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Indigenous Knowledge**



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Foreword

Indigenous peoples are repositories of age-old knowledge on which many an eye, sometimes covetous, is now cast. To some, it offers alternative solutions to problems that conventional methods have failed to ease; to the greater number, it brings promise of big business and gain.

Indigenous knowledge systems are dynamic. In indigenous peoples' communities, for instance, can be found a great diversity of grains, root crops, medicinal and other plants they have identified for varied uses. They practice resource management systems that have sustained and kept fragile ecosystems intact. Accumulated, built upon and innovated on over centuries, these knowledge systems have ensured their existence through all this time.

Some governments are starting to look at indigenous technologies and how these can be applied for wider use; others, in fact, have already adopted some of these. In the Philippines, the Ifugao peoples' *muyong* is reportedly being considered for replication in other areas as a way to regenerate forests. In the Chittagong Hill Tracts (CHT), the Bangladesh government and even the UN Food and Agriculture Organization have long adopted the *taungya* method of maintaining plantations, based on the indigenous peoples' *jum* or swidden cultivation. But as the article on village common forests in the CHT shows, these agencies have not properly attributed its "indigenous roots".

Indigenous knowledge is "traditional scientific knowledge". This acknowledgement was made at the Earth Summit in 1990 when governments signed Agenda 21, which set forth the implementation plan for sustainable development over the last ten years. At this summit, indigenous peoples were recognized as one of nine groups who are important actors in environmental development. This vital role, which is rooted in their knowledge and traditional practices, has been reaffirmed in the Johannesburg Declaration approved at the World Summit on Sustainable Development in 2002.

Indigenous knowledge is lived and practiced. Ordinary daily activities and tasks provide the learning systems for its transmittal from the old to the young. Agricultural work, other livelihood activities, household chores, house building, family and community gatherings, birth, marriage, death, sickness are all occasions where knowledge and traditional practices are passed on down the generations. Through these the indigenous person continually witnesses and imbibes his community's worldviews, values, ways of life, and the reverence accorded to nature and the environment that they deem vital to their survival.

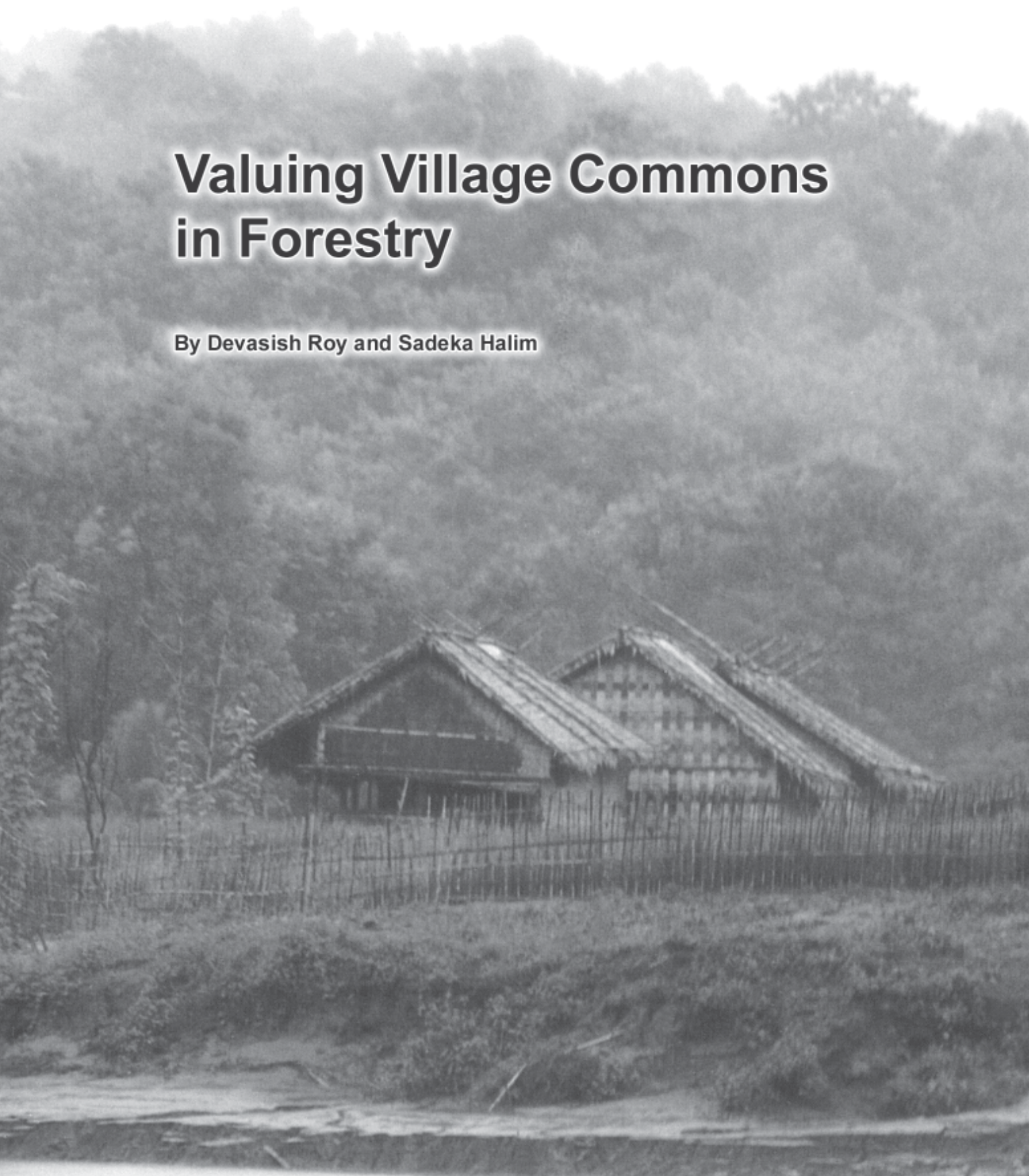
But indigenous knowledge systems are slowly eroding. One of the biggest threats is the formal educational system itself. An article in this edition notes that the largely Western-oriented educational system adopted in most countries ignores, and thus, marginalizes indigenous knowledge. The latter is considered "inferior" and "antiquated" in a strict dichotomy that holds the former as ideal, scientific and advanced.

Today's globalization and rapid economic and social changes occurring worldwide constitute another big threat. While there is a resurgence of pride in indigenous identities and cultures, the fast pace of change is just as quickly sideswiping traditional practices and mores. Indigenous knowledge and learning systems, as some of the articles assert, should be made part of the mainstream formal educational system and brought "at par with knowledge from other cultures".

Indigenous peoples should have access to the benefits that formal education can bring, but their own knowledge and learning systems should be conferred value and importance. They have much to share in the care and judicious use of our environment and natural resources. At the same time, however, they need other knowledge and skills to better equip them to act on the new challenges, influences and forces, economic and political, that continually impinge on everyone's life. ❖

Valuing Village Commons in Forestry

By Devasish Roy and Sadeka Halim



THIS PAPER ANALYSES the causes behind the decline of village common forests (VCFs) in the Chittagong Hill Tracts (CHT) region and argues that it may still not be too late to halt their further decline and perhaps even to seek to reverse the trend. This may call for various measures, including legislative and administrative action. These should aim, among others, to prevent the privatisation of these VCFs and to offer incentives and encouragement to the concerned village communities. We feel, however, that the unstructured and semi-structured methods involved in the indigenous villagers' management and protection of VCFs should not be interfered with, nor supplanted with highly structured and formalised management systems. The relatively efficient management of these VCFs in comparison to the state-managed forests bears ample testimony to the advantages of such systems over the structured forest management systems employed by state agencies.

This paper will also discuss the multidimensional benefits of VCFs, the causes behind their decline, and the impact of their decline on the environment and on the communities themselves, especially upon their women. We offer some broad recommendations and strongly suggest that they be read in conjunction with other relevant recommendations emanating from indigenous peoples' meetings, in particular, those contained in the Rangamati Declaration of 1997 and the Dhaka Forest Declaration of 2001.

We are primarily concerned in this paper with the fate of the village common forests in the Chittagong Hill Tracts. It is therefore important to first understand what we mean by the term, before we embark upon the main discussion. In the wider sense, forest commons may denote any forested area that is used by village communities on a collective basis and which is regarded as their common property, irrespective of its legal classification. In a narrower sense and within the context of this paper, VCFs will refer only to such forested areas of the CHT that are situated within the boundaries of *mauzas* and directly managed, protected and used by indigenous village communities.

VCFs in this narrow sense are also known as "mauza reserves" or "service" forests in the CHT and they are located outside of the reserved forest areas that are administered by the Ministry of Environment and Forest. Therefore, VCFs will exclude forest commons within the reserved forests. Although there have been attempts to record the title of some VCFs in the name of Buddhist monastery committees, the vast majority of them are not recorded in the district land registry in the name of any legal entity. Rule 41A of the CHT Regulation of 1900 refers to these VCFs as "mauza reserves" but does not provide for any system of titling or registration.

Although the primary object of our discussion is related to these VCFs, we feel that it is not possible to obtain an in-depth understanding of the decline of the VCFs in isolation from the general trends in the decline of forest commons in the wider sense, both within the CHT and elsewhere in this subcontinent. Similarly, we have also found it necessary to relate this discussion within the context of local, national and regional resource use policies and related social, political and economic developments.

Historical Background: State Appropriation of Forest Commons

Forest Commons in Pre-British India

The existence of forest commons in the wider sense in the Indian subcontinent can be traced back to the pre-colonial period. In pre-British South Asia, a system of local control evolved to conserve forested lands. Despite the inequalities of caste and class, pre-colonial society had a considerable degree of coherence and stability. When environmental degradation and deforestation started to occur in the wake of the early wave of sedentary settlements in this subcontinent, changes in social structures were devised in response to this “resource crunch.” Even the Mughals did not dismantle the existing pattern of resource use and the social structures in which they were embedded. In pre-British South Asia, the control and management of local resources was vested in local communities who designed a variety of practices for effective conservation and sustainable use of forest resources (Gadgil and Guha, 1992: 103-112; cited in Halim, 1999 a:69).

Forest and Swidden Commons in Pre-colonial CHT

Turning now to the Chittagong Hill Tracts in southeastern Bangladesh, we see that this mountainous frontier region was densely forested even up to the late quarter of the 19th century. This prompted the British colonial government to declare 5,670 square miles out of the then total area of the CHT’s 6,882 square miles “as government forest” in accordance with section 2 of Act VII of 1865 (Ishaq, 1975:107). Prior to such declaration, there was no formal distinction between forest and other lands. The entire region of the CHT was then used by its eleven indigenous groups for their homesteads, their swidden or *jum* plots and as a repository of natural resources for their domestic use, and to a limited extent, for trade with market settlements in the coastal region of Chittagong.

These forested lands were rotationally cropped for swiddens or *jum* whereby each plot of cultivated land was left to fallow for several years. Therefore, although *jum* involves the clearing of the forest growth (except large trees), the land regenerates itself into a forest again within the fallow period, to be *jum*ed again or to be left as a forest. Therefore, the factual distinction between *jum* lands and forest lands is merely a transitory phase depending upon the use of the land at any given time. Thus, in many places, the same lands were both forests and swidden lands (Roy, 1997, a: 3).

Converting Forests into Mono Plantations

Such a state of affairs did not last long. As mentioned earlier, soon after the annexation of the CHT in 1860, the British government came to regard four-fifths of the CHT as forests. They regulated the use of these “forests”, but their direct administration was left in the charge of the Chiefs or rajas and their subordinate indigenous officials. Direct government management was restricted to the newly created category of “reserved forests” (RFs), whose total area in 1884 was 1,345

square miles (Ishaq, 1975:109).¹ A large part of these forests of heterogeneous stand was clear-felled and converted into mono plantations of industrially and commercially valuable species like teak or gamar (*Gmelina Arborea*), neither of which is indigenous to the CHT. The Pakistani and Bangladeshi governments followed these trends and added plywood species and even other imported species including *Acacia*, *Eucalyptus* and pine (Gain, 1998).

Appropriating Forest Commons

It has been said that the “forest reserves” in different parts of South Asia were established to restrict the “untrammelled” use of the forest resources by forest dwellers (Gadgil and Guha, 1993). The British-promulgated Forest Act of 1927 – which is still a valid law in Bangladesh and in India and based upon the earlier Indian Forest Act of 1878 – provides that no person can claim right to private property within reserved forests merely because he or she is domiciled there. With such a narrow interpretation of the laws, the forest dwellers could not have their habitats recognised as their property, common or private. However, they continued to inhabit such areas for as long as they could.

Historically, forest dwellers have never actually owned or possessed forests in the modern legal sense. Thus the British administration invoked their “monarchical” claim over these hitherto commons and purported to exercise their near-absolute claims through “Acts of State” (Halim, 1999, a: 72-76, Roy & Halim, 2001, a: 7-10). Where there were chiefdoms that were oriented around a system of clans rather than clearly demarcated geographical areas as in the CHT, the British government acknowledged that the Chiefs had some authority over their people, but none over the land, which was said to belong to the State alone. This process of appropriation has been described as an act of “legal gymnastics,” which is uncannily reminiscent of the infamous *terra nullius* principle that was invoked to appropriate the ancestral lands of the Australian aborigines (Roy, 1994:13). As in the CHT, the British government continued to confiscate forests in other parts of South Asia throughout the second half of the 19th century (Grove, 1995: cited in Halim, 1999, a).

Unidimensional Scientific Forestry Rejects Indigenous Forest Management Practices

The aforesaid process marked the beginning of what has been called the “scientific management” of forests, signifying a more intense but largely unsustainable pattern of use of forest resources in this subcontinent. The major objective of such manner of management was the maximization of production and/or harvesting of commercially valuable timber and other “minor” forest produce (like bamboo, rattan, cane, etc.) while ignoring the ecological, medical, cultural and micro-economic needs of the local communities (Halim, 1999, a: 73-76; Halim, 2001, a: 14). These policies were executed by the newly created Forest Department that functioned in the nature of a police department at times – with the armed guards who patrolled the

forests – and an administrative department at others. Although some planting was done, they were restricted to mono plantations.

The net result of the aforesaid measures is accounted to have been the major cause behind the erosion of traditional rights of forest-dwelling peoples and the erosion of the rich tradition of forest conservation in this subcontinent. The perception of forest ecosystems as having multiple functions for satisfying diverse and vital human needs for air, water and food was superseded by the growth of the unidimensional “scientific” forestry.

Superficially, the Forest policies did to some extent recognise the importance of conservation and protection, but the importance of forest commons to the rural poor, although grudgingly accounted for, was never promoted actively. Although the Forest Act of 1927 does provide for the assignment by the government of land and resource rights within the reserved forests to specific village communities (which were hitherto their commons) (section 28), this provision has never been acted upon to any significant extent by the British government, and even less so by the successor governments in India, Pakistan (including the then East Pakistan) and Bangladesh. As Scott (1998) has pointed out, this was because the State saw commons as unexploited and fiscally barren.

VCFs: An Indigenous Innovation

With the beginning of the British rule in the CHT, the indigenous people not only lost their right to access to a quarter of the entire area of the region (which came to be categorised as reserved forests), but at about the same time, large forested areas were also converted into plough lands, which yielded high taxes for the revenue-hungry colonial government. Further reduction of access to forests was to follow in the wake of the Kaptai Dam in the 1960s and the population transfer or “transmigration” programme of the 1970s, which is discussed in a later section.

During the British period, the indigenous villagers who lost access to their former commons now found themselves with little choice but to devise new methods of sustainable use of their now scarce common lands. The result was an innovation based upon their traditional resource management patterns to retain forest cover for long-term use. This gave birth to the village common forests of today, which are not allowed to be cultivated for jum or otherwise by the communities themselves on the strength of sanctions and religious taboos. The maintenance of VCFs was combined with approaches to prevent a shortening of the fallow periods on lands that were left outside of the VCFs. The latter proved to be even more difficult due to population rise and other causes, as discussed in more detail below. This in turn also affected the efficacy of the VCF-protection measures, along with other constraints that were now faced by CHT villagers.

Village Common Forests of Today²

The current pattern of VCF management in the CHT involves only semi-struc-

tured or unstructured methods. In some cases, VCF management involves the entire adult population of a particular village. In some cases, village communities have formed unincorporated associations with restricted membership and elected office bearers and even reduced their use and resource-sharing practices into formalised rules. However, the unstructured models are more common, and these are usually centered around the leadership of the *karbaris* (singular: *karbari*) and the mauza headmen. These headmen in the more than 350 mauzas of the CHT are nominated by the Chiefs or rajas, but formally appointed by the deputy commissioners. The far more numerous *karbaris* are traditionally nominated by the villagers and appointed by the Chiefs. These offices have now become largely hereditary and are confined to men only, except to a limited extent in the case of headmen.

The aforesaid innovative practices did not escape the astute notice of the British administrators. Although on the one hand, the British continued to deny access to the indigenous people to the reserved forests, they realised that unless these village forests were protected, villagers may have no recourse but to permanently migrate into or otherwise utilize the resources of the reserved forests which had come to be regarded as the exclusive property of the State to the exclusion of indigenous peoples and other forest dwellers. Thus, through an amendment to Rule 41 of the CHT Regulation of 1900 in July 1939, the government recognised a category of “mauza reserve” that was to be identified, demarcated and protected by the mauza headmen. Villagers have come to refer to these forests as “service” forests, since they serve their village community.

These VCFs are now under severe threat due to a variety of actors including population rise and the consequent growth of village settlements, the spread of sedentary agriculture, horticulture and tree plantations, and immigration and out-migration. (discussed in a later section)

Ecological, Economic and Cultural Significance of VCFs

The exact number and extent of VCFs within the CHT are not known, as there is yet no organised database but they are certainly known to exist in all three districts of the CHT. They are perhaps more numerous in Rangamati than in the other two hill districts. Most of the reported VCFs are small in area, ranging from about 20 acres to more than 100 acres. Some of the larger VCFs are located within the Jurochari, Barkal and Langadu *upazilas* (subdistricts) within Rangamati district. Some consist predominantly of bamboo brakes, while others contain a more heterogeneous stand of flora and fauna. Many VCFs also contain the herbaria for the village concerned, which the local *viadyas* or *ojhas* (village shamans) use to prepare their traditional medicine, while some are regarded as sacred. Many Buddhist monasteries within the CHT are situated within the middle of a forest or small woods. Thus the maintenance of VCFs is also crucial to safeguard the cultural integrity of these peoples.

The larger VCFs also contain natural springs and other aquifers that are used for drinking water. With the consent of the VCF community, individual families may

extract wood and other natural resources for their domestic use. Sometimes, where it can be done sustainably, villagers also sell some of the forest produce, usually bamboo and less occasionally, timber, to meet community needs for school and temple construction and for emergency medical expenses. Villagers insist that with some species of bamboo, occasional harvesting actually leads to further growth rather than impede it. The economic importance of forest commons in meeting essential biomass needs of rural communities has been emphasised by many writers such as Agarwal (1989), Ravindranath (1996) and Gadgil and Campbell (1996) (cited by Halim, 1999, a: 58).

Thus VCFs are of immense value for environmental, economic, medical and cultural reasons. This is especially so since natural resources in the CHT are becoming more and more scarce and negative ecological changes have driven the hill people into severe hardship. The main factors why they are so important are:

- ♦ Given the rate of the deforestation in Bangladesh (more than 3.3% annually in Bangladesh, Forestry Master Plan, 1993: 2), it is imperative for environmental reasons to maintain and protect these forests.
- ♦ VCFs are also huge repositories of biodiversity. They are the homes of diverse animal and plant life, including herbs and plants used in indigenous medicine, which have a significant potential for modern medical science.
- ♦ The VCFs are the main source of wood and bamboo required for house building, medicinal and other sustainable biomass needs of hill villagers.
- ♦ The traditional use of VCF produce by the hill people (like medical herbs, fuel wood and fodder) has kept pressure off the government-owned reserved and protected forests.
- ♦ VCFs are crucial for watershed management. Many VCFs contain natural springs, and headwaters of streams and other aquifers.
- ♦ VCFs are also related to the religions, cultural beliefs, rituals and ceremonies of many indigenous peoples.

Understanding Causes of Decline of VCFs

We had mentioned earlier that the indigenous peoples of the CHT had started to lose control over and access to many of their forests due to the Forest policies of the British colonial government. These policies were followed during the Pakistan period (1947-1971) and reinforced by the successive Bangladesh governments from 1971 to this day, barring a few exceptions that suggest a small trend towards a more “participatory” approach to forest management. In this section, we intend to revisit the Forest policies from the British period (1860-1947) in conjunction with other land and resource management policies and practices until today to relate them to broader political and economic developments that have directly or indirectly

affected the fate of the VCFs.

Forest Laws and Policies

It may be recalled that the Forest laws and policies of the British period had rejected community management of forests in favor of forest management through a government agency – namely, the Forest Department – that functioned in the nature of a police department-cum-administrative department. This emphasis was not to change, and although “forestry” programmes of a more participatory nature were also implemented, the Forest Department until today has failed or refused to concentrate its efforts to provide extension services to village communities or home-stead foresters. Even into this century, the Forest Department considers that the categorisation of forest lands into “reserved forests” is the most efficient way to manage and protect forests. From the 1990s to 2000, the government has continued to expand its area of reserved forests within the CHT, a process that has been vehemently resisted by indigenous farmers who rallied round a mass organisation known as the Committee for the Protection of Forest and Land Rights in the CHT (Roy, C.K, 2000: 1788-180).

Land Laws and Policies

Unlike the Forest-related laws, policies on the ownership and use of CHT lands other than forests were to see significant shifts, starting from the British period to the Pakistani period and post-independence Bangladesh. Private leases for plough lands started to be recognised only since the 1950s. However, a more drastic change, at least in the eyes of the indigenous people, was to come with the opening of land ownership within the CHT to non-resident individual and corporate bodies. An agreement to Rule 34 of the CHT Regulation in 1971 and then again in 1979 (the 1979 law is almost an exact copy of the 1971 law) reduced the area of unclaimed public land that could be settled or leased out to local farmers from 25 acres to 5-10 acres.

