

**FINAL REPORT TO DFID**

**SOCIAL SCIENCE RESEARCH UNIT**

**PROJECT R7628**

**'LINKING THE WTO TO THE POVERTY-REDUCTION AGENDA'**

**PROJECT COORDINATOR:**

**ROB JENKINS**  
**(BIRKBECK COLLEGE, UNIVERSITY OF LONDON)**  
[R.JENKINS@BBK.AC.UK](mailto:R.JENKINS@BBK.AC.UK)

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## Introduction

This report consists of five Sections: (1) Background and Objectives; (2) Methods; (3) Summary of Key Policy-Relevant Findings; (4) Dissemination Strategy; and (5) Publication Highlights.

The main body of the report is followed by three Appendices: (I) Note on Methodologies; (II) Details of Dissemination Activities by Core Members of Project Team; and (III) Overview of Written Outputs.

## Background and Objectives

For the purpose of summarizing the policy-relevant research findings, the five original components of this project have been grouped under three headings:

1. *The Domestic Politics of Trade Policymaking*. This was a component in itself, and consisted of case studies from two countries:

- India: case studies on AoA/agriculture, TRIPS/pharmaceuticals, and ATC/textiles;
- South Africa: case studies on AoA/agriculture, TRIPS/pharmaceuticals, and GATS/financial services.

Objective: This component sought to assess the influence of political variables on the way in which governments take issues of poverty and equity into account when formulating 'trade policy'. This encompassed a range sector-specific issues, and generated a large number of detailed research findings, most of which cannot be reported in this summary. The report focuses on those policy-relevant findings that can most readily be applied to DFID's activities in support of governance reform.

2. *Reforms to WTO Institutional Mechanisms*. This consisted of two components, covering:

- The Trade Policy Review Mechanism (TPRM);
- The Dispute Settlement Mechanism (DSM).

Objective: These examined proposed reforms to WTO procedures, but from a perspective that brought these studies into close alignment with the concerns of component No. 1: reform proposals were assessed in light of their ability not only to place intergovernmental relations (ie, *between* rich and poor member-states) on a more equitable footing, but also to harness the ability of domestic political systems (ie, *within* states) to promote increased attention to the poverty and equity-related dimensions of trade policy.

3. *The WTO and rights*. This also consisted of two components:

- An analysis of the potential threats posed by GATS negotiations to the capacity of poor people to exercise their right of access to water.
- An analysis of the means by which labour rights can be realized in the WTO era.

Objective: These studies were originally designed to examine two WTO agreements in the making. Neither, however, has yet assumed legal form. The highly contentious GATS negotiations on various 'public' services continue, though whether (and to what extent) the

final agreement will extend to 'water-related' services remains unclear. This study therefore examined whether the likely legal provisions of an agreement on water services would be sufficient to safeguard the ability of member-states to protect the water-access rights of poor people. The study on child labour was originally conceived as an analysis of how a trade-sanctions-based regime administered through the WTO might operate in practice. But given that the necessary degree of intergovernmental consensus for a WTO-based regime did not emerge, the research team instead evaluated the strengths and weaknesses of an existing non-sanctions-based labour standards approach.

### Relation to DFID's Current Approach to Governance

Before summarizing the ways in which our findings might inform DFID 'policy and practice', it is worth noting that many (though not all) of these points are structured around three key elements of DFID's current approach to issues of governance:

- i) The effort (initiated by senior DFID staff, and carried on by a number of the newly formed groups within DFID's Policy Division, particularly the 'Drivers of Change' Team) to build increased capacity amongst country field staff (and others) in the area of 'political analysis'.<sup>1</sup>
- ii) The desire to promote greater 'coherence' between various aspects of DFID's work: such as the need to ensure consistency between the objectives of trade policy and sectoral policy, and the need to link reform of multilateral institutions to reform of domestic political institutions.<sup>2</sup>
- iii) The emphasis on assisting the development of policymaking processes that are more participatory in nature and more focussed on issues of equity and poverty.<sup>3</sup>

### **Methods**

Each of the components of the project followed a research methodology appropriate to the questions it addressed. See **Annexe I** (below), which outlines the approach to methodology for each of the three research components.

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<sup>1</sup> See Sue Unsworth, 'Understanding Pro-Poor Change: A Discussion Paper' (DFID, Sept 2001); 'Understanding Incentives and Capacity for Poverty Reduction: What Should Donors Do Differently?' (DFID, Apr 2002); 'Better Government for Poverty Reduction: More Effective Partnership for Change' (DFID, forthcoming). See also 'The Significance of Understanding Political Capacity for Reducing Poverty' (Governance Department, 2002), and DFID Policy Division, 'What does Drivers of Change mean for DFID? A Draft Approach Paper', (8 August 2003).

<sup>2</sup> See for instance, the presentation by Mark George (Trade Policy Analyst, DFID) at the 'Trade Policy and Poverty Reduction Workshop' (January 18, 2001), organised by the Economic Policies Division of the Canadian International Development Agency, which noted that a key issue for DFID was 'the lack of coherence between bilateral, regional and multilateral negotiations' and that in response 'DFID has been mainstreaming poverty into the UK's trade policymaking process, through its participation in the Cabinet Trade Policy Group, and also by targetting the European Commission, which is responsible for EU trade policy'. For an earlier statement, see David Batt (DFID), 'Ensuring Coherence in Global Economic Policy-Making', Part IV of the 'Trade and Investment' presentation at the ODI, 18 March 1998.

