

# **Impact on Small States of the Developing World Trade Regime**

# Small Economies in the WTO<sup>1</sup>

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## The Geneva Ministerial Declaration and its follow-up

The Geneva Ministerial Declaration of 1998 states that Ministers 'remain deeply concerned over the marginalisation of *least-developed countries and certain small economies*, and recognise the urgent need to address this issue which had been compounded by the chronic foreign debt problem facing many of them'.<sup>2</sup>

The issue of small economies was first raised in the World Trade Organisation (WTO) by Bolivia in a discussion in March 1997, prior to the High-Level Meeting on Least-Developed Countries' Trade Development. Bolivia, while appreciating the efforts made by international organisations in co-operating to better integrate LDCs into world trade, suggested that the results of the meeting should be applied to other countries with small economies, including land-locked economies.<sup>3</sup>

Mauritius took up the issue in the Intersessional Committee of the WTO General Council, as part of the preparatory process for the Seattle Ministerial Meeting. It was then raised in the Committee on Trade and Development in November 1998, with the circulation of a paper jointly sponsored by Barbados, Jamaica, Mauritius, Sri Lanka, and Trinidad and Tobago.<sup>4</sup> Bolivia, Cuba, Dominica, Dominican Republic, El Salvador, Guatemala, Haiti, Lesotho, Malta, Nepal, Nicaragua and Sri Lanka associated themselves with the ideas expressed. Barbados, Fiji, Guatemala, Lesotho and Mauritius also circulated papers describing their experiences as small economies.

The joint paper referred to the vulnerability of small economies, the inadequacy of per capita income as a measure of the level of development, and the proposition that a vulnerability index should be used to assess the developmental levels of small economies. Small economies were seen as vulnerable because of: (i) natural features such as their demographic structure, the availability of economically exploitable land, their vulnerability

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<sup>1</sup>This is a revised version of the paper presented at the Commonwealth Secretariat/World Bank Joint Task Force on Small States conference held in London, February 2000.

<sup>2</sup>WT/MIN(98)/DEC/1, paragraph 6.

<sup>3</sup>WT/COMTD/M/14.

<sup>4</sup>WT/COMTD/W/50.

to natural disasters and their geographical location; (ii) considerations such as their small internal markets, problems of realising economies of scale because of the small size of the economies and small size of firms, difficulties in ensuring effective and developed infrastructure and efficient provision of government services, heavy reliance on a few commodities and a few overseas markets and consequent instability of export earnings, high transport costs stemming from cartel-like activities of carriers and small volume of goods transported, and consequent constraints in pursuing economic diversification programmes; and (iii) other elements such as high dependence on trade taxes for revenue, limited domestic savings capacity and difficulties in attracting Foreign Direct Investment (FDI), a high share of public sector expenditure in GDP, high per capita costs in establishing basic infrastructure and a shortage of 'critical mass' in the economy.

In terms of specific trade-related proposals, the paper suggested that preferential trade agreements had partly compensated for the lack of comparative advantage of small economies, and that it would therefore be difficult to contemplate the easy integration of small economies into the Multilateral Trading System if preferences were removed abruptly. The authors also pointed to a link between the existence of trade preferences and the attraction of FDI into small economies, a need to improve telecommunications links with small economies to enable them to take advantage of the electronics revolution in communications, and the high cost for small economies of the WTO Dispute Settlement procedures.

In discussions in the Committee on Trade and Development, although some initially expressed concerns about the overlap between 'small economies' and least-developed countries, there was increasing support for the small economies' paper. The importance of structural features of small economies such as size, trade concentration and consequent vulnerability to external shocks, and the crucial importance of market access, were emphasised. Some support was expressed for the use of a vulnerability criterion in applying 'special and differential' treatment to small economies, in addition to LDCs, and a proposal was made that the concept of 'small economies' be further refined to determine its fit with the WTO rules-based system. Some industrialised member countries also supported the arguments presented by the small economies in seeking ways to overcome marginalisation, particularly through increased and more focused technical assistance to enable them to participate in the multilateral system, and the importance of preferences.

