# DISCUSSION PAPER SERIES

No. 4694

**DISMANTLING DISCRIMINATION AGAINST DEVELOPING COUNTRIES: ACCESS, RULES AND DIFFERENTIAL TREATMENT**

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***INTERNATIONAL TRADE***

Centre for Economic Policy Research

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**Available online at:** **www.cepr.org/pubs/dps/DP4694.asp**

*ISSN 0265-8003*

# DISMANTLING DISCRIMINATION AGAINST DEVELOPING COUNTRIES: ACCESS, RULES AND DIFFERENTIAL TREATMENT

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Discussion Paper No. 4694
October 2004

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CEPR Discussion Paper No. 4694

October 2004

## ABSTRACT

# Dismantling Discrimination Against Developing Countries: Access, Rules and Differential Treatment*

This Paper discusses the challenges confronting developing countries seeking to overcome discrimination in world trade rules and policies. The major sources of discrimination in both developed and developing countries in the areas of market access opportunities and WTO disciplines are briefly summarized. Some of these reflect good intentions towards developing countries, but are bad economics. Many others reflect self-interest or successful capture of policy by interest groups in either the North and/or the South. Moving forward requires less discrimination on market access, but more differentiation when it comes to 'non-core' or resource-intensive global rules.

JEL Classification: F13, F35 and O19
Keywords: economic development, trade negotiations, trade policy and wto

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*Presented at the conference 'Role of the WTO system in the World Economy,' Cornell Law School and Cordell Hull Institute, Paris, July 9-10, 2004. I am grateful to my discussant, Eduardo Pérez-Motta, and to Jagdish Bhagwati, Chad Bown, Hugh Corbet, Susan Prowse, Alan Winters and participants at the conference for helpful comments, suggestions and discussions. The views expressed are personal and should not be attributed to the World Bank.

Submitted 07 September 2004

## Introduction

The November 2001 "Doha Development Agenda" puts development concerns at the core of WTO deliberations. The challenge is to achieve an outcome that supports poverty reduction and economic growth. Any such outcome must involve a substantial decline in discrimination against developing countries in world trade. As discussed below, such discrimination, be it *de jure* or *de facto*, is a major feature of the current global trading system. On average, the poor continue to confront higher barriers to trade than those that are not poor, even if account is taken of the various preferential trade programs that rich countries have implemented.

Developing countries have historically played only a minor role in the multilateral trading system. Until the Uruguay Round (1986-93), their participation was à la carte, with many not making commitments. This changed with the entry into force of the WTO in 1995. Because of the so-called Single Undertaking, developing countries became subject to most of the disciplines of the many agreements contained in the WTO after transition periods expired. Some of these agreements, in particular TRIPS, were highly skewed towards benefiting rich countries (Finger, 2002). Others generated asymmetric implementation costs, as the rules that were written down reflected existing practices in OECD countries. As a result, it is not too much of an exaggeration to speak of an Uruguay Round "hangover" for many developing countries—and a great deal of skepticism regarding the benefits of WTO membership.

Many developing countries are now actively seeking to improve their 'terms of trade' in the WTO. They confront a three-fold challenge: inducing major trading partners—in the North and the South—to improve market access; ensuring that multilateral trade rules support economic development; and convincing domestic stakeholders there are net positive payoffs from further domestic trade reforms that are locked in via the WTO. All three of these challenges involve reducing discrimination. In what follows, Section 1 discusses discrimination in access to markets that is driven by differences in the structure of protection and the application of contingent instruments of protection such as antidumping. Section 2 turns to preferential trade arrangements, where discrimination is the explicit objective. Section 3 summarizes a recent attempt to quantify the extent of discrimination in trade policies by the World Bank (Kee, Nicita and

Olarreaga, 2004). Section 4 discusses discrimination in WTO rules, with an emphasis on special and differential treatment of developing countries. Section 5 concludes.

## 1. Market Access

Both developed and developing countries tend to discriminate against (subsets of) developing countries. While significant liberalization has occurred in both types of countries in the last 15 years or so, including a major reduction in the prevalence of non-tariff barriers (NTBs), traditional trade policies continue to imply significant anti-export biases in many developing regions (Tables 1 and 2), while tariff peaks and nontariff measures discriminate against many developing countries.

**Table 1. MFN tariffs by region, late 1980s and 2003** (simple averages)

| Region | Late 1980s | 2003 |
|---|---|---|
| East Asia/Pacific | 18.8 | 10.4 |
| Eastern Europe/Central Asia | 10.2 | 8.9 |
| Latin America/Caribbean | 22.4 | 12.0 |
| Middle East/North Africa | 17.3 | 14.8 |
| South Asia | 68.9 | 19.8 |
| Sub-Saharan Africa | 25.1 | 17.6 |
| OECD | 7.0 | 5.2 |
| All Developing Countries | 25.4 | 13.5 |
| Least Developed | 28.4 | 16.4 |
| Low Income | 31.7 | 15.8 |
| Middle Income | 21.8 | 12.7 |

Source: World Bank, *World Development Indicators*, various years; IMF tariff data.

Of interest from the perspective of this paper is whether the averages reported in Tables 1 and 2 imply higher protection against (other) developing countries. Given the structure of protection in most developing countries—which tends to imply lower tariffs against inputs and capital equipment, and higher barriers against agriculture and labor-intensive manufactures—there is implicit discrimination against other developing countries. Data compiled by the GTAP consortium suggest some 60 percent or more of all tariff receipts collected on developing country exports are imposed by other

developing countries.[1] The higher protection imposed on other developing countries is mostly for non-agricultural goods, and is concentrated mainly in Latin America and Sub-Saharan Africa. However, in the case of agriculture, on average developing countries impose lower rates of protection on other developing countries than on OECD members (the only exception is South Asia) (World Bank, 2003).

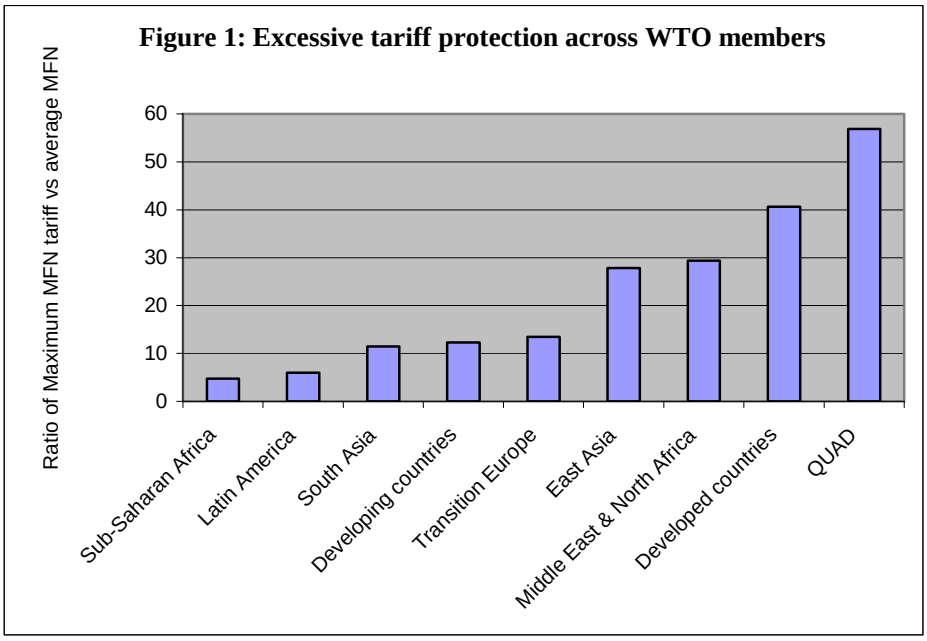
**Table 2.Core NTBs in developing countries, 1989-94 and 2000 (% of tariff lines)**

| Region | 1989–94 | 2000 |
|---|---|---|
| Latin America and the Caribbean (13, 17) | 18.3 | 15.3 |
| Eastern Europe, Central Asia (11) | N.A. | 3.4 |
| East Asia and the Pacific (7, 9) | 30.1 | 5.5 |
| Sub-Saharan Africa (12, 17) | 26.0 | 2.3 |
| Middle East and North Africa (4, 8) | 43.8 | 8.5 |
| South Asia (4, 3) | 57.0 | 13.3 |

Note: Numbers in parentheses indicate the number of countries for which data are available for 1989-94 and 2000, respectively.
Source: World Bank.

