

# The WTO and Developing Countries

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## **I. Introduction**

One of the great problems of our age is the growing economic disparity between developed and industrialized countries on the one hand, and the developing world on the other.<sup>(1)</sup>

There is no easy solution. On a governmental level there are three categories of actions that may be taken: (1) foreign aid and technical assistance; (2) debt forgiveness; and (3) amelioration of conditions for trade and investment. The World Trade Organization (WTO) deals especially with the third point. So the problem facing the WTO is how to do a better job of integrating developing countries and their specific concerns into its work. This is a particularly urgent task now that two-thirds of the membership of the WTO fall into the “developing country” classification. As was demonstrated at the Cancun WTO Ministerial conference in September 2003, the developing country members of the WTO are determined to join together to reshape the organization’s priorities.

In fairness, the WTO does not start with a blank slate as far as developing country members are concerned. Progress has been made. First, traditionally, “special and differential treatment” has been accorded to developing countries in GATT (General Agreement on Tariffs and Trade) and WTO Agreements. This special treatment allows, for example, extra time for compliance with

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WTO obligations; special trading opportunities, special safeguard provisions and exceptions, and the means of helping developing countries deal with commitments, for example in technical standards' harmonisation.

Second, the WTO has increased its technical and financial assistance to developing countries so that they can better participate in the work of the organization.

Third, in 2002, the WTO adopted a work programme for least developed countries. This was part of an initiative by six international organizations (the International Monetary Fund, the International Trade Centre, the United Nations Conference on Trade and Development, the United Nations Development Programme, the World Bank and the WTO) to formulate an assistance plan for least developed countries.

Fourth, is the Uruguay Round of trade negotiations, which ended successfully in 1994, agriculture and textiles, two sectors of concern to developing countries, were integrated more fully into the multilateral trading system. This was only a beginning, however; more progress is needed on these sectors.

Fifth, under the WTO's new system of dispute settlement, begun in 1995, developing countries have been fully integrated into the dispute settlement provisions. Developing countries have won key WTO cases against the most important developed country members.

Sixth, in the field of intellectual property, developing country members won the right (confirmed at the 2001 Doha Ministerial Conference) to declare a public health emergency and to engage in compulsory licensing, if necessary, of needed pharmaceutical products. In addition, as a result of a 2003 decision, developing countries without the capacity to manufacture the needed pharmaceuticals

can import needed products from other developing countries making generic versions of the drugs.

Seventh, the WTO's generalized system of preferences (GSP) has not worked to the satisfaction of the developing country members of the WTO. The GSP program as operated by developed members such as the EU and the USA has imposed many politically-inspired conditions on duty-free treatment. Moreover, the products designated for favorable treatment are frequently not the ones that most benefit developing country exports. A case reflecting this dissatisfaction was brought against the EU by India in 2003. In March 2004, the WTO Appellate Body largely rejected the contentions that the EU's GSP program was discriminatory.<sup>(2)</sup> Despite this, the GSP program may have to be revised to make granting trade preferences to developing countries more objective and universal.

Eighth, new institutions have been created to serve developing countries. In 2001, thirty-two WTO members set up an Advisory Centre on WTO Law in Geneva. The WTO itself has reconstituted its Committee on Trade and Development and its Training and Technical Cooperation Institute.

In the remainder of this paper, I will develop these themes and provide suggestions as to what future actions may be taken to further integrate developing countries into the WTO.

In general, there are two needs: (1) on the import side, to make sure that developed country exports do not have a negative effect on development; and (2) on the export side to provide enhanced market access in developed countries for products produced by developing countries.

As to the first point, it is important, in particular, to remove subsidies from developed country products.<sup>(3)</sup> In addition, Article XVIII of the GATT, which provides for infant industry protection, may have to be selectively revived and recalibrated. Most important, however, is the issue of enhanced market access for developing country products.

There are three aspects to the market access problem. The first is to dismantle overt tariffs and other border measures maintained by developed countries on products of vital concern to developing country exporters. The second is to examine market access barriers in existing WTO agreements (such as the Agreement on Agriculture) and to consider whether special and differential treatment measures are needed to enhance market access potential. The third is to consider carefully developing countries' market access problems when addressing new issues, such as rules of origin, investment, competition, the environment, and labour. Any agreements in these areas must be drafted with developing countries and the potential impact on their market access in mind.

