7

Systemic Issues and Commonwealth Developing Countries

Most of the analysis pertaining to the UR has focused on changes in market access and any associated quantitative effects. This is understandable given the desire of commentators and analysts to give some 'precision', however spurious, to the outcome. One unfortunate by-product of this is that in many evaluations the systemic impacts of the Round are underplayed. Arguably, in the longer term perspective, these are at least as important as the market access effects. We will evaluate systemic issues for CDCs from four standpoints: the effect of the agreements on the menu of policy options facing CDCs; the mission and operation of the new WTO; the operation of the trade policy review mechanism; and any infrastructural requirements following from the Agreements.

7.1 The Uruguay Round and CDC Policy Options

Trade policy is central to industrialisation efforts in developing countries. The combination of instruments used is generally summarised as a trade strategy and there is a tendency to categorise these into import substituting industrialisation (ISI) and export oriented industrialisation (EOI).

The highly successful development strategies of the East Asian NICs have been almost universally labelled as EOI. With the exception of Hong Kong, these countries have most definitely not followed free trade policies. What they have tended to do is make increasing use through time of export promotion instruments and compensatory export incentives, against a backcloth of some import liberalisation (and therefore some continued import protection). Typically, therefore, they are 'neutrality' type strategies, i.e. they have used trade policy to create a situation where the price effects of import and export interventions are broadly offsetting.

Table 14 gives examples of some of the instruments of export promotion used by four successful East Asian NICs, three of which have been very successful. These are manifestly instruments of export promotion, some of which are general, some of which are specific. All are explicitly discriminatory in the sense that they are intended to favour exporting activity. One cannot say that the successful strategies of these countries is due entirely to the use of such export promotion instruments. That is manifestly not the case. However, insofar as these countries have had a role to play, how are other less developed and least developed countries which are hoping to follow their lead or being pressurised to do so, placed in the post UR environment?

The reforms which have most direct bearing are those relating to: subsidies and CVDs; TRIMs; TRIPs and possibly services. As we saw earlier, for the first time GATT will define a subsidy and the traffic light approach will proscribe the use of explicitly discriminatory subsidies, including those targeted at exports. The Agreement sets out what are defined as prohibited, actionable and non-actionable subsidies. For reference these are set out as Table 15. Prohibited subsidies are those which are explicitly geared to supporting exporting or import substituting activities. Actionable are those which are not necessarily contingent upon performance but can be shown to affect third parties. Non-actionable are those which are either non-specific or which are specific but geared to systemic support.

Table 14: **Examples of Export Promotion Instruments in East Asia**

Tax Incentives Specific to Export Industries in four Asian Economies

	Malaysia	***Philippines***	***Thailand***	***Korea***
Priority exports	All export industries are included in the 'pioneer' category; the following incentives are additional	Export Incentives Act does not specify whether the following incentives are additive	All export areas are 'promoted'. Following incentives related to exports (promoted as well as traditional exports)	All foreign exchange earning industries are defined within 'key' sectors; the following are additional incentives
Tax holidays	4-7 years' holidays for capital investments (instead of usual 2-5 years for pioneer industries)	et exemption if revenues exceed US$5 million within 5 years from the registration	Exemption from *bt* and *et* on exportation of manufactures	bt exemption
Deductions	Expenses such as foreign advertising, export market research, transport costs deductible from tax base	*it* base reduced by a certain portion of export revenue, based also on domestic content	Not available	Not applicable due to total exemptions
Tax credit	Not available	Export producers: tax credit equivalent to the sales, compensating and specific taxes and raw material duties	7/8th of *cd* on raw materials	50 per cent for it and cit
Accelerated depreciation	Additional 40 per cent of the residual value of capital assets	Same as in priority industries	Same as in priority industries	Same as in priority industries

Note: et = export tax; it = import tax; cd = customs duty; bt – business tax; it – income tax; cit – corporate income tax

Source: Falvey and Gemmell (1990

Table 15: **Subsidies in the Uruguay Round Agreement**

A	Prohibited Subsidies
i	subsidies contingent upon export performance
ii	subsidies contingent upon the use of domestic over-imported goods
B	Actionable Subsidies
i	subsidies which cause injury to the domestic industry of another member
ii	subsidies which result in nullification or impairment of benefits to other members
iii	subsidies which cause serious prejudice to the interest of another member
C	Non-Actionable Subsidies
i	subsidies which are not specific
ii	subsidies which are specific but: provide assistance for research activities conducted by firms, higher education or research institutes; assistance to disadvantaged regions within the territory of a member; provide assistance for adaptation of facilities to new environmental requirement

