

2. Malfunction in the Trade Regime: The Growth of Protectionism

“ . . . no new tariff or non-tariff barriers should be erected by industrialised countries against the export trade of any less-developed country in the products identified as of particular interest to the less-developed countries . . . particularly . . . barriers of a discriminatory nature.”

GATT Programme of Action, 1963

The Changing Environment of World Trade

2.1 Though less comprehensive in its coverage than the proposed International Trade Organization (ITO) for which it substituted, the General Agreement on Tariffs and Trade (GATT) has nevertheless been the central institution in the world trading regime for 35 years. Above all, it was originally designed to encourage the dismantling of the barriers to international trade which had accumulated during the 1930s and the Second World War, and to prevent a relapse into the protectionist excesses of previous periods. The GATT thus found its *raison d'être* in, and was influenced in the formulation of its operational procedures by, the bitter experience of the immediate past. Since its establishment, world politics, production and trade have evolved in ways that could not have been foreseen. So have governmental policies relating to the areas of traditional GATT concern. To this evolution of world trading conditions and arrangements, the GATT has attempted some adaptations. There is a considerable gap, however, between the international trading regime as it was envisaged in 1947 and the way it now operates.

2.2 The original aspiration of the architects of the GATT was of a world of equally treated and independent trading partners, interacting upon competitive and 'open' markets in a non-discriminatory fashion. Part of this liberal ideal involved multilaterally agreed restraints upon restrictive

business practices, as well as upon governmental barriers to trade, but while such provisions were part of the proposed ITO, they were not contained in the GATT. There were also other major gaps (as will be seen) in the translation of the ideal into the practicalities of the Agreement. The assumptions underlying the desire for an open world economy, of liberal and non-discriminatory trade among independent actors in competitive markets, may never have been totally realistic. In any case, they are now open to challenge in significant respects.

2.3 The rapid growth in world production and trade from the late 1940s to the early 1970s was accompanied by a significant transnationalisation of corporate economic activity. The revolution in communications technology and the liberalisation of exchange controls offered new encouragement to 'international production' through the vehicle of direct foreign investment. Scale-economies, not only in production but also in management, marketing, finance, and information systems, further encouraged the growth of large transnational firms. These developments were associated with growth in international trade in invisibles — factor and non-factor services paid for by royalties, fees, interest and profit. They also produced a significant expansion in international intra-firm trade, which now accounts for somewhere between 25 and 50 per cent, depending on definitional differences, of trade among member countries of the Organisation for Economic Cooperation and Development (OECD). This trade is more predictable and less susceptible to the conventional forces of the arms-length free market. In the short-run, it can be regarded as 'administered' trade, with potential for practices which are restrictive or otherwise not in the social interest of one or the other trading partner. On the other hand, intra-firm trade may also be effectively 'managed' so as to ease a particular firm's or industry's adjustments to longer-run changes; and the firms engaging in it may be potent forces against governmental trade 'management'.

2.4 The GATT is silent on restrictive business practices, direct foreign investment and intra-firm trade. Such international discussion as there has been on these matters has therefore taken place in other fora such as OECD and the United Nations Conference on Trade and Development (UNCTAD). The link between trade in goods and services and international investment decisions has become so important, however, that it is difficult today to discuss one in isolation from the other. The trading environment has become an important new element in investment decisions, particularly those which are geared toward exporting.

2.5 Another aspect of the post-war period has been the unprecedented pace of technical change and the growing perception on the part of OECD

governments that comparative advantage can to some degree be created via investments in research and development. High-technology producer goods (and military equipment) are now matters of intense governmental interest and encouragement. The role of international price competition in their development and supply has thus been greatly reduced. To some degree this is also true of such goods as optical and photographic equipment, and consumer electronics. Governments now compete in their support for private or state-owned 'national champions' on the technological frontiers of many industries. At the same time they restrict the export of technology to potential competitors in order to protect national advantages.