Most-favored-nation (MFN) tariff rates of developed countries are less than 5 percent on average. Much trade is now duty-free as a result of zero ratings, non-reciprocal preferences and reciprocal free trade agreements. However, tariff peaks—rates above 15 percent or three times the MFN average—are often concentrated in products that are of interest to developing countries. In 1999, in the US alone, imports originating in least-developed countries (LDCs) generated tariff revenue of $487 million, equal to 11.6% of the value of their exports to the US, and 15.7% of dutiable imports (Hoekman, Ng and Olarreaga, 2002).[2] As can be seen from Figure 1, a stylized fact about the structure of protection in the world today is that developing countries have less dispersed (more uniform) tariff structures. Although the average level of protection is substantially higher in developing countries, most high peaks are found in developed countries, especially the so-called Quad (Canada, EU, Japan and US).

[1] This is the case for East Asia, Latin America, the Middle East and Sub-Saharan Africa (World Bank, 2003).
[2] This calculation excludes Angola, 95% of whose exports are oil-related and not dutiable. The LDCs comprise 49 low-income countries, mostly in Africa.




*Source*: Hoekman and Olarreaga (2002).

Because average tariff barriers in developing countries are higher than in industrialized nations, much of the potential welfare gains from reducing trade barriers (discrimination against foreign goods and services) will arise from own liberalization. The large potential payoff from tariff liberalization provides a strong rationale for developing countries to engage in traditional GATT-type tariff negotiations—greater efficiency in home markets and cheaper access to imports will be complemented by better access to export markets. This argument applies to LDCs as well. As noted by Winters (1999), a useful mnemonic in this connection is WYDIWYG: what you do is what you get. When it comes to trade policy, the payoffs to negotiations and liberalization are primarily a function of domestic action—the extent to which own protection is reduced.[3] Although account must be taken of non-reciprocal trade preference programs—discussed below—the discrimination against developing countries reflected in the structure of protection in many countries, as well as the explicit discrimination that is created because of PTAs among developed countries, implies that

[3] Fiscal constraints may imply that low-income countries need to maintain tariffs above the average prevailing in more advanced economies for revenue collection purposes. In such cases, countries should consider greatly reducing the dispersion in duty rates by moving towards a uniform tariff (Tarr, 2002).

there will also be significant positive spillover effects from MFN-based tariff reforms. Three sectors matter greatly for developing countries: agriculture, textiles and clothing and services.[4]

*Agriculture*

Agriculture is critical for development, given that the majority of the population tends to be rural and thus dependent, directly or indirectly, on this sector. The fact that barriers to trade in agriculture are much higher than protection in general is a major source of discrimination against developing country farmers and those dependent on rural economies.[5] Despite the fact that the inclusion of agricultural policy disciplines in the Uruguay Round has justifiably been hailed as a major achievement, the commitments that were made—the ban on quantitative restrictions, the associated tariffication of border protection in this sector, the minimum market access commitments implemented through tariff rate quotas, the agreement to lower export subsidies and reduce the aggregate measure of support (AMS)—did not lower agricultural protection much. The effective level of protection has diminished little since the creation of the WTO, although the extent to which trade-distorting instruments are used—output-based subsidies and market price support—did decline (from 83 to 66 percent of the total (Tangermann, 2004).

Total net transfers from consumers and taxpayers to farmers in OECD countries equaled 37 percent of total farm revenue in 1986-88; in 2003, after implementation of all Uruguay commitments, they still amounted to 32 percent. The producer nominal protection coefficient (the ratio of prices received by producers to the border price) fell from 58 to 31 percent between 1986-88 and 2003 in the OECD, but the number of active farmers declined over this period as well. As a result, support per farmer has continued to rise in many OECD countries—by 31 percent in the U.S. and 60 percent in the EC (Anderson, 2003; Messerlin, 2002; Tangermann, 2004).

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[4] This paper will mostly ignore services, even though they are critical from a development perspective, and there is an issue of discrimination here also. However, little is known about the extent to which services policies discriminate against (or in favor) of developing countries. The major exception that can be pointed to is the treatment of foreign labor, where some countries maintain preferential access programs for subsets of countries. However, in this area discrimination is often equally applied to developed and developing countries.

[5] Of course, no generalizations are possible regarding the impacts of agricultural support policies—much depends at the household level on whether people are net consumers or producers, and on the relative size of income versus consumption impacts of policies.

Highly distorting agricultural support policies in many OECD countries have a major detrimental effect on developing countries, including LDCs. Indeed, 18 percent of LDC exports on average comprise goods that are subsidized in at least one WTO member, compared to 3-4 percent for other countries (Table 3). A similar observation holds for imports—nine percent of LDC imports involve products that are subsidized, compared to 3-4 percent for other countries. Numerous analyses have documented the detrimental effects of OECD policies on developing countries. For example, *sugar* is one of the most policy-distorted of all commodities, with OECD protection rates frequently above 200 percent (Mitchell, 2003). Producers in those countries receive more than double the world market price. OECD support to sugar producers of $6.4 billion per year roughly equals developing country exports. US subsidies to *cotton* growers totaled $3.9 billion in 2003. These subsidies depress world cotton prices by around 10 percent, cutting the income of poor farmers in West Africa, Central and South Asia, and poor countries around the world. In West Africa alone, where cotton is a critical cash crop for many small-scale and near-subsistence farmers, annual income losses for cotton growers are about $250 million a year (Baffes, 2003).

**Table 3: Trade Shares of Products Affected by Agricultural Subsidies**
(1995-98, percent)

| | **Domestic Support** | | **Export Subsidies** | |
|---|---|---|---|---|
| Country | Exports 1995-98 ave | Imports 1995-98 ave | Exports 1995-98 ave | Imports 1995-98 ave |
| **All countries (143)** | 3.6 | 3.7 | 4.4 | 4.4 |
| **Industrial Countries (23)** | 3.1 | 3.3 | 4.0 | 3.9 |
| **Developing Countries (90)** | 4.2 | 4.2 | 5.0 | 5.0 |
| **Least Dev. Countries (30)** | 17.8 | 8.9 | 16.7 | 13.1 |

*Source*: Hoekman, Ng and Olarreaga (2004). Number of countries in parentheses.

