Agenda For Future Multilateral Trade Negotiations: Traditional and New Issues[1]

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Introduction:

General Agreement on Tariffs and Trade(GATT) was signed at the Geneva conference in 1947.It came into effect on 1 January 1948.After nearly five decades of its existence, GATT made way to the formation of the World Trade Organization(WTO) on January 1,1995.GATT was a multilateral trade agreement that set rules of conduct for international trade relations and provided a forum for multilateral negotiations regarding the solution of trade problems and the gradual elimination of tariffs and other non tariff barriers of trade. The agreement was based largely upon principles of non-discrimination and reciprocity so as to liberalize trade. With the exception of Custom Unions and Free Trade Areas (FTAs),all contracting parties were generally bound by the agreement's Most Favoured Nation (MFN)Clause. Protection were to be given to domestic industries through custom tariffs, thereby prohibiting import quotas and other restrictive trade practices. The agreement also provided for the binding of the tariff levels negotiated among member countries and established a framework for the settlement of grievances put forward by members who argued that their rights, under the terms of agreement, had been violated or compromised by other members trade practices. Eight rounds of trade negotiations were held under the aegis of GATT, the last being the most ambitious one i.e., the Uruguay Round (UR).UR negotiations was concerned both with old issues such as unfinished business of previous GATT rounds and with grievances accumulated over the years and new issues such as trade in services, the protection of intellectual property rights, trade in agriculture and trade related investment measures.

Until the Uruguay round of multilateral trade negotiations, the developing countries were generally observers.They benefited as "free riders" from whatever reductions in trade barriers were negotiated among developed countries,while simultaneously they argued for,and to some degree received,special and differential treatment(S&D),both through the Generalized System of Preferences(GSP) and through the automaticity with which the balance of payments exception was used to permit them to continue reliance upon quantitative restrictions.

All that changed with the conclusion of the eight and the most ambitious multilateral trade negotiation -the Uruguay Round on April 15,1994. By that time many policy makers and development economists had become convinced that the highly protectionist policies followed by developing countries in the name of import substitution were inimical to sustained economic growth,and the outer oriented policies and integration with the international economy offered a better hope for rapid development. Sachs and Warner(1995) extensive study has shown that trade boosts economic growth. It is argued

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that developing countries achieved some considerable gains by participating in the round[3].

As per the final act of the Uruguay round,the World Trade Negotiation (WTO) was established on January 1,1995.The WTO builds upon the organizational structure that existed under the GATT auspices as of early 1990s.The basic underlying philosophy of the WTO is that open markets,non-discrimination,and global competition in international trade are conducive to the national welfare of all the participating countries.In the WTO,the principle of non-discrimination takes two forms:Most Favored Nation(MFN) treatment and National Treatment(NT).MFN assures that there is nondiscrimination among foreign suppliers,while NT assures that there is nondiscrimination between foreign suppliers and domestic suppliers.The institutional structure of the WTO contains three components,the revised GATT,the General Agreement on Services(GATS),and the Agreement on trade-related intellectual property issues(TRIPs).

The first WTO Ministerial Conference was held in Singapore in December 1996.The Second Ministerial Conference, held in Geneva in May 1998,carried forward the results of the Singapore Ministerial meeting and established the work programme to examine trade -related issues involving global electronic commerce. Attention was paid to preparations for the negotiations mandated under the Uruguay Round built -in agenda.There was an ongoing interaction among the WTO members as follow-up of the two ministerial meetings and for the preparation for the Third Ministerial Conference to be held in Seattle from November 30 to December 3,1999.This conference was expected to launch a new round of multilateral trade negotiations to begin in 2000(millennium round).This new round was to be devoted to items on the Uruguay built in agenda together with new issues to be decided upon.

The Third Ministerial Conference ended in failures with the members of the WTO not being able to agree on an agenda for Millennium Round. There was number of reasons for the failure of the Seattle Ministerial to launch a new round. Domestic US politics played a key role.There was strong differences between the EU and the US on the issues relating to agricultural liberalization. Developing countries were unwilling to accept inclusion of labour standards and environmental issues within the purview of the new round.

The collapse of talks at Seattle is both sobering and heartening in their lessons for developing countries. Sobering because the threats are arising to the multilateral trading system not only in the form of proliferation of preferential trading arrangements but also with member countries resorting to anti-dumping measures and other forms of implicit protection not covered under WTO rule. Krueger(1999) notes that the postponement of a new round may lead to (a) sectoral liberalization which is a trend that bodes poorly for future multilateral liberalization and (b) in the absence of new round, small developing countries are left to their own(very weak) bargaining positions whereas a new round

[3] See Safadi and Laird,1996,"The Uruguay Round Agreements:Impact on Developing Countries",World Development,Volume 24,No7,pp.1223-1242 for a survey of the varoius estimates of the likely increases in world trade due to Uruguay Round and the effects of the round on developing countries.Also,see Dani Rodrik,"Developing countries after the Uruguay Round",paper prepared for the Group of 24,mimeo ,August 1994,Will Martin and L.Alan Winters,editors,The Uruguay Round and the Developing Countries,Cambridge University Press,1996,and T.N.Srinivasan,Developing Countries and Multilateral Trading System,Westview Press,1998 for comprehensive surveys and assessment of the achievements of the developing countries in the Uruguay Round.

would enable them to cooperate and gain bargaining strength.Mattoo and Subramanian (2000) agree and note that" The hardening of partner country attitudes toward opening their own markets and the emergence of insidious forms of protectionism will make the bargaining climate less favorable for India in future" .Equally, however ,Seattle Round demonstrates the ability of developing countries to resist successfully these protectionist demands while claiming the high ground and retaining legitimacy.

Clearly, there are flaws in the structure of the multilateral system as well as limits to what it can deliver, an observation reinforced by the events in Seattle.But Seattle should not deflect attention from developing countries pressing need to reform domestically and to engage multilaterally. Multilateral engagement should be measured but broadly active and supportive, rather than defensive.

The next Ministerial level multilateral trade round is scheduled to be held in Doha,Qatar in November,2001.

This paper will discuss the new and old provisions of the GATT and the WTO.Further it will examine the importance of such provisions and suggest ways and means for making them more relevant and beneficial for all members of the WTO.The paper is organized in the following manner.Section I will deal with the new issues.Section II will discuss the traditional issues and the concerns of the developing countries.The last section will give conclusions.

Section I:New Issues

The Agenda for the Next Round of Multilateral Trade Negotiations (MTN), being discussed before the scheduled WTO Ministerial meeting at Doha,Qatar in November,2001 is designed to address **key issues** defined by the the Uruguay Round ,Singapore and Seattle Ministerial level rounds.

- At the Uruguay Round MTN a variety of "new issues",were discussed including services (GATS) and intellectual property protection (IPP), and one old but dormant and therefore de facto new issue: agriculture.
- There were several factors that propelled countries to the expanded agenda.

Among them:

(a) Partly, it was felt that this would facilitate yet more of the "balanced bargains" across countries that ease the process of negotiations and reaching of final agreement.

(b) Partly, it also reflected the fact that, as indicated by Lester Thurow's much-cited declaration that "GATT is Dead", and its flip side that Regionalism was in, the general sentiment was that GATT, in order to survive, would have to include agendas that the regional preferential trade agreements (PTAs) were offering the interested lobbies: namely, IPP and service liberalization in NAFTA.

(c) Partly, there was also the sentiment that the GATT should be turned into an institution that embraces several issues that allegedly interface with trade today.

- Also the countries kept reducing border trade barriers and immeasurably Strengthened the Dispute Settlement Mechanism.

The **key question** before the Doha Round or any future multilateral trade talks then must be: do we need to keep widening the agenda yet further for the same or other reasons? Or should we settle for a more narrowly focused MTN Round?

The three arguments set out above are not necessarily compelling today:

- It is arguable that there are already enough issues (including reform of the Dispute Settlement Mechanism) now on the table, and enough trade barriers still to dismantle especially after the tariffication of agricultural barriers in the Uruguay Round.
- The threat from Regionalism (or PTAs) is decreasing, partly because there is Regionalism-fatigue and Regionalism-alarm as increasing numbers of impartial observers recognize how much the world trading system has been badly mauled by the large and increasing numbers of such PTAs that now afflict the scene, creating the "spaghetti bowl" phenomenon as called by Jagdish Bhagwati, of worldwide discrimination in trade; and partly because the GATT died but only to become the WTO and few doubt that Geneva is where the real action on trade liberalization should be.
- Increasingly, there are also questions as to the appropriateness of some of the new issues being proposed for future multilateral trading rounds, e.g. Linkage of Trade Access to environmental and labor standards (e.g. through a Social Clause), with questions being raised pointedly as to the criteria by which such so-called "trade-related" issues are to be included in the WTO which ought to be essentially a trade institution.

The New Issues

To throw light on this key question, it is important to examine the new issues that have been discussed,not substantially,however,among policy makers,NGOs and academicians at the various multilateral trading rounds.

Five main items have emerged in the policy arena as the most compelling:

1.Linkage between Trade and Environment and Labor Standards;
2.Competition Policy and Services Standards ;
3.Multilateral Agreement on Investment;
4.Electronic Commerce; and
5.Government Procurement

At the outset, we must remember that, after the Uruguay Round and the launch of the WTO, the WTO has become what might be called a **Single Undertaking** in the **precise sense that any agreement on these new issues would become binding on all signatorie**s, unlike the Tokyo Round Codes which allowed GATT members to opt out and the three exceptions (among them, Procurement) included in the Annex to the Marrakesh accords setting up the WTO. So, we are talking about reaching agreements on questions such as the Social Clause (under Linkage) which would be **mandatory** on all members. This makes the question of the adoption of such new issues a matter of far greater significance, of course, than if these desired inclusions were to be left totally optional.

