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The Proposed New Issues in the WTO and the Interests of Developing Countries

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1 THE PRESSURE FOR AND DANGER OF NEW ISSUES

The Uruguay Round of trade negotiations has already introduced new issues into the ambit of the multilateral trading system, vastly expanding its scope. In recent years, the developed countries have intensified pressures to incorporate still more issues which are to their advantage into the World Trade Organisation (WTO) system. This is being resisted by many developing countries, on the grounds that: (i) they are not ready for negotiations on more new issues as they are already unable to grapple with the problems generated by the Uruguay Round; (ii) the proposed issues are not in their interests but instead can seriously harm their economies should they become the subject of new WTO rules; and (iii) the issues are not directly related to trade and do not belong in the WTO.

There is a long list of "new issues" being put forward by the developed countries to link trade (and the possible use of trade measures and sanctions as enforcement mechanisms) to several economic and non-economic areas. Three working groups have been created to examine trade and investment, trade and competition policy, and government procurement. Trade and environment is already being discussed under the WTO's Committee on Trade and Environment. There have been strong attempts by many Northern governments to link trade with labour standards in the WTO. It is possible that a wide range of other issues, such as human rights, tax systems and cultural behaviour, will also be sought to be linked to trade measures in the WTO in future.

The linking of issues to the possibility of imposing sanctions — using the device of attaching the prefix "trade-related" to the chosen topics — was successfully achieved in the Uruguay Round as intellectual property rights (through a trade-related intellectual property rights agreement)

and investment issues (through a trade-related investment measures agreement) were injected into the GATT/WTO system. The justification put forward for introducing these issues was that they were "related to trade." In fact, the real objective was to link the chosen issues to the threat of "trade retaliation and penalties" for non-compliance with disciplines thereon.

The device of bringing in new topics by alleging that they are trade-related continues to be used in WTO negotiations. In fact, however, the pretence of being directly trade-related is no longer even necessary and may be seen to unduly restrict the scope of the issues being introduced. The prefix "trade-related" has often now been dropped in proposals for these new issues, which are now sought to be brought into the trade arena through simply using the word "and", as in "trade and environment", "trade and labour standards", "trade and investment" and "trade and competition policy."

The device of linking trade with other issues (when the intention is really to link the dispute settlement system of the WTO, including its provisions for trade retaliation, to new policy areas) is being increasingly used for the purpose of further opening up Third World economies or to reduce their competitiveness in the scramble for world market shares. The WTO could also be used as an instrument to shift a great portion of the burden of future global economic adjustment (for instance, because of environmental imperatives) to the South, which presently is in a weaker negotiating position in the WTO forum.

2 THE PROPOSED NEW ISSUES AND DANGERS FOR THE SOUTH

The European Union, backed by Japan, Canada and other developed nations, was at the forefront of attempts to launch a comprehensive new round of trade negotiations at the 1999 WTO Ministerial Conference in Seattle. They hoped that in such a round, several issues would be made the subject of negotiations for new multilateral agreements that will be legally binding on WTO members.

Although the US originally seemed cool to the idea of a comprehensive new round (preferring to push issues it liked on a sector-by-sector basis), it may eventually agree to go along with the proposals for initiating negotiations on the proposed new issues. For example, it has been among the strongest advocates for the issues of labour and government procurement.

Several developing countries spoke up strongly against such a new round with new issues thrown in. They believe that instead of taking up the new issues, the WTO should allow developing countries (which, after all, form the majority of the WTO membership) the time and space to tackle the problems of implementation of the existing agreements. Despite such opposition by these countries, however, it is unclear whether a sizeable number of them will be able to withstand the intense pressures for the new issues that will continue to build in future.

The main category of new issues being proposed comprises the areas of international investment rules, competition policy and government procurement. These three issues were put on the agenda of the first WTO Ministerial Conference in Singapore in 1996. Most developing countries were against having any negotiations for agreements on these issues, but

the pressure from the developed countries was so strong that they compromised and agreed to take part in "working groups" to discuss the issues.

The developing countries made it clear that the working groups had the mandate only to discuss the topics in a more or less academic way, in what was called an "educative process". The working groups had no mandate to start negotiations for agreements.

