CHAPTER - 1

INTRODUCTION
"Move from making trade possible to making trade happen, because removing trade barriers is not enough for any country to benefit from trade — it has to adapt well."

More than sixty years ago, the world emerged from the ravages of the Second World War. The challenge at that time — an historically unprecedented challenge in dimension and complexity — was to rebuild economic stability in a world of pervasive disorder and massive dislocation, to restore a sense of world community and to establish the basis for future growth and prosperity. The architects of the new system had to build from the ground up, on multiple fronts simultaneously, and they showed vision and farsightedness. After five decades of progress built upon the foundations laid at that time, it is easy to take for granted today what then was novel and imaginative. The latter half of the 1940s was not just about the end of the most destructive war ever waged; it was also about the curbing of destructive economic nationalism and the search for a new global order.

Today, they face once again a new kind of world and a new set of challenges. The end of the Cold War and the collapse of command and control economies, the dramatic rise of many developing countries, and the massive increase in trade and investment flows around the globe have greatly expanded the frontiers of the multilateral trading system, and tested its ability to manage an economy of global dimensions. Trade, investment, technology and communications increasingly link a world of very different systems at very different levels of development into a single market economy. The creation of the WTO in January 1995 was a symbol of the emergence of a more global economic system. If the challenge of the last fifty years was to manage a world divided, the challenge of the next fifty will be to manage a world of deepening integration. Multilateral trading system is a time for celebration. It is also a time for reflection and renewed commitment. Two basic ideas, as vital today as they were in the late 1940s, have underpinned the system's success over the second half of this century. One is the belief that an open international trading system, and its role in promoting economic prosperity, is an essential element in international peace and stability — that economic order must be

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1 WTO Director Pascal Lamy said in his report to the high level session of the Global Aid for Trade Review on 20 November, 2007.
at the foundation of a new political and security framework. Policy-makers in 1948 had lived through the economic destruction of the Great Depression, when turning inwards created a descending spiral of declining output and trade. The architects of the postwar system agreed the only route to economic reconstruction and recovery lay in progress towards open markets and liberalized trade, and the experience of fifty years has proved them right. The second idea is that stability and predictability in international trade relations can only be secured through a mutually agreed system of rules, binding on all member governments and enforceable through dispute settlement. The defence of a rules-based system on a day-to-day basis has been greatly facilitated by the fact that this system gave primacy to markets and not governments in determining economic outcomes. This did not mean that governments abrogated responsibility. On the contrary, they focused on creating the underlying conditions for economic prosperity and on promoting liberalization, contemplating direct intervention only in specific circumstances where markets were found wanting. The rules were not expected to determine outcomes, but rather to establish the conditions for undistorted competition.

The centre-piece and guiding idea of the rules-based system is non-discrimination, which arose out of the conviction that exclusionary deals and preferential blocs helped fuel the interwar rivalries, insecurities, and conflicts that drove the international community into another world war. The non-discrimination principle was key to the system's stability in subsequent years. The patchwork quilt of arrangements that had so undermined coherence and continuity in interwar economic relations was replaced by a unified set of rules. These rules provided the essential political underpinning for the broad consensus, demonstrated through eight negotiating Rounds, to move the system forward into new sectors and wider areas of responsibility. More fundamentally, the principle of non-discrimination enshrined universality as a central objective of the trading system — ensuring that the GATT system emerged, especially after the Cold War, as a major force for integrating the world economy.

The non-discrimination principle plays an important economic role as well. Non-discrimination is an efficiency principle, both in the sense of ensuring access to low-cost supplies, and of allowing producers to sell in foreign markets without a policy-imposed disadvantage relative to other suppliers. Similarly, in a non-discriminatory policy
environment, consumers can choose freely from among alternative foreign sources of supply. In a world of differentiated, discriminatory trade regimes, doing business across frontiers becomes more complex and time-consuming, implying additional costs for enterprises and impaired competitiveness. For both political and economic reasons, then, the non-discrimination principle has served countries well over the last fifty years, be they large or small, developed or developing.

Solutions to the challenges facing governments today and in future will, as always, call for concerted action on a variety of fronts. In considering how the trading system can contribute to meeting these challenges, it is useful to remind ourselves of what the system has achieved so far. Four achievements stand out, and provide the foundation upon which to build for the future.

First, the GATT/WTO trading system has contributed to an extraordinary period of economic growth and increased prosperity. Trade has expanded faster than output by a significant margin over the last five decades. On an annual average basis, merchandise exports have grown by 6 per cent in real terms from 1948 to 1997. Total output, by comparison, expanded at an annual average rate of 3.8 per cent, or 1.9 per cent in per capita terms. A similar picture of intensified international economic engagement is readily discernible from figures on foreign direct investment (FDI). Unfortunately, data are not available for the whole period from 1948, but annual FDI flows expanded sixteen-fold between 1973 and 2006 from US$ 21.5 billion to US$ 700 billion, an annual average growth rate of 15 per cent.

The significant gains in income growth, job creation and prosperity that underlie the statistics mentioned above are in part attributable to the success of the multilateral trading system in lowering trade barriers. Since negotiations began in 1947, average tariffs among industrialized countries have fallen from high double-digit levels to less than 4 per cent. Most non-tariff border restrictions have also been abandoned. And the system protects these market access gains through rules encompassing such matters as technical standards, regulations, and subsidy practices. Since the creation of the WTO, trade
liberalization efforts have been extended to trade in services, covering both cross-border transactions and the rights of enterprises and to establish a commercial presence through direct investment in foreign markets and the right of natural persons to supply services abroad.

- Second, the system has widened the circle of participation in the global marketplace. While the early rounds of multilateral trade negotiations, up to the Dillon Round in 1961, typically involved some 20 to 30 countries, the Kennedy Round (1964-67) involved over 60 countries, the Tokyo Round (1973-79) more than 100 countries, and the Uruguay Round (1986-94) had 125 participants. The WTO's membership stands at 151 countries today, and this could potentially grow to over 160 early in the next century. One-third of the largest trading countries today are developing countries. The end of the Cold War reflected and reinforced this geographical extension in participation. The walls between East and West collapsed, in part, because centrally-planned systems could not meet the challenges posed by free markets and technological change. Divisions between North and South have blurred, as developing countries have increasingly abandoned inward-looking import substitution in favour of more open trade and freer markets. The fact that the two largest countries outside the system, China and Russia, have made WTO membership one of their key policy objectives is a striking testament to the system's new gravitational pull.

- Third, the dispute settlement system has demonstrated the willingness of governments to respect the rules. The record in this respect has been impressive. Over the past fifty years, the vast majority of cases brought have been settled, either on a bilateral basis before final multilateral determination, or through acceptance of a panel ruling. Dispute settlement arrangements were significantly strengthened in the Uruguay Round, introducing greater automaticity and clearer time frames into the procedures, eliminating the scope for interested parties to block the adoption of panel findings, and establishing an appeals body. These new arrangements have further strengthened the confidence of Members in the system. As of
mid-March 1998, 119 cases have been presented to the WTO, compared to just over 300 cases throughout the life of the GATT, from 1948 to 1994. Moreover, increasing numbers of developing countries are making use of dispute settlement procedures.

Fourth, the multilateral trading system has broadened and deepened its agenda to take account of new realities in international economic relations. From its early focus on tariff reduction, the removal of quantitative import restrictions, and the development of rules on such matters as import licensing, customs valuation, and standards, the rules of the system have increasingly extended to the treatment of foreign persons and companies as well as foreign goods and services. As already noted, the incorporation of trade in services brought an investment dimension into the system, and rules have been developed for the protection of trade-related intellectual property rights. New initiatives have been launched to examine the relationship between trade and investment, trade and competition policy and procurement. These developments are explored further below.

This readiness to enable the system to accommodate changing realities will be continually tested in the years ahead. The processes that combine to produce the phenomenon of globalization — intensified trade and investment flows, supported by the communications revolution, the rise of the information economy and technological advances in transportation — are changing the world in ways that place a premium upon adaptation and flexibility. The constraints of time and space are diminishing, and new technologies are breaking down old barriers. Unprecedented opportunities are being created, but with these new opportunities go the challenges of ensuring that the benefits from these new developments are widely spread.

**WTO & Multilateral Trading System**

The World Trade Organization (WTO) is still very young. Born on 1 January 1995, it is 13 years completed. But the WTO is the direct result of a half century of international cooperation that has led to successive agreements, each building on what went before, and each freely entered into by all its member governments. Today, the WTO has 151 member governments. Their countries, with a combined population of
about 6 billion — 80 per cent of the world total — account for over 95 per cent of world trade. Over 31 more countries, whose populations together account for a further 8-10 per cent of the world total, are knocking at the door: when they join, virtually all of world trade and all but 4 per cent of the world’s peoples will be within the multilateral trading system.

The origins of the GATT/WTO lie in the experience of the 1930s, and in the enlightened response of statesmen to that experience at the end of World War II. During the 1930s, in the economic and social disaster of the Great Depression, countries turned inwards, and provoked a descending spiral of declining output and trade. In trade policy, they resorted to extreme protectionism, raising tariffs and other trade barriers to levels that choked off imports, and setting up discriminatory arrangements that favoured some countries and excluded others.

After the war, which the misery and dislocation of the Great Depression had helped to bring about, it was clear that a secure political future could not be built without establishing greater economic security too. Part of the effort to find better instruments of international economic cooperation bore fruit at the Bretton Woods conference of 1944, with the International Monetary Fund and World Bank. For trade, the search took longer. A fully-developed answer was found only with the birth of the WTO. But much was achieved quite quickly, on the basis of two key insights.

➤ The first insight was that, in trade policy, the road to economic recovery and growth lay in progress towards open markets and liberalized trade.

➤ The second was that trade would not grow unless traders themselves could count on a degree of stability and predictability in the system, and that the best way of achieving this was to develop a mutually agreed system of rules, binding on all members and enforceable through dispute settlement. Central among these rules, and holding the system together, should be the rule of non-discrimination, to prevent the exclusionary deals and preferential blocs that had poisoned international relations in the 1930s, and had at the same time reduced trade’s efficiency in fostering economic growth.

Together, these insights have shaped the multilateral trading system, and been fundamental to its success. The fact that the number of countries that have chosen to be
members of the system has risen from 23 in 1948 to 151 today, and that 10-12 more countries want to join, shows that governments see no alternative approach to their trade relations that could serve them anything like so well. From 1948 to 1994, the multilateral trading system took the form of the GATT — the General Agreement on Tariffs and Trade.

