Sustainable Development and Environmental Policy Objectives: A Case for Updating Special and Differential Treatment in the WTO

Ricardo Meléndez-Ortiz and Ali Dehlavi*

Introduction

The notion of development embedded in the international trade system, including the multilateral regime of the WTO and the regional integration schemes which are increasingly subjected to GATT principles and rules, is anachronistic and has proven to be delusive and ineffective. That old notion privileges time as the main factor for development by allowing developing countries some "extra" years for implementation of policies and measures not clearly supportive of their development dynamics and needs. It also allows for the granting of preferential access as if the structural issues of development could be easily compensated by a few percentage points of tariff advantage in global markets. That old notion, the stuff of which the "special and differential" treatment for developing countries is made of in the trade system, needs to be urgently overhauled so that it can meaningfully address the underlying causes of the un-sustainability of the rapid insertion of developing economies into the global markets of the nineties and the next century. A notion of development based on actuality must take into account the hard linkages between trade and investment policies and the causes of poverty, the patterns of use of natural resources and the broader factors of social welfare.1

From the outset of the multilateral trade system developing countries have viewed the deepening of liberalization commitments and broadening of the trade agenda with caution2, and have cast doubt upon suggestions that trade liberalization on an MFN basis would automatically lead to their growth and development3. Nevertheless, many gradually approached the expanding GATT of the 1960s and 1970s, attracted by the consolidation of a multilateral, non-discriminatory regime, with unprecedented potential for effectively isolating the impairing power relations then dominant in the international trade field.4 Then, the late 1980s and most of the present decade saw an incredible impetus and a rallying behind the

---

* This essay was originally prepared to be used at the CUTS/CITEE conference: Southern Agenda for the Next Millenium, Bangalore, India, 18-19 August, 1999. The views expressed by the authors are their own and do not commit or necessarily reflect those of the International Centre for Trade and Sustainable Development (ICTSD).


2 See Oman C.P. and G. Wignaraja, The Postwar Evolution of Development Thinking, OECD Development Centre, Paris 1991. Import substituting strategies of industrialisation (ISI) were followed during the 1950s and 1960s not only by Latin America, where market forces had actually given rise to ISI in the 1914-1945 period, but in many newly independent countries in Asia and Africa, whose leaders were often outspoken advocates of ISI-type development strategies.

adoption of liberal economic policies all over the world. And, concurrently, participation of
developing countries in the Uruguay Round of negotiations was massive, leading the way for
the universality of the multilateral trade system as now embedded in the WTO.\textsuperscript{5}

Confirming the anxieties of developing countries, founded mostly on the incapacity of the
international economic system to sufficiently accommodate to the structural peculiarities of
development, the cumulative benefits of global trade liberalization have not always been
allocated to meet primary concerns of developing countries. Some of these concerns can be
appreciated through the lens of the rapidly evolving body of knowledge stemming from the
concept and negotiations on sustainable development, including Haq and Sen’s work on
sustainable human development.\textsuperscript{6} Recognizing, sustainable development as the appropriate
conceptual and policy framework for directing policy processes towards developing country
concerns, the policy community needs to assess what means are available for integrating this
framework in trade policy dimensions. Elements of the sustainable development framework
are already present, in fact, as dynamic factors in trade policy discussions even if often
clouded by their presentation as issues related to environment, labor, investment or
competition policy. However, presently they do not operate as coherent elements of the
broader trade and sustainable development framework. Thus it is the responsibility of policy
developers to identify these issues which continue to orbit and move towards the center of the
trade system with no clear model or vision for the emerging regime, and to position them,
rightfully, as integral elements of a reformulated and revitalized trade system.