## Definitional issues

Developing countries in the WTO are a self-defined group, without particular reference to any policy question. Special characteristics, interests

and concerns of various groups of countries, other than 'developing countries' or 'least-developed countries' are, however, identified in some of the WTO Agreements, for example net-food-importing developing countries and developing countries affected by the growth of illicit narcotic crops in the Agreement on Agriculture, developing countries whose per capita GNP is below US\$1,000 in the Agreement on Subsidies and Countervailing Measures, and small textile and clothing suppliers and cotton and wool producing or exporting countries in the Agreement on Textiles and Clothing.

The only clearly identified group of developing countries accepted as such by WTO Members as a whole is the least-developed countries as defined according to the criteria used by the United Nations. Twenty-nine of the 48 LDCs are currently WTO Members. The fit between LDCs and the 'small state' grouping defined by the World Bank and Commonwealth is highly imperfect; only four of the 29 LDCs that are WTO Members are 'small states' while nine of the WTO Members that have raised the issue of 'small economies' in the WTO setting are not identified as 'small states' according to the World Bank/Commonwealth criteria (Bolivia, Cuba, Dominican Republic, El Salvador, Guatemala, Haiti, Jamaica, Nicaragua and Sri Lanka).

In addition, it must be said that there is still a certain doubt among WTO Members, both developed and some of the larger developing countries, concerning the need for special consideration for small developing economies, and it is felt that the case has not been fully established. This is one reason why a number of developing countries have called for a work programme on the subject before the Fourth WTO Ministerial Meeting (see below).

One method of identifying a group of 'small, vulnerable' developing economies among the WTO membership might be to relate them to their scale of payments of contributions to the WTO budget, which is based on the share of Members in world trade.<sup>1</sup> In the 1999 WTO budget, 50 Members were liable to pay the minimum subscription of 0.03 per cent of world trade. Forty-nine of these Members were classed as least-developed countries, 'small states' as defined by the Commonwealth/World Bank, and/or Highly Indebted Poor Countries (HIPCs) in IMF/World Bank terminology. Extending the contribution level to 0.05 per cent would add seven more 'small states', and to 0.1 per cent, an additional three (Table 1).

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<sup>1</sup>This issue is discussed in Commonwealth Secretariat/World Bank (1998) 'The Trade Policy Implications for Small Vulnerable States of the Global Trade Regime Shift'.

**Table 1. WTO Members Paying the Minimum Contribution of 0.015 per cent of World Trade in 2000**

Antigua and Barbuda*†	Madagascar††
Belize*†	Malawi††
Benin††	Maldives*†††
Burkina Faso††	Mali††
Burundi††	Mauritania††
Central African Republic††	Mongolia
Chad††	Mozambique††
Djibouti*†††	Myanmar††
Dominica*†	Niger††
Gambia*††	Rwanda††
Grenada*†	St. Kitts and Nevis*†
Guinea††	Saint Lucia*†
Guinea Bissau††	St. Vincent and the Grenadines*†
Guyana*†	Sierra Leone††
Haiti††	Solomon Islands††
Kyrgyz Republic	Suriname*†
Lesotho*†††	Togo††

\* = 'High Vulnerability' in the Commonwealth Vulnerability Index

† = 'Small State' according to Commonwealth/World Bank criteria

†† = Least developed country according to the United Nations

## Steps proposed and taken in favour of small economies

In their statement to the Committee on Trade and Development in July 1999, the representatives of the World Bank and Commonwealth Secretariat proposed four steps that might be taken by WTO Members in respect of small, vulnerable states. These were:

- ◆ to recognise that small vulnerable states face difficult challenges in making the necessary adjustments to multilateral trade liberalisation and achieving a sustainable threshold of development sufficient to free them from dependence on aid and trade preferences;
- ◆ to streamline and accelerate procedures for accession to the WTO;
- ◆ to establish arrangements that will ease the legal costs of using the Dispute Settlement Mechanism for small states;
- ◆ to lower the subscription fees of small states to the WTO.<sup>1</sup>

<sup>1</sup>Statement by Sir Humphrey Maud to the Committee on Trade and Development, 7 July 1999.

