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Global Market Integration and National Sovereignty

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Abstract

In this paper, we first trace the evolution of the global trading system from the 19th century to the present-day GATT/WTO arrangements, calling attention to the key roles of reciprocity and non-discrimination, and we note how the system is now challenged by the new paradigm of global market integration. We then consider the recent plethora of free trade agreements (FTAs), including those between industrial and developing countries, and their uneasy relationship with a multilateral system based on non-discrimination.. Thereafter, we seek to identify the boundaries of the WTO and examine how the potential expansion of these boundaries may result in the over-extension and weakening of the effectiveness and influence of the WTO.

Key Words: Reciprocity; Non-Discrimination; Boundaries of WTO Regime
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1. INTRODUCTION

In this paper, we focus on areas of potential conflict arising in the World Trade Organization (WTO) from the pursuit of global market integration in a world comprised of separate nation states. We recognize the persuasive economic logic in enlarging market access by means of reducing barriers to trade and investment in goods and services and by conforming domestic regulatory practices to promote economic efficiency. But, as we will argue, the unfettered advocacy of global market integration that has become so ardently pursued by the major industrialized countries may be misguided. It undermines the multilateral principles of reciprocity and non-discrimination and gives insufficient attention to the immense diversity among countries in political, economic, and social conditions and in policy aims. Unless this diversity is taken into account, there may be considerable strains placed on the WTO as the arbiter and enforcer of the rules and procedures for trade liberalization that are at the heart of the multilateral trading system.

To provide some historical perspective on the foregoing issues, in Section 2 following, we briefly trace the evolution of the global trading system from the 19th century to the present-day GATT/WTO arrangements. We call attention particularly to the opposing paradigms – the cosmopolitan and the national – underlying many issues that comprise the agenda of trade negotiations and that may place stress on the trading system. In Section 3, we consider the recent plethora of free trade agreements (FTAs), including those between industrial and developing countries, and their uneasy relationship with a multilateral system based on non-discrimination. In Section 4, we identify what we see as the boundaries of the WTO and consider how the expansion of these boundaries may result in the over-extension and weakening of the effectiveness and influence of the WTO. Section 5 concludes.

2. THE GLOBAL TRADING SYSTEM: YESTERDAY AND TODAY

“ I don't think they play at all fairly” Alice began in a rather complaining tone, “and they all quarrel so dreadfully one can hardly hear oneself speak – and they don't seem to have any rules in particular; at least, if there are, no one attends to them..” Lewis Carroll, *Alice's Adventures in Wonderland*, p. 112

To a reader in the 19th century, that might well have seemed a fair description of global trading relations at the time rather than of a game of croquet in the Queen of Hearts court. It was only in the course of the 19th century that the beginnings of some order, as we know it today, began to emerge. Industrialization was taking hold in several countries, and it generated an intensified search for foreign markets and sources of supply. Governments in Europe were faced with calls to lower tariff barriers on imported inputs and to negotiate reductions in tariffs protecting foreign markets. But in a nationalistic world of vying states – as it still is today – governments were not about to ease access to their markets in the absence of some quid pro quo.

The way forward was found in the adoption of two instruments of policy – reciprocity and non-discrimination – which set off a wave of trade liberalization. These two ideas enabled countries to surmount their innate distrust of each other and to engage in mutually beneficial, and generalized, reductions in tariff barriers. Reciprocity – meaning contingent and equivalent concessions – assuaged the fear of governments that they might not be receiving at least as much from others as they were giving themselves, and non-discrimination reassured them that they were enjoying the same treatment as had been won by other competing states. Neither of these ideas was a sudden intellectual invention; they had long been known in human affairs. But their application to trade relations was comparatively new and did much to advance global trade liberalization.

Historians usually identify the signing of the Anglo-French Treaty of 1860 as the landmark that signaled the new era of trade relations. Besides the need for a political gesture of friendship, the immediate cause of the signing of the Treaty was a decision by the French government to follow Britain's policy of trade liberalization. Like many others at the time – and

they have their counterparts in today's world – the French leaders were persuaded by the popular, but mistakenly simplistic and mono-causal, belief that Britain's superior industrial performance owed much to its free trade policy. However, in undertaking to reduce tariffs on British manufactures, the French government sought some concession from Britain in order to win the support of its export interests in getting the lower tariffs passed through parliament. Although Britain had already nailed the flag of free trade to its mast – and firmly, but exceptionally, believed that others in their own interest should also reduce their tariffs unilaterally – it accommodated the French political need.¹ Further, when other European countries anxiously sought comparable access to the French market, France offered them the same tariff rates that it had set for Britain. The inclusion of such a most-favored-nation (MFN) clause in commercial treaties thereafter became common practice among the European states. (It had the practical advantage of preventing treaties from being in a constant state of flux as tariff schedules were repeatedly renegotiated bilaterally.)

What emerged in industrializing Europe from the struggle of countries to gain market access for their exports of manufactured goods, was a network of bilateral, commercial treaties linked together through the MFN clause. While this was a step toward more predictable trade relations, however, the system was not notable for its stability. Apart from Britain – which adhered with almost religious fervor to free trade – most European countries found their treaty obligation hard to live with. After a drift toward freer trade in the 1850s and 1860s, most countries later assumed more protectionist stances. Commercial treaties were frequently denounced or renegotiated. Some lengthy and bitter trade wars broke out in which trading partners raised their tariffs against each other in a spiral of retaliatory and counter-retaliatory actions. Still, while every country valued the freedom to make unilateral decisions about its

¹ For a full account of the Anglo-French negotiations, see Hinde, 1987. For a history of multilateral trade relations over the period 1850 to 2000, see Brown, 2003.

national trade barriers, all were driven reluctantly to accept constraints on their behavior in order to gain access to others' markets.

The outbreak of WWI and the political upheaval engendered in its aftermath disrupted trade relations for some years. Nevertheless, in the peace conferences following the war, the avowed goal of governments was to restore the pre-1914 order in international monetary, financial and trade relations. Several international conferences were held in the 1920s and early 1930s (at which the United States was at best an observer) where – for the first time – attempts were made to agree on reductions in tariffs on a multilateral basis. But economic conditions militated against a restoration of the minimal levels of mutual trust necessary for agreements. In the unstable monetary conditions of the early 1920s, countries engaged in currency depreciations that were seen by others as competitive and that, in line with economic thinking of the time, made the negotiation of tariff reductions pointless (since exchange rate and tariff policies were seen as alternatives). For a while, in the later 1920s, restoration of the gold standard made the outlook appear more hopeful for trade relations. But the differences in tariff levels between the high and low tariff countries were sizable, and governments could not agree on a common formula for tariff cutting. The onset of the Depression and the early responses to it – tariff increases like those embodied in the notorious Smoot-Hawley Act, as well as the devaluation of the dollar – put an end to any hopes for more normal trade relations.