1.Linkage versus "Appropriate Governance"

The question of making the satisfaction of certain environmental and labor standards a precondition for market access has also become an issue ever since the United States insisted on reference to labour standards at the Uruguay Round accord and subsequently has attempted to get other nations to agree to include the Social Clause into the WTO at every opportunity, including the latest APEC meeting in Auckland, New Zealand.

A range of opinions on the subject , including prominent NGOs from both the developed and the developing countries were invited.
Surprisingly, except for a couple of dissenting opinions, the consensus seemed to be against Linkage. Instead, the sentiment seemed to shift to what have been called "Appropriate Governance", i.e. pursuing the social agendas such as raising environmental and labor standards in other, appropriate agencies such as ILO, UNICEF, UNEP et.al. Martin Khor(1999) raises the question: by what criteria are these added issues like linkage to be grafted on to WTO? Is the criterion simply to be the gratification of lobbies and groups in the developed countries to force their issues on to the WTO so that trade sanctions on behalf of their causes be legitimated? Or is the criterion to be that of mutual gain to all members, as trade liberalization more or less promises when trade is non-coercive? In this context, the inappropriateness of intellectual property protection (IPP) as a "new issue" at the WTO was emphasized by some of the participants: this is primarily a redistributive measure, put into the WTO to placate corporate lobbies in the rich countries, and does not properly belong to the WTO. Nor does Linkage. Nonetheless, Charnowitz(1999) note that leaving out linkage, one still needs to address the "necessary interface" between environment and trade, as in the compatibility of Multilateral Environmental Agreements(MEAs) with WTO rules, and issues such as those raised by unilateral actions in Shrimp-Turtle and Dolphin-Tuna type cases. [Of course, no such necessary interface could be established for labor standards, but for certain environmental issues.] The question of filing of friends-of-the court briefs by environmental groups in dispute settlement cases at the WTO was also a matter that could be negotiated:

This issue has been of greatest concern to all developing countries.Some standards,endorsed by ILO,have already been embedded in WTO-i.e., the injunction against the use of prison labor.And, when there is universal agreement among countries that certain practices are abhorrent, an international agreement through the ILO can surely be reached i.e., most of the countries have viewed that labor standards should be addressed in the ILO.Within the ILO,however,difficult negotiations led to agreement,at the organization's annual conference in June 1998,on a "declaration of fundamental workers right" which in its trade aspects essentially says much the same as the Singapore declaration of a commitment to core labor standards.It is suggested that WTO and ILO can develop core labor standards that essentially respects not only workers rights but human rights everywhere.Concrete actions may be taken by ILO,however.

Questions arise regarding both the standards to be included and the linking of those standards to trade issues. The question of standards is perhaps more important in the case of labor issues,while the linkages are probably more questionable in the case of environmental concerns.

Labor standards can be legitimately raised on humanitarian concerns by well meaning individuals appalled at low wages and poor working conditions in low income countries and by union representatives and producer/employers in industries that use relatively large amounts of unskilled labor in developed countries.However, to insist upon wages and working conditions that are above those that can result in full employment in developing countries is to deny a significant portion of their comparative advantage. There is an element of protectionist content by choking developing countries comparative advantage in labor intensive industries.

There is a general agreement on the following labor standards by all including developing countries to prohibit forced slave labour, minimize hazardous or unsafe working conditions, agree to remove or reduce incidence of child labor in poor countries with certain conditions and adopt freedom of association and the right to bargain collectively.

It would be indeed churlish to dismiss out of hand the humanitarian concern of the citizens of rich countries with high labor standards about poor conditions of work or employment of children in developing countries. However, contrary to the belief among proponents of linking trade policies and labor standards,it is not necessarily the case that such a concern is best dealt with through linkage.First,it is not inconceivable that a country threatened with trade sanctions for failure to raise its labor standards would not respond by raising them but instead choose to forego gains from trade.Second,instead of relying on the indirect means through linkage,which depends on the desired response by the developing countries for its success,the citizens of developed countries could adopt a more effective direct means of pressurizing their own governments to lift any restrictions on the immigration of workers from countries with poor labor standards.If they chose to migrate,such workers would enjoy the higher labor standards prevailing in the country of immigration.Indeed,there is support for lifting such restrictions on moral-philosophical grounds as in the writing of Rawls,J(1933).He views freedom of movement and freedom of choice of occupation as essential primary goods equivalent to other basic rights and liberties,the entitlement to which is not open to political debate and allocation through the political process.Even lifting immigration restrictions is deemed unfeasible politically,citizens of rich countries could make income transfers to workers in poor countries.With higher incomes,it is reasonable to presume that the supply price(broadly defined to include labor standards) of their labour would rise,and to restore labor market equilibrium,labor standards would have to rise.Indeed a testof the depth of their humanitarian concern is the price that citizens are willing to pay for translating the concern into actual increase in welfare of workers in poor countries.In fact,without transfers,imposing higher labor standards than a less developed economy can sustain could mean lower employment and welfare levels for its citizens. The willingness to make needed income transfers is a demonstration of the willingness to pay the price. An alternative to income transfers other than linkage concerns the actions of citizens of developed countries in their markets for imported products. By not buying products of a firm or a country that does not observe what consumers view as acceptable labor standards,they can send a clear and effective signal to that firm or country to force it to choose between observing standards and retaining the market or losing the market altogether[4].If it chooses to retain the market by observing acceptable labor standards,to the extent the cost of import goes up because of such observance,both the exporting industry and buyers of imports share the cost of improving labor standards.If it chooses to forego the market,then although workers in the exporting industry do not gain welfare through higher standards,there is penalty to the firm in the form of lost exports.If the

[4] It might appear that consumers must have information needed to distinguish the nonobserving firms from the observing ones to engage in such behavior.However, market forces might themselves generate such information as long as the consumers refuse to buy that product(or all products from a country) if they suspect some firms(or some products from that country) are being produced under unacceptable conditions. In such a case, producers(or countries) who maintain acceptable standards will have an incentive to invest in signaling(in a credible way) to consumers that they in fact do so and thus distinguish themselves from those that do not.

citizens of the developed countries are interested only in raising the welfare of the workers and not in penalizing the exporting firm,they will have to compensate the firm or make income transfers to workers.The basic point is that there is a real cost to raising labor standards,and this cost has to be incurred if the intended benefit is to come about.

As far as child labor is concerned there are many ways of creating such conditions for example, trying to improve the wages and productivity of adult workers so that they do not have to send the children out to contribute to family income. In this context once again citizens of developed countries concerned with the welfare of such working people in developing countries could influence the choice of parents away from putting their children to work altogether or atleast reduce the amount of work done by their children through income transfers to parents. There is no need to link trade with enforcing labor standards. The domestic challenge would be for example, governments can try to make existing schools more attractive for the children-to make schools better and more accessible to them through better transport,provision of meals in schools as well as more scholarships.Also there is a possibility of paying a subsidy to the mother conditional on her child's school attendance.In India the number of children working is quite large,but the number of children who are neither working nor going to school is many times larger than the children who are working.Most of such children are girls who are looking after siblings.An obvious solution would be to think of starting good number of day care centres.In case the child labor is banned altogether and there an increase in prices of the products developing countries can ask for funds to earmark for improving schools and for better and more schools for child workers from poor families.Most child labor in poor countries is in the non-trade sector.For example,in India only about 5% of child labor is in the export sector.WTO sanctions which are being pressed by many developed countries,will push these children into the non-traded sectors where the sanctions do not apply,and that their conditions may be worse.One needs coordination among business units,government,NGOs and international agencies so that no company employs child labor and no one is able to undercut other companies when the price increases as a result of the agreement.As discussed earlier the proceeds can go for betterment of school facilities and infrastructure for displaced child labour..ILO can play a constructive role in this by providing some leadership in bringing the parties together.

Another view which is being made is that transnational companies are attracted to countries just for their poor labour standards.There is very little systematic evidence for that.Multinationals go to poor countries not primarily because of poor labour standards.In fact,labour standards in the multinational companies,by and large,are somewhat better than in the domestically run factories.It does not mean that the working conditions are good.They are dismal in many factories,domestic or foreign.It require coordination between governments,NGOs , business and making labour union effective in improving the working conditions.

Labor standards may be introduced in such a way that developed countries can impose protection against imports from developing countries[5]and that reasonable harmless

[5] The practical problem associated with implementing labor standards are formidable. A key question is whether trade sanctions should be permitted only when exporting firm is found guilty of failing to meet standards in producing the good for export,when the firm is guilty of violating in any of its operations,or would the issue arise whenever anyone in the country was violating standards.

standards will initially be set[6].But that over the years,labor unions and others will succeed in having these standards elevated until they finally achieve the protectionist content that impairs developing countries comparative advantage in labor intensive industries. Certainly developing countries should be alert to the danger that,once any standards are accepted,the barriers against using them for protectionist purposes are greatly weakened.Developing countries should strongly resist labor standard as a topic for inclusion in the new round of negotiations.