*Labor-intensive manufactures and contingent protection*

A major feature of the discrimination that is created by these policies is that different developing countries are affected quite differentially. Some producers benefit from preferential access for some products, at the expense of other developing countries (e.g., Mauritius vs. Brazil on sugar); and some consumers in net importing developing countries benefit from artificially low prices of some commodities. But, overall, the

distortions created by OECD agricultural policies have negative effects on developing countries and are a major source of discriminatory bias in the trading system today.[6]

A major source of discrimination against developing countries has been a complex system of quotas and export restraints for textiles and clothing. The 1995 WTO Agreement on Textiles and Clothing requires the abolition of all quantitative restrictions on textile trade by January 1, 2005, so this source of discrimination should disappear. However, tariff barriers to trade in this sector remain high, and competitive exporters confront the threat of contingent protection—safeguards and especially antidumping. Antidumping has become a frequently used instrument in both industrialized and developing countries. In terms of the simple ratio of number of actions taken to total imports, developing countries are now the most intensive users of antidumping (Table 4). The majority of cases target developing countries.

**Table 4: Top 20 Users of Antidumping: Initiations, 1995-2002**

| Country | No. of anti-dumping Initiations | Share of all Initiations (%) | Index of Initiations per US $ of total imports (US = 100) |
|---|---|---|---|
| United States | 279 | 14.1 | 100 |
| India | 273 | 13.8 | 2197 |
| European Community | 255 | 12.9 | 107 |
| Argentina | 176 | 8.9 | 2549 |
| South Africa | 157 | 7.9 | 2006 |
| Australia | 142 | 7.2 | 741 |
| Canada | 106 | 5.4 | 171 |
| Brazil | 98 | 5.0 | 580 |
| Mexico | 56 | 2.8 | 144 |
| Korea, Rep. of | 48 | 2.4 | 126 |
| Indonesia | 39 | 2.0 | 390 |
| Peru | 37 | 1.9 | 1619 |
| Turkey | 36 | 1.8 | 289 |
| New Zealand | 35 | 1.8 | 900 |
| Egypt | 33 | 1.7 | 773 |
| Venezuela | 30 | 1.5 | 736 |
| Israel | 27 | 1.4 | 308 |
| Colombia | 23 | 1.2 | 619 |
| Malaysia | 22 | 1.1 | 106 |
| Philippines | 15 | 0.8 | 167 |

*Source*: WTO Antidumping Committee; IMF International Financial Statistics (for trade data).

[6] That said, it is important to recognize that there is a lot of heterogeneity within the developing country group, both in terms of interests and impacts of global policy reforms. I return to the issue of possible

The existence of antidumping creates substantial uncertainty regarding the conditions of market access facing exporters. Investigations have a chilling effect on imports (they signal importers to diversify away from targeted suppliers). This has been of longstanding concern to East Asian countries in particular. China now confronts the highest incidence of investigations and the highest average level of duties in many countries. The case of the United States is depicted in Table 5,[7] but China is also the most often targeted country in EU antidumping, accounting for some 20 percent of all investigations in recent years, with average duties of 40 percent and in specific cases ranging to over 100 percent.[8]

**Table 5. Average tariffs in final US antidumping duty determinations (percent)**

| | Total | Developing Countries | | | Developed Countries | |
|---|---|---|---|---|---|---|
| | | Lower Income | Upper Income | China | Japan | Other |
| 1979–98 | 46 | 53 | 30 | 95 | 60 | 31 |
| 1989–98 only | 58 | 66 | 36 | 116 | 74 | 34 |

*Source*: Bown et al. (2004).

## 2. Trade Preferences and Discrimination

Preferential trade arrangements are another source of discrimination. There are two types of preferences that are of relevance to developing countries: non-reciprocal market access concessions by rich countries and reciprocal trade agreements. By their nature both discriminate against non-partner economies, which mostly will be developing, even though many of these schemes seek to discriminate in favor of a subset of beneficiary developing countries.

### *Non-reciprocal preferences*

Developing countries are often granted preferential access to rich country markets through the Generalized System of Preferences (GSP). This raises the question whether preferences offset the implicit or explicit discrimination against developing country trade. Given that developing countries generally do not give such preferences to poor(er)

negative repercussions for some countries as a result of MFN-based reforms below.

[7] Bown et al. (2004) note that the number of cases against developing countries is much higher than their share in U.S. imports. The average duty on developed countries (excluding Japan) was 31 percent, compared to 53 percent for developing countries. Similar conclusions hold for other major users of antidumping.

countries, preferences can only have significant effect on rich country discrimination. Much of the extensive economic literature on this subject concludes that preferences have done little good, and may do harm (Hoekman, Michalopoulos and Winters, 2004). Reasons for this include:

(i) Countries benefiting from preferential access are subject to rules of origin. These may be so strict (constraining) that countries are forced to pay the MFN tariff because they cannot satisfy the requirements. Research reveals that utilization rates are often much less than 100 percent for key product areas such as textiles and clothing (Brenton, 2003; Inama, 2002), although it tends to be high for commodities (Candau et al. 2004);

(ii) Often goods in which developing countries have a comparative advantage are the most 'sensitive' products that have the highest tariffs. Preferences for these products have often been limited;

(iii) Recipients may not produce the relevant goods—the low level of industrialization and diversification in many low-income countries has limited the impact of preferences (Stevens and Kennan, 2004).

(iv) Preferences are uncertain, subject to unilateral change or withdrawal, and to conditionality (satisfaction of labor rights, environmental requirements, etc.)—so that the notion of non-reciprocity is a bit of a misnomer;

(v) Preferences can give rise to serious trade diversion as the set of goods that beneficiary developing countries produce and trade will tend to overlap with other developing countries that are not beneficiaries.

(vi) Even in cases where preferences have value—that is, they apply to highly protected sectors in donor countries and thus generate rents—in practice these rents will not accrue completely to the recipient country. Instead, a share of the rents, perhaps large, will be captured by importers (distributors, retailers) (Olarreaga and Ozden, 2003; Tangermann, 2004).

(vii) There is evidence suggesting that preferences are associated with higher own tariffs, which in turn impedes trade performance (Ozden and Reinhart, 2003).

(viii) Fears of preference erosion may spur efforts to maintain preference margins, in the process impeding both multilateral liberalization efforts and own reforms by recipient countries.

(ix) Preferences are an inefficient mechanism to transfer resources to recipients—some research suggests every US dollar transferred may cost more than US$5 (World Bank, 2003).

Recent preference schemes for the poorest countries such as the EU Everything But Arms (EBA) initiative for LDCs, the US African Growth and Opportunity Act (AGOA) or the January 2003 duty/quota free access program for LDCs implemented by Canada provide more meaningful preferential access than traditional GSP type programs. For many

[8] Liu and Van den Bussche (2003).

products exported by the poorest countries, tariffs in high-income countries are now zero. Insofar as they are, they by definition imply greater discrimination against other, less preferred developing countries. While these initiatives remove some of the downsides noted above, rules of origin and supply constraints continue to be constraining factors. Recent research suggests that rules of origin generate costs on the order of 3 to 5 percent of the value of the goods.[9] At the same time the deeper preferences have also increased the prominence of preference erosion concerns as a result of multilateral, MFN-based trade reforms. As discussed below, for some countries possible preference erosion is a significant issue that requires policy action on the part of both donors and recipients.

While there is a case to be made in favor of complete duty- and quota-free access to major markets for the poorest countries, with liberal rules of origin that allow inputs to be imported from the most competitive sources of supply, such preferences are best seen as a transitional instrument (Hoekman, Michalopoulos and Winters, 2004).[10] In absolute terms, most of the poor do not live in the poorest countries, and preferences for some come at the cost of poor households in other developing countries. As discussed below, shifting to more efficient and effective instruments of development assistance would help remove these distortions.