2.6 The most dramatic increases in intra-OECD trade, in the 1960s and subsequently, were realised through intra-industry exchange; in this kind of trade, differentiated products of the same general type are exchanged on the basis of their differing characteristics rather than merely on that of price, with the result that exports can expand together with imports within the same industry and adjustment problems can thereby be minimised. There is evidence of the growth of this kind of trade among some developing countries as well, e.g. within the ASEAN. Developing country exports of manufactured products to the developed countries are frequently said to be more 'disruptive' than others, in the sense that they typically involve the need for inter-industry rather than intra-industry adjustment. To the extent that labour and capital are less mobile between industries than within them, these exports may create a more demanding test of the developed countries' adherence to the original GATT precepts.

2.7 The governmental role in international trade has by no means been confined to high-technology sectors. Even outside the state-trading countries, some of which are contracting parties in the GATT, significant proportions of international trade in recent decades have become 'administered' by state-traders. Over 40 per cent of US imports and over 30 per cent of US exports involve transactions with foreign firms which are state-owned or state-controlled. This degree of governmental involvement in international trade was certainly not part of the original GATT vision. At the same time, governments typically are far more protectionist and nationalistic in their procurement policies than is the private sector.

2.8 Increasing attention has also been directed to the fact that the industrial countries are fast becoming service economies. International trade in services, broadly defined, rose nearly three times as quickly as trade in goods in the 1970s. Some governments have demonstrated a keen interest in 'managing' parts of this trade. Yet the GATT makes no explicit provision for governmental practices in restraint of trade in services.

2.9 As the world has grown smaller and more interdependent, the international implications of national policies have increasingly become matters of international dispute. Whereas domestic agricultural policies were considered legitimate grounds for exceptions to GATT rules in the original articles of agreement, there were no equivalent provisions relating to domestic industrial or regional or environmental policies. As the latter types of domestic policies emerged as matters of increasing governmental concern, the temptation was to subordinate international obligations to the needs of domestic policies (the practice specifically authorised in the GATT in respect of the agricultural sector). In most instances, i.e. those not involving tariffs or quantitative restrictions, this meant no formal breach of the GATT since it had no rules governing appropriate practices in these respects. National industrial and regional policies have now become important sources of non-tariff interventions in international trade. As will be seen, overtly protectionist non-tariff measures have also proliferated in defiance or evasion of established GATT norms.

2.10 The original multilateral and non-discriminatory GATT model has also been buffeted by the realities of emerging political relationships. The EEC and some of its trading partners have created discriminatory arrangements in favour of one another which, whatever their other effects, are not in the original spirit of the GATT. So have other trading blocs, not least that of the centrally planned economies. The proportion of world trade taking place on the basis of the GATT's m.f.n. tariffs is consequently much lower than was envisaged or intended and is now estimated at no more than 65 per cent. The proportion taking place between independent private actors on an m.f.n. basis would be much smaller. At the same time, close and exclusive working relationships — including the formulation of codes and guidelines governing restrictive business practices and transnational corporate activity — have been developed within the OECD, to relate only to OECD activities, independently of parallel activity under UN auspices.

2.11 Not the least of the new political realities, and the one to which we shall direct the most attention, has been the emergence of the developing countries as independent and increasingly important participants in the world economy. While their pressure has led to special preferential arrangements on their behalf in some parts of the world trading system (see Chapter 6), their 'low-cost' manufactures have been treated at the same time as peculiarly threatening, requiring discriminatory treatment of the reverse kind in other parts of the system; in one way or another, these countries have not been treated as equal trading partners. Their dissatisfaction with the existing institutional machinery in the sphere of international trade has also led to the establishment of UNCTAD whose

activities in many respects parallel those of the GATT. UNCTAD was the forum within which a generalized system of preferences for developing countries was developed. It has also developed a multilaterally agreed set of principles and rules governing restrictive business practices, has been particularly active in the sphere of international commodity agreements, and has recently stepped up its research and monitoring of protectionist practices.

