Girvan, Norman, and Ana Luiza Cortez. "The Enabling International Environment." *Alternative Development Strategies for the Post-2015 Era*. Ed. José Antonio Alonso, Giovanni Andrea Cornia and Rob Vos. London: Bloomsbury Academic, 2014. 355–380. *Bloomsbury Collections*. Web. 26 Apr. 2023. <<http://dx.doi.org/10.5040/9781472593047.ch-012>>.

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Chapter 12

The enabling international environment

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12.1 INTRODUCTION

The chapters in this book call for a new approach to development and to development policy. A paradigm of sustainable equitable development (SED) has been proposed with social inclusion and environmental sustainability as integral elements. Along with this is a policy approach that departs from neoliberal orthodoxy—allowing for an activist state and a nuanced approach to trade and financial liberalization, depending on the circumstances of each country. However, the success of alternative strategies is also conditioned by the international environment in which countries operate. Relationships in key areas like trade and finance can help or hinder the attainment of development objectives. Schematically, the role of an “enabling international environment” in supporting alternative development strategies is depicted in figure 12.1. Here, we have grouped its components into those relating to (i) global governance (ii) finance (including aid) (iii) trade, (iv) technology, (v) migration and (vi) the environment. Finance, migration and the environment are the subjects of other chapters; this chapter discusses global governance and international trade and technology rules.

12.2 EMBEDDING ALTERNATIVE DEVELOPMENT IN THE INTERNATIONAL ENVIRONMENT

Establishing an international environment that is supportive of SED is not necessarily a straightforward matter. Neoliberal principles are not only embedded in much of the rules, practices and policies of major international institutions; but also in the underlying thinking that informs the work of the global policy community. A common mistake is to fail to distinguish between means and ends. Too often we find an assumption that market liberalization is the right policy in all circumstances; but liberalization should be subject to the test of how far it serves the ends of development. Similarly, growth in the GDP is often assumed to “good” in and of itself; but different kinds of growth have different consequences for equity and for the environment. Neoliberal principles are often reflected in the architecture and content of the World Trade Organization agreements² and in the rules and conditionalities of the Bretton Woods Institutions (BWIs). They can underlie WTO/BWI institutional culture, recruitment methods, staff training and socialization and incentives for career advancement as well as the extensive training programmes, seminars and conferences that these institutions run for policy officials and the academic community. To a significant degree, these principles have been assimilated by policy elites of developing countries as a result of professional training and sustained exposure to donor conditionalities. In other words, embedding alternative development objectives and ensuring space for policy heterodoxy in the international environment is a task that will need to be addressed across sectors and at several levels. In this regard, several cross-cutting principles may be suggested.

First, the overarching objective must be the equitable distribution of the benefits and costs of globalization, that is to say, promoting convergence and reducing global inequalities in a sustainable way. Equally important is the guarantee of basic needs and human rights through global safety nets. Governance structures need to be transparent, accountable and democratic, balancing effectiveness with legitimacy.

Second, there is the aforementioned need to make a clear distinction between means and ends. The overarching objective should be applied as the across-the-board criterion for orienting agreements, institutions, rules and policies; and applied in terms that are operational, measurable and capable of being easily monitored. The *means* that are employed to meet this objective, however, will be subject to a fair degree of national variation. As Vos (chapter 1) points out, “the more successful development experiences suggest that the way forward would start with designing national *sustainable*

development strategies tailored to country-specific conditions” (and) “a new balance must be found between international rules-setting and the provisioning of global public goods, on the one hand, and the creation of the space needed by nations to determine their own destiny, on the other.”

Figure 12.1

Enabling International Environment for Alternative Development Strategies

Source: Girvan and Cortez.

The third principle, which follows from the above; is that recognition of the diversity of national circumstances and of policy approaches should be embedded in the architecture as an *intrinsic feature* of the global community, not as exceptions to general rules. In other words, the environment should cater to the fact that countries have a variety of initial conditions, and will adopt a variety of pathways to achieve the objective of SED. This applies especially to the rules regarding the relative role of state and market in the economy, and the degree and sequencing of trade and financial liberalization.

A fourth cross-cutting principle we propose is recognition that *true development is locally-driven*. One implication of this is that policymaking should be endogenized, prioritizing the use of local resources and the building of local human and institutional capacities. Hence, external agencies should be supportive of internal effort, not substitute for it.

A fifth follows from the notion that “*learning*” is *integral to development*. Here we are referring to learning in the formulation and implementation of policies that work in the specific context of time and place; and to associate learning with capacity-building in national institutions. Robust feedback mechanisms need to exist, by which the results of policy intervention are continuously evaluated and lessons are learned and applied to future policies. In this approach, policy mistakes are transformed from an asset into a liability. Hence, maximum opportunities should be provided for national actors to participate in the making and implementation of policies, and in learning from the related policy experience.

Putting all these principles into practice might mean a kind of *paradigm shift* by existing international institutions. At the very least their mandates, rules and policies may need to be recalibrated. A general framework embodying the goal of SED and the principles outlined will be necessary as a frame of reference for key institutions including the United Nations, International Monetary Fund, the World Bank and the WTO. This could, for example, take the form of a Declaration by the United Nations General Assembly in the context of the adoption of the post-2015 Millennium Development Goals. The charter, articles of agreement or founding documents of these institutions and the associated treaties might then be examined to determine their consistency with these principles and the kinds of changes that are appropriate. Alternatively, key institutions might adopt a declaration on their work going forward, derived from a general declaration by the world community. While such declarations are non-binding and are often subject to different interpretations; they provide a reference framework that governments and non-governmental actors can invoke in conducting negotiations and mobilizing for advocacy.

The sections that follow discuss the application of these principles to global governance and to international trade rules.