<sup>3</sup> This commitment is found in several areas of DFID's work, particularly its support for participatory processes connected to the formulation of PRSPs in a number of countries. The DFID-funded analytical work undertaken to accompany this commitment is consolidated in the PRSP Monitoring and Synthesis Project based at the Overseas Development Institute, London. See <http://www.prspsynthesis.org/>.

While much of the research necessarily involved an examination of economic issues, the purpose was for the most part *not* to determine precisely which policies would produce the best economic outcomes for the poor – an approach that would have required econometric analysis. Instead, bearing in mind that there are serious differences of opinion concerning the potential impact of specific policies on poverty, the objective was focussed on understanding the political and institutional factors that might facilitate or inhibit the realization of pro-poor outcomes.

## Summary of Key Policy-Relevant Findings

- I. The domestic politics of trade policymaking. In addition to a range of sector-specific findings (detailed in the sectoral outputs listed in Appendix III), the studies in this component of the project highlighted two recommendations of relevance to DFID's strategy for promoting pro-poor governance:
  1. The existence of the WTO requires donor agencies and their development partners to reconceive 'trade' policymaking in at least three ways.
    - a) First, donors must recognize the extent to which, in a number of sectors, the 'multilateralization of policymaking' – in which member-states are bound by WTO disciplines – introduces new elements into the politics of domestic policymaking processes. This has implications for how poverty/equity-related considerations enter the political agenda. For instance, the way in which economic interests and advocacy groups pursue policy agendas is influenced by the close association of certain policies with the WTO. Farmers lobbies, for example, may attack cuts in agricultural subsidies not merely on the grounds that these harm their interests, or are bad for the poor, but also because they represent 'a capitulation to imperialist forces.' The framing of domestic policy debates as north-south issues helps to reduce the prospects for the emergence of a policymaking process that can promote measured discussion of the *distributional* implications of subsidy regimes. Whether existing subsidy programmes provide equity to different categories of farmers (or even consumers) – the type of question which a poverty-focussed policy process should address – is obscured by the political dynamic which results from the public association of agricultural subsidy issues with the WTO.
    - b) Second, while remaining attentive to the political dynamics outlined above, donors should refrain from regarding too many aspects of policy making to have become 'multilateralised'. Even in sectors where WTO disciplines are extensive, member-states retain considerable latitude, within the terms of various Agreements, to make crucial policy decisions. Decisions with a bearing on issues of poverty and equity can get neglected as public attention focuses on questions dominating the multilateral negotiating agenda. For instance, our study of the relationship between domestic politics and the WTO Agreement on Textiles and Clothing makes clear that the Government of India must make crucial policy decisions that will affect the capacity of its textile industry to adapt to a new market environment. The focus on allegations that northern countries have failed to adhere to the spirit of their commitments under the ATC have, until recently, diverted attention from the many crucial policy and institutional issues that must be addressed – such as the relative taxation burdens faced by various segments of the textile industry, the promotion of improved quality, and the creation of mechanisms to cushion displaced workers from the adverse effects of market adjustment.

- c) Third, it is as important for donors to examine in detail the structure and lobbying strategies of the *non-poor* – such as industry associations – as it is to grasp the workings of NGOs and activist organisations working on behalf of the poor. For instance, our study of the Indian pharmaceutical sector (and the implications of the TRIPs agreement for continued access by poor people to medicines at affordable prices) indicated the role played by the structure of the pharmaceutical industry in making possible a WTO-compliant domestic policy regime that is more advantageous (or less disadvantageous, depending on one's perspective) to the poor. This was because the configuration of producer groups had led to the creation of rival business associations, the conflict between which muted the effective voice of those groups most closely aligned with multinational firms (and most opposed to the continuation of price controls).
2. The Indian and South African cases suggest that, when seeking to support reforms to policymaking processes, donors should take account of key institutional differences between the political systems of WTO member-states. Two institutional variations examined in our research deserve particular attention:

a) *The structure of their consultative processes.*

While, as stated in concluding our brief note on methods (above), there is no consensus on which combination of 'trade' policies (that is, including related sector policies) will most effectively reduce poverty, it is nevertheless true that issues of distributional equity were far more prevalent – and considered in much more detail – in the South African system of policy consultation on trade matters. South Africa's neo-corporatist institution, NEDLAC, provides a structured forum within which the implications of policy options can be discussed in a sustained and detailed fashion. These are based on a much greater degree of transparency than is found in the Indian case: many (though not all) South African government position papers and submissions to Geneva-based bodies are shared with stakeholders participating in the NEDLAC Trade and Industry Chamber. This degree of transparency facilitates a more evidence-based form of policy deliberation. One of the benefits was to make more apparent to domestic stakeholders the options facing South African government negotiators in Geneva. It also furnished an opportunity for government officials to set forth the trade-offs that had informed its initial negotiating strategy as well as subsequent revisions to negotiating strategies. For instance, in the NEDLAC proceedings, the government was able to make the case to farmers' organisations that adhering to existing AoA tariff-reduction commitments (indeed, reducing tariffs more quickly than required by the provisions of the AoA) would strengthen the government's position as it built a coalition with other developing country member-states to press for an opening of European and North American markets.