Table 16: **Illustrative List of PROHIBITED Export Subsidies**

a	Provision by government of direct subsidies to a firm or industry contingent upon export performance
b	Currency retention schemes which involve a bonus on exports
c	Preferential transport and freight charges on export shipments
d	Preferential provision of government services to exporters
e	Full or partial remission of taxes or social welfare charges paid by exporters
f	Allowance of special deductions to exports or export performance
g	Exemption or remission of indirect taxes to exporters
h	Remission or drawback of import charges to exporters
i	Provision of export guarantee or insurance programmes, or of exchange risk insurance at rates which do not cover operating costs
j	Grants by governments of export credits at preferential rates

From a policy standpoint, the most interesting issue is which subsidies are prohibited. The Agreement does in fact set out an illustrative list, which is reproduced in Table 16. As is obvious, this list contains a number of instruments used by East Asian countries in support of their industrialisation efforts – explicit export subsidies, duty drawback, fiscal exemptions and tax holidays. This appears to be a major constraint on a wide menu of policy choices which others appear to have used to good effect, especially in the context of export processing zones (EPZs). Things are not quite as straightforward however. The agreement explicitly exempts the least developed and other LDCs with a per capita GDP of <$1,000 from the prohibition on export subsidies. This is important for two reasons: first because it (appropriately) introduces an exemption; second because it clearly means that the GATT has introduced a graduation criterion (which is indeed echoed elsewhere in the agreement). Thus, although access to these instruments is constrained, the least developed can still rely upon them. The interesting policy question then becomes: Is a graduation level of US $1,000 sufficiently high? Is it the case that developing countries have typically passed the super-critical or take-off stage by that level of per capita income? This criterion will in fact mean that most CDCs are exempted. The exceptions are Jamaica, Botswana, Mauritius, Malaysia, Trinidad and Tobago, Malta, Cyprus, Hong Kong, and Singapore. Most of these are countries where industrialisation is sufficiently far advanced for this not to be seen as a major constraint on policy.

As discussed in Section 6, TRIMs and TRIPs are also areas where the UR imposes new constraints on policy-makers in developing countries.

So far, the discussion has focused on ways in which the agreement could constrain the use of the menu of policy instruments available to LDCs. The message seems to be: there is some scope but it will impact differentially on different groups of developing countries. The preservation of the special and differential principle, albeit in a more carefully targeted form, will allow developing countries full, unconstrained access to the kind of policy instruments available to the East Asian NICs in the past, at least up to some critical level of development. This is of course only one part of the story. Having access to those instruments does not guarantee success, both for internal and external reasons. Internally other pre-conditions need to be in place: the structure of internal relative prices needs to be appropriate, the necessary human and physical capital infrastructure needs to exist to facilitate take off, and so on. But even if these internal pre-conditions are in place, for the export promotion instruments to 'work', externally there needs to be secure market access for the policies to be effective. The UR has implications for this.

If an EOI policy is to be followed, market access is crucially important. The East Asian NICs have been successful. In the process however, they have found that market access has become constrained in a number of crucial areas, via a range of subtle and not so subtle interventions. Will the same fate confront new exporters of manufactures, or does the UR do anything to reduce these constraints, thereby enhancing the potential effectiveness of instruments of export promotion?

There are in fact a number of UR agreements which could impact on policy effectiveness. Take first of all a potentially negative dimension, namely the agreement on safeguards. This now permits discriminatory emergency action. The intention of the change is to encourage CPs to take action under this route, rather than via grey area devices. We will not know, until the new mechanism is fully operative, just how tightly constrained its usage is. However, it has the potential for abuse, with the targeting of intervention at new exporters specialised in a particular product area or areas.

It is, however, important to see the new safeguards provisions alongside complementary changes, in particular the proscription of enforced export restraint via VERs, orderly marketing agreements and the like. There is evidence to suggest that rather than taking action through Article XIX, CPs have had recourse to these grey area measures. If the proscription is enforced and discriminatory action under Article XIX appropriately enforced, then this will reduce a major source of uncertainty to new exporters. VERs and the like have been systematically applied to the exports of new manufacturers perceived as being very competitive at the margin. Notwithstanding this, the fact remains that a discrimination route is available. If it is abused it is likely to be so by reference to new exporters. These tend to be most competitive at the margin, they also tend to specialise in a relatively narrow range of products, thereby increasing their vulnerability.