## **II. The Developing World**

The participation of developing countries in the WTO has increased greatly compared with their participation in the GATT. A majority of the WTO Membership consists of developing countries. During the period of 1980–2000, the share of developing country trade was almost unchanged—28.8 percent in 1999 compared to 27.4 percent in 1980.<sup>(4)</sup> Service trade is, however, growing even more rapidly for developing countries than merchandise trade.<sup>(5)</sup> Yet, developing countries differ greatly in the degree to which their economies are integrated into the international trading system. While some have made enormous progress, others still trade largely in a few primary commodities.<sup>(6)</sup> It is commonplace to speak rather loosely about “developing” countries, but most people, including many who use the term, do not have a clear idea of its meaning. The World Bank uses a classification system to differentiate between countries based on income.<sup>(7)</sup> So-called developing countries are divided into *low-income economies* (\$755 or less per capita in 2000) and *middle-income economies* (between \$756 and \$9265 per capita). The latter group is divided into *lower-middle-income economies* (between \$756 and \$2995 per capita) and *upper-middle-income economies* (between \$2995 and \$9265 per capita). Many upper-middle-income economies also are called “newly industrialized” economies or countries. The fourth group is *high-income economies*, primarily

members of the Organisation for Economic Co-operation and Development (OECD), with incomes of \$9266 or more per capita.<sup>(8)</sup>

The term “developing country” is not defined in the WTO Agreement nor was it defined in the GATT regime. As a result, developing country designation is made on an *ad hoc* basis and primarily through self-selection. The WTO Agreement does, however, provide a reference for “least-developed” countries,<sup>(9)</sup> namely, those recognized as such by the United Nations.<sup>(10)</sup>

The term “developing country” is vague because (1) there is a lack of international consensus and (2) the term is used for different purposes in various international contexts. This ambiguity has caused controversy in the WTO, most notably in the negotiations for the accession of China, which wanted developing country status. At the conclusion of the Uruguay Round, the United States and the European Union declared that they would not consider certain countries, such as Singapore, Hong Kong and South Korea, to be developing countries.<sup>(11)</sup> Both the United States and the EU have adopted their own definitions of developing countries for purposes of their national preference programs.<sup>(12)</sup>

### **III. A Bit of History**

Developing countries played only a small role in the founding of the GATT. Only 10 of the original 23 GATT contracting parties were in this category,<sup>(13)</sup> and developing countries continued to be in the minority until the late 1960s. By May 1970, 52 of the 77 GATT contracting parties could be classified as developing countries. The proportion of developing countries has continued to increase, and developing countries now constitute a large majority of the WTO Membership.

The history of developing countries and the GATT has been written in excellent fashion and will not be repeated here except to note the landmarks that continue to have influence.<sup>(14)</sup> Historically, developing countries were very

critical of the GATT. One of the major challenges has been how to integrate the developing world into the multilateral trading system.

Perhaps the first major initiative was a GATT ministerial decision in November 1957 that cited “the failure of the trade of less developed countries to develop as rapidly as that of industrialized countries” as a major problem.<sup>(15)</sup> This decision, in turn, produced a study called the Haberler Report,<sup>(16)</sup> which supported the perception that the export earnings of developing countries were not satisfactory.

In late 1961, Uruguay filed a legal complaint against virtually the entire developed-country membership listing 576 restrictions that allegedly nullified and impaired Uruguayan exports. This litigation, which ended inconclusively in three panel reports,<sup>(17)</sup> accomplished its main purpose, which was to dramatize the shabby treatment of developing countries. Out of this same milieu, spiced additionally with Cold War rivalries, came the formation of a “rival” organization of sorts, the United Nations Conference on Trade and Development (UNCTAD), which began as a conference but became a permanent UN organization in 1964.<sup>(18)</sup> The formation of UNCTAD spurred several initiatives within the GATT. First, in 1965, the GATT contracting parties adopted Part IV of the GATT to demonstrate a new concern for the interests of developing countries. Part IV, however, contains no legal obligations. Second, in 1971, the GATT adopted two waivers for two types of preferences to favour developing countries: (1) a set-aside of the MFN obligation to permit a “generalized system of preferences” and (2) permission for developing countries to exchange tariff preferences among themselves. In 1979, both waivers were made permanent through the so-called Enabling Clause.<sup>(19)</sup>