12.3 GLOBAL GOVERNANCE AND THE “COHERENCE DEFICIT”

Vos (chapter 1) has pointed out that the core institutions and rules for managing the world order, which were set up more than sixty years ago,

are not equipped to manage a world of greatly increased interdependencies resulting from globalization. Global interdependencies have connected the financial and economic crisis with the food and energy crisis and underlie the environmental crisis; but governance remains largely nationally based; and international arrangements are highly compartmentalized. Thus, the 2008 financial crisis spread rapidly from its country of origin to become a global financial and economic crisis that impacted incomes and employment worldwide, reduced international investment and aid flows; and impaired previous development gains. The crisis had its origins in deregulated financial markets; yet policy reforms continue to emphasize trade and financial liberalization; and the conditionalities attached to financial rescue packages privilege pro-cyclical policies. On the other hand, while economic recovery is important, he points out that return to a path of environmentally unsustainable growth is not an option. Policies will need to incentivize adoption of climate-friendly consumption patterns and production technologies. Other contributions to this book show the negative fall-out from global policy fragmentation in food (Von Braun), the environment (Opschoor), finance (Ocampo) aid (Alonso) and migration (Alonso).

Akyüz (2009a:3) points to several instances of systemic incoherence that undermine sustainable and socially inclusive development. For example, the strengthening of Intellectual Property Rights may inhibit access to public health and to climate-friendly technologies needed for poorer countries to fulfil social and environmental goals. An international financial system characterized by exchange rate volatility is inconsistent with maintaining an open international trading system; in that, exchange rate variation can have as great an impact as tariff barriers on the volume and direction of trade flows. Similarly, there is implicit acceptance that meeting financial obligations should be prioritized over free trade. He also points to the absence of an ILO mandate and jurisdiction over policies affecting the level and nature of employment (Akyüz 2009a: 4-5). These inconsistencies establish the need for trade-offs among different global objectives. Effective coordination at the global level is needed “to strike the right balance among competing objectives and secure compliance and accountability” (2009a:3).

But what form should coordination take? It is important for the overarching mechanism to be representative of, and accountable to, the entire global community; and for its decision-making procedures to be democratic and transparent. Absent these, it will lack universal legitimacy; and its effectiveness will be compromised. Here, the marginalization of the United Nations system from the centre of global economic decision-

making constitutes a governance deficit that needs to be addressed. To be sure, the G7/G8 has been transformed into the G20, incorporating several leading emerging economies and larger developing economies. This is a step in the right direction; but it is not enough. The G20 by its nature excludes the majority of the world's economies; and those who sit at the table have no mandate to speak on behalf of those who do not; nor are they accountable to the latter. In addition, the G20, like its predecessor the G7/G8, remains primarily a forum for intergovernmental consultation with no substantive implementation machinery and no structured links with other key global institutions. Accordingly, the G20 has been rightly criticized as a form of "elite multilateralism" that is lacking both in representativeness and in effectiveness (Ocampo and Stiglitz, 2012). It is self-evident that the United Nations, given its universal membership, institutional mandate and institutional make-up, is the logical place for a global governance system (Akyüz, 2009a:10; Ocampo and Stiglitz, 2011). The main reservation is that the principle of "one country, one vote" will be unacceptable in a world of highly unequal economic players. Hence, it may be necessary to make some trade-off between absolute representativeness and meaningful effectiveness.

This is the central thrust of a proposal developed by Ocampo and Stiglitz (2012). It calls for the establishment of an "Economic, Social and Environmental Council of the United Nations *System*" (see figure 12.2). The Council would be at the head of state level, and its membership would be structured into constituencies; with votes weighted by an agreed formula. The formula would combine basic votes with the economic size and population of countries. While this might create difficulties for countries wedded to the "one country, one vote" principle, it is argued that this is a necessary concession to the realities of power in order to ensure the effectiveness. Importantly, the Council must have "the capacity to interact with and, in fact, direct" all parts of the UN system including the UN Secretariat, Funds and Programs, the ILO, the IMF, the World Bank and the WTO. In addition to having responsibility for global economic coordination, the Council would have a mandate to identify "spillovers" between different areas (such as between trade and the environment) and to make recommendations as to how to address them. It would be supported by an independent secretariat with strong analytical capabilities. The authors believe that such a mechanism would satisfy the requirements of leadership, effectiveness, representation, legitimacy, and of being structured as a system necessary for coherent global governance (Ocampo and Stiglitz, 2012).

Figure 12.2
Ocampo-Stiglitz proposed Global Council

Source: Ocampo and Stiglitz (2012).

In this context, the role and governance of the Bretton Woods Institutions may be addressed. Here the governance deficits arise from the unbalanced composition of shareholding, voting power and decision-making. Still reflecting the geo-economic situation at the end of World War II, changes necessary to reflect the shifting balance of power in the world economy have been tortuously slow (Ocampo, 2010). This has undermined the perceived international legitimacy and credibility of the BWIs. Akyüz (2008) has argued that the underlying obstacle to governance reform of the BWIs is their financial dependence on major shareholders. He proposes new sources of financing including a currency transactions tax, arms trade tax, voluntary contributions from governments, wealthy corporations and individuals. An international agreement on independent sources of finance would be linked to a reform of special majority requirements (veto power) and the distribution of voting rights and (presumably) of shareholding.

