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DEVELOPING COUNTRIES IN THE WORLD TRADING SYSTEM:

FROM GATT, 1947 TO THE THIRD MINISTERIAL MEETING OF WTO, 1999

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1. Introduction

The debate on the role of openness to international flows of goods, technology and capital in the development process is as old as economics. After all, Adam Smith praised the virtues of openness and competition in The Wealth of Nations. A moment's reflection should be enough to convince anyone that the sources of economic development are essentially three: the growth in inputs of production, improvements in the efficiency of allocation of inputs across economic activities, and innovation that creates new products, new uses for existing products, and brings about increases in the efficiency of use of inputs.

Being open to trade and investment contributes to each of the sources of growth. By allowing the economy to specialize in those activities in which it has comparative advantage, efficiency of the allocation of domestic resources is enhanced. By being open to capital, labour and other resource flows, an economy is able to augment relatively scarce domestic resources and use part of its abundant resources elsewhere where they earn a higher return. Clearly, efficiency of resource use in each nation and across the world is enhanced by the freedom of movement of

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resources. Finally, the fruits of innovation anywhere in the world become available everywhere in such an open world. While the potential benefits of openness from the perspective of growth and development and world welfare have been obvious since Adam Smith, if not earlier, appreciation of this potential in full measure has been slow in coming. Even now doubts persist about the potential. The recent financial crises resulting from volatility of short-term capital flows in some of the erstwhile rapidly growing and outward oriented economies of East Asia have revived scepticism about outward orientation. I would argue that the case for outward orientation in trade and investment remains strong, financial crises notwithstanding.

In what follows, I first describe how concerns about development of less developed countries were reflected in the evolution of the multilateral trading system, from GATT 1947 to the conclusion of the Uruguay Round of multilateral trade negotiation and the establishment of the World Trade Organization (WTO). In this description, I include a discussion of the participation of the developing countries in the GATT as it evolved. I then go on (Section 3) to discuss the emerging issues in the built-in-agenda of the Uruguay Round and in a possible future Round of multilateral negotiations from the perspective of developing countries. In Section 4, I summarize and offer some concluding remarks.

2. Evolution of the World Trading System and the Developing Countries[1]

[1]I have drawn extensively from Srinivasan (1998a, 1999) in this section.

It is worth recalling that Development Economics, as a distinct sub-discipline within economics, was born during the final years of the Second World War. With very few exceptions, the founders of development economics were heavily influenced by the disastrous experience with the global trading and investment system between the two world wars. Their pessimistic view of the potential of foreign trade and investment in initiating and accelerating the development process led them to advocate a development strategy that emphasized import-substituting industrialization. The First World War, which broke out in 1914, ended the process of global integration that has been going on from the second half of the nineteenth century. A world in which capital was free to move, man-made barriers to trade were low, currencies were tied to gold so that exchange risk was absent, passports and visas were not required to move from one country to another in search of a better life, came to an end.[2] The attempt to return to the pre-

[2]Lord Keynes wrote eloquently about this (Keynes, as referenced in Sachs and Warner 1995, p. 9):

> "What an extraordinary episode in the economic progress of man that age was which came to an end in August 1914!...The inhabitant of London could order by telephone, sipping his morning tea in bed, the various products of the whole earth, in such quantity as he might see fit, and reasonably expect their early delivery upon his doorstep; he could at the same moment and by the same means adventure his wealth in the natural resources and new enterprises of any quarter of the world, and share, without exertion or even trouble, in their prospective fruits and advantages; or he could decide to couple the security of his fortunes with the good faith of the townspeople of any substantial municipality in any continent that fancy or information might recommend. He could secure forthwith, if he wished it, cheap and comfortable means of transit to any country or climate without passport or other formality, could despatch his servant to the neighbouring office of a bank for such supply of the precious metals as might seem convenient, and could then proceed abroad to foreign quarters, without knowledge of their religion, language, or customs, bearing coined wealth upon his person, and would consider himself greatly aggrieved and much surprised at the least inference. But, most important of all, he regarded this state of affairs as normal, certain, and permanent, except in the direction of further improvement, and any deviation from it as aberrant, scandalous, and avoidable" (Keynes, as referenced in Sachs and Warner 1995, p. 9).

war gold parities in the radically different economies of the post-war failed, disrupting trade and capital movements. The great depression, escalation of tariffs and competitive devaluations by major trading nations ended any possibility of a resumption of the process of global integration interrupted by the war.[3] Indeed in a very real sense the so-called "globalization" of the last decade or so is in many ways a resumption of a process that was so abruptly interrupted by the First World War.