## **Challenges to developing countries, including small states**

The challenges that developing country Members face in adapting to conditions of multilateral trade liberalisation can be addressed in the WTO Agreements through their provisions for special and differential treatment. These fall into five main groups: provisions aimed at increasing trade opportunities, provisions that require WTO Members to safeguard the interests of developing country Members, flexibility of commitments, transitional time periods, and provisions for technical assistance.<sup>1</sup>

Among the first group are measures falling under the 'Enabling Clause' (preferences under the Generalised System of Preferences (GSP), regional agreements among developing countries, and special preferences for least-developed countries) or under waivers (for example for Lomé IV, preferential arrangements for the Caribbean by the United States and Canada, or a recently agreed waiver permitting more advanced developing countries to extend duty-free preferences on a non-reciprocal basis to LDCs).<sup>2</sup> The second group includes provisions for taking account of special interests of developing countries in Agreements such as those on Technical Barriers to Trade (TBT), Anti-Dumping, Subsidies and Safeguards. The third group allows for lower levels of WTO commitments by developing countries than by others (for example in tariff bindings or agricultural export subsidies). The fourth relates to greater flexibility in time periods for implementation of WTO Agreements by developing countries. And the fifth provides the overall framework for technical assistance by the WTO and its Members to developing countries for capacity-building. Specific special and differential treatment provisions for least-developed countries are contained in the Enabling Clause of GATT 1994, provisions relating to non-reciprocity in trade negotiations in GATT 1994 and the General Agreement on Trade in Services (GATS), in Article 24 of the Understanding on Dispute Settlement, and in the Agreements on Agriculture, Subsidies, Trade Related Aspects of Intellectual Property Rights (TRIPS), TRIMs and the Application of Sanitary and Phytosanitary Measures (SPS). Generally, special and differential treatment is judged to be applicable according to the level of development or specific problems of the Member; however, there are specific cases identified in certain Agreements, as noted in the paper referred to above.

The scope and application of 'special and differential' treatment and of other developmental considerations has for long been under discussion,

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<sup>1</sup>See High Level Symposium on Trade and Development, March 1999, background paper by the WTO Secretariat.

<sup>2</sup>W2T/L/304, 17 June 1999.

although without any particularly definite outcome, in the Committee on Trade and Development and in the WTO General Council pre-Seattle discussion.

### **Accession**

The length and complexity of accession procedures has long been recognised by WTO Members. An initial response to this challenge has been the identification of practical ways and means capable of facilitating accession processes, particularly through special technical assistance efforts by the WTO Secretariat and the active movement of Chairpersons of particular Accession Working Parties, notably those relating to 'small economy' island states. The 1997 High-Level Meeting on Least-Developed Countries recommended the WTO to further develop its efforts to assist least-developed countries in the process of accession to the WTO.

The issue was taken up by the former Director-General in a statement to the WTO General Council on 15 June 1999, made on the basis of his consultations with all Chairpersons of Accession Working Parties. In his statement the Director-General emphasised *inter alia* the roles of Members in the smooth functioning of the accession process, of Chairpersons of working parties in smoothing the concluding stages of negotiations, the need for terms and conditions of accession to uphold the integrity of the WTO system, and the urgent need of all acceding governments for focused technical assistance.<sup>1</sup>

Attempts were also made to bring this issue into discussion in the Seattle Ministerial Conference (see below).

### **Dispute settlement**

Although the Dispute Settlement system is recognised to be valuable, effective and central to the legal rules established in the WTO, many concerns have been expressed about the costs of the system for developing countries. An initiative has been taken by a number of WTO Members to establish an 'Advisory Centre on WTO Law', independent of the WTO Secretariat, whose task would be to complement the training and technical assistance already provided by the WTO Secretariat (which is required to be impartial) and provide legal advice to developing countries and economies in transition. Users of the Centre will be charged fees in accordance with their membership status in the Centre and their ability to pay. Least-developed countries, and founding members of the Centre,

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<sup>1</sup>WT/GC/W/212, 17 June 1999.

would pay no subscription and receive free advice in consultations up to a certain number of hours per year; for least-developed countries (but not for other developing countries, including small economies that are not LDCs), the fees for assistance during legal proceedings would also be heavily discounted (10 per cent of normal rates).