The three working groups have now gone through several years of discussion. In the process before and at the Seattle Ministerial, many developed countries made it clear they intended to "upgrade" the talks at the working groups into negotiations for agreements. However, the Seattle Conference ended without a declaration, and the three issues (investment, competition, government procurement) have not become the subject of negotiations for new agreements. Instead, the three working groups have resumed their discussions. Although these discussions are being considered at a low level of intensity at present, it can be expected that there will again be intensification of pressures to upgrade the working groups into negotiating groups, especially in the buildup to the next Ministerial Conference in Doha in November 2001, when the idea of launching a new round will again be highlighted.

Many countries are also proposing that "industrial tariffs" (the reduction of import duties on manufactured products) be another new issue for negotiations. Although there have of course been several previous negotiating rounds on tariff-cutting in this sector, the issue is nevertheless considered "new" in that fresh negotiations on the industrial sector are not mandated in the WTO agreements. Thus, a decision to negotiate on this issue would mean a fresh commitment on the part of members.

Some of the developed countries are also proposing that "trade and environment" and "labour standards" be part of a proposed new round. The governments of these countries want to placate environmental

groups and labour unions which have been protesting the negative effects of free trade. If environmental and labour standards are also thrown into the pot that is to be a new round, the influential civic groups may then be won over, or at least they may not campaign so hard against the proposed round. Or so the establishment thinking goes.

3 THE IMPLICATIONS FOR DEVELOPING COUNTRIES OF THE NEW ISSUES

Investment

On the investment issue, the developed countries are pushing to introduce new rules that give new rights to foreign investors, making it easier for them to enter countries and to operate freely. Pressures would be mounted on WTO member states to liberalise investment flows and to grant "national treatment" to foreign investors and firms (i.e., treatment no less favourable than that accorded to domestic investors and firms). Governments would lose a large part of their present rights to regulate the operations of foreign investors. Restrictions on the free flow of capital into and out of a country could be prohibited or constrained. Moreover, the "performance requirements" that host governments now place on foreign companies (in such areas as technology transfer and the use of local professionals) would come under pressure. There is even talk of prohibiting or disciplining the use of investment incentives to attract foreign investments.

The recent proposal by the European Union on investment negotiations in the WTO is a watered-down version of the discredited Multilateral Agreement on Investment (MAI) that the developed countries had negotiated (but failed to conclude) in the Organisation for Economic Cooperation and Development (OECD). The original OECD-MAI model had defined foreign investment to include both short-term flows and foreign direct investment, and given rights to foreign investors to enter any country (i.e., "pre-establishment rights"), own 100 percent equity and be automatically given national treatment. Due mainly to public protests, the MAI negotiations collapsed, and the EU has taken the lead in getting negotiations for an investment agreement started at the WTO.

Implicitly acknowledging that an MAI replica would not be politically acceptable to many developing countries nor to civil society worldwide, the EU has put forward a diluted version, in which countries could still have options on the degree of liberalisation and national treatment to offer in a "positive list" on a sector-by-sector basis, and which only covers foreign direct investment. However, this can be seen as a tactical move to make the proposal more acceptable. Once such a watered-down version enters the WTO, pressures will then pile up to get the developing countries to liberalise more and more, and to offer national treatment.

The entrance in principle of investment policy per se in the WTO would tremendously expand the mandate and powers of the WTO, and pose a serious threat to developing countries. Investment liberalisation in the South will become an objective that is intensely pursued by the developed countries, just as trade liberalisation has been so ruthlessly pursued. Developing countries would find it increasingly difficult to defend the viability of (or to give preferences to) local investors, firms or farmers, which are all much smaller than the transnational companies and will thus be unable to withstand the latter's onslaught. They would face the threat of having their local products wiped out by competition from the bigger foreign firms, or of local firms being taken over by the latter.

Competition

On competition policy, the EU is advocating a new agreement that would look unfavourably on domestic laws or practices in developing countries that favour local firms, on the ground that this is against free competition. The EU argues that what it considers to be the core principles of the WTO (national treatment and non-discrimination) should be applied through WTO rules on competition policy.

