CHAPTER 3

TOWARDS A HUMAN DEVELOPMENT–ORIENTED GLOBAL TRADE REGIME

The rules and procedures of the multilateral trade regime determine how countries benefit from it. This chapter examines the regime's governance principles and suggests approaches that give higher priority to human development.

THE MULTILATERAL TRADE REGIME AND ITS IMPLICATIONS FOR HUMAN DEVELOPMENT

The breadth and depth of issues discussed by the World Trade Organization (WTO) have increased, leading to complex negotiations involving multiple trade-offs and objectives. This complexity reflects the diverse economic conditions of member nations. It also highlights the problems of a regime that requires similar binding commitments from all its members.

A basic tension exists between setting universal rules for international trade and giving member nations space to design policies suited to their economic situations. The current trade regime takes a one-size-fits-all approach—one that invariably reflects the needs and demands of powerful industrial countries. This approach would work if all WTO members had similar needs from the system. But wide disparities make it difficult for some members to comply with many WTO agreements. As a result many developing countries are dissatisfied with the current system because the promised gains from trade have not materialized.

Analysis of this dissatisfaction must consider the separate roles of domestic policy-making and the international trade regime. Domestic policy-making determines how effectively countries use trade to support long-term development, while the international regime determines the opportunities available to countries to gain from trade. The international regime cannot and should not be blamed for government failures to design appropriate policies. But it can and should be held accountable for restricting government choices and opportunities—or for channelling them in inappropriate directions. While the need for a fair, rules based multilateral trade regime is indisputable, a central question is, does the regime enable developing countries to design policies that promote human development?

Part 2 of this book examines various trade agreements and issues, asking whether they restrict countries' policy space and whether they provide opportunities to further human development through trade. Two kinds of issues and agreements are discussed. The first are 'old' issues that were disciplined by the General Agreement on Tariffs and Trade (GATT) or subjects of extensive multilateral discussions during the GATT period. Most if not all of the discussions about these issues—including agriculture, commodities, textiles, anti-dumping, industrial tariffs, standards and subsidies—involved the volume and nature of cross-border trade.

The second group of 'new' issues are those on which there was little if any discussion before the Uruguay Round. These issues now either have agreements governed by the WTO or are being discussed in its working groups. Most have a much more direct impact on domestic policies than do the issues disciplined or discussed in the GATT period. The new issues include agreements on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Trade-Related Investment Measures (TRIMs) and General Agreement on Trade in Services (GATS), new areas of negotiation (such as the environment) and new discussion areas (investment, competition policy, transparency in government procurement, trade facilitation).

GATT principles and features

The main purpose of the GATT was to ensure stable, non-discriminatory trade through the unconditional most-favoured-nation principle, the national treatment principle, reduced tariffs and the prohibition of quantitative restrictions on trade in goods (see box 2.2 in chapter 2). These principles were covered by the GATT's first three articles. Its remaining articles and the subsequent Tokyo Round codes, issued in 1979, were aimed at ensuring the integrity of these principles, providing for exceptions where necessary. In addition, contracting parties were encouraged to participate in multilateral negotiations to reduce tariffs and other trade barriers.

Acceptance of multilateral rules reduced uncertainty and transaction costs in the flow of goods and services. It also reduced the transaction costs of negotiating such rules since the cost of negotiating a multilateral agreement for a country was less than the cost of negotiating similar agreements with each trading partner. This meant that there were economies of scale in negotiations. And as more countries traded under the regime, being outside it became more costly. By specifying the rules of the game, the GATT precluded arbitrary changes and made trade more predictable and less volatile. But with the Tokyo Round, the GATT departed from uniform adherence to rules: that round's codes were accepted only by countries that chose to do so. This shift resulted in different obligations for different countries, fragmenting the GATT.

The GATT's guiding philosophy was reciprocity and mutual benefit, with a bias towards free trade. The unconditional most-favoured-nation principle ensured that, in a legal sense, all countries would benefit from the concessions granted by other countries. But there was no assurance that all countries' trade would increase.

The regime assumed that all countries were equally able to benefit from reciprocal concessions and to harness trade to advance human development. But because of highly unequal levels of development and capacity among members, the reciprocity principle was relaxed for developing countries. Developing countries were also exempted from many GATT obligations and binding commitments. As a result they were not considered full members of the regime: they simply benefited from the concessions that industrial countries granted each other.