This structured approach to consultation contrasted quite sharply with the Indian case, where trade policymaking was a far more closed process. The project paper by Sen argued that many of the lessons from India's failure to evolve a domestic consensus-building process during the Uruguay Round have not been learnt during the WTO era, and are coming back to haunt India as the post-Doha process continues. While consultative forums have been constituted by the government – in some cases including prominent critics of the WTO (such as environmental activist Vandana Shiva) – the process has been overwhelmingly ad hoc: procedures for deliberation have been left vague; access by non-governmental stakeholders to relevant government information has been uneven at best; and links to relevant line ministries has been perfunctory. While the Indian consultative process has been reformed more recently, and doubts have been raised about the tendency for South Africa's NEDLAC structures to shut

out important voices among the poor, the broad conclusion remains that there are considerable advantages to building a process around participatory institutions that have statutory authority.

b) *The nature of their federal systems.*

The second institutional variable to which donors must pay attention is the nature of central-provincial relations. Both of our case study countries are federal democracies, but South Africa's form of federalism is far more centralized. South African provinces have almost no tax-raising powers, and very few responsibilities assigned to them under the post-apartheid constitution, whereas India's states have independent sources of revenue and the Indian constitution contains three distinct lists of responsibilities: those that are under the control of the central government, those that are in the remit of the states, and those that are shared (the 'concurrent list'). While the formal division of powers is not always respected in practice – with usurpation of states' rights by the central government a constant complaint of state governments (especially those ruled by parties that are in opposition in New Delhi) – states provide an additional channel through which civil society organisations of many types manage to get a voice in national policy deliberations. This is particularly true in policy areas constitutionally assigned to the states, such as agriculture. There is no guarantee that provinces in a federal system that make representations within policymaking processes coordinated by the central government will do so in ways that are necessarily pro-poor.

But, in India at least, there are examples of vulnerable producer groups that are too small to have an effective voice at the national level, but are regionally concentrated enough within one or two states to pressure their state governments to lobby New Delhi to protect their interests. One project paper that has already been published in a refereed journal,<sup>4</sup> discussed the case of smallholder tea growers in the south Indian state of Tamil Nadu who used their state government as a conduit to policymakers in New Delhi. The result was that the central government took compensatory action (of the sort which WTO agreements permit) in order to shield these groups from drastic shocks that would threaten their livelihoods. In other cases, groups of vulnerable producers (such as small-scale cultivators of groundnuts in Andhra Pradesh, coconuts in Kerala and raw-silk in Karnataka) managed to obtain relief from their *state* governments. To a substantial degree, what India lacked by virtue of its ad hoc consultative process (compared to South Africa's neo-corporatist model) it made up for by the ability of its decentralised form of federalism to create additional points of policy access.

Donor agencies seeking to assist the development of pro-poor policymaking processes – even on issues subjected to multilateral disciplines – would do well to consider carefully the potential role of subnational political units within federal systems as a site for the articulation of interests. When designing a consultative framework that could incorporate subnational bodies, however, donors should take careful note of at least two things:

- i) *Existing practice* – especially the experience of federations that have formally included provinces into their processes for negotiating multilateral agreements. In Canada's case, for instance, oil and timber interests were instrumental in pressing the federal government to accept less stringent environmental provisions in multilateral agreements.
- ii) *The practical reality of federal politics* in the country concerned, and not simply the formal legal division of powers between central and provincial governments. In India, state governments that have been able to lobby the centre for measures to protect the poor from

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<sup>4</sup> Rob Jenkins, 'How Federalism Influences India's Domestic Politics of WTO Engagement (And Is Itself Affected in the Process)', *Asian Survey* (University of California Press), Vol. 43, No. 4, pp. 598-621.

trade-related shocks – such as additional allocations of foodgrain under the country's Public Distribution System (PDS) – have tended to be those, such as the Government of Andhra Pradesh, which participate in the ruling coalition government in New Delhi. A formal consultative process that acknowledged the potential for these forms of favouritism might stand a better chance of mitigating them.

## II. Reforms to WTO Institutional Mechanisms.

1. *The TPRM.* Three key findings emerged from the three outputs from this study.

- a. *Expanding the remit of the Geneva-based TPR to address poverty issues is not immediately feasible, but small changes to the reporting formats could be an important first step to increasing the TPRM's poverty orientation.*

Incorporating poverty concerns into a more broadly framed TPR process – a position widely advocated by civil society organisations – would be perceived, particularly by developing countries, as a further intrusion on their sovereignty. Without fundamental changes in the format of Geneva TPR meetings and in the expertise of participants, simply broadening the scope of the TPR is unlikely to produce the desired outcomes. Until pro-poor positions are better articulated *within* countries, it is unrealistic to focus on poverty concerns in the Geneva Review, which in any case is oriented towards improving transparency *between* member-states not within them.

As an interim measure, DFID should recommend (to the Committee on Trade and Development and the Trade Policy Review Body of the WTO's General Council) that a small number of nationally identified trade-related poverty indicators be inserted into members' TPR Reports. There is sufficient flexibility in the Report format to allow this. Some countries already incorporate poverty-related information in their Reports, but this is not compulsory. To demonstrate good faith, EU countries should take the initiative by inserting such indicators in their individual national Reports.

