The International Trading System[1]

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I. Introduction

The 25th Anniversary of the founding of UNCTAD is an occasion to remember, not for its failures, which it shares inevitably with every international organisation that is set up to address complex economic issues that concern developing countries with diverse constraints and objectives, but for its successes, which have been unduly neglected.

Here, I shall recount only three of the many intellectual accomplishments focusing on the early lead that UNCTAD has provided on questions that have attracted academic attention and invited policy redress in national and international fora.

(i) As an international trade economist, I must recall the fact that the question of value-added protection, or effective protection as we now call it, came up repeatedly at the UNCTAD in the 1960s as developing country spokesmen focused on escalation in tariff structures and on the distorting incentives they provided to shift processing towards the developed countries. Now part of conventional wisdom, this was much less so when UNCTAD addressed the issue.

(ii) Again, while the US-led demand to extend GATT trade discipline to services has focused attention on services since the early 1980s, and the Uruguay Round is seized with the issue, it is not widely known that UNCTAD was the pioneer in dealing with services as a trade and as a developmental issue. The early and prior role of UNCTAD in services was brought home to me when I was invited to give the annual Geneva Lecture of the International Insurance Association some years ago. Dr Giarini, who was my host, told me how he had told a distinguished member of the Association that I was to talk about Trade in Services as the matter was now actively under consideration at the GATT. His reaction: 'Mmmm. GATT. What is it? Is it some sort of UNCTAD?'

(iii) Finally, I must also mention the outstanding work done at UNCTAD in relation to skilled migration from the developing countries and policy responses thereto. While the early focus was on conceptually weak and hopelessly misleading estimates of the costs to developing countries and the gains to the developed ones, UNCTAD moved quickly and rapidly away to viewing the flows in more sophisticated analytical frameworks and examining novel questions such as tax policy responses to the phenomenon. It was an active partner therefore in the intellectual and policy shifts in the 1970s in the kinds of issues that were raised and analysed regarding outflows of skilled people from the developing countries.[2]

This is also an occasion for me to pay tribute to Raul Prebisch, the first Secretary-General, whom we must celebrate as much as UNCTAD. For he shaped UNCTAD splendidly in its formative stages. He was open to ideas, consulted extensively even with economists who were opposed to his viewpoints, and drew his and UNCTAD's strength from this openness of intellect and the ability to combine economic excellence with his dedicated pursuit of economic and social progress in the developing countries. I recall the early Expert Groups, having served on one myself in 1962 on 'Trade Liberalisation Among Developing Countries' (now known as 'South-South' trade, and discussed even within UNCTAD without memory of, and profit from, the early UNCTAD work on the subject). Here, economists eminent in their field of expertise, rather than representatives selling political viewpoints on which they were instructed, would come together for three weeks, and remain closeted until they had produced a first-rate document. Those traditions, reflecting Prebisch's serious, acute and committed approach to his responsibilities, are a precious memory to those of my generation who witnessed the birth of UNCTAD and gave their energies to its early efforts.

II. The Evolution of the Trading System: Multilateralism *versus* Unilateralism and Regionalism

The world trading system is characterised by two opposing trends. On the one hand, there is the ongoing effort at the Uruguay Round to bring new disciplines to old sectors (e.g. textiles), and old disciplines to new sectors (e.g. services and agriculture). And indeed the effort is wider still, extending to 'non-trade' items that were hitherto not within the province of GATT in any

[1] Sincere thanks are due to UNCTAD, for permission to print the text of this Keynote Speech, delivered at the Symposium for the 25th Anniversary of UNCTAD, Geneva, 18-19 September 1989.