The Enabling Clause continues to guide WTO policy:

#### GATT CONTRACTING PARTIES, DECISION OF NOVEMBER

## 28, 1979 ON DIFFERENTIAL AND MORE FAVOURABLE TREATMENT, RECIPROCITY AND FULLER PARTICIPATION OF DEVELOPING COUNTRIES

Following negotiations within the framework of the Multilateral Trade Negotiations, the Contracting Parties decide as follows:

1. Notwithstanding the provisions of Article I of the General Agreement, contracting parties may accord differential and more favourable treatment to developing countries, without according such treatment to other contracting parties.
2. The provisions of paragraph 1 apply to the following:
  - (a) Preferential tariff treatment accorded by developed contracting parties to products originating in developing countries in accordance with the Generalized System of Preferences,
  - (b) Differential and more favourable treatment with respect to the provisions of the General Agreement concerning non-tariff measures governed by the provisions of instruments multilaterally negotiated under the auspices of the GATT;
  - (c) Regional or global arrangements entered into amongst less-developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions which may be prescribed by the Contracting Parties, for the mutual reduction or elimination of non-tariff measures, on products imported from one another;
  - (d) Special treatment of the least developed among the developing countries in the context of any general or specific measures in favor of developing

countries.

3. Any differential and more favourable treatment provided under this clause:

(a) shall be designed to facilitate and promote the trade of developing countries and do not raise barriers to or create undue difficulties for the trade of any other contracting parties;

(b) shall not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favored-nation basis;

(c) shall in the case of such treatment accorded by developed contracting parties to developing countries be designed and, if necessary, modified, to respond positively to the development, financial and trade needs of developing countries.

4. The developed countries do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of developing countries, i.e., the developed countries do not expect the developing countries, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs. Developed contracting parties shall therefore not seek, neither shall less-developed contracting parties be required to make, concessions that are inconsistent with the latter's development, financial and trade needs.

5. Having regard to the specific economic difficulties and the particular development, financial and trade needs of the least-developed countries, the developed countries shall exercise the utmost restraint in seeking any concessions or contributions for commitments made by them to reduce or remove tariffs and other barriers to the trade of such countries, and the least-developed countries shall not be expected to make concessions or contributions

that are inconsistent with the recognition of their particular situation and problems.

6. The concessions and contributions made and the obligations assumed by developed and less-developed contracting parties under the provisions of the General Agreement should promote the basic objectives of the Agreement, including those embodied in the Preamble and in Article XXXVI. Less-developed contracting parties expect that their capacity to make contributions or negotiated concessions or take other mutually agreed action under the provisions and procedures of the General Agreement would improve with the progressive development of their economies and improvement in their trade situation and they would accordingly expect to participate more fully in the framework of rights and obligations under the General Agreement.<sup>(20)</sup>

The Enabling Clause settled a debate within the GATT and established the policy of special and preferential treatment for developing countries. At the same time, the Enabling Clause contains a so-called graduation clause,<sup>(21)</sup> which is the policy that eventually preferential treatment should end. Implementation of this policy remains controversial.

The Uruguay Round continued the policy of special and preferential treatment for developing countries. Most WTO agreements contain exceptions, longer phase-in periods or special provisions for developing countries. Some agreements, such as the agreements on textiles and agriculture, adopt policies long sought by developing countries. Others, such as the TRIPS Agreement, the TRIMs Agreement and the GATS, were viewed as concessions. Overall, the Uruguay Round was mixed in terms of benefits for developing countries.<sup>(22)</sup>

Nevertheless, under the WTO, there is a new concern for developing countries. This concern is not only recognition of their political power now that they comprise a majority of WTO Members, but also new recognition that,

overall, trade liberalization is beneficial rather than detrimental to economic development.

Developing countries now play a key role in the WTO and have cast aside their past reluctance to use dispute settlement procedures.<sup>(23)</sup> They see increasing benefit in an effective rule-based system that can protect small or weak countries, but they still hold the view that developed countries have not lived up to their commitments to provide special and preferential treatment to developing countries.