In 1982 industrial countries called for a new round of multilateral trade negotiations, partly to enable their transnational corporations to expand operations at the global level. The corporations felt that trade expansion required the same trade obligations for all countries, better access to investment and communications opportunities for them and stronger protection of their technological advantages.

The GATT was essentially a club. Trade negotiations were conducted by small groups of officials—mainly from trade ministries, supplemented when required by delegations from finance, agriculture, foreign and other ministries. In addition, negotiations were closely observed by private enterprises with vested interest in the concessions exchanged. The Uruguay Round occurred in this secretive atmosphere and involved little public debate, particularly in developing countries. Only when the draft agreements were circulated did their wide-ranging implications become apparent. With few exceptions, there were no real opportunities for the agreements' human development implications to be examined or debated, even in industrial countries.

WTO agreements and domestic policy space

Several WTO agreements affect trade indirectly by changing specifications for domestic demand and supply. These include agreements on domestic subsidies, trade in services, trade-related investment measures and trade-related intellectual property rights. These agreements were reached through mutual bargaining, not through analyses of their implications for different population groups in different countries. The single undertaking provision—a result of the Uruguay Round—requires that WTO members accept all these agreements in addition to commitments to tariff cuts (see chapter 2, especially box 2.1).

Developing countries agreed to the single undertaking—and avoided the creation of a two-tier system—so that they could be considered equal shareholders in the international trade system. Under the single undertaking agreements were accepted on the promise of overall net projected benefits—not net projected benefits from individual agreements. In an analysis of the Uruguay Round (Ostry, 2000, p. 4) refers to this as the 'grand bargain', that is, the inclusion of agriculture and textiles which developing countries wanted and TRIPS and services which industrial countries wanted. The single undertaking clause has forced developing countries to commit to domestic policies with human development implications that have not been estimated, let alone analysed.

An internationally negotiated agreement cannot serve all the objectives of its member countries. It is by definition a compromise, brokered over long negotiations. Thus it is crucial that such agreements at the very least be benign, enabling countries to design policies that improve human development outcomes.

By intruding into the domestic domain of countries, the WTO has reduced government autonomy in policy-making. Although better market access can sometimes create opportunities for economic growth and improved welfare, it is not sufficient for human development. In fact, this mercantilist mindset often runs counter to human development outcomes, either by compelling developing countries to adopt policies with real opportunity costs or by raising the cost of more appropriate policies (Malhotra, 2002). Certain institutional and economic prerequisites are needed to translate better market access into improved human development outcomes. Yet several WTO agreements limit governments' ability to provide these prerequisites.

Four basic principles for trade

Is it possible to preserve developing countries' autonomy in pursuing human development goals while respecting industrial countries' desire to maintain high labour, social and environmental standards? Could such arrangements avoid resulting in a world trade regime riddled with protectionism, bilateralism and regional trade blocs? And would such arrangements be development-friendly? The answer to all these questions is yes—if four basic principles are accepted and put into practice.[1]

Trade is a means to an end—not an end in itself. The first step is to stop attaching normative significance to trade itself. The scope of market access and the volume of trade generated by the international trade regime are poor measures of how well it functions. As the preamble to the WTO agreement emphasizes, trade is useful only to the extent that it serves broader social and development goals. Developing countries should not be concerned with increasing their access to foreign markets at the cost of jeopardizing or overlooking more fundamental development challenges at home. And industrial countries should balance the interests of their exporters and transnational corporations with those of their workers and consumers.

Advocates of globalization constantly harp on the policy and institutional changes that countries must make to expand international trade and become more attractive to foreign investors. But this is another instance of confusing means with ends. At best, trade is a tool for achieving societal goals: prosperity, stability, freedom, better quality of life. WTO opponents suspect—and are enraged by the possibility—that when push comes to shove, the WTO allows trade to trump the environment or human rights. Moreover, developing countries are right to resist a system that evaluates their needs from the perspective of expanding world trade rather than reducing poverty and advancing human development. Reversing these priorities would have a simple but powerful implication. Instead of asking what kind of multilateral trading system maximizes foreign trade and investment opportunities, analysts would ask what kind of multilateral system best enables all countries to pursue their own values and development objectives.