This brief essay focuses on the WTO’s special and differential treatment (SDT) provisions to
develop the suggestion explained above. It underlines the urgency of seizing the advent of
new negotiations to be defined and launched in Seattle this year, to revisit the SDT provisions
as a logical starting point towards the movement of the system to the port of sustainable
development. It further argues that by bringing sustainable development to the helm of the


\textsuperscript{5} Universality will only be effectively reached once key players including, China, Russia, Taiwan and Saudi
Arabia, are accepted as Members in the system. The international community, for instance, seeks to engage China
as a major partner in trade as well as in meeting emerging international environmental threats. China’s total
exports in the past 20 years climbed almost nineteen fold and were estimated at USD 182.7 billion in 1997, while
imports grew thirteen fold and reached an estimated USD 142 billion in the same period. After the US, China is
the second largest recipient of foreign direct investment. Its total international capital flows increased from USD
4.7 billion in 1985 to USD 64 billion in 1997. China is also one of the most significant contributors to
environmental problems, including ozone depletion (18 per cent of the world’s total); climate change (the second
largest and likely to be the largest emitter of greenhouse gases by 2020); trade in endangered species; and
WRI, USA; and, Elizabeth Economy, 1998, “China Confronts the Challenge of Globalization: Implications for
Domestic Cohesion and International Cooperation; Rockefeller Brothers Fund, Project on World Security, New
York.

\textsuperscript{6} See, for example, Mahbub ul Haq, 1995, Reflections on Human Development, Oxford University Press, New
York.
current regime, the multilateral trade system will be equipped—and, indeed, redesigned to respond— to “non-trade concerns” without compromising its potential to foster sustained economic growth. The underlying argument has at its root the need to provide international economic policy making with effective spaces and tools for an insertion of developing countries into the global markets supportive of their sustainable development aspirations.

**Bringing reform to the system through re-thinking SDT**

On the one hand, this refers to bringing a fundamental economic reasoning or a logical economic basis to SDT provisions. As is argued below, a reasoned exposition may involve, for example, tying comprehensive measures of development to time limited exemptions. On the other hand, to govern SDT the WTO must govern to the general welfare. This means that its members have to agree and then enforce some single idea of what that general welfare is. Concretely, several suggestions have been made by developing countries as to how the WTO might give them real choices as regards SDT and real freedom to criticize the applicability, for example, of delays on implementation or preferential disciplines. In each case, the suggestions are for the creation of a ‘policy box’ or ‘spaces for economic policy’, which could serve a number of purposes including estimating gains from SDT, evaluating non-implementation, extending SDT, and proposing new instruments.

The need to initiate a review of the current relevance of the assumptions behind the notion of development on which SDT policies would appear to be based, is also recognized in this essay.

"As developing countries are drawn increasingly into GATT they [ ] can be expected to interpret its rules as guidelines for policy[ ]. But GATT rules are bad economics. They do not distinguish between government interventions that serve the national economic interest and government interventions that do not."

Clearly, there is some doubt as to whether trade rules in general and SDT specifically are motivated by particular development models, and whether SDT, as it exists in the WTO

---

7 Essentially, sustainable development refers to the many discreet and diverse policy agendas that each country individually and the community of nations collectively hold, for their environment, social and economic growth aspirations. From its environmental dimension it may be seen both as a process in which the natural resource base of a country is not allowed to degrade during economic development, as well as a concept which stresses a role for environmental inputs and environmental quality in helping to sustain a given rise in real income and the quality of life.


agreements today, is consistent with any vision at all. At the outset, a review needs to recognize and shed light on the issue of the lack of an automatic link between “openness” and a sustainable development equation which includes sustained long-term growth, sound environmental management, and greater social equity. Certainly, countries differ in the level of development, degree of indebtedness and extent of absolute and relative poverty, but they are currently united in their common failure to achieve sustainable development. It is indeed striking that rapidly growing South East Asia has similar environmental problems as stagnating sub-Saharan Africa or heavily indebted Latin America. By singling out or emphasizing balance of payments problems and distorting measures such as subsidies as unique or unidirectional causal factors for retardation in development, SDT not only remains anachronistic in its interpretation of development, it simply does not emphasize root domestic causes of un-sustainability, including the environmental degradation of countries’ natural resource endowments which result from a combination of policy and market failures, as well as a dissociation between scarcity and price, benefits and costs, and rights and responsibilities. The incentive structure created by these market and government policy failures may induce the maximization of profits through the appropriation of others’ resources and the shifting of one’s own costs to others, rather than economizing on scarce resources and investing in enhancing their productivity. At the international level there is the urgent question of reviewing SDT to prevent countries securing sustainable development at the cost of procuring unsustainable development in other countries.

