International Trade and Right to Development

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‘INTERNATIONAL TRADE AND RIGHT TO DEVELOPMENT’

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INTRODUCTION

If development is the goal of human society, trade is its life-blood. Trade is the engine of growth. High growth generates new trade opportunities and new prosperity. Trade and development are two crucial realities which have been extensively dealt with within and outside various trade systems.

Development was one of the central goals of the original GATT architects. Over the years, WTO has incorporated a number of rules, provisions and initiatives for developing countries- all with the idea of recognizing and safeguarding their special needs and interests, as contemplated in the various negotiations. The present paper seeks to moot the right to development of developing and least developed countries and brings forward the initiatives taken for its achievement.
PART I

‘DEVELOPMENT’- AS A CONCEPT

That human rights and economic development are significantly related is both platitude and enigma. Human rights are seen as supportive of development and even as a requisite. Yet is evident that development often involves conditions that are inimical to human rights and that governments curtail rights for the sake of economic development. Development is a process intended to better socio-economic conditions and to contribute to human dignity. A prerequisite of development is investment: of financial capital, human capital and technology. The goals of development, then through the reduction of poverty, are to contribute to social, economic and political enrichment within a society and so reduce the likelihood of conflict within or between societies.¹

In the GATT's original vocabulary, the word "developing" referred only to the exploitation of resources towards the end of raw economic growth, not to the advancement of underprivileged countries. In the decades that followed, the promotion of developing economies was arguably regarded as a natural (side-) effect of trade expansion, with a few development-oriented patches added on to a largely trade-liberalizing set of rules ² as an involuntary "afterthought." ³ On the other hand, development today is increasingly portrayed as the overarching goal of international trade policy and regulation, with the "needs and interests" of developing countries now placed "at the heart" of the trade negotiations conducted under a much-touted Doha Development Agenda.

‘DEVELOPMENT’ – AS A RIGHT

The Right to Development (RTD) was first proposed by a Senegalese Jurist, Keba M’baye, in 1972. In a 1972 lecture at the International Institute of Human Rights in Strasbourg, he asserted that it was a right belonging to all men, as "every man has a right

to live and a right to live better." It was first given legal recognition in the 1981 African Charter on Human and Peoples' Rights, and was later incorporated into the global human rights framework through the adoption in 1986 of the Declaration on the Right to Development by the United Nations General Assembly. The 1993 Vienna Declaration and Programme of Action, the 2000 Millennium Declaration, and most recently, the Durban Declaration and Programme of Action reaffirmed the RTD as a universal and inalienable human right.

The United Nations Declaration on Right to Development defines the RTD as "an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized." The Declaration provides for active participation in development process especially women and “fair distribution of the benefits” of development for individuals.

**PART II**

**TRADE AND DEVELOPMENT**

Currently, the membership of the WTO stands at above 140 Members with almost two third of the membership being developing countries, transition economy countries or recognized as least developed country members. This increased participation of developing countries has lead to the discussion of the issue of trade and development.

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5 The US voted against the Declaration; 8 other states, including the UK, abstained.
6 UN General Assembly, World Conference on Human Rights, The Vienna Declaration and Programme of Action, Vienna, A/CONF.157/23, 1993,para 10 reaffirms “the right to development, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.”
7 UN General Assembly, The Millennium Declaration, in pursuance of UN General Assembly Resolution 55/2 of 8 September 2000,para 11 states: “We are committed to making the right to development a reality for everyone and to freeing the entire human race from want.”
8 The Durban Declaration recalls the commitment of the Millennium Declaration “to make the right to development a reality for everyone” (Para.19) and affirms “the solemn commitment of all states to promote universal respect for, and observance and protection of, all human rights, economic, social, cultural, civil and political, including the right to development, as a fundamental factor in the prevention and elimination of racism, racial discrimination, xenophobia and related intolerance.” Para. 78.
9 Article 1, Declaration on the Right to Development by the UN General Assembly, Res. 41/128(1986)
Over the last few years it has become uncommon - indeed almost impossible - to conduct a discussion on any one of the diverse aspects of the law and practice of the World Trade Organization without at least token reference being made to its "development dimension."\(^{12}\)