Similar comments pertain to anti-dumping. As we saw earlier, the evidence here is unequivocal: many DMEs have been using anti-dumping instruments as protective instruments rather than instruments of fair trade. In principle, the tightening up on Article VI and XVI provisions will reduce the scope for discrimination and should remove another area of uncertainty with respect to potential market access. The whole area of anti-dumping is a difficult one. Whether or not the agreement makes a real difference to developing countries depends almost entirely on enforcement. It is one thing to put new measures in place, it is quite another to ensure they are enforced. It is in the nature of specialisation that new exporters of manufactures specialise in a narrow product range. Inevitably this makes them especially vulnerable to targeted measures in general and contingency measures in particular. Hopefully, the tighter definitions of injury and the closer monitoring of intervention will ultimately provide more secure access.

A key agreement in terms of improved market access is that on the textiles and clothing. The source-specific quotas which underpin the MFA have given guaranteed access to Western markets for older NICs such as Korea and Hong Kong, but frustrated entry for new producers. As countries like Mauritius and Bangladesh have established themselves, the basket entry mechanism has been deployed to constrain growth. Since textiles and clothing are one of the first rungs, (if not the first one) on the ladder of comparative advantage, this has been a serious constraint. As MFA quotas become progressively liberalised, access should improve.

In terms of policy effectiveness, the impact of the agriculture agreement is more difficult to judge. This pertains to temperate zone agricultural products and to that extent, would appear to be of interest primarily to industrialised countries. However, there are several reasons for believing it could have an impact on LDC producers. First, some LDCs are exporters of temperate zone products. Second, some tropical products substitute for temperate products (e.g. cane sugar for beet sugar). Third, insofar as the agreement reduces the likelihood of agricultural surpluses being dumped on developing country markets, it enhances the likely effectiveness of LDC supply management policies. Overall, the agriculture agreement should benefit LDC agricultural producers and help enhance the effects

Table 17: **Impact of Uruguay Round Agreements on LDC Policy Options and Policy Efectiveness**

Agreement	Constraints Policy Options of LCDs	Strengthens rights and obligations	Reduces Scope for Discrimination	Improves Market Access
Articles XII and XVIII[B]	✓	✓		
Article XXIV	✓			
Article XXXV				
Agriculture:				
Market Access	✓			✓
Domestic Support	✓			✓
Export subsidies	✓			✓
Textiles and Clothing		✓	✓	✓
Technical Barriers		✓		
TRIMs	✓			
Anti-Dumping		✓	✓	✓
Customs Valuation				
Rules of Origin				
Subsidies and CVDs	✓		✓	
Safeguards		✓		✓
Services	✓	✓	✓	✓
TRIPs		✓		
Dispute Settlement			✓	
TPRM				
Tariff Liberalisation	✓			✓

of any supply policies. (This does not of course mean that there will necessarily be net benefits: if, as most models predict, world prices rise, LDCs as consumers are worse off.)

7.2 Operation of the New WTO

The linkages between trade strategy and economic performance are not wholly transparent. There is evidence which links openness to economic performance and exports to economic growth (see for instance Greenaway and Nam, 1988, Greenaway and Sapsford, 1994). It seems reasonably safe to argue from this evidence that whilst it is not entirely certain what causes economic growth, the (trade policy) factors which frustrate it are clearer. In particular, inward-oriented trade strategies which make extensive use of direct controls appear to be inimical to growth. By contrast, trade regimes which are closer to neutrality and which offer support to exporters, appear to be associated with growth. It is likely, however, that this type of trade regime is a necessary but not sufficient condition for growth (the sufficiency conditions depending upon critical levels of human, physical and social capital). This is a plausible caricature of the East Asian story. Will the WTO facilitate LDCs following in the footsteps of the East Asian NICs? By encompassing the GATT and incorporating the GATS, Textile Surveillance Body (TSB) and so on, the WTO extends the fundamental GATT principles to a wider range of commercial activities.

Part II of the Uruguay Round Final Act sets out the first root and branch restructuring of the infrastructure servicing world trade since 1947.