The WTO has retained the viewpoint prevalent during the Uruguay Round negotiations that trade liberalization within a framework of internationally agreed rules benefits developed and developing countries alike. The WTO has called for special attention to developing countries to increase trade and investment and for a common Africa initiative.<sup>(24)</sup> The first WTO Ministerial Conference, held in Singapore in 1996, adopted the following declaration:

#### Developing Countries

13. The integration of developing countries in the multilateral trading system is important for their economic development and for global trade expansion. In this connection, we recall that the WTO Agreement embodies provisions conferring differential and more favourable treatment for developing countries, including special attention to the particular situation of least-developed countries. We acknowledge the fact that developing country members have undertaken significant new commitments, both substantive and procedural, and we recognize the range and complexity of the efforts that they're making to comply with them. In order to assist them in these efforts, including those with respect to notification and legislative requirements, we will improve the availability of technical assistance under the agreed guidelines. We

have also agreed to recommendations relative to the decision we took at Marrakesh concerning the possible negative effects of the agricultural reform programme on least-developed and net-food-importing developing countries.

#### Least-Developed Countries

14. We remain concerned by the problems of the least-developed countries and have agreed to . . . a Plan of Action, including provision for taking positive measures, for example duty-free access, on an autonomous basis, aimed at improving their overall capacity to respond to the opportunities offered by the trading system; . . .

In 1997, as a follow-up to the First Ministerial Conference, there was a high-level meeting in Geneva to adopt an Integrated Framework for trade-related assistance to least-developed countries (LDCs). The participants, which included the IMF, the World Bank, UNCTAD and the UN Development Program, undertook to provide technical and financial assistance for institution building in LDCs.<sup>(26)</sup>

At the Doha Ministerial Conference in 2001, the WTO continued its concerns for developing country Members. The Declaration<sup>(27)</sup> and the Implementation Decision<sup>(28)</sup> adopted at the Ministerial Conference call for new WTO initiatives in three areas: (1) initiatives to provide market access in product areas of particular concern to developing countries, such as agriculture and textiles; (2) additional special and differential treatment provisions in WTO agreements to benefit developing countries; and (3) technical assistance to increase the capacity of developing countries to implement WTO obligations and to participate more fully in the WTO.

## IV. Special and Differential Treatment Provisions for Developing Countries in the Uruguay Round

Virtually all WTO agreements contain special provisions with respect to developing country Members. The WTO has classified the so-called special and differential (S&D) provisions into the following six categories: (1) “provisions aimed at increasing the trade opportunities of developing country Members,” (2) “provisions under which WTO Members should safeguard the interests of developing country Members,” (3) “flexibility of commitments, of action, and use of policy instruments,” (4) transitional time periods, (5) technical assistance and (6) “provisions relating to least-developed country Members.”<sup>(29)</sup>

Using this typology, the WTO Secretariat has identified 145 separate provisions for S&D treatment contained in the WTO agreements.<sup>(30)</sup>

1. *Increasing Trade Opportunities.* Twelve S&D provisions in four WTO agreements require action by Members to increase trade opportunities for developing countries.

2. *Safeguarding Interests.* Forty-nine S&D provisions in thirteen WTO agreements require Members to take or avoid taking actions to safeguard the interests of developing countries.

3. *Flexibility Provisions.* Thirty S&D provisions in nine WTO agreements allow developing countries exemptions or a reduced level of commitments.

4. *Transitional Periods.* Eighteen S&D provisions in eight WTO agreements allow developing countries transition periods to comply with WTO commitments.

5. *Technical Assistance.* Fourteen provisions in six WTO agreements provide for technical as well as financial assistance to developing countries.

6. *Least-Developed Countries*. Twenty-two provisions in seven WTO agreements cover one or more of the previous five areas but apply only to least-developed country Members.

## **V. Enhanced Market Access**

There are three aspects of enhanced market access that will help developing countries become better integrated into the WTO: trade in goods; trade in services; and investment.