No one policy can set in motion the complex process of economic development, but trade is considered one important component of any development policy.\(^{13}\) United Nations has proclaimed the existence of human right to development.\(^{14}\) Yet the problem that persists till now is that this right is defined so vaguely that it stands only as an obligation on the States and inter governmental organizations to work within the scope of their authority to combat poverty and misery in disadvantaged countries.\(^{15}\)

There is a common ground between this human right to development and WTO initiatives concerning developing countries. The WTO Agreement\(^{16}\) sets out the facilitation of development as its objective\(^{17}\), and the first WTO Ministerial Conference addressed the importance of integrating developing countries in the multilateral trading system by assisting with their economic development. The Doha Round also includes a development agenda that addresses key issues of trade and development, such as debt and finance, trade and transfer of technology, technical cooperation and special and differential treatment for developing countries.\(^{18}\)

\(^{12}\) Supra note 2. See also Marrakesh Agreement Establishing the World Trade Organization, Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, Apr. 15, 1994, Legal Instruments - Results of the Uruguay Round, I.L.M 33.(1994)1125, 1144-53.

\(^{13}\) At the first session of UNCTAD in 1964, Secretary General Raol Prebisch presented a report that first broached the idea that preferential trade tariff rates were a key to economic development in the “Third World”.


\(^{17}\) Preamble to the Marrakesh Agreement Establishing the World Trade Organization (15 April 1994) in relevant part, "Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,”.

\(^{18}\) WTO, Ministerial Declaration, WTO Doc. WT/MIN(01)/DEC/1 (2001).
WORLD TRADE ORGANISATION AND DEVELOPMENT

In 1995, the World Trade Organisation (WTO) was established and a vast new body of trade law was introduced opening a trading system that is the only ‘multilateral’ trading system and is the main source of international trade law and policy.

Prior to the establishment of the WTO regime, the 1947 General Agreement on Tariffs and Trade (GATT, 1947) was in place. Developing countries played only a small role in the foundation of the GATT. Only ten of the original 23 GATT contracting parties were in this category. Development was seen by the drafters of GATT 1947 as primarily a national process which would require state intervention, state planning and state financing.

The principles of tariff reductions, non discrimination and reciprocity in the GATT 1947 was conceived on the presumption that the world is essentially homogenous composed of countries of equal strength and comparable economic development, yet the real world of international trade composed of countries with varying and diverse levels of economic development and vast differences in economic and social systems.

The developed countries enshrined as inviolable the principle of non- discriminatory (Most Favored Nation) tariff agreements and proceeded to the even more widespread use of non discriminatory non- tariff barriers, which principally affect the developing countries. This principle was enshrined in Article I under GATT.

MOST FAVOURED NATION PRINCIPLE

The basic rationale for MFN is that if every country observes this principle, all countries will benefit in the long run through the resulting more efficient use of resources.

Developing countries felt, over the course of the years, that they could not compete for export markets on an equal basis with developed countries. The MFN rate was an impediment in this respect however, in that, it provided for a non discriminatory access to

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19 The ten original developing countries GATT Contracting Parties were Brazil, Burma, China, Ceylon, Chile, Cuba, India, Pakistan, Syria and Lebanon. In the first few years of the GATT China, Lebanon and Syria withdrew from GATT.

20 When GATT was established in 1947, 11 of the original 23 Contracting Parties would have been considered developing countries.

21 Dr. S.R. Myneni, World Trade Organization, (Hyderabad: Asia Law House, 2005) 78. According to International Law Commission, MFN Clause, ‘Text of Draft Articles on Most- Favoured Nation Clause’ Yearbook of the International Law Commission 2, no. 2, (1978): 27 “under a most- favoured- nation clause the beneficiary State acquires, for itself or for the benefit of persons or things in a determined relationship with it, only those rights which fall within the limits of the subject- matter of the clause.”
export markets, irrespective of the level of development of the exporting country. The developing countries demanded for the provision of differential treatment to ensure that the world trading system responds to the particular needs of the developing countries.