Environmental standards raise some other issues.First of all,when the only environmental damage is borne by residents of a country,there is no obvious case for international standards of any kind to be applied.When there are "spillovers",the question becomes one of allocating "pollution" rights among countries.Most economists agree that,when there is a serious case for restriction of particular pollutants,such as CFC's,on a global basis the appropriate policy response is to allocate pollution "rights" or permits,and then to permit trade in those permits.

The key issue for reaching accords is the basis on which permits will be allocated.On one hand,developed countries generally are currently generating a large fraction of the pollutants;if rights were allocated in proportion to existing pollution rates,developed countries would receive most of the permits.On the other hand,if rapid growth for developing countries is in prospect for next several decades,it is clear that their share of the increase in pollutants would be very large in the absence of environmental restraints.Moreover,environmental restraint would entail some brake on growth rates that would otherwise be attainable.For these reasons,developing countries tend to advocate the allocation of pollution permits,or rights,in proportion to population,while developed countries advocate allocation on the basis of existing shares in pollutant-generation.

The disagreement is fundamental, and until it is resolved,it is difficult to expect significant progress. Bhagwati and Srinivasan(1996) argue that a first-best solution is to have taxes and subsidies that reflect the externalities of various activities imposed on those undertaking them, combined with free trade.Since,it is seldom,if ever,that trade itself generates the externality,the appropriate policy measure is to impose the tax on the activity that generates the externality,presumably production in most cases.In case the offending country fails to do so then it may make sense to have 'second best solution' by imposing trade restraints on exports from the offending country.The chief questions concerning trade policy when global pollution problems such as ozone layer depletion and global warming are involved instead take different turn related to cooperative solution oriented multilateral treaties that are sought to address them.They are however essentially tied into non-compliance(defection) by members and 'free riders' by nonmembers.

There are several set of interrelated issues that have formed the basis of the debate so far,and the positions on these issues vary among both among developed and developing countries.An outline of the issues is attempted here.

1.The relationship between trade provisions of Multilateral Environmental Agreements(MEA) and the WTO.This includes question such as,which MEAs to include;what to do in case the measures are incompatible with the WTO;what to do

[6] The labor standard code associated with the Mexican accession to NAFTA is relatively innocous.It is being attacked in the U.S as being much too weak,and there are pressure groups attempting to raise it.Meanwhile,however,groups interested in achieving labor standards within the WTO are arguing that NAFTA set a good example.

regarding countries which are not members of a particular MEA;and which dispute settlement to use.Most developed countries want prior assurance that action taken under the terms of an MEA cannot be challenged in the WTO.The EU,in particular,proposes that such action should be recognized as covered by GATT Article XX(b),which allows measures "necessary to protect human,animal or plant life or health",provided they are not used to discriminate unfairly between countries or as a disguised restriction on trade.Developing countries in general wish to retain some possibility of WTO challenge of actions taken under an MEA.They are not fully reassured by evidence that most MEAs do not have trade provisions,or that no WTO disputes have yet arisen over actions under an MEA.The discussion has also included how improved WTO disciplines might help to further environmental objectives.Agricultural exporters such as Argentina and New Zealand point,for example,to the role of subsidies in encouraging pollution through excessive use of chemicals on crops,as well as in depletion of fish stocks through overfishing.

2.Whether the WTO members need to adopt comparable process and production methods (PPMs) in their respective countries and if yes and how to take into account these as they relate in the framing of trade rules;and in this connection what weight to put on multilateral agreements(for example on ozone depleting substances) or unilateral judgemments,such as those used by US in the tuna-dolphin[7] or the precautionary principle used by EC concerning import of meat and meat products derived from cattle to which either the natural hormones:oestradiol-17B,progresterone,or the synthetic hormones:trebolone acetate,zeranol or melengestrol(MGA),had been administered for growth promotion purposes(for details see Hammonds 1990,Meng,1990).In the same context,what to do of eco-labelling schemes,which could adversely effect imports from specific developing countries,and how to bring them in conformity with broader WTO rules on standards.As regards standards-related environmental measures,a central problem,in the view of many developing countries,is that in many cases these aim to enforce requirement that do not concern the product itself,but rather the way in which it is produced,this being seen as an unacceptable effort to extend the jurisdiction of the country applying the measure beyond its borders.

3.The general relationship between trade,environment and development.This has many facets,including the formal recognition that poverty is a major cause of environmental degradation;provision of assistance to developing countries to promote sustainable development;issues related to the impact of new environmentally motivated standards imposed by developed countries on the competitiveness of developing countries exports and the broad relationship of different trade liberalization measures and the environment (Bhagwati and Srinivasan,1996).

Developing countries face the following dilemma:should they negotiate an agreement covering the various complex trade and environment issues,which would involve legitimizing through explicit detailed understanding different market access restraints on environmental grounds,but would limit the more blatant unilateral developed country abuses;or should they leave the system as it is,when developed countries can use the broad language of GATT Article XX b to restrain trade on environmental grounds(recently interpreted very broadly),and rely on the WTO Dispute Settlement

[7] In the early 1990s Mexico complained against the United States concerning the US ban on imports of tuna caught by fishing methods which endangered dolphins.

Mechanism to curb developed country abuses? Various developing countries would respond to this dilemma differently.

The risks resulting from failure to reach environmental accords are that environmentalist in developed countries will lend their support to protectionist measure.In the wake of this development the developing countries may like to negotiate agreements that are less close to proportionate-to-population allocation than would,from their viewpoint,be ideal since,as a by-product, protectionist measures against them would be somewhat reduced. This point is further explained.Given the strong pressure that both the EU and the US would bring to bear on including this issue and the difficulties developing countries may have faced in using the DSM,they may wish to agree to including environment in the agenda as part of an overall understanding on a set of negotiations that meet their own objectives,e.g., regarding restricting developed countries subsidies in energy,fisheries,or agriculture which may have adverse effects on the environment;and/or provision of assistance to developing countries to help them address poverty issues that contribute to environmental degradation. However, it may be said that member nations should domestically exercise their right to set appropriate standards for health,safety, environment and biodiversity. Chimni(2000) acknowledges that developing countries have to pursue an independent and self reliant path of sustainable development. However he notes that "environmental measures addressing transboundary or global environmental problems should as far as possible be based on international consensus. The cooperative approach represents an integrated response based on the principle of common, but differential responsibility. "The legal form that the cooperative solution should assume is a matter of debate. Its goals could be achieved either through separate multilateral trade agreements or as side agreement in WTO or through innovation in the WTO dispute settlement system.

So, in the broad sense the conclusion that emerges is to delink Labor and Environmental Standards from trade matters; shift to Appropriate Governance and possibly discuss trade issues which have "necessary interface" with environment.

2. Competition Policy and Services Standards

Yet another new issue is competition policy and services standards,We discuss competition policies in the first section while the services standards is discussed in the next section..

2.1 Competition policies:

National competition law can be defined as the set of rules and disciplines maintained by governments relating either to agreements between firms that restrict competition or to the abuse of dominant position(including attempts to create a dominant position through merger).Competition policy has a much broader domain.It comprises the set of measures and instruments used by governments that determine the “condition of competition” that reign on the markets.Anti-trust or competition law is a component of competition policies.Other components can include actions to privatize state owned enterprises,deregulate activities,cut firm-specific subsidy programs and reduce the extent of policies that discriminate against foreign products or producers.A key distinction between competition law and competition policy is that the latter pertains to both private and governmental actions,whereas anti-trust pertains to behavior of private

entities(firms).Many dimensions of competition policy are already on the WTO agenda-e.g.,trade policy, subsidies ,intellectual property protection,market access in services.The focus of the debate in the WTO is therefore on whether there should be specific rules pertaining to national competition law and its enforcement.

Competition policy seeks to prevent predatory pricing and monopolization of markets.It should provide guaranteed access to national courts without discrimination between domestic and foreign firms,enact basic standards of enforcement's such as transparency of proceedings,the applications of sanctions and an effective competing authority.It is clearly in the interest of developing countries to have a modern competition policy[8],particularly regarding the possibility of substituting AD and CVD measures with competition policies.

.In the context of the TRIPs agreement competition policy coupled with compulsory licensing offers one avenue for mitigating some of the most egregious effects of TRIPs agreement(Mathur,2001). More fundamental domestic reasons, such as concentration of production in several sectors sometimes associated with the entry of foreign investors,also dictate the adoption of a new domestic competition policy.

Developing countries tend to be attracted by the idea of cooperation to deal with abuses by multinational companies, a theme they have pursued for many years in the context of the United Nations.Some(notably Hong-Kong) argue that mutually consistent trade and competition policies,including the incorporation of additional competition concepts into the WTO system,could reduce the need for governmental trade measures that discriminate against competitive suppliers,and in particular for anti-dumping actions.However,the prospects of this happening in the near future are dim given the opposition of the United States and the European Union.

Developing countries may like to support the development of multilateral case for competition policy,particularly to tackle the possibility of negative spillovers across markets.This is done by cooperation among all to ensure that the outcome maximizes global welfare. Several examples of potential interest to developing countries can be found. Excessively high levels of IP protection can inhibit transfer of technology. Foreign export cartels may charge excessively high prices.In the shipping market, international cartelization inflicts terms of trade losses for some developing countries, particularly India.In all these cases ,although domestic competition policy could attempt to redress the anti-competitive impact,it may be relatively ineffective because of the jurisdictional problems or because remedial measures(for example,refusing foreign IPR owners or foreign suppliers of essential products access to domestic markets) may not be credible.Enforcement can be more effective when taken at source,involving the cooperation of partner countries. However,it may be apt to say that multilateral rules on competition policies are likely to be very general and probably not very ambitious. Competition policy standards, practices and institutions are divergent enough between industrial countries as to militate against very detailed and specific multilateral rule making.On balance,it would seem that the most substantial gains for India would arise from the creation of an effective domestic competition policy. Multilateral rules on competition policy are likely to provide net benefits,albeit small in magnitude, especially if the prospects of addressing the menace of anti-dumping are slim.