The GATT was in some ways an unsatisfactory instrument, a provisional and makeshift arrangement pressed into service because the International Trade Organization, the permanent organization that was meant to be the trade counterpart to the IMF and World Bank, was stillborn. Its arrangements for settling disputes were ineffective if governments chose to disregard them, and its coverage did not go beyond trade in goods. Nevertheless, much was achieved. Eight negotiating “rounds” under the GATT, each involving more countries than the last, resulted in dramatic reductions in tariffs on industrial goods. Average import duties among industrialized countries were cut progressively from high double-digit levels to less than 4 per cent.

Most non-tariff border restrictions were abandoned. The trade rules included in the original GATT agreement of 1947 were developed and elaborated in the light of experience, so that market-access gains achieved through tariff cuts could not be cancelled out by trade barriers and distortions introduced by subsidies, discriminatory technical standards and unreasonable regulations and procedures.

There were also setbacks, especially in the 1960s and 1970s. Proliferation of bilateral measures to block developing-country exports of textiles and clothing was halted only at the cost of accepting a multilateral arrangement that gave existing restrictions legitimacy. Further “grey area” restrictions, not permitted by any GATT rules, affected trade in products of other industries under competitive pressure, including iron and steel, automobiles and consumer electronics. Efforts to open up trade in agriculture were largely unsuccessful. Agreements reached to allow positive discrimination (“special and differential treatment”) in favour of developing countries had only limited effects. By far the largest, longest and most productive round of GATT negotiations was the eighth, the Uruguay Round of 1986–94.

In some respects the Uruguay Round was just more — though much more, particularly because this time developing countries joined in fully — of the same efforts
made in earlier rounds. Tariffs on industrialized products were reduced; defences against non-tariff barriers were strengthened. But the Uruguay Round also reversed earlier failures. Member governments agreed to phase out restrictions on textiles and clothing and to ban “grey-area” measures. They made a start on a long-term effort to reform trade in agricultural products.

In addition, members negotiated a brand new set of rules, together with initial market-opening measures, for trade in services, a dynamic area of world trade they had previously left untouched. Another new agreement set out agreed rules on minimum protection to be given to intellectual property through patents, copyright and measures against counterfeiting.

The whole package of trade liberalization and rules was firmly tied together by putting it under the responsibility of the new World Trade Organization. In many ways, the WTO resembled the old GATT, particularly in its rule of working by consensus agreement among the member governments, none of whom could be bound by new obligations without their full consent. Unlike the GATT, however, it was placed on a firm legal footing, and equipped with more effective arrangements for settling disputes. With the entry into force of the WTO in January 1995, the multilateral trading system at last had adequate institutional arrangements, and a comprehensive set of agreed rules. In creating the WTO, its member governments had secured a more solid basis for their joint efforts to support world trade as an instrument for growth, better jobs, development and more harmonious international relations.

The World Trade Organization (WTO) and its predecessor General Agreement on Trade and Tariffs (GATT) have framed rules and disciplines (provisions) for ensuring multilateral trade among countries. Multilateral trade negotiations are supposed to be held keeping in view the provisions of the WTO.

**Multilateral Trading System & Developing Countries**

Most developed countries have long been convinced of the gains from trade. They started cutting their trade barriers immediately after World War II. They now have generally low levels of import duties, and few quantitative restrictions on imports, although they have been slow to dismantle protection and subsidies for agriculture and
for some declining industries, such as textiles and clothing, especially when these involve large numbers of workers.

Many developing countries and some developed countries, however, initially followed a different path in their trade policies, and have come late to trade liberalization. They put their faith in policies of import substitution, keeping imports to a minimum in the hope that this would encourage the growth of their own production capacity. Much effort, in particular, went into building up supposedly basic industries such as steel plants. Overall, the results were disappointing. The favoured industries, handicapped by national markets that were too small and by other factors linked to their isolation, were not often successful. The diversion of resources to them, and the frequently high cost and low quality of their output raised the input costs of other more efficient sectors, distorted the national economy and discouraged ventures that could otherwise have flourished. Meanwhile, they failed to develop competitive export industries, and continued to rely on selling raw materials which faced shrinking markets and declining prices in developed countries.

In the late 1970s and 1980s an increasing number of these developing countries changed course. They adopted more market-oriented policies, reducing trade barriers, setting realistic exchange rates and often also welcoming foreign direct investment as a source of both finance and know-how. The results were striking. During the period 1970–89, 15 developing countries that had already made such changes before 1970 achieved per capita growth rates averaging almost 4.5 per cent a year, nearly double the rate achieved by the developed countries of OECD. Seventy-four countries that kept to the old policies for some or all of the period averaged annual growth of less than 1 per cent.

Some of the successful countries hit trouble in 1997–98, following the financial crisis in Asia. Three of them — Indonesia, Malaysia and Thailand — had been star performers, whose economies, export structure and per capita incomes had been transformed, with soaring exports of manufactures that greatly reduced their previous dependence on commodity exports.

In Indonesia, much the poorest of the three, the proportion of the population living in extreme poverty fell over 25 years from 70 per cent to 10 per cent. The share of undernourished people decreased from 26 per cent in 1979–81 to 6 per cent in 1995–97.
These countries, along with others such as Rep of Korea, have been hard hit, not least with a serious human crisis. They would have been in still greater trouble if their trading partners had not kept markets (particularly the booming US market) open to their exports. And they are recovering.

Of the world’s 25 largest trading countries, a third are now developing countries. Taken together, developing countries now account for about a quarter of world trade, compared with a fifth just 12 years ago. Their share of trade in manufactures has doubled, to 20 per cent. Two of them, Mexico and Rep of Korea, are now even members of the “developed-country” organization, the OECD.

More importantly, trade has been a crucial element in doubling the incomes of 1.5 billion people in 10 developing countries over the past 25 years. But there is a long way still to go. Three billion people live on less than $2 a day. Most worrying of all is the position of the world’s 48 poorest nations, the countries classified by the United Nations as least developed. With 10.5 per cent of the world’s population, they account for one-half of 1 per cent of world trade, and this tiny share is still shrinking. Many of these countries are saddled with enormous debts, lack infrastructure and are starved of investment. Most of their citizens still live on subsistence agriculture. The failure to begin liberalizing world trade in agriculture at an earlier stage gravely handicapped the ability of many of these countries to expand their exports.

In sharp contrast to the developed world, and to the experience of the most successful developing countries, the already low incomes in many least-developed countries, especially in sub-Saharan Africa, have fallen substantially over the past 20 years. While shocking enough in terms of present living standards, this trend is also ominous for the future: an informal rule of thumb (cited by the World Bank) tells us that rapid reduction in poverty demands annual growth in per capita income of at least 3 per cent. The desperate situation of these countries is a reproach and challenge to the rest of the world. Given the proven effectiveness of trade in accelerating the growth of national and personal incomes, the challenge is one to which the world trading community in particular must, and indeed could easily, respond.

As noted above, the exports of the least-developed countries account for 0.5 per cent of world trade — hardly a magnitude that would cause significant impact were these
exports to be accorded free access to the world's markets. Access to foreign markets is important for all countries, including the least-developed, but other factors can sometimes be even more important. We should not lose sight of this. Human and physical capital formation, capacity-building, infrastructure development, sound macroeconomic policy and good governance all play a vital role.

**WTO Ministerial Conferences At A Glance**

Trade, foreign, finance and agriculture Ministers from more than 120 World Trade Organization Member governments and from those in the process of acceding to the WTO participated in a Ministerial Conference in Singapore from 9 to 13 December 1996. The Conference was the first since the WTO entered into force on 1 January 1995. It included plenary meetings and various multilateral, plurilateral and bilateral business sessions. These examined issues related to the work of the WTO's first two years of activity and the implementation of the Uruguay Round Agreements. The Singaporean Government was the official host of the Ministerial Conference.

The "Singapore issues" refers to four working groups set up during the WTO Ministerial Conference of 1996 in Singapore, namely investment protection, competition policy, transparency in government procurement and trade facilitation. Disagreements between largely developed and developing economies prevented a resolution in these issues, despite repeated attempts to revisit them, notably during the 2003 Ministerial Conference in Cancun, Mexico, whereby no progress was made.

Since, some progress has been achieved in the area of trade facilitation. In July 2004, WTO Members formally agreed to launch negotiations. Under the mandate of the so-called “July package”, Members are directed to clarify and improve GATT Article V (Freedom of Transit), Article VIII (Fees and Formalities connected with Importation and Exportation), and Article X (Publication and Administration of Trade Regulations). The negotiations also aim to enhance technical assistance and capacity building in this area and to improve effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues.
To date, Members have submitted a great number of proposals under the mandate which provide the basis for the on-going negotiations. The negotiations should be completed under the overall Doha Development Agenda timeline.

The Second WTO Ministerial Conference was held in Geneva, Switzerland between 18 and 20 May 1998.

In this Ministerial Conference the crucial importance of the multilateral rule-based trading system. Reaffirm the commitments and assessments they made at Singapore, and they note that the work under existing agreements and decisions has resulted in significant new steps forward since they last met. In particular, they welcome the successful conclusion of the negotiations on basic telecommunications and financial services and they take note of the implementation of the Information Technology Agreement. They renew their commitment to achieve progressive liberalization of trade in goods and services.

At a time when the economies of a number of WTO Members are experiencing difficulties as a result of disturbances in financial markets, they take this opportunity to underline that keeping all markets open must be a key element in a durable solution to these difficulties. With this in mind, they reject the use of any protectionist measures and agree to work together in the WTO as in the IMF and the World Bank to improve the coherence of international economic policy-making with a view to maximizing the contribution that an open, rule-based trading system can make to fostering stable growth for economies at all levels of development.

They renew our commitment to ensuring that the benefits of the multilateral trading system are extended as widely as possible. They recognize the need for the system to make its own contribution in response to the particular trade interests and development needs of developing-country Members. They welcome the work already underway in the Committee on Trade and Development for reviewing the application of special provisions in the Multilateral Trade Agreements and related Ministerial Decisions in favour of developing country Members, and in particular the least-developed among them. They agree on the need for effective implementation of these special provisions.

They remain deeply concerned over the marginalization of least-developed countries and certain small economies, and recognize the urgent need to address this issue
which has been compounded by the chronic foreign debt problem facing many of them. In this context They welcome the initiatives taken by the WTO in cooperation with other agencies to implement in an integrated manner the Plan of Action for the least-developed countries which They agreed at Singapore, especially through the High-Level Meeting on Least-Developed Countries held in Geneva in October 1997. They also welcome the report of the Director-General on the follow-up of this initiative, to which They attach great importance. They commit ourselves to continue to improve market access conditions for products exported by the least-developed countries on as broad and liberal a basis as possible. They urge Members to implement the market-access commitments that they have undertaken at the High-Level Meeting.