As export markets collapsed, political attention shifted to ways of raising the level of economic activity at home. Some countries in Europe, led by Germany, imposed exchange and import controls in order to raise domestic demand, stop an outflow of foreign exchange, and protect the gold value of their currencies (the trauma of hyperinflation being a recent memory). To preserve trade flows, they resorted to bilateral barter or clearing arrangements that were necessarily discriminatory. Others, like Britain, sought to revive trade through the creation of preferential trading areas. In these circumstances of worldwide inadequacies in domestic

demand, trade relations largely ceased to be conducted within a multilateral framework based on non-discrimination.

It is notable that the United States played virtually no part in the evolution of trade relations before WWI and remained largely aloof from international trade affairs in the inter-war years. Its trade policy began to undergo change only when changing economic circumstances at home raised the level of commercial interest in gaining access to foreign markets. American manufacturing and marketing skills had been known and feared by European competitors as early as the 1890s, but manufactures accounted for only about one quarter of total U.S. exports at that time. The United States remained for many years principally an exporter of primary commodities. It was fortunate that agricultural exports generally met with low trade barriers before WWI, so it faced few restraints on its pursuit of a high tariff policy on imported manufactures. Indeed, the U.S. Congress could then interpret reciprocity as the negotiation of reductions in foreign tariffs on pain of increases in American tariffs (a notion of reciprocity that may be officially dead today but still often finds political voice). MFN treatment was also offered only conditionally (In order to qualify for a new MFN tariff rate, all trading partners had to offer equivalent tariff reductions.).

However, by the 1920s the interest of U.S. manufacturing industries in foreign markets had grown substantially as the share of manufactures in US merchandise exports had risen to nearly two thirds of total exports. A latecomer in the world of trade relations, it was only then that the United States began gradually to accommodate itself to the accepted international norms. With the adoption of the Fordney-McCumber Tariff Act in 1922, the principle of unconditional MFN treatment was adopted. And in 1934, the passage of the Reciprocal Trade Agreements Act made reciprocity – understood as equivalence in concessions – the accepted means of gaining improved access to foreign markets.

a. The New Era of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO)

After WWII, when the United States launched its grand design to establish an orderly multilateral framework for international monetary, financial and trade relations, the ideas of non-discrimination and reciprocity again became central to the arrangements for trade. But now, they were formally embodied in a multilateral agreement, the GATT. Two factors reinforced the great importance given by U.S. policy makers at the time to the principle of non-discrimination. One was the conviction of the State Department led by Cordell Hull – long President Roosevelt's Secretary of State – that the trade discrimination practiced internationally in the 1930's exacerbated the bitter political rivalries in a period that had finally terminated in war. The other was the more commercial reason that U.S. manufacturers particularly resented the system of preferences erected by the British Commonwealth in the early 1930s.

In the fifty odd years since the signing of the GATT in 1948, the proportion of world output that is internationally traded has risen to levels far exceeding those realized by 1914. This has been greatly aided by the progressive reduction of trade barriers on manufactures negotiated very largely by the industrial countries within the GATT. Though deals were negotiated bilaterally in earlier years, the acceptance of non-discrimination by all member states generalized the reductions to other trading partners. The multilateral character of the system was carried further in later years when uniform, across-the-board tariff cuts applicable to all the industrial countries replaced, or supplemented, bilateral deals.

What persisted, however, as a threat to the progress of multilateral trade liberalization was the resort by the industrial countries to quantitative restrictions outside the disciplines of GATT. These mainly took the form of voluntary export restraints or orderly marketing agreements. They raised trade barriers arbitrarily and did so in a discriminatory way. By the early 1980s, these evasions had become so prevalent that many doubted whether the global trading system could survive; for they seriously undermined the mutual respect for its disciplines

on which the system was founded. It was partly this concern that moved governments during the Uruguay Round (1986-93) to agree to eschew these practices, and in particular, to dismantle the Multi-Fiber Arrangement (MFA), which for many years had constrained trade in textiles and apparel. Indeed, in their desire to strengthen respect for the GATT rules, they went much further. They agreed to create the WTO as a new global institution, and they incorporated into the new organization a more rigorous procedure that allowed countries to seek redress against infringements of obligations by their trading partners.

Thus, up to and even including the Uruguay Round, it could be fairly said that, at least among the industrial countries who dominated GATT/WTO, the ideas of reciprocity and non-discrimination largely shaped international trade relations. But events during and after the Uruguay Round began to alter this. Reciprocity thereafter lost some of its relevance and clarity as a guiding principle; and, in the face of the proliferation of free trade areas (FTAs), non-discrimination in trade relations among states appeared to fade into the background. We discuss both of these aspects more fully below.

b. Reciprocity and the Changing Character of Trade Negotiations

Two large changes taking place during and since the Uruguay Round have muddied the nature of reciprocity as an idea guiding multilateral trade relations. The first is that, at the behest of the industrial countries, the content of trade negotiations has been substantially broadened; and the second is that the developing countries – thanks largely to their emergence as significant exporters of manufactures – have become influential participants in these negotiations.

The underlying developments that, in large part, lay behind the broadening of the agenda were, first, the continuing technological advances in the economies of the industrial countries that opened up new possibilities for major industries, and second, and no less important, the sea change in ideological beliefs occurring around the late 1970s and early 1980s that predisposed governments to rely less on the state direction of economic activity and more on the operation of

market forces and that as a consequence, prompted a wave of deregulation and privatization to wash over the industrial countries. These together changed the character of major service industries, enlarging the possibilities for greater competition, for example, in the telecommunications and financial industries; and they encouraged large manufacturing firms to outsource and internationalize production. On the international scene, the new developments resulted in calls for the liberalization of trade in services and for the dismantling of restrictions on foreign direct investment (or, more broadly, transfers of financial capital). The protection of intellectual property rights also appeared on the agenda at the insistence of the United States, reflecting the weight of multinational corporations in national policy making.

For the industrial countries, the negotiation of improved market access for service industries and for capital was essentially undertaken on the same basis as reductions in tariffs, both in the past and during the Uruguay Round: it was founded on reciprocity. Countries agreed to a mutual widening of markets, yielding potential advantage to producers and investors on all sides. In this regard, even the new agreement on the protection of intellectual property rights only reaffirmed a mutually advantageous form of cooperation that had long been in place.