The GATT System

2.12 Despite major changes in the environment of world trade, and major gaps in its own capacities, the GATT remains the key multilateral institution in the trading system. The GATT has served as a forum within which trade negotiations are conducted, as the source of the basic principles governing trade policy, and as a centre for the settlement of trade disputes. Its greatest success has been in the gradual reduction of tariff barriers. Over the post-war period, seven rounds of multilateral trade negotiations under GATT auspices brought about a much more open world trading system and thereby contributed in an important way to post-war prosperity.

2.13 Originally these tariff cuts were achieved through bilateral bargaining with the results unconditionally extended, on the principle of non-discrimination, to all others, typically including those who were not even contracting parties to the GATT. In the last two multilateral bargaining rounds (the Kennedy Round of 1964-67 and the Tokyo Round of 1973-79) tariffs were cut on the basis of a negotiated across-the-board formula, from which exceptions were bargained. Inevitably the most important bargains tended to be struck among the major trading nations. Smaller countries, while offered the potential benefits of the major countries' reciprocal deals, did not have their own direct needs fairly and adequately addressed in these tariff-cutting arrangements. Tariff cuts were proportionately greater on products traded among the nations of the OECD than they were on those originating in developing countries. In particular, tariffs in the developed countries remained relatively high on comparatively low skill labour-intensive products, e.g. garments and footwear; and tariff escalation in the processing of primary products continued to generate very high rates of effective protection for developed countries' processing industries.

2.14 As tariff protection gradually declined, albeit with a significant variation from industry to industry, the salience of a variety of non-tariff barriers to international trade increased. The most obvious of these non-tariff instruments are quantitative import restrictions, for which certain provisions had been made in the articles of the GATT. In certain strictly

limited circumstances they were originally permissible for agricultural protection, balance of payments purposes, assistance to development in developing countries, and as a safeguard against unforeseen consequences of negotiated tariff cuts. In all circumstances they were to be imposed in such a way as to preserve the cardinal GATT principle of non-discrimination. The GATT also provided for waivers of any of these or other provisions in “exceptional circumstances”.

2.15 Non-tariff measures have emerged as a major challenge to the entire GATT system because of: (i) the increased utilisation of formally permissible instruments of non-tariff protection, to the point where the spirit of the original agreement is called into question; (ii) the increasing extent to which these measures have become discriminatory (or selective) in their application; and (iii) the increasing resort to new measures which were not envisaged at the time of the original GATT and for which there are consequently no rules or guidelines.

1. Utilisation of Non-Tariff Measures within the GATT

2.16 The most striking instance of the growing importance of non-tariff protection which is not formally in conflict with the GATT is in the agricultural sector. On the insistence of the United States, quantitative import restrictions were permitted under the GATT when domestic production of the restricted goods was itself controlled or in surplus. Many other developed countries also took advantage of this exception to the prohibition of the use of import controls, to favour their agriculture. In addition, the most important waiver of GATT rules, though originally limited in time, has become more or less permanent. It has fairly been claimed that the developed countries have utilised the GATT to give a semblance of international legal authority to the trade restrictions which have buttressed their protection of domestic agriculture.

2.17 Agricultural protection has a long history and its proponents have justified it on grounds of national security, farm income stabilisation, environmental and other grounds. Over time, however, the developed countries have been expanding their commitments to their agricultural producers. From original objectives and practices of farm price and income stabilisation and insurance against food emergencies, they have generally shifted to systems of high guaranteed prices and rising self-sufficiency, regardless of cost or efficiency.

2.18 The expanding commitment of many developed countries to protect agriculture has necessitated ever more potent instruments of control at the

borders. While Japan still protects its agricultural sector by high tariffs, the EEC has adopted the variable import levy and the variable export subsidy. The former permits the landed cost of any imported produce subject to the levy to be raised up to, or above, the level of the domestic support price. It is a simple, powerful and flexible measure which negates comparative advantage. The variable export subsidy permits high-cost domestic surpluses to be exported at prices low enough to compete with commercial supplies from the lowest cost regular exporters to any third market. (Export subsidies were prohibited under the GATT except for primary products, including agricultural ones. In the case of primary products, contracting parties were to avoid export subsidies which would result in their acquiring more than an 'equitable' share of world trade. The interpretation of this provision has become a matter of dispute between the EEC and the United States.) The existence of such complete border protection has effectively delinked domestic prices from international prices, making it possible to raise domestic prices to high levels.

