

Expert Paper Series

Expert Paper **International** **Four Trade**



International Trade

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ISBN: 0-9788790-5-8

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For hard copies of this report, please contact the Secretariat of the International Task Force on Global Public Goods, PO Box 16369, SE-103 27 Stockholm, Sweden. After 31 December 2006, please contact the Department for Development Policy, Ministry for Foreign Affairs, SE-103 39 Stockholm, Sweden.

Printing: Erlanders Infologistics Väst AB, Stockholm, Sweden

Design: Grundy & Northedge, London, United Kingdom

Editing and layout: Communications Development Incorporated, Washington, D.C., United States

This publication may be reproduced in full or in part if accompanied with the following citation: Secretariat of the International Task Force on Global Public Goods. 2006. *Expert Paper Series Four: International Trade*. Stockholm, Sweden.

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Acronyms and Initials

ACP	Asia-Caribbean-Pacific
AITIC	Agency for International Trade Information and Co-operation
AGOA	African Growth and Opportunity Act
ASEAN	Association of South East Asian Nations
DAC	Development Assistance Committee
DDA	Doha Development Agenda
DSM	Dispute Settlement Mechanism
DTIS	Diagnostic Trade Integration Study
EBA	Everything But Arms
EC	European Community
EU	European Union
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GPG	global public good
GSP	Generalized System of Preferences
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IF	integrated framework
IFI	International Financial Institution
ILO	International Labour Organization
IMF	International Monetary Fund
ITC	International Trade Centre
JITAP	Joint Integrated Technical Assistance Programme
LDC	least developed country
MFA	Multifibre Agreement

MFDN	most-favoured-developing-nation
MFN	most-favoured-nation
NAMA	non-agriculture market access
OECD	Organisation for Economic Co-operation and Development
PRGF	Poverty Reduction and Growth Facility
PRSP	Poverty Reduction Strategy Paper
PTS	preferential trade agreement
RIP	Regional Indicative Programme
ROO	rule of origin
RTA	regional trade agreement
SDT	special and differential treatment
SPS	Sanitary and Phyto-Sanitary Measures
TBT	Technical Barriers to Trade
TPR	Trade Policy Review
TPRM	Trade Policy Review Mechanism
TRIMS	Trade-Related Aspects of Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
WTO	World Trade Organization

Preface

International trade in itself is not a global public good, but the international trading system is. Essentially countries have cooperated in building an infrastructure for international trade that all members are free to use. Maintenance of this infrastructure requires compliance, monitoring and enforcement. It also requires evolution in the rules themselves so that the system continues to provide benefits to all its members. These efforts involve the supply of public goods.

The strategies and partnerships the international community has adopted to promote efficient trade have evolved in line with the challenges that have been faced. By the end of the Second World War most developed countries recognized the need to liberalize trade. They had inherited severe trade restrictions from the 1930s, when prohibitive tariffs and competitive devaluations had been used as instruments for exporting domestic unemployment. Liberalization could not be pursued unilaterally because of the associated balance of payments risks. Rather a concerted approach was ultimately codified in the General Agreement on Tariffs and Trade (GATT), which focused initially on coordinating and facilitating reciprocal reductions in tariffs on manufactures among Organisation for Economic Co-operation and Development (OECD) countries. Progress over the subsequent period led to the conclusion of the Uruguay Round in 1994 and the launch of the World Trade Organization (WTO) in 1995. The central agenda items largely involved developing countries—their trade in goods and services both with developed countries and with other developing countries. Hence the critical importance of strong participation by developing countries in the WTO as the umbrella institution

administering the GATT, the newly developed General Agreement on Trade in Services and Trade-Related Aspects of Intellectual Property Rights Agreement. The centrality of developing countries in the new trade negotiations agenda is also reflected in the labelling of the latest round of negotiations—the Doha Round initiated in 2001—as a development round.

The GATT helped reduce average duties on industrial goods in OECD countries from 40% in 1947 to less than 4% in 1994. The Marrakech Agreement—the final act of the Uruguay Round—consists of 29 agreements, memoranda, declarations and other ministerial decisions covering areas such as agriculture, the “network industries” and the public sector. For these sectors governments use a vast array of trade-affecting policies other than tariffs (for example, subsidies for agriculture). Today, substantial protection remains in these newly covered sectors, with agriculture and services the most highly protected. In OECD countries the average agricultural tariff—about 15%—is a multiple of the average tariff on manufactures. Agriculture also benefits from direct government support, estimated at \$318 billion in 2002. In developing countries tariffs are even higher than in OECD countries—about 21%. In all countries barriers to international trade in services are more pronounced than barriers to trade in goods, often taking the form of regulatory measures rather than tariffs, thus offering considerable potential for gains from liberalization.

The WTO was an outgrowth of the Uruguay Round, replacing the GATT as an international organization even as the GATT continued to exist as the WTO’s governing treaty on trade in goods. It is an intersectoral rule-intensive institution with global membership. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible. It does this by administering trade agreements, acting as a forum for trade negotiations, settling trade disputes, reviewing national trade policies, assisting developing countries in trade policy issues through technical assistance and training programmes and cooperating with other international institutions. At the heart of the system are the GATT, General Agreement on Trade in Services (GATS) and TRIPS, the legal ground rules for international commerce. Essentially they are contracts guaranteeing member countries important trade rights. They also bind governments to “keep their trade policies within agreed parameters to everybody’s benefit”, based on the core principles of most-favoured-nation and non-discriminatory national treatment.

The international trading system is also characterized by a growing number of regional trade agreements (RTAs), both bilateral and plurilateral. These agreements cover free trade areas, customs unions for trade in goods and economic integration agreements on trade in services. Of the 285 RTAs reported to the WTO in 2003, 70% were free trade agreements, 23% partial scope agreements and the remaining 7% customs unions. The vast majority are bilateral agreements between neighbouring countries. All 147 WTO members, except Mongolia, participate in or are negotiating RTAs. The motivations behind this trend are mostly economic; countries use RTAs to promote deeper integration of their economies than proposed through the WTO and to address issues that are not dealt with multilaterally (such as investment, competition, environment and labour standards). But often the choice of RTA partners is based on political and security concerns in an attempt to increase a country's bargaining power in multilateral negotiations through a stronger regional partnership and to forge new geo-political alliances, increasing regional peace and security.

In the four expert papers commissioned by the Secretariat of the International Task Force on Global Public Goods, the topics outlined above are examined in detail. The papers are organized according to three principal themes. First, the broader issues surrounding the existing trade regime are discussed—the evolution from GATT to WTO, the emergence of regional trade agreements, how the international community should deal with new (trade) challenges and the like. Second, the institutional aspects of the WTO are discussed in greater detail—such as how the organization should adapt as the system evolves. Finally, the issue of capacity building for trade is examined because of its importance for developing countries to be able to participate and to benefit from further trade liberalization.

Papers commissioned by the Secretariat of the International Task Force on Global Public Goods

In “The International Trade Regime” Robert W. Staiger focuses on the GATT/WTO as the centrepiece of the postwar international trade regime. The author examines the purpose of the WTO and the international trade regime more broadly and then asks whether the WTO can be considered a global public good. He concludes that the global public good feature of the WTO is primarily its design—the creation and

maintenance of the WTO as a negotiating forum—rather than the end uses to which it is put by member governments. Staiger also outlines two potential threats to the international trade regime: the increasing numbers of bilateral and regional preferential trade agreements and the widening scope of non-trade issues covered by the WTO.

Finally, Staiger presents three reform proposals for the WTO. First, to strengthen such WTO instruments as transparency, trade policy reviews and dispute settlement procedures. Second, to disentangle trade from other issues. And third, to provide more resources for monitoring the implementation of WTO agreements.

Like Staiger, Paul Collier's contribution titled "The International Public Goods Needed to Promote International Trade" focuses on the GATT/WTO as supplier of international public goods. Collier's departure point, however, is that while GATT was hugely successful, it is not obvious that the WTO could replicate this success because the starting points are radically different. The author identifies three differences. First, whereas the GATT functioned entirely by bargaining to find mutually beneficial ways to liberalize, the new developing country members expect the WTO to perform the traditional roles of international organizations as a mechanism for transfers from developed to developing countries. Second, membership is no longer restricted to countries willing to negotiate; many new members have neither much to offer nor much to gain from bargaining. Third, the wider scope of the WTO will require intersectoral deal-making, which is intrinsically more difficult.

Proceeding from this analysis, Collier proposes seven solutions for these challenges. Two of them address the tension inherent in the present design of the WTO. This involves the role of the WTO as a forum for bargaining in contrast to a role as a mechanism for developed-developing country transfers and the tension between the WTO's expanding role in rule promulgation and members' concerns about sovereignty. Three of Collier's solutions focus on how developing countries might engage with the WTO—the marginalized countries' limited scope for bargaining, the "integrating" developing countries liberalization of trade with the OECD countries and how developing countries might liberalize trade with each other. The final proposed solution considers some internal WTO design issues such as formalizing negotiating blocs and empowering the secretariat.

Both Staiger and Collier recognize the importance of the WTO as an institution, and both recommend strengthening various functions of the organization, including its secretariat. In "The World Trade Or-

ganization—An Assessment” Constantine Michalopoulos looks at the institutional aspects in greater detail and makes a thorough assessment of how well the WTO is fulfilling its role as the principal institution for delivery of GPGs in trade, considering the organization’s mandate, scope and function.

From his assessment Michalopoulos concludes that the WTO has to change into an institution based more on cooperation and less on confrontation if it is to accomplish its mission. He offers a list of concrete recommendations, including strengthening the WTO secretariat so that it can develop independent views, initiate accord analyses and present independent evaluations of country policies. He also recommends more complete and transparent trade-related information. Like Staiger, he calls for strengthening the trade policy review system and reviewing the dispute settlement mechanism. He furthermore proposes that an independent evaluation unit be established, similar to those that exist for the World Bank and the International Monetary Fund.

In “Capacity Building for Trade as a Global Public Good” Sanoussi Bilal and Stefan Szepesi take as their starting point the concern that the benefits from the international trade system are distributed very unevenly—a concern that both Staiger and Collier also raise. The authors’ basic analysis is that a large number of less developed countries lack the necessary capacity to benefit from trade liberalization. Bilal and Szepesi argue that in the absence of capacity-building initiatives to remedy the imbalance between developed and developing countries, the international trade regime remains a global public good in name more than in substance.

The authors next review and assess some major trade-related capacity-building initiatives and suggest possible avenues going forward. In doing so they draw on the lessons from past experiences, highlight good practices, identify problems and make a number of recommendations for enhanced trade capacity building.

Contribution on the International Trade Regime

1

Chapter

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The General Agreement on Tariffs and Trade (GATT), and now the World Trade Organization (WTO), has in effect served as the constitution of the postwar international trade regime. This contribution focuses on the GATT/WTO as the centerpiece of the postwar international trade regime and explores a number of themes. First, what purpose is served by the WTO and the international trade agreements that it administers? Second, in what sense is the WTO a global public good? The third theme discusses two interpretations of the developing country experience in the GATT/WTO. The fourth theme identifies two potential threats to the WTO and the international trade regime that is built upon it. And finally, a number of possible reforms of the WTO are considered and evaluated.

This contribution suggests both general and specific conclusions. At a general level, the importance for the work of the Task Force is indicated with regard to the international trade regime of identifying the central inefficiencies that the WTO is being asked to address. There are two distinct inefficiencies that might reasonably be addressed through international trade agreements, and it is suggested that providing its member governments with an avenue of escape from the inefficiencies that arise with a terms-of-trade driven Prisoners' Dilemma is the central task that the WTO is well designed to handle. Also at a general level, it is argued that the global public good features of the WTO are associated primarily with its design features—that is, with the creation of the WTO and its maintenance as a negotiating forum—rather than with the end uses to which the WTO is put by its member governments. At a more specific level, these general conclusions are used to offer two interpretations of the disappointing developing-country experience within the GATT/WTO and to suggest that the international trade regime may be threatened by the increasing numbers of preferential trade agreements and the widening scope of non-trade is-

sues covered by the WTO. And finally, using these general and specific conclusions, a number of possible WTO reform proposals are examined.

An international trade regime can be largely non-cooperative, or it can be characterized by significant efforts at international cooperation. International cooperation in trade matters can be implicit, or it can take the form of explicit international trade agreements. In the era since the Second World War, the international trade regime has been characterized by significant and sustained attempts to cooperate over trade matters at a multilateral level through voluntary but explicit international trade agreements. The GATT, and now the WTO, has in effect served as the constitution of the postwar international trade regime. This contribution focuses on the GATT/WTO as the centrepiece of the postwar international trade regime and explores the following themes. First, what purpose is served by the WTO and the international trade agreements that it administers? Second, in what sense is the WTO a global public good? The third theme discusses two interpretations of the developing country experience in the GATT/WTO. The fourth theme identifies two potential threats to the WTO and the international trade regime that is built upon it. And finally, a number of possible reforms of the WTO are evaluated.

What purpose is served by the WTO?

Because international trade agreements are entered into by governments voluntarily, they must offer the possibility of mutual gains for all participants. In a multilateral forum where all governments can participate, this possibility can only arise if there are inefficiencies absent the international agreement (i.e., if everyone is to get a bigger piece of the “pie”, then the size of the pie must be increased, and this is only possible if there is an inefficiency to begin with).¹ The role of the agreement is then to reduce or eliminate the inefficiencies and distribute the gains from this accomplishment across participants. Hence, to identify the purpose served by international trade agreements, the key step is to identify the inefficiencies that such agreements can address. This section provides a brief description of the two central inefficiencies that international trade agreements can address.

The first role: escaping from a terms-of-trade driven Prisoners’ Dilemma

The most direct role for an international trade agreement is to eliminate an “international” inefficiency that would arise in the absence of

an agreement—an inefficiency whose source can be traced to the economic interdependence among nations. What, then, is the source of the international inefficiency? A natural possibility is the “terms-of-trade driven Prisoners’ Dilemma” that governments may confront in the absence of a trade agreement.² Providing governments with an avenue of escape from a terms-of-trade driven Prisoners’ Dilemma offers a first possible role that international trade agreements can play.

The essence of this first role may be understood as follows. When the US government raises barriers against exports from the European Union (EU), it imposes a cost on EU exporters, if these exporters must ultimately accept lower prices for their products as a result of the diminished access to the US market. In the absence of some compelling reason to take this cost into account, the US government will naturally “under-value” the global costs of its decision to raise barriers against EU exports—it ignores the cost it imposes on EU exporters. As the European Union is in a similar situation with regard to barriers against exports from the United States, the EU government will naturally under-value the global costs of its decision to raise barriers against US exports. The upshot, then, is that unless governments are given a compelling reason to take account of the costs that they impose on foreign exporters when they erect trade barriers, there will be a “problem” that translates into an international inefficiency. In particular, from a global standpoint there will be “too much” trade protection—and therefore “too little” market access—provided by governments in the following sense. If each government were given a “voice” in the market access choices made by those governments in the countries to which its exporters sell, it would be willing to pay those governments to provide greater market access to its exporters, and all governments could potentially gain from this transaction.

What has just been described is the international inefficiency that arises when governments find themselves caught in a terms-of-trade driven Prisoners’ Dilemma.³ As described, this international inefficiency arises naturally whenever governments lack a compelling reason to take account of the costs that they impose on foreign exporters when they erect trade barriers. And as explained, the international inefficiency takes the form of too little market access in the world.

Given this problem, the purpose of the WTO can then be seen as providing a “solution”—providing governments with an avenue of escape from the terms-of-trade driven Prisoners’ Dilemma in which they are mutually caught. As is described more fully below, the particular

approach adopted by the WTO (and the GATT before it) to solve this problem is to provide a “market” for the exchange of market access commitments among governments. That is, the WTO is set up as a negotiating forum for governments, and its rules and norms are structured so that a government that wants access for its exporters to the markets of another country can engage in negotiations with the government of that country and offer access to its own markets in exchange.⁴ In this way, each government is given a voice—through WTO negotiations—in the market access choices made by those governments in the countries to which its exporters sell. And in this way, each government is given a compelling reason—through WTO negotiations—to take account of the costs it imposes on foreign exporters with its trade barriers (whether erecting new trade barriers or maintaining existing ones). When it restricts access to its markets for foreign exporters it must consider the foregone access to foreign markets for its own exporters that it could have acquired by an exchange of market access commitments with its trading partners through WTO negotiations. (The recent unilateral imposition of steel tariffs by the US government, and its subsequent decision to withdraw these tariffs in the face of threatened WTO-approved countermeasures against US exporters by the EU, is a good illustration of this point.) It is in this way that WTO market access negotiations can “internalize” the terms-of-trade “externalities” that governments impose on each other with their unilateral trade policy choices and thereby allow governments to achieve more efficient and mutually preferred outcomes.

If the purpose of the WTO is to provide governments with an avenue of escape from a terms-of-trade driven Prisoners’ Dilemma, then WTO negotiations should be concerned fundamentally with expanding market access to globally efficient levels, and each government should be guided in these negotiations by the interests of its exporters. Three important observations follow.⁵

First, this interpretation of the purpose of the WTO explains why governments are driven by exporter interests in WTO negotiations—rather than the gains that come to consumers with freer trade—without resorting to the view that governments adopt irrational mercantilist motives. Hence, under this interpretation, it becomes possible to view the WTO as an international institution within which the behaviour of governments can be understood with basic economic reasoning.

Second, this interpretation of the purpose of the WTO indicates that governments will utilize WTO negotiations to reduce trade bar-

riers and expand market access, regardless of their underlying ideologies or political preferences. Under this interpretation, what motivates governments to negotiate trade-liberalizing agreements in the WTO is not necessarily a belief in free-trade principles, but rather the essential point that, whatever the underlying policy motivations of governments, there is simply too little market access in the world absent the WTO (or absent something else that serves the same purpose). Under this interpretation, then, arguments in support of the WTO are far more general than arguments in support of free trade. For instance, arguments in support of free trade require the absence of market imperfections (or the availability of non-trade policy instruments to address these market imperfections) and require as well the ability of governments to achieve distributional objectives through non-trade policies. Arguments in support of the WTO under this interpretation do not require that either of these conditions is met. Observe also that this interpretation of the purpose of the WTO can explain why WTO officials do not make pronouncements concerning what constitutes “good policies” (free trade) for WTO-member governments—as long as the policies of member governments stay within the basic WTO rules (non-discrimination, transparency and so on)—a fact that distinguishes the WTO markedly from other international economic institutions, such as the IMF, whose purposes are presumably quite different. This is a very important point for the work of the Task Force, and it is discussed further in this contribution.

And third, this interpretation of the purpose of the WTO carries with it a succinct mission for the WTO as an international institution. Specifically, the WTO should work to facilitate the expansion of market access commitments by its member governments—nothing more and nothing less.

The second role: making policy commitments to the private sector

An alternative role for an international trade agreement is to eliminate a “national” inefficiency that would arise in the absence of an agreement—an inefficiency whose source can be traced to a distortion in the national economy. In this case, an obvious question is, Why does a government need an agreement with other nations to help it address its national problem? A possible answer to this question is that, in the absence of a trade agreement, a government may be trapped in a sub-optimal “time-consistent equilibrium” in its policy interactions with its

own private sector. Helping governments escape from time-consistent equilibriums then offers a second possible role that international trade agreements can play.

While the first role of international trade agreements described above focuses on the inefficiencies that arise as a result of the policy interactions among national governments, this second potential role can be seen by focusing on the inefficiencies that arise as a result of the interactions between each national government and its own private sector. Specifically, by “tying the hands” of a government, an international trade agreement may serve as an external constraint that can help the government make policy commitments (non-intervention) to the private sector that it would not be able to maintain “on its own”—without its hands tied by some external constraint. Unlike in the first role for trade agreements described above, under this second role for trade agreements other governments are not really part of the “problem”, but they can nevertheless become part of the “solution” by agreeing to punish a government if it reneges on its policy commitments. In this way, a government can potentially use a trade agreement to achieve policy goals that it would find infeasible to achieve on its own.

An example can illustrate the idea. Suppose that the government of Mexico wishes to undertake a substantial liberalization of its trade regime because it sees the economic costs to Mexico of maintaining import protection—in terms of both the inefficiently large import-competing industries that have survived behind Mexican trade barriers and the inefficiently high prices that Mexican consumers must pay for imported and import-competing products—as outweighing the redistributive benefits that import-competing workers in Mexico enjoy as a consequence of these trade barriers. Suppose further that the government of Mexico announces a future date (such as one year from now) at which all remaining Mexican import barriers will be removed. Suppose finally that workers in the import-competing industries of Mexico must by that date make a largely irreversible decision of whether to relocate from the import-competing industries or stay. Plausibly, many of these workers will be better off relocating if the government of Mexico follows through with its announced trade liberalization on the announced date. But some workers may be better off staying in the import-competing industry even under liberalization, despite the precipitous drop in wages that they may experience, because their ability to relocate is sufficiently constrained. A potential credibility problem will arise for the Mexican government if there are

significant numbers of Mexican workers who would choose to stay under liberalization. In this case it would be tempting for the government to renege on its announced intentions after those workers who could leave the import-competing industries had done so and to offer some import protection to those workers that remain in the import-competing industries at that time. The real difficulty for the government is that workers who would have relocated if they expected the government to actually follow through on its announced liberalization will choose not to leave if they understand how the government's incentives will change with time (after the date of its announced trade liberalization has come and gone). In the presence of this credibility problem the government may find itself trapped in a suboptimal situation in which it cannot credibly liberalize its import barriers and from which it cannot escape.

What has just been described is a national inefficiency that arises when a government finds itself caught in a "time-consistent equilibrium".⁶ As described, this national inefficiency arises whenever a government faces a policy credibility problem with regard to the expectations of its private sector.⁷ Given this problem, the purpose of the WTO can then be seen as providing a "solution"—providing governments with an avenue of escape from the time-consistent equilibriums in which each is caught with its private sector. As mentioned above, the role of the WTO in this case is to facilitate agreements that permit governments to "tie their own hands" against pressures that they face from their own private sectors to renege on announced policy goals and thereby enhance the national credibility of trade reforms. Of course there is no "world jail" into which a government can be thrown if it does "untie its hands" and renege on liberalization commitments made in the context of WTO negotiations. But broken WTO commitments can lead to retaliatory responses from important trading partners, a possibility that introduces additional "external" costs for a government that reneges on its policy commitments, and this possibility can potentially serve as an external commitment device that can help a government make policy commitments to its private sector that it would not be able to maintain on its own.⁸

If the purpose of the WTO is to provide governments with a means of escape from a time-consistent equilibrium, then the focus on market access commitments that characterized the mission of the WTO in the first role described above no longer applies. Instead, under this second role, it is not levels of market access per se to which governments need

help committing, but rather any of a whole host of border and non-border policy instruments at their disposal. This point is very important for the work of the Task Force with regard to the international trade regime, because it indicates that some of the key design features of the WTO—such as whether agreements should seek to commit governments primarily to market access levels, leaving each government largely free to determine for itself the exact mix of border and non-border measures with which it will honour its market access commitments, or rather commit governments to specific levels of both border and non-border policy measures—will depend on which of these two roles the WTO is to play. Of course the WTO could play both roles, and it probably does to some extent as is observed in the next subsection. But due to the distinct nature of the two problems that are being solved under these two different roles, it is likely that the WTO cannot serve both purposes well. Hence, identifying the central problem that the WTO is attempting to solve is a critical step in ensuring the coherence of the international trade regime built upon WTO principles, and it is a critical step as well for the work of the Task Force with respect to the international trade regime.

The literature, the evidence and the design features of the GATT/WTO

The existing economics literature on trade agreements highlights one or the other of these two roles.⁹ In fact it is accurate to say that the main branch of the economics literature adopts the view that trade agreements serve the first role, namely, that they allow governments to escape from a terms-of-trade driven Prisoners' Dilemma.¹⁰ Studies exist which emphasize the possible commitment role played by trade agreements as well, but this branch of the literature has not to date been developed very far.¹¹

Empirically there are a large number of studies that provide indirect support for the terms-of-trade interpretation of the role of the WTO, though there are as yet no studies that provide direct empirical evidence that the WTO serves this role.¹² Moreover, a number of the most central design features of the WTO—such as its reciprocity norm, its non-discrimination principle and its enforcement provisions, as well as its traditional focus on market access—can be interpreted as making the WTO well suited to help governments in their attempt to escape from a terms-of-trade driven Prisoners' Dilemma.¹³ This evidence suggests that, at its

core, the WTO is a well designed institution if its purpose is to help governments escape from a terms-of-trade driven Prisoners' Dilemma.

With regard to evidence concerning the possible commitment role played by the WTO, there is one study that provides direct empirical evidence of a commitment role played by GATT (prior to its rebirth as the WTO).¹⁴ On the other hand, there are no studies that have been able to offer a commitment interpretation of the central design features of the WTO, and there is reason to believe that at least one prominent feature of the WTO—the built-in policy flexibility that governments can exercise through various WTO safeguard provisions and escape clauses—works against the role of the WTO in serving as a commitment mechanism to constrain the actions of governments against their private sectors. This evidence suggests that, while the WTO may play some commitment role for its member governments, this is not its central purpose.

So now it is time to return to the question with which this section began: What purpose is served by the WTO? On the basis of this discussion, a defensible answer to this question would run as follows. The WTO (and GATT before it) owes its reputation as one of the world's most successful international institutions to the fact that it has served primarily as an effective means by which its member governments have been able to escape from a terms-of-trade driven Prisoners' Dilemma. This escape has translated into an expansion of market access through GATT/WTO negotiations to more nearly internationally efficient levels, and mutual gains for the participating governments have been created as a result. GATT/WTO commitments can also enhance the national credibility of trade reforms and thereby help governments escape from suboptimal time-consistent equilibriums, but this role has probably been secondary in accounting for the gains that are associated with GATT/WTO membership. A key remaining question is how these gains have been distributed across the member governments. This question will be addressed further in this contribution. But before doing so, the sense in which the WTO might be thought of as a global public good is considered.

Is the WTO a global public good?

This section develops the rationale for treating the international trade regime, as embodied in the WTO, as a global (“international”) public good. The creation and maintenance of the WTO has important glo-

bal public good features, but its utilization by member governments need not exhibit the features of a global public good. This distinction between creation/maintenance and utilization can provide important guidance for the Task Force in suggesting useful reforms of the WTO.

An institution such as the WTO can be viewed as an international public good in the sense that governments have a shared interest in its creation and maintenance, much as the inhabitants of an off-shore island have a shared interest in the creation and maintenance of a causeway for purposes of escaping to the mainland in times of an approaching hurricane. The causeway analogy is useful because it helps to highlight a subtle but important point about the WTO. Specifically, once built (and maintained), the utilization of the causeway may be largely a private good (subject to possible congestion, a point returned to further in this paper). Individual families may escape an oncoming hurricane in their own vehicles, and the utilization of the causeway by one family may therefore entail very little “spillover” to other island inhabitants. That is, the main “collective action” problem associated with the causeway is associated with its construction and maintenance, not with its use. By analogy, the creation and maintenance of the WTO can be seen as an act of providing an international public good, but the utilization of the WTO by its member governments (the market access negotiations between two governments) can be seen largely as an international private good.¹⁵ Returning to an observation made previously, this point is consistent with the fact that WTO officials do not make pronouncements on specific ways in which member governments should utilize the WTO (such as free trade in services by 2015). The specific goals which the GATT/WTO is utilized by its member governments to achieve have traditionally been left up to the interests of the member governments themselves, reflecting perhaps the absence of an important collective action problem associated with WTO utilization. Rather the main collective action problem lies in setting up and maintaining this institution as an effective negotiating forum for member governments; the uses to which the negotiating forum is put by member governments is then largely an international private good.

To see that utilization of the WTO by its member governments is largely an international private good, it is important to understand that in many ways the WTO is set up so that member governments can use it to solve either of the two problems identified in the previous section with negotiations among a small number of trading partners and can

ensure that those negotiations entail minimal spillovers to other (even WTO member) governments. Indeed this feature may in large part explain the success of the GATT/WTO as an international institution; under its rules and procedures, governments have been successfully motivated to engage in trade-liberalizing negotiations because they are the primary beneficiaries of their own negotiations. (Spillovers to third countries are minimized.)

Consider, then, the central problem that the WTO is well designed to solve, namely, providing governments with an avenue of escape from a terms-of-trade driven Prisoners' Dilemma. It can be argued that market access negotiations among a small number of governments can allow these governments to "solve their problem" and expand their market access to internationally efficient levels with minimal or even no spillovers to other countries—so that these governments can capture most or all of the benefits of their negotiations for themselves—provided that their negotiations abide by the WTO non-discrimination rule and conform to the WTO principle of reciprocity (see note 13). Intuitively, when two governments negotiate non-discriminatory trade liberalization on a reciprocal basis, each government is really accomplishing two things. It is expanding the demand for imports in its country on a non-discriminatory basis, which could potentially be satisfied by increased exports from any country in the world; and it is stimulating its own export supply with the resources released from use in its import-competing industries, giving its exporters an extra competitive advantage over exporters from other countries in serving the new import demands of its negotiating partner. In this way, WTO negotiating partners who exchange non-discriminatory market access concessions on a reciprocal basis can in effect ensure that most or even all of the expanded trade volume that derives from these negotiations goes to their own exporters.¹⁶

The implication, then, is that governments can largely "internalize" for themselves the benefits from utilizing the WTO to solve their problems. Returning to the causeway analogy, the central public good features of the causeway are associated with its creation and maintenance, not with its use. Likewise, the central public good features of the WTO are associated with its creation and maintenance, not with its utilization by member governments. This distinction can serve as an important guideline for the work of the Task Force with regard to the international trade regime. The focus of the Task Force should be aimed at enhancing the design features of the WTO (which are largely of an international public good nature)—so that member governments

may more effectively utilize these features to solve either or both of the problems identified above—rather than aimed at attempting to dictate the end uses to which the WTO system is put by its member governments (which are largely of an international private good nature).

Two interpretations of developing-country experience in the GATT/WTO

This section briefly considers the evidence concerning the unevenly distributed benefits of trade expansion (skewed largely toward big developed countries) afforded by GATT/WTO membership over the past decades and utilizes the discussion of the previous sections to draw several observations.

There is much anecdotal evidence and recently some more systematic evidence that the main trade-expanding impacts of the GATT/WTO have been confined to developed country members, with developing country members experiencing little expansion in trade volumes as a result of the 50-plus year history of GATT/WTO market access negotiations. In fact a recent study finds that GATT/WTO negotiations have had essentially no measurable impact on the trade of developing countries, but that the aggregate volume of trade for developed countries is currently about 65% greater than it would be in the absence of the market access commitments negotiated within the GATT/WTO.¹⁷ These findings support the view that the main beneficiaries of the international trade regime built upon the GATT/WTO are the developed countries. But how is this fact to be interpreted? Two observations are made based on the arguments contained in the two previous sections.

A first observation is that the uneven distribution of benefits across countries may reflect two underlying features: the uneven distribution across countries of the central problem that the GATT/WTO can reasonably be expected to solve (the terms-of-trade driven Prisoners' Dilemma); and the ability of governments to largely internalize for themselves the benefits of solving their problems within the GATT/WTO, as indicated in the previous section. More specifically, the terms-of-trade driven Prisoners' Dilemma problem is likely to be most prominent in large developed-country markets. This is because, for a government to create an international inefficiency with its market access choices, those choices must have a significant effect on exporter prices in other countries, and this in turn requires that the govern-

ment must be a “big player” in world trade. The degree of openness of its borders to trade must have significant impacts on world markets, a feature that is shared most prominently by governments in large developed countries. Hence the terms-of-trade driven Prisoners’ Dilemma problem is likely to be found primarily among the large developed countries. In light of the observations made in the previous two sections—that the terms-of-trade driven Prisoners’ Dilemma is the central problem that the WTO is well designed to solve, and that governments can largely internalize for themselves the benefits from solving this problem through GATT/WTO negotiations—it then follows that the large developed countries will naturally experience the largest beneficial expansions of trade as a result of solving this problem through market access negotiations within the GATT/WTO. In this way, it can be argued that one interpretation of the uneven distribution of the benefits of trade expansion skewed largely toward the big developed countries is relatively sanguine; this simply reflects the GATT/WTO “doing its job, and doing it well”.

A second observation is that an alternative interpretation is also possible, however. Under this alternative interpretation, developing countries do suffer from significant problems that can in principle be addressed through a trade agreement (either or both of the two problems identified above), but developing countries are unable to adequately and effectively address these problems within the GATT/WTO system. The possible reasons why developing countries might have difficulty utilizing the WTO are many and varied, and to the extent that this second interpretation is correct, then addressing the most pressing of these reasons should be a priority of the proposed reforms of the WTO. For instance, as previously observed, providing governments with an effective escape from a terms-of-trade driven Prisoners’ Dilemma requires that negotiated market access commitments are enforceable, and in the WTO this is accomplished with the threat of retaliatory actions. It has been observed that an inability to credibly threaten retaliatory actions therefore puts small developing countries at a disadvantage when attempting to utilize the GATT/WTO system.¹⁸ Under this second interpretation, these and other possible impediments to the effective utilization of the WTO by developing countries are surely worthy targets of reform proposals.

Indeed this second interpretation seems consistent with the Ministerial Declaration of 14 November 2001 that launched the Doha Round of WTO negotiations, which stated in part:

International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.

We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We recall the commitments made by ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.

This declaration is a clear statement of intent to harness the WTO to better serve its developing country member governments. But especially in light of the sweeping goals of the Doha Round in this regard, it deserves emphasis that there is at least the possibility that the many problems faced by developing country governments are not the problems that the WTO is well equipped to solve, in which case placing reforms of the WTO at the heart of efforts to help developing countries may be ill-advised.

The upshot, then, is that what—if anything—should be done about the unevenly distributed benefits of trade expansion afforded by GATT/WTO membership over the past decades hinges largely on which of the two interpretations offered above is correct, and currently there is very little evidence one way or the other with which to weigh the validity

of these alternative interpretations. In this light, and until more evidence is available on this critical question, a sensible position might proceed cautiously by seeking to identify the most obvious impediments that developing countries face in making use of WTO procedures and then advocating reforms of the WTO aimed at dismantling these impediments in the hope of enhancing the effectiveness with which developing countries can put the WTO to use in solving either or both of the problems identified above.

Potential threats to the international trade regime

The effectiveness of the international trade regime may be threatened by two trends. The first trend is the increasing numbers of bilateral and regional preferential trade agreements. The second trend is the widening scope of non-trade issues covered by the WTO.