### A. Trade in Goods

The question with regard to trade in goods is -- what in addition to existing GSP is necessary. In short, what is wrong with existing GSP is that the list of products has been formulated according to the needs and wishes of developed countries. Reform of GSP means looking at the needs of the developing countries GSP is intended to benefit.

Therefore, during the Doha round the effort must be made to lower trade barriers on those products with regard to which developing countries have a comparative advantage. Two economic sectors come to mind -- textiles and agriculture.

With regard to textiles, the Agreement on Textiles and Clothing (ATC) began this process by integrating textiles and clothing trade into the GATT liberalisation process. However, two problems have occurred. First, the main abolition of import restrictions was postponed to the very last stage, and is due to occur only in 2005. This deadline is now imminent, of course. But a second problem looms: invocation of safeguard and other loopholes in the ATC to prevent full liberalisation even after the 2005 deadline. This has already occurred: for example recent actions by the USA. Thus, the Doha round should ensure that the ATC is fully implemented.

Perhaps the largest economic sector of interest to developing countries is agriculture. Of course, there the problem is the subsidies granted by many developed countries that have the impact of (a) shutting developing countries out of export markets and (b) competing unfairly even in developing-country markets themselves. The WTO Agreement on Agriculture, therefore, should be extended to (a) drastically reduce existing domestic subsidies; (b) abolish export subsidies; and (c) close or limit the loopholes and safeguards that are built into the Agreement on Agriculture and which make it largely ineffective. Examples of such loopholes include the “box” systems of subsidy exceptions and the rules allowing diminimus subsidization. Reform of the Agreement on Agriculture is essential to benefit developing countries.

In summary, integrating developing countries into the WTO system means (a) concentrating on reducing trade barriers in those products of particular importance to developing countries and (b) completing reforms begun in the textile and agricultural sectors.

### B. Services

Enhancement of market opportunities for developing countries in services is also important. The success of the Indian software export industry shows the potential benefits of services’ trade in this sector.

In the services area the main WTO instrument is the General Agreement on Trade In Services (GATS). World trade in services is presently about \$1 trillion, about 20 percent of trade in goods.

Future negotiations and implementation of the GATS should concentrate on several needs of developing countries. First, often overlooked, there are great opportunities for export by developing countries in this sector. Sectors and subsectors where this is particularly true include the following: (1) consulting services for enterprises (information, management, professional and hiring

services); (2) construction and engineering; (3) education; (4) ecological; (5) tourism; (6) leisure, cultural and sport; and (7) transportation.

Second, services trade should afford workers and companies from developing countries the opportunity to collaborate with foreign service industries and to benefit from their technology and expertise.

Third, there should be a rethinking of facilitating the delivery of services by people from developing countries. Of the four modes of services delivery, which are most important to the developing world? We should determine this and liberalize such modes. For example, it may well be that movement of physical persons should be facilitated to allow people from developing countries to travel for temporary business reasons to developed countries. Another example might be to eliminate restrictions and discrimination in e-commerce.

Fourth, the GATS should be supplemented by further agreement to reduce domestic regulatory barriers on the delivery of services that adversely affect developing countries.

### C. Investment

Although prospects for a WTO Agreement on Investment are not bright at present, it is not true to state that such an agreement is not needed. There are great benefits to standardization of certain investment rules on a global basis. Such an agreement has the potential both to stimulate needed investment and to reduce investment abuses. A key to future progress on this negotiation might be to begin, at least, from a developing country perspective, and to make sure to include provision for those concerns to this group of WTO members.

## **VI. Conclusions**

In this short paper I have merely outlined the main suggestions for integrating developing countries into the WTO and the multilateral trading system.<sup>(31)</sup> A comprehensive, multi-factor approach must be used. The

elements of such integration include not only continuing the existing special and differential treatment for developing countries and increasing technical and financial help, but also reform of existing agreements and the formulation of new agreements to improve market access opportunities.