An essential reason for promoting this review at this time is the fact that developing countries continue to undergo significant structural adjustments in the face of “globalization.” And this happens concurrently with what the international community evidences as unbreakable patterns of growth of both poverty and inequality among and within nations, and devastation and degradation of natural resources. Making sustainable development the modeling

---


11 In the sense given to the word by Prof. H. Daly in contrast to “internationalization”: “Globalization refers to global economic integration of many formerly national economies into one global economy, mainly by free trade and free capital mobility, but also by easy or uncontrolled migration,” Herman E. Daly, in Globalization Versus Internationalization – Some Implications, ISEE Conference, Santiago, November, 1998.

12 For example, the Gini coefficient of roughly 0.58 in Latin America has remained nearly unchanged from the 1960s; in Eastern Europe and the CIS, in under 10 years (1987-1995), the Gini coefficient increased from an average of 0.25-0.28 to 0.35-0.38, surpassing OECD levels, which for their part increased for most countries in the 1980s and early 1990s. Inequality among nations has been increasing too. In the 1960 the 20% of the world’s people in the richest countries had 30 times the income of the poorest 20% -- in 1997 they had 74 times as much. Despite the significance of personal wealth today, it is worth noting that the assets of the three richest people were more than the combined GNP of the 48 least developed countries. See UNDP’s Human Development Report 1999.

13 In the seven years since the trade-environment debate surfaced in the GATT, approximately 10, 000 species have become extinct, approximately 40, 000 megatonnes of CO2 have been emitted, together with roughly 200 megatonnes of NOx, 80 million hectares of arable land have been lost to desertification, roughly 40 million hectares of forests have been cleared for agricultural use, some 10 million people have become partly or wholly
objective of the MTS would enable developing and developed countries alike to overcome poverty fatally compromising their natural capital.

**What is Special and Differential Treatment?**

The term special and differential treatment (SDT) refers to the set of provisions in trade accords which have been negotiated to grant developing country exports preferential access to markets of developed countries, and operationalize the notion that developing countries taking part in trade negotiations have no obligation to reciprocate fully the concessions they receive. SDT also implies longer timeframes and lower levels of obligations for developing countries for adherence to the rules. It is a fundamental cross cutting issue for developing countries in the Multilateral Trading System (MTS) and is an integral part of the balance of rights and obligations in the Uruguay Round Agreements (URAs).

The concept first emerged at the Review Session (1954-55) when Article XVIII of GATT “Governmental Assistance to Economic Development” was revised. The structural nature of the balance of payments problem of developing countries was recognized. Article XVIII:B reduced the obligation of annual consultations to once in two years for developing countries who were maintaining balance of payments restrictions. It also gave them facilities for applying quantitative restrictions or tariff surcharges that would accommodate better the high levels of import demands which they faced. Special rights to protect were also given. Article XVIII:C relaxed the requirement of prior approval in relation to measures deviating from GATT obligations for the promotion of a particular industry and quantitative restrictions could be used. Tariff bindings could be renegotiated under Article XVIII:A so that protection could be granted to infant industries. Both these articles provided for compensation and retaliation in the absence of any negotiated agreement. Article XXVIII (iii) bis recognized, within the context of tariff negotiations, that developing countries would need to use tariffs for economic development and fiscal purposes.

The Section entitled “Trade and Development” added in 1965 to Part IV of GATT recognizes the need for rapid and sustained export earnings expansion in developing countries. Specifically, Articles XXXVI, XXXVII, and XXXVIII acknowledge their developing needs and codify the concept of non-reciprocity -- i.e., that developing countries need not reciprocate trade concessions made to them by developed countries in trade negotiations. The first of these recognizes the importance of market access, price stabilization, economic

blind because of the depletion of the ozone layer, 2 billion tonnes of hazardous wastes have been generated, and 14 million children in developing countries have died because of water-borne diseases. Source: Economics and Trade Unit of the United Nations Environment Programme (UNEP).
structure diversification, and inter-agency cooperation. In the second, in relation to export earnings, developed countries are called upon to make a number of best endeavor commitments such as prioritizing the reduction and removal of barriers (e.g., customs duties) to products currently or potentially of special interest to developing countries. There is no obligation for action. Joint developed-developing country actions in the areas of commodities, export potential analyses, inter-agency cooperation, etc. are provided for in the third of the above mentioned articles.