It is difficult to address governance reform of the BWIs, therefore, without simultaneously addressing the method of their financing and their role in the provision and regulation of global finance. The IMF is the logical body to play a central role in global macroeconomic coordination and consultation; and in international prudential regulation to mitigate the systemic dangers

of excessive risk-taking (Ocampo, 2010). With a more truly multilateral system of governance; the IMF could also be made the institutional linchpin of an international monetary system centred on its Special Drawing Rights (SDRs) as the principal reserve asset (chapter 9 by Ocampo and Erten in this volume). Under this proposal, the IMF would become a fully SDR-funded institution; and SDRs would be used as an instrument of counter-cyclical financing through IMF loans to deficit countries. SDR-denominated bonds would also be issued as an alternative to other major short-term assets. This could be linked to the provision of greater automaticity of access to low conditionality balance of payments support for countries in difficulty due to external shocks. Such shocks include destabilizing capital flows, commodity price fluctuations, and export income shortfalls associated with international business cycles. In this regard, Akyüz (2008) has argued for both the IMF and the World Bank to retreat from policy lending and instead concentrate on the supply of global public goods. The IMF, as mentioned above, would be responsible for coordination, regulation and provision of emergency liquidity. The World Bank would act as a financial intermediary between private capital markets and the developing countries; with a focus on mobilizing project finance for infrastructural investment. Ocampo (2010) also argues for strengthening the role of regional reserve funds and of regional development banks in the international financial architecture. This would introduce much-needed competition to the BWIs and enhance responsiveness to regional and local realities. Changes of this kind would do a great deal to strengthen global macroeconomic stability, allow greater national space for policy experimentation and innovation, and provide a framework within which BWI lending could be more closely aligned to nationally determined sustainable development strategies.

Democratic decision-making also needs to be strengthened in the WTO, where the problem does not lie in formal rules but in informal procedures. We address this as part of the discussion of global trade rules, in the next section.

12.4 GLOBAL TRADE RULES

The rules governing international trade are embodied in the WTO agreements and, increasingly, in bilateral and plurilateral trade agreements between developed and developing countries. The global trade architecture extends to other multilateral institutions such as UNCTAD (commodities and trade capacity building), WIPO (intellectual property), FAO (agricultural

development and food security), among others. Notably, this is the only area of the enabling environment in which a global institution (the WTO) has the executive power to enforce the rules; similar powers are exercised through the dispute settlement procedures in free trade agreements (FTAs). The system has succeeded in establishing a stable legal framework for international trade and has allowed for growth in trade flows and export diversification by a selected number of developing countries over the past decades.

Trade rules impact on several key areas of alternative development strategies discussed in this volume. However, there are serious concerns about the extent to which current trade rules enable development, distribute opportunities equitably among trading partners and are established in a truly democratic and participatory manner. There are also issues of coherence that need to be addressed, particularly in view of the interconnectedness of the current crises in finance, food, energy and the environment. Moreover, the system needs to accommodate smoothly to the rise of new trading powers and their corresponding demands for a greater role in the global governance.

The benefits of trade for development and of having an open, rule-based multilateral trade regime are well established. In the preamble of the agreement that created the WTO, governments stated that their “relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand [...] in accordance with the objective of sustainable development [...] in a manner consistent with their respective needs and concerns at different levels of economic development”. Trade is a means to an end (global prosperity) and trade disciplines should facilitate the achievement of that end by providing stability, reducing uncertainty and constraining government actions that would otherwise restrict trade or distribute trade to the exclusive benefit of their countries (Irwin and O’Rourke, 2011). The system has delivered in some accounts, but its current contours may be no longer as favourable and require revision.

Trade rules: enabling enough?

Both the WTO and its predecessor (the General Agreement on Tariffs and Trade, or GATT) are based on the principle of non-discrimination embodied by the Most Favoured Nation (MFN) treatment and the national treatment on internal taxation and regulation. The GATT was conceived at the end of the Second World War as a provisional trade liberalization instrument

while negotiations to establish an International Trade Organization (ITO) were taking place. The ITO ended up stillborn while the provisional agreement remained the only multilateral instrument regulating trade until 1994. The GATT was largely a club of developed countries, initially with a very small membership (23 founding members), established to reduce and bind tariffs on industrial goods (mostly). Membership eventually increased as a growing number of developing countries became sovereign nations and provisions needed to be adjusted accordingly. In the 1950s, the GATT also acknowledged the need for economies that can only “support low standards of living” to deviate temporarily from agreed disciplines and “to grant the governmental assistance required to promote the establishment of particular industries with a view to raising the general standard of living of its people”. It was the origin of special and differential treatment (SDT) for developing countries, another principle of the architecture of the multilateral trading system. It was subsequently reinforced by the principle of non-reciprocity by which developed countries “do not expect reciprocity for commitments made by them [...] to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties” and the provisions of the “Enabling Clause” which, among other things, introduced the legal basis for the deviation of the MFN treatment on exports of developing countries. Yet, the GATT largely remained an instrument that reflected the trade interests of the developed countries; it excluded products where developing countries had a comparative advantage. At the same time, it did not require developing countries to subscribe to disciplines they were not ready to follow. The Tokyo Round codes embody such practice.³

These observations notwithstanding, the Uruguay Round (UR) brought some important changes to the way the principles discussed above are applied. Developing countries had become more relevant actors in global trade, while the UR included 123 negotiating members, most coming from the developing world. Negotiations were conducted under the “single undertaking” approach. Developing countries could no longer opt out of specific agreements as before and were brought under the same disciplines as developed countries. Rules have been adopted for trade in goods (expanded to include agriculture and textiles), services and intellectual property. A strong dispute settlement mechanism was created. A more inclusive membership is undoubtedly a positive outcome towards the transformation of the GATT and its successor into an institution of global governance. On the other hand, widening the agenda beyond trade-specific concerns requires a more cautious assessment.

Furthermore, the single undertaking implied significant additional commitments by developing countries. It also required flexibilities in the implementation of the new trade rules (longer periods, exemptions, etc.) and increased technical assistance (which failed to materialize at the required level) in view of the vast gap in institutional capacities between developing and developed countries. While the SDT for developing countries was maintained, including preferential market access, most of these measures currently aim at facilitating the implementation of the new trade rules. Several of them are nothing more than best endeavours and do not reflect any binding obligation or can be enforced through arbitration. The special rights developing countries had to protect and promote national productive capacities still remain, but many have been curtailed and their use became subject to more stringent discipline. This change reflected the shift in the development paradigm where the role of the state is now largely confined to creating the proper conducive economic environment for the private sector to flourish and thrive (Cortez, 2011).