Through an agreement on competition in the WTO, it would be compulsory for developing countries to establish domestic competition policies

and laws of a certain type. Distinctions that favour local firms and investors would be called into question. For example, if there are policies that give importing or distribution rights (or more favourable rights) to local firms (including government agencies or enterprises), or if there are practices among local firms that give them superior marketing channels, these are likely to be called into question and disciplines may be imposed on them.

The developed countries are arguing that policies or practices that give an advantage to local firms create a barrier to foreign products or firms, which should be allowed to compete on equal terms as locals, in the name of free competition. Such pro-local practices and policies are to be targeted for phaseout or elimination in negotiations for a competition agreement.

Developing countries may argue that only if local firms and agencies are given certain advantages can they remain viable. If these smaller enterprises are treated on par with the huge foreign conglomerates, most of them would not be able to survive. Perhaps some would remain because over the years (or generations) they have built up distribution systems based on their intimate knowledge of the local scene that give them an edge over the better-endowed foreign firms. But the operation of such local distribution channels could also come under attack from a competition policy in the WTO, as the developed countries are likely to pressure the local firms to also open their marketing channels to their foreign competitors.

At present, many developing countries would argue that giving favourable treatment to locals is in fact pro-competitive, in that the smaller local firms are given some advantages to withstand the might of foreign giants, which otherwise would monopolise the local market. Providing the giant international firms equal rights would overwhelm the local enterprises which are small- and medium-sized in global terms.

However, such arguments will not be accepted by the developed countries, which will insist that their giant firms be provided a "level playing field" to compete "equally" with the smaller local firms. They would like their interpretation of "competition" (which, ironically, would likely lead to foreign monopolisation of developing-country markets) to be enshrined in WTO law and operationalised through a new round.

In the discussions at the WTO's Competition Working Group, developing countries have raised issues which are more relevant to them, including the restrictive practices of transnational companies, and the abuse of anti-dumping measures by the US and other developed countries (that is anti-competitive in that it prevents access to their markets for the competitive exports of developing countries). However, such extremely relevant and legitimate concerns under the topic of "competition" have not been welcomed, especially by the US. Given the relatively weaker negotiating position of the South, it is more likely that the interpretation of developed countries could prevail should there be a decision to begin negotiations for a competition agreement in the WTO. Another instrument would then be available to the developed countries to pry open the markets of the developing countries.

Government Procurement

On government procurement, the developed countries want to introduce a process in the WTO whereby their companies are able to obtain a large share of the lucrative business of providing supplies to and winning contracts for projects of the public sector in the developing countries.

At present, such government expenditure is outside the scope of the WTO unless a member country voluntarily joins the "plurilateral" agreement on government procurement. This means that governments are now able to set their own rules on procurement and project awards, and

most developing countries give preferences to locals in such awards.

The aim of the rich countries is to bring the government spending policies, decisions and procedures of all member countries under the umbrella of the WTO, where the principle of national treatment (foreigners to be treated on par with or better than locals) will apply.

Under this principle, governments, in their procurement and contracts for projects (and probably also for privatisation deals), would no longer be able to give preferences or advantages to citizens or local firms. The bids for supplies, contracts and projects would have to be opened up to foreigners, who would be given the same (or better) chances as locals are. It is even proposed that foreign firms that are unhappy with the government's decisions can bring the matter to court in the WTO.

Since government procurement expenditure in some countries is bigger in value than imports, such an agreement to bring procurement under the WTO rules would tremendously enlarge the scope of the WTO and its rules.

As most developing countries would object to having their public-sector spending policies changed so drastically, the developed countries have a two-stage plan for this issue: firstly, to have an agreement that is limited to achieving greater "transparency" in government procurement; secondly, to have a broader agreement that would cover the aspects of liberalisation, market access for foreign firms and the national-treatment principle. Stage One would inject the procurement issue into the WTO multilateral system; Stage Two would seek to "fully integrate" government procurement into the WTO system. This strategy was revealed in the presentations and non-papers of the US and the EU during the preparations for the 1996 Singapore Ministerial.