- b. *Donors should provide assistance to poor countries to re-orient TPR processes to a domestic audience.*

The Geneva-based Review is only one part of the TPRM. There is also a domestic transparency component, which at present is not obligatory. A first step towards strengthening the accountability of trade policy to the poor is to improve domestic transparency within member-states. Donors should channel trade-related capacity-building funds to support a domestic TPR in select poor countries – possibly through the Integrated Framework or the Joint Integrated Technical Assistance Programme (JITAP). The objectives would be to:

- widen domestic debate on WTO concerns;
- facilitate informed discussion about the role of trade in government PRSPs.
- provide a basis for accountability to the poor on trade matters;

Our research in Kenya revealed that flower workers lack the level of awareness of the WTO that is required to participate in national Trade or PRSP consultative committees. Moreover, a recent ODI report on the relationship between trade policy and PRSPs concluded that

'whereas loans almost invariably still establish conditions for trade liberalisation, PRSPs, with few exceptions, neglect trade policy.... There is thus asymmetry between these innovatory poverty-focused policies and IFI loan financing.' The report recommends 'improving the trade content of the poverty analysis in PRSPs'.<sup>5</sup> The promotion of a domestic transparency component of the TPR process could help to support such an effort.

The precise form of a Domestic TPR (DTPR) could be determined by individual member-states. However, our research suggests that its explicit aims should be to:

- increase understanding among the poor of the implications of WTO agreements for domestic policies, and to highlight in particular areas in which the member-states have flexibility – for instance, commitments to *average* tariff reductions across a range of products allow governments to protect selected vulnerable groups; and
  - highlight aspects of WTO Agreements that are intended to be pro-poor, such as Green Box subsidies, and provisions in various agreements for Special and Differential Treatment;
- c. *To foster an effective DTPR, donors should (i) support efforts that build on existing institutions and practices and (ii) ensure that trade-related support for pro-poor industries includes all stakeholders, including men and women workers, owners, managers.*

Rather than creating new organisations, a DTPR process will be more viable if it grows out of existing institutions and practices. An example of practical ways to foster poverty and trade linkages is to focus on export industries in poor countries. For example, recent discussions in Kenya between government representatives, horticulture producers, horticultural labourers, Kenyan NGOs, democratic trade unions and the Kenyan Human Rights Commission have sought to help producers to export agricultural products, but with safeguards for labourers. These linkages between pro-poor agencies and those with commercial export interests provide a good example of an on-going process that could easily feed into a DTPR process. Similar initiatives are underway in Malawi, South Africa, and Sri Lanka.

Donors cannot assume that networking in stakeholder organisations is not gender biased. Flower workers in Kenya had virtually no exposure to the dissemination of information under the auspices of the National WTO Committee, part of the JITAP initiative. Our findings suggest that in order to reach poor groups, capacity-building for trade must be tailored to the needs and interests of particular stakeholders. It is often academics and private sector producers and traders who engage most meaningfully in WTO-related debates under the auspices of the National WTO Committee. The poor, who are not linked into well-connected civil society organisations, are left out.

## 2. *The Dispute Settlement Mechanism*

This study assessed ways of furthering DFID's commitment, as expressed in para 236 (p 70) of the 2000 White Paper ('Eliminating World Poverty: Making Globalisation Work for the Poor'), to assist the capacity of 'poor countries...to exercise their rights, on more equal terms' within the DSM. DFID has already taken steps in this regard by helping to establish the 'Advisory Centre on WTO Law', but this is widely seen as inadequate. DFID and other donors must also target the DSM in particular when pressing 'for special and differential provisions to be real and binding'

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<sup>5</sup> Adrian Hewitt and Ian Gillson, 'A Review of the Trade and Poverty Content in PRSPs and Loan-Related Documents', Overseas Development Institute, London, 2003.



(para 238). In other words, rather than simply using the dispute procedure to adjudicate on the *applicability* of existing S&DT provisions, new S&DT provisions should be devised that would apply to the operation of the DSM *itself*.

The research findings indicate that the most promising DSM reform measures (which, if built on S&DT principles, would apply *only* to cases in which one of the parties was an LDC/developing country and the other was in the developed category) include:

- a. *Involving domestic political institutions in the north in the initiation of dispute procedures against developing and LDC member-states, and the enforcement of rulings in these cases.*

Most proposals for DSM reform focus on involving non-governmental actors in the process by which Panels and the Appellate Body assess the claims made by disputing parties. Two cases gave particular prominence to this reform proposal. The first was the 'Shrimp Turtle' case, in which the Panel considered, in formulating its Report, submissions by non-governmental experts. The second case was the complaint by Canada against France, which had banned imports of chrysotile asbestos on health and safety grounds. The Appellate Body in the Asbestos case initially invited concerned parties to submit *amicus curae* briefs, but once submitted, the AB disallowed them.

The most widely circulated reform proposal is to negotiate an amendment to Article 13 of the Dispute Settlement Understanding (or to support an Interpretive Declaration) that would formally entitle Panels to accept legal submissions (and other forms of information) from non-disputing parties (including NGOs). Discussions with a wide range of developing country actors (including southern NGO representatives as well as member-state delegations) revealed that such a proposal would face stiff resistance. Developing and LDC member-states fear that northern NGOs (many with more resources than small developing countries) will have undue influence over the dispute proceedings, and that this will work to their detriment.

