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Making Doha a Developmental Round:

What do the Developing Countries Want?

The Doha Trade Round

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Multilateral trade negotiations that started two years ago in Doha stalled on September 14, 2003, in Cancun, Mexico. This impasse raises serious questions of whether or not trade can become an engine to boost development in the world's poorest countries. Success in these negotiations is critical for the world's least-developed countries. What is not understood is that successfully meeting the least-developed countries' demands is also important to the United States and other developed countries.

High trade barriers in agriculture and labor-intensive products keep developing countries from selling products where they have a comparative advantage, and those barriers deny consumers in developed countries substantial possible savings. Additionally, huge subsidies for agriculture in Europe, the U.S., Japan, and other developed countries contribute to budget deficits and cause distortions in developed countries' economies, as well as injuring farmers in poor countries.

Following the impasse in Cancun, the Doha Round negotiations will move to low-key efforts in Geneva, where negotiators from the 148 members of the World Trade Organization[1] (WTO) will try to develop an approach to restart the negotiations. This paper looks at the key objectives of the least-developed countries, as well as of developing countries broadly, since understanding the least-developed countries' objectives is a critical step to restarting these negotiations.

Prior to the impasse in Cancun, trade negotiators had made important progress since the round was launched in 2001, particularly with the August 2003 success in dealing with the difficult issue of patent protection and availability of drugs for health epidemics. However, powerful constituencies in the United States and other developed countries will resist opening their markets for agriculture and labor-intensive products, precisely those areas where the developing countries are demanding access.

The developing countries do not speak with one voice, and, in fact, proposals from different developing countries sometimes conflict. However, the mandate for the Doha Round gives particular emphasis to the least-developed countries (LDCs), and this paper will focus on the issues the least-developed countries have raised. While developing country requests and proposals involve all issues under negotiation, market access for agricultural and labor-intensive products appears to be the principal focus of the LDCs.

Consequently, the U.S., EU, and other developed country negotiators have a challenge finding solutions that improve the effective participation of the LDCs in the multilateral trading system and yet are politically acceptable at home. The U.S. negotiators need to craft an agreement that can be approved by the Congress, where protectionist lobbies play a powerful role. And the EU will have to gain approval from its 15 member states, some of whom have proven very resistant to opening agricultural trade.

Major LDC Objectives

Developing countries, and particularly the least-developed, argue that they face high trade barriers for products where they have a comparative advantage and that they have not benefited from previous trade rounds to the extent they expected. Major objectives for this round highlighted by the LDCs include:

- Agriculture: If the Doha Round is to be a development round, an absolute *sine qua non* is to enormously reduce the subsidies and trade barriers that so distort agricultural trade. Agricultural subsidies by the EU, Japan, and the U.S. alone are substantially greater than the gross domestic product of all 32 least-developed country members of the WTO combined. Developing countries argue that these subsidies dramatically lower world prices for their products, severely injuring their industries and stealing export markets in areas where the developing countries have a comparative advantage. However, some poor importing countries depend on cheap imports of this subsidized food and are reluctant to see these subsidies end.

  Tariffs and other distortions in agriculture are often extreme. For example, Japan's duties on rice are as high as 1,364%; the EU duty on powdered sugar beets is 540%; and some U.S. tariffs on tobacco are as high as 350%. There is a difference of emphasis among developing countries concerning high tariff barriers, however. The poorer developing countries focus on specific high tariffs on products of interest and tariffs that are higher on processed products than raw materials, which they believe keep them from processing foodstuffs domestically. The more advanced developing countries want tariff cuts across the board.

- Non-agricultural Products: Previous rounds of multilateral trade negotiations have enormously reduced trade barriers in raw materials, manufactured goods, and other non-agricultural areas. However, developing countries still face substantial distortions in exporting to developed countries due to high tariffs on products of interest and tariffs that are higher on processed products than raw materials. Here, too, there is a split in views among developing countries: The least-developed want to preserve their preference margins in developed

1 At the time the Doha Round was launched, the World Trade Organization had 142 members. China and Taiwan were both admitted at the Ministerial meeting in Doha. Two more members, Armenia and Macedonia, were admitted in early 2003, and Cambodia and Nepal were admitted at the Cancun Ministerial. A list of members can be found at http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm.

country markets, while the more advanced developing countries are pressing for across-the-board reductions.

Additionally, many developing countries still maintain high duties, which limit the exports of other developing countries. Reducing these tariffs could open trade among the developing countries and provide enormous development benefits. However, many high-barrier developing countries are trying to hide behind the rhetoric of "special and differential" treatment to try to avoid opening their markets.

- Dispute Settlement: In addition to getting commitments for market access, the least-developed countries want to ensure they can use dispute settlement to enforce their rights. To date, no least-developed country has sought to resolve a trade dispute through the WTO dispute settlement system. These countries say this is not because they do not face trade barriers that they would like to resolve through dispute settlement; the LDCs argue they simply do not have the resources to bring dispute settlement cases to the WTO and that they need assistance in this area.

While market access issues are the focus of interest for least-developed countries, other issues will need to be successfully addressed by negotiators.

- Trade Rules: Developing countries that are aggressive exporters believe that WTO rules on antidumping and countervailing duties are tilted on the protectionist side and want specific changes. However, to date, the least-developed countries have not submitted proposals on antidumping.
- Services: Developing countries have emphasized what they see as an imbalance in services trade. As stated in a paper submitted by 10 developing countries[2], "developing countries have made substantial commitments under GATS [the General Agreement on Trade in Services] with respect to many service industries.... In contrast, they have not received concessions of any meaningful economic value under the movement of natural persons mode of supply."[3] In addition to concessions in the movement of natural persons, some developing countries have also pressed for liberalization in the maritime sector[4].
- Intellectual Property: An absolutely critical issue for developing countries, which appears to have been successfully resolved, has been access to affordable medicines that have patent protection. However, there are still several other issues regarding intellectual property protection that remain. Some developing countries, such as India and Sri Lanka, have argued that current WTO rules that allow protection of geographic indicators for some wines and spirits should be extended to other products, a position that the European Union also strongly advocates. However, many other developing countries have opposed this out of concern that it would add a new intellectual property regime that will be difficult to administer. A similar issue has been whether protection should be given to traditional or indigenous knowledge.
- Government Procurement, Trade Facilitation, Investment, and Competition Policy: Developing countries, and particularly LDCs, opposed launching negotiations on these issues at the Cancun Ministerial Meeting. Some developing countries question whether the WTO is the right forum to address these issues. Additionally, least-developed countries argue they do not have the capacity to administer anti-trust legislation and agreements in these areas. Developing countries have also expressed concerns with opening their markets too fast to foreign investment, particularly portfolio investment.
- Environmental and labor standards: Developing countries also have been very skeptical about addressing environmental and labor standards in the negotiations, primarily because of concerns that such standards could become a new means of protectionism.