For the developing countries, however, the question of reciprocity was a good deal more complex and uncertain. If the core of trade negotiations among industrial countries had always been the improvement of market access on a reciprocal basis, which had not been true of trade relations between industrial and developing countries. Developing countries that were signatories to the GATT had earlier sought a special status within the GATT. The claim of the developing countries in the earlier post WWII decades was that the industrial countries should extend their own mutual reductions in trade barriers to the developing countries in line with the principle of non-discrimination, but that they themselves should not have to reciprocate by lowering their own barriers. The industrial countries accepted this lack of non-reciprocity, in part because the Cold War competition with the Soviet Union induced them to draw uncommitted countries into their

camp, and in part because they had domestic constituencies that supported softer terms for poor countries on grounds of human solidarity. The exceptional status of the developing countries was taken further in the 1970s when the industrial countries introduced the Generalized System of Preferences; and it was also given formal recognition during the Tokyo Round when clauses relating to special and differential treatment were incorporated into the GATT. Further, particular groups of developing countries, such as the least developed countries or countries with which the industrial countries have special political ties – like the African, Caribbean, Pacific (ACP) or Andean Pact countries – have been given additional, preferential access to their markets.

The status of the developing countries as supplicants, however, had its price. In their relations with developing countries, the industrial countries felt free to disregard the spirit of the GATT whenever it proved politically expedient to do so; they did not hesitate to practice extensive discrimination against specific exports from developing countries, most egregiously when they imposed restrictions on textiles and apparel in the 1960s that burgeoned into the MFA.

Before the launching of the Uruguay Round, however, these unequal relations had begun to change. The developing countries themselves were acquiring a new interest in the system. Many had made progress in modernizing their economies through industrialization; and they were all influenced, in varying degree, by the world wide shift in beliefs about economic policy that, among other things, favored more outward-oriented growth. (Indeed, a number of developing countries had unilaterally lowered their trade barriers and most had become members of, or sought membership in, the GATT.)

During and after the Uruguay Round, some “rebalancing” in trade relations between industrial and developing countries began to take place, though it remains highly controversial whether the negotiations satisfied the condition of reciprocity. While developing countries generally did not fully reciprocate in tariff reductions, they agreed, in principle, to the opening up of market access to service industries and to limitations on the conditions that could be imposed

on foreign direct investment (FDI); and these latter were both concessions that appeared to be very largely to the benefit of producers and investors in industrial countries. When the new international rules on intellectual property rights were added to the list – rules that could impede the transfer of technology to developing countries and that certainly meant a net increase in the transfer of resources to industrial countries – the grounds for questioning the reciprocal character of the negotiations appeared substantial to many – though the industrial countries saw the agreement to dismantle the MFA as a sufficient, offsetting concession on their part.

But there is another and less obvious reason why the idea of reciprocity has lost much of its clarity. This is because the Uruguay Round also gave weight to rules – like those relating to subsidies and FDI – that, while certainly bound up with issues of market access, also impinged directly on domestic policies and practices. Together with revisions of domestic laws and regulations required by the liberalization of the service industries, these initiated what some commentators have dubbed the “deeper integration” of markets. They marked the beginning of a new development in trade relations in which actual or proposed rules of the WTO could penetrate more deeply into the management of national economic and social affairs. Some of the issues since raised by the industrial countries as candidates for inclusion in the Doha Round have borne the same stamp.

While some developing countries may have tacitly accepted these changing rules, others have voiced serious misgivings. As in all countries, the desire to protect entrenched domestic interests for internal political reasons has doubtless been an active consideration. But there are other, more valid reasons. Of central concern are the limitations that these changes imposed on the development policies that these countries were pursuing. Since the early years after WWII most governments of developing countries have – as discussed more fully in section 4 – used their powers to establish national firms in non-traditional sectors. They have created investment opportunities for the domestic business community (or political elite) through the use of a range

of measures including tariffs, subsidies in one form or another, quantitative restrictions, and limitations on foreign investment. There is considerable concern accordingly that the freedom to pursue such development policies has been jeopardized by some of the rules adopted in the Uruguay Round.

What some of these new rules were doing was to extend the principle of national treatment beyond its traditional, and limited, meaning. The rules placed added restrictions on the freedom of governments to discriminate in favor of national firms through the use of domestic measures. In effect, what the leading member governments of WTO were collectively seeking to do was to create an international framework of rules and procedures within which their own markets could be more closely integrated with each other; it was, in more popular terms, to establish a “level playing field” in which the firms of each country would ideally compete everywhere on the same terms. The incipient framework drew on the ideas that guided the industrial countries in the management of their own domestic markets, and in particular, on those of the leading power, the United States.

This represents a new paradigm in trade relations. It is advocated by those who lean toward a cosmopolitan view of the global economy, one that sees the emergence of an increasingly integrated world market governed by common rules that regulate transactions in this single market. It is a view that coincides with exporting interests, and especially those of multinational corporations. But almost all countries also have national aims that they are not willing to surrender in order to accommodate their trading partners. Some of these aims are rightly dismissed by cosmopolitan proponents as essentially being obstructive rent-seeking activities.² But, as we argue later, there is a global diversity in aims and policies. Many of these aims and policies have deep roots in national societies, and they should therefore be afforded

² An outstanding instance at the present time is the insistence of the EU, the United States and Japan on their right to protect the incomes of their farmers, whether or not that impinges adversely on the trade of other countries. Another instance is the use of antidumping measures that are designed ostensibly to deal with “unfair” trade but in reality are almost always driven by protectionist motives.

legitimacy. This is a reality that is reflected in the historically more familiar view of the world as composed of separate nation states, each with its own national market. In this view, it is for each country to decide – in the light of its own social norms and economic aims – how far it wants to adjust its own domestic laws and practices in order to accommodate its trading partners and to gain a comparable adjustment from them. It is a view that has long been the basis for endeavors to achieve the reciprocal liberalization of trade.

3. NON-DISCRIMINATION AND FREE TRADE ARRANGEMENTS

The idea of non-discrimination, so long central to the progress of global trade liberalization, appears to many to have been seriously threatened by the recent proliferation of bilateral or regional free trade arrangements (FTAs). Preferential trading arrangements are nothing new in international trade relations. They existed long before the global trading system came into being, and they have complemented it ever since. However, the recent increase in the number of these arrangements – both actual and putative – has been nothing less than extraordinary. The WTO has reported (www.wto.org) that, by its definition, there were 250 regional trade agreements that had been notified, and that the number could rise to 300 by the end of 2005. The number may thus have roughly trebled since the WTO was first established in 1995.