2.19 In the United States, Canada and Japan, the protective agricultural systems have included measures to curtail the production of surpluses of major cereals and some other commodities. But the EEC has for two decades supported farm production growth at rates that greatly exceed consumption growth, even at self-sufficiency levels approaching or exceeding 100 per cent. The inevitable surplus stocks have reached proportions that are very considerable in relation to the volume of world trade, especially for butter, milk powder, wheat, sugar and beef. The United States and, to a lesser extent, Canada have also accumulated large surpluses of some milk products.

2.20 As a result, there is hardly a major agricultural product in which developed countries compete with developing countries, for which the world market is not undermined or distorted by subsidised exports or concessional sales from surplus stocks of developed countries. Subsidised or concessional exports are on offer from developed countries to importers of wheat, barley, maize, rice, sugar, oilseeds and vegetable oils, dairy products, beef and lamb. In some cases, as a consequence of rising agricultural protection, countries which were once large importers have become large subsidised exporters. In 1981, for instance, the EEC became the world's second largest exporter of sugar after Cuba, and of beef after Australia. When subsidised exports over-supply the available markets, it is ironically the exporters with comparative advantage, mainly developing countries, but also Australia for sugar and beef, and New Zealand for dairy products, that usually are forced to adjust, because they cannot afford the large-scale competitive subsidisation of major exports.

2. Discrimination within the GATT

2.21 The most significant single breach in the GATT principle of non-discrimination was the set of arrangements developed, within the GATT, to handle the adjustment problems of the textile and clothing industries. These industries are among the most important to developing countries at early stages of industrialisation. This case therefore carries enormous symbolic as well as real economic importance in the developing countries.

2.22 Over 20 years ago, in 1961, the so-called Short-term Arrangements on International Trade in Cotton Textiles were negotiated in GATT to 'regularise' provisions that had been initiated for trade in that sector, involving some breaches (in the form of quantitative restrictions) in the terms of the General Agreement. The difficulties proved to be neither tractable nor transient, and the Short-term Arrangements were converted to the Long-term Arrangements (LTA) in the following year. These Arrangements were renewed in 1967, as part of the Kennedy Round package of agreements, and renewed again in 1970. In 1973, they were replaced by a broader scheme known as the Multifibre Arrangement (MFA) because it relates to textiles and clothing of wool and man-made fibres as well as of cotton. This Arrangement effectively removed the main problems of the textiles sector of developed/developing country trade from the Tokyo Round of multilateral trade negotiations. The MFA has since been extended twice, with interpretative protocols, most recently in December 1981.

2.23 All these Arrangements, negotiated under the auspices of the GATT, are 'umbrella' schemes, under which member governments are authorised to negotiate bilaterally for quotas outside the relevant provisions of the GATT Articles (XI to XIII). The LTA and MFA were intended to be temporary, and to allow time for an orderly adjustment of markets and production facilities in the face of mounting supplies from 'low-cost' countries. The realistic political alternative in the circumstances of the time was seen not as free trade, but as unregulated, unco-ordinated and disorderly bilateral restrictions in defiance of the GATT. The authorised non-tariff barriers were explicitly discriminatory — not against developing countries as such, but against 'low-cost' suppliers, of which Japan was the chief at the start of the LTA. Even so, the LTA and MFA stood the GATT on its head, so far as developing countries were concerned, because of the discrimination against them and the dominance of this sector in their exports to the developed countries. For this reason, for them, the GATT came to represent protection and discrimination rather than the liberalisation and non-discrimination on which it had tended to pride itself.