At the same time, the new law allowed non-residents to acquire land rights within the CHT for homesteads, commercial plantations and industrial plants. In the case of the latter, leases of hundreds of acres could now be obtained (by non-residents) without the knowledge and consent of the Chiefs and headmen, which was hitherto near impossible. This was contrary to the letter and spirit of the CHT Regulation, which regarded the CHT primarily as a homeland for its indigenous peoples, whose primacy with regard to land and resource rights was guaranteed as against outsiders. Since the CHT Regulation was bereft of constitutional protection since 1964, there were no concerted attempts to challenge the constitutional validity of these laws.

Changes in Resource Use and Livelihood Patterns³

The aforesaid laws were implemented through a broad range of government-managed programmes and projects resulting in high immigration and promotion of market-oriented horticulture and tree plantations. This led to the conversion of many

VCFs into orchards and plantations. However, the projects on horticulture by the Forest Department's Jum Control Division and the CHT Development Board proved to be almost total failures (Sattar, 1995: 11, Roy, 1998: 95). In conjunction with the growing integration of the CHT economy with the market economy of the plains, these policy shifts were to result in fundamental occupational changes among the region's farming population even outside of formal government programmes and projects.

From a broad perspective, it is difficult not to reach the conclusion that the decline and degradation of forests in general, and the VCFs in particular, is directly related to the scarcity of land and other natural resources vis-à-vis the constantly growing population which subsists on them. Apart from the appropriation of the reserved forests, some major occupational changes within the indigenous population also led to a huge reduction of the forest cover of the CHT. These include the introduction of plough cultivation – largely wet-rice farming – in the first quarter of the 19th century, the growth of sedentary orchards for market-oriented horticulture in the 1960s and the constantly growing practice of tree farming by settled indigenous farmers in the 1970s (Roy, 2000, c: 101-103).

It may be noted that we include tree farming among the causes of deforestation since we do not wish to consider tree plantations with narrow generic bases (predominantly teak and Gamar or Gmelina Arborea) as “forests” in the natural sense of the word. In the case of plough cultivation and horticulture, it was not only cultivated patches that were deforested, but sometimes also the surrounding areas, since wildlife from the forests were regarded as a threat both to the cultivated plot and to the safety of the farmers.

Kaptai Dam and Immigration

Available resources are known to have already reached crisis proportions by the 1950s, well before the Kaptai Dam was built (Sopher, 1963). A direct consequence of the creation of the Karnaphuli reservoir, which was created by the Kaptai Dam in 1960, was the (so far) permanent inundation of two-fifths of the entire ploughlands of the region and a large part of the Rangamati Reserve and other small reserved forests. Its indirect consequences were almost as severe. The estimated 8,000 jumia families of the affected area did not receive any compensation by way of money or alternate lands. Therefore, a large number of these farmers that could not become horticulturists had little choice but to migrate to India. Others began to migrate into the unsubmerged uplands that were already populated. Many plough farmers also did the same, forcing the people of the unsubmerged areas to share their jumlands and VCFs with them.

This led to a huge reduction of the fallow cycle in jums from about seven years in the 1950s to a mere three to four years in the 1960s (it was above ten years during the British period), seriously upsetting the ecological balance of these areas (Roy, 1997 a, Roy).⁴ Evacuees from within the Bilaichari upazilla were forced to migrate into the Reingkhong Reserved Forest to seek a new livelihood as “forest

villagers” of the Forest Department, essentially little more than modern-day serfs. These environmental refugees are not allowed to acquire any land rights and are bereft of social extension services like basic education and healthcare (Roy and Gain, 1999, Roy and Halim, 2001 a).

The population transfer programme of 1979-1980s was to further exacerbate the problem. Tens of thousands of Bengali settler families (numbering anywhere between 250,000 to 400,000 people) were resettled on lands, including VCFs that were owned and/or occupied by indigenous people (Roy, 1997 b). These settlements led to the violation of the indigenous people’s common resource rights and their private land rights by the newcomers. The encroachments over the lands of the indigenous people took place primarily because the migrants did not have sufficient cultivable land to sustain them (Roy, 1998: 76-77). It has been argued that the land grants to the settlers were made in violation of the CHT Regulation and other customary and statute laws, but the matter has never been litigated in court (Roy, 1997 b). It remains to be seen how the CHT Land Commission — which was constituted in accordance with the “Peace” Accord of 1997 — decides upon the issue when it inevitably comes before it. The potential conflict between state law and customary law is a cause for serious concern here (Roy, 2000 e).

Jum Cultivation

Of course there are many other factors that have influenced the decline of VCFs and other forests. Government sources have constantly blamed jum cultivation as the major cause of deforestation in the CHT. We cannot agree. Illegal logging for timber, and for firewood to feed brick-making kilns, has certainly done far more damage to forests than juming has (Roy, 1996). There is little doubt that these activities are far more harmful than juming because they “are (motivated) by pure profit backed by an almost limitless demand in the market, (which) pales into insignificance the extent of deforestation caused by (jum) farmers” (Roy, 1997, A: 36).

No doubt jum cultivation on forests of primary growth in today’s resource-scarce age is hardly sustainable. Nor can we deny that over-cropping of jumlands can and does lead to a net loss of vegetative cover. However, we ought to note that it is not the traditional manner of jum cultivation that is unsustainable, but unsustainable practices induced by resource constraints and impoverisation that are causing pressure on the forests. Moreover, juming nowadays is largely restricted to secondary growth forests, which had been jumed over previously.

If we are to prevent over-juming, we should try to assist the jumias’ self-regulatory measures to prevent over-cropping and offer viable alternative livelihoods to jumias, such as through aiding their forestry, plantation and horticultural ventures. Even if we hold that juming is partly responsible for deforestation, we cannot excuse the government’s role in pursuing shortsighted policies on resource use, including the Kaptai Dam, population transfer, the enhancement of the area of the reserved forests and inequitable land distribution, all of which have contributed towards deforestation and the hugely reduced jum cycle. Therefore, it would be far

more equitable and practical to address the underlying causes of deforestation namely, resource scarcity and illegal trade in forest produce — rather than to blame its symptoms and minor causes, including jum cultivation (Roy, 1996; Roy, 1998).

Other Causes

Among other causes of deforestation are the infamous CHT Forest Transit Rules of 1973 that make it extremely difficult and expensive for local farmers to obtain the mandatory permit to extract and sell the trees grown in their recorded lands.⁵ Ostensibly, these rules were framed to prevent theft and pilferage from the government-controlled forests and plantations, but their injudicious application has resulted in huge corruption and a major disincentive to the growth of homestead plantations. If these Rules and their application were simplified, they would definitely lead to an increase in tree cover, raise the incomes of local farmers, and hugely reduce the pressure on government-managed forests and plantations, and the remaining VCFs (Roy, 1998: 102).

Adverse Impacts of Decline of VCFs and Other Forests

The decline of forests in general, and VCFs in particular, has had wide-ranging effects on the local environment and on the rural population of the CHT, whose economy is predominantly agrarian and dependent upon natural forest resources. Of course, sedentary and intensive farming did result in growing prosperity for some local people, but they were a small minority. When we take into account the irreparable harm that these developments caused to the local ecology and environment and the violent socio-cultural changes that they brought in their wake, the positive economic impacts do not seem so significant. Rural women were to bear the brunt of these changes, as is explained below.

Environmental Damage

Among the most visible signs of environmental degradation that was caused by deforestation was the silting of rivers, making navigation more and more difficult. Similarly, many springs, pools and other aquifers that were used for drinking and for other domestic use began to dry up during the dry season, and sometimes, even permanently. Many settlements had to be abandoned, including collective farm or joutha khamar sites of the CHT Development Board, as these resettled jumia farmers had to go farther and farther to fetch water. These environmental changes have disrupted the healthy cycle of interdependent relationships between and among animals, plants and other life forms and caused inestimable and irreparable loss and damage to the hitherto biodiverse plant and animal life.

For example, the decline in plant life led to a decreasing animal population, which in turn affected plant life since the consumption patterns of animals, who depend upon other animals and/or plants for food, was also disrupted. The bison (*bos frontalis*), the Indian Rhinoceros and the two-horned Rhinoceros, along with

many other species, are now either extinct or nearly so (Ishaq, 1975:13). The loss to flora is perhaps even worse, but it is difficult to estimate the nature and extent of this loss since there is no reliable database on these species, which are, or were, known only to indigenous people, and had not been “discovered” by botanists.

Adverse Impacts on Health: Loss of Food, Medicine and Healthy Environment

The decline of animal and plant life, which formed an important dietary supplement to the fruits and vegetables grown by indigenous farmers, led to nutritional deficiencies. Since the VCFs and other forests also served as the herbaria for indigenous villagers, plants and herbs needed for indigenous medicine could no longer be easily procured. The forests also contained bamboo and sun grass (“shon”) needed for the indigenous peoples’ houses, which were traditionally built on raised platforms for health and hygienic purposes, and also to stay beyond the easy reach of wild animals and mosquitoes. Deforestation led to housing materials becoming very scarce and expensive.

It is therefore no wonder that one does not see these machan houses other than in forest settlements in the relatively “remote” areas. Such houses are generally clean, airy, dry and do not require hillsides to be leveled. The space beneath the floor of these houses can also be utilised to house poultry and other domesticated animals. With the changing pattern of houses, landslides are now more common, and it is also believed that the growing scourges of malaria, typhoid and lung diseases are directly related to the relatively poorer housing conditions in comparison to the machan houses.

Decline and Disappearance of Traditional Occupations

With the decline of the naturally maintained herbaria, village shamans could no longer ply their trade. Similarly, hunting used to be a secondary occupation of many indigenous farmers and this could no longer be done. The Chakma word “Pollan”, denoting a hunter, is rarely heard nowadays. Similarly, basket weaving, which requires cane and bamboo, has also been affected. Thus, deforestation has also caused fundamental changes to the cultural traditions of many indigenous communities.

Social Impacts

Among the social impacts of deforestation are those that are related to out-migration and changes in occupational patterns. This has had major implications on class and gender through the disruption of social support networks. Social relationships with one’s kith and kin, and with villagers outside the kin network provide economic, social and political support that is important to all rural households. Deforestation has heightened social cleavages and sharpened the economic disparity among the indigenous population. This is because those who could acquire private property managed to prosper relative to their landless neighbors who became poorer

and poorer. There is no doubt that the brunt of the adverse impacts was borne by the poorer sections of the rural population, and by their women. Moreover, for forest-based communities, the relationship with forests is not only functional but also symbolic, embedded in cultural meanings. The decline of these common lands has eroded a whole way of living and thinking.

Impact on Indigenous Women

Researchers have pointed out that in developing countries, it is women who are the most dependent on forests for their sustenance (Shiva, 1989: 18). The traditional division of labor in forest-dependent societies has allocated hazardous tasks as well as those requiring physical strength to men, and work that requires sustained effort and endurance has been assigned to women. The division is strengthened with taboos and beliefs. Deforestation affects indigenous women more than indigenous men because women's primary responsibilities such as cooking, fetching water and gathering firewood pose hardships when ecological degradation of forests occurs.

This is equally true in the CHT, especially for women from the most underprivileged section, who have no private lands and are therefore highly dependent upon forests for their livelihood. However, rural women from the middle and higher income classes are also dependent to a large extent on forest resources where the economy is at least partially subsistence-oriented and where wage labor is scarce both for economic, social and cultural reasons (hill people are generally averse to doing domestic labor for others). Thus the problems faced by rural women are closely related to environmental problems.

Women's Indigenous Knowledge and Status in Society

Indigenous women, through their traditional role as de facto managers of the rural household, are involved virtually in the entire household and outside activities. Within such communities, it is usually women who have the most intricate knowledge about forest food items, their nutritional value and about herbal medicinal plants. The degradation of natural forests results not only in the extinction of many plants, but the indigenous women's knowledge of their natural resources. Moreover, women have to bear the burden of fetching water and food items, which are farther and farther removed from their homes. Thus the impact of deforestation on indigenous women is not only upon their knowledge systems, economic well-being and health, but on their status in society.

Recent Trends in Resource Use Policies

Growing Regime of Private Land Ownership

With the growing integration of the CHT economy with the market economy of the plains regions, and consequently, the globalised economic systems and the

emerging globally homogenous regime of landed property and trade-related laws, it is difficult not to reach the conclusion that forest commons, especially those that are not protected by formal titles, will continue to face severe threats to their existence. The growing regime of privatisation within the CHT means that it is not only externally based profit-oriented processes that are threatening the existence of the VCFs, but internal processes that have accelerated the privatisation of lands even within indigenous societies.

The two are of course closely related. In any case, it is well to realise that those who are excluded from the process of privatisation may also seek to resist the process of privatisation, especially where it concerns their VCFs. Who will prevail will of course depend upon the relative social, economic and political conditions that prevail within such societies. On a balance of probabilities, it seems that those in favor of privatisation have far more resources at their disposal. Therefore, the protection of the existing VCFs as the common property of rural villagers may call for urgent state-led interventions in the form of legislation, administrative action and other related measures.

Forest Laws and Policies

Existing forestry policies at the national level have led to three major processes that co-exist, but not without easily perceptible contradictions. One of these is the use of forest lands for commercial and industrial purposes, a trend initiated by the British and followed through until today. The Bangladesh period has seen the extension of this process through the huge induction of funds from international agencies such as the Asian Development Bank (ADB). The raising of industrially valuable species like teak and plywood trees, for example, still continues in the CHT. This process is also related to the formation of the Forestry Master Plan of 1993, which has linked Bangladesh to the strongly criticised Tropical Forestry Action Plan (TFAP) that was jointly launched by the UNDP (United Nations Development Programme) and FAO (Food and Agriculture Organization) (Gain, 2001:51).

The second is the continuing emphasis on forest protection through the still largely quasi-police Forest Department, which was reinforced by the Forest (Amendment) Act of 2000. Even today, hundreds of criminal actions are pending against inhabitants of forests and surrounding areas in the CHT ((Roy & Gain, 1999:22). The third is the formal introduction of the concept of “social forestry” through the aforesaid 2000 Act, which is to be supplemented by the Social Forestry Rules of 2000, which are still in draft form, but in the process of formalisation.

Critics have soundly condemned the 2000 Act as “anti people, anti-environment and anti-national interest” (Roy & Halim, 2001.a). The (draft) Rules in their current form have also been criticised as having little of the “social” or “forestry” element, in that they seek to raise plantations rather than forests, and vest the ultimate decision-making powers not in the participants of the programmes but in the Forest Department (Roy & Halim, 2001.b). Despite its many shortcomings, the

2000 Act did provide at least a limited scope to make the forest management practices more participatory. But the draft Rules suggest that the Forest Department is more interested in raising new plantations on areas outside their formal control rather than within the reserved, vested and acquired forests, which it directly controls. It seems that the Department is not interested in involving forest-dependent peoples and other sections of civil society in the management of forests within their direct control, including both natural forests and “planted forests” or plantations.

At a recent workshop on Forestry that was hosted by the Asian Development Bank in Dhaka, participants from the CHT argued that the proposed model of social forestry could, with modifications, be adapted for use in the reserved forests. However, they strongly emphasised that the proposed model was not suitable for the areas outside the reserved forests, because it did not consider the possibility of the participants owning the land upon which the social forestry programmes were to be undertaken. They showed different models of government-initiated participatory forestry models in the CHT, which had allowed the participants to have the concerned lands – which they claim as their common lands based upon customary law – to be recorded in their names.⁶ Since the CHT laws provide that the Government will not legislate for the CHT without consulting the regional and hill district councils, we would like to hope that a meaningful process of consultation will be developed so that it is respectful towards the wishes of the people of the CHT.

Conclusion: Addressing the Decline of VCFs

Recognition of Indigenous Knowledge and Practices

Since indigenous peoples have proved themselves to be efficient managers and custodians of forests, it is only natural that their concepts on forest management be given their due recognition and application, as appropriate. Indigenous knowledge has been recognised as “traditional scientific knowledge” in Agenda 21, which was adopted at the United Nations Conference on Environment and Development (UNCED) in Rio. The Convention on Biological Diversity, which resulted from the Rio process, also acknowledges the importance of the “knowledge, innovations and practices” of indigenous peoples related to the conservation and sustainable use of natural resources.

Likewise, the knowledge systems of the CHT indigenous peoples are also worthy of protection and equitable utilisation, with their prior and informed consent. It is unfortunate that it has never been formally acknowledged that the *taungya* method of raising plantations is a people’s innovation based upon jum methods. Forest Departments in Bangladesh and elsewhere and the UN agency, FAO, continue to use this indigenous technology without either recognising the indigenous roots of this innovation or sharing its benefits with indigenous peoples, in violation of the Convention on Biological Diversity.

Security of Tenure

As in the case of indigenous knowledge related to resource use, a most important element in the protection of VCFs is the tenurial security of these lands for the communities concerned. Indigenous forest management perspectives on the tenurial status of forests have differed radically from the conventional industrial-capitalist concepts influenced by colonial legislative regimes. Indigenous communities living within and around the forests view themselves as keepers of forest heritage, which is passed down through the generations. These concepts need to be accounted for and acknowledged to ensure the sustainability of the VCFs. Therefore, a crucial need for policy makers is to recognise the significance of VCFs and the age-old formal and informal resource rights of the village communities living within and around the forests, and the knowledge systems related thereto.

At an international meeting related to the Convention on Biological Diversity that was held in Bonn, Germany in October 2001, indigenous participants expressed their strong reservations against the inequitable utilisation and marketisation of their forest and other common resources and the commodification and privatisation of their traditional knowledge systems related to natural resource management.⁷ Indigenous communities in the CHT and in other parts of Bangladesh have a long legacy of managing and protecting VCFs. Over the centuries many of these VCFs have been appropriated by the government under forest settlement acts that were negotiated in the late 19th or early 20th centuries. The Bangladesh government took an active part in the Earth Summit and shifted towards people-oriented forestry programs. This paper, therefore, strongly recommends the equitable redistribution of forest lands and the equitable utilisation of these resources and the related indigenous knowledge, based upon equitable principles.

CHT Accord of 1997

Despite its various shortcomings, the CHT Accord of 1997 provides a reasonable basis upon which some of the aforesaid issues can be reasonably addressed, if not redressed in whole. Apart from recognising the legislative prerogative of the CHT councils, the Accord and subsequent legislation provide two important safeguards for the indigenous people and other residents of the CHT, which, however, are yet to be acted upon in practice.

One of these is the devolution of land administration to the hill councils, without whose consent no lands are to be settled, leased out, transferred or compulsorily acquired (section 64, Hill District Council Act, 2000). The other is the resolution of land-related disputes by a Commission on Land that is required to adjudicate in accordance with the "laws, practices and usages in the CHT (CHT Land Commission Act, 2000). It is well to note that, if and when implemented, these processes could help restore dispossessed VCF and other lands and prevent privatisation of VCFs. However, we feel that both processes will not be enough to restore dispossessed lands or to prevent the privatisation of forests through a range of measures,

including incentives to local tree planters, joint management of the reserved forests, giving registered title over VCFs to the concerned villagers, and so forth.

The follow-up process of the CHT Accord has, however, run into difficulties and there have been complaints that the pace of implementation is too slow (Roy, 2000a). Moreover, land administration is yet to be devolved upon the hill district councils as stipulated in the 1997 Accord and the Hill District Council (Amendment) Acts of 1998. The dysfunctionalities within the CHT administrative system, including the lack of cooperation between the CHT councils and line ministries in Dhaka, also needs to be addressed (Roy, 2000.b.) It remains to be seen how the newly elected government led by the BNP deals with these issues.

A Meaningful Dialogue

As stated earlier, the CHT Accord of 1997 has provided a sound basis to address many of the itinerant problems on resource use and ownership. The most important thing is to take this process forward in a meaningful manner so that national and regional policies may be revised and reformulated to address the broader question of resource rights and deforestation, and the particular question of protecting and reviving the VCFs. Of course, a broad range of issues will need to be addressed. We suggest four measures. These are:

- ♦ to record the VCFs as the joint and common property of the concerned VCF communities;
- ♦ to redistribute state-appropriated common forest lands to indigenous communities conditional upon their sustainable use as forests;
- ♦ to involve the indigenous peoples and other forest-dependent communities in the joint management of state-managed forests and to share the resources of such forests in an equitable and practicable manner, and
- ♦ to recognise the indigenous knowledge, innovations and practices related to forestry and environment protection and utilise them with the prior and informed consent of the peoples and communities concerned.

However, we feel that the recommendations made above can be realised only if they are complemented by other legislative and executive measures to recognise the resource and self-government rights of the indigenous peoples and to address the dysfunctionalities in the concerned administrative system. We refer, in particular, to the recommendations contained in the Rangamati Declaration of 1997 and the Dhaka Forest Declaration of 2001, which are appended hereto. These declarations contain many demands and suggestions that indigenous peoples and other residents of the CHT, along with environmentalists, have made over the years in a

consensual manner and are therefore worthy of serious attention if we really care about forests, biodiversity and basic human rights.❖

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Notes

¹ According to Webb and Roberts (1976), the reserved forests covered almost 24% of the CHT (in 1976). From this we must deduct the areas in Langadu and Baghaichari upazilas of Rangamati which were decategorised as reserved forests in 1979-80 to resettle government-sponsored Bengali transmigrants.

² The description of the CHT VCFs is based upon the authors' site visit and discussions with people related to the management of VCFs between 1996-2001 and upon data collected by the Rangamati-based NGO, Taungya.

³ This section draws heavily upon Roy, 2000, which studied the occupational changes of the indigenous peoples from 1860 to 2000.

⁴ For a more detailed discussion, see Khisa, 1960:50, Ishaq, 1975: 88 and Haque, 1995:18 and Roy, 1997, a, to which studies the authors are indebted to.