They welcome the WTO Members who have joined since They met in Singapore: Congo, Democratic Republic of Congo, Mongolia, Niger and Panama. They welcome the progress made with 31 applicants currently negotiating their accession and renew our resolution to ensure that the accession processes proceed as rapidly as possible. They recall that accession to the WTO requires full respect of WTO rules and disciplines as well as meaningful market access commitments on the part of acceding candidates. Full and faithful implementation of the WTO Agreement and Ministerial Decisions is imperative for the credibility of the multilateral trading system and indispensable for maintaining the momentum for expanding global trade, fostering job creation and raising standards of living in all parts of the world. When They meet at the Third Session They shall further pursue our evaluation of the implementation of individual agreements and the realization of their objectives. Such evaluation would cover, inter alia, the problems encountered in implementation and the consequent impact on the trade and development prospects of Members. They reaffirm our commitment to respect the existing schedules for reviews, negotiations and other work to which They have already agreed.

They recall that the Marrakesh Agreement Establishing the World Trade Organization states that the WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to the Agreement, and that it may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and
a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

The WTO Ministerial Conference of 1999 was a meeting of the World Trade Organization, convened in Seattle, Washington, USA over the course of three days, beginning November 30, 1999. Trade ministers from 133 Counties attended that conference. Intended as the launch of a new millennial round of trade negotiations that would have been called "The Seattle Round", the negotiations were overshadowed by large street protests outside the venues where the conference was taking place. Because of the disruptions in the Seattle rounds, the negotiations were not formally begun until the next meeting which was held at Doha, Qatar, a locale easier to control and police. Thus the current round is called "The Doha Round".

The first meeting of the Ministerial Conference, in Singapore, was also the first occasion for a full stock taking by WTO members of their new organization's achievements and shortcomings.

In general, ministers were happy with what they saw, although they were anxious at the time about the telecommunications and financial services negotiations, whose outcome then hung in the balance, and also identified some practical problems in applying the new agreements.

On future work, apart from the studies — already mentioned — on trade and investment, competition policy, transparency in government procurement and trade facilitation, they agreed to start exchanging ideas for the coming negotiations on agriculture and services.

The most difficult discussion in Singapore concerned labour standards. While some countries believed this was an appropriate issue for the WTO, most did not. The outcome was a statement in which ministers renewed their commitment to recognized core labour standards, affirmed their support for the work of the International Labour Organization (ILO) as the responsible international body, stated their belief that trade and trade liberalization helped in promoting these standards, and agreed that the comparative advantage of countries must in no way be put into question. They endorsed existing
collaboration between the WTO and ILO Secretariats, but did not support any WTO work on labour standards.

The main event in the world economy between the Singapore meeting and the second Ministerial Conference in Geneva, in May 1998, was the sudden financial crisis that swept East Asian countries in the summer and autumn of 1997. The effects in the region were severe, and were also felt, to a lesser but significant extent, as far away as Latin America and Russia. Low demand in Asia, including Japan, and falling commodity prices, slowed the growth in world trade.

By the time of the Geneva meeting, however, it was clear that the trading system had stood up well to the crisis. There had been no perceptible shift towards protectionism, and strong import demand in the United States, in particular, had helped offset weakness elsewhere. There can be no doubt that a negative trade policy response to the crisis would have had serious consequences for economic recovery and for trade relations more generally.

Within the WTO, the year had brought successful conclusion of the market-opening negotiations on basic telecommunications and financial services, as well as the important special meeting on least-developed countries.

However, it also brought to the fore increasing concerns on how some of the Uruguay Round agreements were working out. Developing country exporters of textiles and clothing argued forcefully that removal of bilateral restrictions blocking access to developed-country markets was going very slowly. The importing countries, for their part, insisted that implementation of the integration process was being enforced and consequently, the restrictions would be removed on schedule. Developing countries also maintained that they were not receiving special treatment envisaged under several agreements, that other practical problems had arisen, and that some of them might not be ready to assume the full obligations of the agreements by the end of their transition periods.

A number of highly publicized trade disputes, some of which had reached the WTO, suggested that serious conflicts could arise unless greater efforts were made to reconcile trade rules and public concerns about environmental problems or food safety.
Some WTO members, but not all, felt that the time was ripe to prepare for a new round of negotiations to tackle these issues and also push liberalization forward across a wider front than just the negotiations on agriculture and services.

Even those in favour of new negotiations were divided on whether it should be broad or narrow in scope, and whether or not the whole enterprise should, like the Uruguay Round, be a single undertaking with no substantial agreements concluded before an overall settlement was reached.

One of the key attractions of Seattle was the strong corporate community’s involvement in trade, and the general understanding by the public of the importance of trade to the state’s economic well-being.

It was the kick-off for an emphasis on agricultural issues, which is particularly appropriate for the Developing Countries, since agriculture and food products are a key export sector. The importance of the WTO in harmonizing trade policy cannot be overstate in long term Trade policy Making. But, still this conference Always remembers as a Failure Because of anti globalization Protests around the trade convention center & nothing Concrete decision taken in this convention.

At the Doha Ministerial Conference in November 2001, trade ministers launched the Doha Development Agenda. With this Agenda, WTO members have placed development issues and the interests of poorer members at the heart of the WTO’s work. The meeting, which took place just two months after the World Trade Center attack, was designed to show the world that economic growth and trade rather than terrorism was the way the world should work together. Held under tight security in the small Gulf state of Qatar, there were few protesters and even fewer lobbyists in attendance. The meeting established four key areas of work: liberalising agricultural markets in rich countries, opening up non-agricultural market access (NAMA) mainly for industrial goods in developing countries, continuing to press ahead with the services sector liberalisation under the GATS agreements, and working with the so-called Singapore issues of investment, competition policy and public procurement (these were removed from the agenda after the Cancun Ministerial Conference in 2003.

The TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the
TRIPS Agreement, They affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all. In this connection, They reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose. While maintaining our commitments in the TRIPS Agreement, They recognize that these flexibilities include: in applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.

- Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.
- Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.

The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

They recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. They instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002. They reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. They also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other
extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. They instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.

The Fifth Ministerial Conference of the World Trade Organization (WTO), that took Place from 10 to 14 September 2003, in Cancun, Mexico, ended without agreement on the Ministerial Text. It is the second time in the history of this organization that something like this happens, following the failure of negotiations in Seattle (1999). The main goal of the Cancun Ministerial Conference was to assess the progress in the Negotiations and other efforts under the Doha Development Agenda, adopted at the ministerial Conference held in the capital of Qatar in 2001. These negotiations, which include agriculture and non-agricultural market access (NAMA) negotiations, already Concluded on 1 January 2005.

The meeting failed primarily as a result of the acute differences in interests dividing developed countries (mainly the United States and the countries of the European Union) from developing countries, who stood firmly against an agreement on the so called “Singapore issues” (investment, competition policy, transparency in government procurement, and trade facilitation). In fact, the greatest achievement of the Conference may just be the consolidation of a group of 20 countries (called the G20+, as its number of members is expected to grow) which, with Brazil, Argentina, Egypt, India, China and South Africa, among others, joined forces to defend the interests of developing countries in multilateral trade negotiations. In the press conference held by this group at the end of the meeting, Brazilian Foreign Minister Celso Amorim said the group “comes out stronger than it was before Cancun.”

The official closing session adopted a brief and simple Ministerial Statement instead of the substantive Ministerial Text that had been under discussion since the first draft appeared in Geneva in July. The Statement expressed that all the participants had worked hard to make considerable progress under the Doha mandates, but that “more work needs to be done in some key areas to enable us to proceed towards the conclusion of the negotiations.”

Rather than reducing the polarization that dominated the Conference, the revised Ministerial Text—which in the end was not approved—had the opposite effect. Developing
countries were unhappy because the text on agriculture did not address their concerns and outraged at the sections on the Singapore issues, which had totally disregarded their views and the formal proposals—presented by 70 developing countries—to continue the clarification process and not launch negotiations. They were also angered at the poor treatment given to the cotton initiative (that had gained widespread support), which one of the Ministers proclaimed to be an insult to Africans and unworthy of the WTO.

This brought to the fore the issue of the manipulative decision-making process, especially with respect to the drafting of texts, which are supposed to reflect the concerns and views of all member countries. Ultimately, it was the WTO's untransparent and non-participatory decision-making process that caused the 'unmanageable situation' that led to the collapse of the Cancun Ministerial.

The Sixth WTO Ministerial Conference was held in Hong Kong, China, 13–18 December 2005. Representatives from 148 countries had attended that event.

*Agriculture negotiations*: On domestic support, there will be three bands for reductions in Final Bound Total AMS and in the overall cut in trade-distorting domestic support, with higher linear cuts in higher bands. In both cases, the Member with the highest level of permitted support will be in the top band, the two Members with the second and third highest levels of support will be in the middle band and all other Members, including all developing country Members, will be in the bottom band. In addition, developed country Members in the lower bands with high relative levels of Final Bound Total AMS will make an additional effort in AMS reduction. They also note that there has been some convergence concerning the reductions in Final Bound Total AMS, the overall cut in trade-distorting domestic support and in both product-specific and non product-specific *de minimis* limits. Disciplines will be developed to achieve effective cuts in trade-distorting domestic support consistent with the Framework. The overall reduction in trade-distorting domestic support will still need to be made even if the sum of the reductions in Final Bound Total AMS, *de minimis* and Blue Box payments would otherwise be less than that overall reduction. Developing country Members with no AMS commitments will be exempt from reductions in *de minimis* and the overall cut in trade-distorting domestic support. Green Box criteria will be reviewed in line with paragraph 16 of the Framework, *inter alia*, to ensure that programmes of developing
country Members that cause not more than minimal trade-distortion are effectively covered.

- They agree to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by the end of 2013. On market access, They note the progress made on *ad valorem* equivalents. They adopt four bands for structuring tariff cuts, recognizing that They need now to agree on the relevant thresholds – including those applicable for developing country Members.

- On other elements of special and differential treatment, They note in particular the consensus that exists in the Framework on several issues in all three pillars of domestic support, export competition and market access and that some progress has been made on other special and differential treatment issues.

- They reaffirm that nothing They have agreed here compromises the agreement already reflected in the Framework on other issues including tropical products and products of particular importance to the diversification of production from the growing of illicit narcotic crops, long-standing preferences and preference erosion.

- However, They recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, They agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular,

  **Cottons**: Without prejudice to Members' current WTO rights and obligations, including those flowing from actions taken by the Dispute Settlement Body, They reaffirm their commitment to ensure having an explicit decision on cotton within the agriculture negotiations and through the Sub-Committee on Cotton ambitiously, expeditiously and specifically as follows:

  - All forms of export subsidies for cotton will be eliminated by developed countries in 2006.
On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period.