In effect, these two trends may be seen to pose the clearest threat to the effectiveness of the WTO if its central purpose is seen as helping governments escape from a terms-of-trade driven Prisoners' Dilemma. In this case, the escape can be engineered with traditional market access agreements that focus primarily on border measures and trade issues, but only provided that border measures are primarily maintained on a non-discriminatory basis. Intuitively, under the non-discrimination principle of the WTO, tariffs must be applied on a most-favoured-nation (MFN) basis (see note 13). When all tariffs conform to MFN, the international externalities that governments impose on each other with their unilateral tariff choices take on a very simple form, because no government has any particular reason to care about the source of its imports (the particular exporter country from which these imports originate). And in light of the simple nature of the international externalities in an MFN environment, it can be argued that a negotiating forum structured by the other central features of the WTO (such as its reciprocity norm) is likely to be especially effective in allowing governments to solve their terms-of-trade driven Prisoners' Dilemma problem through market access negotiations.¹⁹ In contrast, a government that imposes discriminatory tariffs on its trading partners now has a reason to care about the source of its imports, and this introduces a more complex pattern of international externalities that the negotiating forum structured by WTO rules is not as well equipped to handle. For example, the ability of negotiating governments (as described above)

to use reciprocal exchanges of market access commitments to capture for themselves most or even all of the benefits that derive from their negotiations is altered when tariff discrimination is prevalent. In fact, once the WTO norm of non-discriminatory and reciprocal exchanges of market access commitments is widely compromised, a new threat to the international trade regime arises. Rather than utilizing international trade agreements to solve inefficiencies so that all countries can potentially gain (or at least some can gain and none need lose), governments may see discriminatory preferential agreements as a way for the participants in those agreements to gain at the expense of non-participants.

The upshot, then, is that the more prevalent and important preferential trade agreements are, the less effective is the negotiating forum defined by WTO rules and norms likely to be for solving the terms-of-trade driven Prisoners' Dilemma problem. And once the basic reason for the effectiveness of reciprocal market access negotiations as a solution to this problem is compromised, as will be the case in the more complicated discriminatory environment that preferential agreements create, negotiations over other non-border measures and non-market-access issues may be deemed necessary to achieve internationally efficient outcomes. In addition to posing the threat of "mission creep" for the WTO, this movement toward negotiating over non-border measures and non-market-access issues may make agreements that are struck within the WTO increasingly at odds with traditional notions of national sovereignty.²⁰

As a consequence of these arguments, it is possible to see the erosion of the non-discrimination principle that has accompanied the increasing numbers of bilateral and regional preferential trade agreements as complicating the task before the WTO—to the extent that this task amounts to helping governments escape from a terms-of-trade driven Prisoners' Dilemma—and inducing it to confront a widening scope of non-trade issues in an attempt to serve this purpose, thereby diluting its central mission and threatening the sovereignty of its member governments.

Reforms of the WTO

This section briefly considers and evaluates a number of possible concrete reforms that might be proposed to enhance the efficiency and the effectiveness of the international trade regime. It suggests a number of specific directions in which the reform proposals might be developed. Throughout, this contribution's criterion for identifying a promising

reform proposal for the Task Force to consider is that the proposal is directed toward the global public good features of the WTO.

Proposal 1

Proposal: Strengthen WTO instruments such as trade policy reviews and dispute settlement procedures.

Evaluation: This proposal is directed toward making the design features of the WTO more effective for use by member governments, and as such it is directed at the global public good features of the WTO, as discussed previously.

In light of the discussion above, one specific focus of this proposal might be to consider ways to enhance the effectiveness with which developing countries can use the WTO's dispute settlement procedures (DSP). In this regard, Mexico (WTO 2002) has proposed a number of reforms of the DSP. For instance, Mexico's proposal to make WTO retaliation rights tradable among WTO member governments has some appealing features from an economic perspective, and it might warrant further investigation and possible support by the Task Force. In effect, if implemented through auctions, the idea of tradable retaliation rights represents a market-based approach to introducing multilateral elements into retaliation threats within the WTO. This could possibly give small/developing countries more of a "voice" in their bilateral disputes with large/developed trading partners and at the same time raise the possibility that small/developing countries may achieve some restitution (in the form of auction revenue), even if they are unable to bring about change in the offending policies of their large/developed trading partners.²¹

A second specific focus of this proposal—which could potentially have cross-cutting effects on the issues of transparency, trade policy reviews and dispute settlement procedures as they relate to government responses to "unfair trade practices"—might be to consider the possibility of providing governments whose exporters face countervailing or anti-dumping duties with some form of reciprocal rights of compensation/retaliation against the countries that impose these duties on their firms. A proposal that adopted this second specific focus would build from the observation that a major accomplishment of the GATT/WTO relative to the pre-GATT era has been to harness retaliation and convert it into a tool of international order, and that retaliation in the GATT/WTO serves two roles. A first role is to provide the retaliating government with some restitution when it is harmed by the

unilateral policy action of a trading partner, but a second role is to confront the government that takes the unilateral policy action more completely with the full costs of its decision in the international arena, and thereby fend off the re-emergence of a terms-of-trade driven Prisoners' Dilemma. According to this second role, retaliation/compensation provisions in the GATT/WTO can be important in ensuring that governments face the "correct" incentives when making their policy decisions. From this perspective, the idea of extending the existing rights of retaliation/compensation in the WTO—which currently apply in areas such as GATT Article 19 safeguard actions and GATT Article 28 renegotiations—to apply as well to GATT Article 6 actions (anti-dumping and countervailing duties) has some appealing features, and it might warrant further investigation and possible support by the Task Force. For instance, it can be argued that introducing into the WTO a set of new provisions that would give governments the right of retaliation/compensation in response to the imposition of anti-dumping/countervailing duties on their exporting firms could diminish the temptation to "over-utilize" anti-dumping/countervailing duties. At the same time it could diminish the need for transparency of the process that leads to the imposition of such duties and reduce the extent to which disputes over anti-dumping/countervailing actions clog the WTO dispute settlement procedures.²²

Proposal 2

Proposal: Disentangle trade from other issues to better assign issues to institutions.

Evaluation: This proposal seeks to improve and sharpen the basic architecture of the WTO, and as such is directed toward the global public good features of the WTO as discussed above. Moreover, this proposal responds to a potential threat to the international trade regime as indicated in the previous section.

This proposal, of course, takes on an extremely complex problem, but it is possible to argue that a coherent assignment of issues to international institutions can be established if the WTO acts as an effective mechanism for securing market access property rights.²³ As indicated in the previous section, it may be increasingly difficult for the WTO to perform this role in the presence of widespread discriminatory trade practices, and so this proposal may need to confront the challenge to the international trade regime posed by increasing numbers of bilateral

and regional preferential trade agreements, among other challenges. But a specific proposal that the WTO's agenda remain focused (or return to its original focus) on market access issues—and that its attention be restricted with regard to other issues (such as the environment, labour standards and so on) to the market access implications of those issues—could achieve two things. It could strengthen the ability of the WTO to serve as an effective mechanism for securing market access property rights,²⁴ and it could help to ensure that the WTO is not asked to solve “problems” that might be better solved in other international institutions.

This specific proposal is of course very broad, and making it more concrete is not an easy task. But perhaps a concrete proposal might suggest that the WTO undertake a “self-evaluation” of each of the existing issue areas that it is currently involved in and also each of the “new” issue areas that it has begun to take under consideration, with an eye toward ensuring two things. First, that there is a significant market access concern associated with the issue area. Second, that the approach taken by the WTO to deal with this issue area handles the market access concerns with a minimum of intrusion into the policy choices of its member governments.

Proposal 3

Proposal: Provide more resources for monitoring implementation of WTO agreements.

Evaluation: This proposal is directed toward making the design features of the WTO more effective for use by member governments, and as such it is directed at the global public good features of the WTO, as previously discussed.

More specifically, providing governments with an effective escape from a terms-of-trade driven Prisoners' Dilemma requires that negotiated market access commitments are enforceable. In the WTO this is accomplished with the threat of retaliatory actions. To be effective, such threats require reliable monitoring of WTO agreements, as well as effective and timely legal and information-gathering procedures in case of disputes. Many issues within the WTO hinge on appropriate monitoring of market access commitments and on the market access implications of various border and non-border policy measures. Measuring these concepts is often accomplished in very rudimentary ways, and with appropriate resources to collect the required data and

perform the required statistical analysis the monitoring of WTO implementation could be greatly improved. Moreover, “congestion” can introduce global public good features into the utilization of the WTO, and this congestion is most likely to arise in the utilization of the WTO’s procedures for monitoring and ensuring the implementation of its agreements. Providing more resources for monitoring implementation of WTO agreements can in both these dimensions enhance the effectiveness of the operations of the WTO.

A specific proposal for resources might focus on developing in-house (within WTO) expertise in measuring and quantifying the links between market access levels and national policy choices. Better understanding of these links is crucial for an international institution whose member governments rely on this institution to deliver secure property rights over negotiated market access levels but at the same time wish to maintain a high degree of sovereignty over their national policy choices.

Conclusion

The GATT, and now the WTO, has in effect served as the constitution of the postwar international trade regime. This contribution has focused on the GATT/WTO as the centrepiece of the postwar international trade regime and explored a number of themes. First, what purpose is served by the WTO and the international trade agreements that it administers? Second, in what sense is the WTO a global public good? The third theme has discussed two interpretations of the developing country experience in the GATT/WTO. The fourth theme has identified two potential threats to the WTO and the international trade regime that is built upon it. And finally, a number of possible reforms of the WTO have been considered and evaluated.

This contribution has suggested both general and specific conclusions. At a general level, it has indicated the importance for the work of the Task Force with regard to the international trade regime of identifying the central inefficiencies that the WTO is being asked to address. There are two distinct inefficiencies that might reasonably be addressed through international trade agreements, and it has been suggested that providing its member governments with an avenue of escape from the inefficiencies that arise with a terms-of-trade driven Prisoners’ Dilemma is the central task that the WTO is well designed to handle. Also at a general level, it has been argued that the global

public good features of the WTO are associated primarily with its design features—that is, with the creation of the WTO and its maintenance as a negotiating forum—rather than with the end uses to which the WTO is put by its member governments. At a more specific level, these general conclusions have been used to offer two interpretations of the disappointing developing-country experience within the GATT/WTO and to suggest that the international trade regime may be threatened by the increasing numbers of preferential trade agreements and the widening scope of non-trade issues covered by the WTO. And finally, using these general and specific conclusions, a number of possible WTO reform proposals have been examined.

Notes

1. If participation is limited to a subset of countries, then it is possible for participants in the trade agreement to gain at the expense of non-participants even when there is no inefficiency absent the agreement.
2. The terms-of-trade driven Prisoners' Dilemma was first formalized by Johnson (1953–54). Its history and extensions into modern political-economy theories of trade agreements are discussed in chapter two of Bagwell and Staiger (2002).
3. The Prisoners' Dilemma structure refers to a situation in which both governments could do better if each would cooperate with the other than if both act non-cooperatively, but each government does better yet if it alone acts non-cooperatively, and so non-cooperative behaviour from both governments can be expected unless the governments can reach some enforceable agreement to cooperate. The costs imposed on exporters amount to terms-of-trade movements, which is why it can be said that the Prisoners' Dilemma described in the text is terms-of-trade driven. The Prisoners' Dilemma name itself refers to the original setting in which this structure was analysed. Two prisoners, accused of being partners in crime, are kept in separate rooms and must individually decide whether or not to confess (whether or not to act non-cooperatively toward the partner).
4. Hoekman and Kosteki (1995, pp. 60–61) provide a lucid description of the GATT/WTO in these terms.
5. These observations are described in detail in chapter two of Bagwell and Staiger (2002).

6. The phrase “time-consistency” is roughly analogous to “credibility”. That is, in a time-consistent equilibrium, the government is constrained to announce “credible” policies at one point in time that it would actually follow through on at a later point in time (hence “time-consistent”) if the private sector believed these announcements and acted upon them.
7. The policy credibility problem, in turn, can be interpreted as arising whenever governments lack first-best policy instruments for their purposes. As trade intervention is almost always a second-best or worse form of policy intervention—see Bhagwati, Ramaswami and Srinivasan (1969)—it may be expected that credibility problems in trade policy will be widespread. The role of trade agreements in allowing governments to escape from suboptimal time-consistent equilibriums is discussed in chapter two of Bagwell and Staiger (2002).
8. Ultimately, the external costs that are associated with retaliatory responses by important trading partners take the form of lower exporter prices, and so a “terms-of-trade” channel is lurking in the background of this second purpose of trade agreements as well. The threat of retaliatory responses from important trading partners is critical as well in enabling the WTO to serve the first purpose described above. On the central role played by retaliation in the WTO, see chapter six in Bagwell and Staiger (2002) and Lawrence (2003).
9. The second chapter in Bagwell and Staiger (2002) describes how the various papers that comprise the existing economics literature can be seen as reflecting either one or the other of these two roles.
10. This is not to say that this view is universally accepted by economists. In fact, when stated in this way, this view is almost universally rejected by economists. Nevertheless it is accurate to say that this is the role played by trade agreements in the main branch of the economics literature, and many economists are more comfortable with this view when it is expressed in the equivalent but WTO-compatible language of “market access” as expressed in the text. The formal link between the terms-of-trade and market access descriptions is contained in the second chapter of Bagwell and Staiger (2002).
11. A possible commitment role for trade agreements was suggested in Staiger and Tabellini (1987).
12. Empirical studies that provide indirect support for the terms-of-trade interpretation of the role of the WTO are surveyed in chapter 11 of Bagwell and Staiger (2002). More recent studies include Bown (2004a, 2004b, 2004c), Limao (2003) and Shirono (2003).

13. The WTO's reciprocity norm, non-discrimination principle and enforcement provisions are described in chapter three of Bagwell and Staiger (2002) and given terms-of-trade interpretations in chapters four through six of Bagwell and Staiger (2002). Briefly, reciprocity within the GATT/WTO has come to mean mutual changes in trade policy which bring about changes in the volume of each country's imports that are of equal value to changes in the volume of its exports. Non-discrimination, as embodied in the GATT/WTO's most-favoured-nation (MFN) principle when applied to tariffs, means that a country cannot impose different tariff levels on the same good originating from different exporting countries.

14. This is the study by Staiger and Tabellini (1999).

15. It is sometimes argued that the use of the WTO dispute procedures can generate public goods by establishing precedence and clarifying for other member governments what the legal rules are as regards some new dispute area. For the purposes of this discussion, here, I will view the creation of legal precedence associated with the use of WTO dispute procedures as part of the "creation and maintenance" of the WTO broadly defined.

16. This point is discussed in chapter five of Bagwell and Staiger (2002).

17. The most recent and comprehensive systematic evidence on the distinct trade-enhancing experiences of developed and developing country GATT/WTO members is contained in Subramanian and Wei (2003).

18. This observation was made recently in the proposal for reform of the WTO dispute settlement procedures put forward by Mexico; see WTO (2002).

19. This point is discussed in chapter five of Bagwell and Staiger (2002).

20. See Bagwell and Staiger (2003) for an analysis along these lines concerning the WTO, market access and national sovereignty.

21. The case for auctioning countermeasures in the WTO is considered from a formal economic perspective in Bagwell, Mavroidis and Staiger (2003); and it is described in non-technical terms in Bagwell, Mavroidis and Staiger (2004).

22. For a more extensive development of this argument, see Janow and Staiger (2003).

23. Bagwell and Staiger (2001) provide a non-technical discussion which interprets the role of the WTO in these terms, while Staiger (2003) provides a non-technical description of how this assignment can be established for the particular issue of labour standards.

24. A proposal to return to a focus on market access could have implications beyond the WTO's approach to labour and environmental standards. For example, it can be argued that the WTO's current approach to subsidies has "lost touch" with the market access concerns that guided the approach to this issue within GATT. See Bagwell and Staiger (2004).

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The International Public Goods Needed to Promote International Trade

2 Chapter

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The World Trade Organization (WTO) has a larger membership than the General Agreement on Tariffs and Trade (GATT), and its remit is much broader. Both differences make it harder to reach agreements. First, whereas the GATT functioned entirely by bargaining to find mutually beneficial—and therefore reciprocal—ways to liberalize, the new developing country members hope that the WTO will be part of the international architecture of transfers from developed to developing countries. The ethical basis for the organization is thus unresolved. Second, a substantial minority of the new members are not in a position to benefit from global integration. They have neither much to offer nor much to gain from bargaining. Third, even for those countries that stand to gain from reciprocal liberalization, the free-rider problem is often much more severe than it was for the Organisation for Economic Co-operation and Development (OECD) members of the GATT.

This paper proposes seven solutions for these problems. The first two focus on resolving the ethical tensions inherent in the present design of the WTO. Proposal 1 tries to reconcile the inherited role of the WTO as a forum for bargaining with the more usual role of international organizations as a mechanism for transfers from developed to developing countries. Specifically, it seeks to add a formal, quantified, unreciprocated developed-for-developing country liberalization as a preliminary stage for each round of bargained liberalizations. Proposal 2 tries to resolve the tension between the WTO's expanding role in rule promulgation with members' concerns about sovereignty. Specifically, it seeks a common core of rules that should apply to all members and takes a plurilateral approach towards the generation of further rules that would be optional. The next four proposals focus on core aspects of how developing countries might engage with the WTO. Proposal 3 focuses on the marginalized countries that have little scope for bar-

gaining. Specifically, it seeks to generalize initiatives such as the African Growth and Opportunity Act (AGOA) into an OECD-wide temporary preference to enable these countries to diversify their exports, thereby approximately recreating the conditions under which much of Asia broke into global markets 20 years ago. Proposals 4 and 5 focus on the integrating developing countries and how they might liberalize trade with the OECD. Specifically, proposal 4 seeks to reduce the problems of intersectoral bargaining by enabling sectoral compensation arrangements to be made explicit components of trade agreements. Proposal 5 seeks to make retaliation rights transferable. Proposal 6 focuses on how developing countries might liberalize trade with each other. Specifically, it seeks to reduce the free-rider problem for these countries by introducing an option to reduce tariffs preferentially against all other developing countries but not against the OECD. Some of these proposals have implications for the internal functioning of the WTO. Consequently, the final proposal seeks to empower the organization, giving the secretariat a mandate subject to supervision from a representative board.

Trade restrictions transfer income to favoured groups. They are costly instruments for transfers, inflicting large deadweight losses. They are common because they are not well understood by the majority who suffer the losses, but are usually well understood by the few who reap the benefits. A basic and ineradicable misunderstanding is that the losses are borne by foreigners. As a result, the only effective way to curb trade restrictions is through international reciprocity—each country's liberalization being presented as the price for achieving liberalization in other countries. This in turn generates a coordination problem. Both the GATT and the WTO have provided this coordination, thus supplying an international public good.

The core role of the GATT was to facilitate the negotiation of reciprocal reductions in tariffs. Tariffs could have been reduced without the GATT through ad hoc bilateral negotiations. (This was indeed the pattern in the late nineteenth century.) However the GATT provided a public good that accelerated this process through a common negotiating forum and time table. A second public good was the promulgation of rules both to enforce agreements and to limit trade-affecting policies that proliferated as governments became more extensive and economies more complex. The GATT had limited powers to promulgate rules; for example, it created the concept of bound tariffs, established common procedures for dispute settlement and enforcement and banned some non-tariff protectionist policies, notably quotas. The WTO has more extensive powers, reflecting its broader remit.

The GATT was hugely successful. This might suggest that the international public goods needed for trade liberalization are already well supplied. The WTO is an expanded version of GATT, with both a global membership and a comprehensive coverage of trade. It may seem that the same model could be used to replicate this success. Yet to date it has been markedly less successful.

The first part of this contribution discusses why the WTO faces much more severe problems than the GATT in reaching agreements among its members. The second part proposes six sets of possible solutions for these problems. The first two focus on resolving tensions that are inherent in the present design of the WTO. One tries to reconcile the inherited role of the WTO as a forum for bargaining with the more usual role of international organizations as mechanisms for transfers from developed to developing countries. The other tries to resolve the tension between the WTO's expanding role in rule promulgation with members' concerns about sovereignty. The next three sections focus on core aspects of how developing countries might engage with the WTO. The first focuses on the marginalized countries that have little scope for bargaining. The second focuses on the integrating developing countries and how they might liberalize trade with the OECD countries. The third focuses on how developing countries might liberalize trade with each other. Some of these proposals have implications for the internal functioning of the WTO. The final section considers some internal design issues.

Defining the problems

Why the GATT succeeded

The GATT succeeded partly because of its historical moment, partly because of its restricted membership and partly because of its restricted scope.

A historical moment. After 1945 all developed countries recognized the rationale for some trade liberalization. They had inherited severe trade restrictions built up during the 1930s as a means of combating high unemployment. After 1945 better instruments were available for combating unemployment, notably Keynesian economics. Hence the inherited high trade barriers were seen as dysfunctional. Trade liberali-

zation could not, however, be unilateral because it would generate balance-of-payment problems. Coordinated trade liberalization eliminated such problems. Once the era of flexible exchange rates arrived in the 1970s, the fear of a balance-of-payments crisis was replaced by the fear of inflation-inducing exchange-rate depreciation; coordinated trade liberalization continued to be preferred to unilateral action.

A membership restricted to the willing, with little free-riding. There was a clear need for reciprocal trade liberalization and thus some forum for coordination. The GATT met this need by confining its active membership to willing liberalizers. The GATT was not a global institution. It was basically a marketplace for OECD countries to strike deals for reciprocal trade liberalization. The emergence of the European Union (EU) as a pre-coordinator for a common European trade policy further simplified negotiations. For much of this period there were only three dominant players, all with large shares of world trade—the United States, the European Union and Japan. This made reciprocity easy because each player was too large to free ride. GATT negotiations could basically be conducted around the dinner table between three parties, all keen to reduce inherited trade barriers. Few developing countries were members of GATT, and even those were marginalized or chose to marginalize themselves through the formula of “special and differential treatment”. In substance this meant that such countries did not participate in bargains. Since the GATT was simply a bargaining forum, the consequence was that such countries achieved only concessions that were decorative.

A restricted scope. The scope of GATT negotiations was largely confined to manufactures. All three of the big negotiating blocs were major producers of manufactures and had the potential to be major exporters to each other. Liberalization offered each bloc the chance to reap economies of scale within manufacturing, raising efficiency without contracting the sector. The resource reallocations triggered by liberalizing were thus intrasectoral. For much of the period growth was rapid, so these intrasectoral adjustments could be accommodated within the context of overall expansion. The restriction of scope to manufacturing made the negotiations much easier. Being confined to a single sector, the effects of liberalizing were basically common to all participants. Further, manufacturing was an easy sector because there were large and well understood economies of scale and because factor mobility within the sector was high. Notably, the GATT did not attempt to negotiate agricultural liberalization among its members.

With the historical moment in its favour, a membership restricted to willing liberalizers, and the scope restricted to a single, easy sector, the GATT was hugely successful. By the time it was transformed into the WTO, intra-OECD manufacturing trade was virtually free of barriers.

From the GATT to the WTO

Once the barriers to intra-OECD manufacturing trade were removed, the future agenda for trade liberalization inevitably changed. The remaining agenda is overwhelmingly about developing countries. It has three components: OECD liberalization towards developing countries; developing country liberalization towards the OECD; and developing country liberalization towards each other. Developing countries must thus be central to the negotiating organization. So, unlike the GATT, the WTO inevitably needed a large developing country membership. Indeed membership has become virtually global, with 147 countries.

The importance of agriculture in many developing countries, and the rapid shifting of manufacturing to some of them, implied that many of these negotiations would need to be intersectoral. Developing countries want better access to developed country markets in manufactures, and also access to agricultural markets. The key thing that the OECD countries want in return is not access to developing country markets for manufactures. Rather, they want access to the market in services, defence of intellectual property rights and security for investment. The WTO thus became not only global but multisectoral, with the key negotiations being intersectoral.

Why the success of the GATT is not a precedent for the WTO

Although the historical moment for the WTO has some analogies to the circumstances that enabled the GATT to succeed, in other respects it is unpropitious. Further, neither of the other basic reasons for the success of the GATT apply, or can apply, to the WTO.

A more difficult historical legacy. The nearest parallel to the success of the GATT is perhaps that the WTO started from the collapse of the Union of Soviet Socialist Republics. Among its other effects, this event signalled that the economic future for all developing countries lay with integrating into the world economy. Further, the dramatic success of China in this process proved that integration was feasible. An indication of how these events changed perceptions is that India, once the

epicentre of trade barriers, began its own liberalization in 1991. Thus, shortly before the WTO was established, at least for some important developing countries, there was a recognition that inherited barriers were dysfunctional.

However the collapse of the USSR is not the only global change of importance. The world has changed in two important respects that have made the functioning of the WTO more difficult than that of the GATT.

First, the world has to an extent democratized since the end of the Cold War, with developing countries expecting a voice in decisions that affect them, a voice not derived from superpower rivalry but by right. This has affected the WTO from the moment of its creation, with the organization deadlocked for a long time over whether its first director-general should be from an OECD country or from a developing country. The developing countries will collectively deny legitimacy to an international organization that does not serve their perceived interests. In effect developing countries are seeking a transfer of power, albeit of modest proportions, from the OECD to themselves.

Second, the challenge of reducing global poverty has become more prominent. OECD populations expect their governments to do something about it. Further, the notion of policy coherence is becoming more widespread. The range of instruments that can be used to reduce poverty has broadened beyond aid, and by far the most prominent of these instruments is OECD trade policy. This broadening of the set of development instruments had the consequence of changing the rationale for OECD trade policy. The concept of policy coherence, and its implication that an appropriate objective of trade policy should be to promote development, is not consistent with the continued use of trade policy purely for self-interest. Hence the GATT bargaining model of reciprocated concessions is no longer entirely appropriate. The donor agencies are fond of using the language of partnership to emphasize that both they and the governments of developing countries have a common objective—the donors providing aid and the governments providing reform. However, with policy coherence, partnership shifts some of the burden of reform onto the donors. OECD trade policies must be reformed even if that is not in the direct self-interest of the OECD countries. As with democratization, the rise of policy coherence in poverty reduction creates expectations, or at least aspirations, in developing countries of transfers from OECD countries.

Third, the principle of transfers (although not the reality) can reasonably be regarded as having been conceded within the GATT through

the notion of special and differential treatment (SDT). The utter failure of SDT simply demonstrates that the GATT was not a transfer agency. The GATT needed to get on with its core business—which did not include market access for developing countries—and negotiations were greatly facilitated by excluding developing countries. The real rationale for SDT in the GATT was to legitimize this exclusion. Issues of market access for developing countries obviously cannot be ignored in the WTO. However, to the limited extent that they were handled in the GATT, they were handled through SDT. If that were to continue, market access would be conceded as a transfer rather than negotiated as part of a mutually advantageous package. The aspirations for non-reciprocated market access thus partly reflect recent political aspirations and partly follow from the design of the GATT.

At present these aspirations are fairly amorphous, which greatly complicates the process of reaching a bargain. Basically, while developing countries seek a transfer and developed countries seek a bargain, any deal that is acceptable to the developed countries risks being seen as unacceptable within developing countries.

Membership is not restricted to the willing, and there is a free-rider problem. The new members of the WTO are largely developing countries. However they are not cohesive. To simplify, there are two substantial groups.

One is made up of countries that are sufficiently integrated into the new world economy, and sufficiently large, to have a genuine interest in bargaining for reciprocal liberalization. India, China and others are in somewhat analogous positions to the OECD after 1945, with trade barriers that they recognize as being dysfunctionally high and with an interest in negotiating reciprocal liberalization both with each other and with the OECD countries. The lock-in capability that the WTO provides is also potentially useful to reformers in these countries who want to increase the credibility of liberalization. However even these countries have shares of world trade far smaller than the big three of the United States, the European Union and Japan, so the incentive to free-ride is much greater than in the internal OECD negotiations.

The other group of developing countries consists of those that are for one reason or another sufficiently marginalized in the world economy that they do not have a realistic interest in bargaining over market access. The smaller and poorer developing countries, especially in Africa, are very different from the OECD after 1945. Generally these countries do not regard their trade restrictions as dysfunctionally high (even though that is the view of most informed observers). They have liberal-

ized little, and even some of that has been under the duress of conditionality. There is no equivalent to the desire to liberalize, inspired by a fear of balance of payments crises that once characterized the OECD countries. Further, they have little to offer in the bargaining marketplace, especially individually. So even if they came to regard their trade restrictions as excessive, they could not credibly negotiate reciprocal non-preferential agreements either with each other or with the OECD countries. Third, they have been granted various special and differential market access advantages by the OECD, which would be eroded by generalized trade liberalization. Finally, many of these countries have not participated in global growth and do not regard themselves as likely to do so. They may well see themselves as relatively better off in an environment of global stagnation than one of rapid global growth in which they continue to be marginalized. These countries did not join the WTO to enter a bargaining marketplace. Some may well have decided to join predominantly because being left out of an organization that the larger and more advanced developing countries were choosing to join would have left them looking even more marginalized.

The existence of a substantial membership with little or no perceived opportunity to gain from bargaining for liberalization is a problem in itself and compounds the first problem. It is a problem in itself because the organization is therefore likely to fail to be useful to precisely its most needy members. It compounds the first problem because it is difficult for the group of integrating developing countries (the Group of Twenty) to reach a deal with the OECD to which the marginalized group (the Group of Ninety) is hostile. Either the Group of Ninety is marginalized within the WTO, or the WTO is changed to include something of genuine interest to them. The only thing that such countries will recognize as being in their interest is transfers.¹

The scope is not restricted to manufacturing. For the WTO to reach an intersectoral deal is intrinsically more difficult than the manufacturing deals achieved by the GATT. The newly covered sectors include agriculture, the “network industries”, and the public sector. For all three sectors governments use a vast array of trade-affecting policies other than tariffs. OECD agriculture benefits from a highly complex and expensive pattern of subsidies. Network industries require a degree of regulation, but such rules can easily be used for protectionism. The public sector is often both a privileged producer and a handicapped purchaser; rules protect it from competition in production and limit its rights to competition in supply. Hence, for the WTO to

succeed, it will need to rely far more on promulgating rules than did the GATT. Such rules by their nature constitute limitations on sovereignty. They are very different from the ad hoc deals that one state might strike with another. Two radically different types of government might reasonably see themselves as losers from such an expansion of rule-making. As discussed above, the marginalized countries may well feel that they have nothing to gain from global liberalization, so the rules that facilitate it become restraints without offsetting benefits. Indeed in many areas such countries are sensitive about encroachments on their sovereignty. At the other end of the spectrum, although the United States probably has more to gain than any other country from an acceleration in global integration, it is sufficiently powerful that it has alternative ways of influencing the behaviour of other countries. Support for a rule-based system may not be its best strategy in that such rules would inevitably limit its own scope for action. Thus, not all members of the WTO have an interest in using the organization to promulgate rules, but without rule promulgation its ability to extend much beyond manufacturing is quite limited. The GATT was able to proceed by gradually chipping away at manufacturing tariffs, constantly finding incremental deals that gave all parties the same type of benefits—namely, expanded manufacturing markets. By contrast, the WTO will need to find “grand bargains” in which, although all parties still benefit, the benefits are of radically different types, with some countries gaining in one sector and others in another.

There is a successful example of an international, intersectoral, rule-intensive “grand bargain”, namely the one between France and Germany that created the European Union—France opening its market for manufactures in return for German subsidies for French agriculture. However the circumstances that made that deal feasible were heavily reliant on history. Further, even that deal did not require agricultural liberalization. The OECD countries do not find it attractive to liberalize agriculture. This is because, while the OECD has very largely abandoned trade restrictions as instruments for achieving employment goals, it has not abandoned agricultural trade restrictions as instruments for encouraging rural development. The very opacity and indirectness of agricultural trade restrictions as income transfers, and the confusion between the goal of an income transfer to farmers and other more broadly shared goals of national self-sufficiency and high health standards, make them attractive to rural constituencies. Direct income transfers would be far cheaper but would leave beneficiaries humiliated as welfare re-

ipients and exposed to political attack. If the OECD countries insist on holding out for a mutually beneficial bargain, which has been the basis for the GATT/WTO, the price of agricultural liberalization is thus going to be set very high.

Summary: three problems of the Doha Development Round

To summarize, the marketplace model that worked so well for the GATT is unlikely to work so well for the WTO. There is little scope for a deal linking OECD liberalization towards developing countries to developing country liberalization towards the OECD that all countries would regard as beneficial. Although economic models show the potential for massive mutual gains, for the OECD these potential gains are insufficient to motivate liberalization because they ignore the problem of how to defend agriculture in a politically sustainable way. Further, liberalization lacks support because trade restrictions in many developing countries are still regarded as pro-developmental despite the evidence to the contrary. The labelling of the Doha Round as a “development round” reflected the evident fact that developing countries were central to the new trade liberalization agenda, but it papered over three key difficulties.

First, WTO members have radically different aspirations. Developing countries now aspire to an element of transfer. Because transfers are not mutually beneficial, they are not natural consequences of bargaining. It is no surprise that finding a deal that the OECD regards as beneficial and that the developing countries regard as acceptable has proved so fraught. In effect, until either the OECD countries decide to introduce an element of transfer into the WTO, or the developing countries accept the WTO as merely a forum for mutually beneficial bargains, no deal can be struck.

Second, even abstracting from this problem, one group of the new WTO membership is sufficiently marginalized from the world economy that these countries perceive themselves as having no basis for bargaining to mutual advantage. A way needs to be found either to marginalize such countries within the WTO or, better, to give them a genuine interest in the organization.

Third, even for those developing countries that do have a genuine scope to bargain to mutual advantage, the task of reaching a deal is considerably harder than in the GATT. The deal must be cross-sectoral and so needs to rely heavily on the promulgation of rules; yet such a use

of the WTO is not attractive to many members. The deal also needs to overcome a severe free-rider problem.

Finding ways around these three problems is the task addressed in the subsequent sections.

Finding solutions

Resolving the tension between bargains and transfers

A legacy of the GATT is the elimination of trade barriers on OECD internal trade but the continuation of high barriers against developing countries. This can easily be seen as hypocritical in the context of the conventional OECD rhetoric of development partnership adopted in the other global organizations.

While the integrating developing countries have an interest in the WTO purely as a bargaining organization, at present, even these developing countries have aspirations that OECD trade policy should contain an element of partnership as opposed to bargain. Further, to the extent that the GATT set a precedent as to how to deal with market access issues for developing countries, that precedent was SDT—that is, as a transfer rather than as a bargain. Until this is resolved one way or the other, no deal is reachable.

Why bargaining must remain the core function of the WTO. To state the obvious, the failure of SDT shows clearly that for the group of developing countries that want to achieve substantial improvements in market access it is vital to bargain. Without bargaining—that is, without reciprocity—developing countries will not be offered very much. In turn this may provoke them into using their ultimate weapon of wrecking the entire negotiations. However such a strategy is not in their own interest. The developed countries can relatively easily conclude the trade negotiations they want outside the WTO if necessary. Intra-OECD negotiations scarcely need a global forum, and OECD negotiations with developing countries can be undertaken on a bilateral basis, as with NAFTA. Hence the real losers from the destruction of the WTO would be those Group of Twenty developing countries that now need an organization to negotiate reciprocal liberalization.