⁵ Workshop on Environment, Forests, Forestry and Horticulture organised by Taungya at Rajbari, Rangamati on 5 September, 1998.

⁶ Workshop on Social Forestry, convened by the Asian Development Bank at the LGED Bhaban on 15 September 2001.

⁷ Declaration of the International Indigenous Forum on Biodiversity (Bonn, Germany, 15-19 October, 2001) which was presented at the Ad Hoc Open-Ended Working Group on Access and Benefit-Sharing Convention on Biological Diversity, Bonn, Germany, 22-26 October, 2001.

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APPENDIX

Appendix 1

Rangamati Declaration

Rangamati, Chittagong Hill Tracts, 19 December, 1998

Adopted at a Conference on 'Development in the Chittagong Hill Tracts.

Convened by

The Forum for Environment and Sustainable Development in the Chittagong Hill Tracts

Welcoming the signing of the Chittagong Hill Tracts Accord of 1997 between the Government of Bangladesh and the Parbatya Chattagram Jana Samhati Samiti and congratulating the parties to the accord,

Concerned at the slow pace of implementation of the Chittagong Hill Tracts Accord,

Bearing in mind the Rio Conference on Environment and Development,

Reiterating our support to the aims and objectives of Agenda 21,

Recalling that the right to development is a basic human right,

Recognising that human rights, peace, sustainable development and the protection of the environment are interdependent and indivisible,

Recognising that the protection of land and resource rights is closely related to the achievement of sustainable development,

Recognising that the forests of the Chittagong Hill Tracts are the natural habitats of humans as well as animals, plants and other life forms,

Encouraged that rural communities in the Chittagong Hill Tracts have continued to play an important role in the development of the region without governmental and external assistance,

We, the representatives of different peoples, communities and organisations meeting in Rangamati at the Conference on Development in the Chittagong Hills Tracts on 18 and 19 December, 1998, proclaim this declaration, to be called the Rangamati Declaration, and recommend that:

The Chittagong Hill Tracts Accord of 1997

1. Measures be undertaken to achieve speedy implementation of the Chittagong Hill Tracts Accord;

Development Institutions, Policies and Processes

2. All development programmes for the Chittagong Hill Tracts be implemented in consultation with the future Chittagong Hill Tracts Regional Council;
3. The development budgets for the Chittagong Hill Tracts be formulated in consultation with the Chittagong Hill Tracts Regional Council;
4. No development programmes be undertaken in the region without assessing the likely social, cultural and environmental impacts in the region or if it is contrary to the provisions of the Chittagong Hill Tracts Accord of 1997;
5. No development programmes be undertaken in the region except on the basis of proposals by, or with the full, prior and informed consent of, the people of the area concerned;
6. All development programmes, projects and processes be transparent and open to public scrutiny;
7. A development trust fund be established and placed under the control of the Chittagong Hill Tracts Regional Council;
8. The agreed transfer of subjects to the hill district councils be effected expeditiously;
9. The agreed transfer of authority to the hill district councils on the subjects already transferred, and to be transferred, to these councils, be effected expeditiously;
10. The Chittagong Hill Tracts Development Board Ordinance of 1976 be amended to make the structure and process of the Board more democratic and transparent and the Board directly responsible to the Chittagong Hill Tracts Regional Council;

Land

11. No development projects related to land use on disputed lands be undertaken before the disputes are resolved by the future commission on land;
12. The lease on lands to non-resident individuals and companies that have been illegally left unutilised be cancelled and vested in the concerned hill district council;

Rehabilitation

13. Those of the returned international refugees who have not already been properly rehabilitated, and all the internally displaced indigenous people, be returned their lands and otherwise properly rehabilitated;

Water Bodies, Their Natural Resources and Biodiversity

14. No water bodies, including the Karnaphuli reservoir (Kaptai Lake), be leased out or settled in the name of private individuals and companies without the prior consent of, and consultations with, the concerned hill district council and the people of the area concerned;
15. In the event that any part of the water bodies, including the Karnaphuli reservoir (Kaptai Lake), is leased out, priority be given to the permanent residents of the area concerned;
16. The water level of the Karnaphuli reservoir (Kaptai Lake) be regulated in consultation with the Rangamati Hill District Council for the interest of the 'fringe-land' farmers. The periodical water level chart so agreed upon (the 'rule curve') be followed and the concerned farmers be provided due information about it;

17. The control and the management of all water bodies and their natural resources, including the Karnaphuli reservoir (Kaptai Lake) and its resources, be vested in the concerned hill district council;
18. The introduction of non-local species of fish and other marine life that are harmful to the local environment or biodiversity be prevented;

Forests, Forestry, and Biodiversity

19. The Forest Act of 1927, in its application to the CHT, be amended in consultation with the regional and hill district councils, the circle chiefs and the headmen;
20. Logging in the natural forests and their conversion into agricultural lands or plantations be totally prohibited. Similarly, the killing of, and trading in, endangered species of wildlife be totally prohibited;
21. The inhabitants of the areas living in the reserved forests be allowed a just share of the income from the utilisation of the resources of these forests;
22. The hill district councils be involved in the management and administration of the reserved forests;
23. The local residents be involved in the protection and management of the government-owned forests and plantations;
24. The procedures on the extraction and transit of the produce of privately owned forests and plantations outside the reserved forests be excluded from the system of extraction and export permits;
25. The village forests ('service' or 'mauza reserved' forests) situated outside the reserved forests be recorded as the common and collective property of the village community concerned;
26. No parts of the reserved forests be de-categorised as reserved forests without the consent of the regional council and the concerned hill district council;
27. The gazetted notifications of the 1980s and 1990s concerning the creation of new reserved forests be revoked and other measures be undertaken in consultation with the hill district councils to undertake community forestry and participatory forestry programmes;
28. The raising of industry-oriented plantations under the ownership and management of permanent residents of the region be assisted with soft-term credit on a long-term basis and no lands be compulsorily acquired for the raising of industry-oriented plantations;
29. The introduction of species of non-local trees and plants that are harmful to the local environment and biodiversity be prevented;
30. The customary rights and privileges of indigenous peoples and their communities over lands and territories in the forest areas be recognised in accordance with the ILO Convention on Indigenous and Tribal Populations (Convention 107) of 1957 and the Convention on Biological Diversity;

Horticulture

31. A horticulture development project in the manner of horticulture projects undertaken previously by the Bangladesh Agriculture Development Corporation (BADC) be started and the local farmers be provided with land grants, soft-term credit and technical and other assistance;

Mineral Resources

32. Mining activities be carried out only in consultation with the concerned hill district council and the Chittagong Hill Tracts Regional Council and in such a manner that they are not harmful to the natural environment or otherwise detrimental to the physical and material well-being of the residents of the areas concerned;
33. All CHT residents being adversely affected by mining activities be adequately compensated with land grants and monetary compensation and otherwise rehabilitated in the event that they have to be relocated;
34. The terms and conditions of the compensation agreements between the concerned mining company and the affected people be determined in consultation with the Chittagong Hill Tracts Regional Council;
35. Priority be given to local residents in employing people in connection with the survey and extraction work of mining companies;

Environment

36. Logging, farming, tourism and other activities that are or likely to be harmful to the environment be stopped and prohibited;
37. Urgent measures be undertaken in the Chittagong Hill Tracts to prevent deforestation and soil erosion in the lands and forests of the region;
38. Urgent measures be taken to protect the environment of the rivers, lakes, streams and other water bodies of the Chittagong Hill Tracts;

Human Development & Capacity Building

39. Special measures be undertaken for human development in the Chittagong Hill Tracts;
40. Special measures be undertaken to enhance the administrative and technical capacities of the local voluntary organisations (NGOs), traditional institutions, local government bodies and the regional and district councils;

Disabled People and Destitute Women

41. Priority be given for the education and employment of disabled people;
42. Special measures be undertaken for providing employment to and in rehabilitating destitute women;

Women

43. All forms of social, cultural, economic and political discrimination against women be prevented;
44. Inheritance laws discriminating against women be amended with the consent of the people/community concerned;
45. Educational curricula include subjects regarding the rights of women;

Health

46. Programmes on the control and eradication of malaria be re-introduced in the Chittagong Hill Tracts;

47. All hospitals and other medical centres in the Chittagong Hill Tracts be provided with the requisite personnel and equipment;
48. All medical practitioners who are permanent residents of the Chittagong Hill Tracts and are now serving outside the Chittagong Hill Tracts in government institutions be transferred to the Chittagong Hill Tracts;
49. Indigenous students who qualify for entry into the medical colleges in the general entrance examinations be not included within the 'tribal' quota system;
50. Medical colleges be established in the Chittagong Hill Tracts with a quota for indigenous peoples and other permanent residents of the region;
51. At least one trained paramedic and at least one trained midwife be appointed in each mouza for the welfare of mothers and infant children;
52. Indigenous and other herbal medical systems be recognised;

Education

53. Primary education be imparted in the mother tongue of the indigenous peoples of the Chittagong Hill Tracts;
54. Teachers of primary schools be employed from among the local people who speak the same language as the majority of the students of the area on a priority basis by relaxing the necessary qualifications and prerequisites;
55. A Board of Secondary and Primary Education for the Chittagong Hill Tracts be established under the supervision of the Chittagong Hill Tracts Regional Council;
56. Free education be provided to all students up to class X;
57. Schools be established on a priority basis in areas inhabited by the more disadvantaged indigenous peoples;
58. Preference be given to the members of the more disadvantaged indigenous peoples in gaining admission into institutions of higher learning;
59. Adequate funds and other assistance be provided to non-formal schools run by village communities;
60. The chairpersons of registered non-government colleges and registered non-government secondary schools be nominated by the regional and district councils, respectively;
61. Women be appointed as teachers on a priority basis;
62. Colleges offering Bachelor of Education (B.Ed.) courses be established in the Chittagong Hill Tracts;
63. Honours and Master's course be fully introduced in the Rangamati Government University College and university colleges be established in the district headquarters of Bandarban and Khagrachari;
64. The involvement of the military in connection with the admission of indigenous students through the reserved quota basis in the medical colleges, engineering colleges and the Agricultural University be stopped so that these institutions may carry out their admission procedures in an independent manner;
65. The existing quota of reserved seats for indigenous students in the institutions of higher education including those for medicine, engineering and agriculture be increased and a special quota of reserved seats be maintained for the ethnic Bengali permanent residents of the Chittagong Hill Tracts;
66. The resident hostels for indigenous students that were previously running in the district headquarters of the Chittagong Hill Tracts be revived and new hostels for indigenous men and women be established as required;

67. Training institutes for primary teachers (P.T.I) be established in the district headquarters of Bandarban and Khagrachari;

Culture and Languages

68. The educational curriculum in the Chittagong Hill Tracts include courses on the languages and cultures of the indigenous peoples of the Chittagong Hill Tracts;
69. The languages of the indigenous peoples of Chittagong Hill Tracts be included as a subject of study in the secondary schools of the region;
70. The existing inaccurate and disrespectful references to the languages and culture of the indigenous peoples of Chittagong Hill Tracts in the national educational curricula be corrected in consultation with the leaders and representatives of the peoples concerned;

Data and Information

71. Measures be undertaken so that the general public have free and easy access to relevant information about the programmes and activities of the government, semi-government and non-governmental organisations in the Chittagong Hill Tracts. Similarly, measures be also undertaken to ensure that relevant information about the social, cultural, economic and environmental conditions of the less developed areas be available to the governments, semi-government and non-governmental organisations and institutions operating in the Chittagong Hill Tracts;

Sports

72. The administration and management of the district sports associations in the Chittagong Hill Tracts be handed over to the concerned hill district councils;
73. A regional sports association be established to manage the district sports associations of the Chittagong Hill Tracts and placed under the control and supervision of the Chittagong Hill Tracts Regional Council.

NGOs

74. All NGO activities in the Chittagong Hill Tracts be supervised and coordinated by the Chittagong Hill Tracts Regional Council;
75. Credit programmes by NGOs be conducted in the Chittagong Hill Tracts only in consultation with the Chittagong Hill Tracts Regional Council;
76. NGOs operating in the Chittagong Hill Tracts be prohibited from charging interest and service charges in excess of the rates allowed by the laws applicable in the region;
77. No programmes of NGOs that are contrary to the culture and traditions of the peoples of the Chittagong Hill Tracts be allowed;
78. Local NGOs be given preference in the formation and implementation of development programmes in the Chittagong Hill Tracts;
79. Permanent residents of the Chittagong Hill Tracts be given preference in employment by NGOs operating in the Chittagong Hill Tracts.

Appendix 2

Dhaka Forests Declaration

Dhaka, 9 June, 2001

Adopted at a Workshop on "Forests and Indigenous Peoples"

Organised by

Jatiyo Adivasi Parishad, SEHD & Taungya et al at Dhaka, 09 June, 2001

Recalling that the forests of Bangladesh are the natural habitats of plants, animals and human beings,

Reiterating that the natural forests of Bangladesh are the ancestral domains of the indigenous peoples and other communities in Bangladesh,

Emphasizing that forests are necessary for the ecological, social, medical and cultural needs of the people of Bangladesh.

Understanding that biological diversity is related to cultural diversity,

Acknowledging the positive role of indigenous and other forest-dependent peoples in the conservation, management and protection of the forests and related ecosystems of Bangladesh,

Acknowledging the positive role of women in all forms of natural resource management,

Reiterating our support to the aims and objectives of Agenda 21 and the Forest Principles appended thereto,

Concerned that the Forest (Amendment) Act of 2000 and existing forestry policies reinforce the colonial paradigm of forestry that is harmful to the environment and the human rights of forest dwellers,

Disturbed that existing Forest laws and policies continue to deny a proper role to local communities in forest management,

Further concerned that existing Forest laws and policies continue to deny the income and other benefits of forestry to the inhabitants of forests and adjacent areas,

Concerned at the negative role of the Asian Development Bank and other international lending and development agencies in the formulation of forestry policies in Bangladesh;

Alarmed that the rapid pace of deforestation in Bangladesh is causing irreparable harm to the ecology and environment of the country and the neighbouring regions,

Concerned that commercial plantations with narrow genetic bases are being introduced in the name of forestry,

Further concerned that the so-called social forestry programmes of the Government of Bangladesh are neither forestry nor social, since they seek the raising of plantations rather than forests and leave the effective management powers in the hands of government officials rather than the direct participants of such programmes,

Concerned also that mining operations in forest areas may lead to environmental damage and violation of human rights of forest dwellers,

Dismayed that industry-oriented plantations are leading to the loss of biodiversity and the impoverishment of forest-dependent communities,

Further dismayed that the expansion of the shrimp industry has led, and is continuing to lead, to the destruction of the mangrove swamps in coastal areas,

Concerned also that forestry policies continue to provide little or no importance to non-timber forest produce such as bamboo, cane, rattan, grasses and herbs,

Outraged that the Forest laws are being continually misused by Forest Department officials and city-based business people,

Aware that most of the timber and bamboo needs of the country are met not from government-managed forests but from homestead plantations,

Encouraged that indigenous peoples are successfully protecting village common forests for their religious, cultural, social and economic needs,

Further encouraged that rural farmers are continuing to plant trees and taking other measures to protect the local ecology and to meet their domestic biomass needs,

We, the representatives of indigenous peoples, forest-dependent communities, NGOs, research organisations, social, cultural and political workers and the academic community, meeting at Dhaka on 9 June, 2001, unanimously demand that

Laws & Policies

1. The Forest (Amendment) Act of 2000 be repealed as it is anti-people and anti-environment and because it vests Forest Department officials with draconian powers that are liable to be misused;
2. The Forestry Master Plan, the National Forestry Policy, the Forest Act of 1927 and related laws and policies be amended through a democratic and transparent process to protect the rights of communities living within and around forest areas and to seek a balance between industrial, biomass and environmental needs;

Structured Social Forestry Models

3. The process of drafting the Social Forestry Rules of 2000 be kept in abeyance until such time as a democratic and transparent process of consultation is started;
4. The existing models of social forestry as practised by the Forest Department and proposed to be formalised by the (Draft) Social Forestry Rules, 2000 be rejected and

discontinued because they ignore the land rights of participants, and give them much responsibility but no powers;

Unstructured Indigenous Model of Social Forestry: Village Common Forests

5. The unstructured models of social forestry, such as the management of village common forests, be supported;

Farmers' Plantations

6. The farmers' efforts in homestead forestry be assisted by the Government;

Logging, Plantation and Natural Regeneration

7. Logging in the natural forests and their conversion into commercial and industrial plantations be totally stopped;
8. Natural regeneration of degraded forests be given priority over plantation and replantation;

Joint Management of Government

9. All types of government-managed forests, including reserved, protected, vested and acquired forests, be administered and managed through an equal partnership between the Forest Department and local communities;
10. Local communities be given a substantial share in the income from all types of government-managed forests and plantations;
11. Adequate measures be taken to stop or control corruption within the Forest Department;

Fundamental Human Rights and Forestry Policies

12. The land and other human rights of inhabitants of reserved, protected, acquired, vested and other government-managed forests be expressly recognised and implemented;
13. The long-term residents of government-managed forests, including reserved forests, be allowed to cultivate land for their basic consumption needs;

WSSD: A Disappointing Summit

By Martin Khor

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MMIT ON SUSTAINABLE DEVELOPMENT
G, SOUTH AFRICA • 26 AUGUST-4 SEPTEMBER 2002

NDIAL POUR LE DÉVELOPPEMENT DURABLE
AFRIQUE DU SUD • 26 AOÛT-4 SEPTEMBRE 2002



TEN YEARS AFTER THE RIO EARTH SUMMIT, heads of state concluded the World Summit on Sustainable Development in Johannesburg with an untransparent political declaration and a weak implementation plan.

The World Summit on Sustainable Development (WSSD) ended on 4 September 2002 night shortly after 9 pm after an extended six-hour final plenary which was held up halfway as delegates haggled over a second draft of the political declaration that was released only after the plenary had started. The plenary, chaired by South African President Thabo Mbeki, finally adopted the political declaration, called the Johannesburg Declaration on Sustainable Development, and a Plan of Implementation, the two main documents of the WSSD.

It was the culmination of two weeks of negotiations during much of which there was a strong feeling of uncertainty whether an agreement could be reached because of deep divisions, mainly on North-South lines, over several issues. Among the most contentious in the Plan of Implementation were finance and trade, governance, two of the Rio principles - common but differentiated responsibilities, and the precautionary principle - and the acceptance of time-bound targets, including for energy and sanitation.

The negotiations on these issues in the draft Plan remained stuck at the level of senior officials, and were elevated to Ministerial level (at which a mix of Ministers and officials took part) in the final phase of the Summit. When the Plan was submitted at the plenary, many countries took the opportunity to make comments or put their interpretation on one point or another. The United States, however, made major points of interpretation on four areas that appeared more like reservations against the consensus on the text. The US speech was met with loud boos from the NGO section of the hall.

The first US interpretative point related to Rio Principle 7 on common but differentiated responsibilities. It said the US does not accept liability under international law. Also, by its terms, this principle deals with global environmental problems. (The implication is that the US does not accept this principle except in relation to global environment problems.)

The second US point was in relation to the Implementation Plan's paragraph on corporate responsibility and accountability. According to the US delegate, the chairperson of the Main Committee meeting (held on 3 September night) had said that it was the collective understanding that the paragraph refers to existing international agreements, and that this should be reflected in the report of the WSSD.

The paragraph calls for promotion of corporate accountability through full development and effective implementation of intergovernmental agreements and national regulations. In fact the US delegate made a factual error in announcing the US interpretative statement. The chairman of the 3 September night meeting, Emil Salim of Indonesia, expressly rejected a proposal read out by a UN official that it was the common understanding of the contact group on globalization and means of implementation that only existing intergovernmental agreements were being referred to.

The chairman's clear decision to reject the proposal came after strong objections by Ethiopia and Norway. That the chairman had rejected the proposal that there was 'collective understanding' which should be reflected in the WSSD report was confirmed personally by Emil Salim to this writer during the final plenary session of 4 September itself.

The third US point related to the paragraph in the Implementation Plan on the Biodiversity Convention and the Bonn Guidelines. The US view was that any initiative must give access to biological resources, and also respect other international laws.

The issue relates to the principle of access and benefit-sharing regarding biological resources and associated knowledge. Through its interpretation, the US was stressing the rights of foreign parties to gain access to the biological resources of countries of origin, while ignoring the benefit-sharing aspect, which is of prime interest to developing countries and local communities. This obviously one-sided emphasis is made more extreme by the reference to respect for other international laws, which might be taken to refer to the World Trade Organization's (WTO) TRIPS (Trade-Related Intellectual Property Rights) agreement which facilitates patenting and other intellectual property claims by foreigners over countries' biological resources.

The fourth US point was that it did not interpret that UN conferences were in support of abortion.

The US intervention dampened the proceedings, and was in line with its positions during the conference.

The loudest applause was given to Venezuela's President Hugo Chavez, who called the Summit a 'dialogue of the deaf' and complained that the heads of state and government could not find a way to influence the Summit outcome. He said he had made a proposal during a roundtable where 40 heads of government were present, and his proposal had been supported by many heads present (including Brazil's President Fernando Henrique Cardoso), 'but our opinions had no influence on this summit conclusion'.

Another round of applause was given to the representative of St Lucia who spoke for the small island states and criticized the WTO as not being a friend of the small island states. 'It has a principle on special and differential treatment but no effect has been given to it. I regard the WTO as having no soul. Trade liberalization has affected our banana industry adversely, that is what trade liberalization and globalization has meant for us. Something is wrong.'

He said the WSSD had failed to set a target for renewable energy. Yet St Lucia had set its own target that 20% of its energy would be from renewable sources. 'But the World Bank is pressing us to privatize our water, electricity, telephone services. On one hand we have to privatize, but when we attempt to put our policy of renewable energy in action, the multinationals frustrate every effort we make as they are only interested in the rate of return.'