In seeking to understand how this has happened, we should begin by recalling the statesmanship of the United States after WWII when it used its unparalleled power to establish a new international, monetary, financial and trade system. At the heart of its trade policy lay the conviction that an open, non-discriminatory system was in the best interests of both the United States and the world at large. Thus, in the early post-war decades, U.S. trade policy conformed

well with the theory of hegemonic stability.³ Confident in its power of command, the United States willingly provided the world with the public good of non-discrimination.

The first tremors of doubt in America's confidence as a hegemonic leader in the economic sphere came in the 1970s when it abandoned the Bretton Woods regime of fixed exchange rates. This perception of loss in status was greatly augmented in the 1980s as Japan appeared (for a time) to challenge U.S. technological leadership in such high-tech industries as semi-conductors, computers and electronics, and as the domestic mix of a tight monetary policy and an expansive fiscal policy led to an escalation in the exchange rate and an unparalleled trade deficit. The U.S. administration sought to counter the rising protectionist sentiment with the launching of the Uruguay Round of multilateral trade negotiations, but the slow pace of progress did little to alter the more nationalist mood of the U.S. Congress. It was only another symptom of the changed outlook that, when the European Community (EC) sought to move forward in the later 1980s from a customs union to a common market through its Single Market program, this was widely misinterpreted in the United States as the emergence of "Fortress Europe."

These circumstances fanned a new American interest in regional and bilateral trade agreements as an alternative way of gaining greater market access; it was now less ready to forego the pursuit of more limited interests for the sake of upholding the larger aim of non-discrimination. The first major outcome of this new direction was the Canada-U.S. Trade Agreement of 1988. The U.S. interest, however, went further than its immediate neighbor. As Preeg (1995, p. 80) has noted, when President Reagan made his farewell speech on leaving office in 1988, he raised the vision of an FTA running from the Arctic to Tierra del Fuego. This idea was reiterated by President George H.W. Bush in 1990, and it became a firm policy aim of the United States. When Mexico proposed that it should join the United States and Canada in forming a North American free trade area, it was welcomed; and the Clinton administration

³ For an exposition and critique of the theory, see Keohane, 1984. For a recent reassessment of the theory, see Pigman, 2002.

completed the negotiations after taking office. In the early 1990s, the United States extended this interest to countries in the Pacific basin when it joined with others in the forum for Asia-Pacific Economic Cooperation (APEC). After the new Bush administration took office in 2001, the United States launched a vigorous program of negotiating new FTAs with small developing countries in Africa, Asia, and Latin America. In these FTAs, the reciprocity in the mutual removal or reduction of tariff barriers has generally been “asymmetric,” favoring the United States – since its initial tariff levels have been lower. The agreements have also extensively liberalized market access for service industries and investment flows while other trade rules, such as those relating to intellectual property or government procurement, have likewise gone beyond WTO obligations.

The actions of the EC in the 1990s did nothing to counter the new trend in international trade policy. On the contrary, both geo-political events and its own regional interest pushed the EC in the same direction. When the Soviet Union’s control over Central and Eastern Europe collapsed in 1989, it gave birth among EC members to the new political ambition of a pan-European union. The EC began to negotiate association agreements with the countries of Central and Eastern Europe as a step toward their possible accession as full members; and it welcomed formerly neutral members of EFTA into its fold. The EC, however, did not stop at the borders of Europe (wherever these borders are). In response to its larger regional interests (including the control of immigration), it also announced its aim of creating FTAs with countries around the Mediterranean region, and it entered into negotiations with several of these countries to draw up bilateral agreements. More recently, the EU also concluded agreements with Mexico, Chile and South Africa, and it initiated negotiations with MERCOSUR. The agreements of the EU, unlike those of the US, have mostly focused on tariffs and other barriers at the border and have not gone beyond WTO obligations in other matters. However, agreements with some Mediterranean

countries have had strong political overtones, serving as instruments of a foreign policy intended to promote internal reform in the partner countries.

It was the conduct of these leading trading powers that opened the sluice gates to the proliferation of FTAs in the late 1990s and early 2000s. Any lingering fears among policy makers in the EU or the United States that these arrangements might have systemic risks, had largely evaporated by the early 1990s. The risk – often expressed in the late 1980s – that three huge mutually exclusive trading blocs centered around the EU, the United States, and (more hypothetically) Japan, might emerge, no longer seemed to have much substance to it. After all, the main thrust of post-war trade liberalization has been the reductions of trade barriers among the major industrial countries themselves; and it is in no small part a consequence of such liberalization that commercial relations among these countries have become increasingly interlocked. Much of their trade is intra-industry; the sales of affiliates in each other's territory exceeds their exports to each other; the greater part of their foreign direct investment (FDI) goes toward each other; and they are intertwined through an extensive network of mergers, alliances, licensing arrangements, and other business relations. Their degree of commercial and economic interdependence today militates strongly against any possibility that they might raise barriers against each other in order to form more exclusive trading areas with their free trade partners. Further, in instances where the major industrial countries might have viewed each other's actions as intended to gain a sheltered market in a third country, they have been able to counter such possible rivalry by negotiating parallel agreements themselves. At least for these countries, the sting of trade diversion has been taken out of the bilateral or regional FTAs. So the leading trading powers, being unconcerned by systemic risk, have resorted increasingly to FTAs. They offer a way of making easy, if modest, additional gains in market access; and they can also coincidentally serve as useful instruments of foreign policy.

Other leading countries elsewhere in the world have followed suit. FTAs among groups of developing countries have, of course, long been a feature of the landscape; they have usually been intended to widen markets among neighboring countries in the process of industrialization. But the late 1990s and early 2000s saw an exceptional burst of activity among both more and less industrialized countries. Japan, so long an upholder of the principle of non-discrimination, entered into bilateral negotiations with several countries in Asia and Latin America; and so also did South Korea. China, followed by Japan, proposed the formation of a larger FTA with the ASEAN countries. Being similar to China as a fast industrializing country with a new found interest in enlarging its foreign market access, India established an FTA with neighboring countries (SAFTA), signed FTAs with Singapore and Thailand, and proposed a free trade link with ASEAN. Further, the members of ASEAN itself formed an FTA in 2003, while MERCOSUR sought to enlarge its membership in its surrounding region. African countries also formed several sub-regional trading groups. This listing of recent developing countries FTA initiatives is certainly incomplete, but it is indicative of the new activity.

a. The Systemic Effects of FTAs

In international trade relations, the countries of the world have always had to search for some balance between the propensity of nation states to exchange commercial preferences with their political or economic allies, and the simultaneous desire to safeguard their commercial transactions from arbitrary political interventions by other governments. In the years since WWII, an effective balance has been maintained; adherence to the idea of non-discrimination – even if honored as often in the breach as in the observance – has made the advance in multilateral trade relations possible. The great virtue of the post-war experience is that, thanks to negotiations within this framework, the momentum toward a progressive reduction in multilateral trade barriers has been sustained. At no time have the industrial countries sought to form

exclusionary trading areas either by raising their own margins of preference (in contravention of their WTO obligations) or by persuading their trading partners to do so.