[8] See Bhattacharjea,"Trade and Competition Policy in a Developing Country Context,"(1999)

Traditionally, competition policy was a matter that pitted the developing against the developed countries, since the former wanted to proscribe what they considered anti-developmental private practices of corporations (e.g. export-restricting clauses) whereas the latter typically opposed the raising of such matters as "anti-business" radicalism. Today, the issue has become one of contention among developed countries themselves: principally, the US has been keen to object to private practices in Japan (such as keiretsus, restrictions on the opening of large-scale retail stores etc.) that are taken to reduce market access; and the developing countries are more or less on the sidelines.

Merit Janow's(1999) underlines, the differences that have emerged, that make (for many) the full-throated inclusion of competition policy on the future multilateral trade rounds premature. The case for such inclusion is best made in Frederick Jenny's paper(1999) which conveys, without necessarily sharing the EC viewpoint, mainly advocated by Sir Leon Brittan. In contrast, Joel Klein presents the opposite viewpoint of the US Justice Department, as currently constituted, which would like to keep anti-trust matters out of what is considered an impure, negotiations-and-compromise-infested trade arena. Eleanor Fox(1999), on the other hand, seeks to provide a middle ground, arguing how a "minimalist" agenda could be devised whose narrowly-focused objective would be to enhance trade-related competition and hence to add to the efficiency of the trade liberalization that WTO seeks to advance. Litan(1999) speaks to similar concerns.

An interesting issue is the widespread desire in Washington, dictated by intense lobbying from import-competing business and allied legal lobbies, that anti-dumping be kept out of competition Pdicy discussions, even though many saw a competition policy accord as enabling the purging of the absurdly protectionist anti-dumping rules from world trade. Thus, in this view, the focus should be entirely on market access, not on import competition, from any one country's viewpoint. But that is surely not a coherent position; but this is not the first time that coherence and intellectual consistency have been sacrificed to lobbying interests!

Given these strongly divergent viewpoints, and the differences that divide the two principal negotiators, the EU and the US, the majority opinion on Competition Policy is that the matter was important but should not be part of the "first-track" of matters that could be negotiated more readily but belonged to the "second-track" where Committees could be set up, or continued, to explore the matter in depth, both intellectually and among bureaucrats.As far as developing countries are concerned there is a strong need for a modern competition policies for each nation state.However,multilateral disciplines on competition policies are likely to provide net benefits,albeit small in magnitude,especially if the prospects of addressing the menace of anti-dumping are slim.Preferably,such disciplines should include outlawing practices that involves negative spillovers such as export cartels(as in shipping) and bringing anti-dumping duties within its ambit.

2.2.Services Standards:

Effective market access for both goods and services requires the elimination not only of explicit restrictions but also of the implicit barriers created by standards and other

domestic regulations. In goods, environmental standards and safety standards (for certain types of apparel) have both impacted on Indian exports.In services,trade restrictive effects have arisen from a variety of qualification and licensing requirements in professional and numerous other services.[9] Mattoo and Subramaniam(2000) suggests three international routes to dealing with such barriers:harmonization of national regulations(leading possibly to the creation of international standards);mutual recognition(MR),(Krueger,1999 also recommends this route),and strengthening multilateral disciplines on national standards.However,with respect to the first proposal, Bhagwati and Hudec(1996) note that in both goods and services where countries have varying preferences for quality,including in relation to safety and the environment ,harmonization is probably not desirable.Environmental diversity among countries is perfectly legitimate.It can arise not merely because the environment is differently valued in the sense that the utility function defined for consumption and pollution abatement is not identical and homothetic but also because of differences in endowments and technology across countries.In fact even with homothetic preferences,income matters:At the same cost of abatement relative to consumption,a country with ten times the income of another will spend ten times as much on abatement.Forcing the poor country to spend as much on abatement will reduce its welfare substantially.Hence the common presumption driving demands to harmonize standards or (alternatively) to countervail the 'social dumping' consequences of labor standards-that is the assumption that others with different cross country intraindustry hamonization standards are illegitimately and unfairly reducing their costs(those firms who work under lower labor and environmental standards)-is untenable.In the case of services the difficulty of harmonization is revealed by the absence of widely accepted international standards.Whereas such standards exist as in banking or maritime transport,meeting them is seen as a first step towards acceptability rather than as a sufficient condition for market access. With regard to mutual recognition agreements in case of technical standards it should not be seen as a discriminatory device by the members states. Strengthening multilateral disciplines on standards can be an important strategy for addressing barriers through imposition of technical standards. In this regard the question of whether trade policy is the best instrument to address environmental and labour standards needs to be deeply scrutinized.

An important strategy for addressing barriers is to strengthen multilateral disciplines on standards.This can be done by supplementing the NT principle with the "necessity test"(Mattoo and Subramaniam,2000).The test is already part of the UR agreement for goods and the recently established disciplines in the accountancy sector.For instance,in the case of professionals like doctor, a requirement to requalify would be judged unnecessary,since the basic problem,inadequate information about whether they possess the required skills could be remedied by a less burdensome test of competence.This test could also be applied to situations where a country is contemplating trade restrictive measures on the grounds that environmental or labour standards in a partner countries are too "low".The necessity test would not seek to deny a county's right to be concerned

[9] The requirement of registration with or membership of professional organizations can also constitute an obstacle for a person wishing to provide the service on a temporary basis. For instance, in the United States requirements to practice medicine for foreign-qualified doctors vary from state to state. Candidates must also pass the qualifying examination of the Educational Commission for Foreign Medical Graduates and then undergo a period of graduate medical education at a hospital in the United States.

about environmental and labour problems in other countries,but subject the instruments it chooses to critical scrutiny.It would seem desirable to use the test to create a presumption in favor of economically efficient choice of policy in remedying market failure and in pursuing non-economic objectives Finally,India must upgrade its standards and related institutions consistent with domestic preferences for quality. This would strengthen the case for obtaining foreign recognition and also allow foreign technical barriers to be credibly challenged.

In summary strengthen disciplines on MRAs to ensure that they are non-discriminatory.Push for multilateral disciplines on domestic regulations in goods and services based on necessity test.Improve domestic standards.

3. Multilateral Agreement on Investment(MAI) inclusion in WTO versus Voluntary Codes at OECD and elsewhere:

The strongest analytical case for multilateral rules on FDI stems from the proliferation of investment incentives which creates policy induced distortions in FDI flows without augmenting their aggegate size.Given the widespread use of these incentives by industrial and developing countries(not just as federal but also at sub-federal levels),the prospects for disciplining them are likely to be slim.Thus if multilateral discipline on investment incentives are ruled out a case can be created for multilateral agreement on investment.The issue is whether multilateral rules on investments are necessary and desirable or whether FDI regimes should be determined unilaterally.It is puzzling as to why the case for multilateral rules on FDI is different from that of conventional trade policy or for trade in services which after all involves opening markets to FDI.However,it is possible to subsume the investment policies within the ambit of competition policies by strengthening competition policies.For example,such policies can prevent the acquisition and abuse of market power by,and regulate other competitive anti-competitive practices of,foreign(and domestic) firms.The interesting question then is whether there is need for additional discretion to regulate FDI.One example would seem to be measures designed to ensure the transfer of technology and training of local workers.Therefore ,the countries need to examine case for preserving discretion beyond that provided by strengthened competition policy.

The discussion of MAI, the new issue is being considered for the future multilateral trading rounds, was introduced by Donald Johnston, Secretary General of OECD, Rubens Ricupero Secretary General of UNCTAD, Richard Eglin of WTO and Ambassador Narayanan of India. Ricupero and Narayanan paper are skeptical of the idea of including MAI in the WTO.

Johnston paper(1999) emphasized, in light of the NGOs' success in derailing MAI at the OECD, that the matter of including an Investment agreement in the WTO would prove to be highly contentious. Eglin(1999) argues that we ought to work towards a minimalist agenda so that a multilateral set of rules could be agreed upon at the WTO, since that would bring discipline to the huge investment flows today. The discussion generally seemed to bring forth arguments against including MAI of any sort into the future multilateral trading Round agenda, some of the principal arguments being:
(i) NGOs would create a lot of disruption, as with OECD's MAI, with

unfortunate negative spillovers into the Round's other agendas;
(ii) While foreign investment certainly has an essential relationship to trade when the "right to establish" is involved in getting proper access to foreign markets, and the proscription of export performance requirements and local content rules under Trade Related Investment Measures(TRIMs) may be seen as simply reiterating implicit such proscriptions against "trade-distorting" policies in the general text of GATT as regards domestic (and indeed all) investment, the huge numbers of proscriptions of host-country policies in favor of foreign investors that can be found in the text of MAI as drafted at the OECD simply do not carry such credibility. Thus, does it really make sense to include in a mandatory agreement at the WTO proscriptions on requirements to hire nationals? This is, after all, a "gray matter" area where there can be room for legitimate differences of opinion among economists as to its advisability in terms of national welfare maximization. Besides, MAI, in this sort of overreach, also cannot but be seen as invading gratuitously the sovereignty of nations to make their own choices, even if these might be mistakes: which is precisely why the NGOs around the world have agitated against it.
(iii) Given the political opposition to having an MAI at the WTO, and the weak economic case for it as well, would it not be wise to shelve the matter from the future multilateral trade rounds, especially as countries around the world have been opening their doors wide to foreign investment anyway and the need to do anything dramatic to encourage direct investment flows is far from compelling?