The Centre was successfully launched in Seattle, at the time of the WTO Ministerial Conference, and is expected to be fully active by 2001, subject to ratification by national Parliaments.

### Minimum contribution

The issue of the minimum contribution to the WTO has been actively pursued by LDCs and other small economies in the Committee on Budget, Finance and Administration and the Committee on Trade and Development. These efforts have borne success; for the budget year 2000, the minimum contribution has been reduced to 0.015 per cent of world trade in goods and services. Most of the 47 WTO Members touched by this change are least-developed countries (Tables 1 and 2). However, 13 Members classed as 'small states' by the Commonwealth and World Bank benefit.

**Table 2. WTO Members Paying Between 0.015 and 0.03 per cent in Budget Year 2000**

Barbados	Namibia
Bolivia	Nicaragua
Cameroon	Senegal
Congo <sup>††</sup>	Swaziland
Democratic Republic of the Congo <sup>††</sup>	Tanzania <sup>††</sup>
Fiji <sup>*†</sup>	Uganda <sup>††</sup>
Namibia	Zambia <sup>††</sup>

\* = 'High Vulnerability' in the Commonwealth Vulnerability Index

† = 'Small State' according to Commonwealth/World Bank criteria

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### Proposals to the Seattle Ministerial Conference

Two sets of proposals were made to the third WTO Ministerial Conference in Seattle on the issue of marginalisation of small economies. The first, by Barbados, Dominica, Fiji, Grenada, Jamaica, Lesotho, Mauritius, Papua New Guinea, Solomon Islands, Saint Lucia and Trinidad and Tobago,<sup>1</sup> recalled the specific factors making small economies vulner-

<sup>1</sup>WT/GC/W/361, 12 October 1999.



able and leading to comparatively higher costs of production and distribution on the world market for small economies and the vital role played by preferences under the GSP and under CBI, CARIBCAN, and the Lomé Convention. It proposed that the WTO Secretariat should prepare a consolidated list of products of export interest to small economies and that all developed markets should extend duty free access to products of export to small economies. The proposal also suggested that regional trade agreements should be encouraged as part of the process towards successful integration of small economies into the world market.

In relation to the Agreement on Agriculture, the proposal suggested that, because of the particular vulnerability of small economies to price and supply fluctuations, higher fixed costs of production and marketing, and susceptibility to natural disasters, future rules should provide for measures at international level to assist small economies whenever they are adversely affected on account of any natural disaster, and to diversify into products which have greater potential for higher value to be added. In addition, WTO Members should take steps for the rapid implementation of the Decision on Net-Food-Importing Countries and: give priority consideration to future agricultural trade liberalisation to market access for small economies' products; to the provision of technical and financial assistance by major agricultural exporters and development institutions to improve agricultural productivity; and to make concessional facilities available when food prices exceed a particular ceiling or when domestic food production drops below a certain level.

In relation to the Agreement on Textiles and Clothing, the small economies proposal sought the provision of concessional loans by the World Bank and other financial institutions for upgrading, rationalising or rehabilitation of their production units, and the provision of technical assistance for the adaptation of production to changing trends in designs and fashions and for marketing.

A particular emphasis was placed in the proposal on the high share of tariff revenues in the budgets of small economies and the harmful results of tariff reduction on Governmental budget balance. It was seen as 'imperative' that small economies should be granted necessary flexibility to reduce tariff levels, in keeping with what they considered necessary for their balanced development and sustained growth, the competitiveness of their products and sustaining their developmental momentum. The proposal sought also to embody in the rules a principle that small economies should not be required to make further commitments to reduce tariffs and to bind reduced rates beyond what they consider consistent with their trade, development and financial needs; and that the level of tariff reduc-

tions should, *inter alia*, be based on individual assessment of their effective capacity to apply trade remedies such as anti-dumping and safeguard measures.