3. New Non-Tariff Measures

2.24 Non-tariff measures of many other kinds have increasingly been deployed by governments to restrict the free flow of international trade in circumstances in which they are “bound” by their GATT or other commitments not to employ tariffs. Orderly marketing arrangements (OMAs) of the MFA type are only the most visible. In order to circumvent the obligations of Article XIX of the GATT (viz. prior consultations, non-discrimination, and compensation for resulting losses to those affected) which concern the imposition of restrictions on imports which cause or threaten “serious injury”, there has been increasing resort to bilaterally negotiated ‘voluntary’ export restraints (VERs) in many sectors other than textiles and clothing, e.g. footwear, television sets, steel, motor vehicles, etc. These ‘self-imposed’ export restraints are agreed against the backdrop of the threat of more severe protectionist measures imposed unilaterally by the importing countries. They are typically not subject to the approval of parliaments, as are tariffs; indeed, they are frequently not even in the public domain.

2.25 There is nothing new about OMAs and VERs in themselves. These forms of protection were used much earlier and a good deal more thoroughly in agriculture than they are now in industry. What is new is the scale of such ‘administered’ trade. According to one source,¹ about 40 per cent of trade by all market economy countries was ‘managed’ before 1974; by 1980 this had risen to just under half. Most of the trade in non-manufactures was already managed in 1974, and the rise since then has been small. In manufactures, however, the managed share has risen from 13 per cent to almost a quarter.

2.26 What is of particular concern in the LTA and MFA experience, and in the new OMAs and VERs, is the continued temporal extension of arrangements intended at first to be short-term, the steady broadening of product coverage to keep pace with the development of technology, the extensive broadening of country coverage to stem circumvention by transfer of technology, capital and management to new locations and, more recently, the tightening of restrictions on products and exporting countries that have achieved marked import penetration. Whether reversible or not, the drift of events has been steadily away from the Article XIX² concept of temporary and narrowly defined protection toward wholesale sectoral regulation of markets. These OMAs, using VERs and undertaken in quantitative terms, may, it is widely feared, come to typify much of developing/developed country trade.

2.27 There have been so many new instruments of governmental protection in the 1970s that the phenomenon of their growth has spawned a

term for them — the “new protectionism”. Typically, the “new” instruments are employed in defence of particular industries; and often for the benefit of particular firms. In addition to quotas, OMAs and VERs, they concern such aspects as governmental procurement policies; local content requirements; laws regarding health, safety, sanitary or other standards; discretionary licensing; variable import levies; and explicit or indirect subsidies to national or foreign firms, sometimes under the guise of “industrial policies”. Anti-dumping and countervailing duties are also increasingly prominent. So are direct and indirect export subsidies. Increasing proportions of international trade are now subject to regulation or administration, and thus to discretionary decision-making rather than to pre-agreed rules or relatively automatic devices such as traditional import tariffs. Discretionary decisions, where they relate to principles at all, are made with reference to a maze of new legal terms of rather fuzzy economic content — “serious injury”, “material injury” or the risk thereof, “market disruption”, “unfair” or “low-cost” competition, “minimum viable production”, etc. This relative breakdown of order and automaticity is usually accompanied by *de facto* discrimination among trading partners.

2.28 A number of attempts have been made to draw up an inventory of all of the new forms of trade protection. The GATT, for instance, has a list of over 600 different types of non-tariff measures. A precise quantification of the extent of their utilisation is impossible. Apart from the fact that trade restrictions cannot simply be added up, there are difficulties both of definition and access to information. Definitional problems involve questions not only of legality (in terms of GATT) but also of motivation, since trade effects of national policies are frequently incidental and sometimes unintentional. Access to information presents an especially difficult problem in the case of informal arrangements, government deals with particular firms, and intra-firm practices.