Introducing an explicit transfer role. The need to bargain does not, however, limit the scope for explicit transfers—that is, for an element of

unreciprocated market access. The evolution from the GATT to the WTO can usefully be compared with that of the International Bank for Reconstruction and Development (IBRD) into the World Bank. The IBRD was not, and could not be, a truly global institution. It was mutually beneficial to a range of middle-income economies who, by pooling risk and subjecting themselves to common restraints (through a board with substantial OECD representation), could radically reduce the cost of borrowing. This arrangement did not involve any transfers from the OECD to developing countries. In effect the IBRD phase of the World Bank was like the GATT phase of the WTO; it could not benefit the marginalized developing countries, and it did not involve transfers.

The IBRD transformed itself into the World Bank through the creation of the International Development Association (IDA). The IDA is a transfer mechanism from the OECD countries to developing countries, administered by the World Bank. In turn, this made the organization of interest to low-income countries. Similarly, the International Monetary Fund (IMF) introduced a subsidized credit facility for low-income countries, the Poverty Reduction and Growth Facility (PRGF). The equivalent to the IDA and the PRGF for the WTO would be the granting of access to OECD markets on concessional terms—that is, on terms that would not be reached by a GATT-style process of perceived mutual benefit.

Continuing with the IDA analogy, one role of the World Bank is to negotiate contributions to the IDA every three years. This is an explicit process of quantitative burden sharing. Were this model applied to the WTO, the secretariat would be charged with negotiating a quantified unreciprocated component of OECD liberalization. To fully disconnect the transfer component, it would be negotiated (among the OECD members) at the start of the round and implemented at a set date, which would be the target date for the end of the round, but it would not be conditional on concluding the round. Thus, to induce any developing country liberalization through bargaining, the OECD would need to go beyond this agreed transfer component.

Advantages of an explicit transfer. Such a predetermined transfer element to market access would have five benefits.

First, by having an international secretariat quantify the contribution of each participant to a common methodology, it would help achieve intra-OECD burden sharing in granting market access.

Second, the quantification could readily make the contribution of each OECD country to market access comparable with its contribu-

tion to development aid. This would both emphasize the importance of policy coherence in development strategies and build on the new think-tank work comparing the overall development contribution of each OECD country—in effect, regularizing it.

Third, by quantifying the overall contribution of market access concessions to developing countries, it would provide a benchmark for subsequent trade rounds, with a presumption (as in the IDA) that contributions in aggregate would normally rise.

Finally, and probably most important, by quantifying and separating the transfer component of any trade round from bargaining, the negotiation itself would be less easily contaminated by developing country aspirations. The bargaining would take as its starting point the transfer component of OECD trade liberalization. This separation of stages would preserve the principle that the inter-member business of the WTO is purely the negotiation of mutually beneficial bargains while introducing a bounded transfer component analogous to the IDA in the World Bank and the PRGF in the fund. Hence:

Proposal 1: Introduce an explicit, quantified, unreciprocated increase in market access for developing countries at the start of each trade round, with intra-OECD burden sharing negotiated by the WTO Secretariat.

Resolving the tension between rule promulgation and sovereignty

The need for promulgating rules. It was entirely sensible that the GATT should focus only on manufacturing, the easy sector. Manufacturing is a very small share of any modern economy, though, so the WTO has to be more ambitious. This implies that rule promulgation is unavoidable. Trade-related intervention by governments in other sectors is so complex that they cannot rely solely on negotiating about the specific deployment of each instrument in each country as and where it happens to be used. Rule promulgation through standards and codes has become an important part of the international economic system. These rules are generated in international bodies such as the International Labour Organization, the International Monetary Fund and the Bank for International Settlements, or even generated by ad hoc organizations such as the Kimberley Process, which now regulates the diamond trade for more than 30 countries. Rather than have a plethora of trade-related standards and codes generated by such ad hoc bodies, it seems prefer-

able to integrate them as far as possible within the organization that the world has established for trade-related issues.

The plurilateral approach. A possible solution to this dilemma is the use of plurilateral agreements—that is, permitting the organization to promulgate rules that apply to those countries that choose to subscribe to them. Clearly the power to promulgate rules within the WTO should be limited to issues related to its remit—that is, trade in goods and services, intellectual property rights and foreign investment. However these issues open a wide area of potential regulation. Once the plurilateral role is properly established, it would presumably work incrementally rather than through a sudden major extension of international economic rules.

The plurilateral approach is controversial, facing two types of criticism. The most vocal is from some developing countries which recognize that once a rule is adopted by a majority of countries there are likely to be strong pressures on other countries to adopt it also. The other criticism is that an international organization needs rules that apply to all its members, and allowing some members to opt out creates a two-class organization.

Despite these criticisms the plurilateral approach has three robust precedents. First, the most successful multinational organization, the European Union, has itself chosen plurilateralism on a wide range of issues, reflecting the different needs and interests of its members. Second, the oldest of the international organizations, the International Labour Organization, has long adopted the practice whereby conventions are adopted by the organization but then accepted or not by individual members. Third, within the GATT itself, SDT was an example of plurilateralism; countries chose whether to designate themselves as developing, and thereby chose whether to be bound by reciprocal bargaining processes.

It is unrealistic to imagine that the WTO can fulfil its remit on multi-sectoral trade-related issues without promulgating rules and to imagine that such promulgation can only occur on the basis of universal approval. Allowing a willing majority to impose rules on itself seems to be the minimal requirement for progress.

Although the European Union has adopted plurilateralism, it has also determined that some rules must apply to all members. In effect it divides its rules into those that are required and those that are optional. Similarly, the IMF treats some articles as required—such as banning the use of multiple exchange rates—and others as optional—such

as an open capital account. The GATT did not have two classes of rules so much as two classes of members—active and inactive. For example, its ban on quotas applied to all OECD members; it was not (at least in theory) optional. By contrast, for the inactive members, no rules applied. If the WTO is to be a genuinely global organization, it should aim to avoid having inactive members. The organization will inevitably have some members who have no basis for participating in bargaining. If these members also have the power to exempt themselves from all the rules, they are not in any genuine sense of the term active members. Hence it seems appropriate that the organization should agree on some core rules to which all members must be bound. Indeed an obvious one to start with would be to ban quantitative restrictions. SDT was basically a device not for favouring developing countries, but for excluding them.

However the European Union has also determined limits to its own rule-making remit. The principle of subsidiarity constrains the EU from making rules in areas more appropriately handled at national or sub-national levels. Without such limitations, countries that fear the abuse of rule-making would have no choice but to block the power to make any rules. In the WTO the major fear of developing countries is that rule-making power will be extended to areas such as environmental and labour standards. The WTO enforcement mechanism of trade sanctions would then become linked to these areas. Choices of environmental and labour standards inevitably relate to income. Thus the OECD countries will inevitably want higher standards than those chosen by developing countries. Linking trade sanctions to environmental and labour standards would thus provide the OECD countries with unlimited scope for protectionism. If OECD countries want the WTO to make substantial progress on rule-making, they will therefore need to accept that rules on environmental and labour standards should lie outside the WTO remit. Any global rules in these areas would need to be enforced by penalties other than trade sanctions.

A grand bargain: linking plurilateralism to transfers. The dilemma remains that opposition to the plurilateral approach is substantial. Given that there seem to be no credible alternatives that leave the organization effective, the question becomes one of finding new incentives for adopting a plurilateral approach.

As discussed in the previous section, if explicit transfers—that is, unreciprocated market access concessions—were introduced in the WTO, they would not be part of the normal bargaining process. Market access bargaining would begin from what the unreciprocated concessions

granted. However this need not imply that granting market access as a transfer should be unconditional. Market access transfers would explicitly be analogous to other forms of development transfer, and it is normal practice to condition such transfers on either adoption of certain policies or adherence to certain processes. It is clearly undesirable to involve the WTO into a wide range of issues not related to trade. It would be unwise to condition market access on compliance with environmental standards. If conditionality is to be confined to trade-related issues, the transfer could not be conditioned on policy without collapsing back into a negotiated bargain. A market access transfer conditioned on developing country trade policies would cease to be a transfer; in effect market access to the OECD would be exchanged for market access to developing countries. There is, however, scope to condition a transfer on trade-related processes. The condition might be that developing countries should accept the process of generating plurilateral rules. Thus the proposed grand bargain would be that developing countries would acquiesce in plurilateralism in return for the introduction of an explicit transfer role into the WTO.

A grand bargain might extend beyond plurilateralism. Given the desirability of establishing a common core of rules, this too might form part of the deal in exchange for transfers. In effect, the old SDT approach to rules would be transformed; instead of a bloc of countries being excluded from all rules, all countries would be subject to core rules and other rules would be adopted ad hoc by each country. Hence:

Proposal 2: Make the acceptance of plurilateralism and a core set of rules that apply to all members a condition for introducing an explicit transfer component into the WTO. However, explicitly restrict the scope of both plurilateral and common core rules by excluding environmental and labour standards.

Giving the marginalized countries an interest in the success of the WTO through temporary preferences

A large number of small countries, mainly in Africa, are currently marginalized in the world economy. Marginalization is the conjunction of low income, slow or even negative growth over a prolonged period and an export structure that has failed to diversify from primary commodities. Further, many of these countries see their own trade restrictions as instrumental for development, however false that perception may be. This group of countries currently has little inter-

est in global trade liberalization and nothing to offer by way of a bargain. Yet, precisely because they are the poorest and least hopeful parts of the world, any WTO strategy that appears to ignore their interests is likely to appear illegitimate. That would open up the prospect of an alliance between the marginalized countries and protectionist interests in major countries, which would be sufficiently powerful to wreck the organization.

The challenge for the international community is in the longer term to get these countries better integrated into the world economy, and in the shorter term to give them an interest in the success of the trade rounds.

Precisely because the exports of these countries are largely primary commodities, the scope for assisting them purely through conventional most-favoured-nation (MFN) liberalization is unfortunately quite limited. That is, even if the transfers envisaged above—unreciprocated concessions of market access granted by the OECD to all countries—were pushed to the limit, the benefit would be relatively modest.

The only way in which OECD trade liberalization can generate both a significant benefit to marginalized countries and a powerful incentive for their diversification is if it is preferential—that is, exempted from the MFN condition. Such a concession could be made conditional on the support of marginalized countries for the rest of the trade round.

Temporary preferences as an offset to the economies of agglomeration. The objective that would really interest many marginalized countries is industrialization. From the perspective of many of these governments this is the holy grail of development. This has, indeed, been part of the rationale for their adoption of high trade barriers, although of course the strategy has been ineffective and offers no prospect of success.

With the rise of Asia as an exporter of manufactures, the opportunities for those countries that remain marginalized to industrialize has drastically deteriorated. When Asia broke into global markets for labour-intensive manufactures—the big trade event of the past two decades—it did not have to compete against any established low-wage manufacturers. It had a wage advantage over the existing competition (in OECD countries) of about 40 to 1. Initially this huge wage advantage just compensated for the accumulated advantages generated by established industrial agglomerations. As Asian cities themselves became established agglomerations of industry, the continuing wage advantage induced explosive growth—which is continuing. Like Asia before this breakthrough, the currently marginalized countries have no significant industrial agglomerations. However, in contrast to Asia at the time of its

breakthrough, they have no wage advantage whatsoever over established agglomerations—namely, those in Asia. To give the marginalized countries now a chance equivalent to that taken by Asia 20 years ago requires that they receive some preference not offered to Asia.

Textiles after the Multi-Fibre Arrangement

The obvious starting point for such a temporary preference would be in textiles. Now that the Multi-Fibre Arrangement (MFA) has ended (December 2004), there are major changes in this sector. The ending of quota restrictions has created a unique opportunity to use the single-most important labour-intensive industry as an engine for growth in the marginalized countries. Although quotas have ended, the industry remains highly protected through tariffs in OECD countries. These will be negotiated down only over the coming trade rounds, slowly. Hence, for about a decade, OECD tariffs on textiles will remain sufficiently high for preferences to offer a significant terms-of-trade advantage to those who receive them.

Although the main gain in market share for the marginalized countries would come at the expense of the market share of developing country producers, their actual loss of income would be modest. At the margin price is almost equal to cost, so squeezing out marginal Asian exports would not imply large income losses—especially since this would occur in the context of major expansion of the Asian industry. The Asian textile industry would simply expand a little less than it otherwise would have done after the MFA ends. The cost of temporary preferences would fall predominantly on OECD governments, because instead of collecting tariff revenue on imports of textiles from Asia they would waive payment on replacement imports from the marginalized countries. However even this cost has to be set in the context of the greatly expanded OECD revenues from imports of textiles that will be a consequence of ending the MFA. Far from facing an absolute decline in revenue from tariffs on textile imports, the OECD governments will experience a massive increase as the removal of quotas permits import expansion. In effect, a temporary tariff preference on textiles would be broadly equivalent to an OECD aid programme that aimed to diversify the exports of marginalized countries into textiles. The differences with an explicit programme reveal both the advantages and the limitations of the approach. An advantage is that OECD governments could credibly commit to a long time table for a tariff preference, just

as they committed to a decade-long time table for the phase-out of the MFA. There is no equivalent for aid-financed commitments, so a tariff preference would have a considerable credibility advantage over an aid-financed subsidy. However a tariff preference would not provide finance for directly fixing some of the impediments to exporting from the marginalized countries, such as poor infrastructure and governance. Its effect would be to provide a temporary offset to such disadvantages. If these impediments are not fixed during the period of temporary preference, then exports may well collapse once the preferences end. Nevertheless, temporary preferences might induce these complementary changes. The creation of a group of textile export firms that face an eroding advantage in a country would generate some lobbying pressure on the governments of marginalized countries to improve services. Furthermore, since the use of temporary preferences would be based on an explicit OECD strategy to induce export diversification in the marginalized countries, it would be natural for the OECD countries to coordinate it with aid programmes targeted to finance complementary improvements in infrastructure.

AGOA and EBA

The AGOA and the Everything But Arms regulation (EBA) already provide such a temporary preference to marginalized countries. Hence the deployment of the instrument has already been conceded in principle by both the United States and the European Union. However both of these agreements are ad hoc, uncoordinated and completely outside the WTO process. There are major advantages to negotiating a single, generous, coordinated agreement on temporary preferences as part of the trade round.

In both AGOA and EBA the devil is in the details. One important aspect of detail is the rules of origin (ROOs). In the absence of any ROOs Asian exports would simply be shipped through marginalized countries for relabelling, so there would be no domestic value added. If ROOs become too strict, the cost of producing in a marginalized country becomes prohibitive. In the case of AGOA the ROOs are too strict, making most marginalized countries uneconomical as manufacturing locations. A common OECD-wide scheme would be likely to adopt more generous ROOs. First, all inputs from anywhere in the OECD would be treated as meeting ROOs, instead of, as with AGOA, only those from the United States. Second, lobbies in particular OECD

countries, such as the cotton lobby in the United States, would have less power to influence an OECD-wide negotiation.

A second important limitation of AGOA and EBA is that they are complex and not thoroughly understood, even by customs officers. In fact AGOA appears to be much better understood than EBA, which is unfortunate since most of the potential market for marginalized countries is in the European Union rather than the United States. Clearly having two different schemes is more challenging for exporters than would be a single OECD scheme.

A third limitation of AGOA and EBA is that they omit substantial parts of the OECD. In effect there is an internal OECD free-rider problem, because the burden of this transfer programme to the marginalized countries is not being shared equally.

A fourth limitation of AGOA and EBA is that neither has an appropriate time frame. AGOA has a very short horizon for phase-out, essentially encouraging only highly footloose trade activities to relocate to marginalized countries temporarily. By contrast, EBA has no specified end date, hence providing no incentive for the complementary measures that would make the programme unnecessary. A minimum sensible time frame for a preference is about eight years. Because the donor community has chosen 2015 as the date for attaining the Millennium Development Goals, it might be appropriate to harmonize this particular development instrument with that date. Coordinating on common dates increases the credibility of commitments.

Beyond textiles. The basic objective of temporary preferences would be to diversify exports away from traditional primary commodities. Different marginalized countries can be expected to have different opportunities to diversify. Not all are in a position to develop textile exports—for example, some are landlocked and probably fundamentally uneconomical as locations for globally oriented manufacturing. Another activity where marginalized countries have potential long-term advantage is in the products of temperate agriculture such as horticulture. Fortunately, from the perspective of the ability to offer preferences, the OECD currently levies high tariffs on these products. Hence there is substantial scope to provide valuable preferences.

Defence from anti-dumping suits. The incentive effect of any preferential agreement could be considerably enhanced by granting temporary exemption from anti-dumping suits. Currently the ability to bring anti-dumping suits powerfully discriminates against marginalized countries. The costs inflicted once such a case is brought (regardless of

its outcome) are markedly higher if the target is a firm in a marginalized country. This is partly because exporting firms are likely to be smaller and so find the high fixed legal costs more burdensome. Furthermore, because of the much smaller domestic market, there is much less chance of diverting blocked export production into it. It is, of course, precisely the firms that would find even a spurious anti-dumping suit ruinous that are most likely to be faced with one. The trade-chilling effect of the potential threat of anti-dumping suits is thus more serious for marginalized countries.

Exemption from anti-dumping suits has already been granted by some countries to other countries, and the practice is not bound by the MFN clause. For example, the European Union currently favours Iceland; no anti-dumping suit can be brought against Iceland from anywhere within the European Union (although Iceland is not a member of it). There is thus no legal obstacle to extending such an exception temporarily to the countries that need it most.

Eligibility. Clearly countries cannot be allowed to self-select into eligibility for such preferences. For the first time in the WTO, objective criteria would need to be agreed on. Obviously there are many precedents in other international organizations of objective criteria for eligibility for transfer programmes (of which preferences are a variant). Both the UNDP and the World Bank have income cut-offs for their transfer programmes. It was indeed only because the purpose of SDT was exclusion rather than meaningful transfers that countries were permitted to self-select.

The criteria for eligibility to preferential access should basically follow from the core objective of the programme: to diversify exports of those low-income countries that have failed to break out of traditional primary commodities to any significant extent. Thus only countries with both a very low per capita income and a very low share of untraditional exports relative to GDP would be eligible. Countries that, though poor, have already accumulated substantial economies of agglomeration for untraditional exports (such as Bangladesh and Vietnam) would not therefore be eligible. Such restrictions are important for the benefits to be well targeted.

Embedding temporary preferences within the trade round: a bargain, not a transfer. Neither AGOA nor EBA were negotiated as part of a trade round. However placing a common OECD temporary preference within the context of the trade round would provide advantages to all parties.

First, by making the arrangement part of an explicit WTO agreement, the temporary nature of the preferences would become binding and hence more credible. It would also be easier to negotiate a common OECD position in the context of negotiating a grand bargain with developing countries, for in such negotiations the OECD is indeed forced to find a common position.

Second, one condition for the preferences could be that the marginalized countries benefiting from the preferences would agree to support other parts of the trade round. A further condition could be that in return for this SDT on tariffs, the marginalized countries could not have a collective SDT position on adherence to rules. Thus this could be part of the bargain by which the marginalized countries accepted the core rules of the organization discussed above. A further condition might be added that even the marginalized countries should take meaningful steps to liberalize trade—for example, that they should broadly match the concessions negotiated by the integrating developing countries.

The most difficult group from which to gain agreement would be the integrating developing countries, which would be in potential competition with the marginalized countries. However there are two reasons for them to support such an arrangement. First, granting preferential access would increase the cost of any given level of tariffs to the OECD and so increase pressure for tariff reduction—a core interest of the integrating countries. Second, the integrating countries would have the most to lose from an alliance between the marginalized countries and OECD protectionists. Hence:

Proposal 3: Introduce an OECD-wide, time-bound preference for a defined group of currently undiversified, marginalized countries. Include exemption from anti-dumping suits in this preference. Require eligible countries to accept plurilateral and common core rules as a condition for such preferences.

Facilitating a bargain between the OECD and the integrating developing countries

The group with the most to gain from using the WTO as a bargaining forum is the integrating developing countries. But doing so involves a huge psychological step for such countries—essentially changing from reactive to proactive (Mattoo and Stern 2003). Instead of shielding themselves from the intra-OECD push to liberalize trade, as under the GATT, countries such as India now have a strong interest in better

access to OECD markets and realistically will achieve that predominantly through reciprocity. The shift of manufacturing from the OECD to some developing countries has two implications for such a trade bargain. First, because manufacturing was the focus of the GATT negotiations, through the MFN clause developing countries already have reasonable access to OECD manufacturing markets (except for textiles). Thus the key market access issues for developing countries are going to be agriculture and services. Second, because of the declining interest of the OECD in manufacturing exports, what the OECD wants from developing countries is not predominantly access for manufactures but rules concerning intellectual property rights, government procurement, investment and trade in services. Hence, unlike the GATT negotiations, the main scope for a trade deal between the OECD and the integrating developing countries is a cross-sector deal—access to OECD agriculture in return for rules on intellectual property rights, government procurement, investment and opening the market for services. The integrating developing countries face a major problem of coordinating among themselves in determining what they are prepared to offer, and in the medium term any agreed offer is likely to be limited. To secure significant agricultural liberalization it is therefore important to reduce its political cost within the OECD.

Compensating OECD agriculture. Agriculture will inevitably be at the heart of any OECD liberalization. The most important trade-related agricultural interventions of OECD governments are not tariffs and quotas but various forms of production subsidy. All the economic analyses show that the European Union, the United States and Japan are shooting themselves in the foot with their current agricultural policies. But the very robustness of these policies in the face of such evidence (over decades) tells us that the economic analyses miss something important. What they miss is that the rural constituency that benefits from these policies does not trust any alternative means of achieving an income transfer and indeed fears that any change in the transfer mechanism would open up the possibility of further—adverse—change. The economic analyses show that there is scope for being very generous (moving to an income transfer mechanism that offers the rural sector higher incomes), but it gives no guidance on how to reduce the problem of credibility. In essence, why should farmers trust in a new system, given that the move to a new system creates the precedent of abandoning a system of rural support?

One way to increase the confidence of the OECD rural constituency in any compensation for removing production subsidies would be to make such compensation an explicit part of the trade round. Indeed, since without proper compensation any reduction in production subsidies is likely to be eroded, this would be a sensible requirement on the part of trade negotiators. Such compensation might be in the form of direct income support or through a switch to subsidies for environmental protection.

In addition to adding to the credibility of the agreement, there is a further potential advantage from making compensation an explicit part of the trade round. OECD farm lobbies are highly successful rent-seeking organizations. Faced with the prospect of other forms of subsidy, whether income support or environmental subsidies, combined with the phasing out of production subsidies, they will rationally support the first but oppose the second, hoping to add the new subsidies to the considerable range of subsidies already won by the farm lobby. The history of agricultural subsidies suggests that this outcome is quite likely. For example, the main groups that want environmental protection have no intellectual or emotional attachment to the cause of trade liberalization. Although the main beneficiaries of phasing out agricultural production subsidies would be OECD consumers, this group is not an effective lobby. The main pressure for phasing out production subsidies comes from developing countries. Other than in the context of trade negotiations, developing countries have no place at the table to discuss OECD production subsidies. Thus, since the most promising instrument for such a phase-out is the conversion to other forms of subsidy, bringing developing countries into the trade round may be the best way to ensure that there is a switch between subsidies rather than an accumulation.

Compensating marginalized countries that lose. Reciprocal trade liberalization, properly negotiated, creates net gains in nearly all societies. Within societies some groups inevitably lose, and it is the responsibility of national governments to arrange compensating redistributions as they judge appropriate. Although the WTO may have a strong interest in ensuring that such compensation is paid (as discussed above in the case of OECD agriculture), it can hardly be the agency executing such intracountry transfers. However there is a much stronger case for explicit WTO financing of intercountry compensation for the minority of marginalized countries that would otherwise risk losing from a trade round. Losses will arise from two main sources: changes in world

agricultural prices and the costs of complying with standards and codes that are part of WTO agreements.

Notably, agricultural trade liberalization by the OECD would create some losers among those low-income African countries that currently benefit from special market access. Of course, to the extent that a generously expanded preferential system for the marginalized countries can be introduced into the round (as discussed above), the number of net losers would be reduced. However some countries have so few credible alternative export opportunities that any deal that reduced the price of their current exports would be liable to generate net losses. There is thus a case for supplemental direct transfers to the governments of those few countries that can be shown to be net losers. The issue of how to finance such transfers will be taken up later, after considering the other important cost of a WTO deal—namely, compliance with procedures.

Developing countries are already signed up to trade procedures that are administratively very expensive. For the poorer countries this was probably inadvertent; they were not in a position to scrutinize and cost what they had agreed to do. As rules become a more important part of the WTO, which seems inevitable, and as even the marginalized countries get drawn into adopting many of these rules, the administrative costs of compliance will become substantial for some countries. Again there is a case for direct transfers, both to build capacity and to cover these administrative costs.

To finance such transfers it has recently been proposed that a small common import duty be levied within the OECD—perhaps at the rate of 0.25% (Hoekman 2004). While this would, in effect, give the WTO resources to finance transfers, there are several disadvantages to such a duty. The tax would be hypothecated, breaking a basic principle of taxation, and it would involve the WTO in imposing a tariff when its core business is removing them. An alternative would be to build on policy coherence, using part of aid budgets to meet these needs but making this an explicit commitment of the trade round. To avoid the need to specify the burden-sharing among bilateral aid programmes, this compensation could be incorporated into World Bank criteria for aid allocation, becoming one of the uses of IDA. Hence:

Proposal 4: Incorporate into the trade round explicit, legally binding undertakings both for intracountry compensation, financed out of the relevant national budget, and intercountry compensation, financed out of the IDA.

Expanding trade in services

Trade in services has enormous potential for expansion. It is probably the main case in which there is scope for mutual gains that are intrasectoral, so the bargaining should in principle be considerably easier than the grand bargain needed for the rest of the trade round.

The basic form of an intraservice sector deal would be that the OECD would not impose restrictions on outsourcing, in return for expanded market access for OECD companies in the integrating developing countries (perhaps extended automatically to the marginalized countries if this were part of the preferential access bargain discussed above). It would be strongly in the interest of the integrating developing countries to conclude such a deal, pre-empting what is otherwise liable to be a significant protectionist backlash. OECD protectionist sentiment seems far stronger against outsourcing than against low-wage manufactures. The difference may merely be one of familiarity, but with a pure labour service the labour time is directly traded, and the only reason for trading it is wage differences. By negotiating an intrasector deal, OECD governments would be able to present to their electorates gains in market access that were sufficiently similar to the outsourcing trade to be recognized as commensurate. Although the true benefits of outsourcing to the OECD do not depend on such reciprocated market access, mercantilist perceptions of trade are so deeply rooted in the OECD electorate that demonstrated reciprocity may be the most effective counter to protectionist pressures.

Enforcing agreements. A critical part of the GATT was its enforcement mechanism. Under defined circumstances countries (essentially the European Union, the United States and Japan) were permitted to deploy retaliatory trade sanctions—which, because they were permitted, did not risk spiralling into a trade war. Because all three countries had large markets on which significant industries in other countries depended, retaliation could be designed to trigger domestic political pressure on the offending government to desist from its offence.

If one of the big three OECD countries breaches its agreement with a developing country, this right to retaliation is very unlikely to work. Few developing countries have markets that are sufficiently important to industries in the big three to exert political pressure through retaliatory sanctions. This is an example of a more general phenomenon. To create for developing countries the same opportunities that

the GATT created for OECD countries, the rules need to be modified. One relatively straightforward way to modify the enforcement mechanism is to make the right to retaliation transferable. A country that suffered because of a breach in an agreement but was not itself in a position to exert pressure could then transfer its entitlement to retaliate to a country that was in a position to impose sanctions that would be politically damaging. Such transferability could be done either through a non-financial bidding process in which the country with the entitlement judged which of the countries willing to sanction would generate the most pressure, or through a market. Hence:

Proposal 5: Permit the right to retaliate to be transferable.

Facilitating liberalization between developing countries

Trade barriers between developing countries are much higher than those between developing and developed countries. Exports to markets in other developing countries face higher barriers than those to OECD markets—and higher barriers than faced by OECD exports to the same markets. Since, in aggregate, developing country markets are growing more rapidly than developed country markets, these differentially high barriers are likely to become a serious impediment to accelerated growth. Developing countries have yet to reap the gains from intrasector specialization that were the main rationale for trade expansion between OECD countries. Currently there are two routes to trade liberalization between developing countries—trade blocs and the MFN route. Both work much less well for developing countries than they do for developed countries, which is why barriers between developing countries are so high. After discussing the nature of these limitations, a possible hybrid that might work better is suggested.

Preferential trade agreements. Liberalization through regional preferential agreements has been the preferred strategy of most developing countries. However, despite the proliferation of developing country trade blocs (there are more blocs than countries), they have largely failed to reduce trade barriers.

One problem is that the incentives for compliance are weak. Often, heads of state treat regional trade bloc agreements as gesture politics; many agreements are signed without serious intentions to implement them, and indeed are mutually inconsistent. Complex and inconsistent

preferences provide customs officers with huge powers of discretion, so the agreements generate corruption rather than trade.

A second problem is that if the agreements were actually implemented they would usually generate large redistributions among neighbours, with some clear losers. As a general rule, a trade bloc favours the member with endowments closest to the global mean at the expense of members furthest from the mean (Venables 2003). Thus a developed country trade bloc favours those of its member countries with the lowest incomes and so experiences convergence (as with Portugal and Ireland in the European Union). By contrast, a developing country trade bloc favours those member countries with the highest incomes and so experiences divergence.

In theory, developing country trade blocs could reduce the problem of multiple countries all trying to bargain. The European Union facilitated the GATT because negotiating trade rounds became a matter for the EU rather than for each member country. However, in practice, this has not happened. The developing country trade blocs are not customs unions and so do not impose a single common tariff structure on members, each of which continues to bargain individually. Thus, if anything, such trade blocs complicate rather than facilitate WTO negotiations.

These disadvantages make it unlikely that trade blocs will ever be the dominant route by which trade barriers between developing countries are reduced. Nevertheless, the barriers are currently so high that trade blocs may have some role to play in reducing them. The issue is how to make them more effective.

One possible approach is to link preferential agreements between developing countries to improved access to OECD markets. The link with OECD markets is a good in itself and can help enforce market access between developing countries. Thus the North American Free Trade Agreement is both a preferential trade area between developed and developing countries and a potential trade area between developing countries. The Regional Economic Partnership Agreements introduced by the European Union are a similar concept.

MFN. Based on the experience of the OECD, the most promising route to liberalization between developing countries should be for the big players such as China, India, Mexico, Brazil and Indonesia to negotiate trade liberalization with each other while being bound by the MFN clause to extend it to other countries. This may, indeed, work. However even these large developing countries have far smaller shares of world

trade than the major OECD negotiating units, and so the free-rider problem is much more acute.

A limited MFN clause? Trade blocs—the only exceptions to MFN currently permitted—are regional, based on geographic contiguity. There is no political possibility of a maritime trade bloc between the big five developing countries, since it would have to span continents. Yet from the perspective of internalizing the benefits of trade liberalization, such a maritime bloc would be desirable. One way of simulating such an effect—making the negotiations between developing countries look more like the intra-OECD negotiations of the GATT period—would be to modify the MFN clause, permitting a developing country to reduce its trade barriers without preference between all developing countries but not the OECD countries. In their bargaining with the OECD, developing countries would still be bound by the MFN clause, so that any liberalization to the OECD would have to be granted to all countries. However developing countries could liberalize purely with each other, but only without discrimination. This would enable the big five to conduct reciprocal liberalization negotiations, with a much higher proportion of the benefits being captured by the countries themselves. This internalization should increase the incentives for developing countries to liberalize trade with each other. The concept might be thought of as introducing a most-favoured-developing-nation (MFDN) rule as an alternative to the MFN rule for developing countries.

As with the proposal of temporary preferences for marginalized countries, this is an example of modifying the rules so as to create conditions that give some countries today the same chances that other countries took in the past. Opportunities depend not only on the rules, but also on structural characteristics of countries. The radically smaller shares in world trade of the big five developing countries as compared with the United States and the European Union is a structural difference that makes the MFN clause much more destructive of the incentive to bargain with each other. Hence:

Proposal 6: Permit developing countries to reduce tariffs to all developing countries but not to developed countries (MFDN) as an alternative to being bound by the MFN rule.

Internal organization of the WTO

The WTO is a hybrid of two models: the GATT and the International Financial Institutions (IFIs) and UN agencies. The key changes from the GATT are that the marketplace for reciprocity has been expanded to cover services, intellectual property and investment, and membership is now virtually global. If the WTO is to evolve into an agency comparable to the major IFI/UN agencies, it should establish an agreed goal, achieved by a secretariat charged with a mission that is supervised by governments, and a component of this goal should include a transfer from OECD countries to developing countries. Many of the new members of the WTO—developing countries—joined not to take part in a marketplace but to participate in such a purposive and redistributive global agency.

Facilitating the marketplace. GATT negotiations basically involved three parties—the United States, the European Union and Japan. WTO negotiations cannot be determined by these three parties in anything like the same way; yet moving from 2 to 147 bargaining units makes the sheer mechanics of reaching agreements within a very limited time table much more difficult. In response most countries have joined one or more negotiating blocs. However these blocs are fluid and have no formal status in the negotiations. It may be useful to construct more purposive blocs and to formally recognize them. It may even be possible to move to a board structure analogous to the IFIs. For illustrative purposes, the board might consist of the United States, the European Union, other OECD countries, the big five developing countries, other middle-income countries and other low-income countries. Each bloc would automatically be represented in all negotiating committees. Each might have the power of veto, while within blocs countries could agree on whether unanimity was required. Such structures would make it easier to get swift consultation among countries during the meetings.

Empowering the secretariat. The proposals above would retain inter-country bargaining as the core function of the WTO. Its key public good is indeed the provision of a marketplace for such bargaining. However they would add functions such as the negotiation within the OECD of an unreciprocated improvement in market access as a transfer, which would make the organization more like the IFIs. Such additional functions would require that the secretariat move from pure facilitation to the achievement of stated goals, and this in

turn would be helped by a modified structure for supervision of the secretariat. Hence:

Proposal 7: Create formally recognized blocs of countries, each represented on a supervisory WTO board and with veto power, and empower the secretariat to undertake specified new functions, subject to this supervision.

Note

1. “Transfers” do not mean direct financial transfers such as aid, but rather all forms of unreciprocated generosity, such as the granting of market access on an unreciprocated basis.