Declaration deadlock

Meanwhile, there was hardly any process on the political statement, and it was touch-and-go whether the Summit would end with one at all. At the Rio-plus-Five summit in 1997 in New York, there was an extended period of negotiations on successive drafts over many days, yet the meeting ended without a political declaration when the then UN General Assembly president, Ambassador Razali Ismail of Malaysia, abandoned the exercise when it was clear no meaningful text was possible.

The divisions along North-South lines, especially over financial resources, had been too deep (the developing countries having argued that the North had failed miserably to meet their commitments on finance and technology). Razali declared it was better to be honest and have no declaration, than to issue one full of generalities but without any meaningful points. That way, Razali had said, the Rio-plus-Five would not attempt to fool the world into falsely believing that progress had been made by governments.

In the WSSD process, the opposite approach was taken. Attempts to draw up the declaration had taken a backseat all along, as almost all the attention of delegations was focused on the Plan of Implementation. The last preparatory meeting at Bali ended without a draft declaration, and the Preparatory Committee chairman, Emil Salim, issued a draft of elements paper under his own authority after the Bali meeting.

Even that document was not discussed at all in Johannesburg. Indeed, there was no process or meeting held at Johannesburg on the declaration. The host country, South Africa, distributed a first draft only on the night of 1 September, just three days before the Summit was to conclude.

That draft was received with a lot of criticism from many countries. No meeting was held to discuss it. On the night of 3 September, when the Main Committee met to discuss the Implementation Plan, a few delegations led by Malta asked what had happened to the declaration process and when a meeting would be held to discuss it.

The South African Foreign Minister, Nkosazana Dlamini-Zuma, replied that there were as many proposals for amendments to the first draft as there were people in the hall (which was packed with about 300 delegates). She said a second draft would be ready on 4 September morning and the WSSD secretary-general Nitin Desai indicated that a meeting of the Main Committee would be called that morning to discuss it. However, when pressed by delegates, neither of them could answer when the meeting would be convened.

On the Summit's last day, 4 September, delegations were eagerly awaiting the new declaration draft and the opportunity to discuss it, but neither the draft nor the meeting materialized. Thus, the final official plenary chaired by President Mbeki started after 3 pm without delegates having had the chance to see the new draft for a declaration. It was finally circulated after the plenary started with the heading,

'Draft political declaration submitted by the President of the Summit'.

With several delegations and NGOs informally indicating their displeasure at the new draft, particularly over some text in the first draft that was now omitted, Mbeki announced the meeting would be suspended for ten minutes. But the break stretched to almost two hours as several delegations were seen in intense discussion among themselves and with senior South African and UN officials. After the plenary resumed, a document with four new points or amendments was circulated, and with these, the Johannesburg Declaration on Sustainable Development was adopted.

Lack of transparency

The manner in which the declaration was introduced, so late in the process and on almost a take-it-or-leave-it basis, was way out of line with the normal procedure of UN conferences, in which many drafts of such an important document would have gone through months of negotiations at various stages of the preparatory committee and at the Summit.

Instead, the Johannesburg Declaration and process of its introduction and adoption was reminiscent of the way the WTO Ministerial Declaration was drawn up in its two final drafts at the WTO's Doha meeting of November 2001. Up to now, it is unclear who did the drafting of that final Doha text, which was circulated by the WTO Secretariat on the extended final day on a take-it-or-leave-it basis. Even then, the Doha text had gone through two drafts in Geneva and the final two more drafts at Doha. For the WSSD, there were only two drafts of the Johannesburg Declaration, and no opportunity for the delegations to go through it as an informal group or in a committee.

A great deal of disquiet was expressed by many delegations on the utter lack of transparency and procedure of the political declaration process, and some delegates, familiar with the WTO, remarked in frustration that the infamous WTO 'Green Room' process had now crossed over to the usually open and participatory UN system.

In the end, the delegates all accepted the Johannesburg Declaration, despite the frustration of many, probably because there was nothing of significance in the text that anyone would be concerned or unhappy about. It was, as many delegates were heard to say, a 'harmless text'. By which was meant that the declaration contained general statements of goodwill and 'motherhood' that did not entail any meaningful commitments for anyone, and thus did not have the potential to harm the interests of any country.

That, perhaps, is an appropriate description of the WSSD as well. The political leaders and their senior officials came and met, fought over difficult text in the Implementation Plan, agreed to adopt some nice-sounding words in an insignificant political declaration, and then left.

With nothing much achieved, and probably no harm done to anyone as well, it

left the official participants with the feeling that the meeting was somewhat worthwhile in presenting the opportunity for them to meet and in clarifying where everyone stood on the crucial issues facing humanity and nature, but that there was a deadlock, hardly any progress in new areas, and almost a setback in old areas of previous agreement (such as reluctance of continued acceptance of the two key Rio principles).

With such small results for such a heavy expense in personnel, time and resources, it will be quite a long time before a convincing case is made for another world summit of this type. ❖

Martin Khor is the Director of Third World Network.

BASIC LITERACY

FUNCTIONAL LITERACY

LITERACY CUM LIVELIHOOD

Mainstreaming Indigenous Education

By Raymundo D. Rovillos

POVERTY AND ILLITERACY OFTEN GO HAND IN HAND and nowhere perhaps is this more evident than in indigenous communities in the Philippines. Already among the poorest of the poor, the indigenous peoples are further disadvantaged by a lack of literacy that often locks them in an endless cycle of poverty.

In an effort to address this, the Department of Education (DepEd) created in August 2002 a Task Force, comprising indigenous persons and representatives of the Bureau of Nonformal Education (BNFE) and NGOs, to conduct dialogues with indigenous communities in various parts of the country. The exploratory discussions aimed to determine indigenous peoples' views on education and development; their worldviews, needs and aspirations; and their initiatives in education, particularly alternative and indigenous learning systems.

The Indigenous Peoples' Dialogues were designed to provide a free and open opportunity for them to express their feelings, ideas, and recommendations to improve their lives and how education can contribute to this. The results, some of which are discussed here, were presented at the National Indigenous Peoples Forum on Nonformal Education organized by the Department of Education in November 2002.*

Poverty and Indigenous Education

A poverty assessment of indigenous communities undertaken by the Asian Development Bank in 2001 confirmed the indigenous peoples as one of the Philippines' poorest of the poor, and over the last ten years, as the study reports, the depth of poverty in the regions with a predominantly indigenous population (Cordillera Administrative Region, Regions II [Cagayan], X, XI and CARAGA [the last three, all in Mindanao]) has deepened. Poverty depth is determined by the poverty gap index; this makes a distinction between the poor and the poorest of the poor.

The deepening poverty in indigenous communities can be explained by the difference in returns from extremes in agriculture: between the small, rain-fed subsistence farms, which characterize indigenous areas, and the high-value, high-input cash crop farms. The problem of land insecurity is also a main factor for the poverty gap in the indigenous communities.

Still, many indigenous peoples do not want to be reduced to the category of "vulnerable," or "marginalized." In fact some of them, particularly those in Mindanao, do not consider themselves poor, and want to be treated as equal partners and resource persons in development

The high incidence of illiteracy among indigenous peoples is directly related to their poverty. A 1994 FLEMMS survey revealed that the five regions with the lowest literacy rates were Central Mindanao (90.8 percent), Western Mindanao (89.6 percent), Eastern Visayas (90.9 percent), Cordillera Administrative Region (CAR) (88.8 percent) and Bicol Region (94.9 percent). While the same survey showed that all five regions, except for CAR, were successful in reducing illiteracy among their populations, much more needs to be done by government in bringing education to

economically depressed, disadvantaged and underserved areas or the so-called priority areas. The CAR ranked 12th among the country's 15 regions in the effort to improve literacy rates.

Significantly, state-administered formal and informal education programs neither adequately address this situation nor seriously consider indigenous learning systems and traditional/local knowledge as significant components of "education."

Indigenous Views on Life, Education and Development

The Indigenous Peoples Dialogues were carried out among the following ethnic groups in 14 sites in seven regions of the country.

Region	Provinces	Ethnic Groups
CAR	Abra, Ifugao	Tinguian, Ifugao
III	Bataan, Zambales	Aeta
IV	Rizal	Dumagat, Remontado
VI	Aklan, Iloilo	Ati, Bukidnon
IX	Sibugay, Zamboanga del Sur	Subanen
XI	Davao City, Davao del Norte	Dibabawon, Manguangan, Ata
CARAGA	Agusan del Sur	Manobo

The communities covered by the Dialogues show varying levels of social, cultural, political and linguistic features. Moreover, each of these indigenous groups has its own history and contact with the dominant Filipino society. Some of them continue to have strong and intact indigenous institutions while others have already been "acculturated" or "assimilated" into the mainstream national culture. It is therefore difficult to present a homogeneous worldview of indigenous peoples. Within these communities themselves, the worldviews of the young and old, rich and poor, men and women differ. Nonetheless, in the following discussion, we attempt to capture the common as well as the different perspectives of indigenous peoples on life, education and development.

Indigenous worldviews of the "good life" are changing, especially among the younger generation. Traditionally good life was associated with good health and abundant resources. People were contented as long as the harvest was abundant, their domesticated animals were fine, and the forest continued to provide them with products for their everyday needs. Nowadays, more and more indigenous peoples equate comfortable living with the amenities of "modernity." They now desire a high income so they can acquire big houses (like those owned by Overseas Filipino Workers) in the village, nice clothes, electronic products (TV, radio, karaoke/stereo) and, above all, education for their children.

Many indigenous peoples want to bring their agricultural and forest products to the market to earn cash. But they cannot do so due to the absence of farm-to-market roads. This means that some indigenous peoples do not want to be isolated from the rest of society. Still, others prefer to be left on their own as they expressed fear that the construction of roads might bring more lowlanders and opportunists into their ancestral domain. To them, good life means living in harmony with nature.

The young and old have differing worldviews. Increasingly the youth are leaving their villages in pursuit of non-farming activities elsewhere. Many are not even comfortable about their ethnic identity and have developed an “inferiority complex”. They no longer wear their traditional clothes, perform their ethnic dances or sing their traditional songs. Others have been totally alienated from their cultural heritage. For instance, when asked to name their indigenous song, teen-aged Mangawangans of Davao answered: “*Angelina*”, an American pop song that became popular in the Philippines in the mid-90s. In some communities, the elders lamented this phenomenon and complained that the youth are losing respect for their culture and identity.

In other communities however the youth are beginning to appreciate their ethnic identity and culture. To a large extent their cultural re-awakening may be attributed to the efforts of the formal educational system to “indigenize” the curriculum. In the town of Baay-Licuan in Abra, elementary schoolteachers instruct young Tinguians in how to play their ethnic instruments. Barangay (village) Nalbuan in this town has gained provincial and national recognition for their cultural performances. This has made the youth proud of their cultural heritage and ethnic identity.

Indigenous notions of an educated person reveal the desire to learn new ideas and skills through the national educational system while retaining traditional values and customs. Thus indigenous peoples hold in high esteem those among them who have a college or higher degree while maintaining their indigenous belief systems and values. They also consider as a mark of education knowledge of customary law, skills in mediating intra- and inter-village conflicts and possession of good judgment.

For indigenous peoples, education is a key to development. Parents see the importance of sending their children to school even if costs are beyond what they can afford. To meet school expenses they would not hesitate to sell or mortgage a piece of land or a precious heirloom or to forego spending for agricultural production. Indigenous peoples explain that a college degree for their children is their passport out of farming.

Education is also deemed necessary for the exercise of their basic human and other rights as indigenous peoples. This was a view particularly expressed by the Lumads of Mindanao who said many of them lost their ancestral lands when educated lowlanders and migrants “deceived” them through fraudulent titles and other dubious transactions. In Agusan del Sur, a Manobo youth worked hard to get a college degree if only to avert the continuing displacement of his kin from their ancestral domain. Education also allows indigenous peoples to exercise their right to

vote and be voted for during elections.

Indigenous peoples expressed positive views on nonformal education. In Baay-Licuan, Tinguians claimed that their parents were products of a nonformal education program initiated by Charles Walton and his wife who worked for the Summer Institute of Linguistics. The couple who lived in Baay-Licuan for five years taught basic literacy and numeracy classes, using the local language, Tinguian, and this is the main factor that has been attributed to the project's success. The Waltons left an enduring legacy to the Tinguians: a literacy primer in their own native language.

Education means becoming more aware, confident and self-reliant. For the indigenous peoples it is, most of all, a key to their emancipation. Educated indigenous persons are usually appointed by their kin to forge linkages with the world outside their villages and thus are instrumental in building the social capital of indigenous communities.

Indigenous learning systems and local knowledge

The indigenous learning system is

the internally generated or self-designed cultural and education response to pressures from the native cultural heritage or from diffusions or impositions from the outside as people find ways to meet their felt needs. (SEAMEO 1981, cited in Alangui, 1997:4)

Indigenous learning systems have practical goals and functions. These teach the young the basic livelihood skills needed to become productive members of the community, inculcate values of unity and respect towards other peoples as well as towards nature, and transmit their indigenous culture from one generation to the next.

Indigenous learning systems however are disappearing in a majority of the communities covered by the Dialogues; in the rest these persist and exist alongside formal learning structures and processes. In such contexts, indigenous peoples benefit from both the indigenous and formal learning systems. Their values continue to be honed by such indigenous institutions as reciprocal labor and community solidarity even as they learn "modern" ideas and skills and accommodate and localize external influences.

An indigenous socio-economic institution that serves as an indigenous learning system is the *gunglo* or *innaluyon* (Ilocano) or *bayanihan* (Tagalog). Still a prevalent practice among the upland Tinguians of Abra, the *gunglo* is a practice of reciprocal labor exchange. Members of the community, young and old, help one another in almost every aspect of agricultural work. *Gunglo* instills in the young the values of unity, hard work and discipline, and it is also through this that the folk stories and other oral literature are told by the old to their young.

Obviously the institution of *gunglo* is also a mechanism through which the old teach the young the proper way of preparing the land, planting rice, maintaining the

fields, and harvesting rice. Ironically the participation of school children in the gunglo often conflicts with their formal schooling. Schoolteachers reprimand pupils for missing classes even if the reason for this was their participation in family and community livelihood activities.

Among the Manobos of Agusan del Sur indigenous rituals are practiced even as they have embraced the tenets and rituals of Christianity. Rituals are integral to their everyday life and are performed during hunting, fishing, planting and harvesting, and gathering and collecting of forest products. Rituals are also learning systems, inculcating among the Manobo youth the traditions, values and beliefs of their ancestors. These reinforce the values of community harmony and respect for the land and natural resources from which life springs.

In all the communities covered, the family/kin is the most important social institution that teaches the young the rudiments of life and survival. At an early age, a child is not just taught to perform household chores but also learns many aspects of family-based traditions and ways of life. Kinsmen also play a role in the “education” and discipline of the child. Among the Tawali Ifugaos, knowledge of genealogies is instilled in the child. As one of them said, “It is a shame to be ignorant of your relatives and ancestors.”

The indigenous peoples’ sense of collective pride (ethos) is ensured through the systematic reproduction of cultural knowledge. Among the Bukidnons in Garangan, Panay, collective memory is imprinted by one’s knowledge of genealogy of local heroes referred to as *dalagadan* (literally, persons to run to for help), or men with superpowers. Two such men are Berdinand and Artuz, father and son, respectively, who resisted Spanish and American attempts to take control of Bukidnon areas. They are considered local heroes although they were not from Garangan and were considered bandits by lowlanders.

Learning also takes place as the indigenous peoples perform their dances and songs and wear their traditional clothes. These cultural markers not only impart skills but also shape the ethnic identity of the youth.

Indigenous learning systems teach the people many important things, except how to read and write. And amid the rapid changes that are taking place in their communities, indigenous peoples see the need to learn these skills in order to cope and survive. The challenge lies in how to integrate local knowledge and indigenous learning systems into the formal and nonformal educational systems. In this way, indigenous peoples hope to become functionally literate while retaining their indigenous identity.

Indigenous learning systems are living case studies of ‘good practices’ with regard to education, development, and culture. The gunglo is an excellent example of a good practice which inculcates the values of unity, hard work, and discipline. It should serve as a model for any attempt to integrate education with production in the context of indigenous communities.

In the main however such indigenous learning systems are not recognized by the government as an integral part of formal and nonformal education. While some

efforts have been made to “indigenize” the classroom instruction such as in the Cordillera region, the Department of Education still has no systematic program to mainstream these initiatives.

Government Initiatives

The indigenous peoples expressed a great desire for formal education, especially for their children. However they realize that it is not appropriate for all their needs. Formal schools and nonformal learning programs continue to use English and Tagalog as the medium of instruction, making learning difficult. It also contributes to their alienation from their own language and culture. Many of them also see education as irrelevant to their everyday lives.

In several communities, the indigenous peoples consider nonformal education (NFE) as the appropriate approach. Yet existing NFE programs are often not sufficient in content or length of time. In Tanay, Rizal, for instance, the NFE program for the Remontados has been constrained by lack of focus and time on the part of the district NFE coordinator who is burdened by many other school responsibilities. The program is also faced with an extremely limited budget of only P90,000 a year.

Many literates and semi-literates also slide back into illiteracy due to lack of practical application in their daily lives. This is the reason why all indigenous peoples who participated in the Dialogues proposed that literacy, numeracy and other educational programs as well as new technical know-how be linked to their livelihoods and daily productive roles in a holistic manner. In many cases, indigenous peoples prefer livelihood over literacy projects.

Development programs often do not meet the needs of indigenous peoples. Government programs view indigenous territories as a resource base for national development goals, and indigenous peoples are seldom or never consulted about their design and implementation. For the past decades, resource-rich Cordillera and Mindanao have always been the target of extractive industries such as mining, logging and hydroelectric projects. The delivery of basic social services such as education and health meanwhile is not prioritized or is often inadequate.

While indigenous communities have been recipients of various development programs and initiatives from both government and nongovernment organizations, they are unable to sustain these efforts. This is usually attributed to the vicious cycle of poverty among indigenous peoples. For example, in Josefina, Zamboanga del Sur pig dispersal projects have failed mainly because the project recipients were unable to feed the animals due to lack of funds to buy commercial feeds. In all of the 14 communities covered, learners usually dropped out of literacy learning sessions because they did not have money to buy school supplies. Adult learners worried about their family’s next meal, thereby missing their classes.

The main obstacle to sustainable development in indigenous communities is the insecurity or lack of tenure over their ancestral lands/domains. Some indigenous peoples, such as those in Zamboanga and Tanay, are currently occupying

lands that were provided as resettlement areas by government and church-based organizations. They have been displaced from their ancestral domains by the armed conflict between the communist New Peoples Army (NPA) and the government.

The cornerstone to sustainable development and education programs for indigenous peoples is their access to and control over their ancestral lands/domains. Many communities are in the process of having these titled, but this too is hampered by delays in the full implementation of the Indigenous Peoples Rights Act and absence of government funds to implement the law. Indigenous communities expressed the need for assistance in titling their ancestral domains, in formulating an ancestral domain sustainable development and protection plan and in implementing this.

If education is to have any impact on indigenous peoples' lives, then it should be linked to their initiatives to exercise control over their ancestral lands/domains. Education should also be geared towards the indigenous peoples' right to self-determination. That is, they should be given the freedom to define the kind of development and education that is relevant to their particular contexts, needs and aspirations.

Local Initiatives

Manobo Development Center

There are however a number of local initiatives and novel approaches in nonformal education which are proving successful in some indigenous communities. One of these is the Manobo Development Center found in Bunawan, Agusan del Sur. Established in 1996 by Fr. Rudy Tagaro, the Center integrates literacy with technical and farm mechanical training. Among the courses students took are a 6-month training in basic literacy and numeracy, actual application of acquired reading and writing skills by way of measurements, introduction in the use of equipment such as welding machines, single-cylinder engines and fabrication of farm implements, and a practicum in their own communities.

The Center, which currently has 12 students, accepts Manobos from all over Agusan del Sur, aged 15-24, and single. Their tuition fees are subsidized by local officials and the Department of Education. Two of its graduates went on to pursue a college education, and one of them, after completing a degree in Political Science at the San Carlos University, returned to the Center to become a volunteer teacher.

School of Indigenous Knowledge and Living Traditions

The *Balay Turun-an* or School of Living Traditions in Central Panay nurtures and passes on the rich cultural heritage of the Bukidnon to present and future generations. The school was built by Federico Caballero and his five brothers. Federico Caballero is an award-winning chanter of the *Panayon* epic of the Knaray-a tribe to which he belongs. "I finally fulfilled my dream of constructing a school for indig-

enous culture,” Caballero said of the Balay Turun-an.

The school’s operation is supported by a grant from the National Commission for Culture and the Arts (NCCA). The financial support covers the honorarium of teachers and food for the students. Envisioned to accommodate 20 students, the school now has more than 50. It caters to children aged 8-16 from indigenous communities in Calinog, Iloilo and Tapaz, Capiz. The children attend public schools but spend their Saturdays at Balay Turun-an where they learn the rudiments of Panay, Bukidnon culture.

Lessons are supervised by Federico Caballero and other community leaders who are adept in chanting, rice-wine making, dancing and presiding over rituals of the community, among others. The learning strategies and techniques include: *Suguidanon*, the epic chanting composed of *talda*, *dilot* and *ambahan*; dancing, cloth design, playing of traditional instruments and gongs; cultural analogues (such as proverbs); use of lullabies, folktales and legends; problem-solving and logical thinking, as contained in riddles and proverbs.

Through a good combination of indigenous and introduced learning strategies, students of the Central Panay School of Living Traditions are given the chance to discover for themselves what interest them, articulate those interests, cluster them into interest groups, and develop or increase their knowledge and skills related to their interest.

Summary Recommendations by Indigenous Peoples

The indigenous peoples who participated in the Dialogues submitted the following recommendations, reflecting their need for education which, whether formal or nonformal, should be holistic and relevant to their daily lives, aspirations and the more complex world they now live in.