Members agree that the objective is that, as an outcome for the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable. They commit themselves to give priority in the negotiations to reach such an outcome.

**NAMA negotiations**: They adopt a Swiss Formula with coefficients at levels which shall *inter alia*:

- Reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries; and
- Take fully into account the special needs and interests of developing countries, including through less than full reciprocity in reduction commitments.

**Services**: Push for lifting of restrictions on services sector. In the services negotiations, Members shall implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4.

**Balance between Agriculture and NAMA**: They recognize that it is important to advance the development objectives of this Round through enhanced market access for developing countries in both Agriculture and NAMA. To that end, They instruct Their negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA. This ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.

**Environment negotiations**: Mutual Supportiveness of Trade & Environment
Small Economies: Small Economies and urge Members to adopt specific measures that would facilitate the fuller integration of small, vulnerable economies into the multilateral trading system, without creating a sub-category of WTO Members.

Trade & Transfer of Technology: The relationship between trade and transfer of technology and on the consideration of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries.

E-commerce: E-commerce Should be properly implemented in member countries.

Aid For Trade: Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. However, it can be a valuable complement to the DDA.

Recently-acceded Members: Recognize the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the negotiations.

Commodity Issues: In cooperation with other relevant international organizations and report regularly to the General Council with possible recommendations. They agree that the particular trade-related concerns of developing and least-developed countries related to commodities shall also be addressed in the course of the agriculture and NAMA negotiations. They further acknowledge that these countries may need support and technical assistance to overcome the particular problems they face, and urge Members and relevant international organizations to consider favourably requests by these countries for support and assistance.

Technical Cooperation: They endorse the application of appropriate needs assessment mechanisms and support the efforts to enhance ownership by beneficiaries, in order to ensure the sustainability of trade-related capacity building. In particular, they encourage all Members to cooperate with the International Trade Centre, which complements WTO work by providing a platform for business to interact with trade
negotiators, and practical advice for small and medium-sized enterprises (SMEs) to benefit from the multilateral trading system. In this connection, They note the role of the Joint Integrated Technical Assistance Programme (JITAP) in building the capacity of participating countries.

Overview Of Negotiation After The Ministerial Conference:

- **Single undertaking**: Every item of the negotiation is part of a whole and indivisible package and cannot be agreed separately. In other words, Nothing is agreed until everything is agreed.
- **Participation**: The negotiations are open to all WTO members and to observer governments negotiating or intending to negotiate membership. But decisions on the outcomes are only taken by members.
- **Transparency**: The negotiations have to be transparent.
- **Special and differential treatment**: The negotiations have to take fully into account the principle of special and differential treatment for developing and least-developed countries.
- **Sustainable development**: The Trade and Development and Trade Environment identify and debate developmental and environmental aspects of the negotiations to ensure that sustainable development is appropriately reflected.

**India & Multilateral Trading System**

In recent decades, many developing countries have embarked on programs of external economic liberalization. In 1960, 15.6% of the countries in the world, representing 19% of its population, were "open", in the sense defined by Sachs and Warner (1995). In 2000, a total of 73% of the countries in the world were open to international trade, according to the same criteria. However, these countries represented only 47% of the world’s population. The main reason for this discrepancy is that, as of the year 2000, the world’s two largest countries, China and India, remained essentially closed to trade. In that, they shared the condition of such countries as Algeria, Gabon, Haiti, Iran, Iraq, Myanmar, Nigeria, Somalia and Syria, among others. These high barriers to trade remain despite recent efforts by India and China to liberalize their trade regimes. These external sector reforms were begun in the mid-1970s for China, and in the aftermath of the 1991 balance of payments crisis for India.
As we agreed that, the resulted in significant reductions in trading barriers, and in the concurrent rise in the volume of trade in both countries. They can also be credited with significant improvements in living standards. Yet, as a variety of indicators of openness show, much remains to be accomplished to integrate the almost two and a half billion people living in India and China into the world trading system. This is especially true for India, since according to many measures of economic integration, its trade regime remains much more protectionist than China's. Part of the difference in standards of living between these two countries can be ascribed to this basic difference in policy. While recent reductions in policy barriers have gone some way towards increasing the extent of cross-border flows of goods and services between India and the rest of the world, India's trade regime remains highly restrictive. In particular, India remains much more closed than the best available comparison country, China. According to many measures of trade policy and trade volumes, China is twice as open as India. In terms of per capita income evaluated at purchasing power parity, China is also almost twice as rich. The natural question that follows this description of India's current trade policy is: how open should India become? Large countries already have a diversified domestic production base and a sizeable domestic market. As a result, they tend to be more closed to trade than smaller countries, in terms of both trade policy and trade volume. This may explain why India remained closed for so long, but carries little implication for how open it should now seek to become. Having argued that greater openness to trade is a desirable goal of Indian economic policy, Liberalization can take several forms: unilateral, regional or multilateral. The political feasibility of each of these differs, and the likely gains from trade also differ. Unilateral liberalization, while desirable to bring the average levels of policy-induced trade barriers in line with most other developing countries, especially in Asia, is confronted with a host of domestic political impediments, which we review. In the case of India, the potential scope for and likely effects of regional trading agreements do not make them an appealing possibility, despite recent calls for an expansion and deepening of South Asian regional agreements. This leaves multilateral liberalization, the most promising avenue for further Liberalization. Unfortunately, like many developing countries, India is not likely to carry much weight in upcoming WTO negotiations, in part because its protectionist record does not give it much standing to
argue for market access. Since in multilateral talks, obtaining concessions from trading partners is often a precondition for agreeing to greater openness, especially with respect to obtaining domestic support for liberalization, the scope for great strides in liberalization through upcoming WTO negotiations appears limited a priori.

Since the early 1990s, India has progressively reduced policy impediments to trade in goods and services. The early impetus for these reforms came from an IMF-sponsored adjustment in the wake of the June 1991 balance of payments crisis, and was sustained in the form of tariff reductions throughout the first half of the 1990s, before slowing significantly in the second half. The reduction in policy barriers led to an appreciable expansion of the volume of trade, even in relation to GDP.

Engagement can facilitate domestic reform and enhance access for India’s exports. India is now at a critical juncture. It is an increasingly willing reformer, but confronted by opposition to reform domestically. At the same time, market access in areas of major export interest remains impeded. Multilateral engagement pits these two elements against each other constructively. On the one hand, domestic reform would be facilitated if the government could demonstrate that there were payoffs in terms of increased access abroad. The gainers from the increased access, be they exporters of textiles, software, professional services or other products, could represent a countervailing voice to groups that resist reform. On the other hand, the need to demonstrate external payoffs to secure greater openness at home makes India a credible bargainer, and could help induce trading partners to open their own markets. Engagement can serve as a commitment to good policies. The experience of unconstrained choices in Indian trade policy has not been salutary. External commitments can foster good policies in two respects: providing guarantees against reversal of current policies and credibly promising future reform. For instance, in recent years, India has reversed some of its tariff liberalization, which could have been prevented by more meaningful tariff bindings. India also failed to take advantage in sectors such as telecommunications to use multilateral commitments to lend credibility to future reform programs. Such precommitment can help strike a balance between the reluctance to unleash competition immediately and the desire not to be held hostage in perpetuity to the weakness of domestic industry or to vested interests. Engagement can serve as a means of securing
market access rights that have already been established. In a situation of asymmetric power, a rules-based system protects, albeit imperfectly, the weaker party.

The WTO dispute settlement system thus far has enabled developing countries to enforce their rights. While this experience affords some comfort, there is increasing concern that the required elimination of quotas on textiles and clothing may not happen on time and be difficult to enforce. We argue below that in such an eventuality, India can enforce its rights by threatening to wield an effective retaliatory weapon: withdrawing its TRIPs obligations. Multilateral engagement can serve as a bulwark against regionalism. The proliferation of regional agreements is having a serious if unrecognized impact on India's trade. A particularly stark example relates to the potential trade diversion consequences of NAFTA. India has a strong interest in a multilateral tariff reduction to neutralize this policy-induced disadvantage. Overall, the value of multilateral engagement might be limited if prospects for securing increased market access are dim, and the failed Seattle negotiations heighten such negotiating pessimism. However, this pessimism needs to be credibly tested, by a willingness on India's part to open its markets in return for improved access. Success in this regard is not assured, but its chances can be improved if India were to align itself with countries that press for sound open policies.

It is commonly accepted that "increased trade is essential" for developing countries to fully benefit from increased globalization of product and financial markets (United Nations [2001]). Despite the importance of successfully integrating developing countries into the world economy, there has always been an active debate on the pace, method and institutional framework to achieve these goals. An important milestone in the debate was reached when a large number of developing countries actively participated in the Uruguay Round negotiations and signed the agreements. Since then, many other countries joined the WTO, agreed to implement many reforms and committed to make the rule-based multilateral trade regime a cornerstone of their development process.

This commitment is stated clearly in the opening sentences of the Doha Ministerial Declaration: "The multilateral trading system embodied in the WTO has contributed significantly to economic growth, development and employment throughout the past fifty years. They are determined, in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade
policies, thus ensuring the system plays its full part in promoting recovery, growth and development.” (WTO [2001]). However, the Doha Declarations could not conceal the complaints among the developing countries that the promises of the Uruguay Round were not fulfilled. The events and discussions surrounding and following the Seattle and Doha Ministerial Conferences are illustrations of this dissatisfaction.

The Doha Ministerial Declaration repeatedly stresses the commitment to WTO “as the unique forum for global trade rule-making and liberalization.” For the global commitment to economic integration, trade liberalization and especially to the WTO to continue, it is imperative to have a clear understanding of what institutional features of the present trade regime can help or hurt the interests of the developing countries. This is especially important today since “the majority of WTO members are developing countries” and the ministers in Doha were clear on their desire to “place developing countries’ needs and interests at the heart of Work Program adopted in this Declaration” (WTO [2001]). As the debates leading to the Cancun meetings show, the development concerns may easily become the main obstacles in front of the multilateral trade liberalization efforts.