Our research suggests that proposals to open up the *multilateral* dispute procedure would be more favourably received if they were combined with measures to open up to *domestic* scrutiny (in developed countries) the process by which these countries bring complaints to the DSM. Domestic scrutiny procedures, which would include a time-bound fact-finding and reporting process involving non-governmental experts, would place the governments of developed member-states under increased pressure (from domestic public opinion) to pursue only those disputes in which the developing or LDC 'target' member-state:

- had received fair treatment by the developed member-state contemplating initiation of a dispute, in terms of meeting its reciprocal obligations, respecting SD&T provisions, etc.;
- had been provided sufficient resources to mount a legal defense of the trade measures that were the source of the complaint; and
- was capable of withstanding the proposed retaliatory actions contemplated by the complainant without there being negative impacts on the poor.

- b. *Restructuring the Terms of Compliance/Retaliation.*

Currently, most developing and LDC member-states are disadvantaged in terms of their ability to compel compliance by developed member-states with their WTO commitments. Though there are several reasons for this – not least their lack of legal and administrative capacity – a

major cause for concern is the bilateral nature of enforcement. The only way for a member-state to enforce a Panel decision that has found violation by another member-state (in the absence of that state's voluntary compliance with the actions specified in the Panel report) is to impose retaliatory sanctions – that is, to withdraw trade access. When a developing or LDC member-state has its complaint upheld, but nevertheless has a small domestic market, the lack of access to which is not a priority for the developed member-state against whom a Panel report has ruled, the developing country or LDC deemed by the Panel to have suffered 'nullification or impairment of benefit' has little leverage to enforce compliance on the part of its richer trading partners.

Among the many proposals that might help to rectify this problem – and have been discussed at various times (informally and in more formal contexts) by member-states, multilateral agencies and NGOs – two are particularly worth pursuing, sharing as they do one crucial feature: they address the most commonly voiced concern about proposed reforms to the DSM – the fear of increased protectionism. Officials in the WTO secretariat, as well as developed country member-states, while acknowledging the shortcomings of the existing system, worry that greater leverage for developing countries would mean more retaliation, and therefore a de facto de-liberalisation of trade. Thus, in order to build consensus, DFID should focus on three types of reforms specifically designed to ensure that there is no net increase in retaliatory sanctions:

- i. *Increased Access to Developed Country Markets as Penalty*: Rather than a developing or LDC member-state obtaining (as a result of a Panel ruling) the right to withdraw trade access (that is, to abrogate the principle of non-discrimination), the proposal is to force the offending developed member-state (whose trade measures have been found by a Panel report to have violated treaty provisions) to *reduce* tariff barriers to member-states that had initiated the dispute in question. Which sectors would receive *additional* tariff reductions could be left to the Appellate Body, in consultation with the complaining member-state, to decide. Experts interviewed for this project, however, have noted that the additional relief would need to amount to more than the estimated loss arising from the original violation, in order to create a positive incentive for compliance. There is also the possibility that access to these reduced tariff barriers in the developed member-state concerned could be made available to ALL developing and/or LDC member-states, rather than only to those that had initiated the dispute.
- ii. *Suspension from DSM Usage*: The second reform proposal that uses a non-trade-sanctions approach recommends that *developed* country member-states that fail to comply with a Panel ruling be prohibited from initiating a new dispute against *any* member-state (developed or developing). This proposal, it is felt (most notably by European country WTO delegates who have experienced first hand the difficulty of establishing an effective WTO Advisory Centre), would act as a serious disincentive to developed member-states who might otherwise consider it acceptable to suffer the (not-very-serious) consequences of retaliatory trade sanctions by much smaller developing and LDC member-states.
- iii. *Move toward Monetary Penalties*: Developed member-states found by Panels to be in violation of their commitments (in cases brought by developing or LDC member-states) should be liable, in some instances, to pay monetary damages rather than to suffer trade sanctions. The advantages of this approach, in addition to halting the spiral of protectionist retaliation, is to focus public opinion generally in the penalized developed member-states on the costs of non-compliance (rather than relying on discontent among sectoral interests adversely affected by the retaliatory sanctions imposed). An alternative version of this proposal is to have a portion of the monetary fine paid over to the Advisory Centre on WTO

Law. Monetary compensation already features in other aspects of WTO rules (such as with respect to special safeguards), and is also a feature of other (non-WTO) trade treaties.

### III. The WTO and the Promotion of Rights

#### 1. *GATS and Water*. Seven key findings emerged from this study

- a. *De jure*, the GATS framework, within which sectoral commitments such as water-related services are negotiated, *does* (as its defenders insist) furnish developing countries flexibility to impose regulatory requirements that would protect the interests of the poor. However, developing countries face *de facto* constraints on their capacity to avail of this flexibility. In practice, obtaining the latitude required to impose pro-poor safeguards demands an enormous degree of administrative capacity and foresight by GATS signatories. But over-stretched developing country negotiators often lack detailed knowledge of legal and technical matters. Furthermore, developing countries can also be subjected to bilateral pressure from rich countries that may force them to respond positively to a negotiating request.
- b. There is a tremendous ambiguity in the GATS. For example, Article 1:3 (b), (c) mentions the exemption of services provided in the exercise of governmental authority. This is defined as services supplied 'neither on a commercial basis, nor in competition with one or more service suppliers.' It is unclear whether this exception would be interpreted to apply to services such as water delivery for domestic purposes. This and other ambiguities (regarding subsidies and the possibility of subjecting national regulation to 'necessity tests') may serve to erode the *de facto* autonomy of developing country governments.
- c. The social, technical and economic assessments of the potential impacts of GATS have been inadequate. Water-related services are currently not included in the GATS 'services sectoral classification list.' However, the EU has expressed an interest in re-classifying 'environmental services' to include domestic water services. Until sufficient social and technical assessments have been conducted on the potential impact of GATS-led liberalisation on poor people's wellbeing and rights, this re-classification should not be undertaken.
- d. The research suggests that the universal provision of water services often requires explicit safety-net regulation, based on the provision of direct subsidies to poor consumers. There is, however, a high degree of ambiguity about the permissibility of subsidies. Article XV states that in some cases subsidies may have distortive effects on trade in services. Donors need to ensure that any future GATS disciplines allow for the use of subsidies in cases where market failures make this the best instrument for achieving legitimate social objectives.
- e. LDCs should not be asked to dismantle limitations made to commitments undertaken in previous rounds of GATS negotiations since this would render GATS processes virtually irreversible in practice, though in theory modifications are possible.
- f. GATS agreements have involved close alliances between corporations and northern governments. To make future agreements more pro-poor, donors must ensure that their trade advisory committees consult not only with corporations but also with civil society groups and poor constituencies in both the north and south.
- g. Developing country trade ministries must ensure that decisions to make offers or respond to requests are made in a transparent manner and after a series of public consultations at the