This disastrous inter-war history of international trade and finance was very much on the minds of those who met at Bretton Woods in 1944 to put together an institutional framework through the creation of the IMF and the World Bank for orderly management of exchange rates,

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[3]The same Lord Keynes sang a very different tune after the depression (Keynes, as referenced in Sachs and Warner 1995, pp. 10-11):

> "I sympathise, therefore, with those who would minimise, rather than with those who would maximise, economic entanglements between nations. Ideas, knowledge, art, hospitality, travel--these are the things which should of their nature be international. But let goods be homespun whenever it is reasonably and conveniently possible; and, above all, let finance be primarily national."

balance of payments and finance for reconstruction of development. Although trade issues were excluded from the Bretton Woods conference, some considerable thinking and work for establishing an International Trade Organization (ITO) had been going on and the participants in the conference firmly believed that an ITO would be established.

Indeed, within a year, on December 6, 1945, the U.S. government published its "Proposals for the Expansion of World Trade and Employment" (hereafter, Proposals) and forwarded the document to all countries of the world. At the same time, the U.S. government also invited fifteen countries to participate in negotiations for reductions of tariffs and other barriers to trade. Fourteen, with the notable exception of the Soviet Union, accepted the invitation. Early in 1946, in the United Nations Economic Social Council, the U.S. sponsored a resolution calling for an International Conference on Trade and Employment with the Proposals as a possible agenda item. It was unanimously adopted. A Preparatory Committee of nineteen, including the fifteen invited by the U.S. for tariff negotiations, was formed. The U.S. also circulated a suggested charter for an International Trade Organization (ITO) which the Preparatory Committee accepted as a basis for its deliberation. The negotiations, which were concluded with the GATT in October 1947, set the stage for the United Nations Conference on Trade and Employment which opened in Havana, Cuba on November 21, 1947. Fifty-six nations, again with the notable exception of the Soviet Union, participated in the conference. The most violent and protracted controversies at the conference were on development issues, with developing country participants denouncing the U.S. Proposals and the suggested draft ITO charter as serving the interests of developed countries and undermining the development prospects of poor countries. These controversies were

resolved, after a prolonged deadlock, by a series of compromises. The Final Act, embodying the charter for the ITO, was signed on March 24, 1948 by fifty-three countries, with Argentina and Poland refusing to sign, and the authorization for Turkey's delegation to sign having been delayed in transmission.

The ITO did not come into existence because its charter was not ratified by the United States and others. The GATT, which was to be subsumed in the ITO and which had been brought into force with a Protocol of Provisional Application, remained the only framework governing world trade until the WTO came into existence on January 1, 1995. Strictly speaking, the GATT is a treaty among contracting parties which are essentially independent customs jurisdictions rather than nation states per se--for example, Hong Kong which has never been an independent state, has been a contracting party of the GATT since 1947. As the eminent legal scholar of the GATT, John Jackson pointed out a decade ago, "The GATT has limped along for nearly forty years with almost no ‘basic constitution’ designed to regulate its organizational activities and procedures" (Jackson 1989). The only substantial formal amendment to the GATT was the 1965 protocol to add Part IV dealing with trade and development. Yet under GATT's auspices, eight successful rounds of multilateral trade negotiations (MTN) for reducing barriers to trade have been concluded.

Of the original twenty-three contracting parties to the GATT in 1947, eleven (or thirteen if the Czechoslovak Republic and the Union of South Africa are included) were developing countries. Yet Article XVIII, dealing with governmental assistance to economic development, was the principal and almost the only provision in the GATT dealing with trade problems of developing countries.

Almost a decade after its coming into force, GATT appointed a panel of experts to examine the trade relations between developing and developed countries. The panel came to the conclusion that barriers of all kinds in developed countries to the import of products from developing countries contributed significantly to the trade problems of developing countries. The GATT responded to the report by establishing the so-called Committee III on trade measures restricting less developed country exports and initiating a program for trade expansion by reducing trade barriers. The response of developed countries to Committee III reports, though positive, did not result in substantial reductions in barriers. Disappointed with this outcome, twenty-one developing countries introduced a resolution in the GATT in 1963 calling for an Action Program consisting of a standstill on all new tariff and non-tariff barriers, elimination within two years of all GATT-illegal quantitative restrictions, removal of all duties on tropical primary products, elimination of internal taxes on products wholly or mainly produced in developing countries and adoption of a schedule for reduction and elimination of tariffs on semi-processed and processed products.

In response to the resolution, the GATT ministerial meeting of 1963 appointed a committee to draft amendments to the GATT framework to enable the GATT contracting parties to better discharge their responsibilities towards developing countries. The amendments were approved in 1964 and became Part IV of the GATT entitled Trade and Development.