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The World Trade Organization: An Assessment

3 Chapter

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The Secretariat of the International Task Force on Global Public Goods has identified trade as one area for in-depth analyses. Based on these analyses, the Task Force will make specific, concrete recommendations to the international community aimed at increasing the supply of global public goods. The Task Force will also make recommendations on how the international community can better organize itself to provide such goods and how to increase the effectiveness of the institutions established for this purpose.

The World Trade Organization (WTO) is regarded as the central secretariat for the underlying government processes overseeing the delivery of global public goods (GPGs) in trade. This chapter assesses how well the WTO fulfils this role, makes recommendations on how to improve its effectiveness and explores whether and how other mechanisms, including voluntary networks or other institutions, can play complementary roles.

The WTO has four main functions as an institution responsible for delivering global public goods in trade. It provides a forum for multilateral negotiations to liberalize trade in goods and services. It sets and administers the rules governing international trade and trade-related issues. It provides a mechanism for settling disputes between members from implementation of the rules. It provides a setting for reviewing members' trade policies.

The first section reviews the issue of trade and the trade regime as a GPG. The second section discusses the WTO mandate and those of other institutions whose activities affect the operation of the global trade regime. The third section discusses some key issues related to the rules governing the global trade regime. Subsequent sections contain an institutional assessment of the WTO, including its governance, structure and procedures, budget, monitoring, surveillance, evaluation and dispute settlement. Then some of the main issues being debated in the

Doha Round are examined, including a number of proposals previously made to strengthen the trade regime in ways that would result in a more equitable distribution of benefits among all countries. The penultimate section assesses how other organizations, including volunteer networks, can complement the WTO. The final section presents a summary of the main conclusions and recommendations.

Trade, the World Trade Organization and global public goods

International trade is not a global public good but typically involves transactions between private individuals for private gain. These private transactions may or may not have effects on others, and thus generate positive externalities just as domestic transactions do; and some of these externalities may be cross-border (such as importing a machine embodying a more productive technology, which can be readily imitated). Were international trade totally free, then these transactions would have required coordinated government intervention to maximize world welfare. But these transactions typically involve a very minor portion of total trade flows and are not the main justification for considering trade as a GPG.

International trade can increase spontaneously across national borders unless governments take steps to restrict it. If a government already restricts trade, it can stimulate trade—and the benefits its nationals derive from it—by unilateral trade liberalization. However, when all governments restrict trade, the potential benefits from trade can increase for all through multilateral liberalization as well as the establishment of a regime of trade rules and mechanisms for adjudicating disputes that arise from implementing the rules. Thus the international trade regime and the rules it embodies can generate important cross-border externalities that contribute to development and poverty reduction—making it a proper focus for attention by the international community.

In considering the global trade regime as a GPG it is important not to adopt a narrow definition of such goods. The trade regime implemented through the WTO meets the criterion of non-rivalry, because having more countries join the trade regime does not detract from the benefits to existing members. In fact having more members would tend to increase the regime's legitimacy and credibility (Mendoza 2003).

But it is not clear that the present trade regime (or previous ones) meets the criterion of non-excludability. WTO members can exclude non-members from the rules that govern trade transactions with them. For example, WTO members have applied and continue to apply dif-

ferent rules on anti-dumping and safeguards to non-members. In the 1970s and 1980s the Council for Mutual Economic Assistance (CMEA) had a different set of rules governing trade among its communist country members than the General Agreement on Tariffs and Trade (GATT), and GATT members applied different rules to trading with CMEA countries than they did among themselves. The fact that any country can join the WTO, provided it follows the rules, does not help. Indeed the WTO accession process has no standard rules. Newly acceding countries are typically forced to accept more onerous obligations than existing members at similar levels of development, a serious concern for many developing countries (see below).

Similarly, it is important not to limit the justification of the WTO and the trade regime that it administers as a GPG to the issue of multilateral negotiations for mutual reductions in trade barriers. The justification offered in this respect by some authors (see, for example, Staiger 2006) is too limiting for several reasons. First, the undervaluing of the costs imposed on the international community from protection by big countries or country blocs, such as the European Union (EU), and the resulting incentives to co-operate in mutual reductions of trade barriers rests on a critical assumption not valid for most WTO members—the assumption that protection imposes a terms of trade cost on trading partners. This is true only for big economies with a lot of trade whose actions can affect the world price of tradables. It does not apply to the vast majority of WTO members, which are developing countries with small economies whose protective actions do not typically affect international prices and probably hurt only themselves.¹

Second, and perhaps more crucial, negotiations for mutual reduction of trade barriers is an important, but certainly not the only, function of the WTO. One can debate how central this function should be to the WTO's future (see, for example, Collier 2006). But the fact is that the WTO administers many agreements containing rules on a lot of trade and trade-related matters, including the Sanitary and Phyto-Sanitary Measures (SPS), Technical Barriers to Trade (TBT), Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Trade-Related Aspects of Investment Measures (TRIMS). It also operates the Dispute Settlement Mechanism (DSM) as well as a Trade Policy Review Mechanism (TPRM). All its rules and mechanisms need to be considered in examining the effectiveness of the WTO as an institution responsible for delivering the global public goods on trade. Thus it is appropriate to adopt a broad definition of GPGs consistent with the Task Force Secre-

tariat's definition, which would include all issues on trade negotiations, trade rules dispute settlement and trade policy review important to both developed and developing countries.

The WTO mandate

The legal mandate of the WTO derives from the Marrakesh Agreement of 1994 signed by the countries that participated in the Uruguay Round of trade negotiations launched under the auspices of GATT in 1986. The WTO was established on 1 January 1995 to “provide the common institutional framework for the conduct of trade relations among its members in matters related to the agreements and associated legal instruments” (article 2). This included a total of 22 agreements, including a revision of the GATT and several new agreements, such as on intellectual property rights and trade-related investment measures (WTO 1995).

Article 3 of the Marrakesh Agreement sets out the four main functions of the WTO as follows:

- Facilitate the implementation, administration and operation and further the objectives of these trade agreements.
- Provide the forum for negotiations among members concerning multilateral relations.
- Administer the Dispute Settlement Understanding.
- Administer the Trade Policy Review Mechanism.

The mandate, scope and functions of the WTO are clear and very broad. Indeed some feel that the WTO mandate is too broad and that it should never have been extended to cover such areas as TRIPS because of the costs for developing countries.² But the institution plays a central and preeminent role in shaping the rules and procedures that govern international trade today.

From the 1960s to the early 1980s the United Nations Conference on Trade and Development (UNCTAD), rather than GATT, was the institution within which developing countries sought to develop policies and initiatives that helped promote their trade interests (see box 3.1).³ The resolutions and other agreements reached under UNCTAD did not have the legally binding nature of GATT or WTO agreements. But they did influence the conduct of international trade. And today UNCTAD, both as an institution and in its legacy, continues to play a role in the trade system in several ways:

Box 3.1 The UNCTAD legacy and the GATT

In the period of its strongest influence, UNCTAD and its activist secretariat focused on several approaches and initiatives: the 1966 Generalized System of Preferences (GSP) for developing countries, subsequently given legal status under a GATT waiver; commodity trade agreements aimed to stabilize and, to the extent possible, raise prices of primary commodity exports in developing countries—leading ultimately to the establishment of the Common Fund for Commodities in 1981; and the notion that industrialization promoted through protection can be good for development. This last notion found expression in a limited way in the infant industry argument for protection embedded in GATT Article 18, but was more forcefully articulated in the Enabling Clause of the GATT that permits non-reciprocity for developing countries in trade liberalizing negotiations and in other aspects of SDT.

UNCTAD's relative importance in affecting the international trade regime diminished in the 1980s for a variety of reasons. Developing countries' attitudes started to change, with many countries in East Asia and Latin America moving towards more outward-looking development policies. These same countries realized that by not participating in the GATT reciprocal negotiations they missed the opportunity to negotiate reductions in trade barriers towards their exports in developed country markets. The GSP benefits turned out to be much less than originally envisaged, as did the usefulness of commodity agreements—and the Common Fund. Perhaps most important, the funding for UNCTAD's activities, which depended heavily on developed country contributions, was severely cut.

The relative shift favouring the GATT was highlighted when several developing countries in Latin America, such as Mexico and Costa Rica, decided to become GATT members. The symbolic shift occurred in 1986 when the GATT ministerial conference launching the new round of multilateral trade negotiations took place for the first time in a developing country, Uruguay. Then Foreign Minister Enrique Iglesias played a key role in mobilizing support for the round in Latin America and in the successful outcome of the conference. Like the Doha Round, the conference in Punta del Este was intended to launch a round that addressed developing country interests.

- Jointly with the WTO, it sponsors the International Trade Centre (ITC), which has a mandate to provide technical assistance to developing countries on export promotion.
- It provides technical assistance to strengthen trade-related capacity in developing countries.
- It holds global conferences every four years in which non-binding resolutions are passed on matters concerning international trade, which frequently articulate views of developing countries.
- It tends to support industrial protection as a vehicle for development, an approach that enjoys widespread support in many low-income developing countries.

Other institutions play a role in international trade. Perhaps the most important are the World Bank and the International Monetary Fund (IMF). The articles of agreement of both institutions explicitly call for them to promote and facilitate balanced growth of world trade. Both

are active in technical and financial assistance programmes in support of trade-related institution building in developing countries, and both are strong advocates of trade liberalization.

Other international institutions have been established in recent years to assist developing country participation in the WTO and the trading system more generally. The South Center provides research and analysis on trade issues of importance to developing countries. The Agency for International Trade Information and Co-operation (AITIC) provides technical assistance and information on WTO issues primarily to low-income developing countries and countries in transition, focusing on countries that do not have resident missions in Geneva. The Advisory Center on WTO Law provides assistance to developing countries involved in trade disputes. They all complement the WTO in support of the international trade regime.

In the past decade voluntary organizations such as the Third World Network, the Quakers and Oxfam have focused more attention on the WTO and its role in promoting developing country interests. Their analyses, often critical of the WTO, have also helped formulate public opinion and actions by the international community. Some have worked closely with developing countries during specific negotiations.

One question that needs to be addressed in the Doha Round is whether the WTO mandate should stay the same or be rolled back. Some argue that the WTO mandate should be strictly limited to trade liberalizing negotiations. Others think it should be expanded further.

In addressing these questions, perspective is important. GATT has been considered a success because of its contribution to liberalizing trade in manufactures among developed countries. Yet in many countries—both developed and developing—unilateral (autonomous) trade liberalization has been even more important than multilateral liberalization and certainly more important than regional liberalization. Multilateral liberalization has been more important among developed than developing countries (Subramanian and Wei 2003). But even in the United States, it is estimated that two-thirds of the reduction of protection from tariffs during 1934–67 was due to the effect of inflation in reducing the real protection afforded by specific tariffs and only one-third due to the reductions negotiated multilaterally under the early GATT rounds (Irwin 1998). A recent study showed that for developing countries from 1986 to the present, about 65% of trade liberalization was due to autonomous actions, about 25% due to multilateral liberalization and only 10% due to liberalization linked to regional preferential trade arrangements (World Bank 2004).

At the same time, the GATT failed to liberalize trade in agriculture or services, while it legitimized developed country protection in textile and clothing through non-tariff barriers in explicit violation of one of its fundamental principles. Thus it could be argued that UNCTAD's advocacy for industrial protection to promote import substitution paralleled the GATT's exclusion of agriculture and textiles from multilateral trade negotiations. Both developing and developed countries used the institutions they controlled to establish policy space, enabling them to protect sectors of interest to them.

It is too soon to assess the WTO's success or failure to achieve its objectives. The WTO is a far more ambitious endeavour of the international community than the GATT. It attempts to cover a far broader range of issues and to reconcile the interests of a broader variety of countries, and it operates a far more decisive dispute settlement mechanism, which does not allow an offending party to unilaterally prevent the implementation of an adverse judgement—as was the case under the GATT. But it is not too soon to develop proposals that would enhance the role of the WTO in promoting global trade and development.

The WTO rules

The WTO agreements contain the rules that constitute the global trade regime. Several main principles guide the agreements: most-favoured-nation (MFN) treatment, which involves non-discrimination in the treatment of different foreign suppliers; national treatment, meaning that foreign suppliers are treated the same as domestic suppliers; transparency, which essentially requires the use of tariffs and taxes instead of quantitative restrictions in controlling trade; and reciprocity, which means that countries are expected to match trade liberalization commitments. Exceptions to these basic principles are permitted under well defined circumstances spelled out in the agreements.

The agreements often describe in great detail the rules of conduct for members on a variety of issues, many of them very technical. Despite their specificity, the rules are subject to different interpretations which can result in disputes. The decisions of the DSM add to the body of international law guiding future trade practices. The rules are not immutable but subject to change, usually agreed in the negotiating rounds.

Developing countries have argued since early in the GATT's history that their development status requires that they be subject to different and

more favourable trade rules than everybody else (Michalopoulos 2001). This principle was accepted in the GATT and later in the WTO, and has been enshrined as special and differential treatment (SDT) for developing countries. Another subgroup—the least developed countries (LDCs)—are supposed to be provided with even more favourable treatment.⁴

The WTO agreements contain numerous provisions for SDT. Some are exhortations whose implementation is difficult to evaluate; others are very specific and relate to a particular aspect of country policy.

Several conceptual premises underlie the provision of SDT. The fundamental one is that developing countries are intrinsically disadvantaged in their participation in international trade, so multilateral agreements involving them and developed countries must account for this weakness in specifying their rights and responsibilities. A related premise is that trade policies that maximize sustainable development in developing countries differ from those that do so in developed economies and hence that policy disciplines applying to developed economies should not apply to developing countries. The final premise is that it is in the interest of developed countries to assist developing countries in their fuller integration and participation in the international trading system.

Based on these premises the provisions introduced in the WTO agreements fall in two broad categories: positive actions by developed country members or international institutions and exceptions to the overall rules contained in the agreements that apply to developing countries (with occasional additional exceptions for the LDCs) (Michalopoulos 2001).

Developed countries have agreed to take three kinds of actions to support developing countries' participation in international trade:

- Provide preferential access to their markets, such as through the Generalized System of Preferences (GSP).
- Provide technical and other assistance to permit them to meet their WTO obligations and otherwise enhance the benefits developing countries derive from international trade.
- Implement the overall agreements in ways that are beneficial or least damaging to the interests of developing countries and LDCs.

There are two fundamental ways in which developing countries and LDCs have accepted differential obligations under the WTO agreements. First, they enjoy freedom to undertake policies that limit access to their markets or support domestic producers or exporters in ways not allowed to other members. Examples include the general exemption from

reciprocity in trade negotiations with developed countries to reduce or remove tariffs and other barriers to trade. Similar provisions for non-reciprocity are included in the GATS, Article 19:2, which states: “There shall be appropriate flexibility for individual developing countries members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation.” Second, developing countries and LDCs get more time to meet obligations or commitments under the agreements. In some cases, more favourable treatment involves a combination of both ways.

One key issue for the international community in the Doha Round is the nature and scope of SDT and which countries should receive it. Another very important issue, perhaps the greatest challenge faced today by the WTO’s rules-based system, is the proliferation of preferential trade agreements (PTAs). Hundreds have been established bilaterally between countries, or various country groupings, many of them regional, some involving developed and developing countries, some among developing countries themselves. Since 1990 the number of PTAs in force has increased from 50 to 230 (World Bank 2004). Many developing countries are members of a very large number of agreements and have difficulty implementing them.

These agreements have several consequences for the multilateral trading system. In one sense, PTAs create a more open system by reducing trade barriers among participating countries. But they also pose very significant dangers. Preferences for some countries mean discrimination against others. Non-discrimination and the provision of MFN treatment has been one of the fundamental principles—one could argue the cornerstone—of the GATT/WTO system, and it is being undermined by the proliferation of PTAs. Moreover, these agreements undercut support for multilateral trade liberalization because that would cut into the preference margins of countries participating in PTAs. A recent report by a Consultative Board appointed by the WTO Director-General expressed deep concern about the spread of PTAs and recommended that governments need to show restraint or risk damage to the multilateral trading system (WTO 2005).

PTAs, or more precisely free trade areas and customs unions, are permitted in the WTO (GATT Article 24) under certain conditions. All participants who are WTO members are supposed to notify the WTO of the preferential agreements in which they participate. A standing WTO committee is supposed to review these agreements and determine whether they are consistent with WTO provisions. This system

has so far failed completely; many agreements have not been notified, and nothing forces members to notify anything if they do not wish to. And the WTO Committee has failed (except in the case of the Czech-Slovak customs union, no longer in existence) to reach agreement on whether any of the several dozen agreements that have been notified and reviewed meet the GATT conditions.

The question of tightening the rules and disciplines on regional and preferential trade agreements is on the Doha Round agenda. It will have to be addressed as one of the main issues facing the international trade regime.

WTO structure, governance and procedures

The WTO has 150 members, accounting for more than 97% of world trade. Thirty other countries are negotiating membership. Decisions are made by the entire membership, typically by consensus. A majority vote is also possible but is not commonly used.⁵

WTO's top decision-making body is the Ministerial Conference, which meets at least once every two years. Below this is the General Council (normally ambassadors and heads of delegation in Geneva, but sometimes officials sent from members' capitals), which meets several times a year in WTO's Geneva headquarters. The General Council also meets as the Trade Policy Review Body and the Dispute Settlement Body. At the next level, the Goods Council, Services Council and Intellectual Property Council report to the General Council. Numerous specialized committees, working groups and working parties deal with individual agreements and other areas such as the environment, development, membership applications and regional trade agreements. There is a great effort to ensure that the geographic distribution of committee and council chairs, especially the most important ones, reflects a balanced representation of all members. Thus the majority of the chairs is from developing countries.

WTO is a member-driven organization—most of the analyses and preparations for the day-to-day work of the organization (many committee meetings, preparations for the major negotiating rounds and all decisions) are made by the members through their delegations in Geneva or in the home country. The weak analytical capabilities of developing countries, especially the smaller and poorer ones, place them at a significant disadvantage in participating effectively in the WTO. This

disadvantage is compounded by the lack of representation in Geneva. Both constraints mean that developing countries require and receive assistance from other organizations such as UNCTAD, the South Center, AITIC and voluntary groups in preparing to participate in the WTO.

The secretariat

The WTO Secretariat, based in Geneva, is headed by a director-general elected by members, normally for a four-year term. It has about 630 staff members, only about a third of whom, mostly lawyers and economists, are substantively involved in the work of the WTO. Most of the rest are support staff, including a large number of interpreters and translators. The director-general has considerable independent authority in hiring and firing staff. Because the organization is relatively small, staff turnover is limited. Vacancies are open to competition and advertised in notices on WTO's Web site and distributed to all member governments. After the director-general approves the selection, an appointment offer is sent to the selected candidate (WTO official Web site).

The secretariat does not have the initiating and decision-making role that other international bureaucracies have. It takes no official position on any WTO policy issues, and there is no official clearance procedure for WTO statements (see box 3.2). Its main duties are to supply technical support for the various councils and committees and the ministerial conferences, to provide technical assistance for developing countries including on matters of accession, to analyse trends in world trade and to explain WTO affairs to the public and media. A good portion of staff time is devoted to taking minutes and clearing them with the participating members, as well as preparing background reports at the request of members.

Box 3.2 The WTO has no position...

In 1999, on secondment from the World Bank to the WTO Secretariat, I was asked to represent the WTO at an international meeting on small island economies in St. Lucia. After preparing a short statement for the meeting, I sought clearance for the statement from two senior WTO officials. I was advised that while it was appropriate to seek the advice of senior staff and managers on the issues, it was inappropriate to seek their clearance. There were no WTO clearance procedures, because, if they existed, members would wish to be involved, disagreements would arise, and nothing would get cleared. I was told to make clear at the meeting that I spoke strictly on a personal basis. Similar disclaimers are routinely made by all WTO staff, even the most senior, when participating in international meetings.

The WTO has no enforcement mechanism regarding the agreements it helps administer, other than that provided through the DSM. The director-general does not have the authority to initiate a dispute settlement case, no matter how blatant the violation of WTO rules may be. Only members can bring cases if they believe another member(s) have violated the agreements. The secretariat cannot force a member to meet its obligations, as required by the various agreements. Consequently, the information available to the secretariat, even on such basic matters as the currently applied tariff rates, is incomplete. Even that information is not supposed to be made public, although national tariff schedules are in each country's public domain.

The WTO Secretariat is working with UNCTAD, ITC and the World Bank to put together a comprehensive and consistent database on trade measures that goes beyond the information collected through the WTO. This work has high priority. WTO members should be encouraged to make complete market access data publicly available. Information about trade flows and restraints on market access is a public good and should be readily available to not-for-profit institutions at no cost. If that does not happen, developing countries are disadvantaged because they have both limited financial resources and limited research capabilities.

One enforcement mechanism has been used to penalize members who are in significant arrears in their budget contributions. Members that fall behind progressively lose some privileges, from the distribution of documents to the right to chair WTO committees and ultimately the loss of voting privileges or the right to receive technical assistance (at which time they are declared inactive). More than 20 developing countries had been declared inactive in the late 1990s, mostly LDCs. Following a 1998 WTO Council decision, LDCs in arrears are no longer barred from receiving technical assistance. But the rest of the penalty structure remains in place. The enforcement mechanism is based on a GATT Council decision made just before the WTO was launched. It has been applied only to budgetary contributions, but there is no reason why the council could not also use it to discipline members on other issues.

Strengthening the role of the secretariat is one of the recommendations often made in reviews of the functioning of the WTO as an institution (Blackhurst 1998). The question is how to do so.

One possibility would be to give the director-general the authority to notify the membership of actions by members that may be in violation of the various agreements. Such an extension of the director-general's role may have some desirable features in terms of

opportunities to strengthen the GPG aspects of the trade regime. But it is very unlikely to be acceptable to WTO members. It would require a change in the agreements setting up the DSM as well as a basic change in the philosophy regarding the DSM; and it would be a radical change from the member-driven nature of the WTO, one that members would find hard to swallow.

But somewhat more modest changes in the secretariat's role should be feasible. The recommendations of the Consultative Board on strengthening the role of the secretariat are disappointing. They call only for the powers and duties of the director-general to be spelled out, as called for by the Marrakesh Agreement; for technically competent staff and a stronger management culture; and for the budget, a "need for meaningful increases and annual growth rates in excess of other better funded institutions"—whatever that may mean (WTO 2005).

Far more is needed. First, it should be possible for the secretariat to develop independent views on international trade policy issues being considered in the WTO bodies. Second, it should be possible for the secretariat to initiate (after adequate consultation with members) analyses and make recommendations for more effective implementation of the agreements or even proposals for changes in the agreements, as part of preparing for negotiating rounds. Such a change would require a substantial expansion of professional staff, perhaps up to 40–50 more professionals, as well as a larger budget.

Consensus building

Any institution based on consensus building must develop formal and informal processes to reach decisions. In principle any member can block a decision by casting a negative vote. It was clear, even in the GATT—where developing countries had a majority of votes but played a decidedly lesser role—that it would be futile to exercise voting strength either to block major progress or to force developed countries to implement obligations not freely accepted (Evans 1968). In practice there is rarely any voting. This puts a premium on consultation, both formal and informal, that builds consensus.

It is very difficult to conduct consultations, or any kind of business activity, when everybody has to be consulted about everything. Thus, although the General Council (the ultimate decision-making body where all members are represented) and the various subsidiary bodies and committees meet frequently, informal consultations take place even more often.

The WTO agreements refer frequently to developing countries as a group, especially in the context of providing SDT, but there is no official WTO definition or list of developing countries.⁶ Countries decide whether they consider themselves “developing” countries.

A developing country group in the WTO holds consultations relatively infrequently. Developing countries often do not have a common position on major issues before the WTO because of growing disparities in their income levels, trading interests, integration in the international economy, institutional capacities and participation in WTO affairs. Some—for example, Mexico, the Republic of Korea and Turkey—are also members of the OECD and, on some issues, share the outlook of the developed country members of that group. Others find that, on some issues, their interests coincide with developed country members; hence they participate in groups with mixed memberships. Still others find it more convenient to consult in smaller, more homogeneous groups, such as the LDC group, the Small Island Economies or the Land-Locked Group; and of course there are several other regionally oriented groups, such as the African group and ASEAN, whose members also consult. Still other groups involve developing countries that share a common preferential agreement in a major developed country market, such as the Asia–Caribbean–Pacific (ACP) group. This group, with the addition of the LDCs and a number of African countries, has formed the Group of Ninety (G-90), the largest single grouping of developing countries in the Doha Round (although only 64 of the countries are WTO members).

The agriculture sector traditionally has had mixed developed–developing country groupings, such as the Cairns group of major agriculture exporters. During the WTO Ministerial in Cancún, different groups emerged. First, there is a Group of Twenty (G-20) developing countries, mostly large and important participants in international trade. The group was formed primarily to develop a significant counterweight to the developed countries, especially the United States and the European Union, on agricultural issues of great importance to developing countries. The formation of this group is a significant development because it includes both major agricultural exporters and importers such as India and China, as well as an LDC, Tanzania, that has been a leader in that group. The G-20 has subsequently expanded its focus and forms common positions on other issues of the Doha Round. Second, a mixed Group of Ten (G-10) developing and developed countries that share an essentially protectionist philosophy on agriculture has been taking common positions in the Doha Round. Negotiations between these

groups (or their representatives) and the United States and European Union have been essential for the continuation of the Doha Round negotiations.

When issues of importance to the WTO as a whole require consultations, they usually involve the director-general and a smaller group of members. That group usually includes the major trading countries, both developed and developing, and others judged to be representative of the views of the remaining membership. The actual composition of this group (until recently called the Green Room Group because it met in the director-general's green conference room) tends to vary by issue. But on issues of general importance to the organization it could consist of 30 members. In such meetings the representative of the European Union speaks on behalf of the 25 members of the European Union (all of whom are members of the WTO individually), so developing countries may actually form the majority of voices in some consultations.

For a period in the late 1970s and early 1980s an effort was made to formalize the establishment of a smaller group of countries to use as a vehicle for regular consultations in the GATT. This so-called Consultative Group of Eighteen included 10 developing countries. Although from time to time there have been suggestions to revive such a group in the WTO, it has not been possible, partly because of difficulties in accommodating all the countries who would want to participate, partly because the countries would not feel that other members would adequately represent their interests and partly because countries end up having different alliances on different issues. So the loose and flexible consultation formula has remained in place. For these reasons, also, neither the weighted voting nor the related representation formula, whereby one country represents several others (frequently at vastly different levels of development) present in the decision-making bodies of the IMF and the World Bank, has been at all in favour in the WTO.

Developing consensus is extremely important before and during WTO ministerial meetings when important decisions are taken. Developing countries have voiced two kinds of complaints regarding their capacity to influence the issues addressed by the WTO and to ensure that the agenda of negotiations reflects their interests. First, they were concerned about their inability to undertake research and analyses and to develop proposals of interest to a large group of developing countries, which can then be presented for consideration by the WTO members. These concerns should be alleviated. The Doha agenda contains many issues of interest to developing countries, and certain issues (investment

Box 3.3 Decision-making by consensus at its worst

Decision-making by consensus has many advantages and, by and large, has worked over the years. But the need to do everything by consensus means that any government can stop any WTO action, even the most trivial, for any reason, however irrelevant. Below are two examples of decision-making by consensus at its worst.

- Macedonia applied to join the WTO in 1994, but its request was stalled for several years by European Commission (EC) objections to the initials designating Macedonia's name in WTO documents. WTO accession documents carry the designation WT/ACC followed by a three-letter abbreviation of the country's name, plus the number of the document. Macedonia wanted to use MAK. The EC objected because this implied that the country's name was Macedonia, and the EC wanted to use Former Yugoslav Republic of Macedonia. Neither side budged for several years, until finally the secretariat decided to use three numbers instead of three initials to designate the country's name. The Former Yugoslav Republic of Macedonia became a WTO member in 2003.
- Like all organizations, the WTO Secretariat publishes an annual directory of its staff and a list of members' staff accredited to the WTO with telephone numbers and locations of their offices. Between the fall of 2002 and late 2004, the WTO directory was not issued, because China and Taiwan disagreed over the way Taiwan's name appeared in the directory. AITIC filled the information gap in part by publishing in its Web site the names of newly arrived ambassadors and heads of WTO delegations.

and competition) whose inclusion many developing countries had opposed have been dropped from the negotiations.

The second kind of developing country complaints relate to the process used in Ministerial Conferences to develop consensus, a process that they feel tends to ignore the interests of many developing countries. WTO Ministerials put an especially heavy burden on processes to build consensus, because such conferences attempt to deal with a large range of issues in a very short period. Barring adequate preparation and consensus development before the conference, it would be extremely difficult to devise procedures that would permit both effective negotiation and full participation at the conference itself.

Consensus decision-making is essential for any actions that affect the legal rights and obligations of governments as they do under the WTO. No government will cede this right. But serious negotiations are simply not practicable if every issue must be discussed in a body as large as the General Council. Green room-style meetings need to be small enough to enable effective negotiations—but all the major developed and developing countries need to be present if the results are to command consensus support. This means that very few of the many small developing countries are ever included in such consultations, prompting many to complain that their interests are not taken into account.

In the aftermath of the failure first of the Seattle and later the Cancún Ministerial, a variety of proposals have circulated aimed at making the decision-making processes more fair, transparent and inclusive. Some advocate a UNCTAD-type system with regional groupings. Others propose variants on the World Bank and IMF constituency groupings.

The problems with proposals for weighted voting were noted earlier. The best route appears to be not to abandon the consensus system, but to make it work better. The central principle of reaching decisions by consensus should be retained, as should the practice of smaller negotiating groups. But an effort should be made to ensure that participation more truly represents the membership and the range of subjects discussed. Moreover, deliberations in the smaller groups should be promptly reported to an open meeting of all members, giving an opportunity for countries to participate and express views. And more information about the deliberations needs to be made readily available to the public to increase transparency. Implementation of these procedures should be left to the director-general. The challenge is to put these procedures in practice during the pressure-packed ministerial meetings. These meetings are unlikely to produce significant progress unless there is more consensus on the issues before the actual meeting.

The Consultative Board proposed establishing a consultative body of senior officials chaired by the director-general, without executive powers and with limited and possibly rotating membership, to meet on a quarterly or six-month basis (WTO 2005). To some extent this reflects existing practice; such meetings of senior officials are usually called on an ad hoc basis before Ministerial Conferences or at other times, as needed.

WTO budget and aid for trade

The demands on the WTO have grown significantly in recent years. Although the budget has also grown, its growth has not been sufficient to permit the WTO to provide adequate services to members. The WTO's total 2006 budget is about \$140 million (WTO Web site). Most of its annual budget is drawn from member contributions, established according to a formula linked to their total trade and a minimum annual contribution.

The bulk of the budget is devoted to employee salaries. Only about \$10–15 million of the regular budget goes for technical assistance. This amount is totally inadequate to support the vast needs for trade-related capacity building in developing country members to meet their obliga-

tions under the agreements. To meet these technical assistance needs, at least in part, several donors have established trust funds managed by the WTO, which provide much larger funding for technical assistance and training than does the regular WTO budget.

There are two sets of issues regarding the WTO budget. The first minor one has to do with the adequacy of the budget to meet the secretariat's needs. The proposed expansion of the secretariat's role as well as increased activities by the TPRM, setting up more regular meetings of senior officials and the like, may well require additional funding of up to \$25 million a year. This should come from regular contributions from members. Not all of this funding would be additional, because the expanded analytical work of the secretariat would obviate the need for funding other national or international institutions to do analysis.

The second, more important budgetary issue is how to provide adequate financial and technical assistance to developing countries to meet their needs to strengthen their trade-related capacity and institutions. While trade-related assistance has expanded substantially in recent years, from both bilateral and multilateral sources, its continuance depends on those donors. They are not bound to do so. Several proposals suggest that future WTO agreements involving building capacity in developing countries include legally binding provisions committing developed countries to make such assistance available. Yet it is highly unlikely that any donor will agree to be bound by legal provisions to supply assistance.

Developing countries face three kinds of trade-related assistance needs: trade-related capacity building, involving primarily technical assistance and training to strengthen trade-related institutions, such as trade ministries, customs authorities and standards organizations; adjustment assistance linked to trade liberalization, especially for low-income developing countries with weak or non-existent safety nets; and overall development assistance, aimed at increasing supply capacity for exportables, improving transport infrastructure and the like.

Trade-related technical assistance is provided by numerous bilateral and multilateral agencies. Bilateral aid committed to assist developing countries with trade policy and regulations reached \$850 million in 2003–04. Even larger amounts, in excess of \$2 billion a year, are being provided for “trade development activities”, which cover a wide range of programs aimed to create a favourable business climate (Development Committee 2006).

Donors have focused their institutional efforts on the needs of LDCs, establishing an integrated framework (IF) for trade-related tech-

nical assistance coordinated and administered by six agencies (the IMF, ITC, United Nations Development Programme (UNDP), UNCTAD, World Bank and WTO). The IF involves primarily the preparation of so-called diagnostic studies whose recommendations are discussed in the context of Poverty Reduction Strategy Papers (PRSPs). After a slow start and a lot of changes, this initiative has generated several studies and positive results in some countries (Cambodia). But dissatisfaction with its scope, governance and implementation has been widespread. As a consequence, an Integrated Framework Task Force comprising LDC and donor representatives was created in the fall of 2005 and charged with a mandate to come up with recommendations for an “enhanced IF”, by the spring of 2006.

The IMF has also established a special funding facility—the Trade Integration Mechanism—for countries that face balance-of-payment adjustment problems following liberalization in third countries. The program has been used only sparingly (Bangladesh and the Dominican Republic) and is limited in scope, because it cannot deal with problems of domestic adjustment that result from trade liberalization.

The Hong Kong Ministerial meeting in December 2005 resulted in vastly increased attention to the subject of “aid for trade”. Donors engaged in a “beauty contest”, outlining proposals for increased commitments to aid for trade amounting to several billion dollars of annual funding. The definition of the kind of activities to be undertaken with these vast sums of money and their additionality was quite vague. The ministerial decided to establish yet another task force within the WTO to address questions of aid for trade and make recommendations to the General Council by July 2006. The mandate of this task force was wider than assistance to LDCs.

According to preliminary indications, the task force on the enhanced IF is going to propose that the IF continue to focus solely on LDCs and henceforth operate through a two-tier arrangement. The first tier would fund diagnostic studies (and human resource development in the developing countries to do these studies), while the second tier would be devoted to institution building to handle trade policy issues, strengthening export supply capabilities, strengthening trade support services, improving trade facilitation capabilities, training and human resource development in the above four areas, strengthening the trade-related regulatory and policy framework and project preparation for larger infrastructure activities and other export supply increasing projects. The enhanced IF would have a strengthened governance structure, especially in the developing countries, and a substantially enlarged secretar-

iat administratively housed in the WTO Secretariat but “with a strong firewall around it” (IF Task Force 2006). Projected funding for the IF activities would be consistent with the \$200–400 million proposal over five years, made by World Bank and IMF staff in the fall of 2005 (Development Committee 2005).