Progression of special rights of access, or, trade preferences under the developed country preferential tariff schemes under the GSP, began with the 1971 GATT Article XXV Waiver for a period of 10 years from Article I (MFN) obligations.

The term SDT itself derives from the 1979 Tokyo Round Declaration reference to “the importance of the application of differential measures in developing countries in ways which will provide special and more favourable treatment for them in areas of negotiation where this is feasible.” Again in terms of special rights of access, the 1979 Tokyo Round Enabling Clause (i.e., the “Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries”) made the aforementioned 1971 Waiver permanent and also introduced the concept of graduation. It basically reflects two approaches to meeting different needs and concerns: an access approach and a right to protect approach.

A recent comprehensive report on SDT notes that SDT prior to the URAs rested on two operational pillars:

- “Enhanced access to markets through: (a) preferential access under the GSP; (b) the right to benefit from multilateral trade agreements, particularly on tariffs in accordance with the MFN principle, without obligation to offer reciprocal concessions; (c) the freedom to create preferential regional and global trading arrangements without conforming to the GATT requirements on free trade areas and customs unions (Article XXIV).

- Policy Discretion in their own markets concerning (a) access to their market (i.e. a right to maintain trade barriers to deal with BOP problems and “infant industry” protection), and, (b) the right to offer governmental support to their domestic industries using various industrial and trade policy measures that otherwise would be inconsistent with their multilateral obligations.”
The same report mentions that “the arguments against [SDT] tend to emphasize the differences among developing countries with respect to their resource endowments, their production capabilities, their economic and social institutions and their capacities for growth and development.” It also mentions that developed countries have successfully pressured many advanced developing countries to disinvoke Article XVIII:B, noting the case of Korea, Peru, Argentina, and Brazil. Another recent and comprehensive report further notes that SDT took on connotations in the direction of reverse discrimination which adversely affected developing countries, citing the example of the MFA and trade arrangements in agriculture.\textsuperscript{15}

The same Report traces the factors behind the reevaluation of SDT from the mid 1980s onwards, and points out a trend in the developing country negotiating approach away from pushing for further enhancement of SDT through a blockwide approach and towards protecting and preserving what already exists in SDT through pursuit of national interest.

Finally, the Uruguay Round provisions relating to SDT cover the usual menu of concessions: limited time derogations and exceptions; preferential disciplines; flexibility in WTO disciplines and procedures; non-binding best effort pledges by developed countries; technical assistance commitments; and, specific SDT commitments in services. These provisions also extend over several areas, namely: technical barriers to trade; textiles and clothing; agriculture; TRIMs; import licensing; custom valuation; subsidies and countervailing measures; services; TRIPs; safeguards; dispute settlement; and, measures for the LDCs.\textsuperscript{16}

**Anchoring SDT in Sustainable Development**

To state that trade rules and SDT are motivated by particular development models is contentious since neither go far in articulating any; and the policies which they entail are usually intended to address a single aspect or portion of economic development, namely