[2] This work was carried out at UNCTAD under the direction of Dr Surendra Patel and drew upon distinguished economists and lawyers from around the world.

serious way: e.g. trade-related investment measures (TRIMS) and intellectual property issues.[3]

Contrasting with this multilateral exercise are a series of adverse trends in the trade policies of two major areas: the European Community and the United States. Both were characterised during the 1980s by an outbreak of protectionism in the shape of both 'high-track' measures — such as voluntary export restraints (VERs), orderly marketing arrangements (OMAs) and other trade-restraining arrangements — and 'low-track' capture by protectionists of the countervailing duty (CVD) and anti-dumping (AD) provisions of the 'fair trade' laws.[4]

But, equally disturbing are two other aspects of their recent trade policies:

First, there is the recent turn in US trade policy towards *unilateralism*. Unilateralism relates to three different tendencies in current US policy: (i) seeking unilateral trade concessions from others; (ii) refusing to submit oneself, as under GATT, to the same adjudication procedures in determining violations of one's trade rights that one uses against others; and (iii) defining new 'unfair trade' practices, and hence new trading rights and disciplines, through unilateral specification and threatened punishment for non-compliance rather than by negotiated treaty.

Such unilateralism, reflected in the strengthened Section 301 of the 1988 Omnibus Trade and Competitiveness Act and in the ensuing 'Super-301' actions of 25th May 1989 against Japan, India and Brazil, marks a departure from key principles that the GATT reflects: especially that trade rights be defined by and be available to all GATT members, and that each member subjects itself to the same adjudication and settlement procedures (in regard to alleged violations of trade rights) as it imposes on others.

It also marks a departure from the conventional GATT approach of 'first difference' reciprocity in trading trade concessions. In place of 'balanced', *mutual* reductions of trade barriers, as in the many Rounds of postwar trade negotiations, the US appears to have now embraced a novel method of moving to freer trade: ask *others* to liberalise, using not the persuasion provided by the inducement of one's own trade concessions to do so, but the *threat* to suspend one's trading obligations if the demands are not met.

Second, the conjunction of Europe 1992 and the US-Canada Free Trade Agreement (FTA) has created the distinct expectation that the world trading system is moving towards regional blocs, as distinct from GATT-wide multilateralism. The FTA represents a reversal of a longstanding refusal by the US to use Article XXIV of GATT to pursue regional initiatives.

How seriously are these two changes to be regarded? Since the United States is still the major force in the world economy, the question is pertinent. Especially because it seems that if the ability or willingness of the US to provide leadership in support of multilateralism is weakening, the willingness of the EC or, particularly, Japan to provide it instead is not in evidence. We may thus be entering a period of uncertainty and difficulty that may threaten the liberal trading system that has operated, however imperfectly, around the GATT.

On unilateralism, my assessment is that the national mood in America, which constrains the US Administration, is one that promotes unilateralism and the use of the crowbar. This mood is likely to persist, because it rests on some basic perceptions which have taken firm root in Congress.

There are many reasons why several Americans feel that America deserves to get something for nothing in trade concessions today. Vis-a-vis Japan, in particular, the feeling derives from notions such as that (i) Japan is not honouring its past obligations, i.e. that it is 'cheating', so that its imports are not commensurate with its trade concessions, and so it should do more to accept imports: unilateral trade concessions would only bring Japan's current import performance up to levels implied by earlier obligations; (ii) Japan is running a large and persistent surplus and therefore must undertake more trade liberalisation; and (iii) Japan is 'different', with different tastes and institutions and therefore we misjudged how *little* its earlier trade concessions would increase our exports, so that we gave away too much and therefore we can ask Japan, *ex post*, to do more.[5]

In my judgement, none of these and other arguments is compelling on examination; but they are politically potent and will endure. But the most plausible argument for the US making unilateral demands for trade liberalisation relates to Special & Differential (S & D) treatment for developing countries.

The contention, which I call the 'coming-of-age' argument, is that these developing countries, chiefly South Korea and Taiwan, have had a free lunch so far, having been given S & D treatment at the GATT, thanks to which they could use tariffs and other trade barriers but profited from the general reductions in trade barriers of the developed countries in the postwar period because of unconditional most favoured nation (MFN) treatment. In terms of 'first difference' reciprocity, these countries secured unbalanced trade concessions in their favour, making overall access to their markets significantly less than their access to the markets of the developed countries. For those countries, such as South Korea and Taiwan,

[3] These do have trade aspects. But so does the 'drug trade' which we have not put within the GATT's purview.