***Reciprocal preferential trade agreements (PTAs)***

The growth of reciprocal preferential trade agreements has been significant in recent years. Virtually all countries, both developed and developing, are now members of one or more agreements. While motivations are multidimensional, a desire to obtain more secure access to major markets, or a fear of being left out while the rest of the world signs PTAs

[9] See Brenton (2003), Brenton and Manchin (2002), Cadot et al (2003), Anson *et al.* (2004) and Carrere and de Melo (2004). Brenton and Manchin (2002) found that only 35% of CEECs' exports enter the EU using the lowest tariff for which they would be eligible. Inama (2003) finds that almost two-thirds of imports by the Quad from GSP beneficiaries entered under a preference scheme, but that only two-fifths benefited from a preference. GSP utilization rates for preferences granted by Canada, the European Union, Japan, and the U.S. are 61, 31, 46, and 67, percent respectively (WTO, WT/COMTD/LDC/W/31), September 29, 2003). Brenton and Ikezuki [2004] conclude that the utilization of ACP preferences is quite high (over 80%) for most countries but that this measure is upward biased – it does not take into account that for many processed agricultural and manufactured products the rules of origin are prohibitive (i.e., the beneficiary LDCs cannot export without preferences and the rules of origin are strict enough to prevent the use of preferences).

[10] One rationale is that such preferences can help offset some of the competitive disadvantages firms in LDCs operate under, and may help focus attention on the supply capacity and infrastructure investments that are needed in order to engage in global production networks.

are often part of the equation. As secure and liberal access is something that should be provided by the WTO, the proliferation of PTAs is a symptom of a failure of the WTO to perform its function. A proliferation of PTAs motivated by discriminatory or insurance objectives can only be detrimental to the majority of developing countries that will be left out of PTAs for political or other reasons. By reducing trade barriers for a subset of partners, countries may increase the real cost of their imports, reduce the flow of technology from non-member countries and increase dependence on particular export markets. They may also make it more difficult to reduce barriers against non-preferred imports in the future. Trade diversion caused by PTAs may worsen excluded countries' terms of trade as non-member suppliers become less competitive because they continue to pay tariffs while competing producers from member countries do not.[11]

Recent PTAs tend to be more open than earlier vintages, many of which were designed to implement import-substitution strategies at the regional level. They also increasingly involve North–South cooperation. Research suggests that this is less likely to be welfare reducing for developing countries than South–South agreements (World Bank 2000), in part because under the latter, prices are more likely to continue to equal world prices plus the external tariff, precluding trade creation. As high-income economies are knowledge rich, they also provide greater access to technology than poorer trading partners, helping increase dynamic gains (Schiff et al. 2002).

Increasingly PTAs are covering issues that have proven divisive in the WTO, such as investment, labor, environment, or competition policies. Examples are the US–Central America Free Trade Agreement (CAFTA) and the European Union's ongoing effort to negotiate Economic Partnership Agreements with African, Caribbean and Pacific (ACP) countries. This raises a serious potential concern insofar as these countries perceive disciplines in such areas as not being in their interest, but necessary to (continue to) obtain the benefit of preferential access to Northern markets. Clearly much depends on the coverage of agreements and in particular whether the regulatory disciplines for behind-the-border policies are appropriate in the sense that the benefits outweigh the costs of implementation.

[11] Where there are economies of scale, regional integration may help lower member firms' costs by expanding their 'home' market. See Schiff and Winters (2003) for an in-depth discussion and a review of

That said, regional cooperation on regulatory issues might be more beneficial than a one-size-fits-all approach at the global (WTO) level. Partners may be more similar and have common legal or administrative systems. Enforcement mechanisms in PTAs on behind-the-border issues may be more flexible as well and allow greater scope for negotiation and information exchange. There may also be greater tolerance for some (limited) 'slippage' because of the relationship between partner countries, while still ensuring a significant credibility payoff associated with locking-in policy reforms. Finally, North–South PTAs tend to be associated with transfers of finance and knowledge (technical assistance), potentially helping to reduce implementation and adjustment costs. High-income partners may also provide offers of assistance in the form of implicit 'insurance' as in the case of US financial intervention to assist Mexico during the 'tequila crisis'. This is something that is lacking in the WTO context.

Given that PTAs differ greatly in content and coverage, determining the net effect of the associated discrimination on members requires a case-by-case assessment. It is likely that PTAs will tend to be welfare reducing for the world as a whole (compared with a non-discriminatory counterfactual) (Winters, 2000, World Bank, 2004). Many countries, especially those with the largest number of poor people, will not have access to major PTAs and will confront discrimination. Clearly, the less trade diversion occurs, the less cause for concern. On this front empirical work to date suggests complacence is inappropriate, although the problem of the appropriate counterfactual always is a confounding factor.[12] In sum, PTAs imply an increase in the extent of discrimination in world trade. Given that many OECD members have free trade agreements or are in customs unions, non-zero MFN protection maintained by these countries automatically implies discrimination against all developing countries that do not have equivalent trade arrangements. The WTO has an important role to play in reducing the magnitude of PTA-created discrimination in trade through its periodic rounds of trade negotiations.[13]

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the evidence.

[12] Recent analysis by Dee and Gali (2003) concludes that the majority of PTAs in a sample of sixteen caused net trade diversion. World Bank (2004) notes that a meta-analysis of the gravity regression literature suggests a similar conclusion. Limão (2003) finds that US multilateral trade liberalization commitments in the Uruguay Round were less deep for products that are produced by "regional" partner firms (NAFTA).

[13] The Committee on Regional Trade Agreements has proven to be quite ineffective in enforcing the relevant WTO rules, implying that the only effective source of discipline are recurring negotiating rounds that result in reductions in external barriers on an MFN basis.

## 3. An Overall Trade Restrictiveness Index

While it is very difficult, if not impossible, to compare across countries all trade policy instruments, some of the more important ones can be included in an overall assessment of trade restrictiveness. Such an effort has recently been undertaken at the World Bank, in the context of the Global Monitoring Report (IMF and World Bank, 2004), based on work by Kee, Nicita and Olarreaga (2004). This provides one measure of the extent to which policies discriminate against developing countries. The overall trade restrictiveness index (OTRI) used below is based on the methodology developed by Anderson and Neary (2003). The OTRI is the uniform tariff equivalent that would keep the level of trade at its observed value. It incorporates MFN tariffs (both ad valorem and estimates of the ad valorem equivalents of specific tariffs), core NTBs (licensing, antidumping), domestic agricultural subsidy programs, and major preference programs (both nonreciprocal and the major trade agreements maintained by the Quad).[14]

Tables 6 and 7 report estimates of the OTRI for developed and developing countries, respectively. Under the strong assumption that preferences "work"—i.e., are fully utilized—low-income countries (as defined by the World Bank), confront an average level of protection in OECD members that is only 22 percent lower than what applies to richer countries. As far as developing countries are concerned, there is little difference in applied OTRIs, which are on average two to three times higher than in the OECD—suggesting the substantial scope for further expansion of South-South trade following additional liberalization of trade. The simple average overall OTRI for high-income OECD members was 6.3 percent in 2001 (Table 6). As a result of unilateral trade preference programs, the OTRI against low-income countries (LICs) is somewhat lower than the overall OTRI, and that against LDCs is lower still (4.2 percent). This pattern of lower OTRIs against poorer countries does not apply uniformly. In the case of Canada, trade barriers discriminate significantly against non-LDC low-income countries—given Canada's 2003 LDC initiative—while in the case of the United States, barriers are higher both for all low-income countries and for LDCs. Indeed, the OTRI is highest against LDCs. Reasons for this are the relatively high protection of apparel and other labor-

intensive "sensitive" sectors, and that some countries facing the highest OTRI on exports to the United States do not have significant preferences for their main exports (although U.S. imports from low-income countries as a share of total imports from developing countries, are higher than for the EU) (Table 6).