After the incorporation of Part IV in 1964, the next major GATT event from the perspective of developing countries was the grant of a ten-year waiver from the "most favoured nation" (MFN) clause with respect to tariff and other preferences favouring trade of developing countries. This so-called 'Generalized System of Preferences' (GSP) was later included under the

rubric of the 'enabling clause' of the Tokyo Round that formulated the Differential and More Favourable Treatment of developing countries in the GATT. Under GSP each developed country could choose the countries to be favoured, the commodities to be covered, the extent and the period of application of tariff preferences to be granted. As another distinguished legal scholar, Kenneth Dam, pointed out thirty years ago, inclusion of Part IV achieved little by way of precise commitments but a lot in terms of verbiage.

The incorporation of Part IV was in fact also a response by GATT to the first meeting of UNCTAD in 1964 under the leadership of its charismatic Secretary General, Raul Prebisch, who, with Hans Singer, was the formulator of the famous Prebisch-Singer hypothesis of the secular decline in the terms of trade of developing countries. At this meeting the developing countries formed a solid bloc and voted almost unanimously for recommendations that espoused a managed international market and discriminatory trade arrangements as the best means to close the "foreign exchange gap" (i.e., the difference between their export earnings and import requirements for sustaining their growth targets). The developed countries were divided, with the French in particular and the EC in general offering some support to the positions of developing countries, while others, led by the U.S., opposed them (the conversion of the U.S. to ideas of "managed trade" with respect to its own trade with Japan came 30 years later!). Since the developed countries were the ones who were to take the actions recommended by UNCTAD I, and they were opposed, not much action took place.

The Tokyo Round of MTN was concluded in 1979. It was the first of seven rounds of MTN in which the developing countries participated in strength and with cohesion, but produced outcomes that were not in their long-term interest, primarily because their demands continued to

be driven by the import-substitution ideology. The formal incorporation at the Tokyo Round of their demands for a Differential and More Favorable Treatment, including not being required to reciprocate any tariff "concessions" by the developed countries, triply hurt them: once through the direct costs of enabling them to continue their import substitution strategies; a second time, by allowing the developed countries to get away with their own GATT-inconsistent barriers (i.e., in textiles) against imports from developing countries; and a third time by allowing the industrialized countries to keep higher than average MFN tariffs on goods of export interest to developing countries.

The experience of developing countries in the GATT up to the conclusion of the Tokyo Round could be interpreted in two diametrically opposite ways. On the one hand, it could be said that from the Havana Conference on, the developing countries had been repeatedly frustrated in getting the GATT to reflect their concerns. Tariffs and other barriers in industrialized countries on their exports were reduced to a smaller extent than those on exports of developed countries in each round of the MTN. Products in which they had a comparative advantage such as textiles and apparel were taken out of the GATT disciplines altogether. Agriculture, a sector of great interest to developing countries, was also subjected to a waiver and thereafter largely remained outside the GATT framework. "Concessions" granted to developing countries such as inclusion of Part IV on Trade and Development and the Tokyo Round enabling clause on special and differential treatment were mostly rhetorical, and others, such as GSP, were always heavily qualified and quantitatively small. In sum, the GATT was indifferent, if not actively hostile, to the interests of developing countries.

The other interpretation is that the developing countries, in their relentless but misguided

pursuit of import-substitution as the strategy of development, in effect ‘opted out' of the GATT. Instead of demanding and receiving what turned out to be "crumbs from the rich man's table" such as GSP and a permanent status of inferiority under the "special and differential" treatment clause, they could have participated fully, vigorously, and on equal terms with the developed countries, in the GATT. Had they adopted an outward-oriented development strategy, they could have achieved faster and better growth. The success of East Asia suggests that the second interpretation is closer to the truth. The recent financial crisis in East Asia does not invalidate this conclusion.

In the ministerial meeting that launched the Uruguay Round negotiation, the developing countries were split into the Group of Ten led by Brazil and India and the Group of Forty chaired by Colombia and Switzerland which included 20 developing countries. The continued insistence of developing countries on special and differential treatment and their earlier reluctance to agree to the initiation of the round itself did not help Their refusing at first the inclusion of non-traditional issues such as Services, TRIPS and TRIMS and later agreeing to their discussion, with services on a separate track, led to the incorporation in the final agreement of the Uruguay Round of these three into the WTO. In my view this was a colossal mistake that has since opened the door for demands for linkage of trade policy instruments that govern market access to enforce labour and environmental standards. Indeed linkage has come to be protectionism through other means. Had the developing countries not opposed discussing TRIPS at all, but insisted on such discussion taking place in the appropriate forum, namely the WIPO, leaving it to the parties in the discussion to arrive at better means of enforcement of WIPO conventions, it is conceivable, though by no means certain that the unfortunate consequence of TRIPS in the WTO would have

been avoided. The forthcoming review of the TRIPS agreement offers an excellent opportunity to reflect on this issue.