In the preparations for the Seattle Conference, the US had tried to have an agreement on "transparency in government procurement" signed in

Seattle itself. With some other members, it put forward a draft of elements of a transparency agreement, in the form of an agreement. An analysis of that draft showed it contained several elements that went beyond "transparency."

After Seattle, the discussions are continuing to focus on issues such as scope and the role of the dispute settlement system. Many developing countries are adamant that a transparency agreement, if there is one, should not lead on towards liberalisation and national treatment. However, it can be expected that should there be a multilateral agreement on transparency in government procurement, there will be intense pressures in future to extend it to market-access and national-treatment issues, for example on the ground that these are "core principles" of the WTO. By agreeing to a transparency agreement, developing countries would be put on the road to a full-scale procurement agreement incorporating liberalisation and national treatment.

At stake is the right of governments to reserve some of their business for local firms. With the removal of that right, a very important instrument for assisting local firms towards meeting national development, macroeconomic and socio-economic objectives would be removed. However, despite such important issues at stake, there has been little in the way of analysis from a development point of view of the implications of the integration of government procurement into the WTO's multilateral system. Until the full implications are studied by each country, developing countries should be extremely cautious about agreeing even to a transparency agreement. After all, neither transparency nor, for that matter, government procurement is directly a trade issue although, like so many other subjects, they may of course have a relationship to trade.

Industrial Tariffs

Besides the three issues of investment, competition and government

procurement, another economic issue that was being pushed for inclusion in a new round is "industrial tariffs." This would entail another round of negotiations to further reduce duties on manufactured products. Since the tariffs in this sector are generally lower in the developed countries, a new round of tariff cuts would mainly entail new commitments by the developing countries.

Most developing countries have already significantly reduced their tariffs on industrial products in recent years. Many did this under the structural adjustment programmes directed by the International Monetary Fund (IMF) and the World Bank. An influential study by the UN Economic Commission for Africa on the effects of structural adjustment policies in 1991 warned that: "External trade liberalisation for underdeveloped economies can have some serious side effects. For one, it can lead to dumping of cheap products from outside such as clothes, shoes, creams, etc. This undermines the local industries that produce or those that would have started to produce these products as they cannot compete with similar but much cheaper products from abroad. So African infant industries fail to take-off under extensive trade liberalisation."

In recent years, many African and Latin American countries have suffered from "de-industrialisation", a process in which local industries and enterprises have been closed or taken over as they are made uncompetitive by rival imported products.

A further round of cuts in industrial tariffs, as proposed by the developed countries, would render the industrial sector and industrial enterprises of most developing countries even more unviable. The future of industrialisation, especially that based on the survival and development of local enterprises, is at stake in the South.

Therefore, there should not be another formal round of negotiations to further cut developing countries' tariffs. If anything, the next stage of

negotiations should only involve the reduction of "tariff peaks" (high tariffs) and "tariff escalation" (the practice of imposing no or low tariffs on raw materials but progressively higher tariffs on products that are processed or manufactured from the same raw materials) of the developed countries. The developed countries should commit themselves to reducing their tariff peaks and tariff escalation, and not use the promise of this as a carrot to draw in the developing countries to cut the latter's industrial tariffs in a new round.

4 OTHER ISSUES AT THE DOOR: ENVIRONMENT AND LABOUR

Social and Environment Issues Seeking an Entrance

Another set of "new issues" is knocking on the door to enter the WTO system. Unlike other "new issues", which are pushed by the Northern-based corporations, this set of issues is being advocated by social organisations (mainly of the North but also including some in the South) that are seeking ways to protect or promote their interests. The environment and labour are presently the key issues in this category of linkages. There may be attempts in future to introduce other issues, such as human rights, gender equity, etc. Indeed, if environment and labour were to enter the WTO system as subjects for agreements, it would be conceptually difficult to argue why other rights and other social and cultural issues should not also enter.

The objectives of the social organisations in linking their particular causes to trade measures are different from the aims of corporations, which seek linkages (in investment, procurement) to gain greater market access and market share or (in intellectual property rights) to protect their domination and hinder potential new rivals. The social organisations are looking for more effective ways to protect their interests and believe that the instruments of trade measures or trade sanctions can be very efficacious in this regard. They believe that their causes (to defend animal rights and life and conserve the environment, or to protect jobs and promote higher social standards) can be most effectively promoted if governments of countries that have "low environment and social standards" are faced with the potential threat of trade measures and sanctions on products that are produced under the low standards.