**ENABLING CLAUSE**

In the year 1964 a rival organization of sorts called United Nations Conference on Trade and Development (UNCTAD) was formed. It is UNCTAD’s existence that made GATT start with a gamut of initiatives. Therefore a 10 year waiver allowing for preferential rates applicable to imports from developing countries only, and then the Enabling Clause were introduced.

Acceding to the demand made by the developing countries to support them in their development WTO members, in 1979, enacted the Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (the "Enabling Clause")\(^22\). The Enabling Clause suspends the GATT's general most favored nation ("MFN") rule and allows developed country members to give differential and more favorable treatment to developing countries.\(^23\) The mechanism for this treatment is the Generalized System of Preferences ("GSP"), under which developed countries offer non-reciprocal preferential treatment to products originating in developing countries.\(^24\)

Another point to be noted is that the Enabling Clause provided for principle for Graduation\(^25\) wherein these preferences will be withdrawn in a situation where the developing countries progress. Thus, successfully developing economies would be subject to the same rights and obligations of the multilateral trading system as industrialized countries.


\(^23\) Jennifer L Stamberger, “The Legality of Conditional Preferences to Developing Countries under the GATT Enabling Clause”, *Chicago Journal of International Law* 4,(2003): 607

\(^24\) Enabling Clause P2(a)

Yet this system has its flaws which cannot be ignored.  

Firstly the program is discretionary and therefore lays down no standard on basis of which the quantum of preference can be decided. Secondly this preference can be revoked at any point of time. Thirdly the Enabling Clause enables developed countries to provide preference for developing countries, but it does not oblige them to do so.

**GATT Article XXXVI- XXXVIII**

Article XXXVI – XXXVIII of the GATT sets out the provisions on Trade and Development. These provisions provide an array of measures and commitments by the developed countries and WTO for assisting developing countries in economic development. Yet these provisions are not obligatory in nature. Article XXXVII creates an exception of “compelling reasons” including legal reasons for fulfillment of commitments by developed countries, thus reducing their effectiveness as countries might enact laws which would hinder the implementation of commitments.

**SUBSEQUENT WTO ROUNDS AND MEETINGS**

The *Uruguay Round* during the 1980s also left their mark on special treatment. The effects are visible above all in the Uruguay Round of GATT, concluded in 1995 with the establishing of the WTO. Around 76 developing countries participated in the round. The round altered the reciprocity component of S&D in two ways. First, the countries negotiating in the round adopted a new single-undertaking approach under which prospective WTO members had to agree to virtually all WTO disciplines. Second, the system shifted to limited non reciprocity of implementation. Developing countries lost the option of maintaining different levels of obligation and instead were granted additional periods of time to adjust to the burdens of fully-implemented WTO

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29 The single-undertaking approach did not include plurilateral disciplines in Annex IV to the WTO Agreement, such as the Agreement on Trade in Civil Aircraft, of interest to a small minority of states; Frank J Garcia, “Beyond Special and Differential Treatment”, *Boston College International and Comparative Law Review* 27, (2004): 291
obligations.\textsuperscript{30} Yet such a protection was not sufficient as such extensions were not helpful for developing countries as the S & D treatment would expire yet the need for the same would stay. Also where permanent exceptions are given, the number of beneficiary developing countries is often too limited, e.g., where exemptions are allowed in subsidy rules to permit export subsidies, only a handful of LDCs benefit from this exemption on a permanent basis.\textsuperscript{31}

At the \textit{First WTO Ministerial Conference, held in Singapore in 1996} the importance of integration of Least Developed Countries in the multilateral trading system was reiterated. The Members adopted an action plan for the Least Developed Countries. In the follow-up process several industrialized and developing countries expanded existing preferences for LDCs or introduced new specific LDC preferences and preferential agreements which include Arms Initiative of the EU (EbA) and the extended African Growth and Opportunity Act of the USA (AGOA).\textsuperscript{32}

The \textit{Geneva Conference, 1998} carried forward the Singapore issues, however no new initiative or policy statement for LDC was entertained.