## Note

- (1) According to the U.N. Human Development Report (2003), 2.8 billion people live on less than \$245 per year. Fifty-four countries are poorer, measured by per-capita GDP, than in 1990.
- (2) European Communities—Conditions for the Granting of Tariff Preferences to Developing Countries, Report of the Appellate Body, AB-2004-1, WT/DS246/AB/R, 18 March 2004.
- (3) Removal of subsidies also is necessary so that developing countries can export to third-country markets.
- (4) CONSTANTINE MICHALOPOULOS, *DEVELOPING COUNTRIES IN THE WTO* 7–16 (2001).
- (5) *Id.* at 15–16.
- (6) *Id.* at 17–20.
- (7) WORLD BANK, *WORLD DEVELOPMENT INDICATORS*(2001). For more information about the World Bank’s classification of economies, see the World Bank’s web page on Country Classification, <<http://www.worldbank.org/data/countryclass/countryclass.html>>
- (8) There are some anomalies in this system of classification. Certain Middle Eastern countries have high per-capita incomes because of oil resources but are not really industrialized. Other economies, such as Singapore and Israel, are considered developing by many international organizations, but have high per-capita incomes. The economies of Eastern Europe, including Russia, are middle-income economies but have many of the characteristics of industrialized countries.
- (9) WTO Agreement art. XI:2.
- (10) The UN Committee for Development Planning periodically makes this determination by reference to four criteria: per capita income, population size, quality-of-life index and economic diversification. UNESCO, 29th Sess. Supp. No. 2, at 64, 67, U.N. Doc. E/1994/22 (1994).
- (11) Alice Alexandra Kipel, *Special and Differential Treatment for Developing Countries*, in *THE WORLD TRADE ORGANIZATION* 617, 624 (Terence P. Stewart ed., 1996).
- (12) *See* Report by the Secretary-General of the OECD, *The Generalised System of Preferences, Review of the First Decade* (1983).
- (13) The 10 original developing country GATT contracting parties were Brazil, Burma, China, Ceylon, Chile, Cuba, India, Pakistan, Syria and Lebanon. In the first few years of the GATT,

China, Lebanon and Syria withdrew from the GATT. [CITE]

- (14) *E.g.*, ROBERT E. HUDEC, *DEVELOPING COUNTRIES IN THE GATT LEGAL SYSTEM* (1987).
- (15) Trends in International Trade, 29 November 1957, GATT B.I.S.D. (6th Supp.) at 18, 2d recital in preamble (1958).
- (16) GOTTFRIED HABERLER ET AL., *CONTRACTING PARTIES TO THE GATT, TRENDS IN INTERNATIONAL TRADE* (1958).
- (17) Uruguay v. 15 Developed Countries: Recourse to Article XXIII, L/1923 (15 Nov. 1962), GATT B.I.S.D. (11th Supp.) 95; L/2074 (30 Oct. 1963), GATT B.I.S.D. (13th Supp.) 25; L/2278 (27 Oct. 1962), GAAT B.I.S.D. (13th Supp.) 45.
- (18) UNCTAD, Final Act, United Nations Document E/CONF. 46/141 91964. UNCTAD was established by a subsequent resolution of the UN General Assembly, UN Doc., General Assembly Resolution 1995 (1964).
- (19) GATT Contracting Parties, Decision of November 28, 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation on Developing Countries, GATT B.I.S.D. (26th Supp.) at 203 (1980) [hereinafter Enabling Clause]. *See generally* Abdulqawi A. Yusuf, “*Differential and More Favorable Treatment*”: *The GATT Enabling Clause*, 14 J. WORLD TRADE L. 488 (1980); General M. Meir, *The Tokyo Round of Multilateral Trade Negotiations and Developing Countries*, 13 CORNELL INT’L L.J. 249 (1980).
- (20) Enabling Clause, *op.cit.*
- (21) *Id.* para. 7.
- (22) In a decision taken at Cologne in June 1999, the Group of Eight (G8) major industrialized countries agreed to provide debt relief to developing countries. G8 Cologne Communique 1999.
- (23) MICHALOPOULOS, above note 1, at 167–70.
- (24) WTO FOCUS, No. 11 (June–July 1996).
- (25) WTO, Ministerial Conference, Singapore, 9–13 December 1996, *Singapore Ministerial Declaration*, WT/MIN(96)/DEC, 18 December 1996, paras 13, 14.
- (26) MICHALOPOULOS, above note 1, at 96–97.
- (27) WTO, Ministerial Conference, Fourth Session, Doha, 9–14 November 2001, *Ministerial Declaration*, WT/MIN(01)/DEC/1, 20 November 2001 [hereinafter *Doha Ministerial Declaration*].
- (28) WTO, Ministerial Conference, Fourth Session, Doha, 9–14 November 2001, *Implementation-Related Issues and Concerns*, WT/MIN(01)/DEC/17, 20 November 2001.
- (29) WTO, Committee on Trade and Development, *Implementation of Special and Differential Treatment Provisions in WTO Agreements and Decisions*, WT/COMTD/W/77, 25 October 2000, at 3.
- (30) *Id.*
- (31) For longer treatment see Developing Countries and the WTO (Bernard Khoekman and Will Martin, eds, 2003) multi-factor approach must be used. The elements of such integration