[4] For discussion of these recent trends, see Bhagwati [1988, Ch 3].

[5] I have listed more arguments, and assessed their merits, in a recent paper, 'US trade policy today' Columbia University Conference on US Trade Policy, 9 September 1989.

which have come of age in terms of both exports and per capita incomes, this 'affirmative action' is no longer justified. They must now assume their full obligations as GATT members, as the developed countries do. This means, of course, that they must unilaterally lower trade barriers or, what is the same thing, provide greater concessions in future negotiations than they can get.

Within the logic of reciprocity, the argument is well taken. S & D treatment for the developing countries was never granted by other GATT members as a permanent 'benefit', simply because GATT is premised on the assumption of symmetrical rights and obligations and on first-difference reciprocity as a method of negotiation to reduce barriers, and therefore any exemption from the symmetrical obligations has to be legitimated. For developing countries, this legitimacy was provided by infant-industry and balance-of-payments arguments (as refected in Article XVIII(b), especially). But the developmental status of some developing countries has changed; and the theoretical support for exempting any of them from the obligations of open market access on grounds such as balance-of-payments has also waned.[6] On both grounds, the 'coming-of-age' argument for asking unilateral concessions from South Korea and Taiwan has acquired cogency, not just within the United States. (I return below to the broader question of S & D generally in the context of how developing countries should fit into the trading system today.)

If one really believes that one should get something for nothing in trade concessions, then it follows that the GATT method of negotiations where trade concessions are *traded* is not exactly appropriate to one's needs. Indeed, one-way or unbalanced trade concessions can generally be secured only by methods that permit the use of one's power. By putting access to one's large market at risk, by threatening tariff retaliation, a powerful country can indeed then demand more successfully such unbalanced, or effectively one-way or unilateral, trade concessions. The 301 and Super-301 techniques which the 1988 Trade Act has now mandated are therefore the natural instrumentalities of a powerful trading nation that feels aggrieved and wants unilateral trade concessions from others.

The shift to such aggressive unilateralism has further been promoted by new export interests. For multinationals with global reach, the use of national power to 'open foreign markets' with the use of Super-301 actions is welcome because it permits them to secure privileged access for themselves to these foreign markets. Opening foreign markets within the GATT framework would be on a multilateral, MFN basis. Unilateral concessions, secured by threats, are more susceptible instead to the targeted country satisfying the demands for opening markets by *diverting* imports from less powerful countries to the powerful country that is making the demands. The US Administration is now aware of these dangers: but they persist inevitably in the 301 approach and, indeed, are a major cause of its appeal to the export lobbies in the country that provides the political pressure for its use.

But it is not just these interests that drive the unilateralism embodied in 301 type actions today. There is also ideology as provided by economic theory. The story here is complicated but interesting.

I should first remind my friends from the developing countries that the older trade theorists such as myself, who developed the post-war theory of commercial policy, were *not* anti-interventionists but rather 'appropriate-interventionists'. Through the 1960s and 1970s, theorists such as myself and Harry Johnson, among others, clarified the nature of appropriate intervention to meet several diverse forms of market failure ('distortions'). We were also the pioneers in shifting attention away from the narrow-minded pursuit of goods-based utilitarianism towards incorporation of so-called 'non-economic' objectives into the conventional utility functions and devising appropriate interventions to achieve such objectives. The popular conception that our scientific work urged *laissez faire* or even unmitigated free trade, no matter what, is a conclusion based on ignorance: a quality that is unfortunately manifest everywhere. It has been given yet further currency by unpersuasive and unfortunate recent arguments from some younger trade theorists that free trade was the theory that was advanced as 'always right' until imperfect competition in product markets began to be fashioned in trade-theory analyses (to the neglect of the vast variety of other market imperfections analysed by trade theorists in the 1960s and 1970s).