Because these issues seem to be of less critical importance to the least-developed countries than market access and dispute settlement, they will not be further considered in this paper, but they do need to be kept in mind as the final package is crafted.

Why Doha Must be a Development Round

This new round of multilateral trade negotiations was launched by the WTO at its meeting in Doha, Qatar, in November 2001. The agenda of this round, the eighth since the end of World War II[5], is the broadest yet, covering agriculture, goods, services, trade rules, and many other issues. Negotiations are to be concluded by January 2005.

Unlike previous rounds, this round[6] has a unique focus on the problems and concerns of developing countries. As the Ministerial Declaration[7] notes, "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." The Declaration adds that the Ministers "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."

Expanded trade has the potential to help developing countries in the same ways it has previously helped countries that are now developed, such as by shifting the economy to promote higher income export jobs and promoting economic efficiency by reducing costs.

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2 S/CSS/W/114, submitted by Cuba, Dominican Republic, Haiti, India, Kenya, Pakistan, Peru, Uganda, Venezuela and Zimbabwe, 9 October 2001.

3 The GATS agreement specifies four "modes" under which services can be provided. "Movement of natural persons" mode refers to the ability of service providers in the providing country to travel to the purchasing country to perform the service.

4 TN/S/W/11 submitted by 37 countries and the EU, 3 March 2003. Countries proposing this included 1 least-developed, 12 lower income, and 11 upper income developing countries.

5 The seventh round, the Uruguay Round (1994) with 123 participants, launched the World Trade Organization. The other trade rounds were all conducted under the auspices of the General Agreement on Tariffs and Trade (GATT), the predecessor organization to the WTO. The other rounds were Geneva (1947) - 23 countries, Annecy (1949) - 13 countries, Torquay (1951) - 38 countries, Geneva (1956) - 26 countries, Dillon (1961) - 26 countries, Kennedy (1967) - 62 countries, and Tokyo (1979) - 102 countries.

6 Technically, this latest multilateral trade negotiation is not called a "round", as were the multilateral negotiations under the GATT. Instead, the WTO calls it a "Work Programme".

There are a number of important reasons why it is critical to help developing countries join the mainstream of the global trading system. First is the political reality that the Doha Round cannot be completed successfully without support of the developing countries. Of the 148 WTO members, 32 are classified as "least-developed" and a total of 112 meet the World Bank's definition of "developing."[8] Because the WTO is a consensus organization, these countries have the power to block any agreement that does not meet their needs. And these countries are very focused on the importance of the international trade rules to their future economic prospects. They will be judging the round accordingly, as was proven by the impasse in Cancun.

Second is the basic humanitarian need to help those who are truly disadvantaged. "Removing barriers to merchandise trade could increase growth by about 0.5 percent a year in developing countries."[9] The World Bank estimates that abolishing all trade barriers could increase global income by $2.8 trillion, half of which would accrue to developing nations. This increased income would make a critical difference for the developing world, where approximately 1.2 billion people struggle on $1 a day or less[10].

In addition to humanitarian interests, however, meeting the needs of the developing countries is in the economic interest of the United States. First, expanded economic growth in developing countries can open up potential markets for U.S. exporters. Since about 44 percent of U.S. exports go to developing countries[11], and since most developing countries have a high marginal propensity to import, economic growth in developing countries should lead to a significant increase in their imports[12], much of which presumably would be from the U.S.

Just as important, many of the developing country complaints are also problems from the broad national economic interest perspective of the U.S. and other developed countries. Many observers believe U.S. agricultural subsidies not only injure developing countries but also cause economic distortions here at home and in global markets. In short, helping the poor will help the wealthy nations themselves over the longer run, both by expanding export markets and by forcing the developed countries to eliminate subsidies that damage their own economies.

Finally, extreme poverty contributes to other global problems, including environmental degradation and political instability. While it is not possible to generalize, a number of studies do indicate that impoverished people may be "important agents of environmental damage. With little other land available to them, poor farmers may resort to cultivating steeply sloped erosion-prone hillsides or to clearing tropical forests.[13]" Furthermore, poverty may contribute to the conditions that allow terrorism to thrive. As President George W. Bush noted, "poverty doesn't cause terrorism. Being poor doesn't make you a murderer.... Yet persistent poverty and oppression can lead to hopelessness and despair. And when governments fail to meet the most basic needs of their people, these failed states can become havens for terror.[14]"

However, the obstacles to meeting the real needs of developing countries in the Doha Trade Round are enormous. As noted, protectionist lobbies in the developed countries are very powerful. Additionally, primarily because of their poverty, many developing countries have difficulty advocating their positions in international fora, including the WTO. Of the 32 least developed countries that are WTO members, 25 do not even have a permanent delegation to the WTO[15]. And many developing countries with permanent representation have only one or a few individuals, compared to the sizable delegations from the U.S., the EU, Japan, and other developed countries.

Who Are the Developing Countries?

The Ministerial Declaration that launched the Doha Round calls for "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.[16]"

But who are the developing countries? Unfortunately, the WTO does not have a definition of "developing country." Instead, through a process of self-selection, countries can claim "developing country" status in the WTO. However, a country's self-selection as a developing country may be subject to challenge by other WTO members. The result is that different WTO bodies may accept different countries as "developing." Additionally, the fact that a WTO member self-selects as a developing country does not mean that developed countries will recognize this designation in their preference schemes for developing countries.