Global Trade System: According to Whalley [1996], “when applied to global trade arrangements, the term system implies a coordinated and well-organized set of rules and institutions that oversee and regulate world trade.” Upon review, we find that the current global trade system is not a monolithic structure but is comprised of several overlapping and, in certain ways, conflicting pieces. The overarching piece of the system is the GATT/WTO framework that has been shaped during 62 years of continuous negotiations over trade liberalization as well as over new rules and laws that govern the framework itself. The second piece is composed of bilateral and regional agreements (such as free trade areas and customs unions) that increasingly include “deeper” measures of political and economic integration such as monetary, fiscal environmental, and even military policies. The third group includes special sectoral or unilateral arrangements such as the Multi-fiber agreement (MFA) for textiles and apparel, voluntary export

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2 We should note that the latter one’s agenda was rightly named “Doha Development Agenda.”
3 Original italics.
restraints, certain preference programs for developing countries (such as the Caribbean Basin Initiative, AGOA, Lome/Cotonou convention).

The GATT/WTO is a rather unique institution, especially compared to other post-war multilateral institutions, in terms of the way it operates and is perceived in the world. For example, one of the most important successes of the post-WW2 international economic architecture has been the universal acceptance of the legitimacy of the GATT/WTO regime as “the” trade regime by most countries regardless of their income levels, political orientations or geographic locations. That is why membership in the WTO is a key issue for most countries, as part of their overall economic programs. The legitimacy of the WTO as the main forum to address global trade issues is based on three premises – fairness, expressed through the Most Favored Nation (MFN) clause, legality, protected through the Dispute Settlement Procedures, and reciprocity, the driving engine of post-war trade liberalization. The fact that all other pieces of the global trade system (regional agreements or the MFA regime) have to be “approved” by the GATT/WTO regime to earn their own legitimacy (even if they sometimes conflict with GATT’s principles) is an indicator of the authority of the GATT/WTO in the global trade system.

As we stated above, some of the current criticisms of the multilateral trade regime are based on its perceived failures in protecting the interests of the developing countries. And these criticisms, in return, are deteriorating the legitimacy of the GATT/WTO regime. Hoekman [2002] argues that its “development credibility” needs to be enhanced for the Doha Development Agenda to reach its goals. As Bhagwati once stated, GATT is like a bicycle; you will fall unless you go forward. Currently, we are at a critical stage where the momentum to go forward with trade liberalization is being challenged. Unless the concerns of the developing countries are adequately addresses, the historic process of trade liberalization may be derailed.

The first criticism is that market access promises to developing countries during the Uruguay Round never materialized. The developed country protectionism in agriculture and textiles & apparel are the best-known examples in this category. Furthermore, antidumping actions are becoming effective protectionist devices in markets

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4 Whalley [1996] actually includes certain policies that have trade implications as the fourth subsystem. Examples are competition, investment and environmental policies.
which developing countries manage to successfully penetrate. Second is related to special and differential treatment (SDT) of developing countries. Most important SDT provisions allow developed countries to grant preferential access to their markets to the exports of developing countries such as the Generalized System of Preferences. However, these are “best endeavor” provisions and are neither guaranteed nor protected under the WTO law.

Developing countries are demanding them to be more extensive and automatic. Third category includes the technical and financial difficulties associated with the implementation of the Uruguay provisions. Many countries are claiming that they lack adequate capabilities to perform their obligations. There are many other discussions such as the ones related to dispute settlement, services trade and competition policies etc.

All of these issues foster the perception that the global trade agenda is tilted against the interests of the developing countries. GATT/WTO with its established principles for conducting negotiations, implementing the agreements and resolving disputes is the best platform to protect and promote the interests of developing countries. The further we move away from the WTO as the main forum to address trade-related issues and disputes, the more difficult it becomes to reach the development goals and solve the problems listed above.

Basic Principles of GATT/WTO Regime

In this section, we briefly go over the main principles of GATT/WTO regime and identify how they reinforce each other.

The success of the GATT in terms of achieving its intended goals at its inception is captured by the simple fact that average tariff rates have been reduced from 40% in 1947 to 4% in 1994 (Staiger [1995]) while most quantitative barriers have been removed. During the same period, world trade has increased more than 20-fold, much faster than income levels. One of the main sources of the success is the way GATT negotiations were conducted, as a “market” for market access, especially during the

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5 There are some notable exceptions to this in the developed countries such as the MFA and quotas on agricultural products. These are analyzed in detail in following sections.
initial rounds. Governments, motivated by mercantilist preferences due to protectionist pressures at home, come to GATT negotiations to swap market access concessions with their trading partners. This voluntary exchange of concessions creates welfare gains for the participants like any other market would. It is crucial for developing countries to never forget that this negotiation and reciprocal concession mentality is the defining feature of GATT/WTO.

Trade liberalization is a natural outcome of this negotiation process. It is otherwise rare that a country (especially among OECD countries) will voluntarily lower its barriers below a certain level without reciprocal concessions from a trading partner. As a result, if a country is the main exporter of a product in the world but does not participate in GATT, it is unlikely that the participating importers will voluntarily implement significantly lower trade barriers on this product. Another example may be a GATT-member small country that is the largest producer and exporter of a single product but is not a large importer of other countries’ products. Therefore, it does not have much to offer in terms of market access to its trading partners which makes it difficult for this small country to obtain trade concessions on its export product.

The first role of GATT is to provide the opportunity for the interested countries to negotiate and coordinate their trade policies efficiently so that economic and political externalities are internalized (Staiger [1995] and Ethier [2002]). Since efficiency increases in a market with the number of participants and number of traded goods (different market access concessions in this case), there are obvious benefits to conducting multilateral negotiations with ever increasing number of countries. The second role is to establish the rules and legal principles under which these negotiations are conducted and the resulting agreements are enforced. The key principle in operation is non-discrimination, expressed through the Most Favored Nation (MFN) clause. MFN states that an importing country can not discriminate between (similar) products from different countries and has to apply the same tariff and other national restrictions on them. A related concept is the National Treatment rule which prohibits discrimination between domestic and foreign goods (once the customs duties are paid.)

The concept of non-discrimination has obvious economic benefits as it guarantees that the imports come from the most efficient supplier. However, a more important
benefit is the sense of "fairness" and legitimacy it creates among the participants, as mentioned in the introduction. The sense of legitimacy encourages participation and it is the main contributor to the emergence of GATT/WTO as the forum to address all trade related issues\(^6\) in recent decades as the tariffs ceased to become the main obstacle to liberalization.

The next key function of the GATT/WTO is to make sure that countries abide by the market access commitments they made and do not completely withdraw from the regime in case the commitments turn out too burdensome. At the same time, it is important to deter attempts to renege on promises under false pretenses. This is a rather complicated process. To solve the former problem, it contains permissible exceptions so that countries can withdraw concessions under unforeseen contingencies, such as balance of payment crisis. On the other hand, there is a sophisticated dispute settlement mechanism so the disputes do not lead to trade wars and endanger the system. There is a large body of literature analyzing the effectiveness of the dispute settlement mechanism in the GATT/WTO (see Reinhardt and Busch [2002] for an overview). However the fact that the compliance rate by the parties found to be guilty is quite high (although not 100%) is indicative of the importance of the mechanism. The presence of a credible dispute settlement mechanism increases the effectiveness and efficiency of the initial agreement as countries are more likely to agree to more significant commitments knowing the other side is more likely to abide by its obligations.

Each one of the principles and practices identified above, (reciprocity, non-discrimination and credible dispute settlement), individually contribute to the effectiveness and success of the GATT/WTO regime. Another important feature is how these principles reinforce each other. For example, through the MFN principle, reciprocal concessions are extended to other members which contributes to further liberalization. Knowing that market access is non-discriminatory also increases the efficiency of the initial negotiation (Staiger [1995]) and countries are more likely to make larger commitments in the initial negotiations if they know there is an efficient and credible dispute resolution mechanism. Moreover, the presence of non-discrimination principle increases the credibility of the dispute resolution process.

\(^6\) Such as intellectual property rights, foreign investment, anti-dumping and competition policies.
There are other key GATT principles which have been instrumental over the last five decades. One is the insistence on tariffication of non-tariff barriers (especially quantitative restrictions). Transparency of the individual trade policies makes negotiations and liberalization easier. Another one is the consensus approach in many decision making processes from tariff reductions to dispute settlement cases. In tariff negotiations, the gains and concessions of all countries are closely linked. So it is necessary to have everybody’s approval for the final agreement. In dispute settlement cases, the consensus approach increases the legitimacy of the decisions. That is why we commonly see countries “not” blocking decisions against them under the old GATT regime when they were allowed to do so (Reinhardt and Busch [2002]). Finally, there is the reliance on member countries’ delegations (more than the professional staff) for the operations of the WTO. The committees and other decisions making bodies are headed by delegations of the member countries while the professional staff have a more “advisory role.” In other words, WTO is a member-driven organization which is consistent with the principles we identified above.

No institution is perfect and can solve all ex ante and ex post problems. GATT/WTO is no exception and has many features that require improvement. However, member countries created a rule-based international trade regime through the GATT/WTO that managed to increase global trade rapidly, lower barriers significantly and avoid serious trade wars of the sort we witnessed in the interwar era. This is even more impressive once we take into account that GATT/WTO has no specific enforcement powers, “no jailhouses, no bail bondsmen, no blue helmets, no truncheons, and no tear gas” (Bello [1996]) to use against violations of commitments.

**The Importance of Multilateral Trade Regime for Developing Countries**

According to Rodrick (2001) economic growth is to provide the right environment for both domestic and foreign investment. Towards that goal, a government needs to protect property rights and create a stable macroeconomic environment through responsible and stable fiscal, monetary and foreign exchange policies. Furthermore, it is necessary to have a transparent legal and political regime as well as an effective

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7 A less known fact is how small the WTO secretariat staff is. The current total is 550 according to the official website.
education system for long-term growth. Without these and other numerous policies and institutions in place, trade liberalization can not deliver miracles (Rodrik [2001]). On the other hand, successful trade liberalization is likely to reinforce the effects of these other domestic policies.

The value of commitment

A critical issue in the development and growth context is the credibility and durability of reforms. Regardless of the income level of the country, any reform program has distributional consequences, and therefore is likely to create a certain level of domestic opposition. Although reforms may have overall positive effects; interests groups who oppose reforms may be powerful enough to defeat them. This becomes a more serious problem in developing countries which tend to have less transparent, more corrupt political institutions and suffer from wide-spread rent seeking behavior. Trade policy is especially vulnerable to such threats since excessive protection generates economic gains captured by a range of influential groups at the expense of the public and long-run economic welfare. Furthermore, the beneficiaries of protection are generally more organized compared to the opponents (consumers and exporters) which create a political bias against liberalization. In short, trade liberalization in a developing country can be derailed or overturned relatively easily.

One of the key benefits of an international trade agreement and especially membership in the WTO is the commitment mechanism they provide to the government against domestic pressures. Using international obligations and reputations as a legitimate excuse, the government can “stand up” against the demands for protectionism and claim that its hands are “tied.” The increased credibility of trade reforms, of course, discourages wasteful rent-seeking activities. Resources can flow out of protected sectors into export sectors which gives further momentum to growth.

