic firms. Domestic financial entities have been bought by foreign firms or have left the market, not being able to compete any longer. Concentration in the domestic market has taken place since, increasingly, a smaller number of financial entities control a larger share of the financial market. Financial liberalization has not always contributed to increasing lending to the private sector as a percentage of GDP.

[149] The concluding meting of the financial services negotiations was held up to the early hours of the morning as Malaysia successfully resisted attempts to dilute its pro-Bumiputera policy in the financial sector.

On the contrary, a sharp decline has been observed after the reform. SMEs and operators in the agriculture sector have been particularly affected by limited access to credit. Experience shows that countries should carefully assess the potential implications of reform on the basis of national realities,[150] designing appropriate financial services liberalization policies to suit country-specific conditions; determining the potential costs and benefits of reforms and also the appropriate pace and sequence of the process. In the absence of adequate prudential policy, liberalization may contribute to financial instability.

Box 26: The Thai Experience

The Thai experience and financial crisis in 1997 shows that "fast and furious" liberalization has not worked well. Liberalization should have been planned as a process and implemented in steps rather than being set out as an objective to be achieved through incoherent policy measures. The experience also demonstrates how challenging it is to adapt external fast developments to a country's needs and readiness. The rapidly growing banking system and the influx of short term foreign capital proved, for instance, to be too much and too fast for the Thai authorities to catch-up with on the regulatory front. While financial reform and the strengthening of the financial system are of paramount importance, they should be devised and implemented on a continuous basis and not only when an acute need or extraordinary circumstances force a country to undertake drastic reforms. [151]

[150] International Monetary Fund, *International Capital Markets: Developments, Prospects, and Key Policy Issues* (Washington, DC: September 2000) (http://www.imf.org/external/pubs/ft/icm/2000/01/eng/index.htm).

[151] WTO, *Communication from Thailand - Assessment of Trade in Services*, document TN/S/W/4, 22 July 2002.

Annex 5D: Distribution services

Liberalizing distribution services is seen as a means of increasing productivity, lower prices, greater product choice and distribution formats, and technological innovation. However, small domestic competitors cannot compete with large retail chains thus eliminating employment opportunities for the poor. The concentration of ownership at the world level can operate so as to marginalize small producers. Developing countries must devise policies in this sector that provide benefits for all, in the face of further requests for liberalization.

Strategic Role of Distribution Services

Distribution services are closely linked with other services such as transport, packaging, warehousing, financial services and commercial real estate development and have become a vehicle in international trade and competitiveness. The distribution chain has become shorter, and a direct relationship between producers and retailers has emerged, driven by enabling technologies and the desire to lower transaction costs. Rapid diffusion and incorporation of new business methods and technologies have brought about fundamental institutional and organizational changes related to procurement, inventory control, management methods and payment formula. The presence of large international retailers can become an avenue for increasing exports, incorporating domestic suppliers into the global procurement network, as well as being conducive to the improvement of local worker skills, especially in logistics, marketing and management.

Concentration of Ownership

Ownership in both retail and wholesale sectors has become highly concentrated The top 200 retailers account for 30 per cent of worldwide retailing sales. The growing presence of foreign retailing conglomerates in many developing countries is transforming highly competitive markets, with tens of thousands of small firms competing in the different market segments, into a situation in which a small number of firms control most of the industry turnover. This has led to smaller local suppliers being forced out of the market.

The distribution sector accounts for a sizeable share of non-agricultural employment in developing countries – for example 6-7 percent in India – and it is significantly higher than in developed countries.[152] Small shops play a crucial social role as employers of poor people who migrate from rural to urban areas,: they perform therefore a crucial social role that big chains would be unable to perform. Moreover, shifting the social status of people from that of shop owners to that of shop employees has the effect of shrinking the middle class, with negative social and political implications.

The dominance of large firms in the distribution service sector is having a profound impact on the wholesale segment of the market, and on local suppliers of goods, in particular in the farm sector. Developing country suppliers of foodstuffs find themselves bearing the brunt of price competition among distribution chains while

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[152] See UNCTAD, *Distribution Services*, TD/B/COM.1/EM.29/2, (Geneva, 2005).

small farmers find themselves left out due to their inability to meet the quality and delivery standards imposed by the firms themselves.[153]

Conditions for Liberalization

Developing countries are thus seeking trade-offs so as to obtain the benefits of the presence of large distribution chains while protecting and stimulating the role of small retail outlets as a source of employment for poor people, and ensuring access to distribution chains for small producers. This can be accomplished through techniques such as limitations on the number of branches of foreign chains, economic needs tests, (which can be inscribed in GATS commitments), and the support to SMEs though training in management and distribution processes[154] and credit facilities.