While there is no WTO definition of "developing country," the WTO does use the United Nations definition of "least-developed country," which is an annual per capita gross domestic product of under $900, plus a human resource weakness and an economic vulnerability criterion. Of the 49 least-developed countries[17] recognized by the UN, 32 are WTO members (see Appendix I).

As a way to identify other "developing countries," it seems logical to consider the World Bank's approach, which is based on per capita gross national income (GNI). The World Bank considers a country a "low-income developing country" with a per capita GNI of $735 or less; a country is considered to be a "lower middle income developing country" if its per capita GNI is $736 to $2,935 and an "upper income developing country" in the range of $2,936 to $9,075.[18] "High income countries" are countries with a per capita GNI of $9,076 or more, and these will be considered to be "developed countries" in this paper.

Often negotiating proposals will be submitted on behalf of a number of countries with common interests. Developing countries particularly follow this strategy as a

7 The Doha Ministerial Declaration is available at http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm.

8 The WTO's definition of least-developed country is a country with per capita gross domestic product under $900 annually, and a human resources and economic vulnerability criteria. The World Bank defines developing countries as having annual per capita gross national income of under $9,075 (See Appendix 1).

9 The World Bank, "World Development Indicators, 2002," p. 351.

10 Mark Malloch Brown, Administrator of the United Nations Development Programme, at the 2001 Annual Meeting of UNDP, available at http:// www.weforum.org/ site/knowledgenavigator.nsf/Content/Addressing%20the%20Challenges%20of%20Unequal%20Distribution_2001?open.

11 IMF, Direction of Trade Statistics Yearbook, 2001, p. 476. Of $781 billion US exports in 2000, $342 billion went to developing countries.

12 The exact relationship of economic growth and increased imports in developing countries is difficult to measure. However, studies do indicate a positive correlation. See for example a paper by Fraser Hosford, "The More We Import from Developing Countries, The More They Will Import From Us"

13 World Bank, Expanding the Measure of Wealth: Indicators of Environmentally Sustainable Development, June 1997, p. 94.

way to enhance their negotiating leverage and to extend their scarce resources as far as possible. These "blocs" are fluid, and sometimes, a country will participate in one, while other times it will not. Accordingly, the "blocs" will vary from issue to issue.

Following are some of these coalitions, ranging from those that include mostly least-developed countries to those that have a number of developed countries (See Appendix 2 for a listing of countries often included in each bloc). In addition, the least-developed countries (listed in Appendix 1) often participate as a coalition.

African Group: Of the 41 WTO-member countries that make up the African Group19, only three are upper middle-income developing countries; 13 are lower middle-income developing countries; and 25 are least-developed countries. In fact, of the 32 least-developed countries that are members of the WTO, only seven are not part of the African Group.

Developing Country Grouping (DCG): The 13 members of the developing country grouping include 11 countries in the lower income developing country bracket and two in the least-developed country bracket. They are located in South America, South East Asia, and Africa.

CARICOM: Of the 13 members of the CARICOM Group that are in the WTO, seven are upper income developing countries, five are lower income developing countries, and one is a least-developed country. All of the CARICOM countries are in the Caribbean/Central America region, and all are also members of the Small Island Developing States (SIDS) grouping.

G-21: This bloc emerged just before the Cancun Ministerial meeting and proved to be very influential. Countries included are developing countries from Africa, the Caribbean, Latin America, and Asia and include 16 lower income developing countries and 6 upper income developing countries.

Small Island Developing States (SIDS): The List of Small Island Developing States is created by the United Nations, based on the specific economic constraints these countries face. There are 25 SIDS countries in the WTO, of which three are developed countries; nine are upper income developing countries; nine are lower income developing countries; and four are least-developed countries. There is a lot of overlap in the countries in the SIDS and CARICOM groupings.

ASEAN: There are seven members of ASEAN in the WTO, all located in Southeast Asia. Two members of this group are developed countries; one is an upper income developing country; three are lower income developing countries, and one is a least-developed country.

Cairns: The 18 members of the Cairns group are located in North and South America, South East Asia, and South Africa. This group is basically a coalition of agricultural exporting countries, which account for one-third of the world's total agricultural exports. Three members of the Cairns group are developed countries; six are upper income developing countries; nine are lower income developing countries; and none are in the least-developed category.

Agriculture

Reducing trade barriers and distortions in agriculture is the number one priority for most developing countries in the Doha Round. A key reason for this focus is that agriculture is often the most important segment of LDC economies. As the African Group says: "The importance of agriculture in the economies of African countries cannot be overstated.... The agricultural sector in African countries is the main source of rural livelihoods and, in general, employs more than two-thirds of the labour force. Agriculture generates more than a third of GDP in most African countries, and accounts for up to 40 per cent of exports.[20]"

Agriculture is also critical in this round because trade barriers and distortions are so enormous in agriculture. It is fair to ask, "If the developed countries believe in free trade and market forces as they claim, why don't they practice it in agriculture?"

While some progress was made in the Uruguay Round in reducing agricultural trade barriers and distortions, many developing countries do not believe they have received the benefits they expected from the Uruguay Round agricultural agreement. As the Developing Country Grouping states: "The area that was supposed to benefit developing countries most as a result of the implementation of the Agreement on Agriculture was greater market access and larger amounts of exports to the developed countries, as a result of their being more competitive when subsidies in the OECD countries are reduced and trade barriers are lowered. Unfortunately, after five years of implementation, the expected market access opportunities have not materialized.[21]"

Market Access in Agriculture

Barriers to trade are particularly high in the agriculture sector. "Average tariffs on agricultural products are more than eight times higher than tariffs on industrial products and tariffs of more than 300 per cent are not uncommon.[22]"

Developing country submissions address the need to significantly reduce tariffs and non-tariff barriers in the agricultural area, but there is a major difference in emphasis. Poorer countries are particularly concerned about tariff peaks and tariff escalation, which they believe keep them from processing foodstuffs domestically, while the more advanced developing countries tend to want tariff cuts across the board.