As it happens, the economists in the developing countries who have fallen prey to these views in the wrong belief that the 'new' theories 'finally' justify their own love of protection and will therefore enable them to practise it in peace, are in for a surprise. For the proponents of 'strategic trade theory' (based on imperfect competition models) equally lend themselves to unilateralism in United States policy, not just theoretically, but also through their recent willingness to be used by the lobbying interests that push for the aggressive policies designed to kick open the trade barriers of the foreign countries, developing countries included. In short, these economists in the developing countries will find that their beloved protection, instead of being preserved, may well be imperiled by their friends among the 'new' trade theorists!

The earlier trade theorists, such as myself, lectured to the developing countries, and to all others as well, that knee-jerk *protectionism* to fix market failures of

[6] On these questions, see the splendid analysis by Wolf [1987] and Anjaria [1987].

all kinds was wrong, and that the intervention had to be designed so as to fix the market failure appropriately through *domestic* instruments when necessary. When it came to the GATT, we were supporters of this multilateral institution in the belief that these institutions protect the weak against the strong.

But take the younger trade theorists, with their exclusive emphasis on strategic trade policy (i.e. oligopoly models showing that tariffs can shift some excess profits in such industries towards oneself). These theories concentrate on the fact that predatory action can be profitable when it comes to trade policy. If that is so, it is easy to see that the mighty will see in this possibility the pretext, if not the justification, to flex their muscles, but the weak cannot do so. This theory adds just one more wrinkle to the conventional post-war theory of commercial policy. But it lends itself to capture by the strong, to be used against the weak.

Thus, my developing country friends will find that the 'new' arguments become the handmaiden of aggressive bashing of the very trade barriers that they thought the new theories would justify. The targetting of Brazil and India on 25th May by the Super-301 actions of the United States should have startled these friends of mine into better sense more than anything I might say.

And, as for the GATT and multilateralism, some of the more energetic of the proponents of strategic trade theory have displayed little hesitiation in attacking the GATT and supporting aggressive unilateralism, unmindful of the costs to the trading system or the interests of the weak. Nor have the MNCs failed to co-opt them into writing to support these positions which justify the general lobbying positions of much of the influential corporate sector in America today.[7] This combination of interests and academics makes the pursuit of aggressive unilateralism by the United States a more potent force for us to contemplate than would either factor by itself.

Regionalism: The growth of regionalism is a different matter, where I believe that one should not infer a trend from just two observations: Europe 1992 and the FTA.

First, a historical note. In the 1960s, when the European Community (EC) had led to the European Free Trade Area (EFTA) and, around the world, regional blocs and groupings such as Latin American Free Trade Area (North Atlantic) being proposed, we did not have an articulate Lester Thurow telling us that the GATT was dead and the world was fragmenting into regional blocs. But we did have many who thought, and feared, likewise. Well, the 'trend' never took root. It may not this time around either: serious analysts of US trade policy are among the sceptics.

Second, it must be recognised that the conjunction of Europe 1992 and the FTA is largely fortuitous. The two were prompted by wholly different motivations and historical circumstance. The appeal in the US of the FTA was that, politically, it was a dramatic, *trade-expanding* move in public perception, providing an offset to the growing political momentum for protectionism.

Virtue was also found in the fact that, as part of the FTA, progress was made in negotiating trade in services. This too was seen as imparting momentum, not merely by example but also by implied threat (that the US, if necessary, would move ahead with 'like-minded' nations on services if the GATT talks failed), to the progress of the multilateral negotiations on services at the Uruguay Round.

An indisputable merit of the FTA also was the inclusion, at Canadian initiative and insistence, of a bi-national procedure for reviewing national US 'unfair trade' adjudications. In a world where nations increasingly fling charges of unfair trade at one another, the old fashioned ways of doing business in these matters are getting rapidly obsolete. The traditional way, where (say) Americans complain, and American institutions judge, much like Judge Dee of medieval China who acted as the prosecutor and the judge, makes little sense in today's world. Increasingly, we need to settle such complaints by neutral, impartial procedures as at the GATT for dispute settlement. The FTA made a real contribution in that direction, paving the way for future models of institutional change designed to handle better and contain the damage from the obsessions with unfair trade.

By contrast, Europe 1992 was prompted by the wholly different goal of making the Common Market commoner, taking the last, difficult, almost insuperable, steps towards political and economic unification that the Treaty of Rome had already adopted as its objective.