Be that as it may, in the final Uruguay Agreement the developing countries took several important steps to move away from being exceptions to multilateral disciplines to a greater acceptance of them. For example, they increased the percentage of bound tariffs on manufactures other than textiles from a 21% to 73% which brought them closer to the near-universal binding of tariffs on the part of developed countries. The agreement also phased out the infamous Multifibre Arrangement which had been an egregious violation of the principles of GATT, although the phase-out was over a period of 10 years with much of the liberalization coming at the end of the period. Agricultural trade was brought under the same disciplines as applied to trade in manufactures, although not completely. Indeed the "tariffication" process in the Uruguay Round (UR) that converted non-tariff border measures into tariffs prior to their reduction was nothing short of scandalous: developed and developing countries bound tariffs at levels far higher than the actual or applied tariffs in many cases. While subsidization of manufactured exports is ruled out, the use of agricultural export subsidies was not made inconsistent with WTO rules but only their levels were reduced. The actual extent of liberalization of agricultural trade achieved was extremely modest. It is my hope that interventions, particularly in Europe, which continue to distort agricultural trade, will be eliminated. Agricultural trade needs to be brought fully under WTO disciplines in the forthcoming negotiations on this very important sector from the perspective of developing countries.

It should also be pointed out that the General Agreement on Trade in Services is not the analogue of GATT in terms of non-discrimination and national treatment. Nonetheless it is a step

forward. The agreements in telecommunications and financial services that have since been concluded are important. Yet on the movement of natural persons in which the developing countries have a significant interest, progress towards an agreement has been slow. This has to be rectified.

The quantitative gains to developing countries from the trade liberalization achieved in the UR are not only modest but also distributed unevenly. Almost all estimates of such gains suggest that Sub-Saharan Africa might in fact lose rather than gain. There are two main reasons for this: first, the industrialized countries (and some developing countries) had liberalized most of their trade prior to the UR agreement and stood to benefit from liberalization of other countries under UR agreement, and second, the dynamic gains to developing countries are likely to be substantial but are difficult to quantify. The effects of the UR agreement on new issues such as services, TRIMS and TRIPS, as well as the strengthening of the DSM, etc. are of course impossible to quantify. It is likely that gains, if any, may not outweigh costs by a substantial margin for the developing countries. For example, in services, particularly financial services, the domestic financial markets are undeveloped and repressed in many developing countries. Their financial sectors have to be reformed and appropriate laws and regulations enacted and regulatory institutions created where they do not exist, to enable domestic providers of financial services to survive the opening up of financial markets to foreign competition. The recent financial crises have brought this well known fact to the open.

The strengthened Dispute Settlement Mechanisms (DSM) is undeniably in the interest of all members of the WTO. The provisions in the UR agreement that make available the services of the WTO secretariat, if needed, to enable the developing countries to avail of the DSM are to be

welcomed. Yet, realistically speaking, the administrative and information-gathering capabilities of many developing countries are likely to prove inadequate even with the assistance of the WTO secretariat to present a strong case before the DSM. Nonetheless the experience thus far with the DSM is encouraging even though unilateralism, which the strengthened DSM of the WTO was meant to curb, has not disappeared. The continuing use by the US of Section 301 of its domestic trade legislation to put countries on a watch-list for their weak enforcement of intellectual property rights and the recent action against EU by the U.S. even before the final pronouncement by the Dispute Settlement Body on the extent of damage to the U.S. of the EU Banana import regime are unfortunate examples of unilateralism.

Before commenting on emerging issues in the post-Uruguay Round context, let me briefly draw attention to the fact that because of the enormous success of the various rounds of multilateral trade negotiations under the auspices of GATT in reducing trade barriers, the world trading system has been transformed way beyond what anyone could have expected in 1947 when GATT was concluded. From 23 contracting parties of the GATT in 1947 of whom 11 were developing countries, membership in WTO as of now stands at 134. Nearly four-fifths of WTO members are developing countries. Growth in world trade has continued to outstrip that of world output. Between 1950 and 1964, merchandise trade grew at about 8% per year, 40% faster than output. Between 1964 and the first oil shock of 1973, trade grew at 9.2% per year, double the rate of growth of output. Although growth of trade and output slowed down after the oil shocks, nonetheless trade grew faster than output except during a brief period of 1980-85. As the Director General Ruggiero of WTO noted in his recent address, the developing countries shared in this growth. The share of trade in developing country GDP which was less than 20% in 1970

roughly doubled to 38% in the last year, though the increase was unevenly distributed among countries. Between 1973 and 1997 the developing countries' share of manufactured imports in developed markets tripled--from 7.5% to 23% reflecting the remarkable integration of the developing countries in the global economy in the last three decades.