Failure of putting forward effective means of implementing special treatment policies at the \textit{Ministerial Conference, 1999 at Seattle}, the same became crucial issues at \textit{Ministerial Conference in Doha in November 2001}. Para 44 of the Ministerial Declaration provides for reviewing the special treatment policies and provide for effective implementation.\textsuperscript{33} Of approximate 100 issues raised by developing countries, 40 issues were adopted in Doha concerning various WTO Agreements. Special emphasis was laid on implementation issues, S & D Treatment provisions especially in trade negotiations, technical cooperation and capacity building.

\textsuperscript{30} See UNU World Institute for Developments Economics, Kiichiro Fukasaku, \textit{Special and Differential Treatment for Developing Countries: Does it help those who help themselves?}, prepared by Kiichiro Fukasaku, Working Paper No. 197, 2000

\textsuperscript{31} Supra Note 28


\textsuperscript{33} \textquoteleft We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational\textquoteright\ WTO Ministerial Declaration, Doha, 2001, WT/MIN(01)/DEC/1, available at http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm, Last accessed on 23 July, 2009.
The Cancun Ministerial Conference, 2003 carried forward the Doha Development Agenda. Its major achievement included allowance of access of essential medicines for the countries which do not have the capacity to manufacture drugs crucial for addressing public health crises, and also make use of compulsory licensing provisions of the TRIPs Agreement and parallel imports.34

PART III

REVIEWING THE DOHA DECLARATION DEVELOPMENT AGENDA- DEVELOPING NATIONS PERPECTIVE

The current "Doha Round," formally called the Doha Development Agenda (DDA), was launched with high expectations in November 2001 in Doha, Qatar, after the failed Ministerial Meeting in Seattle in 1999. Conceived as a development round, it was scheduled to be concluded in 2005 and is still awaiting completion.35

Over hundred nations out of one hundred forty-two, at Doha happened to be from the developing world.36 These nations after having realized their utility and discovering the exploitation committed on them for years together, have come out of their webs and actively participate in the negotiations, so that they decisions do not affect them in an adverse way. Promoting the same trail of thought, the Fourth Ministerial Declaration pledged to protect the interest of developing and lease developed countries.37

Out of the numerous concerns of the developing nations during the negotiations the prime concern included the decision making process, that is to say, the fear of imposing an

37 See World Trade Organization Ministerial Conference, Doha Ministerial Declaration, WT/MIN(01)/DEC/W/1 (Nov. 20, 2001), available at http://www.wto.org/english/tratop_e/minist_e/min01_e/mindecl_e.htm (last visited July 28, 2009) Para 2 states “The majority of WTO member are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.”
adverse favour on the developing nations by the developed nations, matters which concerned the developing nations being ignored during the talks and matters which concerned the developed nations to be taken up for negotiations.\(^{38}\) It was agreed to establish multilateral frameworks for rules on the competition policy and foreign direct investment, with negotiations beginning after the Fifth Ministerial Conference.\(^{39}\)

**DOHA ISSUES**

**IMPLEMENTATION ISSUES**

Doha proved to be an important platform for the implementation of previous commitments. Developing countries pressed for action to address the problems they saw with implementation of existing provisions of the Uruguay Round WTO Agreements.\(^{40}\)

For instance, in the area of technical barriers to trade ("TBT"), little effort has been made to implement the commitment to help developing countries tackle the special difficulties they face in the formulation and application of standards.\(^{41}\) Moreover, partly due to the extended phase-in of WTO commitments for developing countries, as well as their unwillingness to make strong commitments in certain areas of interest to the developed countries (e.g., services),\(^{42}\) the Uruguay Round agreement was never implemented in its true sense.