national *and* sub-national levels. Our findings suggest that requests from members are usually made public as a result of leaks, rather than as part of deliberative processes.

2. Non-Sanctions-based Labour Standards. This study, which examined the RUGMARK scheme in Nepal (which targets child labour in the carpet-weaving sector), identified four key policy-relevant findings.
  - a. *Certification-based schemes alone are insufficient to raise living standards of poor households in developing countries.*

Sustained increases in living standards are possible only when labelling is accompanied by education and health initiatives for rescued children. Even then, there is little return to a short period of schooling. Analyses of household data collected for this study suggest that incomes decline after rescue and rehabilitation of child labourers, even as the children improve their access to schooling and healthcare. Financial constraints that often limit the period of support to rescued child labourers have serious welfare consequences because the children, once they become adults, are unable to complete their education or vocational training. They revert to unskilled and low-paying jobs, thereby perpetuating poverty. There is a payoff only if a certain level of qualification or skill attainment is reached.

- b. *Labeling schemes should be extended to all product categories with an attempt to ‘nationalize’ the debate on labour standards.*

In their eagerness to label their products and increase exports manufacturers often simply remove children from the production process. Driven by poverty, they shift either (a) to less visible sectors (e.g. from carpets to handicrafts), (b) across the production chain (e.g. from weaving to spinning), or (c) into the informal sector, where conditions are more exploitative. At present, there is little nation-wide recognition in Nepal of the importance of labour standards, which are seen as purely a sector-specific response to international consumer preferences. Sector-specific approaches, however, always contain the possibility of avoidance of standards via defecting producers or seepage of labour into other sectors.

- c. *Lost child income should be compensated through a range of subsidies such as mid-day meals for children attending school, income support to parents of school-going children for school uniforms and books, etc.*

Governments and donors should provide income support to convince parents that schooling is beneficial. Otherwise, the impacts on both children and their families can be detrimental.

- d. *An effective state regulation mechanism, assisted by NGOs, should be established for implementation of various labour legislations.*

Most countries possess a plethora of laws for curbing hazardous and exploitative forms of child labour. These often fail to produce the desired results because of limitations in successful implementation. Including NGOs in the regulatory framework could make a difference.

## Dissemination Strategy

The project involved a large array of dissemination activities. These are listed in full, disaggregated by study/researcher, in **Annexe II** (below). Two general features of the dissemination strategy are noted here.

1. First, rather than holding a project workshop that would invite policymakers to learn of the project's findings, the research team pursued a strategy in which lead researchers on specific thematic studies brought their findings directly to as many relevant policy constituencies as possible. This involved, in some cases, participation in formal events organised by institutions such as UNCTAD (for the TPRM study of component no. 2, for instance). But it also took the form of researchers arranging, in addition to presentations to academic audiences, small group meetings with key officials, civil society representatives, and government officials.
2. Second, in addition to many discussions with donor agencies, the research team targeted agencies of developing country governments themselves. This was a feature, for instance, of the dissemination programmes of the India- and South Africa-based researchers under 'the domestic politics of trade policymaking' component. Not only did these researchers discuss results with government organisations in their own countries, but a programme of 'exchange visits' (with the lead South African researcher visiting India, and the lead Indian researcher visiting South Africa) involved a process of 'south-south' policy learning that generated a substantial amount of follow up activity between government officials (and private sector associations) and these two researchers.

## Publication Highlights

A full list of written outputs from this project is compiled in **Annexe III**, below. All of the completed papers – a few are still in process – are posted as working papers on the project webpage of the Globalization and Poverty Research Programme website ([www.gapresearch.org/governance/wto.html](http://www.gapresearch.org/governance/wto.html)). Two papers have already been accepted for publication in refereed journals – one having already appeared. A number of others have either been submitted to refereed journals or are in the process of being submitted. Several of the outputs are being assembled as an edited collection, *Domestic Politics and the WTO*, and will be peer reviewed by external referees assigned by the publisher (Macmillan/Palgrave). In addition, two members of the research team published timely articles addressed to a wider audience in *The Guardian*.

## Annexe I

### Note on Methodologies

Each of the components of the project followed a research methodology appropriate to the questions it addressed. The predominant form of investigation was the detailed case-study method, based mainly on the collection of qualitative information.