**Table 6. Overall trade restrictiveness and import shares, OECD and Quad, 2001**

| | OTRI toward all countries | OTRI toward LICs | OTRI toward LDCs | Share of total LIC exports taken | Share of LICs in total imports from all developing countries |
|---|---|---|---|---|---|
| OECD | 6.3 | 4.9 | 4.2 | 69.6 | 4.6 |
| of which: | | | | | |
| Canada | 5.6 | 7.7 | 0.1 | 1.2 | 4.2 |
| EU | 6.6 | 3.9 | 0.6 | 21.1 | 3.2 |
| Japan | 3.9 | 1.5 | 1.1 | 11.2 | 10.8 |
| United States | 4.6 | 6.3 | 8.2 | 20.3 | 6.4 |

*Source*: *:* IMF and World Bank, Global Monitoring Report, 2004.

**Table 7. OTRI of developing countries, 2001 (%)**

| | OTRI towards all countries | OTRI towards low-income countries | OTRI towards LDCs |
|---|---|---|---|
| East Asia | 12.1 | 12.6 | 11.4 |
| Europe & Central Asia | 11.6 | 12.0 | 12.1 |
| Latin America | 16.8 | 16.5 | 18.3 |
| Middle East, North Africa | 17.7 | 14.0 | 12.4 |
| South Asia | 23.2 | 26.4 | 29.9 |
| Sub-Saharan Africa | 10.7 | 13.1 | 11.8 |
| | | | |
| All developing countries | 15.1 | 14.8 | 16.6 |
| LDCs | 18.2 | 14.4 | 11.6 |
| Low income | 23.3 | 20.0 | 24.2 |
| Middle income | 14.2 | 13.5 | 12.7 |

*Source:* IMF and World Bank, Global Monitoring Report, 2004.

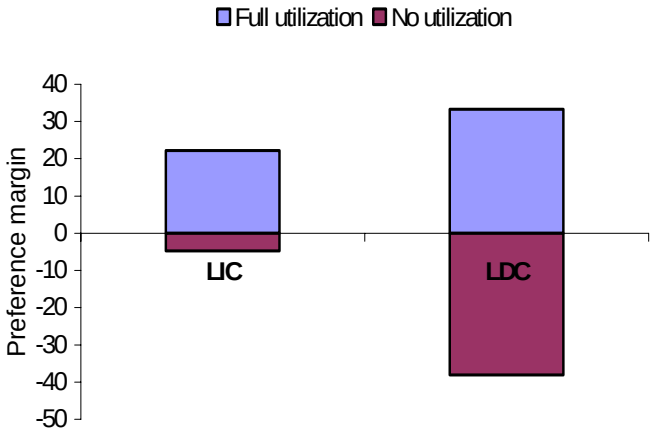
Preferences are clearly important. If preferences are ignored—i.e., only MFN barriers are considered—developing countries would confront *higher* protection in the OECD than other countries, i.e., a *negative* preference margin (the red bars in Figure 2). Even if preferences are fully utilized[15]—that is assume away rules of origin and other constraints,

[14] See Kee, Nicita and Olarreaga (2004) for details.

[15] GSP utilization rates for preferences granted by Canada, the European Union, Japan, and the U.S. are 61, 31, 46, and 67, percent respectively (WTO, WT/COMTD/LDC/W/31, 29th September 2003). As noted

which are known in practice to reduce the utilization of preferences, and it is assumed that the rents created by preferences accrue to exporters—there is still much to be done to remove the negative effect of trade barriers: as mentioned, the average reduction in OECD trade barriers due to the preference programs is only 20-30 percent. In part this is due to the effect of NTBs that apply to all imports, the fact that OECD countries often trade on a duty-free basis as a result of PTAs, and the incomplete coverage of nonreciprocal preference programs (product exceptions, etc.). If it assumed that utilization rates are only 50 percent, the OTRI against LDCs is roughly the same as that applying to all trade: around 6 percent, with the United States having the highest barriers (12.6 percent). The potential importance of preferences for LDCs is illustrated by the fact that without any preferences, LDCs would confront an average OTRI of 10 percent in high-income OECD countries—almost twice the current average.[16]

**Figure 2. OECD Protection and Preferences**

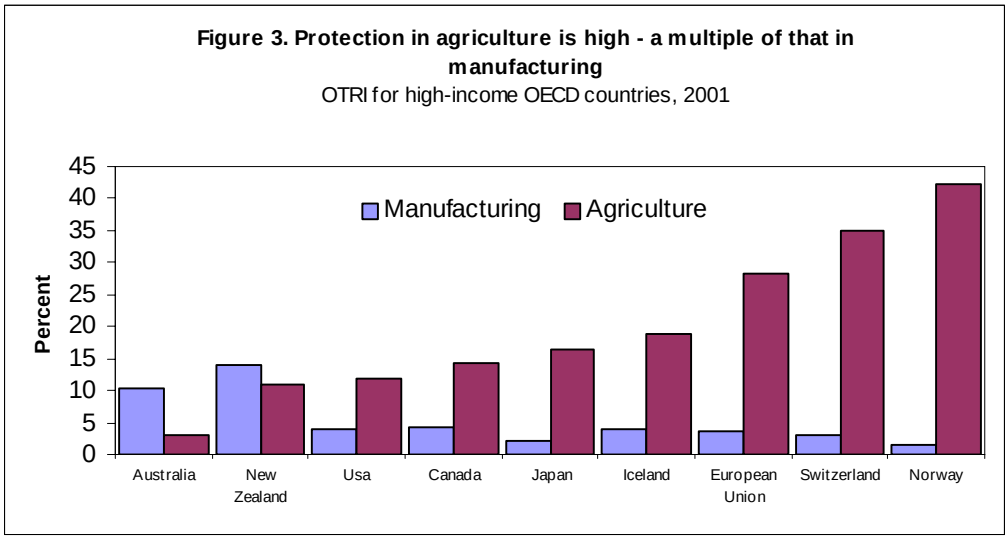



The OTRI results confirm that agricultural protection in OECD countries is a major source of discrimination against developing countries (Figure 3). OTRIs for

above, utilization of deeper preference schemes such as ACP or EBA have been found to be higher, especially for basic commodities.

[16] The OTRI estimates are in part a function of the estimates of the ad valorem equivalents (AVEs) of specific tariffs, core NTBs, and agricultural producer subsidies. They do not include technical product regulations because of incomplete reporting. If the existing, incomplete data on technical regulations are included, the OTRI estimates for all trade do not change much, but those against low-income countries increase. See Kee et al. (2004).

agricultural products are much higher for most OECD countries than for manufactures, notable exceptions being Australia and New Zealand. Note again that these broad country grouping averages mask a lot of heterogeneity. Different countries will be affected differently by the range of discriminatory and nondiscriminatory tariff and nontariff policies they confront—and some may gain.