Opening up the retail market without ensuring the necessary conditions for fair competition has often not yielded the expected welfare gains. Such action may need to be complemented by the setting up of vigorous and dear anti-trust legislation aimed at regulating cartels, predatory behaviour, abuses of market power and deceptive practices, and at promoting consumer welfare; policies aimed at supporting retail diversity and entrepreneurship; the extension of unfair contract law to business-to-business contracts; measures aimed at the proper implementation of trade marks and copyright law; the setting up of franchise law, including mandatory disclosure of information; and the development of soft law instruments, such as codes of good practices, which have proved very effective in regulating buyers' anti-competitive behaviour.

Box 27: Expansion of Supermarket Chains

In the food retail business, there has been an impressive expansion of supermarket chains both domestic and foreign, with Latin America leading the way among developing regions. Supermarkets' share rose from 20 percent of total national food retailing in 1990 to 50–60 percent of total turnover in 2002. The development of supermarket chains in Asia and Africa has followed a pattern similar to that of Latin America, but with a later take-off. The share of supermarket chains in grocery retail is currently around 33 percent in Indonesia, Malaysia and Thailand and around 63 percent in the Republic of Korea, Taiwan (China) and the Philippines. On the other hand, supermarket penetration in India stands at only 5 percent. The most recent venue for supermarket take-off is Africa, especially Eastern and Southern Africa; in South Africa, supermarket chains represents 55 per cent of total national groceries sales, while in Nigeria they still account for only 5 percent.

[153] See Chapter 4, UNDP Human Development Report 2005, *op. cit.*.

[154] In Colombia, for example, the modernization and liberalization of distribution services has had a negative impact on medium- and small-sized companies, which have been displaced from the market. The Government has, then, implemented a special programme - PYMECO - to support small retailers through training in management and distribution processes.

[154] *Ibid.*, at 9

Annex 5F: Health services

The provision of health services to the poor is central to the achievement of MDGs 4,5 and 6. The pressures for foreign participation in health sectors have arisen at a moment when the impact of the WTO and other trade agreements on health is a subject of major concern to the international community. Commitments on health in GATS and other trade agreements can impact the provision of basic health services to the poor.[155]. As already noted, the 2001 WTO Ministerial Declaration on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement and Public Health was deemed necessary to protect developing countries against bilateral pressures from powerful trading partners who were undermining their rights to generic access to medicines. International health experts have strongly and continually cautioned prudence to developing countries in committing themselves to allowing foreign providers of health services, including health insurance, companies from entering their markets.

While the role of the private sector in providing health services varies from country to country, most WTO members have declined to make commitments in this sector. Many countries desire the latest medical technology and high-tech hospitals and training facilities. The existence of such facilities is also seen as an inducement to foreign investment. However, there is a concern that the foreign private sector will drain human and financial resources from the national sectors, both public and private, and lead to a two tier health system, one for the rich and one for the poor. As the greatest challenge facing developing countries in the health sector is to provide affordable access to quality services for the rural poor, the presence of foreign private suppliers could make little contribution to, and more likely frustrate these efforts.

Foreign participation in the health services sector can also take place through the provision of health insurance. International health experts consider that while, in theory, greater access for health insurance companies could stimulate competition and reduce costs, in actual practice, evidence shows that greater competition among health insurers segments and destabilizes the market in addition to undermining the ability to build larger, more equitable risk pools that spread costs between rich and poor, healthy and sick. In particular, it is crucial to prevent wealthier population groups from opting out of national health insurance schemes. Foreign health insurance should not operate in a manner that undermines universal compulsory health insurance systems. The experience of some developing countries with Health Maintenance Organizations (HMOs), which create a captive supply of medical staff, has been particularly discouraging[156] International health experts advise that the entry of foreign suppliers makes it more urgent for countries to create an effective regulatory framework for the health insurance sector, and that until such a system is in place it could be harmful for developing countries to make full commitments in the health insurance sub-sector under GATS financial service schedules.[157]

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[155] For links to the international debate on trade in health services see Choike, *Health and Health Services, Goods for Sale* (www.choike.org/nuevo_eng/informes/1007.html).