Even more preliminary indications about the work of the WTO task force of aid for trade suggest the this task force would propose a wider scope of activities accessible to all developing countries (including, for example, infrastructure), but would not propose any separate institutional arrangements for this assistance. Instead it would recommend that additional funding for aid for trade be made available to developing countries through existing institutional mechanisms. At this point there has been little effort to link the recommendations of either task force to the developing country needs under the trade facilitation negotiations, which explicitly require that technical assistance and support for capacity building, including infrastructure development, be addressed by developed country members; failing which, implementation obligations of developing countries will be waived (WTO 2004).

As of the time of this writing, it is unclear whether these overlapping proposals will produce institutional arrangements as well as adequate and predictable financing to address developing country needs. The position of the more advanced developing countries, who wish to maintain the illusion that all the developing countries—except the LDCs—are equally deserving of assistance, and of the LDCs, who fear a dilution of the benefits available to them, will result in the enhanced IF being limited only to LDCs, while equally needy non-LDC low-income developing countries will have to make do with the increased funding being made available through the aid for trade initiative. However it is highly doubtful that any funding provided ostensibly in support of this initiative will be truly additional. Developed countries, while often aware of the need to strengthen trade-related institutional capacity in low-income countries more broadly, are unwilling to devote official development assistance resources to middle-income countries that do not need them. Additionality is very hard to demonstrate in any case, but it is least likely to be present when it is expected to result from existing institutions devoting increased attention to a particular issue.

The location of the enhanced IF in the WTO Secretariat but separate from it is also going to be awkward and problematic. The WTO is not primarily a development assistance institution. It has no in-country representation and very limited links to the development of country as-

sistance strategies. Thus its role in providing technical assistance should be focused on activities and projects that can be effectively managed by its staff. They should probably be limited to technical assistance and training to developing countries to enable them to discharge the obligations entailed by WTO membership.

Donors presumably wanted to keep the IF Secretariat separate from the WTO Secretariat to keep the IF Secretariat free of the member pressures that affect the WTO Secretariat. The IF Task Force proposals emphasize the importance of country ownership for all initiatives and projects. Given the very weak project development capabilities of LDCs, they would need to be assisted by the proposed secretariat. But the creation of an independent secretariat with no links to in-country aid activities will impose a huge burden on the countries to design and develop effective assistance programs. It would have been much better if the secretariat had been located in and could draw on the expertise of a multilateral institution with a local presence in developing countries, such as the World Bank. But developing countries have been wary of World Bank involvement in trade matters, because they feel that it is likely to introduce conditionality in its assistance or promote more liberalization than they are willing to undertake. Locating the secretariat in the UNDP, the other institution with local presence, would have caused other difficulties. UNDP staff members have limited expertise on trade, and within the UN system it is UNCTAD rather than the UNDP that has a mandate to work on trade. UNCTAD, however, has no local presence in developing countries, and developed countries did not wish to expand its mandate to do this.

A good case can be made for the establishment of a global funding facility for trade to expand the supply of global public goods generated through the WTO. It is useful to pool resources for donors, especially among many smaller bilateral donors for whom it makes little administrative sense to have separate assistance programs. On the recipient side, it is also better to deal with one donor than with several. Low-income developing countries with limited human resources face tremendous difficulties in coping with a multiplicity of donors, all with different reporting and monitoring requirements. A multilateral facility also reduces the risk of biasing the aid provided to support donor trade interests (Lecomte 2004).

Such a new funding facility should have the following features (see Michalopoulos 2005):⁷

- Provide grant or soft loan assistance to strengthen institutional capacity in trade policy and regulation, design and implementation, trade support services, trade facilitation and trade adjustment.
- Beneficiaries should include LDCs, other low-income countries and vulnerable small island economies, but should exclude middle- and higher income developing countries that can afford to fund their own programs or do not need the assistance.
- Local ownership and participation should lead to programs that are well integrated with the overall development priorities and strategies of the recipients.
- In light of the weaknesses in these countries' capacity to design programs and projects, extensive assistance should be provided by an international secretariat.
- This secretariat should be affiliated with an institution that has local representation in developing countries and ample experience in assistance for trade and development, such as the World Bank.

It is unfortunate that the current negotiations in the Doha Round might result in aid for trade arrangements that are suboptimal, regarding both the coverage of beneficiary countries and the effectiveness of the assistance provided.

Monitoring and surveillance

The WTO monitors members' implementation of their commitments in two ways: first, by requiring notification of measures related to trade and trade policy as they are being implemented, consistent with the agreements; and second, through the Trade Policy Review Mechanism. But, as in other matters, monitoring is member-driven; members do their own monitoring of other members' implementation of the agreements. If they are being implemented in ways that one member considers injurious to its interests, they can become the subject of a dispute that is then adjudicated through the DSM. "[The] WTO is a multilateral agreement, but trade is a bilateral activity, and WTO rather ingeniously relies on the bilateral nature of trade to affect enforcement of its multilateral rules" (Barrett 2006, p. 34). The WTO has no evaluation entity that assesses the effectiveness of the institution in promoting its overall objectives or evaluates its technical assistance activities.

The shortcomings of the notification system were noted earlier. Many members do not meet their obligations, partly because they do not have the capacity to do so, partly through indifference and, on occasion, on purpose, as they withhold information from other members so as to force those members to provide information. The failure of the notification system to provide adequate information means that implementation is far less transparent than it could be. Steps need to be taken to strengthen it.

To increase compliance with reporting requirements—which would tend to increase transparency and information about the actual workings of the trade regime—it could be proposed that members who fail to meet their reporting requirements progressively lose some of their privileges, just as they do if they fail to contribute to the budget. But such a proposal must also address the problems of the many poor developing countries that lack the capacity to meet the reporting requirements. It would make sense to couple such an enforcement procedure with provisions that give ample time and technical assistance to developing countries.

The TPRM was considered a major breakthrough in international cooperation and surveillance of trade regimes when it was agreed under the Uruguay Round and put in place in 1989, several years before the Marrakesh Agreement establishing the WTO. Its main objective was to “contribute to improved adherence by all WTO members to rules, disciplines and commitments under the multilateral trade agreements by achieving greater transparency and understanding of the trade policies and practices of members” (WTO 1995, p. 434). The reviews, which occur roughly every three years for major trading countries and less frequently for others, gather detailed information on policies and institutions affecting both imports and exports over time and are reviewed and discussed by the country and the WTO members.

The review process was patterned after the Development Assistance Committee (DAC) reviews of country assistance programmes. It was hoped that the process would result in similar peer pressures to improve performance, in the sense of promoting the overall objectives of the multilateral trade system. It has failed to do so for three reasons. First, the TPRs are explicitly limited in that nothing in them can be used as a basis for a complaint under the DSM. Thus they do not seriously assess the consistency of member policies with the agreements. Second, they do not contain recommendations for overall improvement of member trade policies in general or in terms of their consistency with WTO objectives. Third, perhaps more fundamentally, they have failed to generate

the kind of peer pressure that can be generated at the DAC because, unlike their counterparts in the DAC, trade ministries do not share a common objective. In the DAC, beyond using bilateral development assistance to promote narrow national objectives, development agencies tend to share the broader objective of promoting development. In the WTO trade ministers tend to view the organization and the agreements solely in terms of promoting national trade interests, not global trade objectives. Consequently, the TPR process has started to lose its importance and significance.⁸

Strengthening the TPR system can make an important contribution to the generation of GPGs by increasing transparency and helping to increase the integration of developing countries in the world trading system. The TPRs need to be strengthened in two ways. First, procedurally, the secretariat should be given the authority to independently evaluate both developed and developing country policies as well as recommend ways to improve them. Second, the assessment of all countries' policies—especially developed and more advanced developing countries—should include an assessment of the effects of their trade and other policies on developing countries, especially the poorest and least well integrated in the world trading system. It should include developed country programmes of trade-related assistance to developing countries as well as other aspects of SDT, including the effects of preferential agreements on third countries.⁹

To evaluate the WTO and the effectiveness of its technical assistance requires establishing an independent evaluation unit. This unit would perform evaluation functions similar to those done by evaluation units in other organizations that assist developing countries.

Dispute settlement

WTO members cannot unilaterally define inconsistencies with the WTO agreements, nor can the secretariat. Such definitions are the exclusive privilege of the WTO adjudicating bodies. Thus a WTO member that believes another member's practices violate the agreements can request bilateral consultations. If they are not fruitful, they could lead to a procedure before a WTO panel. All panel findings can be appealed. At the end of the process, members at fault are granted a reasonable time period to implement corrective actions. If there is disagreement on whether the corrective actions were sufficient, a compliance panel and eventually the appellate body may also be requested to express

an opinion. If a panel or appellate body decision is not implemented, the complaining WTO member has the right to take countermeasures. These countermeasures involve essentially restrictions in market access to the offending party. For example, if the United States is found guilty of certain practices that injure EU exporters and does not take adequate corrective measures, the European Union could take steps to limit access of US exports to the EU market equal in value to the injuries.

The DSM has been very actively used by WTO members. Since its start in 1995, more than 300 cases have been brought before the DSM. Developing countries were involved in a larger proportion of cases as defendants and in a smaller proportion as complainants than their share of world trade would suggest. This may imply that developing countries have some degree of difficulty in bringing cases before the DSM. The process is quite expensive, and the poorer developing countries may not find it possible to pursue a complaint even when their interests are damaged (Michalopoulos 2001). For this reason, the Advisory Centre on WTO Law was established in 1999 to help developing countries in DSM issues.

But practically all disputes in which developing countries were defendants and most of those in which they were complainants involve a very small number (10–15) of relatively advanced developing countries. Poorer countries are not targets of complaints because their markets are so small they are not worth the trouble. Thus there is a degree of mismatch between the mandate of the Advisory Center to help poorer developing countries and its actual use; most of its clientele appear to be relatively advanced developing countries—those likely to be involved in the DSM.

Most of the cases presented in the DSM have been either settled or abandoned (presumably because the offending party took corrective actions) or the findings of the panel or appellate body voluntarily complied with by the defendant. Very few cases, about 10, have involved the imposition of countermeasures—that is, restricting market access to the defendant for non-compliance. Indeed no developing country has ever used countermeasures, except Brazil in its dispute with Canada over subsidies to small aircraft (Bagwell, Mavroidis and Staiger 2004). For good reason, developing countries typically have relatively small markets, and their restrictions are not likely to impose significant damage on large developed countries exporters and have no deterrent effect on their actions. More fundamentally, the remedy of market access restrictions is worse than the problem, as developing countries damage their own interests by restricting imports.

Several proposals have been put forth to address this problem. The simplest solution is to request the defendant to pay compensation in the form of monetary damages for the injury to the complainant—including attorney fees, which could be substantial. This straightforward solution has not proven politically acceptable to developed countries (Hudec 2002; Shaffer 2003). More recently, the Consultative Board recommended monetary compensation as a temporary measure, pending full compliance (WTO 2005).

Mexico has proposed that the complainant can auction the rights to countermeasures to other countries if restricting market access damages its own interest. The proposal could thus yield monetary compensation indirectly to a developing country. While there are some positive elements to this proposal (Bagwell, Mavroidis and Staiger 2004), there are also some downside dangers, primarily of a political economy nature, that could result when a third country is given the rights to apply countermeasures against, say, the European Union in a Thailand-US dispute.

Perhaps the most promising proposal is to mandate that a country that does not comply with a panel or appellate body decision within a certain time opens up its markets in another sector—that is, improve market access to the defendant in an equivalent way. Though it has merit, because it sidesteps the thorny issue of monetary compensation, this proposal still requires the goodwill of the defendant for enforcement.

The Doha Round

WTO members agreed at the Ministerial Conference in Doha in November 2001 to engage in a new round of multilateral trade negotiations. The Doha agenda is extremely ambitious (WTO 2001). Though the scope has been narrowed somewhat, the agenda still addresses a wide number of topics and could result in significant changes, which would have an impact on the WTO and the provision of GPGs in trade. The round covers negotiations to liberalize trade in agriculture, non-agriculture market access and services; to modify the rules, including those on regional trade (WTO 2001, para. 29), dispute settlement (para. 30) and accession, so as to facilitate the LDC membership (para. 10); to consider the mandate of the WTO in the environment (para. 31) and TRIPS (para. 25) and to expand it in trade facilitation (para. 27); and to provide SDT to developing countries and the LDCs.

Negotiations have been difficult, and there have been significant delays. The main sticking points have to do with the extent of liberalization in agriculture and manufactures (non-agriculture market access or NAMA). During the earlier stages of negotiation there was also extensive controversy on whether the WTO will expand its mandate in investment, competition, government procurement and trade facilitation. The countries' positions do not fall into neat divisions between developed and developing, and shifting alliances involve mixed groups. Developing countries, with the support of developed country exporters of agricultural products, have been pressing for greater commitments on the part of the European Union and the United States to reduce protection and export subsidies in agriculture, while arguing against expansion of the WTO's mandate to new areas.

Disagreements over these issues led to the failure of the Cancún Ministerial in late 2003. Subsequent negotiations resulted in an agreement in August 2004 that the modalities for negotiations in agriculture and non-agriculture market access should be agreed by the Hong Kong Ministerial in December 2005 and on dropping consideration of expanding the WTO's mandate in investment, competition and government procurement, while retaining trade facilitation as an area to consider (WTO 2004). The Hong Kong Ministerial failed to reach agreement on modalities but made some limited progress on a number of issues of importance to the developing countries and especially the LDCs (see below).

Further deadlines were missed subsequently, and as of the time of this writing, negotiations had been suspended; the outcome of the Doha Round was very much in doubt. Increased transparency and greater capacity to analyse proposals by all members, including developing countries, has in some ways made an agreement more difficult. In the past negotiators could put forth proposals whose impact could not be easily assessed, and their assertions had to be taken on faith. At present, increased informational flows and improved analytical techniques permit negotiators to assess the true worth of proposals (or lack thereof) quickly. Little is left to chance, making final agreement more difficult, but also more equitable.

The suspension of the Doha Round negotiations at the end of July 2006 means that at the very best there will be further significant delays in the conclusion of the round, if it is ever concluded. This is because the so-called Fast Track negotiating authority which permits the US administration to submit any Doha Round agreement for approval by the

US Congress on an up-or-down vote without the possibility of crippling amendments expires on 1 July 2007. The US administration has to submit the proposed legislation to Congress even before that, on 1 April 2007, and some time is needed to prepare the legislation following a final agreement. It is highly unlikely that the US administration will be able to get an extension of its authority before a new administration is elected in 2008. And the political scene in the various major negotiating countries will take several years to settle and permit a resumption of the negotiations.¹⁰

While there were many unresolved issues in the negotiations for both agriculture and NAMA, there was a critical nexus of three issues that have been linked together and on which further progress on practically everything else depends: the European Union's willingness to improve market access for agriculture products; United States' willingness to reduce domestic support for agriculture; and Brazil's and other higher income developing countries' willingness to decrease their protection of manufactures. A certain amount of progress has been made in several areas of the Doha agenda—for example, in services, anti-dumping and trade facilitation. But further negotiations in these areas have stopped, awaiting resolution of the main issues in agriculture and NAMA.

At the time of this writing, two basic scenarios are still feasible regarding the outcome of the Doha Round:

- A minimum agreement, a variation of the so-called “Doha Light”, involving a certain amount of liberalization and minor reforms in a few areas, especially linked to developing country issues, and a formal postponement of the conclusion of the round into the future with considerable uncertainties regarding the timing and scope of resumed negotiations.
- A formal abandonment of the round with individual issues being pursued separately in the various WTO bodies.

The discussion that follows addresses what can be expected to be achieved on issues of importance to the WTO as an institution under the various outcome scenarios for the Doha Round.

Accession

There is no formal commitment in the Doha Declaration to do anything concrete to speed up the accession of LDCs. The declaration talks about “concluding accession proceedings as quickly as possible” and that the WTO membership is “in particular committed to accelerating the accession of LDCs” (WTO 2001, para. 10).

There are two basic issues regarding accession. First, WTO members, unlike members of the international financial institutions (which are by and large the same governments but represent different interests) do not see global benefits from universal WTO membership. As a result, unlike the international financial institutions, the WTO does little to help governments become members. The five or six professional staff members of its accession division offer little beyond administration and general advice to the 25–30 countries in the accession process. The burden of meeting the requirements falls squarely on the acceding governments, aided in many cases by bilateral assistance agencies (not their trade ministry counterparts). Accession thus becomes a very long and difficult process, taking on average about five years, often longer. By contrast, in the aftermath of the breakdown of the USSR, all 15 countries became members of the international financial institutions within 18 months of their application, essentially because the international community felt it was in its interest to integrate those countries in the world economy. In the WTO the accession process is confrontational; the existing members want to make sure that new members meet all the club rules (Michalopoulos 2001, p. 193).

The second issue is that each membership application is evaluated individually. There are no standards in terms of the commitments sought from new applicants. The outcome is that new members may commit to very different burdens, even though they may be at essentially the same level of development, and that new members frequently must take on more commitments than existing members at the same level of development—for example, regarding transition periods for implementing the agreements or the use of certain instruments, such as subsidies.¹¹

To deal with some of these issues, the WTO adopted a decision that aims to provide guidelines regarding LDC accession (WTO 2003). These guidelines are quite general, and they do not appear to have been followed in subsequent accession cases, although the importance of facilitating LDC accession has been ritually emphasized in subsequent ministerial declarations, including the latest in Hong Kong (WTO Web site). Very little substantive change can be expected in the accession process under any of the Doha Round scenarios. To promote universal WTO membership on equitable terms, two kinds of actions are needed. First, the WTO needs to issue detailed guidelines regarding the commitments sought from acceding members—linked to their institutional capacity to implement them—and ensure that acceding members are not required to meet more onerous conditions in shorter time periods

than existing members. Second, the capacity of the secretariat to assist in the membership process needs to be greatly enhanced.

The WTO mandate

In the years leading up to the Doha Declaration and until August 2004 there was extensive discussion and controversy regarding the possibility of expanding the WTO mandate into other areas, including as noted above, investment, competition, government procurement and trade facilitation, as well as labour standards and the environment.¹² In the end it was agreed that only trade facilitation and some limited aspects of the relations between trade and the environment would be included in the negotiations.

Discussion of labour standards was dropped completely for good reason: the issue was pushed primarily by protectionist interests in developed countries and had no business in the WTO mandate. Another international organization deals with it (the International Labour Organization or ILO), and the issue must be addressed there.

There were protectionist overtones also in developed country efforts to introduce detailed environmental issues in the WTO. Many of these concerns about the global commons should be addressed by international institutions working in this area. Under the WTO, countries can impose trade restrictions where they are needed to protect their environmental standards, and case law is being developed in connection with disputes arising in the DSM from such impositions. At the same time, governments have accepted trade-related obligations in other environmental treaties. It is appropriate for the international community to review the relationships between the WTO rules and these other treaties—and this has been agreed under the Doha Declaration.

On TRIPS the Doha Declaration focused on two main issues: the need to pursue negotiations to protect geographic origin indications and the need to loosen TRIPS provisions to ensure the availability of inexpensive drugs to fight HIV/AIDS. The second issue became very contentious but was resolved in 2003—before the Cancún Ministerial in ways that provided meaningful SDT for poor countries (see box 3.4).

Developing countries had been concerned about the expansion of WTO responsibilities in investment, competition, government procurement and trade facilitation. The main concern was that the proposals were not being put forth by the European Union, their main advocate, in good faith and on their own merits, but rather as bargaining chips in

the overall negotiations and in particularly those on agriculture, where the European Union was clearly going to have to make concessions. But there were substantive concerns as well.

A WTO agreement already covers the Trade-Related Aspects of Investment Measures (TRIMS). Commitments to liberalize rules pertaining to foreign private investment could be pursued in the context of GATS, making a new agreement unnecessary.

Developing countries were especially keen to avoid the problems they encountered in implementing the Uruguay Round agreements in areas such as customs valuation, TRIPS, SPS and TBT, where they had taken on commitments that were both costly to implement and low in development priority.

In the end the decision to pursue a multilateral agreement only in trade facilitation was a good one. Trade facilitation relates to government rules and regulations on expediting the movement, release and clearance of goods, including through customs and other technical, safety, health and environment approvals, affecting entry as well as transit through member territory. These government regulations often seriously impede trade in developing countries. Expediting the movement and clearance of goods would be beneficial. But it will also be costly to build the necessary infrastructure, and many poor developing countries will need assistance to implement new commitments in this area.

Recognizing the problems in securing adequate assistance to implement Uruguay Round commitments, developing countries obtained agreement that “the extent and the timing of (their) entering into commitments shall be related to the implementation capacities of developing and least developed members” (WTO 2004, annex D). This essentially means that developing countries can become full members whenever they feel ready to accept the responsibilities entailed. The net effect of the trade facilitation agreement, if implemented as drafted, would be to establish another plurilateral agreement without formally doing so.

There are good reasons not to expand the WTO mandate to areas unrelated to trade. Some existing agreements, such as TRIPS, both go beyond this mandate and contain features detrimental to developing countries. The agreement to limit the mandate of the Doha Round by excluding certain issues, in response to developing country concerns, should be welcomed. However this does not mean that the issues will not resurface or that other issues may not be considered. In deciding whether to take on a new issue, the key criterion should be its links and importance to trade in all countries, not only a few. When the WTO

agreements venture into new areas, the implementation capacity of all its members needs to be ensured before commitments are made.

One such new area, electronic commerce, may be ripe for agreement after the end of the Doha Round. It is linked to trade—indeed it is a form of trade—and varied national regulations cause distortions. But it is also an area that raises political sensitivities, as well as one where technology affects implementation of any agreements. Consequently, it can lead to tremendous asymmetries in the relations between developed and developing countries. The WTO has established a work programme on electronic commerce which in due course should provide the basis for negotiating a multilateral agreement.

Rules

The Doha Declaration includes several provisions aimed at reviewing and possibly changing rules that affect the international trade regime. Some pertain to operation of the DSM. Others involve detailed provisions of various agreements (such as TRIPS and anti-dumping) whose analysis is beyond the scope of this chapter. But one issue stands out for its systemic implications: the issue of regional agreements, whose proliferation threatens the essence of the multilateral trading system.

The Doha Declaration states in para. 29, “We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.”

Very little has happened to address the substance of this issue. The only area in which some progress has been reported and could become part of a “Doha Light” agreement is on transparency issues, that is, on reporting and notification requirements to the WTO of agreements to be concluded, as well as ways of dealing with the backlog of already notified agreements. Several substantive aspects need to be addressed. First, the rules (GATT Article 24) are vague—for example, speaking about a requirement that regional agreements cover “substantially all trade”. Second, the review mechanism has been quite ineffectual. Third, it is not clear what, if any, differences should exist in the rules applied to such agreements among developing countries.

Regarding the first two aspects, more specific and quantifiable guidelines need to be set so as to enable the WTO to reach judgements about the compatibility of regional agreements with the multilateral system.

Once such guidelines are agreed, it will be simpler to monitor and review agreements to ensure that they meet them. The secretariat could also be given more responsibilities; for example, after the guidelines have been set, the secretariat could review individual agreements for their compatibility and, if they are found incompatible, recommend remedial measures.

The developmental implications of regional agreements among developing countries are part of the overall question of SDT. Should different rules apply to regional agreements among developing countries? Developing countries have asserted that they should in that they should be free to conclude such agreements without being bound even by the vague limitations of GATT Article 24. It is very doubtful that developing countries need this additional flexibility. Regional preferential agreements covering only a small number of products tend to introduce distortions likely to damage both developing countries participating in the arrangements and those excluded. And whatever benefits accrue to members, they tend to be concentrated in the economically strongest (World Bank 2000).

While some discussion of these issues has taken place, there is little convergence of views, and very little can be expected under any of the Doha scenarios.

One area of growing concern involves developing countries' regional agreements with developed countries. In some cases, in their eagerness to enjoy preferential access in the markets of their developed country partners, developing countries have agreed to commitments in other areas, such as TRIPS, that go far beyond their WTO commitments (Vivas-Eugui 2003). These "WTO Plus" commitments involve rules that limit the flexibility developing countries have under TRIPS or TRIMS. Such agreements also undermine the multilateral trading system and should be either avoided or regulated, just like trade preferences.

As a full Doha agreement is not going to be put together any time soon, it is quite likely that countries would focus on further expansion of preferential agreements which, in the longer term, will significantly undermine the viability of the WTO and the operations of a multilateral trading system.

*Special and differential treatment*¹³

The WTO provides for different rules to apply to developing country and LDC members. For developing countries, a main shortcoming in the implementation of the Uruguay Round agreements was that the

developed countries did not live up to their commitments regarding special and differential treatment (SDT). Both the Doha Declaration and the August 2004 agreement on the Doha work programme are replete with pronouncements about SDT. The Doha Ministerial Declaration states that “provisions for special and differential treatment are an integral part of the WTO agreements”. It called for a review of SDT provisions with the objective of “strengthening them and making them more precise, effective and operational” (para. 44). But, with one exception related to TRIPS and pharmaceuticals (see box 3.4), little has been done in practice. The main questions remain: what should be the content of SDT, and who should receive such treatment?

It is useful to distinguish between SDT provisions on the core WTO disciplines regarding preferential market access or the use of non-tariff barriers, tariffs or subsidies in domestic policy and the provisions that relate to the institutional capacity of developing countries to implement commitments.

In the first case, there is little conceptual justification for making different rules for developing countries. The GSP has not been especially useful in promoting integration of developing countries in the world trading system. And is it truly more beneficial for development to give developing countries greater leeway to impose quotas on imports that benefit their rich citizens? Is it developmentally responsible to give LDCs total freedom to subsidize exports, as the current rules permit? Recommending no SDT on core WTO disciplines also means that the major opt-outs and exemptions that benefit interest groups in industrialized countries at the expense of developing countries would have to be removed. Agricultural subsidy programmes, tariff peaks and escalation that imply high rates of effective protection for developed country industries must be eliminated to establish a level playing field and maximize global public goods.

Thus, the first recommendation on SDT is to reduce its scope. The key market benefits to developing countries would result if the Doha negotiations give priority to MFN liberalization of trade in goods and services in which developing countries have an actual or potential export interest. This would mean the elimination of special opt-outs on commercial policy of dubious developmental value for both developed and developing countries.

The GSP system should be retained, basically because it would be politically impossible to drop it. But no major effort should be made to expand it, modify it or make it more permanent. The benefits from such

Box 3.4 TRIPS and pharmaceuticals in developing countries

The value of the patent system needs to be assessed in a balanced way, and the balance of costs and benefits is likely to differ markedly in diverse circumstances. TRIPS contains no significant SDT provisions for developing countries. The same minimum standards and rules apply to all, although there is some national latitude in implementing the rules.

Developing countries have the flexibility to reduce some patent system costs through compulsory licensing in carefully delineated circumstances. Under Article 31, compulsory licensing permits governments to authorize the use of the subject matter of a patent by others if an effort has been made to obtain authorization from the patent holder on reasonable commercial terms. The condition is waived in cases of national emergency, extreme urgency or public non-commercial use. This flexibility was put to the test when it became apparent that developing countries needed to address the availability of drugs at affordable prices to deal with AIDS and other epidemics. Some actions on their part were opposed by the pharmaceutical industry because they violated the TRIPS agreement.

Following a great deal of public pressure on the pharmaceutical companies in developed countries that hold patents on HIV/AIDS drugs, WTO ministers agreed at Doha to a “Declaration on TRIPS and Public Health”. It reasserted that under the compulsory licensing provisions of TRIPS each WTO member has the right to determine what constitutes a national emergency and that public health crises relating to HIV/AIDS, TB, malaria and other epidemics can be a national emergency. But it became apparent once again that “one size does not fit all” because provisions for compulsory licensing are not meaningful for developing countries that do not have the capacity to produce the drugs domestically. Hence the declaration also instructed the Council of TRIPS to find a solution to this problem and report to the WTO General Council by the end of 2002.

The TRIPS Council developed a proposal permitting developing countries that did not have capacity to produce drugs needed to combat epidemics to import them from low-cost suppliers under carefully circumscribed circumstances. For example, the restrictions protected against the risk that these drugs would be re-exported to developed country markets. The council failed to reach agreement by the initial deadline because the United States wanted to limit application of the exception to pharmaceuticals related to AIDS/HIV, malaria and TB alone.

An agreement was finally reached in 2003 under heavy public opinion pressure to settle the issue before the fifth WTO Ministerial Conference in Cancún. It did not limit the exception to certain diseases, but it did introduce requirements that go beyond those in TRIPS. This was originally set up as a waiver (Michalopoulos 2003) until the agreement was amended prior to the Hong Kong Ministerial.

proposals are likely to be small and would continue to create a sense of dependency for “beneficiary” countries. The only substantive improvement should be to simplify and loosen the rules of origin that govern individual preference-giving schemes, so as to enable the intended beneficiaries to benefit from them.

MFN liberalization would also reduce the margin of preference—and hence the attractiveness—of regional agreements and the GSP. While these arrangements may not have been generally beneficial, they do offer specific benefits to several developing countries that would

suffer from their elimination. All MFN reductions under the WTO (and previously under the GATT) have been phased in, and hence there is always an opportunity for economies to adjust. But there may still be adjustment problems in individual countries, especially poorer ones, where markets do not work well and safety nets are weak or non-existent. These should be addressed through the trade-related assistance measures discussed earlier.

Unfortunately, in an effort to gain favour with the LDCs, the negotiations have already resulted in commitments by WTO members not to seek from LDCs any commitments to liberalize their trade regimes in the context of the round (see Annex F of the Hong Kong Ministerial Declaration). This decision was taken for tactical reasons so that the LDCs can feel that they have the “economic space” to pursue their individual trade policies, and not because it makes economic sense. In the longer term it will foster a basic split in the WTO membership between the LDCs and all the other countries, with the LDCs having the freedom to pursue protective policies unconstrained by any multilateral commitments. The situation will become analogous to that which existed in the GATT several decades before the 1990s, which permitted developing countries in general to pursue trade policies unconstrained by multilateral commitments and which resulted in inhibiting their integration into the international trading system and hampering their overall development.

But one size does not fit all when it comes to implementing the agreements. The cost of establishing the institutional infrastructure needed to implement these agreements is substantial. And their priority in low-income developing countries is doubtful given other developmental needs. The SDT issue revolves around the need to recognize this size issue and the “behind the border” policy agenda pursued in the WTO. Hence there is a clear need for differentiation, in terms of both negotiating mechanics (should reciprocity extend to trading “apples for oranges”—market access for goods—in return for rules on domestic policies?) and the timing and reach of disciplines across countries.

It is clear that the transition periods envisaged under the Uruguay Round were unrealistic. The Uruguay negotiators do not appear to have consulted in any systematic fashion with anybody involved in institution building in developing countries about the transition periods. The time limits for extensions have passed, and there is little evidence that countries have made sufficient progress in institution building to permit them to implement their obligations. A useful step was taken prior to the Hong Kong Ministerial to agree to extend for LDCs the transi-

tion period for the implementation of the TRIPS agreement until 2013 and for pharmaceuticals until 2016. Unfortunately the decision affects only LDCs and does not cover other equally deserving low-income countries.

As noted earlier, there is also a need for assistance to countries that can not meet their institutional capacity needs by themselves. But the need for assistance varies significantly among countries and requires addressing the politically thorny country differentiation issue.

Country differentiation requires agreement on the criteria used to define eligibility for SDT. At the moment the WTO recognizes only one subcategory of developing countries: the 50 LDCs, of which 32 are WTO members. For the rest, vast differences in institutional capacity and degree of integration in world markets are ignored. Because of the principle of self-selection, under WTO rules on SDT the treatment of all developing countries by developed countries is supposed to be the same; Singapore and the Republic of Korea are supposed to be treated the same way as Ghana and Saint Lucia, Argentina and Brazil the same as Maldives and Mauritius. A policy is needed that more narrowly defines which countries are eligible for SDT.

Many problems of institutional capacity are common to LDCs and other low-income and small and vulnerable developing countries—roughly the G-90 countries—with limited participation in international trade. These problems are not faced by more advanced developing countries. Per capita income and share of world trade indicators need to be introduced to differentiate developing countries in terms of transition periods, scope of implementation and access to assistance. In practice SDT should be extended to this group of roughly 90 countries, including the LDCs but excluding the more advanced developing countries. Substantial differentiation exists regarding financial flows from all the international financial institutions and from the UNDP. In the World Bank some developing countries get no assistance at all, some are eligible only for loans on hard terms, others for soft loans and still others for a mix.¹⁴ Why cannot the principle that has been accepted without serious difficulty on issues of finance be acceptable for trade?

An effort was made in the Doha Round to introduce some degree of differentiation that would extend SDT to all low-income countries in a number of agreements, including in the aid for trade initiative. This effort has largely failed, primarily because of opposition both from the more advanced developing countries and the LDCs. As a consequence developed countries can be expected to continue to make commitments

to developing countries in general that are not concrete. They will make concrete commitments only to LDCs, which have a very small share of world trade. And they will rely on their own criteria—frequently politically motivated and not transparent—in determining which countries to give more favourable treatment or market access.

A regular review of SDT implementation also needs to be mandated. This could be done through a systematic, stand-alone WTO review of donor assistance commitments and other measures taken in favour of developing countries. Or a similar systematic review could be undertaken country by country through the TPR mechanism.

Trade liberalization

Negotiations to liberalize trade are at the core of any round of multilateral trade negotiations. The Doha Round involves negotiations in three areas: agriculture, non-agriculture market access and services. Liberalization in agriculture involves a complex set of measures affecting not only market access but also policies on domestic support, as well as export subsidies. It is beyond the scope of this chapter to provide detailed recommendations on the many complex issues surrounding these negotiations.¹⁵ Only some general observations regarding possible outcomes that would further global public goods will be made here.