1. Indigenous peoples must participate actively and substantially in all decision making that affects them, including planning, management, implementation, and evaluation
2. Nonformal education must respond to land ownership, local livelihood, and other needs and issues identified by the people themselves. Literacy, numeracy and other subjects must be linked to livelihood in a holistic manner.
3. Nonformal education must provide for respect and integration of traditional knowledge and indigenous learning systems, and stress the importance of preserving local values, beliefs, culture, and reinforce community unity and solidarity. The medium of instruction (at least in the early years) should be the local language
4. Rural teachers must receive better incentives and be better prepared to function in indigenous schools, e.g., local language training and under-

standing of local customs. In many cases, indigenous teachers are preferred but must be qualified.

5. Government, nongovernment and people's organizations must do more networking than is currently being done and undergo continuing capacity building based on the integration of traditional and more "modern" approaches to human resource development.

Tebtebba Executive Director Victoria Tauli-Corpuz and Research Desk Coordinator Raymundo Rovillos served as consultants to the BNFE project.

*Indigenous Peoples' Learning
Systems:*

A discourse on Indigenous Emancipatory Pedagogy

By Leah Enkiwe-Abayao



EVEN WITH THE ADVENT OF INTERNATIONAL DECLARATIONS and legal instruments that promote indigenous peoples' rights, discourses on policies and programs affecting indigenous peoples continue to surface in the academe and more proactively in international civil society movements. One of the vital concerns is indigenous peoples' education which is discussed *vis a vis* human rights and policies on traditional knowledge. Some international bodies, such as the UNESCO (United Nations Educational, Scientific and Cultural Organization), are currently affirming and promoting the rights of indigenous peoples to education. Such affirmation offers us the challenge to analyze how states and civil society look at the indigenous peoples' domain and how indigenous peoples themselves respond to this domain.

Scholars (see Da Cunha: 1999, Odora-Hoppers: 2002, Kroma:1995) have argued that indigenous peoples' education needs to be built on context-specific learning systems and it is from here that this paper aims to contribute and forward the discourse to relate it to sustainable human development by presenting a micro-level learning system as practiced by an Ifugao village, Mayoyao, in northern highland Philippines. Another objective of this paper is to show how indigenous peoples respond to and act as agents of change as they articulate their concerns. It also hopes to transcend mere descriptions of an exotic culture or people, and articulate instead the continuing emergence of indigenous peoples' innovative responses to changing social conditions.

Indigenous knowledge and learning systems have long been recognized as indispensable components of indigenous peoples' education. However, formal educational systems usually neglect indigenous knowledge, as it is labeled an antiquated form and because learning has been attached to Western perspectives of pedagogy. Thus we see Ifugao students learning about Shakespeare but remain ignorant of their own epics such as the *Hudhud* and the *Alim*. They study Mathematics and how great the Egyptian Pyramids are but do not know how their own ancestors built the spectacular mountains of *pajaw* (rice terraces) and the thatch-roof and nail-free wood houses called *Phalay*. The Mangyans of Mindoro are taught Western poems but not their oral traditions that have been inscribed in their famous *Ambahan* poetry.

As a consequence, the dichotomy between Western culture and local culture has been entrenched. Indigenous peoples have developed an ideal type of human development in which Western education is the core and is identifiable with progress or civilization. Indigenous knowledge is thus perceived as obsolete or inferior. Formal education, as promoted by the state, has contributed to the marginalization of indigenous knowledge.

Brief history of Philippine educational system

The Philippine educational system proceeds with formal learning systems where teachers, trained in a Western-oriented educational perspective, act as transmit-

ters of knowledge. Western scientific knowledge is promoted, as this forms the core of the curriculum developed by the Department of Education. The history of the Philippine educational system is a history of knowledge transformation that leads indigenous peoples to accept Western knowledge that soon becomes a measure of progress. And this is reinforced by the formal structures of bureaucracy from learning to access of social services.

A free public school system was established in the Philippines during the first decade of American colonial rule upon the recommendation of the Schurman Commission. A highly centralized public school system thus began in 1901 by the Philippine Commission by virtue of Act No. 74. The Secretary of Public Instruction brought to the Philippines 600 teachers from the United States, who came to be known as the *Thomasites*. This system of instruction changed during the Japanese Occupation, which implemented its own educational policies embodied in Military Order No. 2 issued in 1942. The teaching of Tagalog, Philippine History, and Character Education was encouraged, and love for work and dignity of labor were emphasized.

The Education Act of 1982 created the Ministry of Education, Culture and Sports, which later became the Department of Education, Culture and Sports (DECS) in 1987 through Executive Order No. 117. The structure of DECS practically remained unchanged until the mid-1990s when the Commission on Higher Education (CHED) (1994) and the Technical Education and Skills Development Authority (TESDA) (1995) were established to supervise tertiary degree programs and non-degree technical-vocational programs, respectively. Thus the Philippines now has a trifocal education system where the mandate to basic education covers elementary, secondary and nonformal education, including culture and sports. TESDA administers the post-secondary, middle-level manpower training and development while CHED is responsible for higher education.

In August 2001, Republic Act 9155 or the Governance of Basic Education Act was passed transforming the name of the Department of Education, Culture and Sports to the Department of Education (DepEd) and redefining the role of field offices (regional, division and district offices, and schools). Republic Act 9155 provides the overall framework for (i) school head empowerment by strengthening leadership roles and (ii) school-based management within the context of transparency and local accountability. The goal of basic education is to provide the school-age population and young adults with skills, knowledge, and values to become caring, self-reliant, productive and patriotic citizens.

Early American Education in Ifugao

In the nineteenth century, the Spanish missionaries Villaverde and Malumbres introduced a number of Ifugaos to reading and writing as well as other more practical skills. During the American occupation, classes were taught irregularly by American soldiers who visited Kiangan between 1900 and 1903. It was only in 1904 that

an organized American educational effort began in Ifugao when the Bureau of Education sent James Travis to open a school in Kiangnan. Other schools followed, in Banaue in 1905 which was handled by Henry Otley Beyer and Mayoyao in 1908 which was managed by Benjamin Blitz. Kiangnan later offered four years of primary level instruction and Banaue offered three. James Travis was soon replaced by William Wooden in 1906 and then by Roy F. Barton in 1907 after Wooden was fatally speared by an Ifugao from Nagacaran (Jenista: 1987: 147).

The school in Kiangnan was at first well received by the Ifugaos, with an attendance of 150 pupils. However, a remarkable decrease in interest occurred when pupils were introduced to the American curriculum and when parents realized that their children were not contributing directly to the household work. The Ifugaos were not familiar with the American educational process and the knowledge being taught was of uncertain benefit and not equivalent to the services the children traditionally provided at home, e.g. caring for younger siblings, chopping firewood or helping in the fields (Ibid: 148). Many of the parents consequently discouraged their children from going to school, believing that they were getting lazy and were not learning anything.

The pioneering teachers tried to look for ways to draw the children back to school but this did not last long. Henry Otley Beyer for instance tried to attract children by providing free lunches in school. The children were permitted by their parents to go because of the free meal, but when Beyer stopped giving free lunches, the pupils also ceased attending class. Some elders now still remember that constabulary officers would round up the children to bring them to school.

As an anthropologist, Roy F. Barton had strong reservations about the usefulness of the standard American curriculum to the Ifugaos (Ibid: 150). He was in fact amazed with the Ifugao culture. He began to spend more time learning the Ifugao language and culture, later publishing several pioneering books on the Ifugao people, such as **Ifugao Law**, **Ifugao Economics**, **The Halfway Sun**, and **Ifugao Religion**. In order to address the waning interest of children and parents, the Americans thought of using a few Ifugaos who had successfully finished the four years of primary instruction as good models to follow. They employed two such Ifugaos in the local government and later endorsed them to national political positions.

Indigenous Learning Systems

Despite many years of the Philippine formal educational system, some indigenous communities have managed to continue practicing aspects of their cultures including learning systems. Unlike in developed countries, indigenous children at an early age are taught livelihood skills including those in which they can develop an expertise. Among the Ifugaos, skills such as *paot* (woodcarving), *apfor* (weaving), *topeng* (stonewall construction), and *uman* (genealogy mapping) are learned beginning at 10 years of age. Among the Mangyans, *Ambahan* or poems are taught to the children by the elders.

Through time the young learn the village norms, mores, their family histories and genealogies, local literature and oral traditions during occasions such as community affairs or in times of informal family gatherings. The learning systems are embedded in highly defined oral traditions and livelihood activities. Thus, learning becomes relevant as it is made part of the daily activities where needs, entertainment and cultural enrichment are addressed. The transmission of knowledge is also premised on the idea that indigenous peoples' survival as indigenous peoples lies in the practice of their cultures. Such a process puts forward the configuration of identity forming the basis of strong cultural affiliation and identity operating on various levels: family, kinship, and inter-village level. It is however disappointing to note that today many of these traditional channels are disintegrating.

The *Henanga* (Ifugaos) of Northern Luzon

The Ifugaos are among the ethnic groups found in the Cordillera region in northern Luzon. Despite being labeled a fifth-class town, the province of Ifugao is endowed with rich vegetation. Mt. Polis and Mt. Amuyao (approximately 2,780 ft. above sea level), which are among the Philippines' 10 highest mountains, are found in Ifugao.

The Ifugaos trace their ancestry to two legendary figures: *Pfukhan* and *Gwikhan*. The names of these legendary ancestors are normally invoked during rituals. The Ifugaos, who depend on wet rice farming, have developed a profound rice farming tradition. The ethnographic works of Barton (1930, 1940, 1943), Conklin (1979), Loofs (1979), Beyer (1945) and Lambrecht (1935-1955) attest to the ingenuity of the Ifugaos.

Culture and language variations divide the Ifugao into three groups: the *Tuwali* (found primarily in the communities of Kiangnan and Lagawe), the *Ayangan* (found primarily in the communities of Banaue, Hingyon and Hungduan) and the *Henanga* found in the communities of Mayoyao and Aguinaldo). Lambrecht (1935) mentions in his Ifugaw dictionary that the people of Mayoyao have a language and cultural tradition which are different from that of the people of Kiangnan and Banaue. Let us turn to the *henanga* people of Mayoyao.

"Ap-aphochan chi pi'takhuwan" is a phrase that captures a desired way of living in the community. Local people normally desire abundance of resources and a healthy physical and mental condition. This way of living is manifested by a good harvest of *palay* (rice) and other crops especially those planted in swidden farms, healthy conditions of chickens and pigs (the two animals highly sought during rituals), abundant water supply, favorable weather condition, and a house and good environment to live in. This perspective can also be drawn from the way people talk of the past, their experiences and the well-documented eight volumes of "Mayawyaw ritual" authored by Fr. Francis Lambrecht.

The concept of such a good life was normally cultivated in the minds of children as they were shown practical examples of living and ways of generating wisdom

and skills by traditional priests and arbiters as well as by their parents. In fact, a parent would direct his or her children to be exemplary individuals in the community as well as in neighboring villages. Children were encouraged to know generations of their ancestors and to learn ritual myths, invocations and technical skills. It was also prestigious to trace one's ancestry to a lineage of the *mun-alon* (arbiters), *munpfuni* (priests), the *mun-apfua-ab* (skilled in invocation of the ancestors), *montapeng* (skilled in stone riprapping), and *mompakhad* (skilled in traditional house structure). Children look up to these experts as they grow in a community where kinship is highly valued and "mental culture" desired.

Indigenous Pedagogical Orientation

Learning from the Philippine historical experience that impacts directly on indigenous peoples' worldviews, it is but logical that indigenous pedagogy, to be more meaningful, should open venues for indigenous knowledge to be nurtured at par with knowledge from other cultures not necessarily of the West. Why at par? It is because we have seen indigenous communities changing, and their cultural patterns, being modified. Gone are the times when culture can be seen and lived in its pristine and original form; today the idea of purely preserving cultures is largely imagined and has only reinforced the marginalization of cultures.

In this modern age, if we are to look for a viable approach for indigenous pedagogy and learning systems, we need to ensure that it is consistent with indigenous peoples' needs, worldviews and considerate of their adaptation to socio-cultural change. Obviously there is an enormous gap between the perceptions of the government education sector and those of indigenous peoples. More than its transformative nature, indigenous pedagogy should be manifested as enhancing human cultural development and the mental well-being of the indigenous peoples. It should engender a strong sense of ethnic affiliation and prepare the indigenous peoples to be pro-active advocates of cultural diversity, an element that can help promote peace in communities. In order for pedagogical approaches to be meaningful, the foundations of learning should cultivate a sense of appreciation and meaning for culture, and allow critical exploration of both traditional and scientific concepts and inquiry.

Many indigenous persons in the Philippines who have gone through the formal educational system can hardly trace their ethnic identity. Even at the tertiary level, indigenous students know little about their culture and history. No tertiary level curriculum in the Philippines offers a general course on indigenous culture and history. Some teachers try to integrate local knowledge in the curriculum but many of them are handicapped by the lack of knowledge and teaching strategies. This demonstrates inadequacies in teacher training and orientation.

Despite the general "mind set" or perceptions of many of the young generation today, it is possible to challenge indigenous students by providing them equal training in Western and local knowledge and capacities so they can excel in both. The

important point is that one should not be taught at the expense of the other. In this era of globalization, it is necessary to prepare communities with a strong cultural foundation. *We cannot forever protect Indignous Peoples from western assimilation and extraction, we can only prepare them to adequately confront and respond to new forms of cultural, scientific and industrial influences or domination.*

Kroma (1995) posits that formal schooling can undermine indigenous knowledge in three ways. First, it fails to put forward indigenous knowledge as worthwhile subject matter for the learning process. Second, it limits the exposure of children to the local knowledge of their communities. Third, it creates attitudes in children that militate against the acquisition of local knowledge. As indigenous knowledge and learning systems play a critical role in education, this writer argues for the genuine indigenization of the education curricula.

Odora-Hoppers (2002) explains that "Indigenous Knowledge Systems enable us to move the frontiers of discourse and understanding of the sciences as a whole and to open new moral and cognitive spaces within which constructive dialogue and engagement for sustainable development and collective emancipation can begin". In the process of changing the content of the curricula and educational system, an integrated research project, which may be drawn from classroom-based research, teacher training, collaborative projects of various institutions and the active participation of indigenous peoples, can forward the role of education as emancipatory for indigenous peoples. In this way education is directed at empowering indigenous peoples and contributes to enhancing their role as decisive agents of peace.

Conclusion

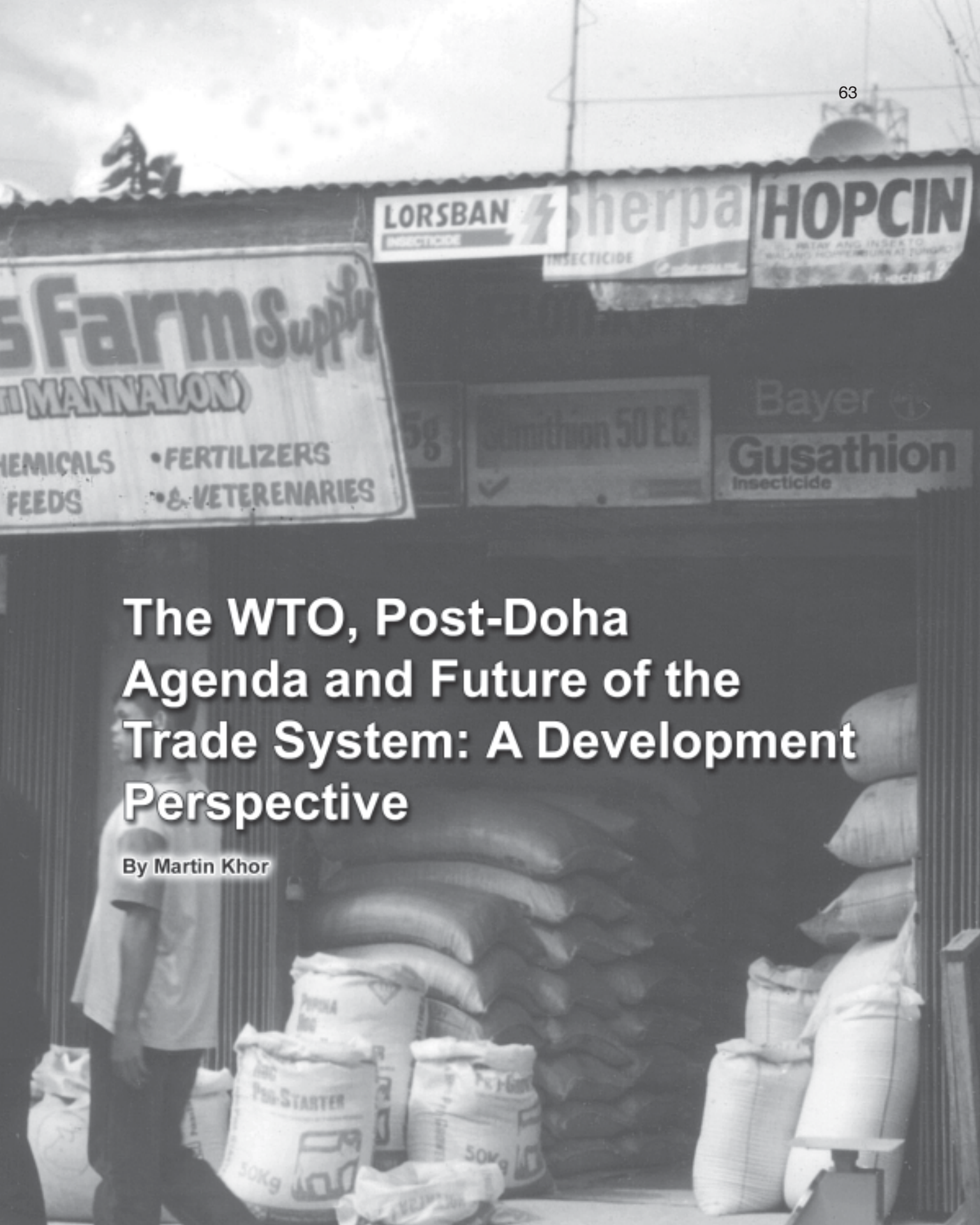
Recognizing that culture is dynamic yet powerful, indigenous peoples should be introduced to "modern" knowledge systems but at the same time be equipped with the skills to understand the context of such knowledge so they will not look down on traditional culture as inferior. International declarations and other legal instruments promoting the rights of indigenous peoples are not enough protection. Generations of indigenous peoples need to acquire the proper skills to live in this rapidly changing world. Culture sensitive pedagogical orientation is necessary to make them vigilant and to act as peaceful agents of change.

Considering the marginalization of indigenous cultures by the western-based educational system, it is urgent to revitalize the basic elements of the current education systems to allow the indigenous peoples to survive and ably adjust in an environment that allows the rapid influx of global industries and attendant changes. Indigenous cultures will survive through a strongly nurtured pedagogy that affirms cultural identity. Any system of learning that promotes "imagined cultures" and activities that romanticize traditions of the past that have long changed will only deter the development of indigenous peoples. It is time to elevate the understanding of culture, and correct misinterpretations and the misuse of indigenous cultures. It is

when we give true respect for the indigenous cultures that we truly recognize indigenous peoples' human rights. A pro-indigenous peoples' education system will contribute a lot to our collective struggle for human development and peace.❖

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The WTO, Post-Doha Agenda and Future of the Trade System: A Development Perspective

By Martin Khor

THE WORLD TRADE ORGANIZATION (WTO) has emerged as an important agency, whose rules and operations have major effects on the development policies of its developing-country members. This paper reviews some of the recent developments and issues arising from the WTO's work and activities. The paper takes what the author considers is a "development perspective" of the trading system.

The WTO held a Ministerial Conference in Doha in November 2001 and the decisions made there have resulted in an important and also heavy work programme which will have very significant implications for developing countries. The work programme contains a long list of issues to be negotiated or discussed. It imposes an extremely heavy workload on the developing countries' policymakers and diplomats. The Doha decisions and the follow-up have also placed the WTO and the multilateral trading system at an important crossroads. Important decisions have to be taken in the next several months on the shape and nature of the WTO and the trade system.

The rest of this paper briefly outlines: (1) issues and challenges regarding the existing rules and systems in the WTO; (2) some aspects of the post-Doha work programme in the WTO; and (3) some conclusions on the future of the trade system.

Issues and Challenges in Present WTO System

Issues of concern to developing countries

The multilateral trading system and the WTO are at a crossroads. Decisions made before and at the WTO's 2003 Ministerial Conference will have an important effect on which direction the system will go. The most important of the decisions is whether the next few years will see the WTO Members doing their best to rectify the problems and imbalances in the rules and system, or whether "new issues" are added to the WTO which could distort the trading system and add to the existing imbalances.

The WTO (and its predecessor organization the General Agreement on Tariffs and Trade, GATT) has contributed to the global trade system through the provision of a framework of rules within which Member countries conduct trade and other commercial relations among themselves. This has contributed to a measure of stability and predictability as contrasted to an alternative scenario in which arrangements are dominated by unilateral policies and bilateral arrangements. However, in recent years there has also been some disenchantment with the system as a result of: (a) the lack of anticipated benefits accruing to many developing countries, (b) a range of problems arising from the implementation of their own obligations; (c) lack of transparency and inadequate participation in decision-making.

Several years after the WTO's establishment in 1995, it is time for an assessment of the results of the Uruguay Round of negotiations which set up the WTO,

and for reviewing the future shape of the trade system. The old GATT system dealt with trade in goods. Some imbalances already existed even in the GATT system. For example, sectors of export interest to developing countries remained highly protected, particularly agriculture and textiles. In effect developing countries had agreed to subsidize the developed countries which had asked for time to adjust. The expansion of the GATT system under the Uruguay Round, through the introduction of the then new issues — services, intellectual property, investment measures — made the system more imbalanced, as well as intrusive, as the system moved from its traditional concern with trade barriers at the border, to issues involving domestic economic and development structures and policies.

Anticipated benefits not realized: agriculture and textiles

The developing countries' main expectation of benefit from the Uruguay Round was that at last the two sectors, which the developed countries had heavily protected — agriculture and textiles — would be opened up and that their products would have greatly enhanced market access. However, these sectors in fact remain closed many years after the Round ended.