But the coincidence of these two dramatic events, plus the jaundiced view of the GATT on Capitol Hill and the indifference to the GATT-illegality of the actions contemplated under the new 301 provisions of the 1988 Trade Act, suggested to many abroad that, despite professions to the contrary from the Administration and its efforts at the Uruguay Round, the American commitment to multilateralism had ended. Regionalism had arrived. The world was

[7] Cf. two recent glossy pamphlets, financed and then widely circulated by Eastman Kodak in Rochester, New York, and written by respectable economists identified prominently as the authors advocating pro-manufacturing positions, erroenously attacking the GATT, and advocating trade-policy options such as aggressive bilateralism. This seems to me to represent a new turning point in the relationship between academic economists and the multi-nationals, going well beyond the consulting and judicial testifying which have also proliferated in recent years among academics, and raises issues concerning the credibility of the profession.

fragmenting into trading blocs.

Unfortunately, this influence of a trend from two observations can be self-fulfilling. It has tended to produce a sense in the Far East, for instance, that a Japan-centred regional bloc there may be necessary in a bloc-infested world. The effect would surely be to undermine the energies spent on making the Uruguay Round successful, with its vast agenda of remaking GATT to suit the needs of the modern world.

In my view, it is absolutely imperative for the United States to reject the temptation therefore to move towards further such regional arrangements, eschewing the temptation to strike special deals with Mexico and others, so as to convey a clear message that the FTA was a special event, much like the European unification was and Europe 1992, its culmination, is.[8] Here lies the greater wisdom, if less immediate profit.[9]

III. The Role of MNCs

The role of the multinationals as a major force in the world trading system is now undeniable. I make only a few, key observations that concern deeper issues.

1. Their role in containing overt import protectionism has been considerable. The increased globalisation of the world economy, with investments criss-crossing the globe and leading to what I have called a 'spider's web' phenomenon, has given rise finally to the growth of interests with a stake in an open, freer trading system. Reaction to severe import competition, with growth of foreign investment, had become increasingly not a one-way option, namely protection: Schumpeterian firms had often responded by moving abroad to cheaper locations. Now, with increased investments everywhere, protection looks like a yet worse alternative: if my protection leads to an outbreak of protectionism elsewhere, the profits of globalised corporations cannot but be jeopardised. MNCs have therefore become an increasingly important force against overt protection.[10]

2. But the increased globalisation has also led to one other effect, not altogether risk-free. The increased tendency of MNCs to get into each other's hair, a phenomenon that was noticed first by Stephen Hymer in the 1970s and has been known as cross-investment, has meant today that they have become increasingly sensitive to the question whether they are playing on 'level fields', whether competition is 'truly fair' or whether others have some artificial advantages that make it unfairly difficult to compete in a cruel, competitive world. This tendency has become pronounced in the United States in particular, since its traded industries were long under pressure because of serious dollar overvaluation, until the Plaza Agreement started to reverse this situation. The effect has been, as we know, the tendency to put everything on the agenda of 'unfair trade', including the Japanese housewife's buying habits, Japan's retail distribution system, the European Community's ban on hormone-fed beef, and the development of standards in the Community's move to 1992, to take just a few examples.

This is certainly a perilous road to go down. For, in the ultimate analysis, one must be willing to let a number of things be, as we used to. If we start bringing into the arena the kinds of questions I just outlined as ones where the notion of 'unfair' trade is now to be applied, we will wind up granting legitimacy to propositions such as the following: if Bangladesh has cheap wages, it must be because of its population policy (or rather, lack thereof) and therefore the 'pauper labour' argument for preventing its textile exports begins to be legitimate. By condoning such extensions of the 'fairness' doctrine of international trade, governments and economists (who pander to these notions) are assisting in the breakdown of the notion that an open trading system is possible, and profitable, among nations with diverse preferences and institutions. It is time for economists who see positive virtues in a freer trading system to militate against these foolish notions and dangerous tendencies: they obviously lead to capture of the trading system by lobbies seeking their narrow, sectional interests rather than the national interest and the interest of an orderly and efficient world trading system.