In the light of this background developing countries strived for effective implementation of commitments and successful in getting the issue on the agenda, providing additional evidence that developing countries are now able to participate as

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\(^{42}\) This reluctance to liberalize trade in services has continued after the Uruguay Round. See Dr. Supachai Panitchpakdi , *Wash. Trade Daily* 11, Feb. 6, (2002): 2 (reporting remarks of Dr. Supachai Panitchpakdi, incoming Director General of the WTO, who said developing countries have concerns about opening their services markets to developed countries without special conditions).
influential actors in the WTO.\textsuperscript{43} "Implementation-related issues and concerns" are the first topics addressed on the work program of the Doha Ministerial Declaration.

**AGRICULTURE NEGOTIATIONS**

The Doha Declaration explicitly recognizes a commitment to special and differential treatment for developing countries in the agricultural negotiations.\textsuperscript{44} WTO Members have also agreed to enter into negotiations on agriculture with the aim of improving market access and reducing, "with a view to phasing out, all forms of export subsidies and trade-distorting domestic farm support."\textsuperscript{45}

According to the OECD, rich countries pay out $1 billion a day to their farmers in agricultural subsidies; that is more than 4 times all development assistance going to poor nations\textsuperscript{46}. In effect an agricultural subsidy has the following impact on developing counties:

- Export opportunities are reduced by lesser market access.
- Due to unrestricted inflow of foreign firms, market share in domestic market is lost by the farmers.
- Livelihood lost due to artificially cheap subsidized imports.

According to a study published by the World Bank and IMF, trade liberalization between developing countries would result in gains three times greater than the gains developing countries can expect from liberalization in industrialized countries\textsuperscript{47}.

**SPECIAL AND DIFFERENTIAL TREATMENT**

The principle of special and differential treatment is an attempt to resolve the competing demands for trade liberalization and equitable socio-economic development.\textsuperscript{48} Special and differential treatment per se performs dual function of


\textsuperscript{44} See Doha Declaration, supra note 33, para. 13 (noting that negotiations on agriculture were already ongoing as part of the built-in agenda).

\textsuperscript{45} Ibid.

\textsuperscript{46} Supra note 40

\textsuperscript{47} Supra note 39

\textsuperscript{48} See Asoke Mukerji, “Developing Countries and the WTO: Issues of Implementation”, *Journal of World Trade* 34, no. 6,(2000): 33, 35-36 (explaining that creating exceptions to the basic principles of the GATT by allowing developing countries to use temporary restrictions to safeguard their economic reserves represented a solution to these tensions).
firstly protecting the markets of developing countries and secondly enhancing the access of developing countries to the markets of developed countries.\(^{49}\)

Paragraph forty-four of the Doha Agenda reaffirms that special and differential provisions are an "integral part of the WTO Agreements" and "agrees that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective, and operational.\(^{50}\)

This mention in the Declaration provides additional backing to the already existing obligations of special and differential treatment in the GATT and WTO system. The proposition is to strengthen the application of these provisions. It would mean reduction of trade barriers on products of particular export interest to developing countries. However, it is also possible that the proposed strengthening results into over protection by developing countries of their domestic industries thereby defeating the very purpose of WTO of market liberalization.\(^{51}\)

**SINGAPORE ISSUES**

In the year 1996 at Ministerial Conference, Singapore issues i.e. transparency in government procurement, trade facilitation (customs issues), trade and investment, and trade and competition were brought at forefront for discussion by developed nations. Yet developing countries opposed for any form of discussion on these issues on the premise of prior obligation of fulfillment of commitment made at Uruguay Round. The text of the Doha Declaration accounts for developing country interests, as it stresses the "need to address the technical assistance and capacity-building needs of developing countries on the Singapore issues so that they are able to evaluate the impact of multilateral arrangements in these areas on their development objectives."\(^{52}\)

Participation in serious negotiations on these issues may also allow developing countries to link progress with progress on their priorities concerning reform of


\(^{50}\) See Doha Ministerial Declaration, *supra* note 33, para 44


existing WTO rules. An adverse competition policy can hamper the exports of developing countries and impair the productive capacity of its firms. Such anti-competition policies need to be identified. Also discussion in area of investment and the interplay between trade and competition might bring about a viable solution.