2.29 The new protectionism is by no means exclusively directed against the products of developing countries, although that has been its general bias. Trade disputes among the developed countries over the use of new protectionist instruments have also been growing in their frequency and intensity. Particularly acrimonious have been those between Japan and certain other countries in such sectors as motor vehicles, shipbuilding, steel and consumer electronics. The United States and the EEC have also recently deployed new protectionist instruments against one another in the steel and agricultural sectors. These disputes among the major developed countries attract more attention because of the relative equality and bargaining capacity of the protagonists. The damage more quietly done to developing countries’ trade by the new protectionist barriers of the

developed countries is nevertheless of greater overall consequence, particularly in the light of the limited prospect of restraining them through retaliatory measures.

The Tokyo Round

2.30 The last GATT bargaining round — the Tokyo Round — was completed in 1979 and its results are being implemented. It succeeded once again in achieving significant tariff cuts and, once again, these cuts were appreciably lower for the products of greatest interest to developing countries. This Round was originally far more ambitious than its predecessors in that much more than tariff-cutting was prescribed for it.

2.31 At the outset the Tokyo Declaration³ announced an intention to consider the ‘framework’ of trade (i.e. the structure of the GATT itself). It also sought to provide “a better balance as between developed and developing countries” in the sharing of the advantages resulting from the expansion of international trade. Specifically, it was intended to apply “differential measures to developing countries in ways which will provide special and more favourable treatment for them in areas of the negotiation where this was feasible and appropriate”. The results did not live up to these ambitions and expectations. Perhaps in part because of the oil price shock and the recession, elements of the intended package could not in practice be agreed.

2.32 While average tariffs on industrial products were reduced by about one-third on an import-weighted basis, the reduction for developing country products was only about one-quarter on base levels which were already significantly higher. The minimal progress made in liberalising agricultural trade and the fact that quantitative restrictions under VERs and OMAs were not considered, reduced the significance of the Round still further for developing countries. Some liberalisation was achieved on ‘non-competing’ agricultural products — certain tropical products — although the effects on the degree of tariff escalation, on which previous Rounds produced little or no progress, were mixed. Some of the consequences of the Tokyo Round concessions on products of interest to developing countries are discussed in Chapter 3.

2.33 One important advance made in the Round was the negotiation of several agreements (codes) on non-tariff measures to improve the rules and provide more effective discipline in the application of these measures. Agreements were concluded on (i) Subsidies and Countervailing Duties, (ii) Technical Barriers to Trade, (iii) Import Licensing Procedures, (iv) Government Procurement, (v) Customs Valuation, and (vi) a Revised

Anti-Dumping Code. These codes were the chief distinguishing feature of the Tokyo Round as compared with previous rounds of multilateral trade negotiations. Some of their characteristics and major limitations are referred to in Chapter 7. With the exception of these codes, which were intended only to begin to introduce greater order by making procedures less arbitrary, more transparent and more uniform, the Tokyo Round failed to make a significant impact on the recognised shortcomings of the system. Although the codes make some provision for favourable treatment of developing countries, they do not go far enough in reflecting the interests of these countries, which in consequence have been reluctant to become signatories (see Chapter 7).

2.34 A further advance for the developing countries was an Enabling Clause legitimising “differential and more favourable treatment” for them. Linked with this legitimation, at the insistence of the developed countries, is agreement to adopt the principle of “graduation” under which such treatment could be subject to periodic review.

2.35 A major failure of the Tokyo Round was its inability to agree upon a new and more effective international safeguards system. Such a system would greatly benefit developing countries in helping to ensure that emergency protection is introduced only on a temporary basis, under international surveillance and for the legitimate purpose of averting “serious injury”, carefully defined. There were early hopes of a reform (i.e. a rewriting) of Article XIX, on safeguards², in view of the contracting parties continuing evasion of it and the wholesale adoption of bilateral regulation of trade outside the disciplines of the GATT. These hopes soon gave way to the more modest aim of achieving an interpretative protocol. But it proved impossible to reach agreement even on that because of differences of view as to whether it should be permissible to apply safeguards “selectively”, i.e. in a discriminatory fashion.