Thus, the OECD Code, the MAI, can be a voluntary code; if a country does not like it, it can choose not to join (unlike putting it into the WTO today). Then again, other such Codes can also be developed, e.g. by UNCTAD. Thus, the OECD Code has more on corporate rights and little on corporate obligations and host-country rights; the UNCTAD Code can be the other way around. Let the countries decide which they wish to sign up for.
Hence, **there seems to be a fair amount of sympathy that this new issue be kept out of the WTO, and therefore out of the Millennium Round agenda. And that we ought instead to pursue the matter through Voluntary Codes.Alternatively, countries can be willing to discuss multilateral disciplines but examine case for preserving discretion beyond that provided by strengthened competition policy.Also,there is potential for member countries to cover various aspects of foreign investment in the voluntary commitments of GATS. Therefore,there is undoubtedly need for more research in this area and particularly on whether other safeguards need to be built into an investment agreement to preserve the freedom to pursue national objectives.**

4.Electronic Commerce: Electronic Commerce[10] accounts for a small but rapidly growing proportion of world trade in goods and services. This growth has occurred in

[10] There is no single definition of electronic commerce.The widest definition would include transactions where any one or more of the following three stages are carried out by electronic means:the pre-purchase stage including advertising

legal vacuum with few accepted rules and disciplines. Moreover, the cross border nature of transactions has made the issue of legal jurisdiction unclear. There is little doubt that over time, a framework of global rules for transactions through the internet will have to be established. The key issue is whether there is enough understanding of the issues and enough international consensus to attempt to reach an agreement as part of a new round of WTO negotiations.

This topic was first discussed in 1998 at the WTO, particularly in the context of the US proposal of permanently not imposing any custom duties on all electronic delivered products[11].Many developing countries were put off by the proposal at the time as it was felt that it had not been sufficiently explored and discussed. In subsequent discussions, developing countries raised a variety of concerns: Some thought that such a commitment will result in countries foregoing future opportunities to collect custom revenue[12];others were concerned as to whether the electronic mode of service supply should be given preferential status relative to other modes which were being regulated. Others raised the question whether certain electronically delivered product should be classified as services or goods like the contents of book, audio CDs, films, computer software, etc. These products, when delivered on physical media, have all along being classified as goods and charged to custom duty or exempted from it depending on the prevalent tariff at national borders of respective member countries. However, these products are now capable of being digitalized and transmitted through internet. The debate is on the classification of digitialized products such as music, books, software, etc -whether these can be classified as goods or services and whether GATT or GATS principle will apply. The other uncertainties are a) how to ensure privacy of transactions and how to value encrypted data;b)what are the links to TRIPs e.g., copyright protection for electronic and database material;c)And finally,there are many standards related issues involving interconnection and interoperability of systems which need to be addressed to ensure that standards setting by governments does not impede electronic commerce(WTO,1999)

The initial inhibitions regarding loss of tariff revenues are clearly an exaggeration-after all most countries provide large scale exemption to their existing tariff schedules.Mattoo and Schuknecht(1999) estimated the tariff revenue countries collected from these products[13].Even if all delivery of digitiable media products moved online-an

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and information seeking;the purchase stage including ordering and payment;and the delivery stage.The WTO decision concerns only electronically delivered products.

[11] In principle,all types of products can be advertised and purchased over electronic networks, the potential for electronic delivery, and the scope of the WTO decision not to impose duties is more limited.It requires that a final product be presented as digitilazed information and transmitted electronically, typically over the Internet. The bulk of the products that can be supplied in this manner are services legal customized software,etc. Some information and entertainment products typically characterized as goods, such as books, standardized software,music and videos embody digitalized information that can also be supplied electronically over the Internet.

[12]With respect to the proposal- imposing no duties on electronically delivered goods,India has drifted from its earlier position to the one which supports the proposal ,probably due to the growing importance of software exports. India has now joined the many countries that are in support of the existing duty free treatment for electronic commerce to be made legally binding.

[13] In this study the assumption was that services are not subject to custom duties.Therefore,the study looked at the fiscal implications if international trade in digitialized products currently classified as goods shifts to internet,and if no tariffs are levied on such products.The estimates were reasonably reliable for the most important categories where trade and tariff data were available for the most important countries.

unlikely prospect-the revenue loss would be minimal. India would lose 0.4% of tariff revenue and 0.1% of total revenue. Since the bulk of such commerce concerns services, the relevant regime is that established by the GATS regime on cross border trade. This Agreement allows countries to decide whether to commit to market access,i.e., not to impose quotas, and to national treatment, i.e., not to discriminate in any way against foreign services and suppliers. If a country has already made such a commitment, then any further promise not to impose duties is superfluous because custom duties inherently discriminate against foreign services. If a country has not made such a commitment, then the promise not to impose custom duties is worth little, because a country remains free to impede access through discriminatory internal taxation. Worse they may take recourse to quotas which are ironically still permissible in spite of being economically inferior instruments. Hence, the focus on duty-free treatment is misplaced. The objective for countries like India should rather be to push trading partners into making deeper and wider commitments under the GATS on cross border trade regarding market access and national treatment[14].

The sheer pervasiveness of the Internet makes it impossible for even the best-intentioned regulators to keep out. Such issues as privacy, consumer protection, intellectual property rights, contracts and taxation cannot be left entirely to self-regulation if e-commerce is to flourish. Also, in case of electronic commerce antitrust action may be more important online than off line. Satapathy (2000) notes that some of the areas where the government can play a regulatory role are the following:-

1.Provision of a legal and regulatory framework to facilitate e-commerce by recognition of electronic records and providing for certification of digital signatures rules of encryption and secure electronic transmission.

2.Protection of copyright and other intellectual property rights.

3.Data protection and protection of privacy of individuals and corporate entities.

4.Consumer protection

5.Prevention of cyber frauds in electronic money transactions, including money laundering.

6.Other regulatory issues relating to public morality (e.g.,child pornography) and criminality(e.g., facilitating sale of narcotic drugs, assisting terrorists, etc).

WTO members currently have decided that electronic delivery of products will continue to be free from custom duties. For the moment this commitment is temporary and political, but there are proposals to make it durable and legally binding. Two aspects of the commitment are notable. First, only electronic transmissions are covered; goods ordered through electronic means but imported through normal channels are explictly excluded. Secondly the standstill/prohibition applies only to custom duties; there is no mention of other forms of restrictions.

5.Government Procurement: There are many good reasons to liberalize government procurement. Some benefits are analogous to those arising from the liberalization of

[14] Mattoo and Subramaniam(2000) have summarized the current state of commitments on cross-border supply in some of the areas in which developing countries have an export interest.In software implementation and data processing,of the total WTO Membership of over 130,only 56 and 54 members,respectively,have made commitments;and only half of these commitments guarantee unrestricted market access,and similar proportion guarantee unqualified treatment.In all professional services,there are commitments from 74 members,but less than a fifth assure unrestricted market access and national treatment,respectively.There clearly remains scope for widening and deepening commitments.

trade,but to these must be added the budgetary benefits of efficient procurement and significant reductions in rent seeking which is rampant in procurement. Thus, both the consumer and the taxpayer will benefit. But WTO experience shows that most countries(developed and developing) are reluctant to immediately accept full liberalization of procurement.

For India, Srivastava (1999) estimates that the total value of purchases by the central and state governments and public enterprises, which could in principle be subject to international government procurement rules, varies between 3.4 and 5.7% of GDP. For certain procurement contracts, a price preference of 15% is given to indigenous equipment suppliers, requiring that atleast 20% value must be added in India. In the shipping sector, price preferences up to 30% apply to Indian bidders on procurement contracts .If more efficient procurement practices can be implemented domestically, Srivastava (1999) calculates that the total saving could be as much as 1.7% of GDP or about US $ 8 billion. Even if only a fraction of the estimated savings is realized, the gain can be substantial.

One of the biggest problems in procurement is moral hazard (the tendency of the procurer to aggravate risks) on the part of procurer. The significant benefit of a multilateral agreement is in helping to overcome national agency problems in procurement by creating mechanisms for reciprocal international monitoring supported by multilateral enforcement. It achieves this by shifting the legal scope for monitoring from dispersed taxpayers who may have little interest in monitoring individual procurement decisions to the bidders for contracts who have a significant stake. Two elements of a possible multilateral agreement are crucial in this context. First, the agency problem is mitigated by creating obligations on the procurer to be transparent. Secondly, foreign suppliers are given the opportunity to challenge the decisions of the procurer before national courts or independent and impartial review bodies. As a starting point the countries may like to increase transparency and strengthen enforcement[15].Alternatively, it has also been suggested that countries could continue to maintain preference margins, but agree to bind them and make them subject to unilateral or negotiated reductions. In addition to improved domestic policy, government procurement offers the potential for making negotiating linkages. Foreign suppliers can only effectively contest the market for government procurement if they are not unduly handicapped by restrictive trade measures. Hence, the creation of genuine international competition for procurement contracts depends crucially on the liberalization of trade. It would, therefore, be natural for developing countries to make willingness to accept disciplines on government procurement depend on future negotiations on market access for goods and under the GATS on measures affecting trade in services[16].For instance,one of the most important services sectors in the context of government procurement is construction.Yet in the GATS,members have usually not bound themselves to grant market access to the supply of construction services through the presence of natural persons,except for certain limited categories of intr-corporate transferees.The assurance that workers can be temporarily

[15] A recent paper (Evennett and Hoekman,1999),however,suggests that it is important to eliminate preferences in government procurement before improved competitive practices are put in place.This is because,if the opposite sequence is followed,under certain circumstances,preferences on government procurement could lead to increased misallocation.