3. Emerging Issues

Let me now turn to some emerging issues from the perspective of developing countries. The first and foremost are the attempts to bring into the ambit non-trade issues that do not belong there. What the late Jan Tinbergen said of policy assignment applies as well to assignment of institutional responsibilities: loading on to one institution, and its instruments of compliance, the responsibility for the achievement of several objectives is a prescription for failure to achieve any of the objectives in full measure. Since, fortunately international institutions and conventions such as the ILO, IMF, WIPO and World Bank exist with responsibilities assigned to them in areas in which they are specialized, it is counterproductive to use the WTO to achieve objectives in their areas of specialization.

Among these attempts, one of the most serious from the perspective of the developing countries is the demand for the inclusion of a Social Clause in the mandate of the WTO that will establish a link between market access and enforcement of labour standards.[4] Thus far, in the first two ministerial meetings of the WTO, the ministers have wisely and properly decided that the ILO is the proper forum for a discussion of labour standards. The issue will not disappear altogether

[4]In Srinivasan (1998b) I discuss in greater detail the broader issue of the use of trade policy instruments to enforce observance of human rights. See Bhagwati (1999) for a penetrating

from the WTO for several reasons.

The deceptively appealing notion that lower labour standards in a country relative to its trading partners confer on it an unfair competitive advantage was already present in the charter of the International Trade Organization (ITO) negotiated by participant countries at Havana in 1948 (Srinivasan 1996). Except for allowing countries to prohibit trade in goods made with prison labour, however, the articles of GATT did not deal with labour standards. Various administrations in the United States, Democrat and Republican, have proposed the inclusion of a labor standards article in the GATT, unsuccessfully as it turned out, during several rounds of multilateral trade negotiations. Similar proposals have been made by political parties in national parliaments in several European countries and also in the European Parliament.

The current proposal is for the formal inclusion of a Social Clause in the WTO that would allow restrictions to be placed on imports of products originating in countries but not complying with a specified set of minimum standards. Such a demand in itself is not a surprise except in its timing, namely that it was raised *after* the painful and lengthy negotiations of the Uruguay Round had been completed, almost holding the negotiated agreement hostage. The agreement was signed, but not without an understanding that the topic of labor standards could be discussed by the preparatory committee for the WTO.

It is clear that the issue of labour standards will continue to be brought up in the WTO,

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analysis of free trade, labour and environmental standards.

particularly by the US, as it was several times in the past in GATT. But the twin facts that (1) the support for labour standards in developed countries rests in part on genuine moral grounds of the concern of their citizens with the welfare of children in developing countries, and (2) that the belief that "unfair" labour conditions, particularly in the production of export, create difficulties in international trade is longstanding, do not mean that protectionism is not currently the driving force behind the demand for the Social Clause.

First, this demand is being pushed with great vigour by major developed countries at the present time when imports from developing countries are penetrating their markets to an increasing extent. Second, there is a curious asymmetry in the contents of the proposed clause: they focus almost exclusively on those labour standards which are presumed to be "low" in developing countries and not on those equally plausible ones which are absent in many, but not all, developed countries. The asymmetry would be unlikely, if the driving force behind Social Clause was truly universal moral concern with labour standards.

The timing of the demand for and the contents of the proposed Social Clause as well as the concern only with enforcement of a particular set of standards where the developing countries are expected preponderantly or exclusively to be the defendants, both point to only one conclusion: that protectionist interests have captured the drive for labour standards. It is extremely essential that developing countries together with like-minded industrialized countries continue to take a firm stand against the inclusion of a discussion of labour standards in the WTO agenda.

There is the danger that if the issue of labour standards is not discussed in an appropriate multilateral forum such as the ILO, it will be taken up in other contexts such as bilateral,

plurilateral and regional trade agreements.[5] For example, as part of the price to get congressional approval in the US of the North American Free Trade agreement, Mexico had to agree to a side agreement on labour and environmental standards. Since the start of the Uruguay Round, there has been a disturbing and unfortunate increase in the number of discriminatory regional trade agreements concluded, as well as proposed. Contrary to the expectation of some, the successful conclusion of the Round did not stop this trend--on the contrary, there is some evidence of acceleration. Many developing countries are already members or eager to become members of such Preferential Trade Agreements (PTA's). This eagerness might lead them to accept deleterious agreements on labour standards in PTA's that are not necessarily in their interest.

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[5]I should also mention here some unilateral actions. GATT allows developed countries to offer preferential access to their markets to developing countries under the Generalized System of Preferences (GSP). The US and EU have conditioned the grant of such preferences to the observance by developing countries of particular labour standards that the US and EU deem important. I should add, however, that whether or not its grant is conditional, GSP is the analogue of "crumbs from the rich man's table" which the developing countries should do well without.