3. The role of multinationals in opening markets has a positive value. Finally, we have a pressure group that provides a countervailing force to the import protectionists whose power in pluralistic societies we have lamented since the time of Pareto.[11] But there is a downside here too. As I have hinted already, multinational export lobbies can capture and misuse the trade policy process as much as the import-protectionist lobbies we are more familiar with. Thus, these lobbies have tended increasingly, for example, to use the 'balance of trade deficit' of the United States to ask the United States Trade Representative (USTR) for aggressive actions of the Super-301 variety, which rebound to their immediate benefit but imperil the GATT-centred trading system, just as (in developing countries, especially) 'foreign exchange difficulties' have been routinely cited to justify import protection. When the Super-301 actions lead to trade diversion, in Voluntary Import Expansions (VIEs), as they have

[8] I reject therefore, not merely the economic logic, but also the policy wisdom, of the recent Dornbusch-Kodak recommendations to promote regional and bilateral arrangements because preferential access over other exporting countries (whether efficient suppliers or not) is one of the 'benefits' of such arrangements.

[9] I turn to the related issue of South-South trade in Section IV.

[10] For a detailed analysis of this issue, see Bhagwati [1988, Ch 4].

[11] This benign influence of the new export lobbies was noted independently by three recent studies: Bhagwati [1988], Milner [1988] and Destler and Odell [1987].

and are likely to, the result is what one can aptly call 'export protectionism', making the parallel with more familiar VERs and import protectionism more complete.

IV. The Developing Countries

I turn next to the developing countries and their role in the world trading system today, in the light of what I have said about the existing trends.

1. How does S & D for developing countries fit into the system today? There are two aspects here. First, there is S & D in their access to DC (developed countries') markets. This relates, of course, to the Generalised System of Preferences (GSP). Second, there is S & D in regard to access to *their* markets by DCs and others. Here, the question is whether the developing countries can be allowed to continue being exempted from the discipline of the GATT through virtually automatic use of Article XVIII(b), invoking infant industry and balance-of-payments reasons to regulate access to their markets much as they wish, while they enjoy greater access to the markets of DCs.

I think that it is correct to say that there is by now virtual unanimity that GSP did not do much for the developing countries. Many academic studies confirm this. Perhaps this was inevitable, since the concessions made were not valuable; and those who believe that trade concessions come (except for those who can wield the crowbar) only when you offer some in exchange, this outcome of the 'altruism-based' GSP is not surprising. I should only add two observations. First, the value of GSP has diminished as the tariff levels have gone down since GSP was started. The issue is of little practical relevance; it is not worth the political input necessary to keep it going. For the least developed countries, however, it may be worthwhile. Second, the timing of its removal is worth considering, even for the bigger, more developed countries. For instance, removing GSP for Brazil and other indebted countries effectively amounts to raising the tariff on their exports: this is clearly the wrong sort of thing to do at this juncture.

The more important issue is the question of reverse market access to the developing countries. Here, as I argued earlier, the case for a revision, or at least a more stringent application of, Article XVIII(b), and the removal of the S & D status for the highly-successful developing countries such as South Korea and Japan, is a relevant issue. I believe that such 'graduation' is clearly called for and that, rather than object to it, the developing countries should accept the principle of graduation and bring South Korea and Taiwan, cap and gown in hand, to the graduation ceremony. GATT is an institution based on the notion of symmetrical rights and obligations of all members, except when there are strong grounds for 'affirmative action'. No such grounds exist for the advanced NICs; they should be taken off the list of those denying market access despite GATT membership. In fact, the modification of Article XVIII(b), or more stringent and restrictive interpretation of it, would also help nudge developing countries towards more open trade policies that would only benefit them in the long run.