Preferences for Developing Countries

2.36 The relative disadvantages of developing countries in the emerging international trade regime have been periodically recognised in GATT programmes and the policies of the developed countries but so far without much effect. As early as 1963, the GATT’s Programme of Action called for a “standstill” on all trade restrictions applied by industrial countries to exports from developing countries⁴. It also enjoined its members to abolish all restrictions on trade in tropical products, a proposition on which the EEC had some reservations, pleading in that regard the interests of the Yaoundé Convention countries. Attempts to make substantial progress with trade liberalisation in tropical products during the Kennedy Round foundered on the same rock. In the mid-1960s, a new part was added to the

GATT (Part IV) which authorised the granting of non-reciprocal tariff concessions to the developing countries, and absolved them of the requirement of reciprocity⁵. This proved of little practical importance, however, since without reciprocity the developed countries saw no advantage in offering concessions to any trading partners, however deserving, and offered very few; during the Tokyo Round, despite Part IV, some developing countries were specifically adjured by specific developed countries to offer reciprocal concessions to them.

2.37 Although it was not a GATT initiative, the Generalized System of Preferences (GSP) also was created for the special advantage of the developing countries. Preferential access to the markets of the EEC on a more comprehensive basis has also been granted, without reciprocity, under the terms of the Lomé Convention, to a large number of African, Caribbean and Pacific (ACP) countries. The United States now proposes to offer non-reciprocal and preferential market access to a number of countries in the Caribbean Basin. These efforts to develop preferential trading areas between particular developed countries or groups of them, and particular groups of developing countries, as in the Lomé Convention and the proposed Caribbean scheme, are not in the spirit of the original GATT principles of non-discrimination and universality.

2.38 There have also been numerous attempts to stimulate trade among developing countries through preferential schemes. Most have been introduced, with rather mixed success, at the regional level, e.g. the Andean Group, the Central American Common Market, the Caribbean Community, ECOWAS, ASEAN, etc. Some have been more general in their coverage, such as the GATT Protocol Relating to Trade Among Developing Countries which embraces special provisions for a range of commodities and 16 developing countries. For some years efforts have also been made in UNCTAD to develop a general system of trade preferences among developing countries. While there are undoubtedly under-exploited and increasing opportunities for future trade among developing countries, for the present their major markets and trading prospects remain in the industrialised world.

2.39 Some preferential and other special arrangements affecting developing country trade are considered at greater length in Chapter 6. For the present it suffices to say that their importance is dwarfed by the overall changes in protectionist practices and the difficulties being created and expected in future from the malfunctioning of the global trade regime.

Overall Perspective

2.40 International trade today is evidently in large part not governed by the principles and rules formulated by the original negotiators of the

GATT. A high proportion of trade takes place on a basis other than that of unconditional m.f.n. tariffs; discrimination is found both at a general level, as between members of different 'tiers' or trading blocs (the OECD, the EEC etc.) and selectively, in respect of particular countries and industries. There is wholesale abuse or evasion not only of GATT principles but even of prescribed GATT rules, particularly in respect of quantitative restrictions; there is growing resort to non-tariff measures for which there are no GATT rules. Bilateralism has been substituted for the envisaged multilateral approaches to trade negotiation, policy debate and dispute settlement. As non-tariff measures have proliferated, the transparency of trade barriers has been reduced, making monitoring, surveillance and assessment of effects much more difficult. In general much higher proportions of international trade are being 'administered' and 'managed', both by governmental and by private transnational actors, than the original GATT negotiators anticipated. Where discretion replaces rules, the weakest invariably lose most. In consequence of these and other developments there has recently emerged a popular climate of increased legitimacy for protectionist pressures and arguments in the developed countries.

2.41 There has thus been a quantum leap in the degree of uncertainty surrounding market access. This increased uncertainty is bound to inhibit and distort trade and investment. These developments also call into question the credibility of such rules and institutions as have governed international exchange over recent decades. Uncertainties, by influencing trade and investment decisions, generate the very conditions which make for still greater encroachments upon liberalised trade and thus breed further uncertainties in an ever-intensifying downward spiral.