## 4. WTO Rules and Disciplines

Historically, the strategy of developing countries in the GATT/WTO has been to limit the reach of reciprocity by seeking 'differential and more favorable treatment'. Special and differential treatment (SDT) provisions in the WTO span three core areas: *market access*, through trade preferences granted to developing countries and acceptance that developing countries make fewer market access commitments than developed countries in trade negotiations; *exemptions* or deferrals from some WTO rules; and *technical assistance* to help implement WTO mandates. Only the second of these is legally enforceable—preferences and technical assistance are so-called best endeavors commitments.

In what follows I distinguish between market access-related rules—the "core" of the WTO—and disciplines that pertain to (other) regulatory policies. A precondition for developing countries to benefit from WTO membership is 'getting the rules right' from a development perspective. Most developing countries are latecomers to the multilateral trading system—a fact that explains why many present WTO rules predominantly reflect the interests of rich countries and the status quo disciplines that already have been put in

place by them. Thus, the much greater latitude that exists in the WTO for the use of agricultural subsidization, for example, reflects the use of such support policies in many developed countries. The same is true for the permissive approach that has historically been taken towards the use of import quotas on textile products—in principle prohibited by GATT rules. More recently, the inclusion of rules on the protection of intellectual property rights has strengthened perceptions that the WTO contract is unbalanced. A key question from a development perspective is to determine the rationale for proposals to pursue deeper integration, whether there is a need for differentiation (discrimination) between developing countries and if so, what criteria should be used for this purpose.

Rather than use a case-by-case approach based on economic analysis to determine the costs and benefits of specific proposals or rules, the WTO has relied primarily on a mix of temporary and permanent exceptions for developing countries, with temporary exemptions taking the form of (uniform) transition periods for two broad categories of countries (LDCs and all other developing countries). Thus countries do not have any the assurance that rules will only apply once the preconditions are in place to benefit from implementation. What follows argues that there is a need for differentiation among developing countries in determining the reach of WTO rules that are "resource-intensive", that is, require significant complementary legal, administrative, and institutional investments or capacity; or that will potentially give rise to large net transfers out of developing countries (as could be the case under the TRIPS agreement, for example). However, such differentiation should not apply to core principles of the WTO—such as nondiscrimination, market access and transparency. Currently, there is not enough differentiation (flexibility) when it comes to resource-intensive rules, while there is arguably too much as regards core principles.

***Core trade policy rules and reciprocity***

While government interventions are justified where there are market distortions, any such interventions should directly target the source of the failure. Trade policy will rarely do so. Even if trade policies are used, there is a clear efficiency ranking of instruments, quotas and analogous instruments being particularly costly. WTO rules that impose disciplines on the use of such instruments benefit consumers and enhance welfare. Similarly, binding tariffs and abiding by WTO rules and criteria for taking actions against

imports that injure domestic industry are beneficial—by reducing investor uncertainty and requiring a determination of the facts underlying a situation.

There is a huge literature on these issues that suggests that the core trade policy rules of the WTO should apply to all countries, developed and developing.[17] Such core rules arguably span nondiscrimination, the ban on quantitative restrictions, commitments to ceiling bindings for tariffs, and engagement in periodic market access negotiations (Hoekman et al., 2004). Currently, these core principles do not apply to all members, in part because of specific SDT provisions in the GATT. Not only does this not make much economic sense, it has come at a cost in terms of reducing the perceived 'value' of what that developing countries bring to the negotiating table.[18]

The 1979 GATT Enabling Clause calls for reciprocity in negotiating rounds by developing countries to be limited to levels 'consistent with development needs'. Reciprocity is the engine of the WTO, the means through which to obtain concessions from trading partners. More important, it is also in a country's own interest insofar what is being conceded is a "bad", a policy that does not increase welfare. Invocation of the 'nonreciprocity' clause has, in the past, excluded developing countries from the major source of gains from trade liberalization – namely the reform of their own policies. Non-reciprocity is also a reason why tariff peaks today are largely on goods produced in developing countries. While there is a need for differentiation between developing countries in determining the extent of reciprocity—some countries rely substantially on tariffs for revenue, and countries with high tariffs will need to reduce them gradually to manage adjustment costs—the WTO offers a valuable mechanism to commit to gradual reforms. Not using this mechanism reduces the value of membership.

***Non-core and resource-intensive rules***

[17] See, e.g., Noland and Pack (2003) for an assessment of the East Asian experience and the relevant literature; and more generally, Hoekman and Kostecki (2001) or McCulloch et al (2002).

[18] This is not to deny that weak institutional capacity and severe market imperfections combined with lack of financial resources may require that developing countries pursue second best trade policies. However, existing WTO provisions—allowing for high tariff bindings, the use of safeguards, waivers, and renegotiation of concessions—already provide ample scope for countries to do so. The point being made is that the case for opt-outs on application of the DSU to such disciplines is not compelling.

Members have increasingly sought to go beyond the core or basic rules and principles of the WTO to include disciplines on (more or less trade-related) regulatory policies. Developing countries have often opposed this, reflecting among other things a perception that the cost-benefit ratio associated with (proposed) rules is unfavorable to them. Many developing countries also are concerned that certain existing disciplines—such as TRIPS and subsidy rules—excessively restrict their ability to use policies that developed countries used in the past. Much of the SDT debate in recent years has reflected such concerns. Several options have been proposed in the literature to address them:

- Acceptance of the principle of 'policy space'—implying flexibility for all developing countries as currently (self-) defined in the WTO whether to implement a specific set of (new) rules, as long as this does not impose significant negative (pecuniary) spillovers (Stevens, 2002);[19]
- A country-specific approach that would make implementation of new rules a function of national priorities. WTO disciplines implying significant resources would be implemented only when this conforms with or supports the attainment of national development strategies. A process of multilateral monitoring and surveillance, with input by international development agencies, would be established to ensure that decisions are subject to scrutiny and debate (Prowse, 2002).
- An agreement-specific approach involving the *ex ante* setting of specific criteria on an agreement-by-agreement basis to determine whether a country could opt out of applying of negotiated disciplines for a limited time period. Criteria could include indicators of administrative capacity, country size and level of development, and a link might be made between implementation and the provision of financial and technical assistance (Wang and Winters, 1999; Keck and Low, 2003);
- Application of the "core" rules to all developing countries, complemented by a simple rule-of-thumb approach that would allow opt-outs for resource-intensive agreements for all countries satisfying broad threshold criteria such as minimum level of per capita income, institutional capacity, or economic scale (Hoekman, Michalopoulos and Winters, 2004).[20] The presumption here is that this would allow the bulk of identified difficulties to be tackled at little or no negotiating cost. The criteria would apply to *all* new resource-intensive agreements. Invocation of an opt-out would be voluntary. As countries come to surpass thresholds over time, disciplines automatically would become applicable.

[19] Note that implicitly this approach therefore introduces a size criterion. As in practice small countries are likely not to be confronted with the DSU, in effect this would formalize the prevailing status quo.
[20] Some WTO disciplines may not be appropriate for very small countries if the institutions that are required are unduly costly—that is, countries may lack the scale needed for benefits to exceed implementation costs.

A common element of the last three types of proposals is that use is made of economic criteria to determine the applicability of resource-intensive rules. This makes good sense from an economic perspective, but is very controversial in the WTO as greater differentiation among countries is rejected by many developing country representatives. Currently, whether a rule is enforced is left to individual members (i.e., whether or not to self-declare as a developing country) and a mix of unilateral action and bargaining by developed country members whether to accept this and whether to provide SDT. In practice, small and poor countries are unlikely to be confronted with dispute settlement/enforcement—their markets are too small to induce action.[21] Country classification inevitably creates tensions among governments as to which countries would be eligible. The advantage of simple criteria is that it is "clean"—there is no need for additional negotiation. The disadvantage is that criteria inherently will be somewhat arbitrary. The scope for agreeing on a rule- or agreement-specific set of criteria has in the past proven feasible—witness the Subsidies Agreement per capita income threshold for the use of export subsidies, the net food importers group defined in the Uruguay Round, or the (implicit) group of countries that do not have a pharmaceutical industry that were the focal point of the Doha Round TRIPS/public health debate. The downside here is that poor countries will be confronted with inevitable negotiation costs and the need to allocate scarce human resources to issues that may not be priorities (Winters, 2002).