Each of the studies in the *domestic politics of trade policymaking* component involved interviews with key informants in the relevant country and sector – including government officials, business associations, NGOs, and other stakeholders, as well as knowledgeable observers such as (where relevant) donor representatives, trade lawyers, journalists and academic experts. These sources also supplied a good deal of documentation on the issues covered, which was supplemented by press accounts, government reports, policy statements and advocacy literature. Pertinent quantitative data was also collected where necessary.

The studies in the *Reform of WTO Institutional Mechanisms* component involved interviews in Geneva with WTO officials, representatives of member-state delegations, trade policy researchers and decision-makers in other relevant intergovernmental organisations (particularly the ILO and UNCTAD), and civil society leaders. Desk work included scrutiny of such documents as Dispute Settlement Panel and Appellate Panel reports, legal analyses of evolving WTO jurisprudence, country submissions to the Trade Policy Review Body, and position papers from NGOs (such as the International Confederation of Free Trade Unions) that advocated specific reform proposals.

The first of the two studies in *The WTO and Rights* component – on GATS and water – involved similar methods. In addition, experts on water privatisation were consulted so that existing case-study evidence could be used as an analytical guide in the assessment of the potential impacts of further WTO-administered liberalisation to the water-services sector. For the labour rights study, in addition to the interview-based approach, and a review of the relevant literature, members of the research team carried out a survey into the impact of certain standards-based regimes on household welfare.

## Annexe II

### Details of Dissemination Activities by Core Members of Project Team

#### Keshab Das

- Discussed findings of the India case of the TRIPS/Pharmaceuticals study with senior civil servants of the Government of India's Ministries of Commerce and Petroleum and Chemicals. The issues of inter-ministerial coordination in the policy process were the focus.
- Stakeholders, such as the Indian Drug Manufacturers' Association, the Federation of Indian Chambers of Commerce and Industry and individual enterprises were consulted concerning findings related to the role of the central and state governments in facilitating adaptation to the amendments to the Indian Patent Act, as well as to international quality standards.
- Discussions were held with academics and civil society representatives from Research Information Systems, Jawaharlal Nehru University, Indira Gandhi Institute of Development Research, the National Working Group on Patent Laws, and the Consumer Unity and Trust Society regarding the viability of reformed policymaking process.

#### Errol D'Souza

- Dissemination of the findings of the India Textiles/ATC case study took place mainly during 30 June – 8 July 2003 in Johannesburg, Pretoria, Durban, and Cape Town.
  - ◆ In Johannesburg, the Centre for Development Studies, University of Witwatersrand organized a seminar where a paper was presented on "The WTO and The Politics of Textiles - India's Experiment with Industrial Upgradation". This was attended by academics, policy makers from the Department of Trade and Industry of the South African government, and representatives of labour unions (including from the National Labour & Economic Development Institute).
  - ◆ In Pretoria, the project researcher discussed the findings of the India-based study with the sector managers of the Department of Trade and Industry, Mr. Sake van der Wal and Ms. Shireen Osman (Managers, Textiles and Clothing) and Mr. Moloko Leshaba (Manager, Leather and Footwear). This focussed on the impact of globalization on the textile industries in India and South Africa and the policy responses in the face of interest group pressure from industry associations and labour unions. In the course of the discussion many parallels between the situations in the two countries were identified and the different policy responses mapped out in the context of the specifics in these regions. The prospects for investments from the Indian textile and garment industries in South Africa were assessed on the basis of the industrial upgradation process that is underway in India. Specifically, Indian firms are becoming part of a triangulation process where foreign buyers are placing orders with them and the Indian firms in turn are shifting production to an offshore factory from where the finished goods are shipped directly to the foreign buyer. As part of this process South Africa can gain from Indian firms setting up production facilities there. I have put the Department of Trade and Industry and the South African Consulate Trade Officer in Mumbai, Mr. Alexander Shaun, in touch with the industry associations in India and the banks that lend to the large textile groups. A promotion

drive by the South African Ministry is being set up to take place sometime by the end of this year.

- ◆ In Durban the project researcher discussed the findings with academics from the School of Development Studies, University of Natal, who have worked on the textile sector in South Africa. Dr. Myriam Velia (who has authored many articles and conducted a number of research projects on the textiles sector), Prof. Frances Lund (who works on the WIEGO project on poverty), and Mr. Justin Barnes (who is a Consultant to the Export Council on Textiles) discussed the relevance of the India findings for their work with the Department of Trade and Industry. They expressed their willingness, in future meetings with the government, to emphasize the lessons that South Africa can learn from the Indian experience of protecting the poor during the process of adapting to the new competitive pressures facing the textile and garments industry.

- ◆ In Cape Town a seminar presentation was delivered at the School of Economics, Faculty of Commerce, University of Cape Town, on the findings of the project. The project researcher also discussed some of the equity implications with the faculty and researchers there. As some of the faculty work closely with the Export Council Textiles and Export Council Clothing and its Director, Jack Kipling, they found some of the findings of the project to be useful for the strategies they are trying to evolve for the sector during the current phase of globalization. The discussions in the seminar focused on the implications of the India-based research for labour issues affecting South Africa: the proposal by industry associations to link wages to productivity rather than to prices; the search for flexibility in labour laws, especially the treatment of overtime wages; and the petitioning of government for the banning of work stoppages and strikes. It was felt that industry associations and government have much to learn from the Government of India's handling of these issues.