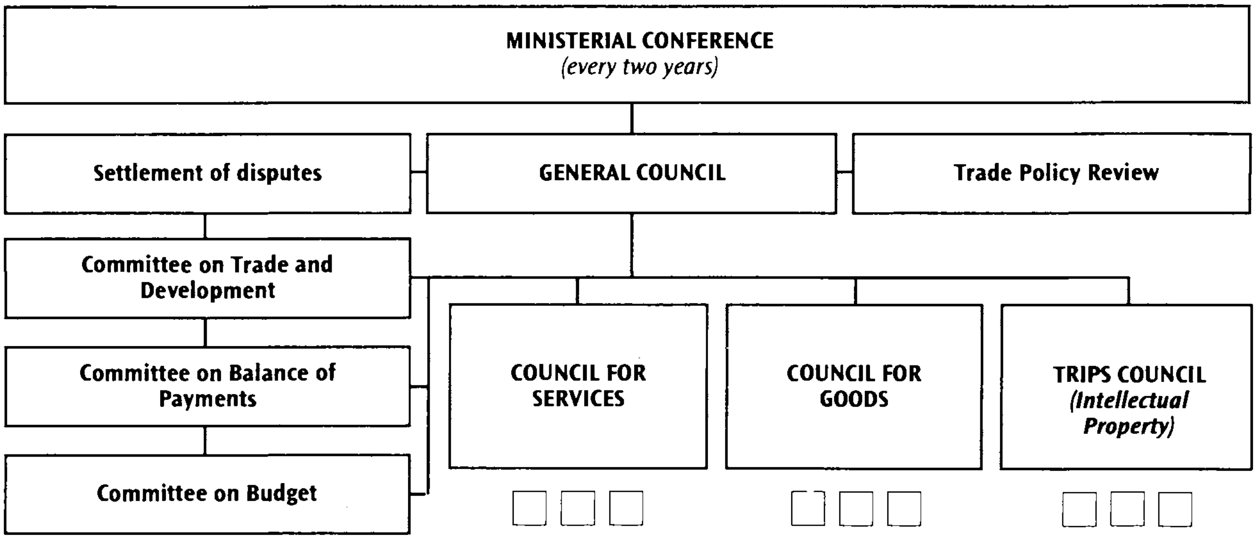
S+D Provisions	Improved Transparency
	✓
✓	✓
✓	✓
✓	✓
✓	✓
	✓
	✓
✓	✓
	✓
	✓
	✓
✓	✓
	✓
✓	
✓	✓
	✓
	✓

The new structure is set out in Table 18. As can be seen, the executive of the new WTO is the Ministerial Conference, which will convene at least once every two years, and the General Council, which will be convened as required. The former replaces the ad hoc Ministerial Conferences convened under GATT to launch new Rounds; the latter encompasses GATT. As well as incorporating a Council for Trade in Goods, it also has reporting to it Councils for Trade in Services and TRIPs and a Dispute Settlement Body. The WTO inherits the GATT Secretariat and Director-General and, as with the GATT, is funded by members contributions. Decision-taking is by consensus. Where this cannot be achieved, however, decisions in the Ministerial Conference and General Council can be taken on the basis of majority vote or, for a range of provisions, by three-quarters majority. For purposes of Decision-taking, each member has one vote with, for this purpose, Member States of the EU counting as independent enfranchised members of the WTO. Budgetary authority, in the sense of approval or otherwise of the annual budget, is subject to a two-thirds majority rule.

What are the implications of the WTO from the standpoint of policy formulation and implementation in developing countries? The first point to make is that the WTO has a more secure legal status than GATT 1947 and, where commercial relations are concerned, a somewhat broader scope. The Final Act sees the WTO as creating an environment within which trade, employment and income growth is facilitated. To this end, it explicitly endorses the liberal principles of GATT "*...in contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations*". This mission statement is clearly helpful to developing countries aiming to pursue liberal policies as well as avoiding discriminatory treatment. The extent to which LDCs benefit from it, however, depends upon the extent to which deeds match up to the rhetoric.

One source of irritation to many developing countries has been the perceived absence of co-ordination between the World Bank (which includes conditions relating to trade policy reform in its Structural Adjustment Loans), the IMF (which includes conditions relating to trade policy reform in its Structural Adjustment Programmes) and the GATT. The irritation stems partly from a perception that the requirements of the various bodies are not always compatible and partly from a feeling that reforms made in response to pressure from one agency go unrecognised by the others. Two features of the operation of the WTO ought to help here. The first we have already mentioned, namely the TPRM for which the WTO has formal responsi-

Table 18: **Structure of the WTO**



☐ Committees set up to administer the various arrangements

bility; the second is a commitment to closer co-operation with the IMF and World Bank. The combination of the two could result in better information about the current state of trade policy and the status/progress of any on-going reforms. The new decision-taking arrangements should give LDCs greater voice in the operation of the WTO. One member one vote is a device which helps ameliorate the effects of significant asymmetries in bargaining power, which self-evidently exist. This should help in, though not of course guarantee, providing some counter to that power.