Agriculture. Agriculture presents the greatest challenges for trade liberalization. A variety of interests in both developed and developing countries calls for protection based on different rationales: economic, environmental and cultural. Developing countries are split among major exporters, such as Argentina, Brazil and Thailand, and major importers, such as China and India, and among small island economies with monocultures and more developed economies with inefficient agriculture sectors, such as the Republic of Korea. The major developing country exporters and importers joined forces to form the G-20 at the Cancún Ministerial to create a group weighty enough to have a chance of negotiating effectively for dismantling protection and export subsidies in developed countries, especially the European Union and the United States. Developed countries are also split with major exporters such as Canada and Australia siding with the G-20 on most agricultural issues, while another group including Norway and Switzerland has aligned with protectionist developing countries to form the G-10. Sorting out these complex interests will be very difficult. The key issues are as follows:

- *Domestic support.* Support will be reduced through a tiered formula that will lead to countries with the higher supports of agriculture making the greatest reductions. But the precise formula has not been agreed, nor has there been agreement on how and which developing countries will receive SDT. No agreement has been reached on the reduction of developed countries' support on commodities such as cotton which adversely affect the poorest developing countries.
- *Export subsidies.* It has been agreed that export subsidies will be eliminated by 2013 and that a substantial part should be removed early on; but the precise time table has not been decided. No agreement has been reached on the distinction between emergency food aid and other food assistance, which may result in de facto subsidies and which would be regulated.
- *Market access.* Protective barriers will be decreased through a tiered formula, with the countries having the highest protection making the greatest cuts. Again, the formula has not been agreed on. Developing countries will make market opening commitments not necessarily of the same magnitude as developed countries, but the precise provision of SDT in this area has not been negotiated. LDCs are, erroneously, exempted from cutting protection, not necessarily because it makes developmental sense, but because their markets are not sufficiently important to developed countries. At the same time, it has been agreed that at least 97% of all LDC products in agriculture and manufactures would enjoy duty- and quota-free access to developed country markets.
- *Sensitive products.* Countries may designate several products as "sensitive" for any reason and exempt them from liberalization. If this list ends up being very long, it could negate the effects of the whole liberalization effort.

Non-agriculture market access. The negotiations on liberalizing trade in industrial products are somewhat less complex, but they have also made less progress in pinning down details for the modalities. It has been agreed to use some kind of a formula aimed at reducing tariffs, without excluding any commodities, but the precise formula has not been agreed. Nor has the issue of how to make reductions for certain commodities whose tariffs have not been bound. Developing countries have been given additional flexibility to reduce their tariff rates less and over longer time periods, but by precisely how much and over what

time frame is not agreed. A useful time target for the negotiations would be to eliminate all tariffs affecting developing country exports by 2015, but it is unclear whether anything close to that would be feasible.

The key issue in this segment of the negotiations will be how much the more advanced developing countries (Brazil, China, South Africa) will reduce their protection. Substantial reductions of trade barriers by these countries will both benefit them and meet a critical demand by developed countries. If this developed country demand is not met, there will be little chance for concluding the round successfully. At the same time, a large group of poor developing countries feel that protection continues to be important for their development and fear that MFN liberalization will reduce their market shares. Bringing them on board to support further liberalization in industry will be a major challenge.

Services. Negotiations in services have not proceeded very far. Critical bottlenecks in the negotiations were elsewhere, especially in agriculture. Also, in services, there is no formula approach, and members are expected to propose liberalizing specific sectors or modes of supply. While there is less pressure to liberalize services, they are of great importance to developing countries, and there are substantial opportunities both to expand exports and to liberalize further access to developing country markets. While the latter will bring the greatest gains, opening by developed countries of temporary access to service markets for natural service providers—so-called mode 4 of the GATS—and a binding of the current liberal policy set that is applied to cross-border trade would both be valuable in themselves and assist developing countries.

Implications of different scenarios

The failure to reach agreement in agriculture and NAMA in time for the conclusion of the Doha Round in 2006 means that the multilateral trading system based on the WTO will be weakened. While it is true that in the past negotiations have resumed and concluded successfully after a long hiatus (more than a year in the case of the Uruguay Round), this is small comfort. The negotiators, driven by narrow, domestic political concerns, missed a significant opportunity to liberalize trade, reduce distortionary policies and put in place a number of institutional and rule changes. It is unclear whether and how the opportunity to do this again will arise in the future.

Under a “Doha Light” scenario, obviously much less would be achieved. The bulk of it could be the consolidation of all the agreements that have been reached so far, many of which would have a positive effect on developing country prospects—that is, the commitment by developed countries to eliminate export subsidies in agriculture. This includes a number of LDC-focused initiatives such as improved market access, some strengthening of the IF (even if somewhat flawed) and extension of the time table for TRIPS. It may also prove possible under this scenario to conclude a number of secondary agreements such as trade facilitation. The biggest danger would be that the absence of multilateral liberalization will strengthen the forces pushing for regional or other preferential agreements whose proliferation would undoubtedly undermine the multilateral system and the GPGs that it could generate.

Finally, cancelling the round is also a feasible scenario, but with much the same dangers of “Doha Light”—a drift of the overall system towards more preferential trading agreements. Even under this scenario, the initiatives that have already been taken in favour of the LDCs may stand; the commitment to eliminate export subsidies will stand as well, since it derives primarily from budgetary constraints in developed countries, especially the European Union. The intervening period could be used to settle some issues, but it could also lead many to conclude that the multilateral negotiating process has become unmanageable with so many different actors and interests that a more modest and partial approach should be used in the future. Such an outcome may lead the WTO in different and uncertain directions and approaches towards multilateral reform, with uncertain results for the future of the organization and the trading system it supports.

Complementary institutions: voluntary organizations

Expanding global public goods in trade is too complex a task to be left to one institution to handle. Complementary institutions also need to make important contributions.

The role of some public institutions has been discussed. Developing countries need a great deal of financial and technical assistance to be integrated effectively into the world economy. This assistance is provided in large measure by international institutions such as the World Bank, UNDP, UNCTAD, the ITC, IMF and the WTO, as well as bilateral

donors. Other specialized agencies, such as the Food and Agriculture Organization and the ILO, also provide specialized assistance. Public information about trade policies is a key element for mobilizing global public opinion on these issues and should be a target for technical assistance by the international agencies. A new global public goods financing framework could also help address developing country needs with specific funds allocated to aid for trade.

The key issues regarding trade-related assistance have to do with coherence and coverage, ensuring that such assistance is well integrated into the PRSP process and that countries outside the PRSP process also receive the proper attention. Developed countries must make greater efforts to improve the coherence of their own policies. There are too many cases where donor assistance efforts to promote agricultural or industrial development in developing countries are undermined by their own export subsidies or other support programmes for agriculture or protection for their own inefficient industries. And far too often the representatives of developed countries in Geneva concentrate on the narrow commercial interests of their own countries rather than global interests and concerns (Michalopoulos 2001, chapter 11).

Developing countries also need specific support to participate effectively in the WTO. Such support has been provided by smaller, Geneva-based international agencies such as the Advisory Center on WTO Law, AITIC and the South Center. These agencies perform useful functions by providing information, analyses and training to help the poorer and less advantaged developing countries with the greatest needs. The focus of some activities could be sharpened—for example, the Advisory Center could explore ways to assist poor developing countries in litigation as well as ways to make the DSM more accessible to developing countries, including by changing the rules on compensation. The South Center could focus on a smaller range of issues and provide greater depth in its analyses.

Voluntary organizations and networks can play even greater roles. They can perform analyses and provide specialized assistance to developing countries in particular negotiations. The Third World Network has provided such analyses for many years. Most recently, Oxfam's analytical efforts were very helpful in focusing attention on WTO issues of importance to developing countries. The Quaker organization was extremely helpful to developing countries in negotiating the agreement on TRIPS and medicines. But the main role for these voluntary organizations is

advocacy, especially in the developed countries, on issues importance to integrating developing countries into the world trading system.

Trade policy in all countries is determined primarily by narrow but influential producer groups that use public policy instruments to impose protection for private gain. Consumers, who typically are hurt by protection, rarely organize groups to fight it. The cost of protection to any single consumer is too little to provoke action. Consequently, there is often little opposition to protection by those most hurt by it. And there is even less opposition if the measures primarily hurt producers in other countries.

Hence a very important advocacy role can be played by voluntary groups in explaining the costs of protection and promoting the interests of developing countries—and more generally global integration and GPGs. They can explain, for example, why EU export subsidies on dairy products or US support for cotton is damaging the very poor countries whose development the European Union and the United States try to promote. If they do not take up this role, it is not clear which institution would. They certainly have the power to advocate. Opposition by voluntary organizations was a key element in the demise of the Multilateral Agreement on Investment that the OECD tried to negotiate in the 1990s.

As advocates, the voluntary agencies must develop the proper analytical information and foundations for their arguments. In the past their advocacy on trade issues tended to be almost doctrinaire; the very existence of the WTO was opposed as a symbol of capitalism or developed country exploitation. Most recently Oxfam and others have broken with this tradition, providing careful, thoughtful criticism and constructive recommendations. It is also important that voluntary organizations consider carefully their position on developing country policies. All too often they have been eager to criticize protection in developed countries while condoning it as an instrument of industrialization for development. Protection by developing countries can be damaging both to other developing countries and to themselves.

Conclusions and recommendations

The WTO, and the GATT before it, has used adversarial procedures based on mercantilistic motives to promote global trade liberalization. Its success in accomplishing this mission rested in part on the incen-

tives it provided for large countries that could affect the prices of goods to participate in mutually beneficial trade liberalization. These incentives are not present for many developing countries (the majority of the WTO membership), nor are they relevant for establishing fair rules to govern the trading system in the many areas into which the WTO's mandate has expanded.

To carry out its mission as the principal institution providing trade-related global public goods, the WTO has to become an institution based more on cooperation and less on confrontation; and its work has to be complemented by actions by other public international institutions and voluntary organizations. But such institutional change must be gradual. The WTO must maintain its key role as a forum for trade liberalization negotiations; its mandate should be expanded only in areas very strictly related to trade. The main recommendations for doing this follow.

The WTO as an institution

The role of the secretariat should be strengthened. It should be able to develop independent views on issues of international trade policy being considered in WTO bodies. It should initiate (in consultation with members) analyses and make recommendations for implementing the agreements (for example, regarding regional preferential arrangements) more effectively. It should present independent evaluations of developed and developing country policies in TPRs as well as make recommendations on ways to improve them. It should present proposals (in consultation with members) for changes in the agreements—for example, as part of the preparations for negotiation rounds—and submit them for consideration in the WTO bodies. It should assist more effectively in the accession of new members. Such changes would require a substantial expansion of professional staff as well as a larger budget.

Consensus decision-making is essential for any actions that affect the legal rights and obligations of governments, as they do under the WTO. No government will cede this right, making formal group representation impractical. But an effort should be made to ensure that participation in informal bargaining groups more accurately represents the membership and the range of subjects to be discussed. Moreover, deliberations in the smaller groups should be promptly reported to an open meeting of the membership, giving an opportunity for countries to participate and express views. The challenge would be to put such procedures in practice during the pressure-packed ministerial meetings. These meetings are

unlikely to make significant progress unless they are better prepared, with more consensus on the issues before the meeting.

Information about trade flows and restraints on market access, as well as the workings of the WTO, is a public good that should be readily available to everybody, particularly not-for-profit institutions, at no cost. Members must comply with reporting requirements, thereby increasing transparency and spreading information about the workings of the trade regime. The current work of the WTO Secretariat with UNCTAD, ITC and the World Bank to put together a comprehensive and consistent database on trade measures accessible to all has high priority. WTO members should be encouraged to make complete market access data publicly available and to comply strictly with reporting requirements. Members that fail to meet reporting requirements could progressively lose some of their privileges, just as they do if they fail to contribute to the budget. The poorer developing countries that do not have the capacity to meet the reporting requirements should be given ample time and technical assistance to meet their obligations.

Strengthening the TPR system can also help increase transparency and promote the integration of developing countries into the world trading system. The assessment of all policies, in developed as well as developing countries, should include the effects of their trade and other policies on developing countries, especially the poorest and least well integrated in the world trading system. The TPRs should include an assessment of developed country programmes of trade-related assistance to developing countries as well as other aspects of SDT.

The mechanism of compensating countries for infractions of WTO rules by other members urgently needs to be reviewed. Perhaps the most promising proposal is to mandate that a country that does not comply with a panel or appellate body decision within a certain time must open its markets in another sector—improving market access for the defendant in an equivalent way.

The WTO is not primarily a development assistance institution. Its technical assistance should focus on activities that enable developing countries to discharge their membership obligations. However, like other development institutions, the WTO needs to establish an independent evaluation unit to address the effectiveness of the technical assistance it provides.

The WTO requires complementary inputs by other public international institutions and voluntary organizations supporting the global trade regime. Multilateral agencies such as the World Bank, IMF, UNDP,

UNCTAD, ITC and bilateral donors will bear the greatest burden in the provision of trade-related capacity building and adjustment assistance in developing countries, assistance that is essential to their integration in world trade.

Voluntary organizations also have an important role in support of the international trade regime, especially in advocating for actions to strengthen the provision of global public goods.

Increased coherence of WTO and other international assistance efforts in trade-related capacity building should be linked to the PRSP process in low-income countries. While the IF is a step in the right direction, more steps are needed, especially to ensure that needs of countries outside the LDC group and PRSP process are addressed. A new global public goods financing framework can contribute in this area, establishing a specific facility that provides funding for aid for trade.

Mandate

The WTO mandate should be limited to trade and related areas closely linked to trade. When the WTO agreements venture into new areas, the implementation capacity of all members needs to be ensured before commitments are made.

The exclusion of investment, competition and government procurement and the narrowly defined discussions on the environment in the Doha Round are welcome. Similarly, an agreement on trade facilitation will be welcome, and consideration—after the Doha Round—should be given to concluding an agreement on electronic commerce.

The Doha Round presents opportunities for WTO members to change rules that govern foreign trade as well as make additional liberalizing commitments. The following recommendations are proposed.

Rules

The WTO should issue new detailed guidelines regarding the commitments to be sought from acceding members. Commitments should be linked to countries' institutional capacities to implement them. The WTO should ensure that acceding members are not required to meet more onerous conditions in shorter periods than current members.

Specific and quantifiable guidelines should both restrict the proliferation of regional preferential agreements and enable the WTO to reach judgements about their compatibility with the multilateral sys-

tem. These guidelines should include provisions regarding “WTO Plus” commitments (which should be either avoided or regulated, just like trade preferences).

It would be desirable both to reduce the scope and to increase the relevance of SDT of developing countries. In this regard the following recommendations are made:

- Developing countries gain the most market access benefits if the Doha negotiations give priority to MFN liberalization of trade in goods and services in which developing countries have an actual or potential export interest. They also gain if the negotiations eliminate special opt-outs on commercial policy of dubious developmental value for both developed and developing countries.
- The GSP system should be retained because it would be politically impossible to drop it. But no major effort should be made to expand it, modify it or make it more permanent. Instead the focus should be making the rules of origin for this and other preferential systems easier for developing countries firms to understand and meet.
- The main SDT issue is to recognize that one size does not fit all when it comes to regulatory disciplines and the “behind the border” policy agenda that is increasingly pursued in such agreements as TRIPS, SPS, TBT and Customs Valuation. The development priority and the capacity of developing countries to meet commitments in these agreements are very different. Hence in these agreements there is a clear need for differentiation in terms of the rules and the timing of implementation across countries. The transition periods envisaged under the Uruguay Round were unrealistic and need to be reviewed. There is a need for various kinds of assistance to those countries that cannot meet their institutional capacity needs alone.
- Eligibility for SDT, including longer transition—or even full exemption from the rules—and assistance, should be limited to the LDCs and other low-income developing countries (roughly 90 countries). The more advanced developing countries should be excluded. Per capita income and share of world trade indicators need to be introduced to differentiate developing countries in terms of transition periods, scope of implementation and access to assistance.

Trade liberalization

In agriculture domestic support should be decreased and market access should be increased based on a tiered formula requiring countries with the greatest support and the greatest protective barriers to make the greatest reductions, with the focus on important export commodities of poorer developing countries (such as cotton), and export subsidies should be eliminated completely. All actions in this sector should be taken no later than 2015.

Non-agriculture market access should also be increased using a tiered formula that would result in larger reductions for countries having higher protection, especially involving tariff peaks on products of interest to developing countries. Developed countries should implement these reductions by 2010—that is, in advance of 2015, the Millennium Development Goals date. Developing countries should not be exempt from making reductions. But consideration could be given to the extending the time frame over which their reductions should be made.

Services liberalization is also of great importance to developing countries, and there are substantial opportunities both to expand exports and to liberalize further access to developing country markets. The latter will bring the greatest gains, opening by developed countries of temporary access to service markets for natural service providers—so-called mode 4 of the GATS—and a binding of the current liberal policy set that is applied to cross-border trade would both be valuable in themselves and assist developing countries.

Notes

1. Staiger (2006) recognizes that this issue limits the usefulness of the WTO to developing countries. He also offers another possible justification for the WTO as an international public good; countries might be able to use international commitments to “tie their hands” through the private sector in taking desirable trade liberalization policies. Regrettably, while this is a very useful attribute of an international trade regime, few developing countries have sought to take advantage of it, and most appear to be seeking the opposite—that is, limiting international obligations and enhancing “policy space”.
2. See Mendoza (2003); Michalopoulos (2003); and UN Millennium Project (2005).

3. For a detailed discussion, see Michalopoulos (2001).
4. There are currently 50 countries included in this UN-defined list, of which 32 are WTO members and several are in the process of accession.
5. Voting has been used on rare occasions in committees for non-substantive issues.
6. There is an informal list in the secretariat's publications on world trade.
7. For more ambitious proposals, see Stiglitz and Charlton (2006). The complexities and uncertainties surrounding the various proposals are highlighted in AITIC (2006).
8. A good indicator is how many countries attend the TPR meetings, at what level of representation and in which WTO conference room they are held. Over time attendance has dropped, few ambassadors attend and the meetings have been relegated to small, back conference rooms.
9. For a similar proposal, see Hoekman and Kostecki (1995).
10. See Evenett (2006).
11. In some cases where the rules might not make for very good economic policy, this may not be a bad thing. In other cases where candidates face severe institutional weaknesses, seeking extra commitments makes no sense.
12. There is a vast amount of literature on these controversies. Some of it is summarized in Michalopoulos (2001). See also Hoekman, Mattoo and English (2002).
13. This section draws on Michalopoulos (2001) and Hoekman, Michalopoulos and Winters (2004), which provide a more detailed discussion of the SDT issue.
14. The principle has also been accepted in the establishment of the Advisory Centre on WTO Law.
15. For useful insights and a number of detailed recommendations, see UN Millennium Project (2005).

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Capacity Building for Trade as a Global Public Good

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The international trade regime has the main characteristics of a global public good:

- Non-rivalry. Increased participation raises the value of the system.
- Non-excludability. The multilateral trading system benefits all, membership is almost universal and the system is potentially open to all.

However, the benefits of the international trade system are distributed very unevenly. Most of the advantages accrue to a small number of more advanced economies. A larger number of less developed countries lack sufficient capacity:

- To adequately identify their trade interests and translate them into a coherent trade strategy conducive to their development objectives.
- To fully participate in the production of the multilateral trading system (that is, to significantly contribute to World Trade Organization (WTO) negotiations).
- To properly implement the agreements reached.
- To benefit from the new trading opportunities.

Without capacity-building initiatives to appropriately remedy this imbalance, the international trade regime remains a global public good in form more than in substance. Strengthening developing countries' capacities to actively take part in and benefit from the multilateral trading system and other negotiation forums has become of crucial interest to all parties. International efforts to support trade and trade policy capacities in developing countries can be seen as initiatives to provide the global public good that a rule-based international trade regime constitutes.

For this study a broad definition of trade capacity building is adopted, defined as a process by which individuals, groups and organizations enhance their abilities (individually and collectively) to perform tasks, solve problems and set and achieve objectives in trade and trade-related policy-making and implementation.

This chapter reviews and assesses some major initiatives in building trade capacity and suggests ways for the international community to enhance the trade capacity of developing countries—essential for the international trade regime to become a truly global public good. It is based on information provided by the Doha Development Agenda (DDA) Trade Capacity Building Database, a joint initiative of the Organisation for Economic Co-operation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD). It critically reviews some of the main current initiatives by type of activities and key donors. It outlines and sums up the evaluation of some of the main international initiatives—the Joint Integrated Technical Assistance Programme (JITAP) and the Integrated Framework for Least Developed Countries—and the activities of UNCTAD and the European Union, the main provider and driving force of trade capacity building programmes both globally and regionally.

Most important, this chapter identifies some key elements of good practice in building capacity for trade at the design and strategy levels, for the negotiations and the implementation and utilization phases, as well as the international level of governance. It then identifies difficulties in such programmes. Drawing on lessons from experience, it makes recommendations for trade capacity building to enhance the provision of the multilateral trading system as a global public good.

The key assessment is that trade capacity building is a process-oriented approach that should allow less developed countries to better prepare for, contribute to, participate in and implement—and thus ultimately benefit from—the international trading system. Hence efforts should not focus solely on trade negotiations. The World Trade Organization (WTO) negotiations should not divert resources from longer term initiatives, but should justify additional trade-related technical assistance to complement broader capacity development. Trade capacity building and trade-related technical assistance should not only focus on training, seminars and studies, but also stimulate and facilitate more process-oriented approaches towards forming and implementing trade policy. And programmes should be driven as much as possible by recipient countries.

To improve coordination and cooperation among providers of trade capacity building support, the quality of the Trade Capacity Building Database should be improved. A multi-country investigation could help identify good practices. Better cooperation among donors and coordination among international organizations and recipient countries should also lead to the establishment of mechanisms of consultation and draw out general principles and practical guidelines.

Other selected operational recommendations include:

- *Linking WTO commitments to implementation capacity.*
- *Ensuring that all countries have a permanent representation in the WTO.*

- *Providing financial support and trade-related technical assistance to WTO coalitions of developing countries.*
- *Supporting initiatives that pool expertise for trade negotiations.*
- *Providing support to developing countries on the use of WTO dispute settlement mechanism.*

“While the long-term pursuit of freer trade as a GPG [global public good] seems to have become widely accepted, concern has been expressed about the short-term effects of liberalization and the costs of implementation of WTO commitments. The main areas of concern relate to the relative importance of different elements of national and multilateral governance structures and the timing and sequencing of their implementation. This has led to greater emphasis being devoted to institution and capacity building as well as to the removal of supply-side constraints” (Cernat 2004: 32).

Trade capacity building and the global public goods debate

International trade has commonly been referred to as an issue that can be addressed from the perspective of a global public good. It is not only trade liberalization and the environment conducive to trade liberalization that constitute a global public good (Barrett 2006; see also Paul Collier’s “The International Public Goods Needed to Promote International Trade” and Robert Staiger’s “Contribution on the International Trade Regime”, both in this volume). The multilateral trading system and regional trade regimes, with their set of rules and institutions, also display the characteristics of global and regional public goods.

Though the WTO is a club, the expansion of memberships to cover most countries as well as most trade, combined with its openness to new members, make it non-excludable. The current membership comprises 149 countries, with another 30 in the process of accession. With most countries’ members, the positive externalities of the WTO are further enlarged. WTO rules cover nearly all global trade, and their enforcement has an important impact on the world economy. Moreover, the benefits of a rule-based multilateral trade system are not limited to its membership only. The global trend in trade liberalization has extended beyond WTO membership (Rose 2002), and the rule-based system has led to general restraint in trade protectionism and the prevention of costly trade

wars. The multilateral trading system is clearly not a rival, as the larger the membership and the more committed countries are to the WTO rules, the more valuable the regime is and the greater its legitimacy and credibility (Cernat 2004; Mendoza 2003; Mendoza and Bahadur 2002).

Although the increasing scope and membership of the WTO have enhanced its value as a global public good, in practice it has also generated increasing frustration and discontent. One reason: the international regime is heavily skewed towards the interests of a few countries (those with more developed economies), and the less advanced usually feel marginalized. Though there is strong consensus on the overall benefits that this regime has created for its membership, there is increasing discontent over the distribution of both its benefits and costs. Following the failure to appropriately address development concerns in the Uruguay Round, developing countries have been more vocal about the imbalances of the multilateral trading system and have shown their readiness to stop multilateral negotiations if they cannot reach a satisfactory deal, as illustrated by the 1999 and 2003 WTO Ministerial conferences in Seattle and Cancún. With the promises of the Doha Development Agenda, there is no doubt that striking a better balance between the diverse interests of its membership is crucial for the WTO system to flourish. Without a better balance, the multilateral trading system will remain a global public good in form but not in substance (Mendoza 2003).

This chapter addresses a related challenge—the capacity of countries to participate in and benefit from the multilateral trading system. Many developing countries lack the capacity to reap the fruits of the WTO trade regime and international trade liberalization. Faced with the broadening scope and deepening issues of the WTO agenda, many developing countries lack the ability to effectively participate in discussions and consequently to defend their interests. Hence, many are simply “rule takers”, having to incorporate a burdensome trade and regulatory agenda into their domestic system. For the multilateral trade regime to become a truly global public good, the active participation of all actors is required to reach a balanced outcome. Even in cases where rules are fair (considering the interests of less developed economies), the human resources and finances of developing countries are often inadequate to implement their WTO commitments. Enforcement has been a major issue—as for any global public good—with the establishment of a binding dispute settlement mechanism. However enforcement has limited meaning when countries have the will but not the ability to comply with their commitments.

The lack of capacity in many developing countries to implement WTO agreements creates both a credibility and a legitimacy problem for the WTO. Credibility is lacking if rules cannot be implemented by some members. Legitimacy is questioned when some countries cannot participate in the production of the multilateral trading system, when they do not have the means to implement agreements reached and when—as a result of their capacity problems—they can be punished for non-compliance.

Domestic capacity constraints (the absence of adequate supply-side capacity, sufficiently developed infrastructure and appropriate institutions) also limit the ability of developing countries to reap some of the benefits of the multilateral trading system. Lack of capacity also excludes most of the poorest countries from accessing the WTO dispute settlement mechanism. As a provider of a global public good that should benefit all its members, the WTO will ultimately fail to achieve its mission if large numbers of its members—indeed, those most in need of rapid economic development—cannot benefit from the system or defend their interests in the decision-making process.

Nearly all developing countries are also engaged in bilateral, regional, biregional or hemispheric trade negotiations, partly from a preference to build regional groupings and partly from increased pressure by developed countries to initiate negotiations on free trade areas. Developing countries face an increasingly busy agenda of trade negotiations. Whether it concerns the global public good of the WTO or the regional public goods of other agreements, the value is considerably diminished if large gaps remain in developing countries' participation.

Thus strengthening developing countries' capacities to actively take part in and benefit from the multilateral trading system and other negotiation forums is of crucial interest to all parties. International efforts to build trade and trade policy capacities in developing countries can be seen as initiatives to provide the global public good that a rule-based international trade regime constitutes.

This chapter reviews and assesses some major trade capacity building initiatives and suggests ways for the international community to enhance the trade capacity of developing countries. The rest of this section discusses the definition, scope and various dimensions of trade capacity building. The next section briefly reviews some of the main initiatives by type of activities and key donors, and the following section discusses some issues raised by these activities and draws some lessons for future activities. The chapter concludes with some tentative recommendations on how to better address capacity issues that limit the effective participa-

tion of less advanced countries in the international trade regime. Note that the chapter focuses solely on the capacity-building dimension of trade as a global public good, leaving out the substance of the rules (the “fairness” of the rules in terms of concentration of benefits), which has been discussed in many other papers (see, for instance, Paul Collier’s “The International Public Goods Needed to Promote International Trade” and Robert Staiger’s “Report on the International Trade Regime”, both in this volume; Hoekman and others 2002; Mattoo and Subramanian 2004; Stiglitz 2004; and Winters 2002).

Capacity gaps and responses

The international trade policy agenda has expanded considerably since the conclusion of the Uruguay Round. Compared with the General Agreement on Tariffs and Trade (GATT), the WTO has considerably more power to enforce its rules, increasing the overall importance of in-depth knowledge about the rules for its members.

International institutions also acknowledge developing countries’ need for more policy-making and negotiating capacity. Aware that further trade liberalization could stall if these constraints are not addressed, international institutions and bilateral donors have responded with a high rise in support, labelled trade capacity building programmes, that aim to bridge the capacity gaps.¹ The largest global cross-institutional initiatives are the JITAP by the International Trade Centre (ITC), UNCTAD and the WTO and the Integrated Framework for Trade-Related Technical Assistance for Least Developed Countries (Integrated Framework) by the International Monetary Fund (IMF), ITC, UNCTAD, United Nations Development Programme (UNDP), World Bank and WTO. For the Integrated Framework programme, funding increased as much as 50% between 2001 and 2002 to some \$10 million (UNDP 2002a). The Doha Round Ministerial Declaration includes provisions for technical cooperation, capacity building or both. A subsequent pledging conference of WTO members in March 2002 resulted in a \$17.5 million Doha Development Trust Fund—twice the amount originally targeted by the WTO Secretariat.

The concept of trade capacity building

There is no explicit consensus yet in the literature or among assistance providers on what trade capacity building exactly entails or should entail.

Despite, or perhaps because of, its popularity the concept remains elusive. Whalley (1999), Solignac Lecompte (2001), OECD (2001), DFID (2001) and Saronga and Musungu (2002) all come up with different interpretations—arguably because the term is relatively new.² Some refer broadly to any process that boosts a country's export performance by lifting so-called supply-side constraints (a weak infrastructure, lack of credit facilities, macroeconomic instability) because doing so facilitates more trade. Others have a more narrow interpretation that concerns improving developing countries' capacity to understand the multilateral trade system and implement WTO-compatible trade regulations. This interpretation often emphasizes following the rules rather than autonomously identifying and acting on strategic interests. Also these interpretations explicitly or implicitly refer to donor interventions as the (only) mechanisms to set the capacity-building process in motion.

It can also be argued that trade capacity building does not refer to a specific set of concrete policy measures or to donor programmes as such. A more neutral, albeit quite elusive interpretation concerns the improvement of a country's ability to define and pursue its interests through trade and trade policy. This approach better acknowledges that sustainable trade capacity is built first and foremost endogenously, with an emphasis on human resource and institutional development. This notion seems also better aligned with the established concept of capacity building in general (see Godfrey and others 2002).

The definition used in this chapter takes into account the holistic, long-term and endogenous aspects now considered by most stakeholders to be fundamental elements:

Trade capacity building is a process by which individuals, groups and organizations enhance their abilities (individually and collectively) to perform tasks, solve problems and both set and achieve objectives in trade and trade-related policy-making and implementation.

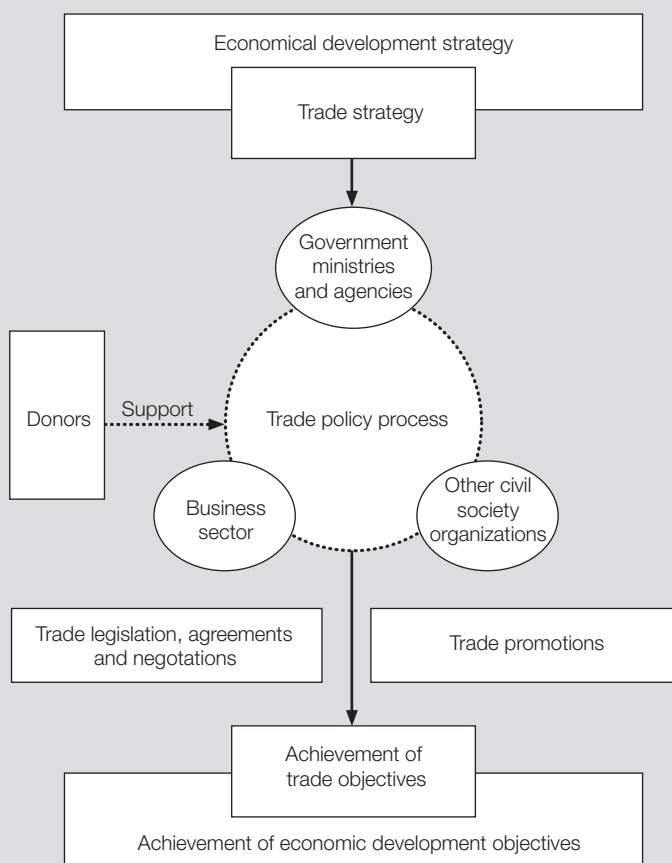
The trade capacity building agenda

Fuelled by rising donor attention to the issues, researchers and international institutions have increasingly engaged in the debate on trade capacity building, discussing developing countries' priorities in trade policy and possible approaches by donors to support capacity building.

An important feature of these discussions is the emphasis that for trade policy-making as such, a one-size-fits-all approach is unlikely to exist: different countries have different priorities and good practice in

trade policy-making is likely to depend on the development strategy a country adopts. Yet experience shows that a good policy process cannot take place in isolation. Instead participatory approaches to trade policy-making are the norm (see figure 4.1). Building trade capacity involves building networks that go beyond government actors: links between the public and the private sector, think tanks and universities, regional and national institutions are all conducive to improvements in policy-making. Within the government, cooperation and coordination among key ministries is an important factor fostering the formulation of strategies and the swift implementation of policy measures. In recent years the De-

Figure 4.1 **The trade policy process—a simplified sketch**



Note: Trade strategy is part and parcel of a country's economic development strategy. The process requires input from a variety of actors and brings about a permanent adjustment of objectives, negotiating goals, roles and resource allocations. Donors do not interfere with strategies, objectives, legislation or negotiations. Support is focused on institutional capacity building to help structure the process and make it sustainable rather than simply strengthening the capacity of individuals.

Source: Solignac (2001).

velopment Assistance Committee (DAC) has compiled some of the most essential elements of the trade capacity building agenda (see box 4.1).

Current capacity initiatives: trade capacity building in facts

In November 2002 the OECD and the WTO jointly established the Doha Development Agenda Trade Capacity Building Database.³ The initiative was a response to the widely perceived problem of coordinating initiatives, with international agencies, donors and recipients lacking the tools to better complement trade capacity building agendas. The database provides information on trade-related technical assistance and capacity-building projects at the national and regional levels, distinguishing programmes by trade category, beneficiary country and donor country or agency.

Global trade capacity building commitments

The DDA Trade Capacity Building Database has proved instrumental in classifying the wide array of activities in two main categories—trade policy and regulation and trade development—and many subcategories (see table 4.1).⁴ Trade policy and regulation concerns activities that primarily seek to improve the process of trade policy-making and participation in the multilateral trading system. Trade development captures

Box 4.1 **DAC guidelines for strengthening trade policy in developing countries**

The OECD Development Assistance Committee (DAC) has been the institution most actively involved in discussions on building trade capacity. Through its Guidelines on Strengthening Trade Capacity for Development, the DAC has stimulated discussions among international institutions, bilateral donors and recipient countries on how trade policy-making processes can be strengthened in developing countries. According to the guidelines, the following elements are key to establishing an effective trade policy:

- A coherent trade strategy closely integrated with a country's overall development strategy.
- Effective mechanisms for consultation between three key sets of stakeholders: government, the enterprise sector and civil society.
- Effective mechanisms for intragovernmental policy coordination.
- A strategy for the enhanced collection, dissemination and analysis of trade-related information.
- Trade policy networks supported by indigenous research institutions.
- Networks of trade support institutions.
- Private sector links.
- A commitment by all key trade stakeholders to outward-oriented regional strategies.