Neither type of approach does much to engage governments and stakeholders, or to help them identify better policies or areas where complementary actions/investments are needed. Instead, the focus is purely "legalistic": SDT is needed as a mechanism to prevent countries from being confronted by disputes and the threat of retaliation for noncompliance. If it could be agreed that in the case of developing countries—even if this continues to be self-defined—recourse to the DSU would be conditional for an agreed set of agreements/rules, an alternative, more constructive approach might be feasible. This could involve mechanisms to identify government objectives and assess to what extent the instruments that are applied are effective in attaining the goals. That is,

[21] At least for developed countries. For other LDCs—often neighbouring countries—actions that violate a WTO commitment may have relatively large effects. I owe this point to Sheila Page.

instead of a purely legal approach, a more economically based interaction would occur between WTO members in instances where countries are not in conformity with the set of WTO rules for which option would apply. A more cooperative approach that is geared towards assisting countries attain their objectives in an efficient manner as opposed to one that is aimed solely at safeguarding or attaining market access or minimizing negative terms of trade externalities could do much to enhance the development relevance of the WTO.[22]

In effect, this would be analogous to greater reliance on a soft law approach.[23] Soft law involves establishment of a framework for international cooperation on issues. It relies on mechanisms to encourage learning through regular interactions of relevant policymakers and constituents (stakeholders), peer review, and (multilateral) monitoring of the impacts of policies and their effectiveness in attaining stated objectives. From an economic development perspective, depending on the issue, a soft law approach instead of efforts to impose specific 'good practices' may make good sense.[24] A premise that underlies arguments for soft law (be it implicit or explicit) is that the mechanism of reciprocity may be inappropriate to define common rules for 'behind the border' regulatory policies. The specific content of regulation should reflect national (or local) circumstances. A framework for assisting governments to identify good policies, not a system that aims at harmonization enforced by binding dispute settlement, may be most appropriate from an economic welfare (development) perspective. This could also allow a more considered and flexible approach towards determining at what level cooperation should occur—bilateral, regional, or multilateral. Perhaps most important, greater policy dialogue and multilateral monitoring of the effects of policies applied by WTO members

[22] As discussed at greater length in Hoekman (2004), there is an obvious trade-off between reducing the reach of the DSU and strengthening the development relevance of WTO rules and mechanisms by allowing for greater policy flexibility for developing countries. The latter have a great deal to lose if the DSU is hollowed out, as one consequence could be that developed countries become less inclined or are given scope to argue that they should not be held accountable for implementation of negotiated disciplines. This indicates that the design of the mechanism being proposed here is important, and strengthens the case for ensuring that the "core" disciplines of the WTO should apply to all members—subject, of course, to the universally accessible safeguard provisions that are contained in the WTO.

[23] To some extent, this can be seen as building on the consultations part of the DSU, with the difference that the focus is broader—i.e., not necessarily on compliance narrowly defined.

[24] There is an emerging literature that argues in favor of a 'learning' approach to international cooperation in complex regulation-intensive domestic policy domains (e.g., Abbott and Snidal, 2000; Chayes and Chayes, 1995; Helleiner, 2000; Rodrik, 2002, Finger, 2002, Sabel and Reddy, 2002).

could both help to increase the (domestic) accountability of governments and the "ownership" of policies and the multilateral rules that (eventually) are agreed to apply to specific policies. Greater transparency is critical to prevent capture of policies by interest groups, to make policies contestable and to give both winners and losers a greater voice in policy formation (Finger, 1982; Hoekman and Mavroidis, 2000).

While this approach may seem a rather far-reaching change in the modus operandi of the WTO, there are already numerous mechanisms in the WTO that can be—and at times are—used to engage in policy dialogue. These include the committees that oversee the operation of specific agreements and the Trade Policy Review Mechanism. One committee that explicitly includes a multilateral process of assessment of the prevailing economic situation in countries as a justification for the use of trade restrictions is the Balance of Payments Committee. This operates with inputs from the IMF on the balance-of-payments situation in a member that invokes the relevant GATT articles as cover for trade barriers. In practice deliberations have mostly been "cooperative", with only very cases of recourse being made to the DSU (Prowse, 2002).

## 5. Moving Forward

What needs to be done in order to reduce discrimination against developing countries is well known—a move towards an MFN-based reduction in tariffs, especially tariff peaks, elimination of agricultural export subsidies and decoupling of domestic subsidies, and stronger disciplines on antidumping. Given that there is a rationale for subsidies in some contexts and that the revealed preference of many governments is to use subsidies, the focus should be on reduction of border barriers as this would automatically impose serious constraints on the feasibility of production subsidies by greatly increasing their costs (Snape, 1987).

A major and steadily increasing source of discrimination in trade today are PTAs, and the WTO has an important role in lowering external levels of PTA protection so as to reduce the extent of discrimination against non-members—which will often be developing countries. Here again the solution involves MFN liberalization through WTO negotiating rounds—experience has demonstrated that efforts to regulate PTAs through the WTO rule-making and enforcement process are ineffective.

Many countries now support the use of tariff-cutting formulae to reduce tariffs on merchandise trade. This is a good approach, especially if a non-linear formula is used that reduces high tariffs (peaks) more than low tariffs. A Swiss type of formula can greatly reduce the average level of protection and the dispersion of tariff rates, but ideally needs to be complemented by a decision that the ultimate objective should be the complete removal of tariffs on goods that are of export interest to developing countries. Given that average OECD rates for manufactures are already low, a possible focal point here would be the complete elimination of tariffs by these countries by 2015—the target date for the achievement of the Millennium Development Goals.

Developing countries also have an interest in lowering their own barriers. As OECD countries have already bound virtually all their tariff lines at applied rates, any formula that gives weight to both *additional* bindings (increases in the ratio of the number of bound to unbound lines) and reductions in the absolute difference between bound and applied rates, will automatically give credit to developing countries in terms of attaining an agreed target level of liberalization. Moreover, as noted above, the importance of South-South trade and the high barriers that apply on such trade imply that developing country liberalization will also have a significant impact in terms of lowering overall discrimination.

There is a danger that substantial progress on MFN-based market access will be impeded because of concerns that this will erode the value of existing nonreciprocal preferential access. The same is true for agricultural subsidies. Some developing countries are indirectly benefiting from OECD domestic support because they have preferential access to the protected market—the EC sugar regime is an example. These preferences create incentives to support OECD farm interests, at the cost of less global liberalization.

One way forward would be to agree on a single preferential tariff rate—zero—for all products produced in developing countries, thereby removing all partial preferences and greatly reducing discrimination. However, extending preferential duty-free access to large countries will be very difficult politically. A major reason why duty-free access for much of Africa and the LDCs could be implemented is that these countries account for less than 1 percent of world trade. Given the political reality that developed nations will

not grant all developing countries unconditional free market access, and that this is not first best in the first place from a global welfare perspective, reciprocal, MFN liberalization is the appropriate way forward.