In this regard, the social organisations concerned are seeking methods similar to those employed by the corporations, in that they are pressuring their governments and negotiators to make use of a strong enforcement mechanism (unilateral trade measures, or the dispute settlement mechanism of the WTO backed up by the possibility of trade sanctions). Thus, trade measures have become methods of choice, and the WTO a vehicle of choice, for big corporations and some social organisations in promoting their interests.

Trade and Environment

That there are links between trade and environment cannot and should not be denied. Trade can contribute to environmentally harmful activities. Ecological damage, by making production unsustainable, can also have negative effects on long-term production and trade prospects. In some circumstances, trade (for example, trade in environmentally sound technology products) can assist in improving the environment.

What is of concern or relevance in looking at "linkages" is the advocacy of the use of trade measures and sanctions on environmental grounds. Some environment groups and animal rights groups believe that national governments should be given the right to unilaterally impose import bans on products on the grounds that the process of production thereof is, for example, destructive to animal life, and that WTO rules should be amended to enable these unilateral actions.

Some groups, and some developed-country members of the WTO, go further and have advocated a set of concepts linking trade measures in the WTO to the environment. These concepts are processes and production methods (PPMs), internalisation of environmental costs, and eco-dumping. The three concepts are inter-related. When discussed in the WTO context, the implication is that if a country has lower environmental standards in an industry or sector, the cost of that country's product is not

"internalised" and the prices are thus too low (being unfairly subsidised by the low standards), and that country is therefore said to be practising "eco-dumping." As a result, an importing country would have the right to impose trade penalties, such as levying countervailing duties, on the product in question.

This set of ideas poses complex questions relating to concepts, estimations and practical application, particularly as they relate to the international setting and to the WTO. Developing countries are likely to find themselves at a great disadvantage within the negotiating context of the WTO should the subject (which has already been discussed in the Committee on Trade and Environment) come up for negotiations.

One of the main issues involved here is whether all countries should be expected to adhere to the same standard or whether standards should be allowed to correspond to different levels of development. The application of a single standard would be inequitable as poorer countries that can ill afford high standards would have their products made uncompetitive. The global burden of adjustment to a more ecologically sound world would be skewed inequitably towards the developing countries.

This is counter to the principle of "common but differentiated responsibility" of the UN Conference on Environment and Development (UNCED) (or Earth Summit), in which it was agreed that the developed countries, which bear the greater share of blame for the ecological crisis and have more means to counter it, should correspondingly bear the greater responsibility for the global costs of adjustment.

Given the unequal bargaining strength of North and South in the WTO, the complex issues relating to PPMs, cost internalisation, trade-related environment measures, etc. should not be negotiated within the multilateral trade body. Instead, if these issues are at all discussed, the venue should be the United Nations (for example, in the framework of the Commission on Sustainable Development), in which the broader per-

spective of environment and development and of the UNCED can be brought to bear.

Unilateral trade measures taken by an importing country against a product on the grounds of its production method or process are also fraught with dangers of protectionism and the penalising of developing countries. However tempting the route of unilateral import bans may be for the environmental cause, it is an inappropriate route as it will lead to many consequences and could eventually even be counterproductive.

Policies and measures to resolve environmental problems (and there are many genuine such problems that have reached the crisis stage) should be negotiated in international environmental fora and agreements. These measures can include (and have included) trade measures.

The relationship between the WTO and its rules and the multilateral environment agreements (MEAs) is also the subject of debate in the WTO. On the one hand, there is the fear (of developing countries) that a system of blanket and automatic approval by the WTO of trade measures adopted by an MEA (for example, by an amendment to Article XX (the general-exception provisions of the WTO) to enable *ex-ante* approval of MEA measures) could lead to abuse and protectionism. A sticking point here is what constitutes a "multilateral environment agreement" as it may include not only truly international agreements convened by the UN which are open to all members and enjoy near-universal consensus, but also agreements drafted by a few countries which then invite others to join (and which would also enjoy exemption under the proposed amended WTO rules).