In agriculture, tariffs of many agricultural items of interest to developing countries are prohibitively high (some are over 200 and over 300 percent). Domestic subsidies in OECD countries have risen from US\$275 billion (annual average for base period 1986-88) to US\$326 billion in 1999, according to OECD 2000 data, instead of declining as expected. This is because the increase in permitted subsidies more than offset the decrease in subsidy categories that are under discipline in the WTO Agriculture Agreement.

In textiles and clothing, only very few items which the developing countries export have been taken off the quota list, even though more than half of the 10-year implementation period has passed. According to a submission at the WTO in June 2000 by the International Textiles and Clothing Bureau (see Hong Kong, China 2000), only a few quota restrictions (13 out of 750 by the US; 14 out of 219 by the EU; 29 out of 295 by Canada) had been eliminated. This raises doubts as to whether all or most of the quotas will really be removed by 2005, the end of the implementation period, and/or whether other trade measures will be in place to continue the high protection.

Recently, the United States announced that it would be imposing tariffs of up to 30 percent on some of its steel imports, in order to protect its domestic steel industry. This decision has sent shockwaves around the world, as well as sparked responses, including the possibility of similar protective measures in other countries, retaliatory action against the US, and taking dispute cases against the US in the WTO.

Developing countries' problems in implementing obligations

Although the major developed countries have not lived up to their liberalization commitments, they have continued to advocate that it is beneficial for developing

countries to liberalize their imports and investments as fast as possible. The latter have come under pressure to liberalize from the international financial institutions, regional trade arrangements with developed countries, and the WTO. They are asked to bear for a little while the pain of rapid adjustment, which is said to be surely good for them after a few years, whereas the developed countries which advocate this policy themselves ask for more time to adjust in agriculture and textiles (and in other products), which have been protected for so many decades.

Implementing their obligations under the WTO agreements has brought many problems for developing countries which include:

- a. the prohibition of investment measures and subsidies, making it harder to encourage domestic industry;
- b. import liberalization in agriculture, threatening the viability and livelihoods of small farmers whose products face competition from cheaper imported foods, many of which are artificially cheapened through massive subsidies;
- c. the effects of a high-standard intellectual property rights (IPR) regime that has led to exorbitant prices of medicines and other essentials, patenting by Northern corporations of biological materials originating in the South, and higher cost for and lower access by developing countries to industrial technology; and (d) increasing pressures on developing countries to open up their services sectors, which could result in local service providers being rendered non-viable.

These problems raise the serious issue of whether developing countries can presently or in future pursue development strategies and objectives, including industrialization, technology upgrading, development of local industries, survival and growth of local farms and agriculture, attainment of food security goals, and fulfillment of health and medicinal needs.

The developing countries' problems arise from the structural imbalances and weaknesses of several of the WTO agreements. The developing countries have compiled a lengthy list of their problems of implementation and proposals for addressing these, and submitted these in the WTO. Summaries of these are contained in the WTO compilations of implementation issues (see WTO 2001d, 2001e, 2001f, 1999). There is an urgent need to satisfactorily resolve these problems.

Resolving imbalances first, or paying again as part of post-Doha package?

The requests by many developing countries, made in the preparatory process before the Seattle Ministerial of 1999 and the Doha Ministerial of 2001, that these implementation issues be resolved as a matter of first priority in the sequencing of the WTO's future activities have not been agreed to. There has been progress on very few of the implementation problems, and some of them have been placed for consideration under the post-Doha work programme alongside many other topics. The attitude of the developed countries seems to be that the developing countries

had entered into legally binding commitments and must abide by them. Any changes would require new concessions on their part. Such an attitude does not augur well for the WTO, for it implies that the state of imbalance will remain, and if developing countries “pay twice” or “pay three or four times”, the imbalances will become worse and the burden heavier.

The developed countries have put forward proposals for starting negotiations on the “Singapore issues” after the Fifth Ministerial in 2003. Presumably the developing countries are being asked to accept these as issues for negotiations towards new agreements. If this were so, then it would be equivalent to making developing countries pay twice, thrice or four times. They consider that they have already paid by making many concessions, for example agreeing to accept intellectual property, services and investment measures as subjects for agreements during the Uruguay Round. And yet they have not yet obtained the anticipated benefits in agriculture or textiles.

Developing countries are being told their requests on implementation problems and on getting greater access in the Northern markets will be considered as part of a package deal in the post-Doha work programme. The implication is that they have to accept negotiations on new issues in the WTO. But new agreements and obligations in these new areas would not bring about reciprocal benefits as the developed countries would stand to obtain most of the gains.

The lack of reciprocity in benefits and costs would thus add to the present imbalances. Moreover, the introduction of the proposed new agreements is likely to be detrimental to developing countries, which will find even more of their development options closed off. At the same time there is no guarantee that there will be a “rebalancing” of the WTO rules and system, that the implementation problems will be resolved, or that there will really be more meaningful access to Northern markets in agriculture, textiles and other sectors.

Post-Doha WTO Work Programme

Summary of outcome

The WTO held its Fourth Ministerial Conference in Doha on 9-14 November 2001. The outcome included three main documents: a Ministerial Declaration (WTO 2001b); a Declaration on the TRIPS Agreement and Public Health (WTO 2001c); and a Decision on Implementation-Related Issues and Concerns (WTO 2001d). There is also a subsidiary document linked to the third, on outstanding implementation issues (WTO 2001e).

Preparatory phase and Doha process and decisions

Before Doha the developing countries were strongly arguing the case that the WTO membership should in the coming years focus on resolving the problems

arising from the Uruguay Round and the institutional and systemic issues which have arisen in the short life of this important institution. Among these problems are:

- The lack of anticipated benefits to developing countries largely due to the lack of or inadequate implementation by developed countries of their commitments to provide greater market access for the products of developing countries, especially in agriculture and textiles;
- The increasing problems facing developing countries from their having to fulfill their own obligations in the many WTO agreements;
- The unsatisfactory system of decision-making and internal transparency within the WTO;
- Besides these WTO-related issues, many developing countries have also been facing other trade problems, particularly the continuous decline in commodity prices and the inability of many poorer developing countries to diversify or upgrade their exports due to supply-side constraints as well as limited market access.

These problems are part of the imbalances in the WTO and the trade system as a whole. The developing countries have been advocating an improvement to the system, so that they are able to get their fair share of benefits, and perhaps more importantly to reduce or eliminate their losses. Progress in resolving the problems would also reverse the trend of disillusionment with the system, a feeling that has been increasing among the public and policymakers alike.

However, the developing countries encountered great difficulty in getting their message across. The developed-country partners, while acknowledging that there are problems, did not see the need for a systemic consideration of “rebalancing” the rules and the system. The discussions were relegated to a case-by-case consideration of “problems of implementation”, and after some years of discussion, hardly any items in the long list of problems submitted by developing countries were resolved before or at Doha. Thus the requests by developing countries that these problems be first resolved before attempting to introduce negotiations in new areas were not entertained.

Instead, the major developed countries pushed very hard to have the WTO expand its negotiating and rule-making mandate, including to incorporate new areas, such as investment, competition policy, government procurement and trade and the environment. This attempt at expansion was strongly resisted by a majority of developing countries, including by regional groupings, which argued that: (a) they were not yet ready to enter negotiations or consider agreements on these issues; (b) they did not adequately understand the implications of the proposed issues, and (c) from the limited understanding they did have, they were very concerned that new agreements or rules in these areas would add to their already heavy obligations and would further restrict their development policy options and constrain or reduce their development prospects. They therefore proposed that these new issues be continued to be studied or discussed but not be accorded the higher status

of “negotiations” as this would imply agreeing to establish new agreements or rules.

Due to a series of unusual or even unique procedures, the views and positions of many of the developing countries in key areas and topics were not adequately reflected, or not reflected at all, in the drafts of the Ministerial Declaration that were prepared in Geneva and transmitted to the Doha meeting. This failure to reflect their views added to the frustration of the developing countries, which felt that the drafting process was untransparent and the drafts were unrepresentative. They requested that the draft to be transmitted to Doha should contain the different positions of various countries or groupings or that these differences be at least made clear in a covering letter. A “clean draft” would give the mistaken impression that it was a consensus document. However, these requests were rejected and a “clean text” that reflected the views of the proponents of the “new issues” became the basis of negotiations in Doha, placing the developing countries at a great disadvantage.

At Doha, two new drafts were produced. Again many developing countries were upset that their views were not properly reflected and that the negotiating and decision-making process (especially the convening of a marathon exclusive “Green Room” meeting to which only a few countries were invited) was inadequate, not transparent and thus not fairly reflective of their views and positions.

This was especially in relation to the sections of the Declaration on the “Singapore issues” — investment, competition, transparency in government procurement and trade facilitation — as well as on the environment. The final Declaration implies that negotiations towards new agreements or new rules have been agreed to on the “Singapore issues” (so called because they were first introduced as subjects for study, though not for negotiations, at the 1996 WTO Ministerial Conference in Singapore) following the Fifth Ministerial in 2003 on the basis of an explicit consensus on “modalities”.

However, due to objections and requests for reformulation of this language at the last “informal” session at Doha, the Declaration was tempered by a clarification by the Conference Chairperson at the final official session to the effect that the consensus referred to would be required for negotiations to begin. The implication was that the required consensus would not be only for modalities. The interpretation of the Declaration and the Chairperson’s clarification can be expected to generate intense discussion in the months ahead.

In any case, the Declaration does commit WTO Members to discuss a list of elements and topics within each of the Singapore issues, which will have major implications for whether a consensus can be reached either on modalities or on the larger issue of the desirability of negotiating new agreements on these issues in the WTO. Therefore, there is a heavy workload for developing countries on these topics in the present new work programme before the Fifth Ministerial to be held in Mexico.

Post-Doha work programme: an overview

According to some experts, the work programme is effectively an agenda for multilateral negotiations in at least 19 areas, larger and more intrusive in terms of national economies and politics than even the Uruguay Round agenda. The post-Doha work programme is extremely heavy as it includes several key elements, each of which is complex and difficult and involves much time, human resources and technical expertise, which developing countries do not have.

The following is a listing of some of the areas of negotiations and discussions; the relevant paragraph(s) in the Doha Ministerial Declaration on each area is given in brackets. (See table on next page.)

This non-exhaustive list shows how heavy the work programme arising from the Doha Conference is. Besides the already mandated negotiations on agriculture and services, and the already mandated reviews of the TRIPS and TRIMs agreements, the post-Doha work programme will include new negotiations on market access for non-agricultural products, negotiations on some aspects of trade and environment, negotiations to clarify some rules, including anti-dumping, subsidies and countervailing measures, and dispute settlement.

Also part of the work programme will be the set of "implementation issues and concerns" which developing countries had earlier put forward, and of which only a few items have so far been resolved; and the four Singapore issues. There is also the discussion in two new working groups (on trade, debt and finance; and trade and technology transfer) which had been proposed by developing countries. There are also discussions on other issues, including electronic commerce, special and differential treatment, capacity building, least developed countries and small economies. The negotiations are to be supervised by a Trade Negotiations Committee, and concluded by 1 January 2005, and the outcome of the negotiations shall be treated as parts of a "single undertaking."

As B. L. Das (2002) points out:

It is a programme much heavier than that of the Uruguay Round of Multilateral Trade Negotiations. Almost all the major items of the Uruguay Round, like agriculture, services, subsidy, anti-dumping, regional trading arrangement, dispute settlement, industrial tariff and some aspects of TRIPS, form part of the negotiations in the Work Programme. Environment has also been included in the subjects of negotiation. Besides, intense work is envisaged on Singapore issues (i.e., the new areas of investment, competition policy, transparency in government procurement and trade facilitation) as well as in the area of electronic commerce. The short time span of three years set for this work makes the task particularly arduous for the developing countries.

According to Das, the new work programme significantly enhances the imbalance in the WTO system:

Issues for Negotiation or Discussion in WTO post-Doha Work Programme

- Mandated Negotiations
 - Agriculture (paras 13-14)
 - Services (para 15)
- Mandated Reviews
 - TRIPS (paras 17-19)
 - TRIMs
- New Areas of Negotiations
 - Non-agricultural market access (para 16)
 - Trade and environment (paras 31-33)
 - Clarification of WTO rules (anti-dumping, subsidies, countervailing measures, fisheries subsidies, regional trade arrangements) (paras 28-29)
 - Clarification of dispute settlement (para 30)
- Singapore Issues
 - Trade and investment (clarification of elements etc in working group) (paras 20-22)
 - Trade and competition policy (clarification of elements etc in working group) (paras 23-25)
 - Transparency in government procurement (para 26)
 - Trade facilitation (para 27)
 - New Working Groups
 - Trade, debt and finance (para 36)
 - Trade and transfer of technology (para 37)
- Other Issues
 - Electronic commerce (para 34)
 - Least Developed Countries (LDCs) (paras 42-43)
 - Special and differential treatment (para 44)
 - Technical cooperation and capacity building (paras 38-41)
 - Small economies (para 35)

Instead of eliminating the existing imbalance, it has in fact enhanced it by giving special treatment to the areas of interest to the major developed countries and ignoring the areas of interest to the developing countries. Negotiations have been launched in a new area, viz., environment, and the level of work has been enhanced and intensified in the areas of Singapore issues and electronic commerce. All these have

been the subjects of deep interest to the major developed countries, while the developing countries have been resisting their being taken up in the WTO.

The main proposals of the developing countries were those grouped as 'Implementation Issues', where practically nothing has been done. The issues of great importance to many of them, e.g., textiles and Balance of Payments Provisions, do not feature in the main text of the Work Programme. Even the inclusion of the subjects of finance and technology is hardly significant for the developing countries as the work envisaged in these fields is of a very general and broad nature. Similar is the situation regarding the provision on special and differential treatment for the developing countries which aims at making the relevant provisions more precise, effective and operational. There are very few special and differential provisions reducing the substantive levels of obligations of the developing countries. Hence this provision in the Work Programme is hardly of great benefit to the developing countries.

The Work Programme is a gain for the major developed countries, but they have given nothing in return to the developing countries. This is totally contrary to the GATT/WTO process where reciprocity is expected to be the main guiding principle in negotiations. Reciprocity should not be assessed only in terms of specific commitments in agreements, but also in selection of items for special attention in the work. Sadly, the new phase of the WTO has started with an enhancement of the imbalance. Ironically the Work Programme has been sometimes termed as a 'development agenda', which is quite erroneous...The agenda of the Work Programme has been totally set by the major developed countries guided by their own economic interests. The priority of the development of the developing countries is not reflected in it. (Das 2002)

The following is a description of some of the issues in the work programme.

Implementation issues

On implementation issues, the Doha decisions are very disappointing. Das (2002) points out that the Ministerial Decision on implementation issues has only a few substantive decisions: (a) a clarification that the "reasonable period" referred to in the agreements on Sanitary and Phytosanitary Measures and Technical Barriers to Trade (between the publication of a measure or a standard and its coming into force) shall not normally be less than six months; (b) the "longer time frames for compliance" referred to in the Agreement on Sanitary and Phytosanitary Measures in respect of products of interest to the developing countries is now clarified to be not normally less than six months; and (c) a concession in the Agreement on Subsidies and Countervailing Measures. The last says that regarding subsidies in developing countries which have a GNP per capita of less than US\$1,000 per year, a developing country will continue to be in this list until it reaches this level of GNP for

three consecutive years; and also, a country which has been excluded from this list will be re-included when its GNP per capita falls below this level.

The rest of the Decision has merely operative phrases like: “reaffirms”, (a particular WTO body) “is directed to give further consideration”, “urges Members”, “takes note of”, (a particular WTO body) “is instructed to review”, “requests” (a WTO body) “to examine”, “confirms the approach”, “shall examine with special care”, “recognizes”, “underlines the importance”, “agrees that...interim arrangements...shall be consistent”, “agrees that (a WTO body) shall continue its review”, “directs (a WTO body) to extend the transition period”, (a WTO body) “is directed to continue its examination”, etc. (Das 2002).

Thus there has been hardly any progress on substantive issues despite several years of concrete proposals by developing countries to resolve the deficiencies and imbalances that have already given rise to problems. There is real concern that these implementation issues will be given low priority in the post-Doha work programme as other issues (especially the issues already mandated for negotiations, and the Singapore issues which now have greater potential of approaching “negotiation” status) are taken up more urgently and detract from the task of resolving existing problems. Developing countries should therefore maintain their previous position: in the sequencing of the completion of negotiations and discussions in the post-Doha programme, the first order of priority is the resolution of implementation issues.

Agriculture

The negotiations on agriculture in the coming years will be part of the WTO’s built-in agenda (i.e., mandated in the Uruguay Round). The Doha Declaration states that the negotiations will aim at reduction of export subsidies “with a view to phasing (them) out” and “substantial reductions” in trade-distorting domestic support. This will enable developing countries to demand that the developed countries curb their subsidies.

However, Das (2002) also points out that the qualifying term “trade-distorting” can be used by the major developed countries to suggest that the so-called “green box” domestic support measures, listed out in Annex 2 to the Agreement on Agriculture and exempted from reduction commitment in the Uruguay Round, are not to be covered by the negotiations on reduction. These high subsidies, if allowed to be exempted and to increase further, will continue to enable high protection in the developed countries, and continue to damage developing countries’ domestic production and export prospects.

The Doha Declaration also states an intention to “enable the developing countries to effectively take account of their development needs, including food security and rural development”. It specifies that special and differential treatment for them “shall be an integral part of all elements of the negotiations” and shall be “operationally effective” by embodying it both in the rules and in the schedules of commitments. Developing countries should make full use of these by advocating that to enable the continuation of the livelihoods of their small farmers, those countries that

would otherwise be adversely affected by liberalization can be exempted from the disciplines of import liberalization and the prohibition of domestic subsidies with regard to their food products for domestic consumption.

Farmers in many developing countries are already experiencing threats to their livelihoods and incomes resulting from an increase in imports of cheaper (and often subsidized) foods. A comprehensive assessment and continuous monitoring of the effects should be undertaken. The major focus of negotiations should be the quick operationalizing of special and differential treatment for developing countries to prevent the continuation and worsening of the threat to their farmers as resolution of this problem is urgently required.

Services

Negotiations on services as part of the built-in agenda are also a major part of the post-Doha programme. The WTO's General Agreement on Trade in Services (GATS) and its implementation also contain basic imbalances. The developed countries have far greater capacity in the services sector while most developing countries are unable to take advantage due to weak capacity and supply constraints. Thus liberalization would lead to uneven benefits and costs. Moreover, much of the liberalization has been in areas and modes of supply of interest to developed countries (for example, financial services, telecommunications) while areas or modes of interest to developing countries (for example, Mode 4 or export of natural persons) have not seen progress.

Another problem is that there is a lack of data on services trade and thus it is not possible to quantify the benefits and costs of liberalization for individual countries or for developing countries as a whole or in regions. This makes an assessment (of the effects, benefits and costs) of previous liberalization very difficult and does not allow for a basis on which to evaluate proposals and options for future action. Developing countries are expected to come under heavy pressure to open up more, and in more sectors, than they have so far committed. Recent revelations of a draft of the European Commission's list of requests show that developing countries will be asked to liberalize rapidly on a wide range of services.

The Doha Declaration reaffirms the guidelines for the services negotiations adopted on 28 March 2001. It also aims to achieve the objectives in Articles IV and XIX of the GATS which contain specific provisions for the developing countries. The former Article calls for liberalization of market access in sectors and modes of supply of export interest to the developing countries. The latter provides for flexibility for the developing countries to liberalize fewer sectors and fewer transactions.

Developing countries whose services enterprises and sectors are as yet unable to withstand competition can make full use of the development principles and the provisions in GATS in their response to the requests from trading partners, as they are fully entitled to. They should not be under any pressure from other Members to liberalize further. Instead, they should be given full flexibility to choose whether to liberalize, in which areas, when and how much to offer. They can also insist that

an adequate system of data be established and that an adequate assessment be made so that the future negotiations can be guided by information on previous actions and possible future options.

Industrial products

The Doha Declaration has also launched negotiations on a new round of reductions in tariff and non-tariff barriers on industrial goods, under the term “market access for non-agricultural products.” The main interest of developing countries is that developed countries bring down their tariff peaks and tariff escalation on products of export interest to developing countries. Some developing countries could expand their export earnings should developed countries increase their market access. However, there are also poorer developing countries that are unable to take advantage due to weak supply capacity.

The main interest of developed countries in the negotiations is that developing countries reduce their industrial tariffs. However, many developing countries are concerned about this, as they have already experienced closure or reduced production of local firms and even whole sectors, as well as significant job losses, as a result of previous liberalization (many of them under structural adjustment or loan conditionalities of the IMF and World Bank). Recent studies have shown the negative effects of over-rapid liberalization, and the process of “de-industrialization.”

In the negotiations, developing countries (especially those with a weak domestic industrial base) should be careful to safeguard their interests so that they are not pressured to liberalize at a rate or in a sequence which their remaining local industries are unable to bear. The Doha Declaration states that the coverage will “in particular” be on products of export interest to the developing countries, that the negotiations “shall take fully into account the special needs and interests of developing and least-developed country participants” and that there will be “less than full” reciprocity in the reduction commitments by the developing countries, including the least developed countries. These three points should be fully made use of by developing countries so that they may seek to minimize the costs and obtain some benefit.

The first stage of negotiations in the post-Doha programme will be on working out the modalities. The positions for this important stage should be worked out, for the modalities (including the principles, the approaches and formulae) will largely determine the outcome of the negotiations. An assessment of the effects of previous liberalization on developing countries’ domestic firms, employment and government revenue should be made, as the first phase of the process.

Trade and environment

This issue has been under discussion in the WTO in its Committee on Trade and Environment. However, the Doha meeting made a decision for the first time to include this topic as part of the negotiating agenda, signifying that on this issue some amendment of rules or establishing of new rules or both are intended. This is a new area of negotiation included in the WTO as a part of the work programme.