[16] As most government purchases relate to services rather than merchandise trade, the issues have to essentially with liberalization and national treatment of foreign service providers.

moved to construction sites would greatly increase the benefit of non-discriminatory government procurement for developing countries.The same apllies to procurement of other services such as software and transport.

Section II:
The Traditional, "Core" Issues

That leaves us with the Old, the Traditional, the "Core" Issues of GATT: the continued freeing of trade barriers, the fixing of the dispute settlement mechanism , reducing quantitative restrictions and subsidies,credit for unilateral liberalization,agriculture liberalization across countries,avoiding sectoral approach to negotiations, increasing coherence among multilateral institutions,trade related investment measures and product standards.

2.1**.Freeing Trade:** The two important papers by Patrick Low,1999 (jointly authored) and by Arvind Panagariya(1999) amply show that there was much freeing of trade still to be done.And, most important, the idea put out by Fred Bergsten in Foreign Affairs some time ago that the rich countries had few barriers to reduce and hence must now offer "rules" changes against the poor countries' trade barrier reduction offers, was simply wrong. The rich countries had peaks in industrial tariffs and, after agricultural tariffication, had substantial trade tariffs in agriculture to negotiate down as well. Besides, there is much freeing of both border and internal barriers to trade in services left to be negotiated.

So,**even without the new issues, there could well be substantial opportunities for tradeoffs in tariff reductions among and within the poor and the rich nations. The old GATT agenda of trade barrier reductions was still important.**

2**.2.Fixing the Dispute Settlement Mechanism:** Besides, there was enough work to be done on the Dispute Settlement Mechanism, as illustrated by the highly publicized cases such as the Bananas Dispute and the Hormone-fed Beef dispute between the EU and the United States, and by the Shrimp-Turtle decisions. These matters were the subject of important papers by: Professors Hudec(1999), Jackson(1999), Iwasawa(1999) and Cottier(1999).Bhagawati(1999) challenges the rationale of the methods of "compensation" that the WTO allows successful plaintiffs to impose; Gary Horlick(1999) discusses the hormone-beef type disputes that bring in consumer groups' objections.

2.3.Forming coalitions on issue of agriculture: Bringing agriculture under WTO disciplines was a significant achievement.Not only were any further increases in subsidies and agricultural protection among the developed countries ruled out,but there was some relatively minor rollback(with a commitment to a 20% reduction in the total(distorting) support provided by government to agriculture and a cutback in export subsidies) and the commitment to shift to tarrification was highly significant.

In terms of their immediate interest,the developing countries can be divided into three groups.First,there is the group of major exporters of agricultural commodities (Argentina ,Thailand) which are members of the Cairns Group[17].These countries position is a) early,total elimination and prohibition of export subsidies which tend to undermine the competitive position of efficient developing country producers; and in the same

[17] Cairns group-Argentina,Australia,Brazil,Canada,Chile,Colombia,Fiji, Indonesia,Malaysia,New Zealand,Paraguay,Phillippines,South Africa,Thailand and Uruguay.

connection,seek to regulate the provision of export credits;b)deep cuts in tariffs,removal of non-tariff barriers,increase in trade volume under tariff-quotas so to enhance market access prospects;c)elimination of trade distorting domestic support measures(WTO,1998).At the same time they need to safeguard those aspects of the Agreement on Agriculture(as well as add new ones,if appropriate) which permit them to extend assistance of various types to poor farmers as well as maintain programs of assistance and food security to the poor.But these measures should not introduce distortions between selling to domestic market and abroad or between sectors.India should try to align itself with the Cairns Group consistent with forming coalitions based on liberalizing ideology.The combination of a relatively unprotected domestic regime and potential comparative advantage means that India has real interest in seeking to eliminate protection in international agricultural markets.India's sugar and dairy exporters have already expressed a serious interest in reducing barrier to their exports.As in manufacturing,India also suffers from the preference granted to competing suppliers in sectors such as sugar.It is therefore has a real interest in reducing agricultural tariffs.

Second,there is a large group,consisting of the net food importing developing countries and others with a significant agricultural sector which produce but also import food and export various agricultural products.Past policies in many of these countries tended to penalize rather than support the agricultural sector.Two kinds of concern have been raised by several of these countries.First,while supporting reductions in export subsidies and trade distorting domestic supports in developed countries,the limits to aggregate support and export subsidies contained in the agreement(and their possible further tightening in the new negotiations),would limit their capacity to increase support to the agricultural sector should they in the future decide to do so.[18]Second,that although reduction in export subsidies by developed countries will be beneficial to their own domestic agricultural production,the resulting increase in prices of foodstuffs would increase foreign exchange outlays for poor and net food importing countries which they can ill afford[19].There is also a third group with small non diversified agricultural sectors,either because of climatic conditions or land constraints(e.g. small island economies),which are not likely to be significant participants in these discussions.

While the Uruguay Round agreement on agriculture focussed on distortions primarily introduced to agricultural trade by developed country practices,it contains provisions which permit developing countries to increase support to agriculture(and to poor consumers) through means not available to developed countries.[20]For example,direct and indirect investment and input subsidies to poor farmers are excluded from the calculation of aggregate measures (AMS)[21]; reduction in support commitments by developing

[18] Some also point to the "unfairness" of the agricultural agreement as it still permits greater support levels for developed countries--which had in the past given a great deal of assistance to their agricultural sector-as opposed to the developing countries which penalized agriculture in the base period(Das,1998)

[19] There is little evidence that the export subsidy reductions of the Uruguay Round agreements have led to an increase in import expenditures of poor net food importing developing countries.Even so,it is legitimate to ask what might happen in the future and what is the proper international response to such a potential problem.

[20] It should be recalled however,as part of Uruguay Round agreement and previous negotiations,there were significant reductions in tariffs on horticulture and floriculture products of interest to developing countries.

[21] AMS calculations in India are made in accordance with the provisions of Annex 3 of the Agreement on Agriculture.There are certainly methodological issues in computing AMS that need to be cleared up in subsequent negotiations.The AMS methodology is based on differences between the external reference price and domestic administrative price,multiplied by the quantity of production eligible for support.There is however,no explicit recognition of domestic inflation or currency depreciation.

countries can take ten years to be implemented while least developed countries are totally exempt;food subsidies to urban and rural poor are excluded from the calculation of support,etc.

It can be argued however,that the exception of the investment and input subsidies provided to poor rural households from the calculation of the AMS is subject to the "peace clause"-Article 13 of the Agreement on Agriculture and thereby limited to the 1992 levels of support(Kwa and Bello,1998).This may indeed result in unreasonable restraints for low income developing countries which may wish overtime to increase their support for the rural poor.To eliminate this ambiguity,such subsidies could be included in the "Green Box" of measures which are permitted under all circumstances[22].But on the whole,and with the possible exceptions noted above,it is difficult to visualize circumstances where the Agreement seriously constrain developing countries efforts to pursue policies that would efficiently promote their agricultural sector.

The recently negotiated Food Aid Convention (International Grains Council,1999) stipulates that,when allocating food aid,priority should be given to LDCs and low income countries.Other net food importing developing countries can also be provided with food aid "when experiencing food emergencies or international recognized financial crisis leading to food shortage emergencies or when food aid operations are targeted on vulnerable groups".But there is nothing and there should be nothing automatic about the assistance provided.Indeed,if a need can be shown to exist,the international response should not be limited to food aid but extend to all kinds of general purpose financing on appropriate terms.The latter would be better than food aid,which is frequently tied to procurement from a particular donor and determined by food stock availability in the donor rather than the needs of the recipient.

Another area of interest to developing countries that are agricultural exporters concerns import access rights.Until the Uruguay Round(UR),there was no provision for access.Under the UR,all countries were immediately obliged to insure up to 5% market access for imports.Increasing minimum access under tariff-quotas,and setting a ceiling on the maximum rate of tariff or tariff equivalent would be in the interest of most exporting countries.

Developing countries that export any agricultural commodities have an interest in assuring that phytosanitary regulations are based on scientific evidence.As such,developing countries have a strong interest in participating in discussions of experience under the UR to insure that changes in regulations enable the improved functioning of the system and do not permit the manipulation of phytosanitary standards for protectionist ends.PSP regulations that have been negotiated call for mutual recognition,which is strongly in the interests of developing countries.If there are difficulties,they probably lie in the willingness of developed countries to send delegations to attest to the testing procedures in developing countries.