2.42 The new protectionism involves the re-emergence of a very old form of protectionism with its origins in the age of mercantilism. The last great burst of bilateral trading deals, demands for country-specific reciprocity, special arrangements, and managed trade occurred in the 1930s. The bitter lessons learnt from that period were the origin of the GATT principles of multilateralism and non-discrimination, and its attempt to introduce some rules to the international trading jungle. The potential losses to the world trading system from a return to the oldest forms of protectionism are very great. Among the unfortunate, but very real, possible consequences is a renewed inward orientation on the part of developing countries which might seek to protect themselves, singly or collectively, by opting out of expanding trade possibilities with the developed world.

2.43 It is ironic and tragic that a new protectionism should be appearing in the developed countries at a time when there has been a trend toward

increasing trade liberalisation and outward orientation in the developing ones, particularly in the newly industrialising countries. In all of the developing countries there is now a more sophisticated awareness of the potential role of external trade in economic development than there was twenty years ago, and a consequent swinging away from previous overly inward orientations of a highly protectionist character. Most developing countries have managed significantly to diversify their exports and to expand their participation in the world economy. The new protectionism, which is in part a response to the developing countries' very success in this respect, risks the loss of the potential for more creative use, both by the developing countries and the world as a whole, of their trading opportunities.

2.44 The need to bring the growing volume of officially and unofficially 'administered' trade within the purview of GATT, to subject it to international surveillance, to submit it to internationally agreed rules, and to establish a link with industrial adjustment, lie at the heart of the problem of protection as it affects relations between developed and developing countries. The view has been growing in the developed countries that, in a world of 'administered' trade, any country that frames its policies on a presumption of free trade is simply handing over decisions regarding its domestic industrial structure to others. The prevailing conditions of idle industrial capacity and the level of unemployment of labour increase temptations to employ 'easy' protectionist solutions, particularly when they do not breach any agreed international conventions.

2.45 There is undoubtedly some connection between the macro-economic circumstances in particular countries and their attitudes towards import competition. It is much easier to tolerate import pressure and to restructure one's economy as required when one is experiencing rapid economic growth. High unemployment will tend to trigger pressures to preserve jobs by restricting imports. Similarly, balance of payments pressures may generate trade barriers as happened, for instance, in the United States when an across-the-board import surcharge was imposed in August 1971, a measure for which the GATT has no provision. It has become increasingly evident then, that trade policies, however inappropriate to the solution of macro-economic problems, cannot be considered in isolation from monetary, fiscal or exchange rate policies. Nor can the principles and practices of the GATT be totally divorced from those of the International Monetary Fund. The same employment or income objectives can be pursued via numerous alternative mixtures of policies; each policy mix has its own international implications which affect the commodity and geographical composition of trade in its own way.

2.46 Temporary balance of payments pressures, high unemployment and slower growth may help to explain the recent resurgence of protectionist pressures in the developed countries. But, as has been seen, the degree of malfunctioning in the present world trade regime has deeper roots than these. The particular characteristics of current protectionist policy measures suggest that they are the product of more fundamental influences, including changes in world trading patterns and in the way international trade is conducted and perceived. There must therefore be careful consideration of the requirements of an effective international trading and investment order that takes the new realities more satisfactorily into account.

References

1. S.A.B. Page, "The Revival of Protectionism and its Consequences for Europe," *Journal of Common Market Studies*, September 1981.
2. The terms of the present Article XIX are set out in Appendix 2.
3. Declaration agreed at the GATT Ministerial Meeting in Tokyo in September 1973 which formally launched the multilateral trade negotiations.
4. Conclusions of the GATT Ministerial Meeting held in Geneva from 16 to 21 May 1963. (GATT: *Basic Instruments and Selected Documents*, twelfth supplement, June 1964.)
5. The terms of Part IV of the GATT are set out in Appendix 1.