As an example of the problem, the Developing Country Grouping paper points to the coca sector. UNCTAD reports that in "1997-98, for cocoa beans, cocoa liquor,

14 President George W. Bush's speech to the Inter-American Development Bank, 14 March 2002.

15 The Agency for International Trade Information and Cooperation's web page lists the least-developed countries that do not have representation in Geneva, see http://www.acici.org/aitic/documents/diverse/diverse1_eng.html. AITIC was established by the Swiss government in 1998 to assist the less-advantaged countries to benefit from the multilateral trading system.

16 Paragraph 2, Doha Ministerial Declaration.

17 See http://www.unisdr.org/unisdr/LDC.htm.

18 "Building Institutions for Markets. World Development Report 2002," p. 241.

19 See http://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd03_groups_e.htm for the listing of countries in these various groups (website accessed June 30, 2003).

20 African Group proposal, G/AG/NG/W/142, 23 March 2001, p. 1.

21 G/AG/NG/W/37. Proposal by Cuba, Dominican Republic, El Salvador, Honduras, Kenya, India, Nigeria, Pakistan, Sri Lanka, Uganda, Zimbabwe and Haiti, September 28, 2000, p. 1.

22 Cairns Group Negotiating Proposal, G/AG/NG/W/54, 10 Nov. 2000, p. 1.

cocoa butter, cocoa powder and chocolate, the shares of developing countries were respectively 90 per cent, 44 per cent, 38 per cent, 29 per cent and 4 per cent.[23]" The Developing Country Grouping argues that this declining market share is, to a considerable extent, a result of increasing trade barriers as cocoa processing moves up the value-added production ladder.

In contrast, the Cairns group seeks "deep cuts to all tariffs using a formula approach which delivers greater reductions on higher level tariffs, including tariff peaks, and eliminates tariff escalation, and establishes maximum levels for all tariffs.[24]" CARICOM's proposal is similar, except that it focuses on deep cuts by developed countries only. Its proposal is for "substantial cuts in the bound tariffs of developed countries, particularly for products of export interest to developing countries, using a formula approach that discounts higher tariffs and tariff peaks relatively more than lower tariffs and eliminates tariff escalation.[25]"

Along with tariff barriers, the developing countries want non-tariff barriers to be addressed. For example, one non-tariff barrier often raised is tariff rate quotas (TRQs); under a TRQ, a specified amount of product may be imported at a relatively reasonable tariff rate, but all product over that amount may face prohibitively high rates. Another non-tariff barrier often identified is the way sanitary phyto-sanitary standards are administered. Developing countries recognize that other countries have the right to protect their health and safety through sanitary phytosanitary standards. However, they object that compliance is often made unnecessarily difficult and that these standards vary from country to country, requiring the developing countries to undergo expensive compliance procedures for each export market.

Agricultural Subsidies

Developed country subsidies are enormous, putting developing countries at an impossible disadvantage. Domestic subsidies notified to the WTO by the United States totaled $74 billion, compared to $91 billion for the EU and $32 billion for Japan (1999 data, the most recent notified to the WTO as of October 2003).

WTO rules on agricultural subsidies are incredibly complex. Subsidies are considered to be export subsidies or domestic subsidies. Domestic subsidies are further divided into three "boxes," green, amber and blue. Green box subsidies are ones that are supposed to have at most only minimal trade-distorting effects, and this category includes subsidies for environmental programs, research, etc. Amber box subsides are considered trade distorting. Blue box measures are linked to production and are considered to distort both trade and production.

Some developing countries believe that it is the overall impact of subsidies, regardless of what category the WTO places them in, which distort trade. For example, the Developing Country Group would combine all developed country subsidies in one box, which would be "substantially reduced, and then capped, so as to limit its trade distorting impact."[26]

The African Group, Cairns, and ASEAN blocs all call for substantial reductions in amber and blue box subsidies, and they call for review of green box subsidies to ensure that these subsidies really do not result in trade distortions.

Export subsidies are the most trade distorting, and most developing countries want export subsidies by developed countries eliminated or substantially restricted. For example, the African Group proposes, "Export subsidies provided by developed countries should be substantially and progressively reduced, with a view to their eventual elimination."[27] The Africa Group also believe that "urgent action should be taken to work towards the development of agreed [upon] disciplines to govern the provision of export credits; export credit guarantees and insurance programmes taking into account the special conditions and needs of NFIDCs[28] and LDCs." The Africa Group countries claim that these subsidies "undermine the viability of African agriculture and delay the prospect of making a break from the stranglehold of poverty and underdevelopment." ASEAN similarly calls for an end to export subsidies by developed countries but argues that developing countries "must be able to continue using existing flexibility with respect to export subsidies."[29]

The Cairns Group, however, seeks the complete elimination of all forms of export subsidies for all agricultural products. Unlike the African Group that wants elimination by developed countries only, the Cairns Group believes all countries should end such subsidies, although they would allow a "longer implementation timeframe for developing countries."[30] The Cairns Group argues that exemptions for developing countries would damage South-South trade.

While most developing countries want elimination of export subsidies, Small Island Developing States have a somewhat different perspective. These countries depend on cheap subsidized agricultural products for affordable food. For example, "Mauritius believes that a cautious and pragmatic approach should be adopted when dealing with all forms of export competition as such measures have a positive incidence on the food procurement capacity of those countries which can only produce one or two commodities because of agro-climatic factors. While export subsidies and credits are not perceived as long term solutions for food deficit developing countries, it cannot be denied that these measures have facilitated access to food supplies."[31]

23 G/AG/NG/W/37. Proposal by Cuba, Dominican Republic, El Salvador, Honduras, Kenya, India, Nigeria, Pakistan, Sri Lanka, Uganda, Zimbabwe and Haiti, September 28, 2000, p. 3.