[156] See, for example, "Consensus Paper on Managed Care Organizations", developed by Association of Private Hospitals of Malaysia, 10 April 2001 (www.hospitals-malaysia.org).

[157] See Lipson, Debra, *GATS and Health Insurance Services,* Background Note for WHO Commission on Macroeconomics and Health, CMH Working Paper 4:7, June 2001 (http://www.cmhealth.org/docs/wg4_paper7.pdf).

A number of developing countries are exporting health services. Patients come to developing countries for medical treatment not only because of lower costs, but also to obtain traditional medical treatment, and often to enjoy more labor intensive and compassionate treatment from medical staff. However, health export policies can impact, both positively and negatively, domestic heath care, in particular, access to health services by the poor. Such access on people living in poverty can depend on the number of medical staff and facilities in the exporting country and the regulatory structure that is established.[158]

Developing countries that expend resources on the treatment of foreign patients are likely to be diverting resources from domestic needs. In addition, by offering more attractive employment conditions, they exacerbate shortages of skilled staff in public facilities, on which the poor rely. The export of health services through Mode 2 ("health tourism") requires a comprehensive strategy based on an analysis of the potential gains and the impacts on the national health system and access for the poor. These impacts will differ among countries, as a function of specific characteristics of the health system of each potential exporting country, but in many cases, could be negative.

[158] See WHO/UNCTAD study *International Trade in Health Services: a Development Perspective* UNCTAD/ITCD/TSB/5, WHO/TFHE/98.1 (Geneva: 1998).

References

Abugattas, Luis, and Simonetta Zarrilli (2007). *Challenging Conventional Wisdom: Development Implications of Trade in Services*, UNCTAD Series on Trade, Poverty and Cross-cutting Development Issues. http://www.unctad.org

Adlung, Rolf (2005). *Public Services and the GATS,* WTO Working Paper ERSD-2005-03. Geneva. http://www.wto.org/English/res_e/reser_e/ersd200503_e.htm.

Adhikari, Ratnakar, and Yumiko Yamamoto (2005). *Flying Colours, Broken Threads: One Year of Evidence from Asia after the Phase-out of Textiles and Clothing Quotas, Tracking Report*. Colombo: UNDP Asia Pacific Trade and Investment Initiative. http://www.undprcc.lk.

Adhikari, Ratnakar, and Yumiko Yamamoto (2006). *Sewing Thoughts, How to Realize Human Development Gains in the post-Quota World, Tracking Report*. Colombo: UNDP Asia Pacific Trade and Investment Initiative. http://www.undprcc.lk/Publications/Publications/TC_Tracking_Report_April_2006.pdf.

Akyuz, Yilmaz (2005). The WTO Negotiations on Industrial Tariffs: What is at Stake for Developing Countries. Geneva: Third World Network. http://www.twnside.org.sg/akyuz.htm.

Association of Private Hospitals of Malaysia. Consensus paper on Managed Care Organizations, 10 April 2001. http://www.hospitals-malaysia.org.

Bacchetta, Marc, and Bijit Bora (2003). Industrial tariffs and the Doha Development Agenda, WTO discussion paper. Geneva. http://www.wto.org/English/res_e/booksp_e/discussion_papers_e.pdf.

Baunsgaard, Thomas, and Michael Keen (2005). *Tax Revenue and (or?) Trade Liberalization*. IMF Working Paper WP/05/112.

Bellmann, Cristophe. Latin American countries in bilateral and multilateral agricultural negotiations. Presentation to the Andean Development Corporation, http://www.caf.com/attach/11/default/Lat_am_Ag.pdf.

Bernal, Luisa (2005). Methodology for the Identification of Special Products and Products for Eligibility Under Special Safeguard Mechanism by Developing Countries, ITCSD. Geneva. http://ww.ictsd.org/dlogue/2005-10-14/Luisa%20Bernal%20Methodlogy%20paper.pdf).

Bernier, Ivan (2004). Recent FTAs of the United States as Illustrations of their New Strategy Regarding the Audio-Visual Sector. http://www.mcc.gouv.qc.ca/diversite-culturelle/eng/pdf/conf_seoul_ang_2004.pdf.

Blandford, David, and Tim Josling (2006). Options for the WTO Modalities for Agriculture, International Food and Agricultural Trade Policy Council. http://www.agritrade.org/Publications/DiscussionPapers/WTO%20Modalities.pdf.