2. What attitude should they take on services? The developing countries have been divided on this issue, though most of them remain fearful of liberalisation in service trade. I believe here that the gains to developing countries from service liberalisation are greater than was believed at first. I had long urged them to join the negotiations instead of rejecting them altogether; and I see that this has finally happened, and that my recommendation that they match the right of establishment with the right to enter (though, not immigrate) in order to provide skilled, semi-skilled and unskilled labour services has also been adopted.[12]

Recently, I suggested with Andre Sapir (1989) that the optimal way to proceed would be for the DCs to undertake a services compact among themselves, since many developing countries would continue to have reservations in sectors such as banking and insurance where they feel it is part of their infrastructure and they are not prepared to take the consequences of a rules-oriented liberalisation where they may 'lose-all'. *But*, given these legitimate fears of the developing countries, the developed countries should offer unconditional MFN to the developing countries for a defined period, of say 15-20 years, during which the developing countries effectively enjoy rights but have no obligations. Two provisos would be added however. As with Centrally Planned Economies (CPEs) at the GATT, during the time of unconditional MFN, the developing countries would undertake quantity obligations: e.g. India would accept three more banks annually. Second, at the end of the period, the developing countries would have to accept 'rules' obligations, reverting to conditional MFN and losing their rights unless they accept symmetrical obligations. This plan has the advantage that it would bring the developing countries on board instead of leaving them out, as some hardliners suggest; it would give them time to familiarise themselves with the issues, while accepting some obligations of a moderate and containable type, and at the same time not give them an indefinite 'free lunch'. This is a proposal for a cooperative, moderate approach that seeks to bring everyone into the fold.

3. What about intellectual property rights? Here again, while my own view is that it is not really a GATT-type issue but one of conflicting views of what apppropriate patent rights ought to be and how to

[12] I wrote extensively on these issnes over the last four years, including in my *Geneva Lecture*, in *The Economic Times* (India), *The World Economy* and *The World Bank Economic Review*.

reconcile these differences, it is too late to raise the issue in that form. But what developing countries can do is to suggest that the matter be arranged among the developed countries, allowing one another obligations and rights as they wish, and that it might even be put into the GATT in the form of a Code, but that it should not apply, with GATT sanctions, to developing countries unless these countries voluntarily join the Code. In short, the opposition to having the matter included in the GATT should be yielded; but the right not to have the developing countries accept new obligations if they do not wish to must be left intact. Again, I think that matters of outright cheating, as with counterfeiting trademarks and products, should be treated as just that: and this matter should be separated out firmly from the patents issue, which is a matter where evidently different viewpoints about desirable lengths of patent rights etc. can he held, no matter what is asserted by the trade negotiators from some of the OECD countries.

4. The question of *dispute settlement* is also evidently an important one today. Let me explain. We know that 'fair trade' mechanisms are continually being misused in the Community and in the United States to moderate the growth of imports. One way to get at the problem would be to use the Uruguay Round to make such misuse more difficult. But both recent EC practice (studied splendidly by Brian Hindley and Patrick Messerlin) and the 1988 US legislation (which went in the *other* direction, to make the successful use of CVD and AD mechanisms *more* easy) show that this is not likely to be a practical route. An alternative procedure, which does not solve the problem but can still help, is to move towards the strengthening of the GATT's dispute settlement mechanisms, increasing their scope and efficiency, as a way of getting relatively impartial, neutral adjudication procedures for reviewing and settling the CVD, AD and other charges levelled at foreign rivals. Since Japan and the Far Eastern nations have run into these problems most, they should provide the natural regional alignment of forces that the developing countries can foster and ally with in getting this moving at the Uruguay Round.

5. The developing countries ought to stay firmly against the impeding shift of the *safeguards clause* (Article XIX) to admitting selectivity in the targeting of suppliers. It is well-known that this shift would legitimate the principal way in which VERs and OMAs are used to target suppliers whom it is politically convenient to hit, rather than to reduce imports in a non-discriminatory manner which permits efficient suppliers to reduce exports less than inefficient suppliers would have to. Since developing countries have both low political clout and high comparative advantage in many classes of goods where Article XIX can be invoked, it is not in their interest, nor in the interest of an efficient world trading regime, to surrender Article XIX to the long-standing desire of the EC to sanctify the discriminatory use of restraints, a desire that the United States (itself under pressure from domestic pressure groups) is reported to have yielded to in current negotiations. Here again, the developing countries have an interest that coincides with that of the Far Eastern nations, with Japan as a natural ally.