24 Cairns Group Negotiating Proposal, G/AG/NG/W/54, 10 Nov. 2000, p. 2.

25 CARICOM's Group Negotiating Proposal, G/AG/NG/W/100, 15 Jan. 2001, p. 4.

26 G/AG/NG/W/37. Submission by Cuba, Dominican Republic, El Salvador, Honduras, Kenya, India, Nigeria, Pakistan, Sri Lanka, Uganda, Zimbabwe, and Haiti, September 28, 2000.

27 G/AG/NG/W/142. Proposal by the African Group, March 23, 2001.

28 NFIDCs is WTO and World Bank lingo for "Net Food Importing Developing Countries"

29 See G/AG/NG/W/55, Submission by ASEAN, November 10, 2000.

30 G/AG/NG/W/11. Proposal by the Cairns Group, June 16, 2000.

31 G/AG/NG/W/96, Proposal by Mauritius, December 28, 2000.

Special and Differential Treatment in Agriculture

Proposals for special and differential treatment (S&D) in agriculture by developing countries include:

- the ability to utilize domestic subsidies,
- faster and deeper market opening by developed countries and delayed implementation for developing countries,
- retention of preference margins for developing countries,
- a special safeguards mechanism for food security, and
- technical assistance to help developing country exporters meet developed country health and safety standards.

While developing countries have little available funding for domestic subsidies, they want to be able to use subsidies in the future to address their concerns with food security, rural development, poverty eradication, and the viability of small-scale and subsistence farmers. The Cairns Group, the African Group, SIDS, Small Developing Countries, and ASEAN all propose flexibility for developing countries to use domestic subsidies.

Proposals that developed countries should open their markets rapidly while developing countries should be able to delay opening their markets have been advanced by the Cairns Group, the African Group, the Developing Countries Group, CARICOM, Small Developing Countries, and ASEAN. With regard to its own concessions, the African Group points out that it has unilaterally made substantial concessions since the Uruguay Round and argues that it should be given credit for these concessions in the Doha Round[32].

The African Group additionally advocates that existing "preferences that have been accorded historically to developing countries should remain meaningful and be binding under the framework of the [Agreement on Agriculture]. New or enhanced preferences to be granted to developing countries and LDCs should be made over and above the terms and conditions of existing preferential market access."[33]

Food security also is a major priority of many developing countries. For example, SIDS proposes that they should be able to use the special safeguard provision when import surges would "affect the production of key staples of the domestic diet and negatively impact on rural development and poverty alleviation."[34] The Developing Countries Group, the African Group, ASEAN[35], and Small Developing Countries raise similar concerns.

CARICOM and SIDS groupings both propose that technical assistance should be given to developing countries for meeting the costs of compliance with SPS measures[36].

Market Access for Non-Agricultural Products

The eight previous rounds of multilateral trade negotiations under the GATT/WTO have been enormously successful in reducing tariffs on non-agricultural products and in removing non-tariff barriers. For example, today U.S. tariffs on non-agricultural products average only 3.8%; the EU's average is only 4.1%; and Japan's is only 3.6%. Furthermore, because of a web of free trade agreements and preferences for developing countries, the actual rates faced by many developing countries are significantly lower than this average rate.

While this progress is impressive, a number of significant problems remain for market access for non-agricultural products that adversely impact developing countries. There are also some important differences of views among the developing countries themselves that will need to be addressed. For the developed countries, there are also some difficult political minefields that will need to be successfully navigated. However, negotiations to improve market access in non-agricultural products do have great potential to increase participation in the trade system by the developing countries, particularly among the least developed.

Tariff Peaks and Escalation

A number of developed countries have high tariffs on sensitive products - so called "tariff peaks." (In industrialized countries, a tariff of 10-15% or more would typically be described as a "tariff peak.") In Canada and the United States, tariff peaks are concentrated in textiles and clothing; in the EU and Japan, the peaks are concentrated in agriculture, food products, and footwear. Between 6 percent and 14 percent of ... Canada, the EU, Japan, and the United States tariff lines are subject to 'tariff peaks'.... Total imports of products subject to tariff peaks in [these four countries] were nearly $100 billion in 1999, more than 60 percent of which were from developing countries.[37]"

High U.S. tariffs are in products such as low-cost apparel, shoes, silverware, luggage, and watches - products that are labor-intensive to manufacture. Because they are labor intensive, making trade concessions is politically sensitive. However, these are precisely the areas where developing countries often have their comparative advantage.

Another obstacle is "tariff escalation," in which higher import duties are applied on semi-processed products than on raw materials - and higher still are applied on finished products. Tariff escalation traps many developing countries into exporting only raw materials. And unfortunately, prices of raw materials have been steadily declining over the past decade, making it difficult for these countries to increase export earnings through expanded sales. For example, the World Bank reports that the price index for metals and minerals, which had been 144 in 1970, has fallen to 78 in 2001[38].

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32 See G/AG/NG/W/57. Proposal by Bulgaria, Czech Republic, Estonia, Georgia, Hungary, Kyrgyz Republic, Latvia, Slovak Republic, Slovenia, Croatia and Lithuania, November 14, 2000, and G/AG/NG/W/142. Proposal by WTO African Group, March 23, 2001.

33 African Group proposal, G/AG/NG/W/142, 23 March 2001, p. 3.

34 G/AG/NG/W/97. Proposal by Small Island Developing States (SIDS), December 29, 2000.

35 G/AG/NG/W/55. Proposal by ASEAN, November 10, 2000.

36 See G/AG/NG/W/97, Proposal by Small Island Developing States (SIDS), December 29, 2000, and G/AG/NG/W/100, Proposal by CARICOM, December 29, 2000.

37 Report by Susan Prowse and Bernard Hoekman for the World Bank, May 27, 2003, p. 3.

38 World Bank, "World Development Indicators, 2002, p. 342.

Textiles, of course, are a sector of particular importance to developing countries. Even though quotas on textile products are to be removed for most countries when the Multi-Fibre Agreement ends in 2005, high tariffs will remain, depending on the extent they are reduced in the trade negotiations.