The fear of protectionist abuse explains the reluctance of developing countries to amend Article XX, which in their opinion is already flexible enough to enable exceptions to accommodate environmental objectives.

On the other hand, there is the genuine fear of environmental groups (and

also developing-country and some developed-country members of the WTO) that negotiations in new MEAs can be (and are being) undermined by the proposition of some countries that WTO rules prohibit trade measures for environmental purposes or that WTO "free-trade principles" must take precedence over environmental objectives. Such arguments were, for example, used by a few countries in the negotiations for an International Biosafety Protocol. Such arguments are false, as the WTO allows for trade measures agreed to in MEAs through the present Article XX (although not in the *ex-ante* manner proposed by some countries). The use of the WTO name by a few countries in the Biosafety Protocol negotiations to turn away proposals by the overwhelming majority of delegations to establish checks on the trade in genetically modified organisms and products (through a prior-informed-consent procedure) gave the impression that commercial interests were placed before global ecological and safety concerns, and understandably generated outrage among most delegations as well as environmental and social organisations. Negative actions like this which blatantly use the slogan of "free trade" to undermine vital health and environmental concerns are part of the reasons for the erosion of public confidence in "free trade" and the WTO system. Thus, governments should not wrongly make use of "free trade" or "WTO rules" to counter international agreements that deal with genuine environmental problems; otherwise, the credibility of the trading system itself will be eroded even further.

For many non-governmental organisations (NGOs) (especially those of the South) as well as developing-country WTO members, an important "trade and environment" issue is the effect of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in hindering access to environmentally sound technologies and products. There can be "synergy" between liberalisation, environmental and development objectives if the TRIPS Agreement is amended to enable exemptions for environmentally sound technology. Also, Article 27.3(b) of the Agreement paves the way for the patenting of life forms. Adverse effects include facilitation of the appropriation of traditional knowledge on the

use of biological resources by corporations which claim to meet the patent test; promotion of environmentally harmful technologies; and promotion of technologies that are against the interests of small farmers (such as the "terminator technology" or "suicide seeds", seeds engineered not to reproduce themselves so that farmers are prevented from saving seeds).

These are examples of some issues that can and should be taken up in trade and environment reviews of various WTO agreements.

In short, discussions within the WTO on the environmental effects of WTO rules can be beneficial, provided the environment is viewed within the context of sustainable development and the critical component of development is given adequate weightage.

The Committee on Trade and Environment should orientate its work to the more complex but appropriate concept and principles of sustainable development. But there should not be any move to initiate an "environment agreement" in the WTO that involves concepts such as PPMs and eco-dumping.

Trade and Labour Standards

The push for linking labour standards with trade measures in the WTO has come from labour unions in the North and international trade unions which also have affiliations in developing countries. Some trade unions in some developing countries are, however, opposed to including labour standards in the WTO. The issue of labour standards is also linked to the concept of a "social clause" (which is broader than labour standards and could include the rights of various groups in society) and supported by some political parties in developed countries.

There may be various strands in the objectives of the advocates. Many trade unions believe that transnational corporations (TNCs) are relocat-

ing from countries with higher labour standards to those with lower standards, and that this trend acts to depress labour standards by reducing the bargaining power of workers. They also believe that by linking the threat of trade sanctions to labour standards, there will be pressure to upgrade the level of standards in developing countries. They are careful to include only internationally recognised core labour standards and to exclude the issue of wage levels in the demands for linkage to trade and the WTO.

Other advocates believe that the linking of social issues (including, but not restricted to, labour standards) to the WTO and its sanctions system of enforcement is an effective way of countering the adverse social effects of free-trade, free-investment globalisation, by forcing corporations and governments to observe socially responsible policies.

Developing countries fear that the objectives of the Northern and international trade unions, and of developed-country governments that back the social-clause demand, are mainly protectionist in nature, i.e., to protect jobs in the North by reducing the low-cost incentive that attracts TNCs to developing countries. They argue that low labour costs in their countries are a function not of deliberate exploitation of workers but of the general low standard of living and the lower level of development, and that the low cost is a legitimate comparative advantage. They therefore have opposed the inclusion of labour standards in the WTO, and argued successfully (as in the 1996 Singapore Ministerial Declaration) that the issue belongs in the International Labour Organisation (ILO).