Trade rules must allow for diverse national institutions and standards. As chapter 1 emphasizes, there is no single recipe for economic growth. Although market incentives, clear property rights, competition and macroeconomic stability are universal requirements, these can and have been embodied in diverse institutional forms. The investment strategies needed to jump-start economies can also take different forms.

Moreover, citizens of different countries have different preferences for the role of government regulation or provision of social welfare, however imperfectly these preferences are articulated or determined. People differ over the nature and extent of regulation on new technologies (such as genetically modified organisms) or environmental protection, on policies to protect property rights or extend social safety nets and, more broadly, on the entire relationship between efficiency and equity.

Rich and poor nations also have different needs for environmental standards and patent protection. Poor countries need space to follow development policies that rich countries no longer require. When countries use the trade system to impose their institutional preferences on others, it erodes the system's legitimacy and efficacy. Trade rules should seek peaceful co-existence among national practices, not harmonization.

Countries have the right to protect their institutions and development priorities. Opponents of today's trade regime argue that trade leads to a race to the bottom, with nations converging towards the lowest levels of environmental, labour and consumer protection. Advocates counter that there is little evidence that trade erodes national standards. Developing nations complain that trade laws are too intrusive and leave little room for development-friendly policies. WTO advocates reply that its rules provide useful discipline to rein in harmful policies that would otherwise end up wasting resources and hampering development.

One way to cut through this impasse is to accept that countries can uphold national standards and policies in these areas by withholding market access or suspending WTO obligations if trade undermines domestic practices that have broad popular support. For example, poor nations might be allowed to subsidize industrial activities (and indirectly, their exports) if this is part of a broadly supported development strategy aimed at stimulating technological capabilities. In some cases advanced countries may seek temporary protection against imports from developing countries.

The WTO already has a safeguard system in place to protect firms from import surges. Extending this principle to protect development priorities—with appropriate procedural restraints against abuse—might make the world trade system more development-friendly and resilient. Allowing opt-outs in this manner would not be without risks. The possibility must be considered that the new procedures would be abused for protectionist ends and open the door to unilateral action on a broad front, despite the high threshold envisaged here.

But as argued, current arrangements also have risks. Absent creative thinking and novel institutional designs, narrowing the room for institutional divergence harms development prospects. It may also lead to new 'grey area' measures entirely outside multilateral discipline. These consequences are far worse than an expanded safeguard regime.

But countries do not have the right to impose their institutional preferences on others. The use of opt-outs to uphold a country's priorities must be sharply distinguished from their use to impose those priorities on other countries. Trade rules should not force Americans to eat shrimp caught in ways that most Americans find unacceptable—but neither should they allow the United States to use trade sanctions to change how foreign nations engage in fishing. Citizens of rich countries who are genuinely concerned about the state of the environment or of workers in developing countries can be more effective through channels other than trade—such as diplomacy or foreign aid. Trade sanctions to promote a country's preferences are rarely effective and have no moral legitimacy in most cases.

A trade regime friendly to human development is possible

A human development–oriented trade regime would give governments space to design appropriate policies and preferably help developing countries build their capacity to gain from trade. To achieve those goals, the trade regime should:

- *Conduct a human development assessment.* A human development assessment should be conducted to analyze the current and future implications for human development of each WTO agreement in various countries, estimate the costs of implementing current and proposed agreements for all WTO members and present the implications of these agreements under different scenarios of increased technical assistance, phased implementation and greater market access. This assessment should be conducted by a credible, independent research programme established with the approval of all WTO members. While not binding, the assessment's results should inform future negotiations and ensure that trade agreements are friendlier to human development.
- *Support diverse development strategies.* The trade regime is a means of serving the national goals of its members and is useful only as long as they see value in being part of it. Thus the regime should not systematically benefit or harm any one set of countries or interests. This outcome is possible only if the trade regime facilitates the different development agendas of different countries—giving countries maximum

space to design appropriate development policies. The regime should focus on facilitating trade within this larger development context, and should not try to unify national policies.