Erosion of Preference Margins

Products subject to high duties and tariff escalation are often included in developed country preference schemes; but they may be subject to "competitive need" tests which limit access, and they may be subject to complex rules of origin. These schemes vary from developed country to developed country, both with regard to what developing countries are eligible and what products are covered. Additionally, the rules of origin of developed country preference schemes are different, so a developing country might qualify for preferential access to the EU but not the U.S., or it might qualify for the U.S. but not Japan or the EU.

The result is widely different treatment in real access for various countries. For example, while U.S. tariffs are low on average, the actual rates that some countries face can be very high. According to a study by the Progressive Policy Institute[39], the following developing countries face high duties on a significant proportion of their top 100 exports to the U.S.:

Table 1. High U.S. Duties Faced by Selected Developing Countries
(Number of tariff lines over 15% of top 100 lines)

Country	Tariff Lines Over 15%
Mongolia	44
Sri Lanka	45
Pakistan	23
Guatemala	38
Tunisia	34
Egypt	23

In addition to preferences given on products subject to high duties are preferences granted on products with relatively low tariffs. For example, the U.S. and other developed countries tend to have low tariffs on products such as automobiles, consumer electronics products (like TV sets), luxury consumer goods, and natural resources. Products subject to low MFN tariffs are usually given zero duty treatment for those developing countries that are eligible under the country's preference scheme or for partners in a free trade agreement.

Not surprisingly, there is a difference in developing country views regarding the tariff negotiations, depending to a considerable extent on whether or not the country tends to benefit from preference schemes. Countries that do not benefit from such preferences tend to advocate elimination of low tariffs and substantial cuts in high rates. For example, China believes that "developed country Members [should] eliminate all their lowest tariffs."[40]

However, some of the poorest developing countries do not want broad tariff cuts to undermine their preferential access to developed country markets. Some even go so far as to suggest that if their margin of preference is eroded that they are entitled to compensation. For example, the African Developing Country Group advocates a procedure "for establishing measures and mechanisms to deal with erosion of preferences, with the aim of avoiding or offsetting this problem or compensating the affected members."[41] The LDCs are especially concerned about maintaining the preferential margins, particularly on products such as textiles, which they say has helped their development efforts.

Barbados, Jamaica, and Trinidad and Tobago fear that the erosion of preferential trading arrangements will hurt the development goals and integration of developing countries into the multilateral trading system. Thus, they state, "Positive measures must be found to mitigate against the negative impact of the loss of preferential market access."[42] Mauritius thinks that any erosion of preferential market access should be compensated in order to guarantee a more balanced, equitable multilateral trading system.[43]

Developing Country Concessions

Some developing countries still have very high average tariffs on non-agricultural products. Additionally, many of the more advanced developing countries have not instituted preference systems for countries less developed than they are.

Trade between developing countries themselves is already significant, but it could be far greater if some of these major developing countries significantly opened their markets to other developing countries. While developing country submissions have generally focused on developed country concessions, Bangladesh, on behalf of the least developed countries group, raised the issue of concessions by developing countries. Bangladesh proposed that developing countries that have already allowed preferential access to imports from LDCs broaden their product coverage and those who have not allowed this access begin to do so.[44]

Other than Bangladesh's submission, this issue has not received adequate attention, and many developing countries seem eager to try to hide behind the Doha Mandate allowing "less than full reciprocity in reduction commitments" by developing countries. However, unless developing countries themselves make significant concessions to other developing countries, a major opportunity to promote growth through trade will be lost.

39 Progressive Policy Institute, "Who Gets Hit? A Summary of Tariff Policy in 2002."

40 TN/MA/W/20. (December 24, 2002). Proposal of the People's Republic of China.

41 TN/MA/W/27. (February 18, 2003). Communication from Ghana, Kenya, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe.

42 TN/MA/W/30. (March 25, 2003). Communication from Barbados, Jamaica, and Trinidad and Tobago.

43 TN/MA/W/21. (January 7, 2003). Communication from Mauritius.

44 TN/MA/W/22. (January 8, 2003). Negotiating proposal submitted by Bangladesh on behalf of the least developed countries.

Special and Differential Treatment

While the developing countries want comprehensive reduction of duties by developed countries, they argue that developing countries themselves should have the flexibility to restrict sensitive products from tariff reduction and to keep certain unbound tariff lines unbound. For example, the Developing Countries Group argues that it will be difficult for them to accept the elimination of all tariffs, even with an extended time period. They state the need to preserve tariffs "as an instrument of domestic industrial policy" for years to come.[45] Among the number of submissions advancing this argument, Kenya notes "its concern over possible de-industrialization, as well as revenue loss for the day-to day functioning of governments"[46] because of its weak industrial base.

The Developing Country Group says, "Credit should be given for all liberalization in tariffs undertaken by Members since the Uruguay Round on an autonomous basis and not as a result of a negotiating process [or that] which has been bound in the WTO."[47] Barbados, Jamaica, Trinidad and Tobago, Mauritius, and India all agree that credit should be given quickly to developing countries for autonomous liberalization measures.

Dispute Settlement

No least-developed country has sought to resolve a trade dispute through the WTO dispute settlement system (DS), and none have been the defendant, since the WTO was launched in 1995[48]. However, lower income developing countries and upper income developing countries have brought cases and have been the defendants, as can be seen from Table 2 below. Of the 298 WTO dispute settlement cases, 56 were brought by lower income developing countries, while 67 were brought by upper income developing countries. Lower income countries were the defendants 50 times, while upper income developing countries were the defendants 59 times. Developed countries brought slightly over 61% of the complaints and were the defendants in 63% of the cases.