Chanda, Rupa (2006). Intermodal linkages to services trade. OECD Trade Policy Working Paper No. 30.

Charlton, Andrew (2003). Incentive bidding wars for mobile investment; economic consequences and potential reponses. OECD Development Centre Technical Paper 203, OECD. http://www.oecd.org/dataoecd/39/63/2492289.pdf.

Choike, Health and Health Services, Goods for Sale, a portal on Southern civil societies http://www.choike.org/nuevo_eng/informes/1007.html.

Commission on Intellectual Property Rights (2002). *Integrating Intellectual Property Rights and Development Policy*. London. http://www.iprcommission.org/graphic/documents/final_report.htm.

Correa, Carlos (2000). *Reviewing the TRIPs Agreement* in UNCTAD, a Positive Agenda for Developing Countries: Issues for Future Trade Negotiations, UNCTAD/ITCD/TSB/10. New York and Geneva: UNCTAD. http://www.unctad.org/en/docs/itcdtsb10_en.pdf.

——— (2000). *Integrating Public Health Concerns into Patent Legislation in Developing Countries*. Geneva: South Centre http://www.southcentre.org.

——— (2000b). *Intellectual Property Rights, the WTO and Developing Countries: The TRIPS Agreement and Policy Options.* London and New York: Zed Books.

Das, B.L. (2005), *The Current Negotiations in the WTO, options, opportunities and risks for developing countries.* London: Zed Books.

Deere, Carolyn (2000). *Net Gains: Linking Fisheries Management, International Trade and Sustainable Development.* IUCN, The World Conservation Union. http://www.users.ox.ac.uk.

FAO (2003). Support to the WTO Negotiations for the Cancun Ministerial Conference. Food and Agriculture Organization of the United Nations, Rome. http://www.fao.org/docrep/005/y4852e/y4852e00.htm.

Fernandez de Cordoba, Santiago (2005). *Coping with Trade Reforms, Implications of the WTO Industrial Tariff Negotiations for Developing Countries.* Geneva: UNCTAD. http://www.unctad.org.

G33 Proposals:

Modalities for the designation and treatment of any agricultural product as a Special Product (SP) by any developing country member, JOB(05)304, 22 November 2005. http://www.agtradepolicy.org/output/resource/G33_proposal_SPs_22Nov05.pdf.

SSM for developing countries, JOB(06)64, 23 March 2006 http://www.agtradepolicy.org/output/resource/G33_revised_proposal_SSM_23Mar06.pdf.

Gibbs, Murray (2004a). Energy in the WTO: What is at stake? In *Investment, Energy and Environmental Services: Promoting Human Development in WTO Negotiations*, Sieh Mei Ling, ed.

——— (2004b). Statement on Investment Policy and Human Development. In *Investment, Energy and Environmental Services: Promoting Human Development in WTO Negotiations,* Sieh Mei Ling, ed. Kuala Lumpur: University of Malaya, UNDP, and Malaysian Institute of Economic Research. http://www.um.edu.my.

——— Swarnim Wagle, and Pedro Ortega (2005). *The Great Maze: Regional and Bilateral Free Trade Agreements in Asia. Colombo:* UNDP Asia-Pacific Trade and Investment Initiative. http://www.undprcc.lk/Publications/Publications/Great_Maze_-_FTA_-_completed.pdf.

GRAIN, One global patent system? WIPO's Substantive Patent Law Treaty, GRAIN briefings 2003. http://www.grain.org/briefings/?id=159.

Beyond UPOV -Examples of countries preparing non-UPOV sui generis plant variety protection systems for compliance with TRIPS, GRAIN briefings 1999. http://www.grain.org/briefings/?id=127.

Hathaway, Dale (2002). A Special Agricultural Safeguard: buttressing the market access reforms of developing countries. In *FAO Papers on Selected Issues Relating to the WTO Negotiations on Agriculture*. Food and Agriculture Organization of the United Nations, Rome. http://www.fao.org/docrep/005/Y3733E/y3733e05.htm.

Hausmann, Ricardo, and Dani Rodrik (2003). Economic development as self-discovery. *Journal of Development Economics*, 72(2): 603-633. http://www.nber.org/papers/W8952.

Hilary, John (2003). GATS and Water: The threat of services negotiations at the WTO. London: Save the Children UK. http://www.savethechildren.org.uk/scuk_cache/scuk/cache/cmsattach/21_GATS_and_water.pdf.