On several grounds the UR has been a disappointment for developing countries. As regards participation in global trade, while the share of developing countries has increased, this is concentrated in a handful of countries—China, the newly industrialized countries (NICs) and to a lesser extent India. For the majority of developing countries, market shares have stagnated or even deteriorated (see table 12.1). In the case of the least developed countries (LDCs) the modest increase in global market share is largely due to international price increases (oil and minerals in particular) than due to market penetration. Anticipated benefits have not materialized while implementation costs have been high. The latter refers not only to public revenue losses brought about by tariff reduction, particularly important in low- and lower-middle income countries, but also in terms of reduced policy space to implement development-oriented measures. Hawney (2005:16) argues that several “growth-critical” national policies that developing countries may wish to employ are either prohibited, or are at risk of being prohibited, by the WTO agreement. Chang (2002) has shown that several of these prohibited policies were employed by the industrialized countries at an earlier stage of their development with considerable success.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), for example, establishes minimum standards that countries are obliged to observe in their national regimes of protection on intellectual property rights. It prohibits practices such as copying, compulsory licensing, and reverse-engineering that were widely used by

Table 12.1
Structure of world merchandise trade, 1980-2010

Shares of world merchandise exports in per cent		1980	1990	1995	2000	2005	2010
Developed countries		66.9	73.0	69.6	65.2	59.9	53.6
of which:	Germany	9.8	12.1	10.1	8.5	9.3	8.3
	United States	11.4	11.3	11.3	12.1	8.6	8.4
	Japan	6.6	8.3	8.6	7.4	5.7	5.1
Developing countries		17.4	13.5	14.8	18.2	21.9	27.0
of which:	China	0.9	1.8	2.9	3.9	7.3	10.4
	India	0.4	0.5	0.6	0.7	0.9	1.4
	Brazil	1.0	0.9	0.9	0.9	1.1	1.3
	Rep. Korea	0.9	1.9	2.4	2.7	2.7	3.1
	Taiwan	1.0	1.9	2.2	2.3	1.9	1.8
	Singapore	1.0	1.5	2.3	2.1	2.2	2.3
	Hong Kong	1.0	2.4	3.4	3.1	2.8	2.6
Least developed countries		0.8	0.5	0.5	0.6	0.8	1.1
Sub-Saharan Africa		3.9	2.0	1.5	1.4	1.8	2.2
Middle East & North Africa		4.4	2.2	1.2	1.8	2.0	2.3
Latin America & Caribbean		4.9	4.1	4.3	5.5	5.4	5.7
South and East Asia & Pacific		4.2	5.3	7.8	9.4	12.6	16.8

Source: World Bank and WTO.

some developing (and developed) countries as a means to catch up. The Agreement on Trade-Related Investment Measures (TRIMS) does not allow the use of performance-related measures for foreign investors that have an effect on trade, such as local content and trade-balancing requirements. Export subsidies were prohibited for non-LDCs with per capita income above \$1000, except for agriculture. Trends in tariffs have also important consequences for reducing the scope of industrial policy options. These include the increased binding of tariffs by developing countries, their progressive decline overtime and the modalities proposed to reduce them. And, for developing countries joining the organization after 1995, much of the remaining SDT provisions were not applicable, even in the case of the LDCs, which counted on deeper preferential treatment, and despite specific additional decisions to that regard (Cortez, 2011).

In fact, the principles of preferential treatment for developing countries and non-reciprocity—supposedly important pillars of the multilateral trade system—have deteriorated. The value of preferential market access

has been compromised not only by progressive liberalization but also by a wide range of complex rules-of-origin requirements and greatly offset, if not reversed, when preferential treatment accorded to competitors under PTAs (see below) are also taken into account. Meanwhile, conditionalities associated with adjustment programmes by the international financial institutions have constrained the use of some SDTs by developing countries.

However, policy space has not been completely closed. For instance, export and technology transfer requirements are permitted under TRIMS. Flexibilities exist under TRIPS as it leaves considerable discretion as to what kind of knowledge is eligible for patenting, and the issuing of compulsory licenses is allowed under certain circumstances (Akyüz, 2009b). While the Agreement on Subsidies and Countervailing Measures (SCM) restricts the room for government intervention in export promotion, some schemes are still WTO-consistent. Moreover, the SCM does not prevent governments from subsidizing activities—particularly through regional, technological and environmental policies—provided governments have enough ingenuity to present such subsidies as WTO compatible (United Nations, 2006). In reality, besides these envisaged exceptions, members can deviate from WTO disciplines provided no other member initiate legal action (and make the case) against that measure.

The UR has also been considered unbalanced and unfair (Stiglitz, 2004). Tariffs on industrial goods were further reduced by developed countries but tariff peaks and escalation on products of export interest of developing countries remained. In developing countries, binding coverage increased significantly but bound tariff stayed higher than applied tariffs. In developing countries tariff liberalization has been also taking place outside trade rounds, within the framework of adjustment programmes and other instances of “autonomous” liberalization.

In agriculture, developed countries retained the differential and preferential right to support production as commitments to reduce subsidies were established on the basis of a reference period when subsidies had been the highest and implied in very little actual reduction. Additionally, the rules contained loopholes which allowed countries to shift subsidies among different categories, the so-called boxes (Khor and Ocampo, 2011). Thus, agriculture trade continues to be distorted and to undermine the competitiveness of producers in developing countries (cotton is a case in point). It also contributes to limit efforts at food self-sufficiency.