Within this largely benign environment, it is quite plausible to argue – as many have – that the lowering of trade barriers within FTAs is contributing positively to global trade liberalization; and history may well prove them right. That some of the very large developing countries – like Brazil, China and India – have joined the bandwagon in forming FTAs, only adds to the positive momentum, especially when we recall that it is in trade among developing countries themselves that the higher trade barriers are encountered.

But it remains true that FTAs are a slow, messy and inefficient way of progressing toward greater global trade liberalization. Though they generally give rise to a net economic benefit for all the partners in the arrangement – at any rate when measured in static terms – they also cause trade diversion from third countries and can thus generate inefficiencies as well as exacerbate global trade tensions. They do, moreover, result in the writing of separate rules of origin for different arrangements, a situation that Jagdish Bhagwati has famously described as producing a “spaghetti bowl” of overlapping regulations. It is also the case that FTAs create a vested interest in the preservation of preferences and in resistance to multilateral trade liberalization; this, for instance, is a concern that has been expressed by African countries in the Doha Round.

Further, the recent FTAs between industrial and developing countries have some even larger deficiencies. First, the balance of bargaining power greatly favors the industrial countries, opens the door to a relationship of dependency, and constrains the developing countries in pursuing independent economic policies. Second, the arrangements fail to address some central issues in global trade relations – notably, agricultural protection and antidumping rules – where the participation of all the industrial countries is essential for progress. This latter point, indeed, touches on the still broader reason why FTAs are not a possible substitute for the global trading

system. While roughly half of global trade is now conducted within the framework of FTAs, it is the global trading system that governs both trade relations among the long dominant economic powers of the EU, United States and Japan, and the relations of these powers with the newly emerging growth poles in world trade like Brazil, China, and India.

4. ESTABLISHING THE BOUNDARIES OF THE WTO

As we have noted in Section 2, world trade liberalization made great strides over the decades after World War II on the basis of reciprocity and non-discrimination (MFN), the two major pillars of multilateralism. Until the Uruguay Round (1986-93), the focus of the periodic GATT negotiations was on the reduction of external trade barriers to make gains in reciprocal and non-discriminatory market access. During and since the UR, these underpinnings of the multilateral system have lost their primary of place. In the course of the UR, there was an extension of trade rules, directed most notably toward the liberalization of domestic markets for services and investment, and toward the global protection of intellectual property rights. Since the conclusion of the UR, efforts have been pursued to include the so-called Singapore issues of competition, investment, government procurement, and trade facilitation in the agenda of the WTO Doha Development Agenda negotiations. Attempts have also been made to incorporate labor and environmental standards into the WTO. All of these developments are imbued with the idea, not simply of promoting trade liberalization among separate national markets, but of furthering global market integration through the convergence of national market regulations. In some degree, the breakaway from non-discrimination through the proliferation of FTAs only accentuates the movement away from trade liberalization based on reciprocal gains in market access.

In our judgment, the existing and proposed extensions of the WTO into domestic rule making may be misguided. We view the central role of the WTO as facilitating commercial relations among its member nations. The WTO should therefore not be an instrument to shape

national markets and institutions so that they will conform to some idealized model of how a global economic system should work. There are boundaries to the extent to which WTO disciplines can, or should, superimpose themselves on commercial conduct in national markets.

a. The Boundaries to the WTO Regime

To clarify the scope of the WTO, we provide in Table 1 a categorization of the various boundaries or disciplines that comprise the WTO regime. These include: (1) core disciplines; (2) disciplines that may require modification to take legitimate national interests into account; (3) preferential trading arrangements that do not inhibit global trade; (4) national regulations involving health, safety, and consumer protection; and (5) national regulations that lie wholly beyond WTO boundaries. While not included explicitly, allowance needs to be made under the foregoing disciplines/boundaries for provision of Special and Differential treatment to low income or least developed countries.

In considering the WTO boundaries, there are two conditions to bear in mind: (1) the positive economic nationalism that legitimately motivates most governments to pursue policies that are sincerely believed will improve the material well-being of their populations and sustain their social cohesion; and (2) the institutions surrounding national markets that are embedded in social mores and the particular structure of business organization. When WTO rules and procedures are pushed beyond the boundaries set by these conditions, they only serve to sour trade relations and to erode the general consent to the core disciplines on which the effectiveness of the WTO rests.

To expand further on the application of WTO boundaries, we turn next to elaborate on the interpretation of these conditions. We then address how the WTO “playing field” may be best delineated, and we comment on the role of the WTO in dealing with preferential trading arrangements.

b. Economic Nationalism

Economic nationalism is widely used as a pejorative term. It manifests itself frequently in international economic relations and policies and is usually rightly denounced by trade specialists as a regression into mercantilism. There is a long history of beggar-thy-neighbor policies in international economic affairs, and the guardians of economic rationality are quite right to be wary of nationalist rhetoric. But that should not blind them to the reality that nationalist sentiment is a powerful force that also has positive economic consequences. The great revolution in rising expectations that first began within some western countries in the 18th and 19th centuries, has since swept around the world; and politically vocal people everywhere expect that their own national governments will do what they can to improve the material well being of their populations. Though the great majority of countries now have capitalist systems, beliefs about how governments could best accomplish this purpose vary widely; and they have changed within countries over time. But what has remained ever present is the responsibility that peoples place on their governments – as the highest political authority in their societies – to seek gains in national well being. As illustrated below, such economic nationalism sets limits that have to be respected in multilateral rule making.