- *Increase market access for developing countries.* The multilateral trade regime was established to facilitate a greater flow of goods and services between countries in a predictable, fair, rules-based manner. If developing countries are to realize gains from trade, they must be given access to the markets of industrial countries.
- *Allow for asymmetric rules.* A one-size-fits-all approach to trade does not work. Applying identical rules to unequal members locks weaker countries into unsatisfactory trade relationships and fails to address their development challenges. If the trade regime is to foster rather than restrict development, its rules should reflect its members' varying economic conditions. For example, reciprocity and non-discrimination principles should be linked to countries' economic capacity. One possible way of doing this would be to apply these principles within groups of countries at similar levels of human development—to build into the regime a necessary asymmetry between different groups of developing and industrial countries. This approach would allow developing countries to make fewer commitments and to enjoy greater latitude in policy-making, while requiring industrial countries to open their markets to developing country imports.
- *Reconcile asymmetric rules with market access requirements.* Developing countries require increased market access to reach a level of development where they can compete on an equal footing. But market access is not enough. With falling commodity prices and their specialization in products with low value added, developing countries gain much less from trade than do industrial countries. And, again unlike industrial countries, developing countries lack mechanisms to compensate domestic actors hurt by increased openness (Mendoza, 2003). WTO rules should reflect this difference in capacity by allowing developing countries more flexibility in compliance.
- *Ensure its sustainability.* An asymmetric trade regime will benefit all its members if the short-term costs in industrial countries—through lost markets and increased competition from imports—are less than the general short- and long-term gains in efficiency and welfare. In the short term, industrial country consumers will benefit from cheaper, more varied imports and possibly from more efficient resource allocation. In the long term, faster growth in developing countries will raise people's purchasing power, increasing their demand for imports—especially for products with high value added—and leading to quality competition and potentially greater gains from trade. Moreover, many of trade's short- and long-term costs in both industrial and developing countries can be mitigated with well-designed economic policies (UNCTAD, 2002, p. xi). By balancing the costs and benefits and providing policy options that reflect the inequalities and different stages of development of its members, the multilateral trade regime can provide enough incentives for all countries to join and enjoy its benefits.

From a market exchange to a human development perspective

Economists view the WTO as an institution designed to expand free trade and so enhance consumer welfare—in developing as much as industrial countries. In reality, the WTO enables countries to negotiate over market access. Free trade is not the typical outcome of this process, and consumer welfare (much less development) is not the main focus of the negotiators. Instead, most multilateral trade negotiations have been shaped by battles between exporters and transnational corporations in industrial countries (which have had the upper hand) and competing interests in both developing and industrial countries (usually, but not solely, labour). The main textbook beneficiaries of free trade—consumers—are not in the picture.[2]

The WTO is best understood in this context, as a political process involving intense lobbying by US or European exporter groups or compromises between such groups and other domestic groups. The differential treatment of manufacturing and agriculture (or of textiles, clothing and other goods within manufacturing), the anti-dumping regime and the intellectual property rights regime, to pick some of the major anomalies, are all results of this process. Understanding this is essential because it underscores the fact that very little in the structure of multilateral trade negotiations ensures that their outcomes are consistent with human development goals.

There are at least three sources of divergence between what human development requires and what the WTO does. First, even if free trade were optimal for development in a broad sense, the WTO does not pursue free trade. Second, even if it did, there is no guarantee that free trade is the best trade policy for countries at low levels of development. Third, compliance with WTO rules, even when they are not harmful in themselves, crowds outs a more complete development agenda—at both the national and international levels.

Shifting from a market access to a human development perspective means that the trade regime should stop being evaluated in terms of whether it maximizes trade in goods and services. Instead the question should be whether trade arrangements—current and proposed—maximize possibilities for human development at the national level. Making this shift requires that developing countries articulate their needs not primarily in terms of market access, but in terms of the policy autonomy that will allow them to implement institutional innovations.

The WTO should not be conceived as an institution devoted to harmonizing and reducing institutional differences between countries, but as one that manages the interaction between different national systems. The current design and implementation of WTO agreements is far from satisfactory in providing this policy autonomy.

Notes

1. This section draws on Rodrik (2001).
2. This section draws on Rodrik (2001).

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