ANTI DUMPING/SUBSIDIES AND COUNTERVAILING MEASURES AGREEMENTS

Developing countries, being in better possession of natural resources and other products including textiles, clothing, etc and not being as industrialized as the developed world, have more market liberalising interests with regards to anti dumping and countervailing duties. They would want to safeguard the small amount of market access they have and avoid any kind of competition which is likely to surface as a result of the subsidies provided by richer nations. The Subsidies Agreement makes the subsidies used by developed countries non actionable while subsidies normally used by developing countries fall under actionable disciplines, and countervailing duties could be imposed on products enjoying such subsidies. This inhibits the industrial development in developing nations. As is also pointed out by Peter Lichtenbaum in his article, inclusion of the dumping and subsidy rules in the negotiations may, prima facie seem encouraging equal participation of developing countries in the WTO, but only when stronger measures with respect to on anti-dumping and countervailing duty are concretized can there be an achievement on the part of developing countries. The argument as to how these needs will be addressed and materialize effectively enough to be of help to the developing nations, nevertheless, remains unsettled.

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53 See Rafael D. Frankel, “Momentum Toward New WTO Round Emerges from EU and ASEAN Meetings”, International Trade Reporter 18, (2001):1477
54 Supra note 52.
55 The Agreement on Subsidies and Countervailing Measures is intended to build on the Agreement on Interpretation and Application of Articles VI, XVI and XXIII which was negotiated in the Tokyo Round. Referhttp://www.tas.gov.eg/NR/rdonlyres/03DBDFAC-D813-495E-A521E39077CFF9B9/1377/SummariesubsidiesCVD.doc, Last accessed on March 09, 2009
56 Supra note 54
TECHNICAL ASSISTANCE AND CAPACITY BUILDING

As the WTO itself acknowledges, "technical assistance . . . is indispensable for the effective participation of beneficiary countries in the work of [the organization]."\textsuperscript{57} In the Uruguay Round, developing countries changed course and signed on to a "single-undertaking," that obligated them to implement all the WTO Rules and Agreements in totality\textsuperscript{58} within an extended time framework.\textsuperscript{59} Yet implementation of these obligations that the Doha Development Agenda provided for the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. Paragraph 41 of the Doha Declaration lists eleven paragraphs in the Declaration where "firm commitments on technical cooperation and capacity building" are made.\textsuperscript{60}

Yet this new strategy has its own impediments. Firstly the beginning sentence of the strategy states the core mandate of WTO to be trade liberalization which clearly brings development and technical assistance to a back seat. Secondly the entire funding of this strategy is based on combination of the general budget and special "trust funds," or voluntary member contributions.\textsuperscript{61} This leaves technical assistance vulnerable to discretion, manipulation and pressure.\textsuperscript{62}

TARIFF NEGOTIATIONS

It is a pivotal concern for the developing countries to have duty free and quota free access to developed country markets for their goods, access for non-agricultural goods in developed countries being a priority for many. The Doha Declaration prioritizes the concerns of developing countries with regards to market access. At the same time “less

\textsuperscript{57} Comm. on Trade & Dev., Note by the Secretariat: A New Strategy for WTO Technical Cooperation: Technical Cooperation for Capacity Building, Growth and Integration, 52, WT/COMTD/W/90 (2001)
\textsuperscript{58} The WTO came into existence on January 1, 1995, and is formally established by the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, Apr. 15, 1994, at Art. XIV, P I Legal Instruments - Results of the Uruguay Round vol. 1 (1994), 33 I.L.M. 1125, 1144 (1994)
\textsuperscript{59} "This obligation was based on the premise that developing countries would accept less favorable rules in one area if they are compensated by rules allowing higher benefits in other areas as developing countries were made to fulfill obligations with S & D treatment." Kym Anderson, The Future Agenda of the WTO. From GATT to the WTO: The Multilateral Trading System in the New Millennium/ the WTO Secretariat 158-59 (London: Kluwer Law International, 2000).
\textsuperscript{60} See Doha Ministerial Declaration, supra note 33, para 41 (citing paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42, and 43 for the specific commitments established for technical cooperation and capacity building)
than full reciprocity in reduction commitments” is mentioned, meaning thereby developing countries may not be open for liberalization of their markets even though seeking full market access from the developed countries at the same time.\(^\text{63}\)