I should also stress the fact that many developing countries are eager to enter into regional PTA's does not necessarily mean that it is in their best interests to do so.[6] Even at the time the GATT was negotiated, the incompatibility of the principle of non-discrimination (that is the foundation of GATT) and the PTA's was recognized. Article XXIV, by placing rather stringent conditions before pronouncing any proposed PTA to be compatible with GATT, was an attempt to reconcile the irreconcilable. Another effort to make discrimination sound benign is the proposal for open regionalism, a proposal that has been embraced by the Council of Economic Advisers to the President of the United States (CEA 1995), the World Bank (Burki and Perry 1997) and Secretary General Ruggeiro, among others (WTO 1996). The most enthusiastic advocate of this proposal is Bergsten (1997). I have argued (Srinivasan 1998c) that open regionalism is more an oxymoron than a fruitful concept. Openness with respect to membership cannot make a regional PTA non-discriminatory.

Given that political, rather than economic, considerations were (and are) the driving forces behind PTA's including the most enduring of them all, namely the EU, it is not surprising that in the past the GATT working parties on PTA's looked the other way when Article XXIV ran up against political goals. Out of 89 working parties established by GATT during its 47- year existence to examine proposed PTA's, 15 did not complete their work before GATT was subsumed in the WTO, five did not report and out of the 69 which reported, only six explicitly acknowledged the conformity with Article XXIV of the agreements they examined. This six most notably did not include the EU; in other words, no GATT Working Party has pronounced on the

[6]On the implications of the proliferation of PTA's for the multilateral trading system, see Panagariya and Srinivasan (1998) and Srinivasan (1998c).

compatibility or otherwise of EU with Article XXIV.

Given the discriminatory nature of PTA's, the enormous complexities of the rules of origin that PTA's other than Customs Unions necessarily involve, the dismal record of the Working Party mechanism for examining the compatibility of any proposed PTA with Article XXIV and the political basis for many of them, it would seem that instead of attempting to modify the article as some have suggested, a far better course would be to ensure that all PTA's (regional or otherwise in their membership) are temporary. In other words, Article XXIV should be replaced with the requirement that preferences granted to partners in any PTA should be extended on a MFN basis to all members of the WTO within a specified period, say, 5 to 10 years.

Let me now turn to trade and environment.[7] The Uruguay Round agreement included a provision to establish a committee on Trade and the Environment in the WTO. Thus far the committee has been examining, inter alia, the scope of complementarities between trade liberalization, economic development and environmental protection. However, the demand to go beyond these unexceptionable terms of reference and to consider trade policy measures to impose environmental standards that are harmonized across industries and countries has many adherents. They argue that fair trade or level playing fields constitute a precondition for Free Trade and that, therefore, harmonization of domestic policies across trading countries is necessary before Free Trade can be embraced to one’s advantage.

It would seem, at first glance, that at least the intrinsically domestic environmental problems should be matters best left to governments, to domestic solutions and within domestic jurisdictions (although transnational, global "educational" and lobbying activities by environmental

nongovernmental organizations, the NGOs, are compatible with this solution). If a country's preferred environmental choices and solutions (by way of setting pollution standards and taxes) to intrinsically domestic questions are different from those of another, why should anyone object to the conduct of free trade between the two on the erroneous ground that such differences are incompatible with the case for (gains from) Free Trade? Yet, the fact is that they do.

And the objections are directed, not merely at Free Trade, but also at the institutional safeguards and practices at the WTO, which are designed to ensure the proper functioning of an open, multilateral trading system that embodies the principles of free trade.

Environmental diversity is, contrary to these assertions, perfectly legitimate, that it can arise not merely because the environment is differently valued between countries in the sense that the utility function defined on consumption and pollution abatement is not identical and homothetic, but also because of differences in endowments and technology across countries. Forcing the poor country to spend as much on abatement will reduce its welfare substantially.

Transborder externalities, on the other hand, are generally more complex in character than the ones which arise with purely domestic pollution and more compelling as well. It is useful, from a policy viewpoint, to distinguish among two cases: (1) a special case where the problem is simplified by assuming a single country that pollutes the other, raising questions of response such as the use of trade barriers by the other; and (2) a general case where the problem is truly global

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[7]See Bhagwati and Srinivasan (1996) for a detailed discussion of the issues involved.

in character.