This then raises the issue of what to do about preference erosion. Erosion of all preferences, both GSP and the deeper, more recent preferences such as EBA and AGOA following MFN-based Doha reforms could have a substantial impact on some countries, especially those with high concentrations of exports in highly protected commodities. However, the number of countries that are in this situation is small—the problem is heavily concentrated in small island economies dependent on sugar, banana, and—to a lesser extent—garment exports (IMF 2004).[25] These are the commodities where protection and thus preference margins are high. The limited number and small size of most of the economies concerned imply that measures to help mitigate the impact of preference erosion can be closely targeted at the countries at risk (Alexandraki and Lankes, 2004).

Simulations of the likely impact of a 40 percent reduction in MFN tariffs by Quad countries suggest that the magnitude of the potential shock for middle income developing countries ranges between 0.5 and 1.2 percent of total exports for those countries that are most 'preference dependent'. Six countries, Mauritius, St. Lucia, Belize, St. Kitts and Nevis, Guyana and Fiji would be significantly impacted, with predicted export declines ranging from a high of 11.5% for Mauritius to 7.8% for Fiji (Alexandraki and Lankes, 2004). As far as the poorest countries are concerned (LDCs), the overall impact is again likely to be limited, at some 1.6% of total trade (IMF, 2002), but here also some countries may lose substantially more. Malawi stands to lose 6.6%; other poor countries confronting potentially significant losses include Mauritania, Cambodia and Bangladesh (IMF, 2004; Stevens and Kennan, 2004; Page and Kleen, 2004).

Thus, substantial adjustment costs may be created by the erosion of preferences for some countries. However, trade preferences are an inefficient mechanism to transfer

[25] Preference dependent or sensitive countries include Mauritius, Malawi, Mauritania, Cambodia, Maldives, Haiti, Cape Verde, Sao Tome, Tanzania, and the Comoros (Stevens and Kennan, 2004). The only large country expected to suffer from preference erosion is Bangladesh, which has benefited significantly from the quota restrictions imposed on other large competitive developing countries such as China. It is now confronting the prospect of greater competition once remaining quotas are removed at the end of 2004. However, given its LDC status, Bangladesh will continue to benefit from a tariff preference.

resources to recipient countries, and, as argued above, often have been found to be of only limited effectiveness. The answer is not to avoid liberalization of the sectors where preferences matter most, but to assist the affected countries. Given that they have been benefiting from rent transfers from the importing countries concerned, an appropriate response would be to convert these transfers into equivalent development assistance, which could be used by the recipient governments to fund adjustment costs. An expansion in development assistance would constitute both a more efficient and more effective instrument—as long as these resources are allocated to priority projects through a national development or poverty reduction strategy and used effectively. Given the history of preference programs, developed countries as a group should arguably shoulder this burden: they instituted and preserved the system of discretionary preferences, and they also have the largest interests in the trading system (Page and Kleen, 2004).

How to operationalize a shift from preferences to aid needs to be considered explicitly as part of any Doha deal. A number of issues would have to be resolved, including ensuring that financing commitments were (seen to be) credible; guaranteeing that the associated aid would be additional to existing ODA (which is currently the case with preferences insofar as they work); and ensuring that the aid is used to effectively address the adjustment burden in recipient economies. It would also need to be determined how the funds would be administered, and specifically, whether to give the WTO the mandate to manage them—as proposed by Page and Kleen (2004). Whatever is done in terms of management of a funding entity, it is important that this be a temporary mechanism that is meant to deal with the adjustment costs associated with preference erosion.[26] Insofar as developed countries desire to support the countries concerned on a long term basis, the appropriate vehicle is ODA.

Numerous models and analyses document that the gains from trade reform outweigh any losses—what is needed is a mechanism that will transfer some of these gains into the financing needed to provide such assistance. Despite the well-known case for and potential feasibility of compensating losers, in practice this often does not occur.

[26] These costs also arise in OECD countries, suggesting that there also the political economy of reform needs to be addressed through transfers of some of the gains that accrue to consumers being redistributed to the losers. This is a key necessary condition for the far-reaching reforms that are required to eliminate discrimination against developing countries.

A small reduction in the price gains/benefits that will accrue to consumers as a result of liberalization is one practical means of redistributing some of the gains from trade reform to those who gain less or may lose. There are various ways in which such redistribution could be realized (Hoekman, 2004). The most direct way would be through a small consumption tax on the goods whose prices will be falling as a result of the implementation of negotiated multilateral liberalization commitments. Administrative convenience and collection cost considerations may make a small uniform levy on imports whose tariffs are being cut more feasible. To give a sense of the orders of magnitude involved, a 0.25 percent levy on imports of OECD countries would be equivalent to over US$ 12 billion (total OECD imports are some $5 trillion). However, much of trade into OECD countries is duty free, and it is not desirable to re-impose duties on such trade. Thus, any such levy should be restricted to currently dutiable imports where tariffs are subject to Doha reduction commitments.

One option would be to agree to allocate a certain share of currently collected revenue to low-income countries. As tariffs are gradually lowered following a Doha round negotiated outcome, the total revenue available would automatically decline over time, which is appropriate given that the motivation is to facilitate adjustment. Indeed, it is important that whatever tax base might be tapped to finance adjustment, any levies not be (regarded as) an additional tax, but are designed and justified as a temporary transfer needed to realize the gains from trade liberalization.

Turning to WTO rules, there is a basic choice to be made between the pursuit of universal disciplines that in principle apply to all members, and that will by necessity require SDT provisions to account for country differences, and a plurilateral or positive list approach without SDT. The latter appears to be an attractive way of allowing a subset of the membership to move forward in the absence of consensus. Many developing countries oppose moves towards greater use of plurilateral agreements, primarily on the basis of resistance to the creation of a multi-tier trading system (Bangladesh et al., 2003). Greater scope may exist for allowing for more differentiation across countries on the basis of positive list type agreements for new issues.

None of these approaches will necessarily do much to help promote development. A recast framework for SDT could facilitate new rule making *and* improve the substance

of disciplines from a development perspective. Elements of a possible new approach could include:

- Acceptance of the core rules by all WTO members: MFN, national treatment, the ban on quotas, binding of maximum tariffs, and commitments to gradually lower these bindings and open service markets to greater competition in negotiating rounds;
- Greater reliance on explicit cost-benefit analysis to identify net implementation benefits for countries and whether existing instruments impose negative (pecuniary) spillovers on other countries;
- For a set of agreed resource-intensive and "non-core" rules, movement to supplement the DSU as an enforcement device through the adoption of a mechanism that generates information on objectives and effectiveness of applied policies that are (alleged to be) inconsistent with WTO disciplines, as well as information on the extent of any negative spillovers and the need for financial and technical assistance; and
- Shifting towards more efficient transfer/assistance mechanisms than trade preferences, with aid directed at priority areas defined in national development plans and strategies, with clear accountability on the delivery of assistance.

Clearly this type of approach would be more cumbersome than a simple set of rules of thumb that allow countries to opt out from WTO agreements. The latter has a number of important advantages, including simplicity and minimal transactions (negotiating) costs (Hoekman, Michalopoulos and Winters, 2004). However, it is vigorously resisted by many developing countries, and, as discussed, does not do much to actively assist countries in the development process. A shift away from opt outs and arbitrary transition periods and towards the creation of a process that involves policy dialogue and accountability could do much to enhance the development relevance of the WTO, while at the same time reducing the perceived downside risk of undertaking new commitments.

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