In services, most of the liberalization has happened in modes 1 (cross-border supply) and 2 (consumption abroad) whereas, mode 4 (movement of

natural persons) where developing countries have a competitive advantage, particularly in unskilled labour-intensive services, remains restricted. TRIPS required developing countries to adhere to IPR standards that are not compatible with their level of development and were adopted by the industrial countries only at their late stages of development. Moreover while protecting innovators, TRIPS offers no comparable protection over indigenous knowledge or over natural resources.

In 2001, a new round of trade negotiations was launched. It encompassed an ambitious work programme covering 21 areas (WTO 2001), some of which had been strongly advocated by developing countries (implementation-related issues, operationalization of SDT, etc.), while others had been intensely resisted (e.g. the Singapore issues: trade and investment, trade and competition policy, transparency in government procurement, and trade facilitation) but nevertheless made their way into the final programme due to less than transparent negotiation practices. But with developing countries being more assertive of their interests these issues were eventually dropped from the agenda (except for trade facilitation). Negotiations however have been extremely contentious, ministerial conferences collapsed, and the round came to a halt. The most recent ministerial declaration was issued in Hong Kong in 2005, while latest Ministerial Conference (Geneva, December 2011) produced a statement by the Chair signalling out the few areas of common understanding amidst the numerous issues raised (WTO, 2011b) and no clear indication of how negotiations will proceed.

The principle of single undertaking (nothing is agreed until everything is agreed) is not working. Unbundling could facilitate progress and the conclusion of agreements on areas where negotiations are more advanced or, preferably, on areas of interest of developing countries, if the round is to be indeed a development round. In this regard, issues to be addressed on a priority base include “implementation issues”, strengthening of SDTs, Mode 4 of service liberalization and agriculture, in particular domestic support. Meanwhile, non-trade issues such as competition policies, labour and environmental standards should not be included in the negotiations.

Other alternatives to relax the principle of single undertaking include approaches such as “variable geometry”, “enhanced integration” or “WTO à la carte” (Cornford, 2004; Negrescu and Trica, 2006; Huang 2011). They would imply a WTO that would serve as an umbrella framework for agreements on trade issues, not all of them binding on the entire membership, but negotiated under certain rules that would not allow small groups of countries to bring to WTO issues that are strongly opposed by

a considerable number of members (Consultative Board 2004). However, it may not be easy to have consensus on how these rules should look like and to reconcile these approaches with the consensus principle. Another possibility that has been suggested—admittedly not suitable for all areas—is the GATS scheduling approach, by which countries establish their own pace for market access and national treatment.

Governance: truly democratic?

More disturbing, perhaps, is the fact that the lack of a true development orientation in the round may reflect the marked asymmetry in economic and political power among members, despite the formal equality in terms of decision-making rights: one country, one vote. Yet decisions are not taken by vote, but by consensus, which would imply, in principle, the right by any country to block any decision. However, there are problems on how consensus is forged in some instances and there is a relative lack of transparency in some key aspects of WTO operations.

In practice, both the GATT and the WTO have been dominated by a few major industrial countries. Often, these countries negotiate and decide among themselves, and embark on an exercise of bringing in a selected number of more influential developing countries, in “informal meetings” (the Green Room process). In the GATT and in the first decade of the WTO, the most powerful members by far were the so-called “Quad” (comprising the United States, European Union, Japan and Canada). In 2004, a new informal “Group of 6” emerged in the agriculture negotiations, comprising the US, EU, Japan, Australia, Brazil and India. China was included in this small-group negotiation in 2008. For the majority of developing countries, participation in real decision-making remains out of reach.

Due to the dissatisfaction of the kept-out majority and the inability of the minority in the inner circle to agree, the Ministerial Conferences have become controversial and unpredictable events. “Mini” Ministerial meetings, with 30 or so countries, have become practice but failed to guarantee an effective decision-making process. Mini Ministerials also collapsed.

These approaches are clearly not working. In this regard, the consensus system should be applied in a manner that fully respects the views of developing country members and procedures should be established for smaller, issue-based meetings, with authorization coming from all members and the meetings being governed by transparent rules. “Green Room”

or “Mini Ministerials” should be called by all members, who should also determine the system of representation. All meetings should be inclusive and transparent, minutes should be kept and subject to members’ approval (Khor and Ocampo, 2011).

Issues of asymmetric power compromising WTO governance are also reflected in the use of the dispute settlement mechanism (DSM), certainly not with respect to the transparency of the process and the independence of its rulings, but rather due to issues of access and actual use of remedies (retaliatory measures) against faulty parties that are unable or willing to act on a given ruling. As of 5 July 2012, 440 cases had been brought to the WTO, 188 of which initiated by the EU and the U.S. Developing countries initiated 182 cases; few small and low-income countries have initiated disputes, while Bangladesh is the only LDC that requested consultations. The costs of using the system are high and require a great deal of awareness and knowledge of WTO disciplines, which is lacking in many developing countries, LDCs in particular (UNDESA, 2011). Moreover, the possibility of imposing retaliatory measures is in practice limited for developing countries and of negligible impact for the smaller countries due to the size of their markets. However, more than half of the disputes are settled during consultations and just few decisions have not been complied with and led to counter measures.

While issues of asymmetric power are not easy to be addressed, trade rules, as a minimum, should not perpetuate or intensify current asymmetries. In this regard, the overall transparency and fairness of the DSM could be further improved if the trade policy reviews—which provide an assessment of the state of trade policies—of member countries with the largest shares of world trade could be geared towards the identification of WTO incompatible practices that are harmful to the export interests of developing countries, in particular of the smaller countries and/or of those countries without established WTO legal competence.