The chief policy questions concerning trade policy, when global pollution problems are involved instead as with ozone layer depletion and global warming, take a different turn related to the cooperative-solution-oriented multilateral treaties that are sought to address them. They are essentially tied into noncompliance ("defection") by members and "free riding" by nonmembers. Because any action by a member of a treaty relates to targeted actions (such as reducing CFCs or CO_2 emissions) that are a public good (in particular, that the benefits are nonexcludable, so that if I incur the cost and do something, I cannot exclude you from benefiting from it), the use of trade sanctions to secure and enforce compliance automatically turns up on the agenda.

At the same time, the problem is compounded because the agreement itself has to be legitimate in the eyes of those accused of free riding or noncompliance. Before those pejorative epithets are applied and punishment prescribed in form of trade sanctions is legitimated at the WTO, these nations have to be satisfied that the agreement being pressed on them is efficient and, especially, that it is equitable in burden-sharing. Otherwise, nothing prevents the politically powerful (i.e. the rich nations) from devising a treaty that puts an inequitable burden on the politically weak (i.e. the poor nations) and then using the cloak of a "multilateral" agreement and a new WTO-legitimacy to impose that burden with the aid of trade sanctions with a clear conscience, invoking the "white man’s burden" to secure the "white man’s gain".

This is why the policy demand, often made, to alter the WTO to legitimate trade sanctions to contracting parties who remain outside of a treaty, whenever a plurilateral treaty on a global environmental problem dictates it, is unlikely to be accepted by the poor nations without safeguards to prevent unjust impositions. The spokespeople of the poor countries have been

more or less explicit on this issue, with justification.

Let me now turn to the issues that need to be taken up in the next round of multilateral negotiations.[8] The Director-General of the WTO, Mr. Ruggiero has rightly emphasized the importance of the full implementation of liberalization commitments agreed in the Uruguay Round. He drew attention to the claim by developing countries that the industrialized countries have not lived up to the spirit of agreements such as those relating to textiles (Ruggiero 1999). Understandably many developing countries are reluctant to enter into a new round of negotiations when the commitments given in the prior round do not seem to have been kept. Those with a long memory will recall the failed attempts in the past by developing countries to get the developed countries to stand-still and roll back GATT-inconsistent measures employed by them. While the reluctance is understandable, the stakes are too high to postpone a new round for too long.

Let me take an example. The late unlamented European Commission recommended the imposition of anti-dumping duties against imports of grey cotton cloth from some developing countries such as Egypt, India and Pakistan even though such imports are restricted by quotas under the infamous MFA and, as such, exporters cannot hope to gain market shares by dumping! Fortunately the EU ministers rejected the Commission's recommendation. I would argue that economic rationale for dumping has never been very strong and having anti-dumping measures as

[8]See also Bhagwati (1996).

WTO legitimate instrument only encourages its abuse. Unlike safeguard measures, the ADM's can be applied to exports from a particular country or even from a particular firm. No wonder they have become the preferred means of protection. Sadly many developing countries have also begun to use ADM's. Some have suggested that the use of ADM's be made harder, for example, by raising the threshold of injury to domestic industries before ADM's could be invoked. But at the risk of sounding utterly naive politically, I would call for the removal of ADM's from the arsenal of permitted trade policy instruments in the next round. In my view, ADM's are the analogues of chemical and biological weapons in the arsenal.

Mr. Ruggiero also drew attention to the importance of investment and competition policy. Again a convincing case for going beyond making such policies transparent is yet to be made. Harmonizing them across countries and industries and enforcing them through linkage to market access are at best premature and at worst not in the best interests of the countries involved. For most developing countries which do not have market power in most world markets, openness to trade is the best competition policy. Investment issues involve sovereignty in an essential way and as such cannot be treated lightly.

There is a legitimate concern for the development of the "least developed and less dynamic developing countries" to use Mr. Ruggiero's terminology. While recognizing that trade alone cannot solve their, or for that matter, any country's problems, he has been urging WTO members to provide duty free access for the export products of least developed countries. It is true that no single policy can solve the deep rooted problem of poverty in these countries. Yet the important lesson from the development experience of the last five decades is that rapid growth is the only effective instrument of poverty alleviation and openness not only promotes more rapid growth but

also makes the growth more poverty-alleviating since it enables the more efficient use of the only asset that the poor own, namely their labour.

But I must respectfully voice a note of dissent on preferential access to markets: whether part of regional trading agreements or special favours granted to particular countries or country groups, such as least developed countries, they are inherently discriminatory and distort trade and reduce the potential growth benefits accruing from trade. Once granted, producers and countries will invest resources expecting that the favourable treatment will continue indefinitely. Withdrawal of favours then would impose a terrible burden of adjustment on such producers and countries. The EU's banana regime is an example--the Caribbean countries will face significant adjustment problems if it is dismantled in a short time as is being demanded. It is a bit ironic that the 10 year back-loaded phase-out of MFA will provide ample time for industrialized countries to adjust, while relatively poor banana exporters of Caribbean economies will have a much shorter time to adjust if the preferences they enjoy in the EU are phased out in a very short time.