(i) Domestic subsidies and industrial policies

Among the established industrial countries of today, governments broadly see themselves as fulfilling their responsibility if they can maintain their country 's technological leadership – at least in some sectors – or if, at worst, they do not fall behind others in the endless race toward economic betterment. Accepting that private enterprises should make most economic decisions in response to market prices, they have seen their responsibility today largely as the support of education, the provision of infrastructure, and the promotion of general scientific and technological research and development. Such economic nationalism has been reflected in the WTO mainly through its rules on subsidies. While government subsidies to individual firms or

industries are often seen as contraventions of “fair” trade because they may distort market prices, subsidies of general research and development are not so viewed. The lines between specific and general subsidies are, however, not always clear-cut. For example, in very large-scale industries like the aircraft industry, the subsidization by European governments of the development of a new commercial aircraft, the Airbus, has been an ongoing source of controversy with the United States. Yet, the EU and U.S. policies have broadly remained in place. Other manifestations of economic nationalism stem from cross-border mergers and acquisitions that may appear to threaten the independence of national corporations regarded as “national champions”. But they have so far not been constrained in this area by the WTO since it has no agreement on competition policy.

The governments of most developing countries have been no less powerfully motivated by economic nationalism. In the earlier post-war years, indeed, it was the sense of national pride – enhanced by new won independence – that occasioned the widespread nationalization of foreign enterprises and stressed the development of nationally-owned enterprises. While most governments have since shed their hostility toward foreign investment, they have not lost their determination to foster the expansion of a rising indigenous industrial sector. Countries that have made substantial progress in industrialization have generally made extensive use of policies intended to provide inducements to, and financial and technical support for, national firms to encourage the expansion of production and introduction of new products and processes. By such means, they have sought to benefit from the learning spillovers, and to overcome the coordination failures, that otherwise impede economic growth in the late industrializing countries. However, such policies – pursued on the nationalist grounds that they promote indigenous development and evidently effective in the circumstances – are perhaps not consistent with the rules of the GATT/WTO as these rules now stand. But it is noteworthy that national policies have for the

most part been considered to lie within the purview of governments and have not been challenged in the GATT/WTO.

Our position accordingly is that efforts to dismantle domestic subsidies and industrial policies should be carefully circumscribed in the WTO.

(ii) TRIMS and TRIPS

In the Uruguay Round negotiations, agreements on “trade related” investment measures (TRIMS) and intellectual property rights (TRIPS) protection were incorporated into the WTO.. These are clear examples of the extension of international rule making into areas of domestic policy.

The Agreement on TRIMS fell short of what its sponsors – mainly the United States – sought. They had hoped for an agreement on foreign investment that, when taken together with GATS (which accorded foreign investors the right of establishment in service industries), would succeed in gaining less restricted access to the markets of other countries for their corporate investors. They also hoped that, once their investors had been granted access, such foreign investment would enjoy full national treatment. These aims were not realized. However, developing countries had to accept some restrictions on their freedom to apply conditions on foreign direct investment; they were no longer permitted to impose local content requirements on foreign enterprises, mandating that they meet particular levels of local procurement, or to stipulate that foreign enterprises meet trade-balancing requirements. Underlying the Agreement is an evident conflict between the legitimate economic nationalism of developing countries in pursuing measures intended to advance their own development and the commercial interests of multinational corporations.

The TRIPS Agreement addresses a long-standing issue in international commercial relations. The foreign piracy and counterfeiting of patents, copyrights and trademarks have always been resented by the owners of these intellectual property rights. In the earlier stages of

their own industrialization, the now industrialized countries were generally neglectful of foreign owned intellectual property rights; freewheeling imitation and reverse engineering of foreign products and processes were principal means of gaining new technology (Chang, 2002). However, as these countries themselves began to generate technological innovations, they acquired an interest in the reciprocal recognition of intellectual property rights. What TRIPS accomplished was an extension of such mutual recognition to all member countries of WTO. For a great many developing countries, however, it is evident that the element of reciprocity has been largely absent from the agreement; they have had few intellectual property rights for which they might seek recognition abroad. On the other hand, the agreement has restricted their freedom to copy and apply new technologies at will. Further, utilization of new technologies patented elsewhere will require payment of royalties or fees, implying a transfer of financial resources from poor to rich countries.

Defenders of the new discipline point to the potentially beneficial effects that it could have on development; their argument is that, as the rights of patent holders are now more secure, corporations may now be more willing to set up production in countries where they formerly feared that their patented processes would be surreptitiously stolen and copied. But against this is the check that the discipline imposes on the unrestrained transfer of technology. The members of WTO have, at least, recognized this in the special provisions recently agreed in regard to pharmaceutical patents and the treatment of HIV/AIDS, malaria and tuberculosis.⁴

It is our contention that the TRIMS and TRIPS Agreements may well lie outside what we consider to be appropriate boundaries for many developing country members of the WTO. We would argue accordingly that the broader investment measures that are part of the Singapore agenda should be permanently tabled. We would also argue that the transition period for TRIPS conformance be made open ended for developing countries until such time as they themselves

will benefit – both internally and through the reciprocal recognition of rights – from the putting in place of the domestic laws and institutions that are needed to carry out the enforcement procedures of the Agreement.

(iii) Government procurement

In the course of the Tokyo Round in the late 1970s, a plurilateral agreement on government procurement was negotiated to become effective in 1981, with a number of industrial country signatories. There are presently 28 signatory governments. The agreement was designed to make the procedures and practices of government procurement more transparent and nondiscriminatory as between domestic and foreign suppliers. The emphasis is on tendering practices and covers both designated national and local government entities, with specified threshold values for the contracts involved. While the number of signatory countries has expanded, it is noteworthy that comparatively few developing countries have become signatories. The reason apparently is that the procurement agreement is viewed as being overly intrusive in challenging the rights of governments to maintain control over the award of contracts and programs for public procurement.

We recognize that existing procurement policies in many countries may be inefficient, costly, and subject to rent seeking, so that measures to reform these policies may therefore be in a country's national interest. But it is not clear why such reform should be carried out under WTO auspices, especially since a substantial amount of public procurement may stem from pursuit of a variety of social and political objectives and programs that are at the foundations of domestic government policies and may only tangentially be trade related. It is not surprising therefore that many developing have remained opposed to inclusion of government procurement, one of the Singapore issues, as part of the Doha Development Agenda negotiations.