Addressing emerging challenges, improving coherence

As mentioned above, the global trade architecture has been constructed on the basis of the MFN principle. Currently, however, a growing share of world trade is conducted under preferential trade agreements (PTAs) offering preferential market access to signatories, while non-participating countries are excluded.⁴ At the same time, some of these arrangements have non-party MFN clauses, that is, the extension of preferential treatment

provisions of agreements contracted with third parties. As developing countries can extend deeper preference to other developing countries, the inclusion of non-party MFN implies that developed countries can also benefit from that deep preferential treatment that was not originally intended for them. Additionally, PTAs often go beyond what has been agreed at the multilateral level (the so-called WTO plus and minus provisions). These concerns assume greater urgency in the case of North-South FTAs, such as the Economic Partnership Agreements between the EU and countries in the ACP group; and between the U.S. and several developing countries (Khor, 2008).

North-South FTAs generally provide for greater reciprocity of market access than the WTO agreements. In merchandise trade, they generally provide for the phasing in of full liberalization and reciprocity of market access (though some exceptions may be permitted), which often replace non-reciprocal market access previously existing under preferential trade agreements. They may also commit developing country parties to widespread liberalization in services; beyond the obligations of the WTO GATS (Kelsey, 2010); and usually involve greater restrictions on policy space by virtue of the inclusion of the 'Singapore' issues (Girvan, 2009). Provisions in these areas generally restrict the ability of developing country parties to favour domestic industry and national firms by means of discriminatory government policies in investment, public procurement and competition. Other areas that developing countries have refused to negotiate in the WTO, such as environment law and labour law regulations, may also be included. These practices raise concerns when PTAs are contracted by partners with asymmetric economic and political power. In fact, a greater number of WTO plus and minus provisions as well as provisions on areas beyond the current scope of WTO (although not all of them legally enforceable) are found in PTAs among partners of different levels of development than in those contracted between partners of similar levels of development (WTO, 2011a). In their quest for greater market shares in developed countries, developing countries are giving up policy space beyond what is envisaged by WTO rules. But it is not clear what they actually gain in return: PTAs tend to exclude products of export interest of developing countries such as agricultural and food products and labour-intensive manufactures.

The proliferation of PTAs coincides with the difficulties in advancing the multilateral trade negotiations. It reflects to some extent the need for deeper integration under a common or similar set of rules due to increasing international fragmentation of production. However, it poses

challenges for the multilateral trade architecture which now comprises an increasing number of entangled parallel subsets of arrangements. PTAs are sometimes of conflicting and/or competing nature, can imply in high costs of compliance (particularly when countries participate in several arrangements), may compromise systemic coherence and undermine progress at the multilateral level if not brought under stricter multilateral discipline and surveillance.

It has been suggested that since it is very unlikely that countries will roll back their PTAs, a way forward would be to “multilateralize” their contents to the largest extent possible in order to improve coherence and bring some order to the pattern of deeper disciplines (Bhagwati and others, 2011). But that would imply having multilateral disciplines that were not originally conceived or negotiated as such and which reflect the interests of selected countries. Thus, it would be more useful to have a standstill on PTAs until clear rules could be agreed on how to have bilateral or plurilateral rules that conform to multilateral norms and not the reverse (Khor and Ocampo, 2011).

There are other issues of coherence in existing rules and between them and domestic policies that need to be addressed as well in view of emerging challenges (Hufbauer and Kim, 2009). Climate change adaptation and mitigation is one of them. Issues of environmental standards and border adjustment measures; the implications of biofuel subsidies for food security and for reducing carbon emissions; the impact of other subsidies for research and development towards the transition to a green economy; the effects of the intellectual property regime and the need to improve access to green technology by developing countries, among others, are few of the pressing issues that come to the fore (DESA/UNEP/UNCTAD, 2011). While it is not for the multilateral trade regime to rule on environmental issues, it should nevertheless maximize its positive contribution to the common objectives of mitigation and adaption. In this regard, its orientation needs to be focused towards promoting and facilitating the development of necessary capabilities in developing countries, including in establishing their own environmental goods sector for the continuous transformation of their economies, rather than punishing (at the border) those who do not have the means to introduce the necessary changes.

Overall, trade arrangements should not impose specific developmental approaches or institutional recipes but rather aim at maximizing the possibilities of development at the national level (Rodrik, 2001). These and other challenges are not insurmountable. But they require political will and leadership. Admittedly, it was easier to agree on multilateral trade rules

when decisions were taken among a smaller group of countries, largely the developed economies, and exemptions offered for developing countries. But the world has changed and some developing countries have become significant enough players in world trade to be granted blank exemptions. On one hand, these would be difficult to justify to constituencies in developed countries. On the other hand, as the name implies, developing countries remain in development. While some countries are more advanced than others, their process of development has not yet been completed. Additionally, smaller countries have been better able to voice their concerns and to have leverage over negotiations (WTO, 2004). WTO governance has yet to adjust to its diverse membership.

Towards a reformed global trade architecture

The current global trade architecture seems disjointed: parts of it have moved forward and pursued the introduction of rules to facilitate an increasing internationalization of production, but the process is also generating outcomes that may not be welfare enhancing for all. Other parts of the system seem unable to acknowledge the political consequences of emerging trends and the need to make space for new actors and reflect their interests; while other elements have not been given sufficient attention and have fallen (e.g., commodities) or will fall through the cracks due to the limits of bilateralism and regionalism in finding solutions to global challenges (e.g., mitigation and adaptation to climate change). While flexible enough to absorb shocks, the global trade architecture should also adjust itself to these underlying shifts in world economic activity and their implications for the global political economy. It should also strive to create opportunities for countries to develop and prosper by designing trade disciplines that are compatible with the needs of the dynamic transformation of all, particularly developing economies, if the vision expressed in the Millennium Declaration is to become a reality.

It is not obvious how and whether the round will proceed and how the WTO will adjust to the changing circumstances. Independently of the potential negative implications of a failed round for the global trading system, it has been far from clear that the round has been moving in the right direction, that is to say, that it would generate disciplines that are development friendly. Developing countries concerns have not been properly addressed. Tighter disciplines are being considered: for instance, according to the latest negotiating text on non-agricultural market access, modalities

being considered would imply in a substantial reduction of the gap between bound and applied tariffs and therefore a much smaller policy space.