I am afraid that policies of preferential access to markets such as the GSP are inappropriate instruments for accelerating the development of the least developed countries. Offering them preferential access will, on the one hand, have limited effect on accelerating their development and, on the other hand, create a false sense of complacency in developed countries of having done enough. Surely, we can do much better by turning instead to the necessary task of providing resources and technical assistance to these developing counties, while ensuring that they become equal partners in the world trading system.

4. Summary and Conclusions

The third ministerial meeting of the WTO will be held in Seattle, USA in October 1999. It is widely expected that a proposal for a comprehensive new round of multilateral trade negotiations (dubbed the "millennium round") will be adopted at the meeting. In addition, as part of the built-in agenda of the Uruguay Round, TRIPS agreement is up for review, a mini-round of negotiations on agricultural trade to complete the process of integrating this vital sector fully into the WTO is to be initiated, and the postponed negotiations on maritime services as pat of the GATS will finally get underway, all three to take place during 1999-2000. I have argued that the developing countries have to participate effectively in all the forthcoming negotiations, particularly in the Seattle ministerial that is most likely to launch the next round of multilateral negotiations, to ensure that their interests are well served. There are a number of issues on which developing countries have to define their interests clearly and fight for them.

First, as I have argued above, an unfortunate mistake was made in the Uruguay Round in bringing TRIPS into the WTO. There were other fora, notably the World Intellectual Property Organization (WIPO) and also the Berne and Paris Conventions which could have been the natural arena for negotiating agreements on intellectual property and related concerns. Yet it was agreed to bring TRIPS into the WTO and this agreement has opened the door for demands to bring even less trade related issues such as labour and environmental standards into the WTO. The forthcoming TRIPS review should be used to consider taking TRIPS out of the WTO and put in the WIPO, if necessary, after strengthening its enforcement mechanism.

Second, an agreement on movement of natural persons should be concluded at the earliest. This is an unfinished item of GATS.

Third, although the interests of agricultural (particularly food) exporters and importers

among developing countries do not necessarily coincide, their overall interests are better served if agricultural trade is fully integrated into the WTO. In particular, developing countries should insist on the elimination of export subsidies and the phasing out of interventions in agricultural trade such as through the Common Agricultural Policy of the European Union. The horror show that was the process of tariffication of agricultural supports in the Uruguay Round should not be allowed to take place again in the mini-round in other areas. Once and for all, the disciplines that apply to trade in manufactured goods should be extended to agricultural trade, with tariffs bound at reasonable levels and reduced substantially. Existing non-tariff barriers have to be phased out and new ones not allowed. In particular it must be ensured that sanitary and phytosanitary restrictions do not become non-tariff barriers.

Fourth, anti-dumping measures which have become the preferred protectionist device of all countries, developing and developed, should be made WTO-illegal.

Fifth, the ministers from developing countries should insist at Seattle that there be no further discussion of labour or environmental standards at the WTO and that in the future the International Labour Organization should be the forum for negotiations on labour standards. With respect to environmental issues, the United Nations Environmental Programme could be the negotiating forum. The ministers should also propose that the Committee on Trade and Environment at the WTO be wound up.

Sixth, the ministers should replace Article XXIV of GATT 1994 with the requirement that all preferences granted to partners of existing or any proposed future preferential trading agreements, such as free trade or customs union agreements, regional or otherwise in geographic coverage, should be extended to all members of the WTO on a MFN basis within a specified 15-

10 year period of the coming into force of such agreements.

Seventh, it seems premature, at least from the perspective of developing countries, to negotiate and conclude a Multilateral Agreement on Investment and related issues such as competition policies. An agreement to make current policies transparent should be the first step.

Eighth and last, the legitimate concern of the community of trading nations for accelerating the economic and social development of the least developed and less dynamic countries should be channelled to providing them the resources, knowledge and technology so that they are enabled to grow faster and reap the benefits of being integrated with the global economy. Offering them preferential access to world markets, besides having only a limited beneficial effect on their growth will not only create a sense of complacency on the part of rich counties of having done enough for them but also, more seriously and deleteriously, enable the rich countries to persist in maintaining trade barriers that are detrimental to developing countries as a whole. Indeed, by demanding and receiving a special and differential treatment in the GATT and agreeing to the creation of the Generalized System of Preferences which are exceptions to the GATT's fundamental principle of non-discrimination, developing countries had in the past enabled the industrialized countries to get away with their own GATT--inconsistent trading arrangements such as the Multifibre Arrangement. Developing countries should not fall into that trap again. They have much to gain by participating fully and as equal partners with developed countries in a liberal world trading system.

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