Table 16 also indicates that a number of committees will report to the General Council, one of which is the Committee on Trade and Development (CTD). "...*This shall periodically review the special provisions in Multilateral Trade Agreements in favour of the least developed countries Members and report to the General Council for appropriate action*...". The creation of a Committee to oversee the operation of the Agreements is clearly of interest to developing countries. The crucial words above are however least developed, an emphasis which reflects the changing perspective towards special and differential treatment.

7.3 Operation of the Trade Policy Review Mechanism

At the mid-term review of the Round, in 1988, it was agreed to initiate the so-called trade policy review mechanism, initially on a trial basis. The Final Act ratified the commitment and the TPRM is now a fully functioning, and fully integrated, feature of the WTO. This is an important development from the standpoint of all contracting parties but especially developing countries.

Whilst there has always been an obligation on the part of contracting parties to notify trade measures and changes therein, to the Secretariat, the GATT never at any point had the authority, nor the mechanisms, to systematically review the trade policies of its signatories. What the TPRM does is to provide the WTO Secretariat with a basis for systematic audit of a CP's trade and industrial policies. The Secretariat gathers evidence from the country being audited and its trading partners. WTO also evaluates independently-generated evidence on the incidence and effects of trade policies. Once assembled, this is reported in a standard format, as illustrated in

Table 17. It is published, along with details of the Council's discussion of the report and the CP's response. Reports are prepared on a regular cycle: every two years for the big three, through to every seven years for the smallest CPs.

Table 19 **Required Structure For Trade Policy Review Reports**

I Economic Environment of the Contracting Party

II Trade Policy Regime: Framework and Objectives
- General Framework
- Structure of Trade Policy Formulation
- Trade Policy Objectives
- Trade Laws and Regulations
- Trade Agreements

III Foreign Exchange Regime and Foreign Direct Investment
- Exchange Rate Regime and Policy
- Foreign Direct Investment

IV Trade Policies and Practices by Measure
- Overview
- Measures Directly Affecting Imports
- Measures Directly Affecting Exports
- Measures Affecting Production and Trade

V Trade Policies and Practices by Sector
- Overview
- Agriculture
- Mining and Energy
- Industry

VI. Trade Disputes and Consultations
- Dispute Settlement Under GATT and Related Arrangements
- Dispute Settlement Outside GATT.

One of the most attractive features of the TPRM is that it brings greater transparency to trade policy. Moreover, it does so in a very effective manner. The GATT Secretariat has a reputation for independence, an asset which enhances the credibility of the information. Although there are no explicit enforcement criteria written into the TPRM agreement, there can be little doubt that the existence of the mechanism raises the possibility of stronger third party enforcement. From the standpoint of all CPs, this is desirable. It is especially desirable for smaller CPs in general and developing countries in particular. This is so for two reasons. First, an independent audit of this form makes it easier to resist the predations of domestic interest groups. Second, independent audit of the large CPs makes discriminatory interventions on their part all the more obvious, thereby offering the offended party the prospect of due recourse. Moreover, because the audits are conducted on a regular basis, failure to remove/reduce illegal or extra-legal interventions can be exposed more readily.

7.4 Infrastructural Requirements

The Round brings new obligations on CPs, both to comply with the new disciplines and to take advantage of the market opening measures. Take the latter first. We have seen at various points the improvements in market access which will flow from the Agreement. To exploit these fully will require good market intelligence. The fixed costs of putting appropriate infrastructure in place for this appear to be relatively high. Thus, small island economies, like the Caribbean countries, may see this as a barrier. The success of countries like Mauritius, Cyprus and Malta in this respect shows, however, that we are not in fact dealing with major investments. With appropriate technical assistance and investment in human capital, agencies like the Mauritius Export Development and Investment Authority (MEDIA) can be up and running. Agencies like the Commonwealth Secretariat, World Bank and UNCTAD are in a strong position to advise here. Uruguay Round liberalisation means more open and more integrated markets; in turn that means that the costs of failing to exploit market opportunities are higher.

The agreements place on CPs a stronger obligation with respect to monitoring of policies and instruments. At the overall level, this applies most clearly to the TPRM process. It is also a by-product of specific agreements like those on subsidies and TRIMs. However, the most significant commitments derive from the services and TRIPs agreements, especially the latter. Developing countries are given a phase-in period but ultimately they are obliged to put in place appropriate mechanisms for the protection of IPRs. This will require primary legislation and significant investment in human capital. Again, this is an area where technical assistance will be required.