Thus, Doha has for the first time placed trade and environment as a new issue for rule-making in the WTO, and the mandate of the WTO has correspondingly been expanded. For the moment a few areas have been designated for negotiations. However, the negotiating agenda under the broad environment umbrella may expand in future, with implications that may not now be foreseen.

Some aspects of this issue (contained in para 31 of the Doha Declaration) are for negotiations while other aspects (para 32) are not mentioned for negotiation but for discussion. Aspects for negotiation are: (a) the relationship between WTO rules and specific trade obligations in multilateral environment agreements (MEAs); (b) reduction of tariff and non-tariff barriers to environmental goods and services; and (c) procedure for information exchange between the Secretariats of MEAs and WTO committees.

Aspects for discussion include:

- a. effect of environmental measures on market access;
- b. the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and
- c. labeling requirements for environmental purposes.

The first negotiating issue, on MEA-WTO relation, is complex. The intention of the EU is to give automatic or more automatic endorsement in the WTO for trade measures adopted in MEAs. At present any explicit endorsement is on an ex-post basis, and a Member in the WTO can challenge such measures. However, there has not been a challenge so far. The concern of many developing countries is that if a blanket approval is given (by a change of rules), then there is a much greater potential (and temptation) of using or even establishing MEAs for trade-protectionist rather than genuinely environmental purposes. The question of what constitutes a legitimate MEA (including membership) that is eligible for automatic or near-automatic endorsement has also not been satisfactorily answered. The fear that automaticity can and will be used as a disguised protectionist device is legitimate and real, given the increase in protectionist sentiments in developed countries.

On the other hand, there is also concern that the name of the WTO or its rules and its free-trade principles have been invoked inappropriately by some countries in environment or trade policy fora in attempts to prevent or dilute measures to address genuine environmental and health issues. Such attempts do give the WTO and the trade system a bad reputation among officials and citizens' groups involved in environment and health issues. A central concern therefore is the need to prevent the misuse of environmental issues to serve protectionist purposes, and the need to prevent the misuse of so-called "free-trade principles" to proscribe legitimate and appropriate measures to protect the environment, safety and health.

On the second negotiating issue, Das (2002) has pointed out that reducing barriers on environmental goods and services should not be included under the heading "environment" as there are already negotiations on market access for industrial products which will cover the so-called "environmental goods." Similarly "environmental services" can be covered under the GATS negotiations. In any case,

there is no clear definition of “environmental goods and services”. If environmental goods are defined as products produced in an environmentally sound way, then the concept of differentiating products according to their “processes and production methods” (PPMs) would have been “smuggled” into the trade negotiations and trade system, and this holds dangers for developing countries whose environmental standards are generally not as high and which may thus be placed in a situation of disadvantage.

The three discussion issues are also important. This is especially so because since the environment as a topic has already made a breakthrough into a negotiation mode, these “discussion issues” may well graduate also into the negotiating mode at a future date. Developing countries have a particular interest in the TRIPS-environment-sustainable development relationship. Some of them have brought up environmental problems generated by the TRIPS Agreement, for example the facilitation of “biopiracy” (or the corporate patenting of plants, animals and genes) and the hindrance to the transfer of environmentally sound technology. Developing countries should actively participate in the discussions on the three issues.

Intellectual property (TRIPS)

The WTO’s TRIPS Agreement has generated a great deal of concern and controversy. Issues that have emerged include: the high prices of medicines and other consumer products; the facilitation of “biopiracy” (patenting of life forms, including plants and their functions which have already long been in public use); obstacles to technology transfer and upgrading due to the IPR holders’ monopoly over technology; and the promotion of monopolistic and anti-competitive practices and structures and their effects.

On a systemic level, the issue is raised as to whether intellectual property, which is basically a device that enables monopoly and anti-competitive practices, should even be located within a trade organization whose purpose is supposed to be the promotion of free trade and competitive practices; and if not, then what to do about it. Moreover while the WTO is supposed to be based on the principle of reciprocal benefits, TRIPS has proven to be inherently and in practice very imbalanced. Developed countries (with greater technological capacity and with greater ability to use the IPR system) have reaped the overwhelming share of benefits amounting to large values, while developing countries are carrying the heavy burden of costs.

The post-Doha work programme provides an opportunity to deal with the many problems arising from TRIPS. The Doha Declaration in its three paragraphs (17, 18, 19) on TRIPS mentions the following issues: TRIPS and medicines; geographical indications; the relation between TRIPS and the Convention on Biological Diversity; protection of traditional knowledge and folklore and other relevant new developments. It mentions the review of Article 27.3b (which deals with patenting of biological materials) and the Article 71.1 review (the review of TRIPS). Both reviews are mandated in TRIPS.

A separate Declaration on TRIPS and Public Health was also adopted in Doha. It directs the WTO’s TRIPS Council to find a solution to problems faced by coun-

tries with insufficient pharmaceutical manufacturing capacity in effectively making use of the TRIPS Agreement's compulsory-licensing provisions. In addition, there are many issues relating to TRIPS in the compilation of implementation issues to be resolved.

Developing countries have argued forcefully that they face many problems in attempting to or in actually implementing TRIPS. They should therefore make full use of the post-Doha work programme to raise all their concerns and advocate solutions. Meanwhile, in the overall review of TRIPS itself, the issue of the grave imbalances in the agreement and in its implementation, and the issue of the appropriateness or otherwise of TRIPS being in the WTO should be raised; and progress made to resolve these issues.

The Singapore issues: General

The most contentious aspect of the Doha Conference, and the preparatory process before it, involved the Singapore issues. During the preparatory process, a large number of developing countries, mainly from Asia, Africa, the Caribbean and Central America, had made their views known. They were opposed to the commencement of negotiations on these issues, and that instead the "study process" on these subjects should continue in the WTO. However, these positions were not reflected in the draft Ministerial Declaration transmitted to Doha.

At Doha many developing countries again stated (in their Ministers' statements presented at the official plenary, and during informal consultation meetings) their opposition to the draft Declaration committing the WTO to negotiate the Singapore issues. However, once again such a negotiating commitment was placed in two further drafts during the Conference. In the final draft, which the WTO Secretariat released on the Conference's last morning on 14 November, Ministers agreed, on all four Singapore issues, that negotiations would take place after the Fifth Ministerial Conference on the basis of a decision to be taken by explicit consensus at that Conference on modalities of negotiations.

In the operational part of the relevant paragraphs of the Doha Declaration (para 20 on investment, 23 on competition, 26 on transparency in government procurement and 27 on trade facilitation) the wording is as follows:

....we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

This implies that a decision has already been taken in principle to start negotiations towards new agreements, and only the modalities of the negotiations have to be agreed to.

In a final consultation meeting on the same afternoon, more than 10 developing countries suggested that the text be changed, to remove the commitment to negotiations on the four issues. India indicated it could not agree to the Declaration un-

less amendments were made. Eventually a compromise was worked out, which at the formal closing ceremony the Doha Conference Chairperson, Mr. Youssef Hussain Kamal, the Minister of Finance, Economy and Trade of Qatar, read out a “Chairman’s understanding”. He said that in relation to the four issues, a decision would indeed need to be taken at the Fifth Ministerial Conference by explicit consensus, before negotiations could proceed on the four issues. He also clarified that this would give each Member the right to take a position on modalities that would prevent negotiations from proceeding until that Member is prepared to join in an explicit consensus.

The statement that was read out at the closing session was as follows:

I would like to note that some delegations have requested clarification concerning Paragraphs 20, 23, 26 and 27 of the draft declaration. Let me say that with respect to the reference to an explicit consensus being needed in these paragraphs, for a decision to be taken at the Fifth Session of the Ministerial Conference, my understanding is that at that session a decision would indeed need to be taken by explicit consensus, before negotiations on trade and investment and trade and competition policy, transparency in government procurement, and trade facilitation could proceed.

In my view, this would also give each member the right to take a position on modalities that would prevent negotiations from proceeding after the Fifth Session of the Ministerial Conference until that member is prepared to join in an explicit consensus.

This statement gave greater protection to developing countries that did not want to commit to negotiations. The text of the Declaration states that negotiations would begin after the Fifth Ministerial on the basis of an explicit consensus on the modalities of the negotiations. However, the Chairman’s statement clarifies that a decision by consensus needs to be taken before negotiations could proceed. By not stating that the required decision is on the modalities, the implication of the statement is that a consensus is needed on whether there should be negotiations.

Does the Chairman’s statement have legal status? Das (2002) gives this opinion:

The Chairman has termed the first part of it [i.e. his statement] as ‘(his) understanding’. Normally a chairman gets such understanding by a process of consultations with the participants in the meeting and he/she includes agreed formulations in his/her understanding. If there is no objection or reservation from the participants after the chairman has expressed his/her understanding, it is considered to be the collective wish of the meeting. In this plenary during this Conference, there was no objection or reservation from the participants after the Chairman expressed his understanding. All this makes this part binding on the WTO process unless it is modified by a later WTO Ministerial Conference.

In any case, the Declaration has already laid out a work programme for the next two years for the four issues, with an agenda of specific topics that appear to be in the pre-negotiation mode. For example, in the area of investment, work will focus on scope and definition, transparency, pre-establishment commitments, exceptions, dispute settlement, and so on. Thus, there is already a serious and very heavy work programme in respect of the Singapore issues in the period up to the Fifth Ministerial. If a decision is taken then to begin negotiations, the workload will be increased further. And should the negotiations lead to the establishment of new agreements, the burden of obligations on developing countries will be much heavier and the scope of the WTO's mandate would expand immensely.

Whether that happens will depend on whether the developing countries deepen their understanding of the issues in the several months ahead, whether they consider it in their interest to have these proposed new agreements in the WTO, and whether they can persuade the developed countries to come around to their position (or stand up to the latter's pressures) in the event they do not want these issues to be developed into WTO treaties.

Below is a description of each of the four Singapore issues — investment, competition, transparency in government procurement, trade facilitation — and the implications for developing countries should agreements of the type envisaged by their proponents be established.

Relationship between trade and investment

At the Singapore WTO Ministerial (1996), Ministers agreed to form a working group to study the relationship between trade and investment. It was explicitly stated that there was no commitment to negotiate an agreement. For the next five years (1997-2001) the WTO Working Group on the Relationship Between Trade and Investment held several discussions. Major developed countries pressed very hard to have the working group transformed into a negotiating group that would negotiate an investment agreement in the WTO.

However, the majority of developing countries were extremely reluctant to agree to this. Some of them were strongly opposed. The reasons included: the inappropriateness of an investment regime in a trade organization; the resulting loss of developing countries' policy autonomy over investment policy would damage development options; the lack of understanding of the issues and their implications for development; harmful effects of new obligations; diversion of time and human resources from other vital work in the WTO. They wanted the study process to continue, and were adamant that negotiations for an agreement should not start.

They made their views known before and at Doha. However, these views were not reflected in the various drafts of the Declaration, including the final draft that stated that negotiations would begin after the Fifth Ministerial on the basis of a consensus on modalities. As explained above, this was offset by the Chairman's statement at the final session in Doha. Thus, it is still not clear that there has been a binding commitment to establish an investment agreement in the WTO.

Between now and the Fifth Ministerial, work will proceed in the working group on trade and investment. This will be guided by: (1) the working out of the issue of modalities of negotiations, that had been mentioned in para 20 of the Doha Declaration; (2) subjects mentioned in para 22 “for clarification”, i.e., clarification of scope and definition, transparency, non-discrimination, modalities for pre-establishment commitments based on a GATS-type positive-list approach, development provisions, exceptions and balance-of-payments safeguards, consultation and the settlement of disputes; (3) other subjects mentioned in para 22, i.e., any framework should reflect in a balanced way the interests of home and host countries, take account of development policies and objectives of host governments and their right to regulate in the public interest.

There is mention also that the special needs of developing countries should be taken into account; due regard should be paid to other relevant WTO provisions; and account should be taken of existing bilateral and regional investment arrangements.

The diplomats in the WTO will be preoccupied with these issues in the investment working group, which will meet several times during 2002. It is urgent that developing countries prepare their views and put forward their positions on the above issues at the working group.

The main proponents of an investment agreement would like internationally binding rules that allow foreign investors the rights to enter countries without conditions and regulations, to operate in the host countries without most conditions now existing, and to be granted “national treatment” and MFN (most favored nation) status. Performance requirements and restrictions on movements of funds would be prohibited. There would also be strict standards of protection for investors’ rights in relation to “expropriation” of property. (A wide definition could be given to “expropriation”; the NAFTA experience is worth noting in this regard).

Due to the unpopularity of this extreme model, the major proponents are now offering watered-down versions, such as a GATS-type approach, and possibly a plurilateral approach in which countries not wanting to join an agreement can opt to stay out. These step-by-step approaches are aimed at getting Members to agree to the concept that investment rules belong in the mandate of the WTO; and then drawing them into an agreement which appears not to be so harmful and allows some space to make choices; and then later on to pressure them to liberalize more and more in terms of sectors and depth of policy measures. It should be recognized that such watered-down versions are only shifts in tactics and not in the ultimate goals.

An international agreement on investment rules of this type is ultimately designed to maximize foreign investors’ rights while minimizing the authority, rights and policy space of governments and developing countries. This has serious consequences in terms of policy-making in economic, social and political spheres, affecting governments’ ability to plan in relation to local participation and ownership, balancing of equity shares between foreign and locals and between local communi-

ties, the ability to build up the capacity of local firms and entrepreneurs, and the need for protecting the balance of payments and the level of foreign reserves. It would also weaken the bargaining position of government vis-a-vis foreign investors (including portfolio investors) and creditors.

Thus an agreement of the type envisaged by the proponents could be damaging to the development options and interests of developing countries. The position that they could take is as follows. Investment is not a trade issue, and thus bringing it within the ambit of the WTO would be an aberration and could distort the trade system. It is certainly not clear that the principles of the WTO (including national treatment and most-favoured-nation treatment) that apply to trade in goods should apply to investment, nor that, if applied, they would benefit developing countries. Traditionally developing countries have had the freedom and right to regulate the entry and conditions of establishment and operation of foreign investments. Restricting their rights could cause adverse repercussions.

With the principles underlying this position, developing countries could engage actively in the discussions of the working group on the issues mentioned in the Doha Declaration (see above). Das (2002) has provided some suggestions for positions to be taken on the issues for clarification and discussion. For example:

- on scope and definition: the coverage of investment should be as limited as possible;
- transparency: the coverage should also be limited to availability of information;
- non-discrimination: it can be argued that for development purposes, developing countries need to have differential treatment of foreign and local investments and that thus the national treatment principle is inappropriate in an investment framework;
- modalities for pre-establishment commitments based on GATS-type positive list approach: even if a country can theoretically choose the sectors, depth and speed of liberalization, a framework would have been created in which the developing countries will be subjected to pressures to liberalize, in contrast to the present where countries have flexibility and discretion over their investment policies;
- development provisions: one appropriate provision would be that a developing country will be totally free to apply conditions on the entry and operation of foreign direct investment in accordance with its own perception and decision on its development process; it should have full policy autonomy and should not be required to justify its policies bilaterally or multilaterally.
- consultation and dispute settlement between Members: the normal dispute settlement system of the WTO should not apply.

Besides engaging in the issues listed in the Declaration, developing countries can also put forward issues of their own, for example the obligations of foreign investors to the host country, and the obligations of the home governments of for-

sign investors to ensure that the investors' obligations are fulfilled.

Interaction between trade and competition policy

At the Singapore Ministerial, Ministers decided to set up a Working Group on the Interaction Between Trade and Competition Policy. There was specific mention that this does not commit Members to negotiate an agreement in the WTO on competition. As in the case of the investment issue, most developing countries have voiced reluctance or opposition to the establishment of a WTO agreement on competition policy. However, with their views not adequately represented in the drafts of the Doha Declaration, there will now be a more intensive discussion of the issue in the working group. As with the investment issue, the Declaration states that negotiations (on the interaction between trade and competition policy) will take place after the Fifth Ministerial on the basis of a decision on modalities. Similarly with investment, it is not clear that a decision has been made to negotiate an agreement.

In the meantime, more intensive discussions are scheduled on the issue. The Doha Declaration (para 25) mandates that in the period until the Fifth Ministerial, the working group will focus on clarification of: (1) core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; (2) modalities for voluntary cooperation; and (3) support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least developed countries and appropriate flexibility provided to address them.

Developing countries should try to engage as fully as possible in the discussions. It can be challenged whether the principle of non-discrimination is appropriate if applied to competition law and policy in developing countries. The needs of developing countries in general and the need for policy flexibility should also be clarified in the discussions. Moreover, since explicit consensus is also required on the "modalities", it is important for the discussions to clarify this issue, especially since there is no agreed definition of "modalities."

At present, there is hardly any common understanding, let alone agreement, among countries on what the competition concept and issue means in the WTO context, especially in terms of its "interaction" with trade and its relationship with development. The whole set of issues on competition, competition law and competition policy and their relation to trade and to development is extremely complex. The proposal of the proponents of a WTO agreement is to have multilateral rules that discipline Members to establish national competition law and policy. These laws/policies would incorporate the "core principles of the WTO", defined as transparency and non-discrimination (MFN and national treatment). Thus, the location of the competition issue and the agreement within the WTO would bias the manner in which the subject and the agreement are treated. In this case, the "core WTO principles" would be applied to competition.

Competition law and policy, in appropriate forms, are beneficial, including to developing countries. However, each country must have full flexibility to choose a

model which is suitable, and which can also change through time to suit changing conditions. Having an appropriate model is especially important in the context of globalization and liberalization where local firms are already facing intense foreign competition. In particular, developing countries must have the flexibility to choose the paradigm of competition and competition policy/law that is deemed to be more suitable to their level of development and their development interests.

The EU proposal for competition policy to provide “effective opportunity for competition” in the local market for foreign firms, and thus to apply the WTO “core principles” to competition law/policy, would affect the needed flexibility for the country to have its own appropriate model or models of competition law/policy.

Competition can be viewed from many perspectives. From the developing countries’ perspective, it is important to curb the mega-mergers and acquisitions taking place which threaten the competitive position of local firms in developing countries. Also, the abuse of anti-dumping actions in the developed countries is anti-competitive against developing countries’ products. The restrictive business practices of large firms also hinder competition. However, these issues are unlikely to find favor with the major countries, especially the US, which wants to continue its use of anti-dumping actions as a protectionist device.

If negotiations begin, the EU interpretation of competition, i.e., the need for foreign firms to have national treatment and a free competition environment in the host country, could well prevail, especially given the unequal negotiating strength which works against the developing countries. The likely result is that developing countries would have to establish national competition laws and policies that are inappropriate for their conditions. This would curb the right of governments to provide advantages to local firms, which themselves may be restricted from resorting to practices which are to their advantage.

What is required is a paradigm to view competition from a development perspective. Competition law/policy should complement other national objectives and policies (such as industrial policy) and the need for local firms and sectors to be able to successfully compete, including in the context of increased liberalization. From a development perspective, a competition and development framework requires that local industrial and services firms and agricultural farms build up the capacity to become more and more capable of competing successfully, starting with the local market and then, if possible, internationally. This requires a long time frame, and cannot be done in a short while. It also demands a vital role for the state in nurturing, subsidizing and encouraging the local firms.

The maintenance and enhancement of the domestic sector’s competitiveness also require protection from the “free” and full force of the world market for the time it takes to build up the local capacity. This means that development strategy has to be at the center, and competition as well as competition policy has to be approached in such a manner as to meet the central development needs and strategy.

Therefore some of the conventional models of competition may not be appropriate for a developing country. On the other hand, other models may be more

appropriate but their adoption may be hindered or prohibited by a WTO agreement on competition that is based on the “core principles of the WTO.”

There is as yet no convincing case for a multilateral set of binding rules to govern the competition policies and laws of countries. And there are especially justified grounds for serious concern if such an agreement were to be located within the WTO, as it is likely to be skewed against the development interests of developing countries as a result of the attempt by proponents to apply the “core principles” of the WTO to the issue and to the agreement.

If a multilateral approach is at all needed, there are other venues that are more suitable, for example, the United Nations Conference on Trade and Development (UNCTAD), which already has a Set of Principles on Restrictive Business Practices. Moreover, if the objective is to arrange for cooperation among competition authorities of countries, then it is unnecessary and inappropriate for the WTO to be the venue.

In the discussion on the issues mentioned in the Doha Declaration for the working group, the above points should be taken into account, especially in relation to the needs of developing countries and their need for policy flexibility. As the list of issues in the Declaration is not an exhaustive one, developing countries can also add other issues for discussion. Das (2002) suggests that the following additional issues could be put forward:

- Obligations of the foreign firms to the host country
- Obligation of the home government to ensure the foreign firms fulfill their obligations
- Competitiveness of domestic firms: to consider measures to be undertaken by domestic firms, government and a possible multilateral framework to enable local firms (especially small firms) to remain competitive and to grow
- Competition impeded by government action (for example, anti-dumping action)
- Competition impeded by IPR protection
- Global monopolies and oligopolies and their effect on local firms in developing countries
- Big mergers and acquisitions (by transnational companies) and their effects on developing countries

Transparency in government procurement

The Singapore WTO Conference agreed “to establish a working group to conduct a study on transparency in government procurement practices, taking into account national policies, and based on this study, to develop elements for inclusion in an appropriate agreement.” The decision does not specify that this must result in an agreement. It only commits Members to set up a working group to study the subject of transparency and, based on this study, to develop the elements to include in an appropriate agreement. It is thus important to discuss what an appro-

appropriate agreement, if any, should be like, from the perspective of the interests of developing countries and also their need for policy flexibility.

Before and at Doha, many developing countries put forward the view that they were not ready to negotiate an agreement on transparency in government procurement. However, these views were not adequately reflected in the Doha Declaration. As with the other Singapore issues, the Declaration (para 26) states that negotiations will take place after the Fifth Ministerial on the basis of a decision to be taken by explicit consensus on modalities of negotiations. Similarly with investment and competition, it is not clear that a decision has been made to negotiate an agreement, especially when account is taken of the Chairman's statement at the closing session at Doha.