Some of the critics maintain that the pace and degree of liberalization demanded by the multilateral trade agreements from the developing countries are not compatible with their development needs. Developing countries should have the right to design their own programs and withdraw commitments without any obligations in the presence of

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8 We should note that the same problem also exists in developed countries. So the arguments in this section apply to them as well.
economic and social problems (Third World Network [2001]). These issues became more important due to the “Single Undertaking” principle of the Uruguay Round where member countries had to accept either all or none of the provisions. As it became evident afterwards, most of these obligations imposed serious burdens on many developing countries, especially with respect to their technical capabilities to implement reforms (Finger and Schuler [2000]) The essential issue is to be able differentiate real difficulties with liberalization from political demands for protectionism by interest groups. This problem is closely related to the standard “rules vs. discretion” dilemma which is extensively studied in the literature in many different contexts. The main conclusion is that it might be better to stick with a rule and give up the chance to use discretionary policy later on when discretion can also be used to against the interests of the public.

Withdrawal of the concessions are allowed under the WTO rules under certain circumstances as long as the injured partners can also withdraw equivalent concessions to compensate for their losses. This mechanism permits the withdrawal of really burdensome concessions while discouraging opportunistic protectionist behavior. The problems related to the pace and degree of implementation of trade reforms in developing countries can be addressed through the same mechanism. Countries who wish to slow down their liberalization process and cancel some of their concessions may do so as long as they give up some of the benefits they obtained and trading partners are “appropriately compensated.” Potential conflicts can be addressed through the dispute settlement mechanism if there is concern that the withdrawal is not warranted. However, politically motivated withdrawal of concessions is likely to hurt the country in question more than anybody else. In short, by increasing the cost of withdrawal of concessions, GATT/WTO commitments serve the long-term interests of the members. They provide certainty and reliability in the economic environment which is especially essential to attract and maintain investment.

Nevertheless the technical and financial difficulties faced by the developing countries in terms of fulfilling their WTO commitments are real and there are serious capacity building challenges. These concerns need to be adequately addressed during the negotiations and this is one of the most important areas where other development agencies (World Bank, UNCTAD etc) can play a significant role.
The Value of Bargaining in a Multilateral Environment

Countries differ in terms of their economic size, level of development and volume of trade. These factors naturally affect trade negotiations whether these are conducted on a bilateral, regional or multilateral basis. The asymmetries in bargaining powers influence the negotiation outcomes which may favor larger countries. Small, developing countries with concentrated product portfolios and few export markets tend not to have much bargaining power. Therefore they may be less likely to obtain market access concessions on their exports.

An important advantage is that the multilateral system increases the bargaining power of developing countries relative to developed countries since it enables them to negotiate as a block. During negotiation rounds, many different coalitions are formed, mostly depending on the issue. For example, the Cairns group representing agricultural exports has been quite effective and long lasting. Similarly, developing countries coordinate their strategies on many issues that affect them. It is less likely that countries will be more successful in resolving their disputes and obtaining bigger concessions through unilateral actions or outside the WTO.

We should note the importance of the non-discrimination principle and the MFN clause which increases the likelihood of coalition formation among smaller and weaker countries. Since the benefits (such as obtaining market access concessions from a large country) accrue to all countries through the MFN clause, the interests of all exporters are aligned in negotiations. The inability of an importer to discriminate between them encourages exporters to act and negotiate as a block.

The Value of Legalization and Rule-Based Regime

In the initial GATT rounds, the emphasis was on elimination (and tariffication) of quantitative restrictions and lowering of tariffs. There are notable exceptions in some sectors but, the general consensus is that negotiations have been successful in reducing tariff barriers. Tariffs on most products are fairly low with an average of 4% in most developed countries. As tariffs ceased to be the main policies of protection, the negotiation agenda moved towards more challenging items. Some of them are non-tariff barriers, inclusion of previously excluded sectors (e.g. agriculture, services), certain domestic policies that have trade implications (taxes, subsidies) and other trade related
issues (intellectual property rights, standards). The inclusion of more complicated issues on the negotiation and implementation agenda led to increased "legalization" of the system. Dispute settlement has been the area with the most extensive developments with explicit procedures, rules and decision making processes. Furthermore, many Uruguay Round Agreements (TRIPS, GATS, SPS) contain detailed rules and regulations.

The process of increased legalization has been criticized for many different reasons. Some argue that GATT/WTO is based on bargaining and flexibility with conflicts being resolved through negotiations. Increased legalization can weaken this source of strength and effectiveness (Sally [2003]). On the other hand, increased legalization requires "armies of high-fee lawyers." Higher financial cost of dispute tilts the field in favor of the wealthier countries who can afford it. Furthermore, litigation allows increased influence by organized interest groups in developed countries, sometimes at the expense of developing countries (Third World network [2001]).

These arguments tend to overlook how trade negotiations would be shaped and disputes would be resolved in the absence of a rule-based and legalized regime. After reviewing we agreed that bargaining power is rather important in trade negotiations and in enforcement of agreements. Smaller and poorer countries are at a natural disadvantage in this regard. Like in any other environment, well established, credible and efficient legal rules benefit all members, especially the weak ones.

Developing countries benefit from the legalization of the WTO regime in many different ways. First, legalization increases the credibility and legitimacy of the institutions and the decisions made there. It becomes more difficult for firms or interest groups in a country to demand protection against foreign competitors when a WTO panel rules against it. The government, due to concerns based on reputation and legitimate retaliation, is going to be more reluctant to acquiesce to such pressures. If there was a credible retaliation threat from the trading partner, WTO's extra enforcement might not be necessary. However, if the other country is a developing country with limited retaliatory power, WTO's additional influence might make a difference. Furthermore, the increased transparency of the dispute resolution processes strengthens the effectiveness of the system since "international reputations" can be tarnished more easily. Finally, the respect for rule of law in most developed countries further increases the legitimacy and
power of decisions in the WTO. As we argued in earlier sections, the higher expectations that promises are going to be kept and cheaters are exposed, amplifies the level of liberalization commitments in the negotiation stage. All members benefit from lower barriers through the MFN clause.

The increased costs of litigation and compliance with complex legal requirements can pose real challenges for the developing countries. These problems are related to implementation costs we identified in a previous section. Again there is an important role to be played by other multilateral agencies. Also, institutions such as the Advisory Center on WTO Law which provides free legal services to least developed countries play a valuable role. Better understanding of the WTO law and more active participation by the developing countries can only increase the effectiveness of the WTO as an institution.

**The Challenges for the Developing Countries**

**Implementation and Participation Costs**

The global trade system poses numerous difficulties and handicaps for the developing countries. As mentioned above, an important challenge is the technical and financial difficulties associated with participating in the WTO, implementing trade reforms as well as pursuing disputes. Michalopoulos [2000] finds interesting patterns in developing countries’ participation in the WTO. Some of them are actively participating in the WTO activities after the Uruguay Round. These are middle income countries which already have or are building significant global presence in certain markets. On the other hand, a large number of small and least-developed countries lack effective presentation in the WTO with no permanent representatives in Geneva in most cases. Along these lines, Finger and Schuler [2000] provide additional evidence on how significant implementation costs can be for some of the least-developed countries.

Another issue closely related to implementation costs are the difficulties associated with behind-the-border reforms. Some of these are transportation, finance and other legal and regulatory policies that are vital for trade reform to succeed (Hoekman [2002]). Most of the improvements in these areas should be part of an overall development strategy and should be implemented along with trade reform.

The “development challenges” faced in the WTO can not be fully resolved without full participation of all developing countries in the regime. Therefore, it is
important to provide the necessary technical assistance for capacity building and implementation in these areas. Developed countries need to realize that such assistance is in their long-term interest since economic growth in developing countries benefits the trading partners as well. Furthermore, active participation of developing countries in the WTO and their implementation of WTO agreements increase its legitimacy and effectiveness which, in turn, provides, momentum for further liberalization.

The Danger from Regional and Unilateral Arrangements

There is a very large literature on the costs and benefits of regional agreements. Borrowing Bhagwati’s terminology, some economists believe regional agreements are “stumbling blocks” while others think they are “stepping blocks” to global free trade. Regardless of the academic debate, regional agreements proliferated over the last two decades, with a powerful surge during the Uruguay Round negotiations. A WTO report lists more than 170 regional agreements with many developing countries as members. Some of the regional agreements play significant roles in the overall development strategies of developing countries. Prominent examples are Mexico in the case of NAFTA, Brazil and Argentina in Mercosur and ex-Eastern block countries in the case of their various agreements with the European Union.

Another program that has increased in popularity is unilateral preferences. These are sometimes referred to as Special and Differential Treatment (SDT) programs and are variations of the older Generalized System of Preferences (GSP). There is a heated debate on the SDTs and we explore the arguments in more detail in a later chapter. However, some of the issues related to SDT programs are similar to the ones posed by regional agreements which leads us to mention them in this section as well. As opposed to regional agreements which are reciprocal and are required to cover “substantially all trade”, SDT programs are unilaterally granted by developed countries on a select list of exports from developing countries. Each donor country administers its program as it desires with full discretion over the eligibility criteria, preference margin and product coverage. In the last decade, the US implemented regionally targeted programs such as the Caribbean Basin Trade Partnership Act (CBTPA), African Growth and Opportunity Act (AGOA), and Andean Preferences in addition to the standard GSP program. The
European Union also operates various programs with Lome/Cotonou convention being the most well-known.

Although they are legal under GATT/WTO, regional and unilateral agreements are in clear conflict with the main principle—the MFN clause—since they are inherently discriminatory against the non-members. The implications of proliferation of such agreements for developing countries can be stark.

- First, small, developing countries who are members in a regional block with a larger, developed country might not have much bargaining power and end up agreeing to terms that might not be in their long term interest. Furthermore, regional agreements, especially customs unions, may take away the policy flexibility which is one of the criticisms against WTO provisions as well (Rodrik [2001]).

- Second, due to their legal structure, regional and unilateral arrangements are outside the WTO jurisdiction and the benefits they confer are not protected by the WTO Dispute Settlement mechanism. This is a rather important concern since developing countries lack enforcement and retaliatory power in a trade dispute. For example, GSP benefits can be cancelled at any point by the donor and there is not much the recipient can do in that case. Although some agreements (such as NAFTA) have introduced dispute settlement forums, they are unlikely to have the strength of the WTO.