Source: OECD/DAC (2001).

programmes aimed more directly at promoting trade. Activities aimed to enhance physical infrastructure (transport, storage, communications and energy) are excluded.⁵ Because the impact of support for trade capacity building is not determined solely by the financial commitments made by donor countries, but also by the frequency of (diverse) activities, it is useful to analyse both total committed funds and the actual number of activities in recipient countries. The complete picture can provide useful insights into the extent to which a recipient or donor country is engaged in trade capacity building programmes.

According to the DDA Trade Capacity Building Database, average annual commitments to trade-related technical assistance and capacity building totalled some \$2.2 billion in 2001–02, spread out over an average of 3,500 annual activities.

The main allocations in trade policy and regulations went to trade facilitation (28% of commitments, mostly to African countries), assistance to regional trade agreements (15%, mostly to Asian regions), assistance on technical standards (sanitary and phytosanitary measures and technical barriers to trade; 13%, mostly to Least Developed Countries (LDCs)), and aid to integrate trade in development plans (12%). Remarkably, some issues usually rejected by developing countries in WTO negotiations, such as trade and competition policy and trade and environment, figure among the main areas of support (see figure 4.2).

In trade development, the largest areas in terms of financial commitments are business support services (36%) and trade finance activities (26%). The other main categories are trade promotion (18%) and market development (16%). Though public-private sector networking (2%) and e-commerce (1%) were still relatively small in terms of financial commitments, the number of projects doubled between 2001 and 2002.

Trade capacity building donors and beneficiaries

On the donor side, Canada, France, Germany, Japan, the Netherlands, Switzerland, the United Kingdom and the United States are the lead bilateral donors for trade capacity building. Together they fund more than 90% of all bilateral trade capacity building activities. The European Commission is the largest contributing multilateral donor (see table 4.2).

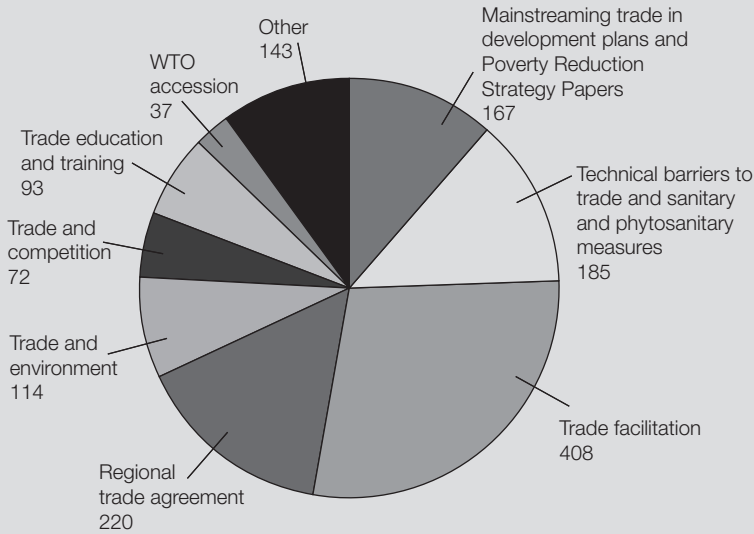
Nearly all developing countries received at least some assistance in trade capacity building. Since 2001 at least 177 countries received assistance in trade policy and regulations and at least 163 in trade development (WTO/OECD 2003; see figures 4.3–4.5). Asia and Africa receive

Table 4.1 Doha Development Agenda Trade Capacity Building Database

Main trade-related technical assistance and capacity-building areas	Funds (US\$ million)		Number of activities	
	2001	2002	2001	2002
<i>Trade policy and regulations</i>	727	712	1,415	1,855
33111—Mainstreaming trade in development plans and Poverty Reduction Strategy Papers	94	73	201	233
33112—Technical barriers to trade and sanitary and phytosanitary measures	127	58	143	237
33121—Trade facilitation procedures	214	194	202	267
33122—Customs valuation	4	17	43	57
33123—Tariff reforms	0	0	6	7
33130—Regional trade agreements	57	163	37	66
33141—Accession	12	25	61	41
33142—Dispute settlement	1	1	23	26
33143—Trade-related intellectual property rights (TRIPS)	13	9	53	99
33144—Agriculture	10	6	38	49
33145—Services	5	18	34	76
33146—Tariff negotiations, non-agricultural market access	6	3	85	78
33147—Rules	9	2	24	38
33148—Training in trade negotiation techniques	6	8	20	32
33151—Trade and environment	80	34	69	88
33152—Trade and competition	41	31	47	69
33153—Trade and investment	9	11	24	35
33154—Transparency and government procurement	2	2	5	18
33181—Trade education/training	37	56	300	338
<i>Trade development</i>	1,432	1,383	1,732	1,992
25011—Business support services and institutions	575	449	872	764
25012—Public-private sector networking	27	28	38	58
25013—E-commerce	2	37	29	64
24000—Trade finance	410	334	158	195
A30000—Trade promotion strategy and implementation	229	287	360	473
B30000—Market analysis and development	189	248	274	438
<i>Total annual trade capacity building</i>	2,159	2,095	3,157	3,847

Source: WTO-OECD Trade Capacity Building Database (2004).

Figure 4.2

Trade capacity building in trade policy and regulations: main programmes, 2001–02 (US\$ millions)


Source: WTO/OECD (2003).

the majority of funding. Several programmes in trade policy and regulations have been committed to the Balkans and the accession countries in Central and Eastern Europe, for which the European Commission is the main donor.

Lower middle-income countries receive most of the programming: 31% in trade policy and regulations and 36% in trade development, followed by the LDCs (22% and 30%) and other low income countries (23% and 19%).

From the DDA Trade Capacity Building Database one can also derive the top 10 recipient countries of trade capacity building funding (see tables 4.3–4.6). Yet, as explained in the next section, extreme caution should be used in interpreting these numbers.

The DDA Trade Capacity Building Database can be seen as a global public good. It provides an excellent framework to enhance donor coordination, to analyse worldwide donor commitments and the distribution of support, to identify gaps in the provision of certain programmes to certain countries and to make the international distribution of trade capacity building support more transparent for recipients, bilateral donors and international agencies.

However a very serious constraint is the quality of data. Because of classification and reporting problems, interpretation should be cautious,

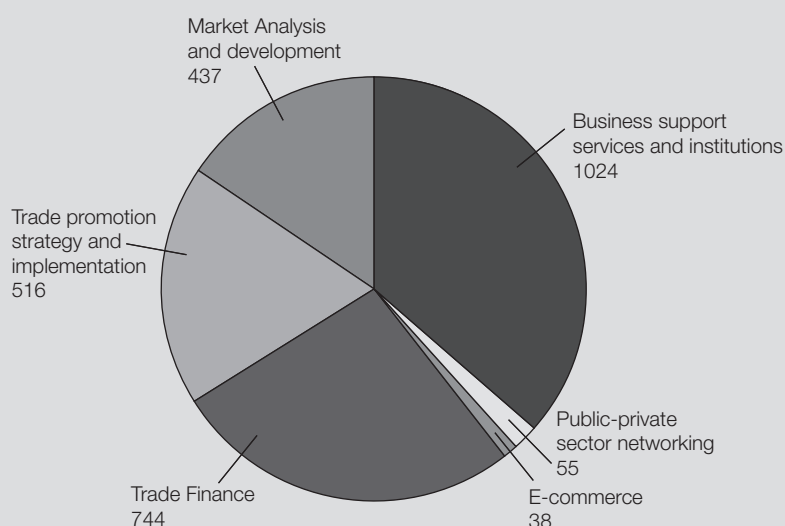
Table 4.2 Trade-related technical assistance and capacity-building commitments, 2002

Main donors	Trade policy and regulations		Trade development		Contributions to multilateral providers or programmes	
	US\$ millions	% of world total	US\$ millions	% of world total	US\$ millions	% of world total
<i>Bilateral donors</i>	272.1	38.2	878.0	63.5	30.2	87.3
Canada	8.6	1.2	13.4	1.0	1.7	4.9
France	5.3	0.7	112.8	8.2	1.6	4.6
Germany	9.0	1.3	65.5	4.7	1.2	3.5
Japan	16.1	2.3	34.8	2.5	1.5	4.3
Netherlands	2.6	0.4	22.4	1.6	2.3	6.6
Switzerland	8.7	1.2	55.7	4.0	5.9	17.1
United Kingdom	18.3	2.6	35.2	2.5	2.7	7.8
United States	177.8	25.0	437.7	31.6	1.5	4.3
Others	34.3	3.6	100.5	7.3	11.8	34.1
<i>Multilateral donors</i>	440.0	61.8	505.4	36.5	4.5	13.0
European Commission	292.3	41.1	419.3	30.3	0.8	2.3
Asian Development Bank	59.3	8.3	1.4	0.1	—	0.0
World Bank	65.9	9.3	—	3.7	1.3	3.8
Others	22.5	3.2	50.7	2.5	2.4	6.9
World total	712.0	100.0	1383.4	100.0	34.6	100.0

— is not available.

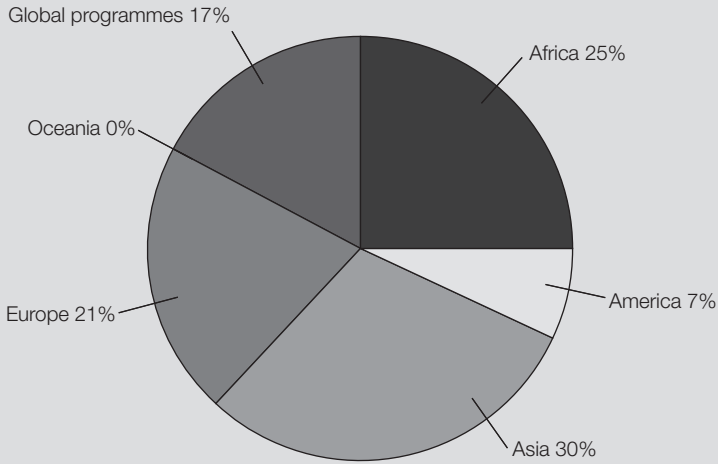
Source: Data derived from WTO/OECD (2003).

Figure 4.3 Trade capacity building in trade development: main programmes (US\$ millions)



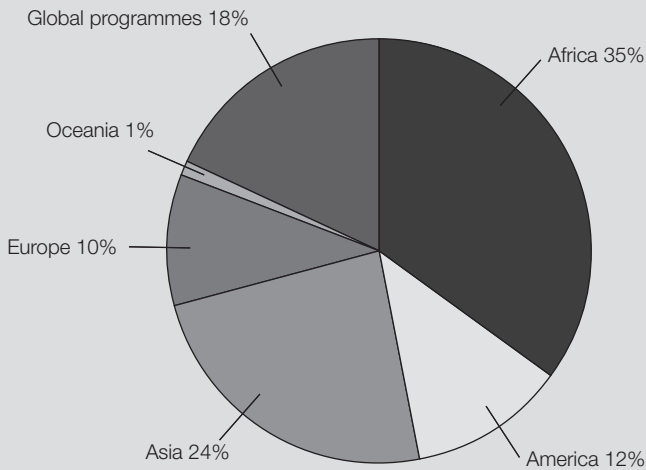
Source: WTO/OECD (2003).

Figure 4.4 Trade policy and regulations 2001–02 average (\$719 million)



Source: WTO/OECD (2003).

Figure 4.5 Trade development, 2001–02 average (\$1.4 billion)



Source: WTO/OECD (2003).

keeping in mind the following serious shortcomings (see also WTO/OECD 2003):

- Because trade capacity building is a relatively new area, approaches to programming, classification and evaluation of activities have only recently started to develop within the donor community. Consequently, not all donors and international agencies have reported all their trade capacity building ac-

Table 4.3 Trade policy and regulations: top 10 recipients of funds, 2001–02

Recipient	Funds (US\$ millions)
1. Egypt	102
2. Rwanda	49
3. Cameroon	45
4. Azerbaijan	45
5. Poland	40
6. Croatia	39
7. Jordan	37
8. Serbia and Montenegro	35
9. Bosnia and Herzegovina	35
10. Laos	31

Table 4.4 Trade development: top 10 recipients of funds, 2001–02

Recipient	Funds (US\$ millions)
1. Ethiopia	91
2. South Africa	90
3. Egypt	86
4. Viet Nam	83
5. Morocco	75
6. Tunisia	59
7. Serbia and Montenegro	57
8. Pakistan	55
9. Zambia	50
10. China	45

Table 4.5 Trade policy and regulations: top 10 recipients by activities, 2001–02

Recipient	Number of activities
1. China	160
2. Indonesia	129
3. Viet Nam	110
4. Egypt	101
5. Thailand	96
6. Cambodia	80
7. Serbia and Montenegro	79
8. South of Sahara Unall.	78
9. Zambia	73
10. South Africa	72

Table 4.6 Trade development: top 10 recipients by activities, 2001–02

Recipient	Number of activities
1. Uganda	115
2. Indonesia	110
3. China	99
4. Philippines	95
5. Thailand	87
6. Viet Nam	87
7. Russia	78
8. Tanzania	74
9. Sri Lanka	73
10. Mexico	70

tivities, and those that have reported them experience further classification problems.

- In broad programmes or projects with only partially concern trade capacity building, some donors have estimated the trade capacity building component and reported it where others simply report the entire activity. Some donors have split trade capacity building activities to report on subcategories at the most detailed level. Others have opted to report the entire activity in the most relevant subcategory. Hence the total amounts allocated by donor should be interpreted with caution.
- Another serious reporting problem concerns the differentiation of regional and national programmes, with some donors splitting a regional activity between the various beneficiary countries and others reporting such an activity under regional unallocated or global programmes. This can seriously distort the picture of some larger donors, such as the European Commission, that commit considerable funding regionally and globally, and so seem to have virtually left out many beneficiary countries individually.
- In terms of total annual commitments by donors, caution should be applied because donors commit to activities spread over several years.

If reporting and classification is improved, caution should still be used in drawing conclusions from statistics provided by the database. The extent to which countries can benefit from trade capacity building support varies greatly. Some developing countries derive a much greater percentage of their national income from trade than others. Absorptive capacity also matters: though small LDCs with the least

developed trade (policy-making) capacities are arguably most in need of support, their absorptive capacity is also lowest. Usually better results are obtained from programmes aimed at countries that already have an infrastructural and institutional basis to exploit trade capacity building assistance.

Main trade capacity building initiatives at global and regional levels

Though global and regional initiatives make up only a minor share of worldwide funding for trade capacity building, these programmes have drawn considerable attention in the past few years.⁶ Compared with bilateral assistance, pooling resources globally and having international trade agencies manage the daily work has some obvious advantages to both donor and recipient countries in terms of improved donor coordination, transparency, independent needs assessments for beneficiaries and accumulated experience.

But trade capacity building at a global or regional level also faces many of the same pitfalls as bilateral assistance. Clearly, trade capacity building programmes are still fairly new issues on the table, and so is the management of programmes with both global and regional spans. The sections below briefly discuss some of the main trade capacity building initiatives.

The Joint Integrated Technical Assistance Programme. Since March 1998 JITAP has channelled support from various donors into one trade capacity building programme for selected LDCs and other African countries. The programme is implemented by three multilateral trade agencies, the ITC, UNCTAD and WTO. Each of these agencies has its own mandate and comparative advantage in international trade. Initial collaboration between the three agencies and discussions on a joint approach started in the aftermath of the 1994 Uruguay Round.

The main objectives of the pilot JITAP programme (1998–2002) were:

- To build national capacity to understand the evolving multilateral trading system and its implications for external trade.
- To adapt the national trading system to the obligations and disciplines of the new multilateral trading system.
- To seek maximum advantage from the new multilateral trading system by enhancing the readiness of exporters.

The Common Trust Fund Steering Group, comprising representatives of the bilateral donors, beneficiary countries and the three im-

plementing agencies, has overall responsibility for the programme. The ITC is the managing agency, coordinating with UNCTAD and the WTO through various informal and ad hoc interagency arrangements. In daily work at the national level, various groups of state and non-state actors are involved in initiating, coordinating and managing JITAP activities.

Eight countries participated in JITAP I: four developing countries (Côte d'Ivoire, Ghana, Kenya and Tunisia) and four LDCs (Benin, Burkina Faso, Tanzania and Uganda). The programme (budgeted at \$10 million) was assessed positively overall by a mid-term review in 2000 and an evaluation in 2002 (see box 4.2). JITAP II (2003–06), extended the list of beneficiary countries to two developing countries (Botswana and Cameroon) and six LDCs (Malawi, Mali, Mauritania, Mozambique, Senegal and Zambia) for four years, while JITAP I countries were consolidated in the programme for another two years. The programme's main objective, to build African capacity to integrate into the emerging multilateral trading system, has remained the same. The total budget for JITAP II is \$12.6 million.

The Integrated Framework for Least Developed Countries. At the Second Ministerial Conference in Singapore in 1996, it was agreed that a special conference on the needs of LDCs needed to be held. In October 1997 the WTO organized a High-Level Meeting for LDCs, where it was decided to establish the Integrated Framework for Least Developed Countries. Six agencies—ITC, IMF, UNCTAD, UNDP, World Bank and WTO—were mandated to launch and manage the initiative. The objectives of the Integrated Framework are to mainstream trade into the national development plans (notably the Poverty Reduction Strategy Papers) and to assist and coordinate the technical assistance addressing the needs identified by the LDCs.

After disappointing results in the first three years, the Integrated Framework was relaunched in May 2001 as a pilot scheme to just three countries, Cambodia, Madagascar and Mauritania (see box 4.3). The programme consisted of three phases: a preparatory phase in which a country's request to participate is reviewed, a national steering committee is established and a lead donor identified; a diagnostic phase in which a Diagnostic Trade Integration Study (DTIS) is undertaken; and a follow-up phase in which action plans are made based on the DTIS for the delivery of trade-related technical assistance. Although a review of the Integrated Framework pilot scheme had not been completed at the time, in September 2001 the pro-

Box 4.2 **JITAP evaluation**

The 2002 evaluation of JITAP was very positive about both the imaginative concept and the appropriateness of its design, while remaining critical of the substance of the programme, its management and results (De Silva and Weston 2002). Yet an overall positive assessment was made in the light of JITAP's novelty as the first regional programme that applied a holistic approach to trade capacity building. The evaluators note that the programme has made an important contribution in the newly emerging area of trade-related technical assistance and that "JITAP was an experiment, and, as an experiment, its results are highly satisfactory" (page 19).

According to the evaluation report, JITAP successfully contributed in the key area of developing human resources in trade capacities, although this capacity development was too focused on state actors. JITAP contributed to trade policy development through a better identification of priorities, options and strategies for trade negotiations, and increased interaction has emerged between neighbouring countries. Beneficiaries also became more articulate in the WTO during the programme, also at the subregional level. JITAP contributed to increased awareness of the multilateral trading system among non-state actors. Crucial factors in the programme's effectiveness were (political) leadership and absorptive capacity in the beneficiary countries. Where both were relatively abundant, fewer allocated funds were used much more effectively.

Though evaluations praised the innovativeness of JITAP, the holistic approach remained a very difficult aspect. Some key issues, notably those related to supply-side constraints, received little coverage. An important observation was that assistance regarding technical barriers to trade and sanitary and phytosanitary issues is predominantly provided directly by bilateral donors rather than through multilateral mechanisms, which are arguably more neutral. For input from local and international consultants, no clear mechanisms existed to assess their technical inputs. Management and coordination issues remained a big challenge—between the three implementing agencies, between Geneva and the country level and in the field.

The evaluators also note that JITAP raised the profile and credibility of the three managing institutions and that it made the multilateral trading system overall more user friendly. The credibility and accessibility of the multilateral trading system and its institutions as such does not actually strengthen trade (policy) capacities, but these are results that the donors and implementing agencies are eager to seek.

gramme was extended to 11 additional LDCs—Burundi, Djibouti, Eritrea, Ethiopia, Guinea, Lesotho, Mali, Nepal, Senegal and Yemen.

The daily management of the Integrated Framework is presently carried out by the Integrated Framework Working Group, chaired by the WTO and consisting of representatives of the six agencies, the OECD/DAC secretariat, one donor country and one LDC. The activities are funded from an Integrated Framework Trust Fund, which amounted to \$19.4 million in July 2003, \$11.2 million of which had been disbursed.

UNCTAD: linking trade and development. For the past 40 years UNCTAD has promoted a development-oriented approach to trade and the integration of developing countries into the world economy. By providing a forum for trade and development, undertaking re-

Box 4.3 Integrated Framework evaluation

An evaluation of the Integrated Framework's first programme between 1998 and 2000 concluded that many of its objectives were not realized (Rajpathirana and others 2000). The Integrated Framework was not demand-driven and there was little ownership in the LDCs. Governance and administration were weak and coordination of donors, agencies and beneficiaries proved complex. While LDCs and donors had different perceptions of the objectives, the programme remained underfunded and management responsibilities were not clearly assigned to the agencies. No link was made between trade capacity building and the overall development assistance architecture. The evaluators concluded that "a major shift in orientation of the Integrated Framework is required—away from a process-driven approach to getting results on the ground through a predominantly LDC-driven approach" (p. 27).

Following the review, a proposal for an Integrated Framework pilot scheme was adopted in February 2001. Initially, agencies, donors and LDCs agreed that to extend the programme after the pilot scheme was favourably reviewed as a model for trade-related technical assistance delivery, and on the condition of the integration of priority areas into national development strategies and for poverty reduction. Nevertheless, before a review had taken place, and arguably under pressure to make progress on the global trade capacity building agenda, the Integrated Framework Working Group decided to extend the programme to 11 other LDCs in September 2001.

In 2003 a second evaluation of the Integrated Framework was conducted (Capra-TFOC Consortium 2003).⁷ Most of the LDCs had not completed the diagnosis phase yet. As with the JITAP evaluation, only operational results—not development results—could be measured, and even here the evaluators noted that the extremely short period allowed for the evaluation and the lack of measurable goals and objectives imposed serious constraints. Yet overall, evaluators found that considerable progress had been made with the Integrated Framework programme, especially at the agency and planning levels, lauding "the fundamental soundness of the IF approach".

They also noted persistent problems, some rooted in the different expectations that donors and LDCs have for the programme. The fundamental question is whether the Integrated Framework should be a broad and large funding source for trade-related technical assistance, particularly for the acute supply-side constraints in LDCs, or whether it should be a small instrument focused on helping countries identify their strengths, weaknesses and needs for further funding elsewhere.

A related issue concerns governance. The evaluators note the perception among stakeholders that the Integrated Framework is still a mere set of free-standing activities, controlled by outsiders, emphasizing activities rather than results and lacking a poverty focus. The evaluators recommended that the governance structure be adapted to better balance the three partner groups—agencies, donors and LDCs—by making their numbers equal in the Integrated Framework Steering Committee.

As stressed by the evaluators, country ownership remains the crucial factor for success. Wide differences remain among the LDC beneficiaries with regard to political will at senior government levels, establishment of and participation in national steering committees and local leadership of the DTIS.

They also noted that in the perception of LDC actors, the selection criteria for participation in the Integrated Framework remained insufficiently objective and transparent. A key issue is whether to select participating LDCs

continues

Box 4.3 Integrated Framework evaluation (continued)

on the basis of the expected rate of return of Integrated Framework participation (absorption capacity, ownership and leadership), or on the basis of the most needy candidates.

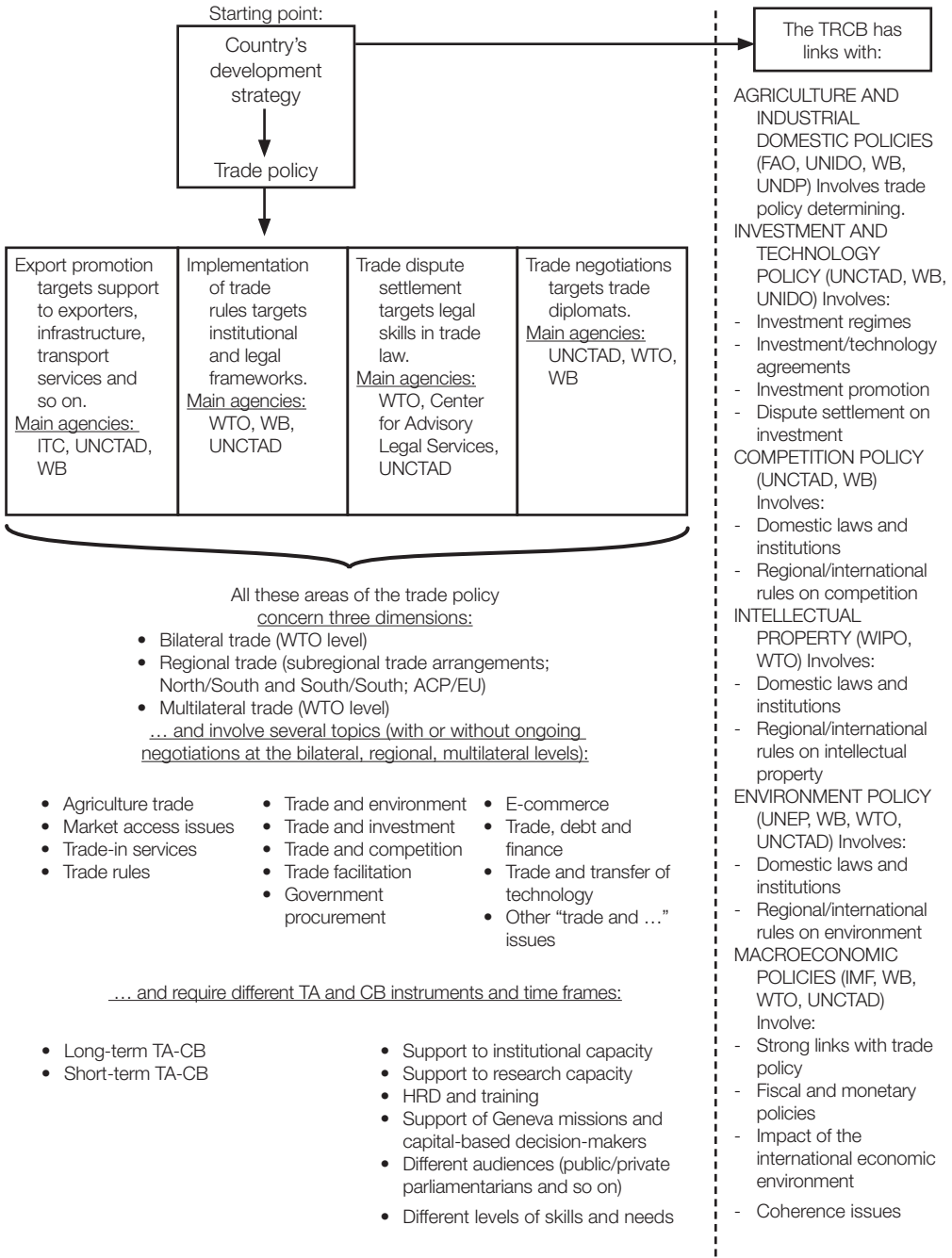
Another trade-off needs to be fine tuned. The current process of selecting consultants was perceived to lead to consultants “doing it for them” instead of “doing it with them”. Even if costs in the short run are higher, the evaluators recommend that steering committees more often hire external consultants to provide mentoring and coaching support.

search, policy analysis and data collection, and providing technical assistance, UNCTAD has significantly contributed to enabling developing countries to better understand and participate in the international trading system. Since the establishment of the WTO, the role of UNCTAD has become even more crucial in promoting trade and development from developing countries’ perspectives. It also seems that UNCTAD has become “more of a professional and technical agency and less an institution imbued with a political agenda” (North-South Institute 2004: 41).

UNCTAD activities cover a broad array of areas: agricultural trade liberalization and commodity diversification and development, competition and consumer policies, services, environment, investment, technology and enterprise development, macroeconomic policies and development financing. Its technical assistance and trade capacity building projects, often funded from extra-budgetary sources, are an integral part of its mandate and substantive work. Its trade capacity building activities focus on training for trade negotiators and support to research and training institutions of developing countries (see figure 4.6). The mode of delivery remains largely centred on seminars, workshops, technical studies and advisory missions (see North-South Institute 2004, annex 1).

UNCTAD not only benefits from the support of other donor agencies for its trade capacity building programmes, it also works closely with other multilateral agencies to foster trade capacity building, including the WTO (mainly in the context of the Doha Round), the ITC (for business-oriented trade capacity building), IMF, World Bank, UNDP and UN regional commissions. These organizations take different approaches to trade capacity building (see table 4.7). UNCTAD is also actively involved in the elaboration and implementation of JITAP and the Integrated Framework.

Figure 4.6 UNCTAD map of trade-related capacity-building activities



Note: TRCB is trade-related capacity building; TA-CB is technical assistance–capacity building; WB is World Bank; ACP is African, Caribbean and Pacific; HRD is human resource development.
 Source: UNCTAD (2002).

The European Community: promoter of regional trade capacity building. The European Community (EC) has been among the main driving forces of trade capacity building programmes at both the global and the regional level. Such trade capacity building support features throughout its development cooperation agenda. Over the past three years, some €2 billion has been spent on trade capacity building or related programmes (European Commission 2003). In many national or regional assistance programmes, considerable funds have been explicitly reserved for this purpose. Particularly in Regional Indicative Programmes (RIPs) for the African–Caribbean–Pacific (ACP) regions, assistance related to trade and trade policy dominates the cooperation agenda, with trade capacity building commitments of more than 50% of total funding to some regions (see box 4.4). In addition to direct bilateral and regional support, the European Community has taken the lead in various multilateral initiatives aimed at building trade capacity in developing countries (see table 4.8; box 4.5).

Trade capacity building: a critical assessment and lessons learned

This section offers a critical assessment of trade capacity building programmes and highlights some key lessons learned. It provides an overview of some key critical elements for the provision of trade capacity

Box 4.4 Trade.com and environmental protection agreements

In July 2003 the European Commission approved the Trade.com programme for African, Caribbean and Pacific countries. Trade.com will focus on creating the necessary capacities in African, Caribbean and Pacific countries to benefit from increased trading opportunities (www.tradecom-acpeu.org). The programme has three main components:

- Strengthening local trade policy-making, research and training capacities in the ACP countries.
- Establishing a network of ACP experts through a “hub and spokes” programme (in addition to regional senior trade advisers, funding will be provided for local and regional trade fellows).
- Carrying out pilot projects to address urgent institutional and supply-side constraints in technical standards and sanitary and phytosanitary requirements.

Trade.com is financed by the European Development Fund. It became operational in 2005 for six years, thus covering part of the Economic Partnership Agreement negotiations (initiated in 2002 and to be concluded by the end of 2007) and beyond.

Table 4.7 Comparative overview of trade capacity building approaches by multilateral agencies

	Strategy formulation	Needs assessment	Programme design	Financing	Selection of participants	Implementation	Evaluation	Follow-up
ITC	Outsiders are involved	Formal process (kick-off meetings)	Flexibility in adjusting to needs	Mainly donor countries	Recipient countries and self-selection by network members	Interactive events include consultants and local resources; e-net is widely used	Evaluation by network members and external experts	Flexible, depending on the network
UNCTAD	Consultants participate	Formal process	Provider in consultation with the beneficiary	Budget, donor countries and private finance	Government nomination in consultation with UNCTAD	Great diversity, consultants are involved	Formal evaluation by external experts and UNCTAD	Depending on the availability of funds
World Bank	Extensive influence of leading outside experts in training and in trade policy	Formal process and informal consultations	Multi-party approach: World Bank, local partners, World Bank representatives	In-house funds and external grants	Joint (provider-beneficiary) selection process	Staff, external experts and local partners are involved; multiple delivery methods, e-net widely used	Formal evaluation in-house and by external experts	Depending on the evaluation of the initial event and general policy
WTO	Only representatives of member countries are involved	Informal consultations	Flexible but largely a standardized offer	Budget, trust funds and donor countries	Competitive selection for trade policy courses; government nomination for other events	Mainly staff and some local partners; interactivity is encouraged	Evaluation by the Committee on Trade and Development (CTD); reform is in process	Informal; formal follow-up depends on the CTD

Source: Kostecki (2001, annex 1, p. 27).

Table 4.8 European Community-funded trade capacity building programmes

Beneficiary	Trade capacity building fund/source ^a	EU trade-related funding (€ millions)	EU trade-related funding (% of total EU fund/source)
Multilateral initiatives ^b			
LDCs	Integrated Framework	5.5	60
Developing countries	Doha Development Trust Fund	12	63
All ACP			
ACP group	Trade.com (EPA negotiations phase II)	50	100
ACP group	PMU (EPA negotiations phase I)	20	100
ACP group	Doha Round	10	100
ACP regions ^c			
Central Africa	RIP 2002–07	14–16	25–30
West Africa	RIP 2002–07	118	50
Eastern and Southern Africa and Indian Ocean	RIP 2002–07	100–120	45–55
Southern Africa (SADC)	RIP 2002–07	35–45	35–45
Pacific	RIP 2002–07	9	31
Caribbean	RIP 2002–07	43–51	75–90
Non-ACP countries ^c			
Paraguay	NIP 2000–06	21.7	42
Uruguay	NIP 2002–06	5.4	29
Chile	NIP 2000–06	6.4	19
Bangladesh	NIP 2002–06	49	9
Viet Nam	NIP 2002–06	6	6
Thailand	NIP 2002–04	5	50
Non-ACP regions ^c			
Andean Community	RIP 2002–06	0,7	5
Central America	RIP 2002–06	44,7	60
Mediterranean	RIP 2002–04	10	11

Note: The table is illustrative and does not present all EU support in trade capacity building. In the ACP, National Indicative Programmes (NIPs) may also include trade-related funding.

a. NIP is National Indicative Programme; RIP is Regional Indicative Programme.

b. The European Commission does not contribute to JITAP (some EU member states are main contributors).

c. In some NIPs and RIPs, trade-related capacity-building support is included in allocations that serve a wider purpose; here only NIPs and RIPs that reserve funds explicitly for support to regional integration or trade-related capacity building are included.

Source: Information from the European Commission compiled by the authors.

Box 4.5 Evaluation of EC trade capacity building programs

In 2002 an external evaluation of the European Commission's trade-related assistance was initiated at the request of the Commission Services. A final report was presented in May 2004 (ADE 2004). The overall tone of the evaluation is positive. According to the report, the pro-active approach adopted by the Commission in trade-related assistance has improved beneficiary countries' understanding of trade-related issues and commitments, has contributed to reforms and regional integration and has strengthened the negotiation capacity of the beneficiaries. The evaluators stress that the effectiveness of EC programmes is substantially higher at the regional level than the national level, where programmes lack a strategic approach. The importance of EC assistance to regional integration organizations is also mentioned, especially for the African, Caribbean and Pacific regions, where assistance increased their capacity to define and implement regional integration strategies. The evaluators stress that the effectiveness of programmes is greater in areas directly related to the multilateral trading system and where the programmes had a high technical content.