There is of course justification for public interest groups to be concerned about the social consequences of globalisation and liberalisation and to campaign to change the nature and effects of the present globalisation trends. However, the issue is whether labour standards and social clauses in trade agreements are the appropriate route or even an appropriate route.

There is merit in the argument that labour standards or the "social clause" should not be introduced in the WTO. This is because:

(i) Such an issue, when placed in the WTO context, would be linked to the dispute settlement system and the remedy of trade penalties and sanctions. In other venues, there is the option (which many would argue is more appropriate) of linking the improving of labour standards to positive incentives rather than punitive measures.

(ii) Even though most advocates only demand minimum labour standards such as the right of association for workers, there is no certainty that the issue will be so confined in the future. Once the concept of social issues and rights enters the WTO system, it can in future be expanded within the particular issue (e.g., an extension to cover the areas of social security and wage levels within the issue of labour standards) and extended to other issues (such as the rights of children, women and the disabled, human rights in general, the right to education, health, nutrition, etc.).

(iii) It is possible or even likely that once rights and social issues enter the WTO, the GATT concepts of dumping and subsidies, and the relief of countervailing duties, will be sought to be applied. Thus, countries with low social standards would be deemed to be practising "social dumping" (or unfairly subsidising their products by avoiding meeting social costs) and importing countries could be enabled to impose countervailing duties.

(iv) Developing countries are likely to bear the costs of loss of competitiveness. The low social conditions in the poorer countries are largely related to the low level of development and the lack of resources (although the wastage and mismanagement of resources also do contribute significantly). Lower social standards are thus linked to (though not entirely caused by) lower levels of develop-

ment. It is very possible that the operationalising of a linkage between social standards and trade measures in the WTO system would lead to additional pressures being placed on developing countries and that many of their products would become higher-cost and uncompetitive or face trade penalties or both.

(v) It is possible that the firms and products eventually affected will not be confined to those involved in trade and exports but also include the firms (most of them small and locally owned) that cater to the local market. By not being able to remain competitive, some of these firms may close down.

(vi) It is also possible that the erosion of competitiveness and the higher costs (perhaps beyond what would normally prevail in countries at that stage of development) would cause loss of jobs, closure of firms and farms and reduced investment, or the movement of some workers to more poorly paid jobs.

(vii) The inclusion of labour standards would open the door to a much wider range of issues relating to social standards, social rights and human rights. Many new "conditionalities" would be introduced not only on trade at the border but also on production, investment, etc. within the domestic economy. These issues will be so complex and complicated that they will tie the WTO system up in knots, and occupy the time and energy of diplomats and policy-makers, not to mention the NGOs and social organisations, in an enterprise that is fraught with controversies and dangers and that guarantees no clear benefits.

(viii) Finally, the efforts of NGOs and social organisations could be better directed instead towards the sources of the social problems within and outside the WTO. For example, to offset problems caused by the WTO, those concerned about human rights and the right of ordinary people to livelihoods and adequate incomes

could examine and campaign for changes to aspects of the existing agreements (such as the Agreements on Agriculture, TRIPS, Trade-Related Investment Measures (TRIMs), services) that affect farmers' rights and livelihoods, the viability of small farms, food security, the cost of patented medicines, etc. They could also try to prevent new agreements (on such issues as investment, procurement, industrial tariffs) that would affect the viability of local firms, the livelihood of workers and the people's right to development. And to counter problems whose sources lie beyond the WTO, there can be intensified campaigns for debt relief, reforms to the IMF and structural adjustment programmes, a pro-employment macroeconomic policy (rather than priority being given to restrictive monetary policy) and improved human rights, and against the exploitation of child labour and poor working conditions, etc. But linking social rights to a trade sanctions regime, though tempting at first sight, is likely to be counterproductive in terms of results.