- Third, membership in regional and unilateral programs may decrease the incentives of the developing countries to participate in multilateral negotiations. This effect operates through different channels. In the case of GSP-type preferences, developing countries believe that (i) they can not obtain further market access concessions from developed trading partners, and (ii) they might lose the existing ones they have. In the case of regional agreements, the same concerns apply. In customs unions, small developing countries have little effective say over their own tariffs anyway. Furthermore, developing countries which are not in regional agreements but are pursuing them, may not want to clash with their future (developed
country) partners. Finally, membership in such programs may lead to more protectionist policies due to domestic political economy reasons as Krishna [1998] argue in the case of regional agreements and Ozden and Reinhardt [2002] in the case of GSP.

Fourth, discriminatory programs create strong conflicts of interest among developing countries, between the recipients of the preferences and the excluded ones, since they tend to specialize in similar product categories. This might prevent them negotiating as a block in multilateral rounds against the developed countries' protectionism. For example, during the Uruguay Round, developed countries agreed to eventually eliminate the MFA which administers their textile and apparel imports through a complex web of quotas and tariffs. Today, more than 25% of US imports of apparel come from Mexico and other countries in the Caribbean and Central America without quotas and tariffs due to the preferences granted under NAFTA and CBTPA. On the other hand, especially the exporters in Easy Asia face restrictive quotas. Naturally, the preference recipients (and countries who have non-restrictive quotas) will not be very supportive to elimination of the MFA today.

Finally, preferential programs and discriminatory policies may be used as bargaining chips against developing countries in many areas. These can be (i) directly related to WTO such as dispute settlement cases and anti-dumping investigations, (ii) related to trade issues in general such as intellectual property right and competition laws or (iii) unrelated political and military issues. For example, the US removed Pakistan from GSP during the tensions with India over nuclear weapons testing and reinstated in 2002 to receive support in Afghanistan.

The Danger from an Excessive Regulatory Agenda

One emerging pattern in the WTO is the inclusion of certain regulatory issues on the negotiation agenda. The signals of this process emerged in the Tokyo Round and it culminated in the Uruguay Round. Competition, government procurement and investment are some of the areas for which initial work has started based on Ministerial Declarations. There are several reasons why these regulatory issues are becoming more
prominent. The elimination of tariff and other trade barriers brought attention to regulatory regimes as other sources of market access restrictions. Of course, the governments are now more likely to use these regulatory measures for protectionist purposes as trade policies become less available. Again a delicate balance needs to be maintained. On one hand, there are benefits of establishing multilateral rules to prevent abuse of such policies to restrict market access. The dispute resolution process can also become an effective tool to establish legal precedence and discourage such behavior. Furthermore, there is the commitment value we identified above. Most of these regulatory reforms face domestic opposition and international commitment and pressure may tip the balance in favor of implementing them. On the other hand, there are two concerns with including them in the WTO agenda. First, in most cases, it is not clear WTO is even the appropriate forum. The difficulties associated with harmonizing domestic regulations is daunting task which might distract the WTO from its core objectives. It is also not clear how some of the WTO principles, such as reciprocity and non-discrimination, can be implemented in negotiations over regulations. Second, developing countries have diverse needs and circumstance, especially with respect to their development policies. WTO rules on harmonization may impose severe constraints on their ability to effectively implement their objectives. As many conclude, one size might not fit in the case of complicated regulatory rules (Rodrik [2001], Hoekman [2002], Sally [2003], Finger and Nogues [2002]).

Specific Issues

This section goes over some of the issues which are the causes for dissatisfaction among developing countries. Most of them have been mentioned in the previous sections but it is important to review them as they are likely to dominate the trade agenda for the next several years. We also aim to provide suggestions on how to resolve these problem taking into consideration the WTO rules and principles presented.

Market access, tariff peaks and tariff escalation in developed countries

Some of the sharpest criticisms of developing countries are targeting the trade policies of developed countries. There is extensive analytical and anecdotal evidence showing that trade barriers of developed countries disproportionately target developing country exports. Tariff peaks for products that are important to developing countries are
significantly higher than the average tariffs imposed by the developed countries. Most of these tariff peaks are on agricultural products and textiles & apparel. Furthermore, the tariffs of developed countries exhibit strong escalation with significantly higher tariffs on processed products compared to raw materials and intermediate goods. A schedule of escalating tariffs takes away the incentives from developing countries to specialize in higher value added segments of the production chain.

One of the important outcomes of the Uruguay Round was the tariffication of non-tariff barriers in agriculture which led to imposition of relatively high tariffs in these products. Hoekman, Ng & Olarreaga [2002] show that a significant portion of developing country exports face tariffs over 15% in the US and the EU. Another outcome of the Uruguay Round was the agreement to eliminate the MFA quotas by 2005. The process on this front has also been quite slow with significantly small liberalization so far.

There are several other developments since the Uruguay Round that need to be mentioned. First, developed countries, especially the US, started to follow a new path in trade policies regarding textiles & apparel. In 2002, around 25% of US imports in apparel came from Mexico, the Caribbean & Central American and African countries under preferential programs (NAFTA, CBTPA and AGOA). As a result, overall apparel imports of the US actually increased significantly, although the exporters are not necessarily the countries with the highest comparative advantage (such as South and East Asian countries). These programs have several advantages for the US. First, they are less threatening to domestic industries and thus faces less political opposition. Second, they can be used as bargaining chips with the recipient countries for other political purposes. Third, they have strict rules of origin requirements which forces them to use American yarn and fabric. This greatly benefits the domestic producers of these products who provide further political support. Finally, it prevents the developing countries from negotiating as a unified block since the beneficiaries of such preferential programs want to see the continuation of quotas and other barriers against excluded countries.

The agriculture sector suffers from other problems. The most important is the subsidies and other transfers provided to farmers in developed countries. OECD estimates that transfers to farmers are around 30% of farm income and total around $300 billion in 2001. Although there are many reasons behind why agriculture receives such special and
inefficient treatment, organized and concentrated political power of the sector is probably the most important. Despite the pressures on the developed country governments, especially the European Union with respect to agriculture, there is little evidence that any progress will be made any time soon.

There is no doubt that agriculture and textiles & apparel are of significant importance to developing countries in terms of achieving their development objectives. Also, liberalization in these sectors would increase the commitment of the developing countries to the WTO. On the other hand, it is difficult to force the developed countries to liberalize their policies in these sectors due to the domestic political pressures they face. Nevertheless, the multilateral forum is still the best appropriate one to pursue these goals.

First, developing countries need to document clearly what they can offer to the developed countries in return. Most developing countries actually apply tariffs that are considerably below the bound tariffs. Lowering these bindings can be a valuable bargaining chip for most developing countries. Second, there are other areas, such as services, in which developed countries are interested. Again, developing countries need to effectively use their concessions in such areas during the negotiations. Third, developing countries need to negotiate as a block. The Cairns group has actually been quite vocal and effective in agriculture and there is no reason why this can not be replicated in other areas. Receiving preferential access through regional and unilateral agreements may be tempting but these are inefficient and harmful in the long run. Fourth, it is as important to pursue a public relations campaign. The economic inefficiencies and costs (both internal and external) of developed country policies in these sectors should be publicized extensively. The developed country governments are very sensitive to the concerns of their constituencies. The consumers, NGOs and potential exporters in developed countries need to be made aware of the costs (such as the fiscal costs) of the policies of their governments. They can be more effective in pressuring their own governments.

The tariffs of developing countries should not be ignored in the process. They impose, on average, higher tariffs and more non-tariff barriers. Interestingly enough, most of the higher tariffs of developing countries target exports of other developing countries (Sally [2003]). The negotiations for the elimination of significant developed
country barriers should be conditional on developing country liberalization. This is what reciprocity is all about and it benefits all parties involved.

**Anti-dumping**

Anti-dumping actions became quite popular during the last decade and there is rapidly growing theoretical and empirical research on the subject. (see Blonigen and Pruse [2002] for an excellent overview.) The consensus is that they are almost always used for protectionist purposes and rarely have economic rationale behind them. It has been argued that even the initiation of a case tends to curb imports and cause the importing firms to act less aggressively. Some researchers also claim that the ability to file anti-dumping cases induces firms to collude, decreasing the level of competition and hurting the consumer.

Other empirical regularities are that they have been most extensively used by developed countries (the US and the EU) and they disproportionately target developing countries (Michalopoulos [2002]). Part of the problem is that developing countries have little retaliatory power and technical ability to defend themselves in rather complicated legal environments. Another pattern is that some middle-income countries started to use anti-dumping actions more frequently in recent years. Blonigen and Bown [2003] actually find that such potential retaliatory actions discourage the use of anti-dumping suits by developed countries. Finally, although anti-dumping laws are consistent with GATT law, they are in conflict with the non-discrimination principle since the specific companies can be targeted.

The efforts to restrain anti-dumping investigations concentrated on including them in the GATT/WTO, rather than allowing them to operate as unilateral actions. There has been some progress achieved in recent years. For example, a WTO panel decided that the US law allowing the complaining firms to receive the anti-dumping duties collected from the defendants was illegal. Furthermore, many countries file WTO disputes if they believe they were unfairly injured through anti-dumping actions.

Bringing anti-dumping laws under WTO jurisdiction, imposing higher legal standards and making them more transparent to the public are probably the best ways to eventually discourage and eliminate anti-dumping laws.
Regulatory Issues - TRIPS, Investment Rules, Competition Policies, Government Procurement

In previous sections, we mentioned the difficulties associated with negotiations over regulatory policies even if they are trade related. First, most of the time, it is not clear if WTO is the right forum for these negotiations. Second, it is not necessarily true that all countries should implement same policies. Developing countries’ needs differ significantly and there are valid reasons to grant them policy flexibility to solve their specific problems. Furthermore, it is not even evident that these policies have such urgency for most developing countries who lack necessary resources and human capital to implement such reforms. One the other hand, policy commitments in these areas create obvious benefits to the developing countries themselves. Regulatory measures can be used as effective market access barriers and it is important to eliminate the incentives and opportunities to do so.

Among these issues, TRIPS is the most demanding one since it involves the access to essential medicines against diseases such as the HIV. Unfortunately developments have not been promising, especially after the US refused to sign on to the agreements. The discussion in other areas are still in its infancy and it is not clear how things will progress. The challenges in these areas bring back the doubts on whether the WTO is the appropriate forum to deal with these issues. There does not seem to be easy answer.

Services

Services trade is one of the least analyzed but potentially most important areas. Their economic importance arises from the fact that services account for 2/3rd of most developed countries’ GNP. Developing countries have comparative advantage in some labor intensive sectors while developed countries have advantages in areas that require capital and advanced technology. Thus, there is no doubt that liberalization of these sectors can provide significant welfare gains for all countries. However, service liberalization is not as straightforward. Most effective barriers are employed through domestic regulatory measures and we argued earlier how difficult it is negotiate efficient regulatory measures through the WTO. Absence of reliable and meaningful data also
make analysis and negotiation difficult. This is partly behind the failure of the Uruguay Round GATS commitments to go beyond the status quo (Sally 2003).