In recent years, a number of countries have been interested in protecting claims of geographic origin of particular commodities. The issue has arisen in several cases with regard to developing countries:a prominent example is basmati rice which has been mentioned as the name of a special rice that should be labeled only if originating in South Asia.While there are a few agricultural commodities where the rights to claiming names

[22] An alternative would be to exempt from challenges under the subsidies agreement.Also,there can be possibility that members states artificially transfer subsidies to the green box to show lower levels of AMS.

and geographic origin may be of interest to developing countries,in general the developing countries interest lie on the other side of the issue.Rights to particular names and geographic origin designations are generally restrictive and tend to increase the difficulty of entry into a market.As developing countries are generally potential late entrants into markets,efforts to restrict the use of particular names is generally not in their interest,and is an issue which developing countries should negotiate with care.

The above discussion yields that developing countries need to form coalitions on varied issues and make sure that these issues are discussed in length at the ongoing tranche of WTO agricultural negotiations.

2.4.Subsidies:Export subsidies[23] are forbidden while the issue of providing subsidy to production[24] has been dealt by defining three classes of subsidy,classes that are sometimes conveniently identified by the colors of a traffic light(Deardorff,1996).They include "Red light subsidies" whose redeeming values cannot be identified,and these are simply prohibited.They include export subsidies,as already mentioned,subsidies that are contingent upon the use of domestic over imported goods,plus an illustrative list of very explicit subsidies that fall into this category."Yellow light subsidies" on the other hand,are not prohibited at all,but their possible adverse effects on other countries producers are nonetheless recognized by permitting importers to levy countervailing duties against them under specified circumstances.They are called "actionable subsidies".Finally "Green light subsidies" are "non actionable subsidies" and include both subsidies that are not specific to particular firms or industries,plus certain subsidies for research and development,regional development, and adaption to environment regulations.

Although the deadline for developed countries to phase out prohibited subsidies has passed,least developed countries and countries with per capita GNP below $1000 may maintain export subsidies indefinitely,and all other developing countries have until January 2003 to remove them,with possibility of extension in particular cases if this is found justified by economic, financial or development needs. Countries in transition to a market economy must phase out prohibited subsidies by January 2002;until then,they also enjoy some immunity from countervailing measures against their actionable subsidies.

The subsidy agreement figures in the WTO built-in agenda: Two important rules in the agreement apply only provisionally and must be reviewed.One, the presumption that certain subsidies such as those which amount to more than 5 % of the value of the product or are given to cover an industry's operating losses tend to give rise to adverse trade effects in developed countries and not in developing countries. A second review is to decide whether the permitted ("green") category of subsidies should continue to exist.Further, any experience gained of the export competitiveness by developing countries due to such subsidies should not lead to gain of more than 3.25% of the world

[23] In the Uruguay Round it was decided that export subsidies must be reduced by stipulated percentages on both volume(21% for developed countries and 16% for developing countries) and budgetary(36% for developed countries and 24% for developing countries) terms.In addition,there is minumum market access commitment of 5%,increasing to 5% over a period of six years.

[24] On the one hand production subsidies tend to adversely effect producers in another country and on the other hand there exist a multitude of economic reasons why some production subsidies are atleast second best and sometimes even first best means of achieving various legitimate objectives. The simplest example in economic terms is the use of a subsidy to the production of a good that yields an external economic benefit for other parts of the economy. A more common and familiar example is the use of subsidy to promote growth of an infant industry.

market is also under consideration. . The concern is however more with the implementation of the agreement than with its rules.

2.5.Quantitative Restrictions: Quantitative restrictions (QRs) are usually regarded as more onerous than tariffs because of the more limited flexibility that they permit in trade and because they place greater limits on the extent to which foreign and domestic sellers can compete. In addition,it is very difficult to measure the restrictiveness of a QR(Deardorff and Stern,1985) and this makes it hard to negotiate only their partial liberalization. It is therefore only recently that QRs have come under the discipline of the GATT. The WTO, with some exceptions, largely prohibits their use. This includes both explicit quotas that are imposed on particular products, and also import licensing schemes that allocate foreign exchange in a manner that is discriminatory across goods or countries. Voluntary export restraints (VERs) which have taken quantitative form, are also prohibited as part of safeguards rules (discussed below). QRs are permitted, even on a discriminatory basis for a country which is experiencing severe excess demand for foreign exchange that is making it difficult to retain foreign exchange reserves.QRs have been used quite commonly in some sectors especially in agriculture and textiles /apparel sectors, implementation of this prohibition has required some major changes in policy.In agriculture, existing QRs have been replaced by "tariff equivalents additional tariffs that are intended to restrict imports to the level of the QR.These tariff equivalents will then be subjected to future liberalization through the same process of negotiated tariff binding that long has been used for other goods. In the case of textiles and apparel ,on the other hand ,the complex web of quotas that has spread over recent decades under the MFA is allowed to continue to exist temporarily with WTO members committed to schedule of removing them over the next ten years. The schedule for eliminating these quotas leaves the bulk of the trade to be liberalized only at the end of this ten year period, and it leaves to the discretion of importing countries which product lines they liberalize before that.Any bargaining strategy that is developed should be structured in such a way as to insure that the unwinding of the MFA and the other undertakings already agreed to in fact take place. Developing countries should recognize that it is vital that the Uruguay Round undertakings be carried out and it is clearly in their interest to insist upon it[25].

2.6.Credit for unilateral liberalization. Developing countries have unilaterally reduced their levels of protection.Because it has been outside of multilateral tariff negotiations, and because in many instance tariffs have not been bound[26],developing countries have received no "credit" for these liberalization in the negotiating rounds. In part, this has been because countries that have liberalized their regimes have nonetheless been reluctant to bind their tariff levels and hence lose right to restore protection should circumstances arise that induce them to do so. From the viewpoint of the major trading countries, credit cannot be given in this circumstance because of the possibility of revocation. A strong case can be made that developing countries should bind tariff reductions in their own self interest. It is an effective means of liberalization because refusal to bind casts doubt as to the intentions of policy makers to maintain trade

[25] It will be difficult to get developed countries,especially the US,to negotiate their tariff rates on textiles and clothing,which under the agreement on textiles and clothing(ATC) would be the only mechanism of protection of this sector(for WTO members) after 2005.EU commissioner Brittan announced in March,1999 that the EU would not exclude textiles and clothing from tariff negotiations.

[26] In the Indian tariff regime some of the consumer and industrial products still do not have binding tariff rates.

liberalization. Nevertheless, it should be possible to find means to negotiate for some credit for liberalization even if tariffs are not bound, provided that provisions could be made for reciprocity on the part of developed countries,particularly in insisting for reduction in agricultural tariff rates.Because most of the prospective unilateral liberalization in the world is in developing countries, and because improved market access is greatly in their interest,this is an area where negotiations should be possible and to the benefit of the group as a whole.

2.7. Avoiding sectoral approach to negotiations: In recent years,developed countries have begun to negotiate agreements on issues such as telecom and information technology.There are several difficulties with this approach:1)once those sectors are liberalized,producers in those areas have a reduced incentive to support import liberalization in protected sectors;and 2)developed countries are selecting the sectors for negotiation in which they believe(probably correctly in most instances) that they have a comparative advantage.The sectors of interest to most developing countries(agricultural sector) will be much more difficult to negotiate on a sector-by-sector basis because they are largely import competing,and the political economy of trade liberalization is such that political resistance will be strong unless offset by exporting interests in developed countries.Developing countries do not need to choose between a new round and sectoral negotiations in agriculture;they can strongly support a new round,and nonetheless enter into negotiations with respect to agriculture should there be no decision for a new round.The difficulty,however, is that there is likely to be significantly less agricultural sector liberalization than there would be if the negotiations took place as part of an overall multilateral trade negotiations.

2.8.Increasing coherence among multilateral institutions. In the Ministerial meeting in Marrakkesh to give formal approval to the Uruguay Round,ministers called for "greater coherence" between the IMF,the World Bank,and the WTO.In this,there was clear recognition of the linkages between global trade and monetary policies and the ability of developing countries to achieve rapid economic growth on sustainable basis.The need for greater coherence has been apparent at least since the debt crisis of the 1980's,when simple arithmetic showed that heavily indebted developing countries could not service their debt and resume growth(a monetary issue) unless their exports grew at a sufficiently rapid rate.That rate was well above the rate of growth of world GDP;as such,it was clear that should protectionist measures in developed countries increase,efforts of the World Bank and IMF to support the necessary measures in developing countries would in any event be destined to failure.The same is still true.Healthy growth of world trade cannot continue unless the underlying functioning of the international monetary system and of international capital flows is sound.Likewise,healthy evolution of the intemational financial system,and of the flow of capital from countries with lower real rates of return to those with higher real rates of return cannot persist without an open multilateral trading system.It is clearly in the interest of all countries,developed and developing,to attempt to achieve greater coherence among themselves.

2.9.Trade Related Investment Measures: International Commerce is today conducted by multinational corporations with substantial investments in many countries and that there has long been call for international constraints not only on trade policies but also on policies affecting foreign direct investment.As a result,the Uruguay Round included negotiations on Trade Related Investment Measures(TRIMs),and the WTO too includes a

TRIMs agreement.The TRIMs specifically includes measures employed to induce/compel MNCs to meet certain yardsticks of performance.These include local equity,licensing and local content requirements and sometimes clauses for foreign exchange and export commitments.The TRIMs agreement only prohibits investment measures that directly affect trade flows in a manner that violates NT or that violates the prohibitions of QRs.Prohibited most clearly are local content and trade balancing requirements both of which restrict the trade of an international direct investor. The agreement requirement is that all such measures be notified.Developed countries were required to eliminate them by January 1,1997.Developing countries,however,have until 1 January 2000 to do so,and the least -developed countries until 1 January 2002.Moreover, developing and the least developed countries may be granted extension of their transitional periods if they can demonstrate "particular difficulties" in eliminating outstanding TRIMs,and the decision of the WTO 's Goods Council on such requests is to take into account the development,financial and trade needs of the member concerned.Some 25 developing countries have notified that they may use TRIMs of the types covered by the agreement.