5 CONCLUSION

Of course a justification can always be made that this or that issue is linked in some way to "trade." But this does not mean that it is justified to link the issue to the WTO system. For an issue to be linked to the WTO system in an integral way, it must be made to meet a strict test with clear criteria, and moreover there should be a framework that helps specify in which way the particular issue should be integrated in the WTO. Issues chosen should be for the benefit of members, especially the developing countries that form the majority, and should be treated in a manner that leads to equitable results.

At present there is no such framework determining whether and how "new issues" should enter the WTO system, nor is there a way to determine the likely benefits and costs of an issue's inclusion and their distribution among the WTO membership.

Yet there are very strong pressures emanating from the developed countries to add more and more items onto the WTO agenda. There is now a clear danger that this could lead to very negative consequences: (a) an overload of the WTO system, making it impossible for developing countries to cope with negotiations and implementation; (b) a distortion of the WTO system, where fairness in the process of trade operations is replaced by protectionism; (c) a failure of credibility as citizens in developing countries perceive the WTO as an instrument through which the developed countries impose unfair and inappropriate rules and policies that are disadvantageous to the developing countries. Moreover, it is also unlikely that the intended objectives of the proponents of social issues will be met.

In the light of the already onerous obligations undertaken by developing countries in the existing WTO agreements, the immense problems of implementation, and the possible serious economic and social dislocation that will result in many countries, it is most inappropriate that pressure is continuing and intensifying to place more new issues into the WTO system.

At present the WTO does not have a systematic way of enabling the assessment, introduction (or rejection) and appropriate incorporation of new issues. As a result, several new issues were absorbed during the transition from GATT to the WTO through the Uruguay Round. And many more new issues are in various stages of brewing, with advocates in governments (mainly of developed countries) and in social organisations pushing hard to gain entry for their favourite issues.

A system or procedure for assessing potential or proposed new issues should be established. The criterion therein should not only be whether an issue is "trade-related" because a case can always be made out that almost any issue is related in some way to trade. The criterion should also be whether the entry of a particular issue would add advantage and benefit to the members of the WTO (especially the majority, i.e., the developing countries, and to the majority of people in these countries) and to the WTO system, with the ultimate goal being equitable and sustainable development (rather than liberalisation, which is only a means). And given the fact that the WTO is mainly a negotiating body with the mandate and task of formulating and monitoring the implementation of agreements, new issues should not be allowed to easily enter the system, even for a "study process" in a working group.

Discussions on potential new issues should take place in appropriate fora outside the WTO, in a setting more conducive to perspectives broader than the more narrow framework of trade relations. In such discussions, the role of trade relations can be placed in the broader context of equitable

and sustainable development, and the specific role of the WTO (if any) can be demarcated. Until the discussion is sufficiently "brewed" or "matured" in the appropriate forum, the issue should not be brought into the WTO system — not for discussion in working groups and certainly not for negotiations for new agreements.

Unless the trend for putting more and more issues into the WTO basket is reversed, the trade system will become overloaded and over-bloated. It will not be able to carry out the tasks which it was originally intended to do, because it would have taken on other tasks it is ill suited to perform, and would be grappling with a host of new and complicated issues which will tie up its members, diplomats and policy-makers in knots too difficult to disentangle.

Members can decide to limit the WTO to the tasks it is supposed to do, and to review its rules and system to put it back on the right track, or they can decide to throw more issues and complications into the system, with unknown — probably dire — consequences.

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THE PROPOSED NEW ISSUES IN THE WTO AND THE INTERESTS OF DEVELOPING COUNTRIES

Proposals have been strongly put forward by developed countries for injecting new issues into the ambit of the World Trade Organisation (WTO). They advocate new WTO agreements on investment, competition and government procurement, as well as discussions on labour and environment standards. However, the introduction of these subjects in the WTO will divert attention from the need to review existing agreements that are giving rise to serious problems. Behind the developed-country proposals also lies an agenda to pry open Third World markets.

A procedure should thus be established under which a proposed new issue is assessed on whether its admission would benefit the developing countries and advance the goal of equitable and sustainable development. Otherwise, the multilateral trading system could be grappling with a host of new issues which complicate the workings of the WTO and bring with them potentially dire consequences for development.

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