include not only continuing the existing special and differential treatment for developing countries and increasing technical and financial help, but also reform of existing agreements and the formulation of new agreements to improve market access opportunities.

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## WTO と発展途上国

### < 要 約 >

トーマス・J・ショーエンバウム

今日、発展途上国と先進工業国の経済格差は、深刻化している。本論文は、WTO が直面している問題を提示し、又、発展途上国が WTO と多国間貿易制度に統合される為に必要であろう、3つの取り組みを提案する。ア) 既存する途上国加盟国に対する特別・差別措置、イ) 技術支援・経済援助の強化、ウ) 既存する協定の改革や、市場アクセス機会を改善する新しい協定の制定である。

GATT/WTO の歴史の中で、途上国開発の失敗は常に問題とされてきた。その中で、発展途上国の影響力は次第に強まっている。第一に、途上国加盟数が増加し、今では大多数を占めるまでになったという、政治力である。第二に、貿易自由化が、経済発展にとって弊害ではなくて有益となるとの認識である。これまで、先進国の、途上国への必要な差異・特別措置の欠如が、貿易自由化の恩恵を阻んできたことが問題とされる。

ウルグアイラウンド交渉では、WTO がこの点に関して、途上国への貿易・投資増加への特別配慮と、アフリカ共通の指導力を訴えた。そして、技術協力や貿易拡大措置を含む6分野からなる、発展途上国に対する有利・差異措置 (S&D: Special and Differential Provision) の方針を継続した。

また、1996年以降のWTO閣僚会議では、次々に宣言が採択された。発展途上国の努力促進、技術協力の必要性、農業改革プログラムの、後発発展途上国と食糧輸入途上国への悪影響の懸念。関税非関税などの行動指針。貿易関連援助枠組みの採用や、

WTO 主導による、市場アクセス拡大（農業・繊維分野）。途上国の利益に繋がる、新たな差異・特別措置の追加。

市場アクセスを強化する為には、3つの要素が考えられる。まず、モノの貿易（GSP）。製品リストは先進国の必要と希望に沿って策定されているため、発展途上国の必要と利益を考えるよう改善するべきである。途上国にとって特に重要な製品（特に、繊維と農業）に対する貿易障害の緩和に取り組むべきである。

次に、サービスの貿易は、発展途上国のサービス分野の市場機会の拡大を図るべきである。WTO の主な手段には、GATS（サービスの貿易に対する一般協定）がある。途上国による輸出機会の認識（企業コンサルティング・レジャー / 文化 / スポーツなど）や、途上国従業員と企業の外資サービス産業との協力による、技術力と専門性の恩恵受託。また、途上国出身者による、デリバリー・サービス促進の再考などがある

最後の要素として、投資がある。投資に対する WTO 協定の見通しは明るくないが、将来は必要とされるに違いない。グローバルな投資ルールの基準化は、大きなメリットとなる（例：必要な投資を促し、投資乱用を減らす）。

本論文は、発展途上国が将来 WTO に統合される為に、新たな行動指針を提案した。まず、輸出面では、先進国による輸出が、開発に負の影響を与えないようにしなければならないだろう。輸入面では、先進国に途上国によって生産された商品に対する、より一層の市場アクセスを確保しなければならない。又、先進国製品に対する補助金を取り除き、GATT 第 18 条の見直し・再測定を行うこと。さらには、途上国製品に対する更なる市場アクセスの確保は、特に重要であると言える。これら複合的・多様なアプローチが必要である。