\textsuperscript{16} The Uruguay Round decisions concerning SDT are documented in several Notes issued by the WTO Secretariat, the principal and most comprehensive among these is *A Description of the Provisions Relating to Developing Countries in the Uruguay Round Agreements, Legal Instruments and Ministerial Decisions* (WT/COMTD/W/510, November 1994). A selection of provisions that are action-oriented and relevant to the WTO Committee on Trade and Development’s periodic SDT Review may be found in the following Secretariat Notes: *WTO Measures Relating to Developing Country Members* (WT/COMDT/W10, November 1995); *Implementation of Uruguay Round Provisions in Favour of Developing Country Members* (WT/COMTD/W/33, November 1997); and, WT/COMTD/W/35 which supplements and updates the former Note to February 1998. The selection in these notes omits provisions contained in the agreement and decision preambles, those which call on Members autonomously to take account of SDT in the course of implementing the WTO Agreements, as well as certain technical cooperation activities both in response to WTO Provisions and those which go beyond what is called for in these. With these omissions in mind, a brief review of SDT in Uruguay Round Decisions may be found in Table 1A, p.37, of Whalley J. (1999). The table in this report draws on WT/COMTD/W35; UNCTAD, 1998, *The Least Developed Countries Report*, UNCTAD, July 1998, *Accession to the WTO: The Process and The*
setting the stage for the capture of gains from trade. To illustrate, while trade will be a part of 
government policy aimed at promoting food security, reduced public expenditure in the sector 
and export led growth may not be. In fact, one may even argue that these policies under the 
Agreement on Agriculture (AoA) would be damaging to the exports earnings growth, even 
domestic food production performance, of many developing countries, and that impacts 
would vary at any rate depending on their specific situation -- i.e. whether these were least 
developed countries (LDCs), net-food importing countries (NFICs), or commodity-export- 
dependent economies. It has been argued that food security requires a complex model of 
economic development that incorporates subsistence production or alternative livelihoods for 
producers, diverse cultures and biological resources, publicly managed food reserves, and a 
regional view of food security needs.\textsuperscript{17} GATT rules under the AoA would therefore appear 
not to distinguish between government interventions that serve national interests and those 
that do not. They could be viewed as merely providing certain conditions which in turn would 
have to be supplemented, for the purpose of actually realizing benefits from trade, by 
investments in domestic infrastructure, effective and efficient agricultural input and output 
markets, research and technology, and a more equitable distribution of land and other 
productive resources\textsuperscript{18}.

The notion on which SDT is based yields from years of a bargaining among GATT member 
countries aimed at securing a balanced outcome from the broad and ambitious trade 
negotiation agendas and at not foreclosing flexibility in the use of different development 
policy instruments\textsuperscript{19}. The \textit{quid-pro-quo} character of dry negotiations on numbers and words, 
not always rooted in economic rationality or aimed at a greater vision, is illustrative of an 
attempt at pragmatism. But the resulting language, terms and compromises do not do justice 
to the needs they are called to address. Arbitrary terms such as those found for developing 
countries implementation in the reform program of the AoA, or in the transitional 
arrangements of the Agreements on Trade-Related Aspects of Intellectual Property Rights

\textsuperscript{17} See, for example, S. Murphy, 1999, \textit{“Trade and Food Security: An Assessment of the Uruguay Round 
Agreement on Agriculture,”} on behalf of the Institute for Agriculture and Trade Policy (IATP) for the Catholic 
Institute for International Relations (CIIR), London. See also Nadine Keim’s \textit{“Les negotiations agricoles a l’OMC 
du point de vue du Sud”} in ICTSD’s Passerelles, Vol 1, in which she argues that developing country food security 
needs must be ensured within the AoA’s Green Box. The term Green Box describes domestic support policies 
which are not subject to reduction commitments such as support policies on research, extension, food security 
stocks, disaster payments, and structural adjustment programmes.

\textsuperscript{18} See IFPRI, 1997, \textit{The World Food Situation: Recent Developments, Emerging Issues, and Long-Term 

\textsuperscript{19} See UNCTAD Secretariat: \textit{Least Developed Countries and the Results of the Uruguay Round}, in \textit{“Uruguay 
Round Results and the Emerging Trade Agenda: Quantitative-based Analyses from the Development Perspective,”} 
(TRIPs), or on Trade-Related Investment Measures (TRIMs) have no sound connection to economic growth, much less with sustainable development needs.

Despite the ‘export pessimism’ of many developing countries, SDT may have been influenced by the classical and neoclassical theory of international trade and the concept of ‘comparative advantage’ prevalent during negotiations on Article XVIII and accepted the then common argument that all countries would gain from free trade and world output increases. At least three revolutions in attitude towards development and environment have occurred since the negotiations on Article XVIII. The first occurred in the late 1960s and the early 1970s and was characterized by the debate over environmental quality versus economic growth. The late 1980s and early 1990s witnessed a second revolution which revisited and broadened many of the original concepts and arguments in the context of sustainable development, and it argued that if economies are suitably managed, economic growth can occur within a set of bounds established by the need to maintain biological resources at a minimum critical level, but that retardation may ensue if resources are maintained at higher than minimum standards. The third revolution concerns the broad range of domestic and international economic, environmental and social policy responses of countries to economic globalization and trade liberalization processes. In the environmental policy sphere, from an earlier reliance on command-and-control regulations, e.g., quantitative limits on emissions, there is now an increasing reliance on a mix of approaches, combining command-and-control regulations and market-based instruments such as charges, taxes, tradable permit systems, and other micro-economic instruments. This trend illustrates the recognition given by policy makers to the important linkages between economic and environmental policies. Increased by reformist pressures set in motion by UNCED and encouraged by favorable public opinion, policy-makers in developing country have tended to give increasing prominence to this linkage.