The least-developed countries argue that the reason they have not brought any complaints to WTO dispute settlement "is definitely not because these countries have had no concerns worth referring to the DS, but rather due to the structural and other difficulties that are posed by the system itself."[50]

Some changes proposed by the least-developed countries include the following:

- Consideration to holding dispute settlement consultations and other meetings in the capitals of LDCs, because these countries often do not have representation in Geneva.
- Including two panelists from developing countries in disputes involving developing countries, where the developing country so requests, and two from least-developed countries where an LDC is involved in the dispute and so requests. (The African Group desires "a balanced geographical representation."[51])
- A requirement that panel reports explicitly indicate how "account has been taken of the relevant provisions on differential and more favorable treatment for developing and least developed country Members."[52]
- Requiring that the good offices for conciliation and mediation of the WTO Director-General or the Chairman of the dispute settlement body be used before establishment of a panel is requested.[53]
- The African Group also proposes that "developing-country Members should not be required to demonstrate a trade or economic interest in the case as a precondition for admission as third parties and that developing-country Members may always be admitted as third parties at whatever stage the case may be."[54] Costa Rica (an upper income developing country) similarly proposes that developing countries be allowed to participate as third parties.[55]

Many developing countries argue that a "considerable portion of [their] imports comprise essential commodities like raw materials, food items, and capital goods,"[56] which makes retaliation difficult in the event that they win the dispute but the developed country does not provide compensation. To address this, one change proposed by the least-developed countries group and the African Group[57] is to expand possible remedies for a successful complaint by a developing country to include monetary compensation equal to the loss or injury suffered. Another major proposal by both groups would allow collective retaliation;

Table 2. Developmental Level and WTO Dispute Settlement

Country Category	Defendants		Complainants[49]	
	# Cases	Percent	# Cases	Percent
Least-Developed	0	0.0%	0	0.0%
Lower Income Developing	50	16.8%	56	17.4%
Upper Income Developing	59	19.8%	67	20.9%
Developed	189	63.4%	198	61.7%
Total	**298**		**321**	

45 TN/MA/W/31. (March 25, 2003). Communication from Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe.

46 ICTSD and IISD. (February 2003). Market Access for Non-Agricultural Products. Doha Round Briefing Series. http://www.icts.com/pubs/dohabriefings/doha4-marketaccess.pdf

47 TN/MA/W/31. (March 25, 2003). Communication from Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe.

48 http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm for a listing of the 298 dispute settlement cases as of July 25, 2003.

49 May be more than one complainant per case

50 TN/DS/W.17. (October 9, 2002). Proposal by the LDC Group.

51 TN/DS/W/15. (September 25, 2002). Proposal by the African Group. Available: http://docsonline.wto.org/GEN_viewerwindow.asp?D:DDFDOCUMENTS/T/TN/DS/W15.DOC.HTM

52 TN/DS/W.17, p. 2.

53 TN/DS/W/37, by Haiti on behalf of the LDC group, 22 January 2003.

54 TN/DS/W/15, submitted by Kenya on behalf of the African Group, 25 September 2002.

55 TN/DS/W/12 of 24 July 2002.

that is, in cases where a developing country member has been a successful complainant, all WTO members would collectively have the right and responsibility to enforce the recommendations of the DSB.

The mostly lower income developing countries represented in an Indian proposal (submitted on behalf of Cuba, Honduras, India, Indonesia, Malaysia, Pakistan, Sri Lanka, Tanzania, and Zimbabwe) have a different approach to this problem of enforcement - they would allow "cross-retaliation," for example, in intellectual property protection for a market access violation.

Developing countries argue that a major barrier to bringing dispute settlement cases is their limited financial resources for pursuing a case. Jamaica notes that although "the independent WTO Law Advisory Centre has been established to assist developing-country Members, the cost of membership still prohibits some developing countries from accessing its facilities".[58] To deal with this problem, the least developed country group proposes that where the Secretariate provides legal expertise to a developing country member, the expert should assume the full role of "counsel" to the developing country. In these cases, the expert would not have to comply with the regular requirement for such assistance to be "impartial." The African Group proposes establishing "a fund on dispute settlement to facilitate the effective utilization by developing and least developed country Members"[59] to deal with the problem of limited financial resources.

The lower-income developing countries represented on the Indian proposal have a different approach to this problem of limited financial resources. If a developed-country Member were found to be in violation of its obligations, the panel would determine a "reasonable amount of the legal costs and other expenses of the developing country Member to be born by the developed-country Member."[60] China shares this perspective.[61]

Conclusion

Restarting the trade negotiations is critical if trade is to be an engine of growth for the least-developed countries. A successful conclusion to the negotiations is also important for the U.S and other developed countries, which will benefit from reduced trade barriers around the world and from reining in their enormous and inefficient agricultural subsidies.

Negotiators will need to find positions that will meet the needs of the developing countries (particularly the least-developed countries) and that will be politically acceptable at home.

Additionally, developing countries with high trade barriers need to be pressed to significantly open their markets and not be allowed to hide behind the rhetoric of "special and differential treatment." They should reduce and bind their MFN duties significantly. Additionally, larger and more advanced developing countries need to institute preference schemes for the least-developed countries or improve their existing schemes.

In addition to market access, however, least-developed countries clearly have special problems in using the WTO dispute settlement mechanism. Remedies need to be negotiated to overcome the real obstacles to LDC participation in dispute settlement, particularly helping them deal with the financial hurdles to bringing cases. To benefit from new market access, these countries need to be able to enforce their rights.

Finally, there are also some measures that could be taken parallel to the negotiations that would help the least-developed countries benefit from trade. For example:

- Developed countries could harmonize their health and safety standards so that developing countries can qualify for export to all developed countries once they have met the common SPS requirements. Given the costs of complying with these standards, more technical assistance should be given to LDCs to meet developed country health standards.

- Developed countries could improve their preferential schemes to better benefit developing countries, particularly the LDCs. Products of interest to developing countries that have high duties and are not now included in some preference schemes could be added, and country coverage could be expanded. Additionally, developed countries could harmonize their rules of origin in their preference schemes, thereby increasing the real benefit to LDCs of these plans.

The Doha goal of "addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system" is an important goal. Negotiators need to regroup and return to the bargaining table.

56 TN/DS/W/19 submitted by India on behalf of Cuba, Honduras, India, Indonesia, Malaysia, Pakistan, Sri Lanka, Tanzania and Zimbabwe, 9 October 2002.57 TN/DS/W/42, submitted by Kenya on behalf of the African Group, 24 January 2003.