**PART IV**

**FUTURE NEGOTIATIONS**

Prime importance was given to initiation of a “deal on trade in agriculture and industrial goods” and “provision of clear signals on opening services markets” by the WTO Director General, Pascal Lamy, for a successful and an early conclusion to the Doha round.\(^\text{64}\) With regards to the trade distorting subsidies and peak tariffs, the belief is it can be extremely harmful to the developing country farmers.\(^\text{65}\)

Furthermore, there are other issues which need consideration for a quick and favorable resolution of the Doha Round. Firstly, it is very crucial for the developing nations to have an effective participation in rule making process than being reluctant and opting out of the entire process. The same was realized by the then WTO Director General Mike Moore in his address to the International Confederation of Free Trade Unions (ICFTU).\(^\text{66}\) With the firm stand taken by countries like India, China and Pakistan during negotiations, many least-developed and developing countries are encouraged to pursue the stand maintained by these nations. Secondly, besides being a well laid and an integral principle in nearly all the WTO Agreements since the Uruguay Round, the effective implementation of the “Special and differential Treatment” principle remains a task since it is required to implement in a way that markets are liberalized and not closed, since, in the long run, “special treatment” through high tariffs cannot accommodate sustainable

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\(^{63}\) *Ibid*


\(^{65}\) *Ibid*, Lamy observes in his address that “A deal in agriculture and industrial goods would generate an unstoppable momentum and bring quick resolution to the Round. If we want to promote greater growth and development in Africa, Asia and Latin America, we need to change our rules.”

\(^{66}\) *See* Michael Moore, Making Globalization Work, Address before the International Confederation of Free Trade Unions, Feb. 20, 2002, available at http://www.wto.org/english/news_e/spmn_e/spmn76_e.htm, Last accessed on June 22, 2009. He also stated that “The Doha Development Agenda…It will fail if we do not build capacity so that marginalized and capacity-constrained nations can meaningfully participate in complex new development negotiations and develop good governance in such areas as investment, government procurement, trade facilitation, competition and the environment.”
rural development and food security.\textsuperscript{67} Thirdly, an augmented market access for the developing countries is still preferable than tapering the prevalent commitments of the WTO members. To make the progress more realistic, besides providing technical assistance to the developing countries, the earlier commitments during the negotiations could be made country specific i.e. introducing reforms in the sector, of interest to them. This shall lead to market liberalization. Finally, Doha should not be viewed as a hindrance to development. There is a lot to learn from these negotiations. The developing nations can only seek to improve their understanding of the issues involved and aim at making a better deal in the next round.

\textbf{CONCLUDING REMARKS}

The poorest countries have seldom received more than limited benefits from preferences, in part due to the shortcomings of the schemes and in part because preferences are only an opportunity for market access—they do not address the multiple supply-side constraints that limit the participation of the poorest countries in world trade. Notwithstanding the launch of the Doha Development Agenda eight years ago, no clear mandate has emerged as to what specifically should and will be done to assist developing countries.\textsuperscript{68} Thus while the WTO has been promoting development in name, in practice there is still no generally accepted framework or structure for undertaking this effort. Developed communities such as Europe and United States of America are not willing to sacrifice their protectionist measures and thus their so called commitments for development fall short. There is a huge disconnect whereby the WTO on one hand is talking the talk of development and having no knowledge of how such promises can be converted into concrete actions and results.

The development prospects for these emerging economies are not rosy but there definitely exists opportunities for them to increase their exports and benefit by trade policy. There is a need for introduction of rationality in the international trade policy. Liberalization is welcomed but not at the cost of cheap imports being introduced in the market of poor nations and causing de-industrialization there. If introduced, it should be

\textsuperscript{67} Supra note 52
supported by introducing debt relief provisions. Also, the developing nations need to place more confidence in themselves, set an agenda and be more insistent on achieving the same.