Unbundling could facilitate the conclusion of the round. Restricting the scope of negotiations to trade issues and giving true priority to those that are high in the agenda of developing countries would be important as well. In this regard, it could be perhaps more practical to approach the WTO as an instrument for accommodating different economic models and facilitate trade relations among them rather than harmonizing all models into one single business model. But unbundling may not be enough if agreement on the issues that remain on the negotiating table would imply equal disciplines—not all of them necessarily development friendly or preserving much needed policy space in developing countries—are to be applied to unequal parties.

The increased divergence among developing countries does complicate the political economy of finding acceptable solutions to the current impasse. The principle of common but differentiated responsibilities could, in theory, offer some guidance on how to proceed with the negotiations. It is reasonable to argue that, say, Brazil does not need to receive the same differential treatment as, for example, Bolivia, but it is equally fair to recognize that the country is still not at par with, say, Germany and does need space to adopt institutional innovations to address the specific bottlenecks it faces in promoting its productive capacities. However, the operationalization of this principle is far from obvious as attested by the difficulties surrounding the current negotiations under the United Nations Framework Convention on Climate Change.

More importantly perhaps, as far as the trade round goes, is to change the overall approach to the negotiations. As mentioned earlier, trade is a means not an end in itself. Thus, developing countries should be negotiating trade disciplines not with the objective of greater integration into the global markets but with the objective of maximizing development. As Rodrik (2001) eloquently argued, increasing trade flows and expanding market access do not necessarily imply in moving up the development ladder, particularly if greater access is obtained at the expense of policy space. The development objective thus gives further weight to the idea of approaching the WTO as the institution that manages diversity and not as one that imposes uniformity.

Lastly, it is important to recall that the WTO is not the only component in the international trade architecture. Besides the numerous FTAs mentioned above, other institutions take the lead on specific trade issues (e.g., World Customs Organization) and promote trade capacities in developing

countries (e.g., several organizations and agencies in the UN system). These also need to be taken into account and strengthened in the reform of the global trade architecture for development.

12.5 CONCLUSION

This chapter has discussed the enabling international environment to support sustainable, equitable and inclusive development. It was stressed that globalization has increased the interconnectedness of the global economy while outpacing the institutional capacity of the global community to manage interlinked crises, since governance structures are fragmented and mainly national in scope. Coherence and coordination need to be addressed. Institutions that do have a global reach fall short either in terms of scope (WTO, Bretton Woods Institutions), representativeness (Bretton Woods Institutions, the G20), transparency in decision-making (the WTO), or effectiveness (UN system, ECOSOC). While the historical and political reasons for these shortcomings may be understandable, the costs of failure to address them will rise in the future as the interlinked crises in finance, the economy, the environment, food and energy become more acute and the challenges to international peace and the security of all nations become more intractable. Hence it is important for measurable progress to be made in this direction if achievement of the post-2015 MDGs is not to be compromised.

This chapter has emphasized the need for global governance structures that accommodate to a variety of national sustainable development strategies, in accordance with national circumstances and preferences, particularly as regards the appropriate mix between market and state and the scope and sequencing of trade liberalization. It is important to distinguish means from ends, and to rebalance national policy space vis-à-vis global rules and norms. Reform of global trade rules, and indeed the international trade architecture, will require a special focus moving forward.

NOTES

- 1 The authors acknowledge with thanks the many helpful comments of José Antonio Alonso and José Antonio Ocampo on earlier versions of this chapter.
- 2 Deviations from full market principles are of course allowed under certain conditions, for example as with domestic support for agriculture and subsidies in other areas.
- 3 The Tokyo Round codes are: i) Subsidies and countervailing measures, ii) Technical barriers to trade, iii) Import Licensing procedures, iv) Customs valuation, v) Anti-dumping, all of which became an integral part of the WTO under the single undertaking, plus iv) Government procurement vii) Bovine Meat Arrangement, viii) International Dairy Arrangement, ix) Trade in Civil Aircraft, which remained plurilateral under the WTO.
- 4 According to WTO (2011a), the share of global trade for which preferential market access matters is less than 13 per cent. A significant share of trade is already conducted at zero tariffs under MFN treatment.