In the trade sphere, linkages between poverty, environment, equity, population pressure, greater productive employment for all, and access to social services (rudimentary relationships which are also identified by the Brundtland Report) on the one hand, and trade

---

20 A number of influential authors argued in the 1950s and 1960s that the free working of market forces internationally is unfavourable to poor countries, most influential among this body of work undoubtedly was the contribution made by Prebisch and Singer on the net barter terms of trade. The export pessimism encouraged many countries to pursue relatively inward-oriented strategies to overcome the perceived secular deterioration of their terms of trade.

policies on the other, have only now received simultaneous attention. If the basic purpose of SDT is not special derogation and dispensation from the generally acceptable rules, but rather that of building into the various provisions of the negotiated GATT/WTO agreements the special developmental, financial, and trade needs of developing countries, SDT must incorporate these further linkages which are not so simple.

UNCTAD as well as several authors have recently gestured at reforms of SDT within the traditional economic development dimension. The reforms in each case allude to the possibility of extending transitional periods and facilitating measures, for example an extension on the 8 year transitional period for developing countries in Article 27.4 of the Agreement on Subsidies and Countervailing Measures; or, of emphasizing the importance of performance requirements in the transfer of technology and other responses to globalized production realities; however, the literature readily available for review as well as government sub-missions during the on-going eight-month Special Session of WTO’s General Council, in preparation for the Seattle Ministerial and the upcoming negotiations, fall short so far of providing an integrated strategic structure for either justifying extensions or explaining how exactly one is to ‘emphasize the importance.’ Moreover, no one seems as yet to have suggested that these reforms should be driven through the sustainable development vision contained in the Preamble of the Marrakech Agreements Establishing the WTO.

Common sense tells us that tools designed to anchor SDT in sustainable development must address at least two broad relationships between international trade and environment policy objectives: first, what are the trade effects of diverse environment policies? That is, as countries adopt increasingly sophisticated environmental policies, can environmental regulation covering local externalities such as sulfur oxide, which produce most of their effects within the country in which they are emitted, and externalities of a global nature such as concentration of greenhouse gases in the atmosphere and ozone depleting substances, whose effects are essentially the same regardless of where they are emitted, have trade effects? The second question is, what are the environmental effects of international trade, and international trade liberalization? That is, to what extent does trade integration and trade policy reform affect environmental quality. At its simplest, the policy implication of

---

22 For example, the UNCTAD/UNDP Partnership on Globalization, Liberalization and Sustainable Human Development which proposes a framework for “...examining the causal relationship between Sustainable Human Development Variables and global integration policies in the areas of trade, investment and finance.” see UNCTAD/EDM/Misc. 63, GE.99-50454.

sustainability is to pay greater attention to natural and built environments. However, sustainable development refers by definition to a process wherein comparable attention must be paid to three types of inequality or inequity: intergenerational, intra-generational equity within nations, and intra-generational equity between nations. That is, answering the need to provide effective tools for a ‘sustainable’ insertion of developing countries into the global markets, must account for a third broad relationship: the fact that not only does sustainability affect equity but also that inequality affects sustainability. This does not only refer to the idea that if patterns of demand for traded natural resources in rich countries encourage unsustainable management of those resources in poor countries, then that pattern of demand can threaten future development prospects which are based on a comparative advantage in natural resources. It also refers to the contention of many writers and governments that the environment may not be used by rich countries to try to restrict imports from high export earning sectors in developing countries, and thus protect its un-competitive products in such areas as textiles.