58 TN/DS/W/21 submitted by Jamaica, 10 October 2002.

59 TN/DS/W/42, submitted by Kenya on behalf of the African Group, 24 January 2003, p. 4.

60 TN/DS/W/19 submitted by India on behalf of Cuba, Honduras, India, Indonesia, Malaysia, Pakistan, Sri Lanka, Tanzania and Zimbabwe.

61 TN/DS/W/29 submitted by China, 22 January 2003.

Appendix 1. Members of the World Trade Organization Listed by Development Status

A. Least-Developed Countries (LDCs): These are the 32 WTO members from the United Nations list62 of 49 LDCs. The WTO and UN define an LDC as a country that has (1) a per capita gross domestic product of under $900, based on a three year average, (2) a human resource weakness criterion63, and (3) an economic vulnerability criterion64.

Angola
Bangladesh
Benin
Burkina Faso
Burundi
Cambodia
Central African Republic
Chad
Congo (DR)
Djibouti
Gambia
Guinea
Guinea-Bissau
Haiti
Lesotho
Madagascar
Malawi
Maldives
Mali
Mauritania
Mozambique
Myanmar
Nepal
Niger
Rwanda
Senegal
Sierra Leone
Solomon Islands
Tanzania
Togo
Uganda
Zambia

B. Other Developing Countries: Because the WTO does not have a definition of "developing country" other than least-developed, for purposes of this analysis we will use the World Bank definitions to identify other "developing countries." The World Bank defines country income groups based on per capita gross national income (GNI). The World Bank considers a country "low-income" with a per capita GNI of $735 or less, "lower middle income" if its per capita GNI is $736 to $2,935, and "upper middle income" in the range of $2,936 to $9,07565.

There is a great deal of overlap between the UN's definition of "least-developed countries" and the World Bank's definition of "low income" countries. In fact, all of the least-developed countries are classified as "low income" by the World Bank, except for Djibouti and Maldives, which are classified as "lower middle income." The World Bank's definition of "low income" also includes 18 other countries that are members of the WTO but are not included in the UN's list of "least-developed."

As a way of combining the UN and World Bank concepts, we will consider other developing countries to be in two categories: Lower Income Developing Countries and Upper Income Developing Countries.

62 http://r0.unctad.org/conference/.

63 Based on indicators of life expectancy at birth, per capita calorie intake, combined primary and secondary school enrollment, and adult literacy

64 Based on the share of manufacturing in GDP, the share of the labour force in industry, annual per capita commercial energy consumption, and UNCTAD's merchandise export concentration index

65 "Building Institutions for Markets. World Development Report 2002," p. 241.

1. Lower Income Developing Countries: The World Bank defines "lower income developing countries" as countries with a per capita GNI of less than $2,935. This category includes those 49 countries classified as low income and lower middle income by the World Bank that are not included in the WTO's list of "least developed."

"Low income countries" not on the WTO list of "least-developed" (defined as countries with a per capita GNI of $735 or less): 18 countries

Armenia
Cameroon
Congo
Côte d'Ivoire
Georgia
Ghana
India
Indonesia
Kenya
Kyrgyz Republic
Macedonia
Moldova
Mongolia
Nicaragua
Nigeria
Papua New Guinea
Pakistan
Zimbabwe

Additionally, the World Bank lists the following countries as "lower middle income developing countries" (per capita GNI between $736 and $2,935): 31 countries

Albania
Belize
Bolivia
Bulgaria
China
Colombia
Cuba
Dominican Republic
Ecuador
Egypt
El Salvador
Fiji
Guatemala
Guyana
Honduras
Jamaica
Jordan
Morocco
Namibia
Paraguay
Peru
Philippines
Romania
Saint Vincent
South Africa
Sri Lanka
Suriname
Swaziland
Thailand
Tunisia
Turkey

2. Upper Income Developing Countries: 29 countries

The World Bank defines "upper income developing countries" as countries with a per capita GNI between $2,936 and $9,075.

Antigua
Argentina
Barbados
Botswana
Brazil
Chile
Costa Rica
Croatia

Appendix 2. Country Groupings

Czech Republic	Mexico
Dominica	Oman
Estonia	Panama
Gabon	Poland
Grenada	St. Kitts and Nevis
Hungary	St. Lucia
Latvia	Slovak Republic
Lithuania	Trinidad and Tobago
Malaysia	Uruguay
Malta	Venezuela
Mauritius	

C. Developed Countries: 38 countries

The World Bank defines “high income countries” as countries with a per capita GNI of $9,076 or more. These countries will be considered “developed countries.”

Australia	Korea
Austria	Kuwait
Bahrain	Liechtenstein
Belgium	Luxembourg
Brunei	Macao
Canada	Netherlands
Cyprus	New Zealand
Denmark	Norway
European Community	Portugal
Finland	Qatar
France	Singapore
Germany	Slovenia
Greece	Spain
Hong Kong	Sweden
Iceland	Switzerland
Ireland	Taiwan
Israel	UAR
Italy	United Kingdom
Japan	United States

African Group: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Congo (Democratic Republic), Côte d’Ivoire, Djibouti, Egypt, Gabon, The Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, and Zimbabwe

ASEAN: Brunei, Indonesia, Malaysia, Myanmar, Philippines, Singapore, and Thailand

Cairns: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand, and Uruguay

CARICOM: Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, and Suriname

Developing Country Grouping (DCG): Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, India, Nicaragua, Nigeria, Pakistan, Sri Lanka, Uganda, and Zimbabwe

G-21 (22 countries, with the addition on Indonesia and Nigeria and the withdrawal of El Salvador): Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, and Venezuela

Small Island Developing States (SIDS): Antigua and Barbuda, Bahrain, Barbados, Belize, Cuba, Cyprus, Dominica, Dominican Republic, Fiji, Grenada, Guinea-Bissau, Guyana, Haiti, Jamaica, Malta, Mauritius, Netherlands Antilles, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Singapore, Solomon Islands, Suriname, and Trinidad and Tobago

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