Problems are still encountered with the development of management instruments for the complex array of trade capacity building projects. A key deficiency, the evaluators note, is the lack of rationale underlying much trade-related assistance programming. There is no in-depth analysis of the trade situation in the beneficiary country. Also, strategic programmes covering regions do not comprehensively analyse the regional trade situation. In this respect, programming is actually too demand driven, with a vague and rather passive role by the European Commission in identifying partners' needs. Demands by partners are sometimes accepted without consultation with non-state stakeholders and without much in-depth verification of whether the countries' key priorities in trade are addressed and the assistance concerned is the most relevant in context.

building and summarizes some common drawbacks in current trade capacity building activities (see tables 4.9 and 4.10).

A critical assessment of trade capacity building

Criticism of donors' trade capacity building agenda has increased as budgets have expanded over the past few years. At the heart of this critique is the reality that donor interests can be seriously biased and that programmes do not provide appropriate support for improving research and policy-making in a sustainable fashion. The bias is most obvious when the donor is also the counterpart in trade negotiations. Assistance may then skew the strategic choices—at least where they concern human resources and training in particular trade-related areas—made by the recipients in favour of the donors. Solignac Lecompte (2001) assesses the risk of biased aid in bilateral assistance programmes. He notes four ways in which such assistance can be biased:

Table 4.9

Trade capacity building: elements of good practice

National institutions		Governance of international institutions	
Design and strategy development	Negotiation	Implementation and utilization	
Performance objectives (required capabilities)	Trade strategy conducive to development objectives	Agreements support development objectives and major goals outlined in trade strategy	Ensure legitimacy of international institutions and agreements
	Coherent trade strategy at the national, bilateral, regional and multilateral levels	To achieve the provision of the global public good (trade and multilateral trading system) conducive to development objectives	Facilitate participation of all countries (including developing countries) in the multilateral trading system
	Effective consultations with stakeholders	Ability to implement and benefit from the trade agreement, and to participate in its enforcement	Effectively incorporate views and needs of countries, even the weakest, into the negotiation process
	Effective intragovernmental policy coordination	Increased efficiency, expanded markets, better integration into the world economy	Assist developing countries in implementing and benefiting from agreements once signed
	Effective policy inputs from networks	Smooth adjustment process	Assist developing countries in enforcement mechanism (such as resolving disputes)
		Adequate supply-side measures in place	Provide sufficient means to international institutions to carry their mandate
		Infrastructure effectively supports trade system	Stimulate coordination, complementarity and coherence of international institutions and agreements
		Institutions effectively support the trade system (for example, policy networks including indigenous research institutions)	

(continues)

Table 4.9 Trade capacity building: elements of good practice (continued)

	National institutions			Governance of international institutions
	Design and strategy development	Negotiation	Implementation and utilization	
Capacity objectives	<p>Do basic research and analysis of current situation and potential benefits</p> <p>Carry out effective consultations with stakeholders</p> <p>Coordinate policy among government ministries</p> <p>Collect, disseminate and analyse statistics and other information</p> <p>Develop a coherent trade strategy</p> <p>Support outward-oriented regional strategies</p>	<p>Defend country strategy and achieve major goals</p> <p>Analyse and adjust to positions of opponents</p> <p>Be able to form alliances</p>	<p>Implement and comply with agreement or international commitments</p> <p>Develop supply side adequately</p> <p>Develop adequate infrastructure</p> <p>Establish and maintain appropriate institutions, including networks for supporting the trade system</p> <p>Develop and maintain links within the private sector and between the private sector and government</p>	<p>Ensure that results of negotiations are credible and have legitimacy</p> <p>Manage an inclusive process (with all developing countries)</p> <p>Support implementation in ways that maintain credibility of institutions to deliver mandate</p> <p>Ensure coordination, complementarity and coherence among international organizations</p> <p>Ensure legitimacy of the system</p>

(continues)

Table 4.9 Trade capacity building: elements of good practice (continued)

Processes	National institutions		Governance of international institutions
	Design and strategy development	Negotiation	
Understanding of system supporting trade regimes	Strengthening the legitimacy of processes	Responsiveness to emerging needs	Avoiding capture by special interests
Understanding of political nature of capacity development	Feeding into ongoing trade policy-making processes	Designing monitoring and evaluation systems for local learning	Preventing politicization and instrumentalization of international institutions
Looking for strengths and opportunities of multilateral trading system and national capacity, not just gaps and weaknesses	Facilitate and support participation in negotiations	Securing sustainability through interconnectedness among organizations involved	Facilitate participatory approach
Helping countries set priorities	Timely response to emerging demands for support and analysis during negotiations		Ensure coherence and complementarity of institutional approaches to trade policy matters in a way consistent with development objectives
Ensuring participation of stakeholders	Avoid donor bias by insulating donor support from strategic negotiations		
Providing room for innovation and learning			
Protecting against destructive influences (politics, corruption)			
Building on local ownership			
Encouraging both soft and hard capabilities			
Generally strengthening established mechanisms rather than creating new ones			
Providing united assistance			
Ensuring mutual accountability—donor to recipient and vice versa			
Roles	Countries define their needs and identify assistance required and take charge of trade strategy and development	Give advice and support to country	Help provide a policy space
	Donors support long-term development of capacity and provide long-term commitment		Avoid top-down approach
	Donors act as catalysts, suppliers of resources and information, buffers against outside forces, but not implementers		
	Donors help build confidence in recipient country		
	Donors are unbiased suppliers		

	National institutions			Governance of international institutions
	Design and strategy development	Negotiation	Implementation and utilization	
End objective	Prepare developing countries for negotiations	Developing countries participate in negotiations Developing countries accept and are able to cope with the multilateral trading system, and its further elaboration	Developing countries implement trade regimes	Put in place international trade agreements with commonly agreed norms
Real situation	Supply-driven trade capacity building: perception in many developing countries that trade capacity building processes and the multilateral trading system are thrust on them Little consultation with stakeholders Gap-filling trade-related technical assistance focused on short-term output Little increase in sustainable national capacity Inadequate capacity to do analysis Inadequate statistical base for solid analysis Poor coordination in government Many developing countries overwhelmed by demands from donors Focus on short-term negotiations rather than sustainable trade and development strategies Trade capacity building activities in the form of training, workshops and studies, focusing on short-term hard capabilities	Process has little legitimacy Reduced legitimacy of agreements and institutions because many countries are not able to fully engage in the negotiations (are not full partners) Ineffective negotiations process Developing countries often unable to protect their interests	Developing countries often mainly rule takers Lack of capacity to benefit from agreements: supply constraints, inadequate infrastructure, weak support institutions, lack of links within private sector or between private sector and government Lack of capacity to enforce agreements within countries Countries can be punished for non-compliance with agreements because of lack of capacity	Little attention to needs of developing countries Inadequate capacity to carry out mandate and assist developing countries in their trade negotiation process and implementation Focus on trade negotiations at the expense of broader development objectives

(continues)

Table 4.10 Trade capacity building: difficulties encountered in current practice (continued)

	National institutions		Governance of international institutions
	Design and strategy development	Negotiation	
Roles	<p>Supply-led trade capacity building, pushed by industrial countries</p> <p>Little clearly articulated demand from developing countries</p> <p>Donors provide assistance to support certain outcomes (such as Singapore issues in the Doha Round)</p> <p>Donors make few links between trade capacity building and overall development assistance</p> <p>Lack of coherence</p> <p>Donors tend to emphasize operational results over development results</p>	<p>Many developing countries depend heavily on trade-related technical assistance provided by donors</p> <p>Little involvement of private sector and civil society</p> <p>Lack of coordination among ministries</p> <p>Some countries do not have permanent representation to the WTO</p> <p>Poor coordination between WTO delegation and capital officials</p>	<p>International organizations have insufficient means to support developing countries</p> <p>JITAP and Integrated Framework coverage limited to a proportionally small number of developing countries</p> <p>Still insufficient coordination among donor agencies</p> <p>Lack of capacity of many developing countries to ensure enforcement of agreement or effectively participate in dispute resolutions</p>

- *Negative discrimination.* Donors may be reluctant to provide assistance in areas they perceive as detrimental to their own interests.
- *Positive discrimination.* Donors may be tempted to positively discriminate in favour of trade capacity building, which they see as generating benefits for their own economies and firms.
- *Tied aid.* Classical aid-tying issues arise in activities designed to promote trade and investment links with the donor country but presented as development projects.
- *Buy-off.* The support offered by donors for enhancing the recipient's analytical and negotiating capacity in certain areas may alter the recipient's goals and incentives—for example, by opening negotiations on issues that the recipient would normally consider itself not ready or willing to negotiate.

But some observers see the problem of biased assistance in a broader (multilateral) context: the overall increased attention for capacity building lures developing countries into the ever-expanding agenda of bilateral and multilateral trade negotiations. According to this thinking, trade capacity building programmes are the standard answer from industrial countries whenever developing countries complain that they cannot keep up with an ever-widening WTO or regional negotiation agenda. According to Tandon, developing countries “are persuaded to accept the expanding agenda on the promise that they will be given adequate technical assistance to cope with the new situation” (2002). The result is that while assistance increases, the range of issues to be covered expands as well, which leaves less scope to catch up with traditional WTO matters.⁸

Powell (2002) criticizes the World Bank's dominance in multilateral trade capacity building programmes for bringing “ideological and institutional baggage” to the trade policy agenda and forcing an intellectual straightjacket on the policy-makers engaged in those programmes. The sudden popularity of trade capacity building programmes with donors thus results from their concern about the implementation gap developing countries face with respect to their multilateral or bilateral commitments, or concerns that developing countries risk ultimately blocking further progress of global trade talks.

The trade capacity building agenda as a whole, as well as individual programmes, have also been criticized for not addressing the most pressing needs of developing countries. For instance, in 2002 one-third of all trade capacity building activities concerned the “Singapore issues” (in-

vestment, competition, government procurement and trade facilitation), while most developing countries were either reluctant or unwilling to negotiate these issues in the Doha Round (2003 data from the DDA Trade Capacity Building Database). Further, programmes are criticized for failing to link trade to the overall development agenda and for focusing all too frequently on directly visible results (backstopping the most urgent gaps) without addressing the more fundamental weaknesses in recipient countries. Temporary projects based on short-term financing constrain possibilities for building institutional knowledge, analytical skills and policy-making capacities.⁹ Also, coordination among donors and recipients has been perceived as weak, although increased cooperation in the OECD and the establishment of the DDA Trade Capacity Building Database have resulted in marked improvements.

Lessons learned

Over the past few years, a variety of case studies have documented developing country and donor experiences in trade policy-making and trade capacity building programmes.¹⁰ The established literature on capacity building in general also has useful insights to offer.

Technical assistance versus trade capacity building and the short versus the long term. Before the term “trade capacity building” gained acceptance, donors used to refer to such work as trade-related technical assistance. This usually concerned standard consultancies, on a short-term and project basis, focusing on the technical aspects of the area concerned. This approach is now considered old fashioned, giving way to the notion that genuine and sustainable improvement of (trade) capacities can take place only if such a process is demand driven and owned in the countries concerned. As opposed to one-shot initiatives by means of foreign expertise or thematic training sessions, capacity building should stress a much longer term (if not continuous) commitment by donor and recipient countries, with a focus on endogenous change.

This is much easier said than done. Supporting endogenous improvements in trade policy-making takes time and patience. In terms of human resources, for instance, sustainability can be achieved only if more trade expertise can be generated in country by means of better trained stakeholders such as trade officials, researchers or private sector actors. But well functioning training and research institutions, ministries and strong private sector organizations can take years to establish and provide their first pay-offs. And trade negotiations are urgent today, not tomorrow. Re-

ality forces both donors and recipients to concentrate on backstopping activities, for instance, by bringing in Western expertise and consultants to carry out part of the work. Though this can prevent a developing country from entering negotiations empty handed, other negotiations require different inputs. Many of the benefits of the negotiated agreements can be reaped only if domestic capacity is adequate to implement its provisions.

In practice the distinction between what is trade-related technical assistance and what is real trade capacity building is often blurred: the same programmes that aim to address fundamental constraints often also deal with numerous short-term demands posed by the daily practice of international trade policy, particularly negotiations. Ideally, initiatives achieve both objectives: financing the most pressing needs while bridging the actual capacity deficit—for example, by supporting domestic research institutions. As multiple levels of trade negotiations are pressing both donors and policy-makers to act, short-term objectives can dominate the agenda to the detriment of sustainable capacity building. Though in theory there need not be a direct trade-off between short- and long-term objectives, in practice it is hard to avoid, and both donors and recipients have to weigh the everyday demands of an overloaded trade agenda against investments that will pay off only in the long run.

Regional versus multilateral approaches. A factor complicating the discussion of trade capacity building is that not all programmes and activities aim at building capacity to better participate in the multilateral trade system, that is, the WTO. Instigated by the new spurt of regionalism in international trade relations, large donors such as the United States and the European Commission have initiated programmes that focus almost entirely on their bilateral or biregional relations with recipient countries. A key question is whether the new regionalism and the associated increase in trade capacity building programmes will have positive spillover effects on developing countries' participation in the WTO, or whether these negotiations will divert resources and commitments away from the WTO agenda and towards the regional negotiations.¹¹ Though in terms of substance many issues within regional trade negotiations are similar to those dealt with at the multilateral level, it is not unthinkable that the heavy agenda faced by developing countries will distract expertise and political commitment from the WTO process.

In this respect, the EC approach to trade relations with a large group of developing countries might deserve particular attention. For instance, since the start of regional Economic Partnership Agreement negotiations with the 76 ACP states in 2002, the European Commission has

focused the large majority of its trade capacity building activities at ACP regions, which may give a substantial boost to capacities at the regional levels (at the regional secretariats that facilitate the negotiations or at regional bodies that actually conduct the negotiations). In the European Commission's view, it is by promoting regionalism among and with developing countries that their gradual integration into the world economy can be achieved. Building the necessary trade (policy) capacity is a necessary but insufficient condition for concluding a trade agreement in the interest of that region. There is a real danger that the national level will remain in arrears regarding awareness, understanding and capacities to effectively participate in regional negotiations (see, for instance, Dunlop, Szepesi and Van Hove 2004). Ultimately, a lack of capacity at the national level can frustrate the entire negotiation process because key information in preparation for the negotiations needs to be generated at the national level, final provisions of a trade agreement need to be approved by national ministers and the implementation of any agreement needs to be executed by national ministries. Also, negotiations with a large developed region such as the EU pose the danger of diverting negotiation and policy-making capacities away from the multilateral WTO agenda.

Demand-driven versus supply-driven support. In capacity building and technical assistance, the problems created by supply-driven donor programmes have long been recognized. The central critique is that problems of ownership are created if programmes are pushed onto the agenda by donors. A large study by the UNDP (2002b) finds that such programmes can undermine local capacity by displacing rather than transforming local institutions, that they bias programming to the most visible activities that yield the most tangible results, that they ignore the wishes of the communities and that the execution of programmes can be more expensive, because too much foreign expertise is involved.

In building trade capacity, the danger that programmes are donor-driven is particularly present. First, many programmes concern issues of implementation. Developing country WTO members face a long list of commitments from the Uruguay Round agreements for which they lack the implementation capacity. Most of these provisions were negotiated at the insistence of industrial countries and the merits of some agreements with respect to the development priorities of developing countries is widely disputed. Second, the Doha Round agenda keeps growing. Undeniably the carrot of trade capacity building support is used by industrial countries to persuade developing countries to agree

to negotiate additional commitments in trade-related areas. The same observation can be made about various bilateral or biregional trade negotiations. Industrial countries find it hard not to push trade capacity building support for certain areas of trade negotiations because they have a direct interest in safeguarding the negotiation agenda.

Conclusions and recommendations from a global public goods perspective

The international trade regime has the main characteristics of a global public good: non-rivalry and non-excludability. However, the benefits of the international trade system are distributed very unevenly. Most advantages accrue to a small number of more advanced economies. In contrast, a larger number of less developed countries lack sufficient capacity:

- To adequately identify their trade interests and translate them into a coherent trade strategy conducive to their development objectives.
- To fully participate in the production of the multilateral trading system (that is, to contribute significantly to WTO negotiations).
- To properly implement the agreements reached.
- To benefit from the new trading opportunities.

Without capacity-building initiatives to appropriately remedy this imbalance, the international trade regime remains a global public good in form more than in substance.¹²

Legitimacy is also a key ingredient if the multilateral trading system is to be seen as a global public good and not a “public bad” by countries negatively affected or excluded from its elaboration. The legitimacy of the multilateral trading system ultimately depends on the decision-making and implementation process of the trade regime and the WTO system. This includes the adequacy of the multilateral institutional design, its capacity to adapt to evolving requirements and the capacity of the multilateral organizations to fulfil their mandates. It also requires that all members, including the weakest ones, are able to participate in the multilateral trading system, to elaborate and pursue appropriate trade and development strategies, to conduct multilateral negotiations and adjust their positions to a dynamic environment and to implement and benefit from the agreements reached. Trade capacity

building is thus vital to the legitimacy and hence sustainability of the multilateral trading system.

The international community has started to address some of the developing countries' concerns, including in the context of the Doha development agenda and accompanying measures. Some further initiatives could be undertaken to strengthen their participation in the international trade regime, which could then advance as a global public good in substance.

Building trade capacity: a process-oriented approach

Trade capacity building is a comprehensive process that cannot be satisfactorily addressed in a piecemeal approach. While it might be tempting to focus on the negotiations to elaborate the multilateral trading system, the effective provision of trade as a global public good requires addressing national (and regional) capacity constraints in the trade design and strategy development phase, as well as in the implementation and utilization phase of the international trade regimes components. In addition, the capacity of the international institution to adequately provide for the development of the multilateral trading system and its governance are key factors for the provision of the trade regime as a global public good. In short, trade capacity building cannot focus solely on trade negotiations to ensure the sustainability of the multilateral trading system.

The pressing agenda of ongoing trade negotiations, with its priority demands, tends to drive the process of support for trade and trade-related issues. It is thus imperative to clearly distinguish between short-term trade-related technical assistance, which should focus on immediate objectives of facilitating the participation of all countries in the further elaboration of the multilateral trading system, and longer term trade capacity building activities, which should aim at encouraging the emergence of conditions more favourable to sustainable trade and development objectives. The WTO negotiations should not divert resources away from longer term trade capacity building initiatives but should justify additional trade-related technical assistance to complement broader capacity development.

To this end, it might be useful to distinguish between support for the development of hard capabilities, focusing on technical skills, trade knowledge, institutional development and such, and soft capabilities, oriented more towards processes, networking, methods and the like. Hard capabilities—easier to identify, develop and evaluate—are usually the

target of donors' support. They are also in higher demand for the short-term objective of negotiations. By contrast, changing working methods, relations among key actors or approaches towards trade policy and development are less tangible targets, achievable only in a longer term perspective. Yet they are crucial to the sustainable development of trade (and trade-related) capacities. Consequently, trade capacity building and trade-related technical assistance should not only focus on training, seminars and studies, but stimulate and facilitate more process-oriented approaches towards trade policy formation and implementation.

The sustainability of the trade capacity building described above, as well as the legitimacy and ultimate relevance of the multilateral trading system, require strengthened local ownership and an indigenously driven agenda. While donor-driven support can stimulate activities in recipient countries, sustainability and unbiased support calls for a demand-driven approach from developing countries. Since each situation is specific, the one-size-fits-all approach of many trade capacity building programmes led by donors is often not appropriate. Trade capacity building programmes should be driven as much as possible by recipient countries.

Selected recommendations

For trade capacity building to enhance the provision of the international trade regime as a global public good, a wide array of recommendations can be considered (see table 4.11). At each level, a distinction is made between the focus of the trade capacity building intervention and the preferred process to be followed. The table also indicates some possible concrete operational actions that could be undertaken by the international community. Some initiatives that may be considered are highlighted in the next sections.

Who does what? And how?

To improve and increase trade capacity support coherently to the less advanced nations internationally, it is first necessary to have a clear overview of who does what. The international community claims to seek to promote the further elaboration of the multilateral trading system to the benefit of all countries (including the less developed ones).¹³ For this aspiration to have credibility, donors need to inventory and reassess their trade capacity building support. This effort should help determine the extent to which the current broad array of trade capacity building

Table 4.11

Indicative recommendations on capacity building for trade as a global public good

On focus	National institutions			Governance of international institutions
	Design and strategy development	Negotiation	Implementation and utilization	
<p>Trade policy and trade capacity building should be integrated into broader sustainable development objectives and strategies</p> <p>More emphasis on building domestic capacity (trade policy-making process) rather than simply completing tasks (development of a trade strategy document); this may require parallel streams of assistance for the two objectives</p> <p>National, bilateral, regional and multilateral dimensions of trade policies, and hence trade capacity building, should be better integrated to avoid an excessive fragmentation of trade capacity building programmes on similar issues</p>	<p>All developing countries able to participate to negotiations of multilateral trading system</p> <p>Identification of synergies among various forums of negotiations</p> <p>Support to developing country coalitions</p>	<p>Developing country commitments at the WTO should match their implementation capacity and trade capacity building support</p> <p>Complementarity between trade capacity building and CB[?] programmes covering other related dimensions (infrastructure, supply-side constraints, institutional development, fiscal and economic policies)</p> <p>Promote regional and international cooperation on implementation issues</p>	<p>Focus on the legitimacy of the multilateral trading system</p> <p>Presence of all developing country representatives to the negotiations at ministerial and other political and technical meetings and the WTO delegation in Geneva</p> <p>Complementarity among international organizations dealing with trade issues (WTO, UNCTAD, FAO, IMF, ITC, UNDP, UNIDO, UN regional commissions, World Bank, regional banks, other regional and international institutions)</p>	

(continues)

Indicative recommendations on capacity building for trade as a global public good (continued)

		National institutions		Governance of international institutions
	Design and strategy development	Negotiation	Implementation and utilization	
On process	<p>Need to differentiate programmes better between short-term trade-related technical assistance and longer term sustainable trade capacity building activities</p> <p>Need to distinguish between hard capabilities (skills, knowledge) from soft capabilities (awareness, networking) in fostering trade capacity building</p> <p>Strengthen partnership by making more use of joint reviews of both donors and recipients</p> <p>Support partnership and participation of private sector and civil society</p> <p>Differentiate approaches according to a country's specificities and trade priorities</p> <p>Improve donor coordination (for example, through the DAC, Integrated Framework and so on)</p> <p>Need to conduct sustained and consistent trade capacity building activities within longer term assistance programmes</p> <p>Need for donors to commit to untied aid on trade issues</p>	<p>Focus on short-term capabilities to follow and understand current negotiations (training, seminars, studies), to translate country strategies into negotiation positions and to identify priorities and adjust positions to dynamic negotiation setting</p> <p>Support developing country coalitions and alliances</p>	<p>Build on existing capacities and develop current institutions rather than creating many new institutions and initiating reforms that will not be fully completed</p> <p>Support relevant regional initiatives and activities that help developing country actors generate a policy space and create synergies conducive to the implementation and use of opportunities in the multilateral trading system</p>	<p>Support reforms of the WTO's (and other international organizations') decision-making process to improve member participation, transparency, accountability and ultimately legitimacy of the multilateral trading system</p> <p>Increase funding of multilateral and regional programmes for building trade capacity as well as relevant programmes of international organizations</p> <p>Streamline financing procedures and support mechanism to facilitate funding of trade capacity building activities conducive to reinforcing the multilateral trading system</p>

(continues)

Table 4.11 **Indicative recommendations on capacity building for trade as a global public good (continued)**

	National institutions		Governance of international institutions	
	Design and strategy development	Negotiation		Implementation and utilization
On operations	<p>Foster long-term trade capacity building programmes to support recipient-country university and research institutions on trade-related issues, with mentorship from and partnership with experts from international organizations and academic/research/policy analysis institutions</p> <p>Support cross-border exchange of trade officials and internships, including at senior levels</p> <p>Donors to contribute to international system of data collection on activities</p> <p>- Identification and dissemination of good practice</p>	<p>Finance representation of weakest countries to the WTO and provide adequate trade-related technical assistance to allow their participation in the negotiations</p> <p>Support resource pooling initiatives by developing countries to improve their participation, notably through WTO coalitions and regional groupings</p> <p>Create a trade-related technical assistance programme with a pool of experts available for emerging urgent needs arising from the Doha negotiations, able to respond to ad hoc demands from developing countries</p>	<p>Make developing country implementation of WTO commitments conditional on domestic capacity, and notably trade capacity building and financial support</p> <p>Provide support to developing countries on the use of the WTO dispute settlement mechanism (for example, support regional centres of expertise, train national officials and experts, establish a financing facility)</p>	<p>Increase the budget of trade-related technical assistance programmes of WTO directly in relation to the Doha Round and its future implementation</p> <p>Provide UNCTAD with more external financial contribution for its trade capacity building activities</p> <p>Extend JITAP (and the Integrated Framework) to more countries, and better integrate national, bilateral and regional trade (and development) dimensions in multilateral trading system considerations</p> <p>Facilitate the observatory status of regional groupings and provide direct support, as well as to WTO coalitions with developing countries</p>

activities have addressed the key challenges that private sector and public sector actors face in participating in the WTO and in implementing agreements. In particular, there is a need:

- To improve coordination and cooperation among providers of trade capacity building support (donors). The DDA Trade Capacity Building Database is a useful instrument for recording details of the type, scope and size of initiatives by the donor community. However the ultimate value of this instrument depends on the quality of the data it covers—still grossly inadequate. For accountability and transparency purposes, the quality of reporting by donors needs to improve significantly. A universally accepted method of classification needs to be followed by all donors. In terms of assessment, methodologies for the evaluation of trade capacity building programmes have to be further developed and reporting systematized. OECD initiatives towards these ends need to be further elaborated, in the context of the DAC and in close cooperation with the WTO, as well as other JITAP partners.
- To identify good practices in building trade capacity. Better cooperation and coordination, as well as pooling resources, helps in sharing experiences in building trade capacity. However, coordinated action at the plurilateral or multilateral level may lead to the adoption of the lowest common denominator among donors, ignoring the lessons of more innovative approaches by some donors. A multi-country investigation could be undertaken to identify the degree of cooperation and coordination among donors in any one country; the type of support that has been most effective in each country; the links between specific programmes and the multiple trade agenda (national, regional, bilateral, multilateral) that most countries face; and the synergies between programmes in neighbouring countries and at the regional level. Such a large case study could be conducted under the aegis of the OECD/DAC, the World Bank, UNCTAD or the WTO, for instance. It would inform the trade capacity building programmes developed by the international community. Recipients should be more involved in the assessment, design, implementation and evaluation of trade capacity building initiatives. The Integrated Framework is an interesting experiment in that respect, although with mixed results so far. General principles could be established and agreed within the

international donor community, and practical guidelines could be designed to help (national, regional, international and multi-lateral) donors establish mechanisms of consultation with recipient countries and enhance local ownership. This could be done by international organizations, perhaps relying on the extensive experience of the OECD, UNDP and others, not only in trade, but also in other types of non-trade-related capacity-building initiatives. To ensure that programmes are demand driven and truly owned by the recipient country, trade capacity building should be unbiased. Hence all donors should commit to untie their aid. The coverage of trade capacity building programmes should be coordinated as much as possible at the international level, and depend on the specific requests of recipient countries. Principles and guidelines to that end could be adopted within the OECD or the WTO.

Greater technical support and financial means should be given to the OECD/DAC to perform its coordination role, as well as to international organizations providing trade capacity building assistance. General principles and practical guidelines on building trade capacity should be further elaborated and agreed by international donors to promote good practice. They should include the perspective of developing countries (recipients of trade capacity building support).

Link WTO commitments to implementation capacity

The capacity gap between industrial and less developed countries should be explicitly taken into account in trade negotiations and commitments in the WTO and between industrial and developing countries. In addition to designing rules that reflect the development concerns of less advanced economies, when necessary through the provision of special and differential treatment, explicit provisions could be made for capacity-building support. A close link should thus be established between WTO commitments by developing countries, particularly LDCs, and the availability and effective delivery of trade capacity building support to enable them to implement these new commitments. That is, besides asymmetric rules and longer transition periods, some WTO commitments should be made dependent on reaching a specific capacity level required for implementation, with the explicit support of more advanced countries.¹⁴

Ensure all countries permanent representation in the WTO

Several developing countries, particularly LDCs, do not have the means to attend WTO meetings and hence effectively participate in the WTO negotiations because they cannot afford to establish a permanent delegation in Geneva or receive insufficient trade-related technical assistance to do so. This amounts to a de facto exclusion of part of the international community from the elaboration of the multilateral trading system. Sustainable, independent funding mechanisms and trade-related technical assistance should be provided by the donor community to weakest countries to ensure their presence and effective participation in the WTO negotiations, in Geneva with permanent representation and in senior official and WTO ministerial meetings and conferences (including informal gatherings, which play an increasingly critical role in the negotiations).

Provide financial support and trade-related technical assistance to WTO coalitions of developing countries

Many developing countries are too small and lack the capacity to have a significant direct influence on the WTO negotiations. In consequence, building alliances is critical (see, for instance, Drahos 2003). For the poorest countries to participate effectively in the negotiations they need to be able to engage in coalitions and alliance building, which requires resources and capacities. In addition, the operation of WTO groupings requires effective coordination and technical support. Sustainable and independent mechanisms of financing and trade-related technical assistance should be provided by the donor community.

Support initiatives pooling expertise for trade negotiation

International trade negotiations are very demanding in terms of technical expertise inputs required to cope with the expanding scope and dynamic negotiation agenda of the multilateral trading system. While in the longer term sustainable trade capacity building should help address the technical capacity gap of LDCs, in the short term external support is necessary to inform and input the technical negotiations. Donors should support trade-related technical assistance programmes that would bring together a pool of experts available for emerging urgent needs arising from the Doha negotiations, able to quickly respond to ad hoc demands from developing countries.¹⁵

Support developing countries in using the WTO dispute settlement mechanism

One of the major recent developments of the multilateral trading system has been the elaboration of a binding dispute settlement mechanism, a key result of the conclusion of the Uruguay Round. Yet many poor countries do not have sufficient means (financial resources and technical capacity) to make effective recourse to the WTO dispute settlement mechanism, either to file complaints or to defend themselves. This situation creates a de facto two-tier system, which seriously challenges the credibility and legitimacy of the multilateral trading system (see, for instance, the discussion by Schaffer 2004). A systemic funding mechanism and expertise should be provided to developing countries, as opposed to the ad hoc assistance they now receive case by case. This could include, among others, beefing up the Advisory Centre on WTO Law in Geneva, supporting regional centres of expertise, training national officials and experts and establishing a sustainable financing facility.

Notes

1. From 1999 to 2003, for instance, the United States has more than doubled its annual funding for trade capacity building from \$369 million to \$752 million (USAID 2003). The United Kingdom has also committed to double its funding between 2001 and 2004 (DFID 2001).
2. In trade the predecessor to “capacity building” was “technical assistance”, emphasizing the transferring of ready-made solutions, focusing on compliance with WTO rules. This was followed by “technical cooperation” in the 1980s, which lost favour to the present use of “capacity building”. For an overview, see Kostecki (2001).
3. See <http://tcbdb.wto.org>.
4. In comparing 2001 with 2002, the number of reported activities could be more telling for the increased attention to trade capacity building than the small decrease in the total value of committed funding, which can be explained by the periodicity of funding of some main donors (see also box 4.1).
5. Though, clearly, enhanced physical infrastructure can facilitate trade, it serves many other purposes as well, making it very difficult to assess which part will affect trade, and to what extent.

6. It should be noted that many of the funds indicated in table 4.1 for global trade capacity building programmes concern only the building of institutional frameworks for such programmes. Both JITAP and the Integrated Framework, for instance, identify further trade capacity building activities for which separate financing needs to be obtained from bilateral donors or international agencies.
7. Only the summary of this report has been made publicly available.
8. An interesting example might be negotiation training, a key issue for countries with little experience in the WTO: of 2,901 trade capacity building activities in 2001, only 12 were aimed at negotiation training—less than 0.4% (2003 data from the DDA Trade Capacity Building Database). Such figures at least tend to increase the suspicion of critics that donors prefer to support issues of implementation (from which they profit as well) over more strategic issues.
9. As one developing country official explains in a survey by Kostecki (2001, p. 21), “... assistance is needed in certain areas and never satisfied. In other areas the needs are inflated because the provider is pushing for such events to take place. The recipient country agrees because there is no cost involved and at times because the local participants and organizers may get more per diem or may travel to attractive places for regional meetings.”
10. Recent case studies in which the trade policy-making process and trade capacity building are the centre of attention include Bouzas (2004); Dunlop, Szepesi and Van Hove (2004); Bilal and Laporte (2004); Jordana and Ramió (2002); IADB (2002); Bonaglia and Fukasaku (2002); and Solignac Lecomte (2000a,b, 2001a). The OECD (2001) has compiled theoretical and practical insights.
11. In many ways the discussion on whether regional negotiations are in competition or synergy with multilateral negotiations, where the capacity of developing countries is concerned, parallels the famous debate among trade economists about whether regionalism as such is a stepping stone or a stumbling block towards multilateral trade liberalization.
12. See also Mendoza (2003); Mendoza and Bahadur (2002); and Cernat (2004) for a more extensive discussion.
13. As noted by Solignac Lecomte (2001, p. 7), “it is in the interests of donors to be able to negotiate with informed trade partners, as it is in their interests that developing countries trade more”.
14. Such an approach has for the first time been followed in the context of WTO negotiations on trade facilitations, as agreed in the Geneva WTO Declaration in July 2004.

15. Some existing networks could provide a useful platform for such an exercise. This is the case of the International Lawyers and Economists Against Poverty (www.ileapinitiative.com). Other arrangements, such as the “hub-and-spokes” programme of the European Commission, Commonwealth Secretariat and Agence Intergouvernementale de la Francophonie, also provide interesting approaches that could be paralleled at the multilateral level (see box 4).

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Web resources

DFID www.dfid.gov.uk/

USAID www.usaid.gov

WTO/OECD DDA Trade Capacity Building Database <http://tcbdb.wto.org/>

National Indicative Programs (NIPs) and Regional Indicative Programs (RIPs) http://europa.eu.int/comm/development/body/csp_rsp/rsp_en.cfm (ACP) and http://europa.eu.int/comm/external_relations/sp/index.htm (non-ACP)

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