International Monetary Fund (2002). International Capital Markets: Developments, Prospects, and Key Policy Issues. International Monetary Fund, Washington D.C. http://www.imf.org/external/pubs/ft/icm/2000/01/eng/index.htm.

Jales, Mario (2005). Tariff reduction, special products and special safeguards: An analysis of the agricultural tariff structures of G33 countries. Geneva: International Centre for Trade and Sustainable Development. http://www.ictsd.org/dlogue/2005-06-16/Jales.pdf.

Jayanetti, Sanath (2003). Movement of natural persons and its human development implications (Housemaids and Unskilled Migrant Workers). UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. Hanoi. http://www.undprcc.lk/Publications/Publications.asp?C=4.

Kim, DoHoon (2006). Trade Promotion and Economic Development in Korea. Korea Institute for Industrial Economics and Trade, presentation in file with author, May 2006.

Khan, Zubair (2003). *The Impact of the post-ATC Environment on Pakistan's Textiles Trade*, UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

Lakhoua, Faycal (1998). The Tunisian Experience of 'Mise à Niveau', ConceptualIssues and Policy Orientations. Marrakech. http://www.worldbank.org/mdf/mdf2/papers/benefit/finance/lakhoua.pdf.

Lam Quoc Tuan (2003). *Trade in Fisheries and Human Development: Country Case Study-Viet Nam*, UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. Hanoi. http://www.undprcc.lk/Publications/Publications.asp?C=4.

Lipson, Debra (2001). GATS and Health Insurance Services. Background Note for WHO Commission on Macroeconomics and Health, CMH Working Paper 4:7. http://www.cmhealth.org/docs/wg4_paper7.pdf.

Loftus, Alexander, and David McDonald (2001). Of liquid dreams: A political ecology of water privatization in Buenos Aires. Environment & Urbanization, 13 (2). http://www.queensu.ca/msp/pages/Project_Publications/Journals/Loftus.pdf.

Malhotra, Kamal (2006). National trade and development strategies: Suggested policy directions. Background paper for UNDP *Asia-Pacific Human Development Report, Trade on Human Terms: Transforming Trade for Human Development in Asia and the Pacific*. Colombo: UNDP.

Marconini, Mario (2003). *Acordos Regionais e o Comercio de Servicos: normativa internacional e interesse brasiliero*. Sao Paulo: Aduanieras.

Mathew, Sebastian (2003). Trade in fisheries and human development in India. UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

OECD (2003). Public-private partnerships in the urban water sector. Policy Brief. Organization for Economic Cooperation and Development. Paris. http://www.oecd.org/dataoecd/31/50/2510696.pdf.

OXFAM (2000). Tax havens: Releasing the hidden billions for poverty eradication. http://www.oxfam.org.uk/what_we_do/issues/debt_aid/tax_havens.htm.

Pal, Parthapratim (2006). The ongoing negotiations on agriculture: Some observations. Presentation at the workshop on *WTO-Related Issues for Government Officials in the SAARC Region*. New Delhi: The Energy and Resources Institute, 1-3 May 2006. http://www.teriin.org/events/docs/wtopresent/partha4.ppt.

Paz, Julio (2005). Identificación de productos especiales y mecanismos de salvaguardia especial en el Perú." Geneva: ICTSD.

Peters, Ralf (2004). Agriculture. At UNECA Ad Hoc Meeting on Agriculture. Tunis, November 2004. http://www.eca.org/trid/meetingss/Tunis.November2004.

Rahman, A.A. (2003). Trade in agriculture, food security and human development: Country case study for Malaysia. UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

Rangnekar, Dwijien (2004). The socio-economics of geographical indications: A review of empirical evidence from Europe. UNCTAD-ICTSD Project on IPRS and Sustainable Development. http://www.iprsonline.org/unctadictsd/docs/CS_Rangnekar2.pdf.

Rodriguez Cervantes, Silvia (2006). FTAs: Trading away traditional knowledge. GRAIN briefings 2006 http://www.grain.org/briefings_files/fta-tk-03-2006-en.pdf.

Rodrik, Dani (2004). Industrial policy for the twenty-first century. CEPR Discussion Paper no. 4767. London: Centre for Economic Policy Research. http://www.cepr.org/pubs/dps/DP4767.asp.