The negotiations in services trade is quite different than merchandise trade. The key issues are the coverage of commitments, the transparency of the policies and multilateral disciplines (Hertel, Hoekman and Martin [2000]). The sectoral coverage of commitments with respect to national treatment and market access is one area where negotiations can take place. Sally [2003] argues that developing countries can make concessions in “mode three” of supply (commercial presence) while developed countries can reciprocate by commitments in “mode four” supply (movement of natural persons). Since these issues are covered in other chapters, we will not go into further detail but simply state that there is room for negotiations and reciprocal concessions to play an important role. However, it is important that concessions are granted on an MFN basis once they are made.

Market access commitments in services can be easily hindered by behind-the-border barriers, and non-transparent regulations. A first step would be a reporting requirement on all measures that affect market access in services. This information can be used as a basis for negotiations and to prevent withdrawal of concessions in later stages. Furthermore, collection and presence of such data would deter protectionist tendencies to a certain extent.

The industry sector, which accounts for approximately 26 percent of GDP, grew by 9.0 percent. This strong performance was driven by manufacturing, which accounts for about four fifths of industrial output. Textiles, basic metals and alloys, and transport equipment were the fastest-growing product categories. India's exports of clothing and textiles to the European Union increased by 16 percent in value terms in this period. The agriculture sector, with a share of about 20 percent of GDP, registered only a 2.3 percent growth rate, despite a favorable monsoon, reflecting continuing difficulties in raising productivity. These difficulties have been linked to increasing problems with irrigation and surface water management, as well as with persistent structural weakness in the markets for rural credit and for crop insurance.

Investor concern over India's infrastructure deficit continued to mount in 2005, especially with regard to a shortage of power generation capacity, stemming in part from
continued financial problems at many state electricity boards. Urban planning, too, remains worrisome with constraints tightening in transport, sanitation, hotel accommodation, and other facilities usually required by investors.

The wholesale price inflation has dropped in 2005, with prices rising by 4.2 percent year on year to February 2006. Capital inflows in 2005, particularly in the area of portfolio investment, were adequate to offset the growing current account deficit, and foreign reserves grew in 2005. Portfolio investment has not just grown in absolute terms, but also in relation to India’s total foreign exchange reserves. Given the potential volatility of these flows, this is causing some concern, and points to the need to improve the environment for FDI.

Foreign Direct Investment (FDI) is recognized as an important driver of growth in India. Government is making all efforts to attract and facilitate FDI and other investment from Non Resident (NRIs) including Overseas Corporate Bodies (OCBs) that are predominantly owned by them, to complement and supplement domestic investment. To make the investment in India attractive, investment and returns on them are freely repatriable, except where the approval is subject to specific conditions such as lock-in period on original investment, dividend cap, foreign exchange neutrality, etc. as per the notified sectoral policy.

Foreign direct investment is freely allowed in all sectors including the services sector, except a few sectors where the existing and notified sectoral policy does not permit FDI beyond a ceiling. FDI for virtually all items/activities can be brought in through the Automatic Route under powers delegated to the Reserve Bank of India (RBI), and for the remaining items/activities through Government approval. Government approvals are accorded on the recommendation of the Foreign Investment Promotion Board (FIPB). In a major drive to simplify procedures for FDI under the “automatic route”, RBI has given permission to Indian Companies to accept investment under this route without obtaining prior approval from RBI. Investors are required to notify the Regional Office concerned of the RBI of receipt of inward remittances within 30 days of such receipt and file required documentation within 30 days of issue of shares to Foreign Investors.
The Indian Government's decision to remove the cap on FDI proved a major step forward after years of hesitation. Strong economic policies, equal treatment to foreign investors, as well as, non-resident Indians and their overseas companies investing in India helped in the increase in both domestic and foreign investment, both portfolio and FDI. India has consistently been classified as among the most attractive investment destinations by a slew of reputed international rating organizations. With its highly skilled and cost-effective manpower, it offers immense opportunities not only for Business Process Outsourcing, but also increasingly for the higher end of the value chain in Knowledge Process Outsourcing and Engineering Process Outsourcing. Favourable economic forecasts and certifications by global consultants such as A T Kearney and by the World Bank have raised investor confidence. Kearney’s Foreign Direct Investment (FDI) chart in 2000 moved India to sixth place from 15th position in 1999. In 2000, the British and US private investors also ranked India the third most attractive FDI destination. The fast growth of the service sector, particularly telecommunications and information technology, has made India equally attractive to service sector investors as the one of the most desired destination to the foreign investors.

**Constraints Effecting FDI Inflow**

The rapid economic growth of the last few years has put heavy stress on India's infrastructural facilities and maintenance of existing infrastructure. In the coming years, further expansion in key areas could snap the already strained lines of transportation unless massive programmes of expansion and modernization are put in place. Problems include power demand shortfall, port traffic capacity mismatch, poor road conditions (only half of the country's roads are surfaced), low telephone penetration etc. Indian bureaucracy needs further reforms to improve approval and regulatory business environment, which sometimes influence slow-moving bureaucracy.

The Indian market is widely diverse. The country has 17 official languages, 6 major religions, and ethnic diversity as wide as all of Europe. Thus, tastes and preferences differ greatly among sections of consumers. It is, therefore, advisable to develop a good understanding of the Indian market and overall economy before taking the plunge. Research firms in India can provide the information to determine how, when and where to enter the market. There are also companies which can guide the foreign firm
through the entry process from beginning to end — performing the requisite research, assisting with configuration of the project, helping develop Indian partners and financing, finding the land or ready premises, and pushing through the Studywork required.

In recent years several authors have noted the increasing global use of "administrative protection" — most commonly, antidumping rules, especially by developing economies. While the number of antidumping cases filed worldwide has increased significantly over the past 20 years, a more significant increase — roughly a tripling — has occurred in the number of countries using antidumping procedures over this period, to the point that 41 WTO-member countries initiated antidumping cases over the 1995-2003 period (and the largest user of antidumping over this period has been India). In explaining this pattern, the two most common explanations given relate to retaliation (or "tit-for-tat" behavior) by new users against antidumping actions by other countries, and the notion that the Uruguay Round tariff liberalizations were accompanied by more vigorous use of WTO-sanctioned means of administrative protection (in order to maintain some level of overall protection) and to some extent this was the price for getting agreement on reducing tariffs and quotas.

The first hypothesis — the spread of antidumping as retaliation — has received some empirical support, with work by Francois and Neils (2002), Prusa and Skeath (2004), and Feinberg and Reynolds (2006) finding evidence consistent with that view (though Blonigen and Bown (2003) suggest an equilibrium threat/deterrence view which, while not inconsistent with a disequilibrium pattern of retaliation, is less supportive). The second hypothesis, increased antidumping activity as quid pro quo for tariff/quota liberalization, has been suggested in a study by the U.S. Congressional Budget Office (1998), as well as by Lindsay and Ikenson (2001), and Miranda et al. (1998). While Lindsay and Ikenson provide some descriptive evidence in support of this view, there has been no serious statistical study of this issue.

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10 Irwin (2005) notes that much of the recent literature ignores significant antidumping filing activity that started much earlier than this, especially by the US.
More recently, Anderson and Schmitt (2003) develop a theoretical model predicting a progression from tariff protection to the use of quotas when coordinated liberalization of tariffs occurs, followed by a movement to antidumping enforcement when quotas are also limited (or “tariffied”). In what follows we make a first effort at empirically investigating the role of tariff liberalization in the spread of antidumping. We first briefly discuss some evidence on this global pattern and the findings of Finger et al. (1996) on tariff concessions in the Uruguay Round. Through both correlations and regression approaches we then analyze the relationship between such concessions and the filing of antidumping petitions, at both the country and industry-category level, with particular interest in new (mostly developing country) users of antidumping procedures.

South Asia is home to over 20 percent of the world’s population but accounts for only 1.5 percent of world GDP and just over 1 percent of world trade. The region was one of the most protected until the late 1980s due to the prolonged use of import-substitution policies backed by restrictive trade and industrial regimes. However, since 1990, South Asia has moved in line with changes in world economic trends. It has made much progress in deregulation, and liberalization has helped to increase the region’s integration with the world economy and to attain higher growth rates. Until recently, the focus of South Asia’s trade liberalization efforts has been unilateral. However, in recent years, the region has made attempts to foster increased trade through a series of bilateral agreements, mainly between India and its neighbors, and multilateral agreements, such as the Bangkok Agreement. In 1995, the seven South Asian countries—Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka—turned over a new leaf in regional trade relations by initiating a multilateral framework for region-wide integration under the South Asian Preferential Trade Agreement (SAPTA).\textsuperscript{11}

The impetus toward regional preferential trading arrangements and greater regional economic integration raises many important issues, both for the South Asian region as a whole and for the individual countries. Although economists have studied these issues, including the policy options and empirical consequences of both preferential trading arrangements (PTAs) and free trade agreements (FTAs) in other parts of the

\textsuperscript{11} See Pursell and Pitigala (2001) for a detailed account of the motives and basic tenets of various trade agreements accorded between the South Asian countries.
world, so far there has been little systematic work that could inform the continuing and expanding negotiations in South Asia. There have been several important studies of regional South Asian trade, some completed in the mid-1990s, prior to the recent drive toward SAFTA and the formation of bilateral FTAs within South Asia. There is a general lack of information about the structure of recent trends in trade and what they imply about the prospects for further regional integration.

South Asia possesses certain fundamental conditions (defined by empirical evidence) to become a successful trading bloc. It should be noted, however, that this Study deals solely with static trade effects. Many economists have argued that the benefits of an FTA, such as SAFTA, stem from dynamic gains, such as increased foreign direct investment to smaller countries, greater political stability and cooperation, and/or enhanced credibility of reform efforts. These issues, however, are not under the purview of this Study. While this Study does not directly address the net welfare effect of trade creation and trade diversion, it relates to these effects as implied by the various conceptual propositions.

It must be noted at the outset that official accounts of South Asia’s international trade statistics are flawed by the high incidence of informal trade between India and its neighbors. Available estimates (for selected years) suggest that informal trade is even higher than officially recorded multilateral trade between India and its neighbors.

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13 Taneja (1999) for estimates of informal trade between India and its neighbors. It must be noted these estimates are based on surveys carried out incorporating important smuggling centers and extrapolated to arrive at national figures. Thus, they are prone to higher margins of error.