⁴ A well informed and balanced assessment of intellectual property rights and development is provided in the report of an international group of experts appointed by the U.K. government. (Commission on Intellectual Property Rights, 2002).

c. Markets and Institutions

It is a statement of the obvious that national markets – the flow of transactions among individuals and firms – function within a framework of laws, regulations, and more informal, but well embedded, practices; and that the framework differs widely among countries. Some of the more obvious forces that account for the differences are the social mores of each country, its political institutions, and the particular forms that the organization of its firms and industries have taken as its capitalist system has evolved. These have never prevented transactions across national frontiers. So long as traders share some core similarities in modes of commercial conduct, they have been able to trade advantageously with each other. It has been enough that they share respect for private property rights and for contractual arrangements, and that they accept some judicial procedure for resolving disputes. But in a world of nation states, traders have also found that the differences in laws, institutions and social practices may impede their access to foreign markets. This has driven the search in the GATT/WTO for common rules that would ensure greater similarity in competitive conditions. The traders of the leading economic powers have deemed dissimilarities from their own national conditions to give rise to “unfair” competition and have called for a “level playing field.” This has been powerfully supported, at the intellectual level, by an idealized neo-classical model of markets that presupposes that the institutional conditions associated with the development of capitalism in the United States or Britain are universal.

There are, however, limits on the extent to which nations can be expected to conform to multilaterally established rules that may challenge their own social mores or forms of business organization. For such rules to be effectively applied at home, they have to be compatible with the prevailing beliefs and practices within which the domestic market functions. Rules that are in conflict will not be accepted or, if formally accepted (say, because of the exercise of force majeure), will not be enforced or will be enforced only weakly. Certainly, some distinction has to

be drawn here between laws, regulations and practices that are embedded in the social mores or form of business organization of a society and those that lie more on the surface or merely benefit rent seekers. Cumbersome and outmoded customs procedures, for instance, may not reflect any deeply held beliefs, and their reform may be impeded only by bureaucratic inertia. There is no objective test by which to determine where the line lies, but we can cite some reforms proposed as appropriate for the WTO that, in our view, exceed the proper boundaries.

(i) Competition policy

Competition policy is a case in point in which the diversity in forms of business organization among countries limits the possibility or desirability of common rules. There are many variants of capitalism as it has evolved in the unique political, social, and economic circumstances of each country. Perhaps two of the most striking circumstantial differences are the relation between the state and private enterprises and the interrelations among firms themselves. In most English speaking industrial countries, for example, the relationship between private enterprises and government has historically been more adversarial and arms length in comparison with the more cooperative relation in many other countries. Likewise, there are many differences in the competitive or cooperative relations among firms that are socially regarded as acceptable. These give rise to differences in market practices that can be seen by foreign producers as impediments to trade.

An example of what we have in mind is the Structural Impediments Initiative that was prominent in U.S.-Japan relations in the 1980s and 1990s, and that involved U.S. pressure on Japan to change long-standing business practices and institutions that allegedly constrained access of U.S. exports and foreign direct investment in the Japanese market. The WTO was involved in two prominent cases dealing with U.S. access to Japan's domestic market in automobiles and film. The United States decided to drop the automobile access complaint and was on the losing side of the WTO dispute settlement decision to deny the Kodak film complaint

that had been made. In retrospect, the U.S. actions may have been ill advised to begin with. It also appears that the Japanese Government instituted measures on its own in recognition of the national need for institutional and policy reform in a number of sectors.

Arguments similar to the foregoing can be applied to developing countries. In our view accordingly, competition policy lies outside the appropriate boundaries of the WTO regime.

(ii) Labor standards

Labor standards are another case in point. There have been strong political pressures within the industrial countries to seek the incorporation of labor standards in the WTO. We do not need to rehearse the familiar arguments of the representatives of labor and of social activists about the exploitation of low wage labor in developing countries or to recall the counterarguments of economists about the weakness of the broader economic rationale underlying the position of the labor and social activists. It is enough to note that the case for inclusion of labor standards in the WTO rules, on grounds of economic welfare, is widely regarded as very weak, both in logic and empirically. There exists a widespread view that the best contribution that the WTO can make to raising labor standards is to facilitate the expansion of world trade since, almost everywhere, as economic growth has taken place and incomes have risen, working conditions have sooner or later improved. Despite this logic, however, the position of those favoring the inclusion of labor standards in trade agreements has been powerfully reinforced by their claim to the high moral ground: they argue that, whatever the economic consequences, it is morally wrong to condone poor labor standards in other countries.

No one would contest the right of individuals or groups to advocate the norms of their society or to call for economic sanctions when the most egregious violations of human rights are being committed. In the present context, however, the issue is whether industrial nations, by virtue of their power, should insist, as a condition of trade, that other countries respect particular

labor standards that they themselves value (and that are interwoven with the levels of individual and social well-being that – thanks to their long history of economic growth – they now enjoy).

There are many in developing countries that see this demand as presumptuous as well as politically self-serving. That is, the governments of industrial countries appear to be placating domestic groups that either represent sectional interests or are not notably well informed. But there is a more pragmatic reason for rejection of this position, which is that it is very likely to be ineffective. The transplant of social norms from one society to another is something that is exceedingly difficult to accomplish. Everywhere, changes in domestic regulations embodying new norms of behavior take place in response to demands from coalitions of politically influential groups within the country. External leverage applied through trade threats may, on occasion, tilt the balance in favor of reform but by itself, it will rarely bring about any lasting change in prevailing social beliefs and practices. What the inclusion of rules about labor standards in the WTO would most likely accomplish is its entrapment in disputes about policies that countries regard as wholly domestic affairs.

(iv) Environmental standards

Many of the arguments just made concerning labor standards apply to domestic environmental standards, which will depend on prevailing social beliefs and practices and differences in per capita incomes between nations. In our view, just as with labor standards, the determination of environmental standards should therefore lie outside the boundaries of the WTO.

(v) Health and safety standards and consumer protection

Another policy area that is problematic for the WTO is the range of measures that governments may design and implement with regard to health and safety standards and consumer protection. In this connection, EU policies with regard to imports of hormone-treated beef and products containing genetically modified organisms (GMOs) provide an apt illustration of the

limits of WTO policies. The issues here concern the rights of nations to establish their own national health and safety standards, including the restriction of imports deemed to contravene national standards. We recognize that standards can be and have been used for protectionist purposes, and that there may not always be a firm scientific basis to warrant certain standards. But so long as governments believe that it is in the national interest to protect public health, the right to do so should be respected. Depending on how scientific evidence accumulates, governments may then decide over time to moderate their restrictions, as, for example, the EU has been doing recently with GMOs. This suggests accordingly that the rules and decisions of the WTO should not be rigidly applied in cases in which public health is at issue, and there is lacking a consensus regarding the scientific evidence regarding the production and processing of particular products.

d. The Playing Field

So, if we accept the limits described above, how is the WTO's playing field to be defined? The WTO provides the organization in which governments can negotiate and monitor the reduction of impediments to trade that serve no larger purpose than the protection of sectional interests within individual countries. These are impediments that cannot be legitimately defended on the kinds of grounds discussed above. Such impediments lower economic efficiency within the countries in which they are practiced, and they deprive producers in other countries of wider market access. The world abounds in these impediments, and their gradual reduction is the *raison d'être* of the WTO. Drawing the line between these impediments and those that have larger purposes is the task of the WTO rules.