The document also contained requests for greater flexibility to be applied to small economies in the WTO rules on subsidies and a higher *de minimis* level in relation to the application of countervailing duties and safeguard measures. In relation to services, the proposal emphasised the importance of Article IV of GATS, relating to increasing participation of developing countries, and sought priority in new negotiations for the removal of barriers in sectors of export interest to developing countries; extension by developed markets of incentives to improve the access of small economies to technology, distribution channels and information networks, particularly through electronic commerce, and concrete capacity-building measures to assist their services sectors.

A second, highly focused submission to Seattle by Jamaica and Mauritius<sup>1</sup> proposed six principal areas where trade rules should be adapted in favour of small developing economies: transitional trade preferences; longer transitional periods for trade liberalisation in small economies; concrete measures to address food security in small economies that are also net food-importers; assistance with modernisation of sectors such as textiles and clothing, on which countries may be heavily reliant for employment, income and foreign exchange earnings; more flexible arrangements for the establishment of regional trade agreements; and higher subsidy thresholds for the application of countervailing measures. The paper also proposed that the Committee on Trade and Development should elaborate a Work Programme to address the constraints faced by small economies and make recommendations to the General Council for adoption before the Fourth Ministerial Conference.

The text that was carried forward to Seattle stated in the preambular section: 'We give particular emphasis to the need to ensure that developing countries, and particularly the least-developed and vulnerable small economies, secure a share in the growth of international trade commensurate with the needs of their economic development'. It continued: '... we take note of the problems and concerns facing economies in transition and the vulnerable situation of certain small economies and instruct that these be given due priority in the WTO work programme', and 'we ... direct that all possible efforts be made to accelerate the process of accession, and in particular for least-developed and small economies'. Other references to 'small' or 'vulnerable' economies occur in the sections on textiles, implementation of the Agriculture Agreement, reinforcement of technical assistance efforts, developmental objectives of proposed trade

negotiations, assistance for participation in negotiations, small *island* developing states (in the proposals for negotiations on agriculture), and, finally, in a proposal for a work programme in the Committee on Trade and Development, as requested in the proposals submitted, 'to identify concrete measures for the fuller integration of small economies into the multilateral trading system, and to make recommendations for action to the General Council before the end of the year 2000'.

With the failure to make any agreement at Seattle, all proposals are currently on hold. WTO Committees and Councils, including the Committee on Trade and Development, are currently considering their work programmes for the year. Conditions for technical assistance for least-developed and small economies have not improved as hoped. Work must begin in 2000 on the 'Built-in Agenda' of negotiations on agriculture, services and aspects of TRIPs; however, it is too soon to say under what conditions and parameters these will begin, and in the absence of agreement on a round of negotiations it is not clear what time-frame may be set for their completion. Again, in the absence of agreement in Seattle on extensions, time periods have now expired for the application of certain WTO Agreements (notably, TRIMs and Customs Valuation) by developing countries, except those that have requested extension of the period for examination of their TRIMs, and the only security against the calling of such measures into dispute is the good will expressed in the General Council Chairman's statement on 17 December 1999.<sup>1</sup>

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<sup>1</sup>At the meeting of the General Council held on 17 December 1999, the Chairman made the following statement:

'As I have proposed, this meeting of the General Council will be adjourned and resumed as early as possible next year to take up item 3 of the Agenda. It is my understanding that the question raised by a number of delegations concerning the provisions which lapse and deadlines which expire on 31 December of this year will be part of the consultations to be continued. The General Council will therefore revert to these matters when it resumes early next year.

'It is understood that all Members will exercise restraint on the matters under consultation so as not to prejudice further fruitful discussion and decisions on these matters, or the position of other Members.

'Members have made it clear that informal consultations are necessary on a wide variety of issues, including the issue of deadlines. Many Members urged understanding by all Members in those consultations, and they urged due restraint on the part of Members. This approach would be without prejudice to the position on rights and obligations of Members.'