———— (2006). What's so special about China's exports? CEPR Discussion Paper No. 5484. London: Centre for Economic Policy Research. http://www.nber.org/papers/w11947.

Rudloff, B. and J. Simon (2004). Comparing EU FTAs: Sanitary and phytosanitary Regulations. ECDPM in Brief. http://www.ecdpm.org.

Seih Mei Ling (ed.) (2004). Investment, energy and environmental services: Promoting human development in WTO negotiations. Kuala Lumpur: UNDP, MIER and University of Malaysia. March 2004. http://www.um.edu.my.

Shin, Jang-Sup, and Ha-Joon Chang (2004). Foreign investment policy and human development country study: Republic of Korea. In *Investment, Energy and Environmental Services: Promoting Human Development in WTO Negotiations*, Seih Mei Ling, ed. Kuala Lumpur: University of Malaya, UNDP, and Malaysian Institute of Economic Research. http://www.um.edu.my.

Stiglitz, Joseph, and Andrew Charlton (2005). *Fair Trade for All*. Oxford: Oxford University Press, 2005.

Stiglitz, Joseph and M. Shahe Emran (2004). Price neutral tax reform with an informal economy. Econometric Society, 2004 North American Summer Meetings, p. 493.

Tokrishna, Ruangrai 92003). The fisheries sector in Asian countries, sustainable fisheries, human development and trade liberalization. UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

Tsogtbaatar, Damedin. Mongolia's WTO Accession: Expectations and Realities of WTO Membership. WTO Managing the Challenges of WTO Participation: Case Study 29, http://www.wto.org/English/res_e/booksp_e/casestudies_e/case29_e.htm.

Tullao, Teresa, and Michael Angelo Cortez (2003a). MNP and human development in Asia. UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

——— *(2003b).* Movement of natural persons between the Philippines and Japan: Issues and prospects. Presentation at De La Salle University, Manila, September 2003. http://pascn.pids.gov.ph/jpepa/docs/tullao-revised_sept%209.PDF.

UNCTAD *World Investment Reports,* various years. http://www.unctad.org/Templates/Page.asp?intItemID=1485&lang=1.

——— (1994). *Trade and Development Report 1994.* UNCTAD/TDR/14 and Supp.1. United Nations Conference on Trade and Development, Geneva.

——— (2000). *A Positive Agenda for Developing Countries: Issues for Future Trade Negotiations,* UNCTAD/ITCD/TSB/10. United Nations Conference on Trade and Development, New York and Geneva. http://www.unctad.org/en/docs/itcdtsb10_en.pdf.

——— (2001). *WTO Accessions and Development Policies*. UNCTAD/DITC/TNCD/11. United Nations Conference on Trade and Development, New York and Geneva. http://www.unctad.org/en/docs/ditctncd11_en.pdf.

——— (2003). *Managing 'Request-Offer' negotiations under the GATS: The case of energy services*. UNCTAD/DITC/TNCD/2003/5. United Nations Conference on Trade and Development, Geneva.

——— (2003). Report of expert meeting on market access issues under Mode 4. Document TD/B/COM.1/64. United Nations Conference on Trade and Development, Geneva, 27 November 2003.

——— (2004). *Trade and Gender: Opportunities, Challenges and the Policy Dimension*. UNCTAD/TD/392. http://www.unctad.org/en/docs/edm20042_en.pdf.

——— (2005). Distribution Services, TD/B/COM.1/EM.29/2.

——— (2005). Energy and Environmental Services, Negotiating Objectives and Development Priorities, Simonetta Zarrilli, ed., UNCTAD/DITC/TNCD/2005/3.

——— (2006). UNCTAD Secretary-General, Statement to ECOSOC Round Table on Globalization and Labour Migration, 6 July 2006. New York: United Nations. http://www.unctad.org.

——— (2005a). International trade in environmental and energy services and human development. Discussion paper. UNDP Asia Pacific Trade and Investment Initiative. http://ww.undprcc.lk/Publications/Publications/International_trade-completed.pdf.

——— (2005b). International trade in textiles and clothing and development policy options: After the full implementation of the WTO Agreement on Textiles and Clothing (ATC) on 1 January 2005, policy paper. http://www.undprcc.lk/Publications/Publications/T&CPolicyPaper.pdf.

UNDP et al. (2003). *Making Global Trade Work for People*. London: Earthscan.