The TRIMs agreement envisages future negotiations.The TRIMs Agreement provides for a review before the end of 1999, in the context of which consideration is to be given to whether the Agreement should be complemented by provisions on investment and competition policy.When negotiated,this provision was widely regarded as establishing an opening for the more substantial negotiations on investment desired especially by the United States and also for the negotiations on competition issues which some developing countries considered would be necessary as a matter of balance.In this context it may be said that liberalization of India's FDI regulations will yield substantial benefits[27].A new domestic competition policy can regulate anti-competitive behavior of foreign(and domestic) firms with additional discretion to regulate FDI like measures designed to ensure the transfer of technology and training of local workers[28].Also, linkage between domestic environmental policy & regulations with multilateral agreement on investment can be worked out while framing multilateral rules on investment.In fact some developing countries have made efforts to enact investment legislation with environment provisions. An example is the previous legislation under the PNDC Law 116 establishing the 1985 Ghana Investment Code. This code gave certain powers to Ghana Investment Centre to appraise enterprises likely to have an environmental effect, and proposed measures for the prevention, and control of such harmful effects to the environment. There is however a need for more research on whether other safeguards need to be built into an investment agreement to preserve the freedom to pursue national objectives. However, blanket opposition to any investment agreement is not easy to comprehend. Krueger(1999) agrees and argues for supporting the development of multilateral investment code which can ensure low-cost supply of foreign capital to countries, particularly developing countries like India which is hoping to attract foreign capital to accelerate their development process.It is in developing countries interest to support the development of such a code. However, Hoekman and

[27] In the case of India,despite considerable liberalization,FDI continues to be regulated and in adhoc manner,imposing serious costs(Das,1999)

[28] It is relevant that India has reserved the right to impose these requirements on foreign investment under the GATS,on which any investment agreement is likely to be modeled.

Saggi(1999) argue that countries need to take cautious stand in this regard.They note that a more general agreement is neither needed nor feasible at this stage because there is potential for developing countries to cover various aspects of foreign investment in the voluntary commitments of GATS.

2.10.Product Standards: Governments engage in a wide variety of regulatory actions many of which are not targeted at international trade but which nonetheless may affect the costs or feasibility of trade.There are many regulations,standards and other measures that restrict the form that a good may take or a manner in which it may be produced for sale in the domestic market.Such rules may be intended to protect the public safety or health,or they may only seek to insure compatibility of products that must be used in combination.But in either case it is possible for such a rule to be biased against imported products,perhaps in the form that a product must take or perhaps in the procedures that are laid out for certifying that a rule has been obeyed.The WTO therefore includes its own constraints on how such rules should be established and enforced so not to be biased against imports.Two sets of constraints appear,one on Technical Regulations and Standards and another on Sanitary and Phytosanitary Measures[29],but both have essentially the same purpose.They do not prescribe what such regulations should be,only that they should be designed and enforced in ways that are do not discriminate against imports.Like the agreement on custom valuation these too provide the additional benefit of reducing uncertainty in international trade.It is to be noted,however, that GATT provisions relating to environment had no explicit provision on the environment but only indirect references in Article 20(B) relating to the protection of human,animal or plant health and Article 20(G) relating to the conservation of scarce natural resources.However,under the Technical Barriers to trade provisions explicit reference was made to package labeling or labeling requirements which provide scope for trade related environmental barriers(such as eco labels).Environmental protection can also be institutionalized under the sanitary and phytosanitary provisions.

The Agreement on the application of sanitary measures(SPS) are to be "based on scientific principles" and not maintained "without sufficient scientific evidence.."(Article 2.2).Members are also required to ensure that sanitary and phytosanitary measures(SPMs) are based "on an assessment as appropriate to the circumstances,of the risks to human,animal or plant life or health,taking into account risk assessment techniques developed by the relevant international organization"(Article 5.1).Finally,members are required to ensure that SPMs"do not arbitrarily or unjustifiably discriminate between members where identical or similar conditions prevail, including between their own territory and that of other members" and are not applied in a manner which would constitute a disguised restriction on international trade(Articles 2.3 and 5.5).The SPS Agreement favours international standards. Article 3.1 calls on WTO members to base measures "on international standards, guidelines or recommendations, where they exist, except otherwise provided in this Agreement." Measures conforming to such international standards are "presumed to be consistent with the relevant provisions of this Agreement and of GATT 1994"(Article 3.2).The SPS Agreement specifies the source of international standards: Codex Alimentarius as the international source relating to food,the international office of Epizootics relating to animals, and the International Plant

[29] Phytosanitary measures refer to the health of plants,while sanitary measures evidently refer to health of animals and people.

Protection Convention relating to plants. Article 3.3 allows members to introduce or maintain SPMs which result in a higher level of protection that would be achieved based on relevant international standards "if there is scientific justification,or as a consequence of the level of sanitary and phytosanitary protection a member determines to be appropriate pursuant to procedures to assess risks." The agreement on SPS also incorporates the Precautionary Principle and permit members "in cases where relevant evidence is insufficent" to adopt provisional SPMs on the basis of "available pertinent information"(Article 5.7). Finally, it contains a special and differential treatment clause .For a discussion of other features of the Agreement on SPS see Barcelo,(1994).

The Agreement on Technical Barriers to Trade (TBT) and the Agreement on the Application of Sanitary Measures (SPS) have raised concerns across countries.As far as TBT is concerned many developing countries including India have raised their point that they need time, resources and special and differential treatment to develop their own capacity to prepare and adopt technical regulations and standards and a in-depth study of technical barriers to market access of developing countries suppliers. Croome (1998) quotes that "Further challenges to the TBT and SPS agreements will almost certainly arise because the measures they regulate are instruments of choice for responding to pressures not only from domestic producers seeking protection, but also from environmentalist and other non-governmental activists. Packaging and labeling requirements, requirements that fishing methods do not harm dolphins or sea turtles, and regulations that limit the use of tropical timbers fall within the ambit of the two agreements, and are liable to be found contrary to their provisions.Anxiety about the strains which high-profile disputes could put on the agreements, and the WTO itself, is widespread". Members of the Cairns Group of agricultural exporters, however, are strong supporters of the SPS agreement and in their recent declaration insisted that the SPS review should not be used as a pretext to relax present disciplines on the ground of non-scientific arguments. Their also members states from the developing countries which see these agreements as potentially the most sensible means of channeling environmental concerns in ways that will not serve protectionist ends by the developed world or put strains on the multilateral rules.If agreed standards can be formulated in ISO and other international bodies like FAO/WHO Codex Alimentarius Commission to take account of environmental objectives such as those laid down in multilateral environmental agreements, the potential for subsequent difficulties in the WTO could be greatly reduced.

Conclusions

It will be better for member nations to focus their attention on the numerous 'traditional' or old issues in the first instance. However, member countries should not be averse to discuss also the new issues like the development of multilateral disciplines in competition policies, government procurement, services, domestic regulations in goods and services and environmental standards in the future multilateral trade rounds.

It is in the interest for the member countries to take an informed stand on the WTO issues. Member countries should seriously involve themselves in WTO discussions and proceedings to make sure that emerging interpretations and practices concerning provisions in the agreement does not result in either an increase in obligations or dilution of their rights. Insofar as developing countries can influence the agenda for the next

round of multilateral trade round, keeping negotiations cross -sectoral, indicating lack of desire to have labor and environmental standards tied to trade issues , insuring that the undertakings made in the Uruguay Round (especially with respect to the multi-fibre agreement and agriculture) are carried out, and measures that reduce protection in developed countries should surely be at the top of the agenda for developing countries. Since it is in the developing countries interest that there be a strong and effective WTO underpinning the open multilateral trading system, it will clearly be in the interest to support a new round, and to seek outcomes which offer prospects for accelerated growth of international trade and their access to each others and developed countries markets. Instead of watchfully waiting to support meaningful proposals originating from other countries it is time that developing countries should take initiative to evolve and design beneficial policies on their own.

In summary the paper pinpoints the agenda for the multilateral trading rounds by defining various levels of agenda talks:

The **first track** would limit itself to a "core" agenda that would focus on keeping negotiations cross sectoral, reduction of non tariff barriers, reductions of trade barriers in agriculture, industrial products and services, increasing coherence among multilateral institutions in this interdependent world, and to fixing the dispute settlement mechanism to address all recent problems.

The **second track** would consist of committees, old and new, that would examine the issues raised by (l) the old but important questions, especially PTAs (under article 24 and the enabling clause) and anti-dumping actions vis-à-vis safeguards ; (2) the new and important questions such as competition policy ,electronic commerce and government procurement; 3) trade related investment measures; 4)product standards and possibly discuss trade issues which have "necessary interface" with environment.

Finally, and simultaneously, but outside of the WTO and in appropriate agencies, the questions raised by civil society to advance social agendas such as better environmental policies and reduced violations of human rights (including labor rights) would be pursued. So matters such as MAI can be left to the development of voluntary, rather than mandatory, codes outside the WTO.

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