REFERENCES

- Akyüz, Yilmaz (2005). Reforming the IMF: Back to the Drawing Board. *UNCTAD G24 Discussion Paper Series*, No. 38. November. Available from <http://cdi.mecon.gov.ar/biblio/docelec/unctad/g24/38.pdf>. Last sourced 19 July 2007.
- Akyüz, Yilmaz (2008). Reform of the International Financial Architecture, *Third World Network Briefing Paper*, No. 44, February.
- Akyüz, Yilmaz (2009a). *The Role of The United Nations in Global Economic Governance*. Geneva: South Centre, August.
- Akyüz, Yilmaz (2009b). Multilateral Disciplines and the Question of Policy Space, *TWN Trade and Development Series* No. 38.
- Bhagwati, Jagdish, Peter Sutherland and others (2011). *World Trade and the Doha Round*. Final report of the high-level trade experts group, May. Available from <http://www.bis.gov.uk/assets/biscore/international-trade-investment-and-development/docs/w/11-964-world-trade-and-the-doha-round.pdf>.
- Bhattacharya, Debapriya (2008). Ways forward for the multilateral trading system. *Commonwealth Trade Hot Topics*, No. 53, November.
- Chang, Ha-Joon (2002). *Kicking Away the Ladder – Development Strategy in Historical Perspective*. London: Anthem Press.
- Cornford, Andrew (2004). Variable geometry for the WTO: concept and precedents. *UNCTAD Discussion Papers* No. 171. May. (UNCTAD/OSG/DP/2004/5)
- Cortez, Ana Luiza (2011). Beyond market access: trade-related measures for the least developed countries. What strategy? *DESA Working Paper Series* No. 109. New York: UNDESA. Available from http://www.un.org/esa/desa/papers/2011/wp109_2011.pdf
- Girvan, Norman (2009). Implications of the EPA for the CSME. *Social and Economic Studies*, vol. 58, No. 2 (June), pp. 91-127.
- Harmer, Toni (2009). *Biofuels Subsidies and the Law of the WTO*. Geneva: International Centre for Trade and Sustainable Development (ICTSD).
- Hamwey, Robert M. (2005). Expanding National Policy Space for Development: Why the Multilateral Trading System Must Change. *T.R.A.D.E. Working Paper*, No 25, September. Geneva: South Centre.
- Huang, Zhixiong (2011). Rise and fall of trade multilateralism: a proposal for “WTO a la carte” as an alternative approach for trade negotiations. *Front Law China*, vol. 6, No. 1, pp.35-43.
- Hufbauer, Gary Clyde, and Jeffrey J. Scott (2012). Will the World Trade Organization enjoy a bright future? *Paterson Institute for International Economics Policy Brief*, No. PB12-11, May.
- Hufbauer, Gary Clyde, and Jisun Kim (2009). The world trade organization and climate change: challenges and options. *Paterson Institute for International Economics Working Paper Series*, WP 09-9, September.
- Irwin, Douglas A., and Kevin H. O’Rourke (2011). Coping with shocks and shifts: the multilateral trading system in historical perspective. *NBER Working Paper*, No. 17598. Cambridge, Massachusetts: National Bureau of Economic Research, November.

- Kelsey, Jane (2010). Legal Analysis of Services and Investment in the Cariforum-EC EPA: Lessons for other Developing Countries. Research Paper 31, July. Geneva: South Centre.
- Khor, Martin (2008). *Bilateral And Regional Free Trade Agreements: Some Critical Elements And Development Implications*. Malaysia: Third World Network.
- Khor, Martin, and Jose Antonio Ocampo (2011). The Unsettled Global Trade Architecture. *Queries*, Magazine of the Foundation for European Progressive Studies (FEPS), vol. 1, No. 4, pp. 68-88.
- MsCulloch, Rachel (2010). The international trading system and its future. November (mimeo).
- Negrescu, Dragos, and Gilda Truica (2006). Can EU's enhanced co-operation mechanism provide solutions to the "single undertaking" problems of WTO? *Romanian Journal of European Affairs*, vol. 6, No. 2, pp. 5-23.
- Ocampo, Jose Antonio (2010). Reforming the International Monetary and Financial System. 14th Annual WIDER Lecture, December 9. Available from: <http://www.un.org/esa/ffd/economicgovernance/WIDERAnnualLecture.pdf>. Accessed 16 September 2012.
- Ocampo, Jose Antonio, and Joseph Stiglitz (2012). From the G-20 to a Global Economic Coordination Council. *Journal of Globalization and Development*, vol. 2, No. 2.
- Page, Sheila (2007). Policy space: are WTO rules preventing development? *ODI Briefing Paper* No. 14, January.
- Rodrik, Dani (2001). The Global Governance of Trade As if Development Really Mattered. Harvard University, July. Available from <http://www.mtholyoke.edu/courses/epaus/econ213/rodrikgovernance.PDF>.
- South Centre (2011). Special and differential treatment negotiations: state of play and proposed language for WTO's MC8 (SC/TDP/AN/MC8/2) November. Geneva: South Centre.
- Stiglitz, Joseph (2004). The Doha Round of Trade Negotiations: An Agenda to Promote Development and Facilitate Adjustment. Lecture to the All Party Parliamentary Group for Debt, Aid, and Trade at the House of Commons, 30 November. Presentation available from http://policydialogue.org/events/speeches/the_doha_round_of_trade_negotiations_an_agenda_to_promote_development_and_facilitate_adjustment/.
- Consultative Board (2004). *The Future of the WTO: Addressing Institutional Challenges in the New Millennium*. Report by the Consultative Board to Director-General Supachai Panitchpakdi. Geneva: World Trade Organization.
- UNDESA/UNEP/UNCTAD (2011). *The Transition to a Green Economy: Benefits, Challenges and Risks from a Sustainable Development Perspective*. Report by a Panel of Experts to Second Preparatory Committee Meeting for United Nations Conference on Sustainable Development. Available from: http://www.uncsd2012.org/rio20/content/documents/Green%20Economy_full%20report.pdf.

- UNDESA (2011). Survey on the International support measures related to WTO provisions and preferential market access for LDCs: responses by least developed countries. Summary and analysis, May. Available from http://webapps01.un.org/ldcportal/c/document_library/get_file?uuid=024b355f-d56c-47d1-a5b9-2ec92f06a6ac&groupId=10136.
- United Nations (2006). *World Economic and Social Survey 2006. Diverging Growth and Development*. United Nations publication, Sales No. E.06.II.C.1.
- United Nations (2012). *The future we want*. A/Conf.2161.1. Rio Janeiro, Brazil 20-22 June.
- World Bank (2007). *International Trade and Climate Change. Economic, Legal, and Institutional Perspectives*. Washington D.C.: IBRD.
- World Trade Organization (2001). Ministerial Declaration. Ministerial Conference, Fourth Session, Doha, 9-14 November 2001. WT/MIN(01)/DEC/1, 20 November 2001.
- World Trade Organization (2011a). *World Trade Report 2011. The WTO and preferential trade agreements: From co-existence to coherence*. Geneva: WTO.
- World Trade Organization (2011b). Chairman's Concluding Statement, Ministerial Conference, Eighth Session. Geneva, December 15-17, 2011. WT/MIN(11)/11, 17 December 2011.