6. Finally, let me comment on the question of South South trade. This is an ongoing phenomenon and policy objective; and it fits into the regional trend *if* one believes that there is such a trend. But let me express one thought on its siginificance as a policy objective today.

During the 1960s, many including myself wrote and argued in favour of preferential trade liberalisation among developing countries, against the perspective of widespread growth of import substitution behind national trade barriers. We argued that the same degree of import substitution in favour of manufactures could be obtained *at lower cost* if the developing countries lowered their trade barriers against one another. In short, 'trade destruction' had occurred already in the developing countries through national trade barriers; the 'South-South' liberalisation would simply lead to 'trade creation' now, reshuffling industries among the developing countries and giving more income to them therefrom. Ghana, for example, was protecting and producing textiles and shoes, and so was Nigeria. Both would now specialise, with Ghana getting more textiles and Nigeria more shoes, their respective levels of produced manufactures in total would remain unchanged, but their income would be higher. This logic was only reinforced by the notion that economies of scale could not be obtained in small, protected markets.

But the experience of outward orientation by the Far Eastern countries, and the notion that if you want to gain from trade, you must go ahead and integrate into the world economy, and the observation that long-standing import-substituting countries like India produced a *lower* level of industrialisation than the outward-oriented countries like South Korea in the long-run, have all served to make the 1960s argumentation in favour of South-South trade less compelling.

The argument that the world economy is increasingly protectionist and therefore no markets can be found abroad, *requiring* therefore the growth of South-South trade, goes back to Ragnar Nurkse in the 1950s and has been revived recently by Arthur Lewis. But I see little evidence for this, frankly. Protectionism today is worse than before: the 1980s have been not exactly heartwarming. Yet, as countless studies show, trade has continued to grow, especially from the developing countries, and the protectionist bark has been much worse than its bite.[13] To rush, therefore, into protectionist or regional alternatives, by succumbing

to this new export pessimism, would in my judgement, be a mistake.

V. Centrally Planned Economies

The Centrally Planned Economies (CPEs) are in an astonishing and unpredictable stage of transition. From 'fix-quantity' economic regimes, they are moving with varying speeds to the embrace of markets and price mechanisms in place of central planners and bureaucrats, with 'fix-rule' economic regimes as their targets. Their present course towards price reform has been badly hurt by budgetary excess expenditures combining with currency overhang to produce a perilous 'repressed inflation' situation in the USSR, where prices are still controlled, and a runaway inflation in Poland, where prices have been freed. Evidently, Mr Gorbachev is well-advised to get this new *macroeconomic* problem under control *before* he gets to price reform (i.e. price flexibility) for *microeconomic* efficiency.[14]

As long as the CPEs are in this stage of transition, it is difficult to see how they can be fully integrated into a rules-based GATT system. For, while market access to the OECD members of the GATT can be enjoyed by them, how can a quantity-oriented system offer comparable reverse market access, especially now that such 'reciprocity' has become an extremely sensitive issue? The GATT approach with the existing CPE members has been to impose the obligation of a certain overall import-expansion annually. Will the OECD countries be willing to accept such obligations, in lieu of market access to sell what you want subject only to tariff bindings, from the larger and far more important CPEs such as China and the Soviet Union?

My answer is: yes. For, the *political* willingness to assist these countries in their integration into the world economy certainly exists. The GATT should certainly let China and the USSR in, imposing on them the same quantity obligation for imports as it has done on earlier CPE members. But the possibility of these CPEs then undertaking reverse market-access obligations, once they have price reforms and a reasonably market-oriented economic regime in place, must be formally discussed and built in at the time of GATT admission so as to avoid down-the-road bickering over the issue of balance of obligations.

[13] The reasons for this discrepancy have been discussed at length in Bhagwati [1988, Ch 3] and draw on the work of many economists, including Robert Baldwin and Anne Krueger.

[14] See the analysis by Desai [1989].

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