As already mentioned, agriculture in the present day is an outstanding instance. Even if, for example, as the EU, Japan, and other nations assert, the subsidization of agriculture has broad social as well as economic aims, it is an inefficient way of accomplishing the social purposes as well as meeting economic needs. The case against agricultural subsidization as serving only

sectional interests and lowering national efficiency therefore appears to be very strong. There is a similar case that can be made against the resort to antidumping measures that are the policy of choice by protectionist interests in developed countries and have become increasingly widespread in developing countries.

Sectional interests are, of course, everywhere and governments are rarely independent of them. For individual governments, trade negotiations based on reciprocity have the advantage that they pit the export interests against the sectional protectionist interests. The negotiations force governments that want wider market access abroad to liberalize at home. It is a great benefit of the WTO that, in bringing countries together around the negotiating table, pressures are openly and internationally placed on protectionist domestic interests.

Many issues are not clear-cut and rules can never be drawn that are always unambiguous or that foresee changing circumstances. A mechanism for dispute settlement is consequently essential, but it should not be called upon to adjudicate on policy issues. Its business is the interpretation of existing rules, not the formation of policy. So, in the rules making process, it is important that new rules should enjoy widespread consent.

e. Free Trade Agreements

We need finally to consider how the boundaries of the WTO should be defined with respect to the proliferation of FTAs. As discussed above, FTAs are often a manifestation of the “real politik” that motivates nation states in pursuing national self-interest in their external relations. Many FTAs that have been negotiated involve neighboring countries that already trade extensively with each other, so that there has been comparatively little trade diversion, except perhaps in some labor-intensive sectors such as textiles and clothing.

Except for those of the United States, most FTAs are confined mainly to the bilateral removal of tariffs and quotas. U.S. FTAs are more invasive in seeking to extend the integration of markets to cover many non-trade issues and to impose conformity with U.S. institutions and

policies. Nonetheless, the FTA members are still bound by WTO rules, which may help to explain why we have not witnessed the formation of major trading blocs as was postulated might occur. It may be the case furthermore that FTAs are becoming generalized as both large and small countries are seeking to expand their arrangements to help offset preferences provided in previously negotiated FTAs. But there are some large countries like Brazil, China, and India that are latecomers to the FTA process and are not likely to become partners in FTAs with the major industrialized countries. It may well turn out that these large developing countries will become ultimate supporters of the WTO multilateral system.

There is, however, some role for the WTO to play in encouraging the greater openness of existing FTAs by expanding FTA membership, thereby moving the trading system closer to multilateralism. It might thus become possible to dispense with the rules of origin and to remove the distortions that have been created by the many overlapping FTAs that now exist. It is also the case that the continuing pursuit of multilateral trade negotiations will serve to erode preferential trade margins incorporated into FTAs and offer countries greater benefits than they may obtain from FTAs.

5. CONCLUSION

In this paper, we have reviewed the development of the present-day global trading system. We have noted that the success of the GATT system prior to the Uruguay Round (UR) was based on the twin pillars of reciprocity and non-discrimination. But during and since the conclusion of the UR, there has been a pronounced shift in the role of the GATT/WTO toward the pursuit of conformity in domestic regulatory policies and institutions covering a variety of institutions, business practices, and social mores. In our judgment, the expansion of the boundaries of the WTO into domestic areas may be misguided.

To be sure, there are strong differences in views about where the WTO boundaries should actually lie. Ideological differences in belief about the role of government, for example, affect

views about what form of economic nationalism is positive or not. There can be wide differences in views about whether the institutions shaping national markets are deeply embedded or just social devices to benefit particular rent seekers. But too much energy can be poured unproductively into debate about the boundaries. The aim of WTO rules and procedures is not to establish a “level playing field,” if this is taken to mean that markets of trading partners should operate under identically the same conditions as home markets. Certainly, businesses have a legitimate case for arguing that tariff concessions negotiated on their behalf should not be effectively annulled by subsequent domestic measures taken by the trading partner. But this does not demand identically the same market conditions.

Within the WTO boundaries, however, there is great scope for further multilateral action to lower trade barriers and widen markets. There are many trade barriers that do not bear close scrutiny as rational measures either from a national or an international viewpoint. They can neither be defended as measures that are integral to national growth or development policies nor embedded in social values or in the long-standing structure of business organization. Unbiased analysis would reveal that they are no more than the abuse of governmental powers to protect special interests.

But where does the drive to confront these interests and to remove the protectionist barriers come from? In recent decades in the developing world, it has come sometimes from governments committed to a radical shift in economic policies that have privatized and deregulated at home and liberalized external trade. More generally, over time, in both industrial and developing countries, it has come incrementally through pressures from their own export interests to negotiate for improvements in market access abroad. Reciprocity has demanded, however, that countries face up to at least some of their own protectionist interests and to remove barriers.

Thus, reciprocity in the reduction of barriers to trade in goods and services remains the key to further trade liberalization. There are many other actions that the WTO can, and does, take to facilitate trade and smooth trade relations. But its task should not be the integration of national markets into one grand global market. By the same token, the rise of FTAs has been eroding the principle of non-discrimination. While market forces and particularly the resistance of some of the major emerging economies may gradually result in restoration of respect for non-discrimination, the WTO could play a key role in convincing the countries that are parties to FTAs to change the nature and structure of these arrangements so as to move the trading system closer to the multilateral ideal and to continue pursuit of multilateral trade negotiations that will benefit countries even though preferential margins will be eroded.

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TABLE 1

The Boundaries to the WTO Regime

Core disciplines

- Most favored nation (MFN) treatment
- Market access based on reciprocity
- Prohibition of quantitative import restrictions
- Customs valuation and procedures
- Transparency (especially in standards)
- Safeguards
- Antidumping
- Dispute settlement

Present disciplines requiring modification to take legitimate national interests into account

- Domestic subsidies
- TRIMS
- TRIPS
- Government procurement

Preferential trading arrangements that do not inhibit global trade (Article XXIV)

- Customs unions
- Free trade arrangements
- Sectoral arrangements
- Developing country preferences

National regulations for health, safety, and consumer protection

- Countries set their own national standards, without protectionist intent

National regulations wholly beyond WTO boundaries

- Labor and environmental standards
- Regulations affecting service industries exempt from market access negotiations
- Competition policy