UNDP (2005). *Human Development Report 2005, International Cooperation at a Crossroads: Aid, Trade and Security in an Unequal World*. New York: United Nations Development Programmme. hdr.undp.org/reports/global/2005/.

——— (2006). Concept Note on Aid for Trade, January 2006 http://www.undp.org/poverty/.

VanGrasstek, Craig (2003). U.S. policy towards free trade agreements: Strategic perspectives and extrinsic objectives. UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

Vivas, David, and Christophe Spennemann (2006). Dialogo regional sobre propiedad intelectual, innovación y desarrollo sostenible. UNCTAD/ICTSD Project on Intellectual Property and Sustainable Development, Costa Rica, May 2006. http://www.ictsd.org.

Vu Quoc Huy et al. (2003). Trade in services, movement of natural persons and human development: Country case study – Vietnam. UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

Wagle, Swarnim (2003). The development dimensions of the Sri Lankan Geographical Indication of Camellia Sinensis (Ceylon Tea). UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

——— (2003). Geographical indications: TRIPs and promoting human development in Asia. UNDP Asia Trade Initiative on Trade and Human Development, Phase 1, technical support document. http://www.undprcc.lk/Publications/Publications.asp?C=4.

WHO/UNCTAD (1998). International Trade in Health Services: a Development Perspective, UNCTAD/ITCD/TSB/5, WHO/TFHE/98.1 World Health Organization of the United Nations and United Nations Conference on Trade and Development, Geneva.

World Bank (2005). *Global Economic Prospects 2005*: Trade, Regionalism and Development. Washington D.C.: The World Bank.

World Energy Council (2001). *Energy Markets in Transition: The Latin American and Caribbean Experience*. London: World Energy Council.

WTO (2001). Matrix on Trade Measures Pursuant to Selected MEAs. Document WT/CTE/W/160/rev.1, 14 July 2001. World Trade Organization, Geneva. http://www.wto.org.

——— (2002). Communication from Thailand: Assessment of trade in services. Document TN/S/W/4, 22 July 2002. World Trade Organization, Geneva. http://www.wto.org.

——— (2003). WTO, Committee on Agriculture - Special Session. WTO Negotiations on Agriculture, poverty reduction: Sectoral initiative in favour of cotton. Joint proposal Benin, Burkina Faso, Chad and Mali. Document TN/AG/GEN/4, 16 May 2003. http://www.wto.org.

——— (2005). United States – Upland Cotton. Appellate Body Report, Dispute DS267, circulated 3 March 2005 http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm.

——— (2006). Recommendations of the Task Force on Aid For Trade, document WT/AFT/1, 27 July 2006 http://www.wto.org.

Inter-governmental and Civil Society Organizations and Research Institutions

Bilaterals.org: Everything that is not happening at the WTO: www.bilaterals.org

Food and Agriculture Organization (webpage on trade): http://www.fao.org/trade/negoc_dda_en.asp

Institute for Agriculture and Trade Policy: www.iatp.org, www.tradeobservatory.org

International Collective in Support of Fishworkers: www.icsf.net and www.icsf.org

International Textiles and Clothing Bureau: www.itcb.org.

South Centre: www.southcentre.org

Third World Network: www.twn.org.sg, www.twnside.org

UNCTAD: www.unctad.org

UNDP: www.undp.org

UNDP Colombo Regional Centre (site of UNDP's Asia Pacific Trade and Investment Initiative): http://www.undprcc.lk/Our_Work/Trade_and_Investment.asp

World Water Council: www.worldwatercouncil.org

World Trade Organization: www.wto.org

European Centre for Development Policy Management: www.ecdpm.org

OECD: www.oecd.org

European Services Forum: www.esf.be

European Commission External Trade Directorate: http://ec.europa.eu.comm/trade/

World Bank Independent Evaluation group: www.worldbank.org/ieg/trade

SUNS South North Development Monitor: www.sunsonline.org

United States Trade Representative Office: www.ustr.gov

India Ministry of Commerce: http://commerce.nic.in

Japan Ministry of Foreign Affairs: www.mofa.go.jp/policy

Singapore Ministry of Trade and Industry Singapore FTAs: www.fta.gov.sg/fta

Choike: www.choike.org

BIMSTEC: www.bimstec.org

FTA Watch Thailand: www.ftawatch.org

FTA Watch Malaysia: www.ftamalaysia.org

GRAIN: www.grain.org