Tools designed to anchor SDT in sustainable development should not only cover the aforementioned broad relationships, they need also go beyond the covert and indirect references just mentioned. To be sure, the adoption of sustainable development as a public policy objective of trade policy requires articulation of the many environmental, social and growth policy agendas pursuit by individual countries and any reasonable global economic governance structure. It is not our intention at this point to undertake a comprehensive review of Uruguay Round decisions and suggest novel instruments in each case that may anchor SDT in sustainable development. Our purpose is rather to incite others, particularly governments, to do so. An illustration of what needs to be reviewed may be found, for instance, by concentrating on two functionally different instruments mentioned at the outset of this essay.

The first of these is concerned with formulating or making use of composite measures of sustainable development. At present, as is illustrated by Article 27 (a) of the Agreement on Subsidies and Countervailing Measures and its Annex VII (b), there is clearly a need for an economic rationale for justifying derogation periods. However, what is wanting is a review of the rationale behind establishing a threshold at $1000 GNP per capita per annum to graduate countries as diverse in their potential for and stages of development as India, Nigeria, Congo,

---


Indonesia or Dominican Republic -- for purposes of prohibiting their use of any subsidy scheme in export promotion- into a community which includes trade counterparts with whom GNP per capita ratios compare up to 40-fold higher. Indeed, an application of the UNDP’s Human Development Index (HDI) to two countries with the same per capita income reveals very different capacities between the two countries for translating income into better lives for people.\(^{27}\)

The point here is that in order for multilateral trade disciplines to take away from countries their use of policy tools deemed necessary for development, while arguing the need for leveling the playing field among unequal trade competitors in global markets, valid measures should be devised in establishing the thresholds of graduation. Consistency with the objectives in the Preamble demands from rule-makers that this validity be defined in sustainable development terms. Universal indices and other measures of sustainability being developed by the UN and independent researchers across the world should guide the direction of needed reforms.

The second instrument has received somewhat more attention in preparations which are being made for the Seattle Ministerial and the upcoming negotiations. Notably, a proposal made by the Government of Venezuela\(^{28}\) puts forward the following objectives:

- To develop the idea that the development dimension in the Multilateral Trading System should cover two sets of instruments that go through several agreements: The Special and Differential Treatment (S&D) and the Spaces for Development Policies (SDP).

- To identify and analyze market-oriented policy instruments that could be placed in those two categories, under the condition that they are consistent with the existing WTO commitments.”

The thrust of the Venezuela proposal for the preservation of “policy spaces” is that of creating the freedom within which domestic conditions favourable to international trade and investment flows may be explored. The proposal explains that it is clear at present that policy spaces exist already within which developing countries may “design and implement their own development strategies consistent with their multilateral commitments” and that this sort of

\(^{27}\) The HDI captures more reality than GNP, articulating in a composite index and a combination of variables, the fact that income is only one of the means to human development.

space “has been increasingly used by many countries in order to face externalities and market failures (especially in opaque markets, such as the technology transfer market), as well as to research progressive improvements in their competitiveness and productivity, to promote technical progress and to foster domestic economy dynamism.”

The Venezuela proposal is preliminary, but suggests at least two interpretations. Recently, several important studies have addressed how to measure the relevance of SDT in its present form, approaches for its further evolution, and, interestingly, studied cases of reverse SDT, or, ways in which developed countries are using the freedom offered under certain agreements to maintain trade barriers to protect vulnerable sectors and even expand markets. Those studies have noted the asymmetries with existing agreements between developed and developing countries, between trade and non-trade concerns, as well as the economic interests for further trade liberalization. What may be initiated by the Venezuela proposal under this particular interpretation is that lessons for developing countries from the controversial design and granting of what may be termed ‘reverse SDT’ to developed economies facing structural problems in their liberalization efforts within particular sectors should be further examined. The other interpretation is of course that fora should be facilitated within which SDT alone is treated in order to comprehensively estimate gains from SDT, evaluate non-implementation, extend SDT, and propose new instruments.

“The old division of the world into two power blocs, East and West, has subsided. Now the big challenge and threat is the gap in wealth and health that separates rich and poor. [ ] Here is the greatest single problem and danger facing the world of the Third Millenium. The only other worry that comes close is environmental deterioration, and the two are intimately connected, indeed are one.”