The Declaration also states (in para 26) that negotiations will build on progress made in the working group on transparency in government procurement and take into account participants' development priorities. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers.

The study in the working group, and the agreement, is only mandated to cover transparency (and not the practices themselves), and this limited scope has been reaffirmed by the Doha Declaration. However, the major countries advocating this issue had made clear their ultimate goal to fully integrate the large worldwide government procurement market into the WTO rules and system. At present, WTO Members are allowed to exempt government procurement from WTO market access rules. The exceptions are those Members which have joined the WTO's plurilateral agreement on government procurement. Hardly any developing country is a member of this plurilateral agreement.

Since developing countries have found it unacceptable to integrate government procurement and its market access aspect into the WTO, the major developed countries devised the tactic of a two-stage process: firstly, to draw all Members into an agreement on transparency; and secondly, to then extend the scope from transparency to other areas (for example, due process) and then to the ultimate areas of market access, MFN and national treatment for foreign firms. This is clear from various papers that have been submitted to the WTO.

If the integration of procurement into the WTO eventually takes place (as is clearly the aim of developed countries), governments in future will not be allowed to give preferences to local companies for the supply of goods and services and for the granting of concessions for implementing projects. The effects on developing countries would be severe.

Government procurement and policies related to it have very important economic, social and even political roles in developing countries:

- The level of expenditure, and the attempt to direct the expenditure to locally produced materials, is a major macroeconomic instrument, especially during recessionary periods, to counter economic down-

turn.

- There can be national policies to give preference to local firms, suppliers and contractors, in order to boost the domestic economy and participation of locals in economic development and benefits.
- There can be specification that certain groups or communities, especially those that are under-represented in economic standing, be given preference.
- For procurement or concessions where foreign firms are invited to bid, there could be a preference to give the award to firms from particular countries (e.g., other developing countries or particular developed countries with which the procuring country has a special commercial or political relationship).
- Should government procurement be opened up through the national treatment and MFN principles, the scope and space for a government to use procurement as an instrument for development would be severely curtailed. For example:
 - If the foreign share increases, there would be a “leakage” in government attempts to boost the economy through increased spending during a downturn.
 - The ability to assist local companies and particular socioeconomic groups or ethnic communities would be seriously curtailed.
 - The ability to give preferences to certain foreign countries would similarly be curtailed.

Given the great importance of government procurement policy as an important tool required for economic and social development and nation-building, it is imperative that developing countries retain the right to have full autonomy and flexibility over their procurement policy. The attempts to draw this issue into the WTO are thus of grave concern.

Given the ambitions of the major countries, it is realistic to anticipate that following the establishment of an agreement on transparency, there will be strong pressures to extend its scope to also cover market access, or the rights of foreign companies to compete on a national-treatment basis for the procurement business. Thus, the discussions on “transparency” and on a “transparency agreement” should be seen in the light of the strategic objective of the majors to draw the developing countries into the real goal of market access and full integration of procurement practices. Therefore if there is an agreement on transparency, it is likely to be the start of a slippery slope that could lead, in years ahead, to a full market-access agreement.

Developing countries have yet to fully comprehend and appreciate the desirability, degree of appropriateness and implications of even a transparency agreement in the WTO, especially as to how it would affect social, economic and political development. This point should be made clear in the discussions in the working group. Some of the key issues of interest to developing countries which should be brought up in the forthcoming discussions are:

- Clarifying the definition and scope of “transparency” and ensuring that the elements to be agreed on do not go beyond “transparency.” Although the Doha Declaration specifies that the negotiations shall be limited to transparency aspects, the definition of “transparency” should be made clear and agreed to so that the exercise does not in any way transgress into the area of market access.

According to Das (2002), transparency means the availability of information on the rules and practices and also the final decisions, and may also include availability of information on tenders and specifications of products to be procured. “It must not include the areas of evaluation of offers, decision-making process and relief to the unsuccessful tenderers, as these are the elements of substantial decisions and not transparency. During the work in the Working Group in 1999, some major developed countries had placed proposals in this area which went much beyond transparency and tried to cover the area of decision-making. This type of effort should be resisted.” (Das 2002)

- The costs and practical requirements of administering and implementing even a transparency agreement. The resources and expenses as well as practical aspects of implementing a transparency agreement are likely to be prohibitive. The working group should arrange for an assessment to be made of any proposed agreement.
- Making use of the development perspective in deciding on the scope of coverage (e.g., the threshold of value of procurement, the type of procurement, the definition and level of government).
- Addressing the serious concern that introducing the subject, even in the limited transparency aspect, would lead step by step to market-access issues. This concern has to be adequately addressed first for there to be a reasonable degree of comfort to discuss transparency; what are the ways in which these concerns can be fully addressed?
- The issue should not be linked to the dispute settlement system in the WTO. The agreement, if any, should be in the form of non-binding guidelines and not a legally binding agreement.

Trade facilitation

As with the other Singapore issues, a decision on negotiations on this subject will be taken at the Fifth Ministerial. It is thus also not clear whether there will be negotiations towards an agreement on trade facilitation in the WTO. The Doha Declaration (para 27) states that until the Fifth Ministerial, the WTO Council for Trade in Goods shall review and as appropriate clarify and improve relevant aspects of Articles V, VIII and X of GATT 1994 and identify the trade facilitation needs and priorities of Members, particularly developing and least developed countries. [Article V is on freedom of transit, Article VIII is on fees and formalities connected with import

and export, and Article X is on publication and administration of trade regulations.]

Although the term “trade facilitation” may seem innocuous, the establishment of multilateral rules in this area may be disadvantageous to developing countries as they may find it difficult to adhere to the standards or procedures envisaged. According to Das (2002): “There are grave dangers involved in the potential agreements in this area if the proposals of the proponents are incorporated in the form of binding commitments. The main objective of the proponents is to have rules and procedures similar to theirs adopted by the developing countries. It ignores the wide difference in administrative, financial and human resources between the developed countries and developing countries. Also it does not give weightage to the wide difference in social and working environments.”

For example, it may be proposed that physical examination of goods by customs authorities should only be carried out in a small number of cases selected on a random basis, in order to improve the flow of goods through the customs barrier. But this increases the risk of avoidance of payment of adequate customs duties. Such a practice may be appropriate for the major developed countries where the chances of leakage are negligible, but it may not be appropriate for the developing countries where leakage is higher.

Das adds that clarification and improvement of the rules in these areas will add to the commitments of the developing countries in the WTO, adding new burdens, and may have adverse implications too. Negotiators at the WTO should obtain the input of the trade and customs administrative machinery so as to know the possible problems and adverse effects of proposals being put forward.

Developing countries should put forward the view that improvements in trade facilitation should be made through national efforts aided by technical assistance, rather than through imposing additional obligations in the WTO. If the consideration of the problems in these areas results in some solutions, these should, at best, be adopted only as guiding principles or as flexible best-endeavor provisions, not enforceable through the dispute settlement process (Das 2002).

Conclusions: Rethinking Trade Policy and Multilateral Trade System

Rethinking trade policy and the nature and timing of liberalization

Given the problems and imbalances in world trade, there is a need to rethink the dominant model of trade policy that has advocated across-the-board rapid liberalization for developing countries.

For a successful trade policy, a country has to “calibrate” and aim for balance between the two major aspects of trade, i.e., imports and exports. Many developing countries do not yet possess the factors required for sustained export growth. They face supply constraints. Moreover for many of them, their main exports are primary commodities, the prices of which have declined significantly through time. Also, market access for products of export interest to them still face serious market ac-

cess impediments.

Thus the export performance of many developing countries has not been good and in the short and medium term the prospects for their significant improvement are not bright. Yet they have been under pressure to rapidly liberalize their imports. If import liberalization proceeds while the conditions for successful export growth are not yet in place, there can be adverse results, such as increases in the trade deficit and balance-of-payments difficulties, which then add to the level of external debt and the debt-servicing burden, leading to retardation of economic growth and increased unemployment.

In the recent experience of many developing countries, trade liberalization can (and often does) cause imports to surge without a corresponding or correspondingly large increase in exports. UNCTAD's Trade and Development Report 1999 found that for developing countries (excluding China) the average trade deficit in the 1990s was higher than in the 1970s by 3 percentage points of GDP while the average growth rate was lower by 2 percentage points. Inappropriate trade liberalization contributed to this negative phenomenon. "It (trade liberalization) led to a sharp increase in their import propensity, but exports failed to keep pace, particularly where liberalization was a response to the failure to establish competitive industries behind high barriers."

Empirical evidence has shown that there is no straightforward correlation between trade liberalization and overall economic growth performance as measured by gross domestic product (GDP). For example, a 1994 UNCTAD study of 41 least developed countries over 10 years found "no clear and systematic association" between trade liberalization and devaluation, on the one hand, and the growth and diversification of output and growth of output and exports of the LDCs, on the other. In fact, it found that in many LDCs, trade liberalization had been accompanied by de-industrialization, and where exports expanded they were not always accompanied by the expansion of supply capacity (Shafaeddin 1994).

Disturbing evidence of post-1980 liberalization episodes in the African and Latin American regions has also been described by Buffie (2001: 190-91).

For example, Senegal experienced large job losses following liberalization in the late 1980s. By the early nineties, employment cuts had eliminated one-third of all manufacturing jobs. The chemical, textile, shoe and automobile assembly industries virtually collapsed in Cote d'Ivoire after tariffs were abruptly lowered by 40% in 1986. Similar problems have plagued liberalization attempts in Nigeria. In Sierra Leone, Zambia, Zaire, Uganda, Tanzania and the Sudan, liberalization in the eighties brought a tremendous surge in consumer imports and sharp cutbacks in foreign exchange available for purchases of intermediate inputs and capital goods, with devastating effects on industrial output and employment.

In Ghana, industrial sector employment plunged from 78,700 in 1987 to 28,000 in 1993 due mainly to the fact that "large swathes of the manufacturing sector had been devastated by import competition". Adjustment in the nineties has also been difficult for much of the manufacturing sector in Mozambique, Cameroon, Tanzania,

Malawi and Zambia. Import competition precipitated sharp contractions in output and employment in the short run, with many firms closing down operations entirely.

Some developing countries outside Africa have also experienced similar problems. According to Buffie (2001: 190): "Liberalization in the early nineties seems to have resulted in large job losses in the formal sector and a substantial worsening in underemployment in Peru, Nicaragua, Ecuador and Brazil. Nor is the evidence from other parts of Latin America particularly encouraging." The regional record suggests that the normal outcome is a sharp deterioration in income distribution, with no clear evidence that this shift is temporary in character.

It would be important to make a compilation of experiences in the Asia-Pacific region, especially of the countries with a weaker industrial base.

Trade liberalization should not be pursued automatically or rapidly, as an end in itself. Rather, what is important is the quality, timing, sequencing and scope of liberalization (especially import liberalization), and how the process is accompanied by (or preceded by) other factors. If conditions for success are not present yet in a country, then to proceed with import liberalization (or liberalization of services, including investments) can lead to negative results or even persistent recession.

Developing countries need adequate policy space and freedom to be able to choose between different options in relation to their trade policies. They must have the scope and flexibility to make strategic choices in trade policies and related policies in the areas of finance, investment and technology, in order to make decisions on the rate and scope of liberalization. This principle should be integrated into the WTO system of principles and rules.

Reorienting the WTO towards development as the main priority

The preamble to the Marrakesh Agreement Establishing the WTO recognizes the objective of sustainable development and also the need for positive efforts to ensure the developing countries secure a share in international trade growth commensurate with the needs of their economic development. However, in practice, development is not seen as a primary WTO objective; nor was it a primary purpose of the Uruguay Round or the Marrakesh Agreement.

In the preparation for the Doha Ministerial, many developing countries (in their own regional Ministerial conferences and in their statements at the WTO) strongly advocated that the WTO Ministerial Conference decide on reorienting the WTO in order to place development concerns at the center of its rules and work. Although the substance of the Doha Declaration has not been development-friendly (and is in many ways contrary to the interests of development), it does make the following statement: "The majority of WTO members are developing countries. We seek to place their needs and interests at the heart of the work programme adopted in this Declaration" (para 2). If we are to believe that the main objectives of the WTO are to promote the trade and development of developing countries, then the logical question to resolve is: what would it take to orient the WTO to become such a pro-

development organization?

The objective of development should become the overriding principle guiding the work of the WTO, whose rules and operations should be designed to produce development as the outcome. Since the developing countries form the majority of the WTO membership, their development should be the first and foremost concern of the WTO.

The test of a rule, proposal or policy being considered in the WTO should not be whether it is “trade-distorting” but whether it is “development-distorting.” Since development is the ultimate objective while reduction of trade barriers is only a means, the need to avoid development distortions should have primacy over the avoidance of trade distortion. So-called “trade distortions” could in some circumstances constitute a necessary condition for meeting development objectives. From this perspective, the prevention of development-distorting rules, measures, policies and approaches should be the overriding concern of the WTO.

The reorientation of the WTO towards this perspective and approach is essential if there is to be progress towards a fair and balanced multilateral trading system with more benefits rather than costs for developing countries. Such a reorientation would make the rules and judgment of future proposals more in line with empirical reality and practical necessities.

Taking this approach, the goal for developing countries would be to attain “appropriate liberalization” rather than “maximum liberalization.”

The rules of the WTO should be reviewed to screen out those that are “development-distorting”. And a decision could be made that, at the least, developing countries be exempted from being obliged to follow rules or measures that prevent them from meeting their development objectives. These exemptions can be on the basis of special and differential treatment.

Reconsidering the introduction of the proposed “new issues” into the WTO

It is argued above that there is a need to rethink trade liberalization and to reorient the WTO towards development objectives. These require reforms to the existing WTO system. Before such reforms are implemented, it would be counter-productive to introduce yet more “new issues” into the WTO which would further burden the developing countries with inappropriate obligations and which would make the system even more imbalanced. There should thus be a consideration of the proposed new issues from a development perspective.

The proposals for bringing in new issues (the Singapore issues, especially investment, competition and transparency in government procurement; and environmental and social standards) are inappropriate for the following reasons:

- The WTO is a multilateral trade organization that makes and enforces rules. It should stick to its mandate for dealing with trade issues.

- Principles (such as transparency, national treatment) and operations that were created for a regime dealing with trade issues may not be suitable when applied to non-trade issues.
- The “new issues” are not trade issues and do not belong in the WTO. If these are to be discussed internationally, other, more appropriate venues should be found for them. If they are nevertheless brought into the WTO, they will lead to a distortion and possibly to a destabilization of the multilateral trade system, to the detriment of world trade.
- The major proponents are seeking to bring non-trade issues into the WTO not because this would strengthen the trade system, but because the WTO has a strong enforcement mechanism (its dispute settlement system with the remedy of trade sanctions). Thus, if developing countries are members to agreements lodged in the WTO, there is the strong possibility of their compliance. However, the “contamination” of a system created for trade issues with non-trade issues may cause serious damage to the WTO. Moreover, the fact that developing countries are likely to comply with binding rules backed by a strong enforcement mechanism does not necessarily mean that the outcome is appropriate. If the rules are inappropriate, then the fact that they are binding and complied with would actually worsen an inappropriate outcome.
- If these non-trade issues are brought into the WTO, and WTO principles as interpreted by developed countries are applied to them, developing countries will be at a serious disadvantage, and would lose a great deal of their policy flexibility and the ability to make national policies of their own.
- During the Uruguay Round, the developed countries already brought in new issues: intellectual property, services and investment measures. These agreements (TRIPS, GATS and TRIMs respectively) are already causing many serious problems, giving rise to the implementation issues.

Prof. Jagdish Bhagwati, the renowned trade economist and advisor to the GATT Director-General Arthur Dunkel during the Uruguay Round, has commented in the Financial Times that it was a mistake to have introduced intellectual property into the WTO as it is not a trade issue, has distorted the trade system and has been non-reciprocal. Most patents belong to developed countries and the developing countries have had to bear the high costs of royalty payment. He also noted that the TRIPS Agreement should be taken out of the WTO. The lesson should be learned from the inappropriate introduction of non-trade issues in the Uruguay Round, so that this is not repeated.

- Even without the “new issues”, the present agenda of the WTO is very full and indeed already overloaded. It includes implementation issues, the built-in agenda of agriculture and services negotia-

tions and the mandated reviews of the TRIPS and TRIMs Agreements, the many other items of the post-Doha programme and the routine work of the many committees, the trade reviews, and the dispute cases. Introducing new issues into the WTO will make the overload much worse, and distract from the other work of the WTO dealing with trade and other existing issues as listed above. Developing countries do not have the manpower and financial resources to cope with negotiations on new issues as well as the other items on the agenda.

The WTO should therefore be limited in scope to dealing with trade issues which have a legitimate place within a system of multilateral trade rules. These rules and the system must primarily be designed or redesigned to benefit developing countries, which form the majority of the WTO membership. There is at present no system for determining if or how new issues are brought into the WTO. Such a system should be established. Issues to be brought under the competence of the WTO should meet certain criteria, such as that:

- The issue is a trade issue appropriate for a system of multilateral trade rules.
- The WTO is the appropriate venue, and there are no venues that are more appropriate.
- The issue is sufficiently “mature” in that Members have an understanding of it and how it relates to the WTO and to their interests.
- If brought into the WTO, the issue (and how it will be interpreted) will clearly be in the interests of developing countries, which constitute the majority of the membership.
- There must be a consensus of all Members that the issue should be brought in, and on how it should be brought in. And this should be a genuine consensus based on a full understanding by Members, all of which should be allowed to participate fully in the decision-making process in Geneva and at the Ministerial Conference itself.

Rethinking the scope of the WTO’s mandate and the role of other agencies

It is misleading to equate the WTO with the “multilateral trading system”, as is often done in many discussions. In fact the WTO is both less than and more than the global trade system. There are key issues regarding world trade that the WTO is not seriously concerned with, including the trends and problems of the terms of trade of its Members, and the problems in primary commodity markets (including low commodity prices). On the other hand, the WTO has become deeply involved in domestic policy issues such as intellectual property laws, domestic investment and subsidy policies. There are also proposals to bring in other non-trade issues including labor and environment standards.

The WTO and its predecessor, the GATT, have evolved trade principles (such as non-discrimination, MFN and national treatment) that were derived in the context

of trade in goods. It is by no means assured or agreed that the application of the same principles to areas outside of trade would lead to positive outcomes. Indeed, the incorporation of non-trade issues into the WTO system could distort the work of the WTO itself and the multilateral trading system.

Therefore, a fundamental rethinking of the mandate and scope of the WTO is required. Firstly, issues that are not trade issues should not be introduced in the WTO as subjects for rules. This rule should apply at least until the question of the appropriateness and criteria of proposed issues are dealt with satisfactorily in a systemic manner.

Secondly, a review should be made of the issues that are currently in the WTO to determine whether the WTO is indeed the appropriate venue for them. Prominent trade economists, such as Prof. Jagdish Bhagwati and Prof. TN Srinivasan, have concluded that it was a mistake to have incorporated intellectual property as an issue in the Uruguay Round and in the WTO. There should be a serious consideration, starting with the mandated review process, of transferring the TRIPS Agreement from the WTO to a more suitable forum.

Within its traditional ambit of trade in goods, the WTO should reorient its primary operational objectives and principles towards development, as elaborated in the sections above. The imbalances in the agreements relating to goods should be ironed out, with the “rebalancing” designed to meet the development needs of developing countries and to be more in line with the realities of the liberalization and development processes.

With these changes, the WTO could better play its role in the designing and maintenance of fair rules for trade, and thus contribute towards a balanced, predictable international trading system which is designed to produce and promote development.

The WTO, reformed along the lines above, should then be seen as a key component of the international trading system, coexisting with, complementing and co-operating with other organizations. And together the WTO and these other organizations would operate within the framework of the trading system.

Other critical trade issues should be dealt with by other organizations, which should be given the mandate, support and resources to carry out their tasks effectively. These other issues should include:

- assisting developing countries to build their capacity for production, marketing, distribution and trade;
- the need for monitoring and stabilizing commodity markets, with a view to ensuring reasonable prices and earnings for commodity-producing developing countries;
- addressing the restrictive business and trade practices of transnational corporations that hamper the ability of smaller firms to engage in production and trade;
- addressing the problems of low commodity prices and developing

countries' terms of trade.

These issues can be dealt with by various UN bodies, especially a revitalized UNCTAD.

Transparency and participation in the WTO system

The Doha Conference and its preparatory process have also raised again the issue of transparency and the limited ability of developing countries to participate in decision-making in the WTO. Although the developing countries prepared themselves well and played an active role in making their views known at the WTO meetings and consultations in Geneva, their views were not reflected properly (and in some areas not at all) in the several drafts of the Ministerial Declaration that were produced in Geneva and subsequently at Doha.

Although the contents of the last Geneva draft were heavily disputed by many developing countries, it was nevertheless transmitted without change and in a form that did not incorporate the various diverging views and options, thus placing the dissenting developing countries at a grave disadvantage. The biases in the process in favor of developed countries, and the disadvantage at which developing countries have been placed in the negotiations, have caused exasperation and frustration among the delegations of several developing countries, as well as among many non-governmental organizations and social movements which witnessed the events and the processes.

Promises have been made many times (notably at the Singapore Ministerial Conference and after the Seattle Ministerial Conference), by the developed countries and by the management of the WTO Secretariat, to do away with untransparent and selective processes such as the exclusive "Green Room" meetings, and to ensure greater participation of developing-country Members. But the unsatisfactory procedures and methods used before and at Doha have made clear that the situation is even less satisfactory than ever and thus there is an imperative for reform in the decision-making processes and procedures of the WTO. Until this is undertaken, it is unlikely that the developing countries' efforts to improve their position and promote their interests in the WTO and in the multilateral trading system will bear fruit.❖

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