- In India dissemination took place, in addition to regular faculty seminars at the Indian Institute of Management (Ahmedabad), at seminars and industry meetings:

- ◆ At the "Afro-Asian Textile and Apparel Congress" organized in March 2003 in Mumbai by KSA Technopak the research findings were discussed with representatives of industry associations (such as the Indian Cotton Mills Federation), government policy makers (such as the Secretary in the Ministry of Textiles), and CEOs of textile and garment firms in India.

- ◆ The Nodal Centre for Upgradation of Textile Education at the Indian Institute of Technology, Delhi, held a seminar on the WTO and the Indian textile industry in May 2002 at the PHD Chamber of Commerce & Industry, Delhi, where the project researcher discussed strategies for adapting policy frameworks to quota-free markets.

### Barbara Evers

- *Overseas Development Institute, London, October 2001*

- ◆ Presentation on the prospects for reform of the Trade Policy Review Mechanism in the ODI Autumn Seminar Series – attended by officials from DFID, NGOs such as Christian Aid and senior trade policy analysts from the ODI.

- *Brussels, European Commission, DG Trade, 30 November 2001*

- ◆ Presentations based on the Trade Policy Review research to two separate meetings at the European Commission with senior officials from DG Trade.



- The first meeting, on Gender and Trade, was chaired by Ditte Yuul Jorgensen, the EU Trade Negotiator in Doha, and was attended by senior DG Trade economists and NGOs including Women in Development Europe (WIDE), Solidar, European Women's Lobby, One World Action (UK), KULU (Denmark), Berne Declaration (Switzerland).
- The second meeting, on Sustainability Impact Assessments, was chaired by Robert Madelin, DG Trade, European Commission, and was attended by senior colleagues in DG Trade, the Union of Industrial Employers Confederation of Europe, consultants from IDPM, Manchester and the Swedish Environmental Institute, where were commissioned by the EC to undertake the SIA study.
- *UNCTAD Civil Society Dialogue on Selected Critical Development Issues Being Addressed by the United Nations System, Geneva, 10 December 2001*
  - ◆ Presented findings in the seminar discussions and briefed the meeting on the research being undertaken. Among those attending were Mr Rubens Ricupero, Secretary General of UNCTAD, Ms Gloria-Veronica Koch, Chief, Civil Society Outreach UNCTAD, Mr. K. Sauvant, Senior Trade Economist, UNCTAD, Director of the Centre for Policy Dialogue, Bangladesh, Focus on the Global South, Thailand, South Asia Watch on Trade, Economics and Environment, World Trade Institute, Oxfam International, International Confederation of Free Trade Unions (ICFTU), Consumer Unity and Trust Society, Senegal Embassy, Director, Policy and International Labour Standards, World Confederation of Labour.
- *Overseas Development Institute and London School of Economics (DESTIN) Seminar Series, May 2002*
  - ◆ Presented findings from the Kenya case study in a paper entitled "Linking the Trade and Poverty Agendas: The Trade Policy Review Mechanism". Attending were senior academics, trade policy advisors and officials from DFID. Researchers were from ODI, LSE and NGOs, including Cafod, ActionAid and Consumers International.
- *Kenya, WTO Committee on Environment and Trade Seminar, Nairobi, 28 June 2002*
  - ◆ Presented a synthesis of research on the Trade Policy Review Mechanism and prospects for improving domestic transparency to members of the WTO Committee on Environment and Trade. Among those attending were officials from Kenya's Department of Industry and Ministry of Agriculture, and the Fresh Produce Exporters Association of Kenya (FPEAK).
- *China, UNIFEM/UNDP, Beijing, 29-30 November 2002*
  - ◆ Presentation to this high-level meeting organized by UNDP/UNIFEM on the work of the Globalisation and Poverty Programme, and drew specifically on her analysis of the prospects for reform of the Trade Policy Review Mechanism. Attending the meeting were senior Chinese academics, senior government economists from the Ministries of Trade and Agriculture, representatives of the World Bank, UNDP and UNIFEM. Trade experts from the ILO, CIDA, JICA, FAO, the National Consultants from Women's Research Institute, Centre for Chinese Agricultural Policy, Chinese Academy of Sciences, WTO experts from MOFTEC, and the media.
- *DFID, 1 Palace Street, London, 4 October 2002*

- ◆ Presented findings of research on TPRM to a meeting at DFID with Charlotte Heath, Social Development Advisor working on the Integrated Framework, and Cedrik Schurich, Economist, International Trade Department, working on the Joint Integrated Technical Assistance Programme (JITAP).
- *University of Manchester, Development Studies Seminar, 11 February 2003*
  - Presentation on “Voices of the Poor in Trade Policy” to a meeting of UK and international academics which drew on policy-oriented research findings. Attending the seminar were academic staff including Colin Kirkpatrick, Director of the Sustainability Impact Assessment Centre, IDPM senior economists, political scientists from the University of Manchester and an international audience of students and visiting scholars.

### Stephen Gelb

- *Presentations in India:* As part of the exchange visits between the lead researchers from India and South Africa (see point no. 2 in the section on ‘Dissemination Strategy in the main body of the report), presentations were made at:
  - ◆ Indian Institute of Management, Ahmedabad
  - ◆ Indian Development Foundation (affiliated to Confederation of Indian Industry), Delhi
  - ◆ Centre for Economic Studies and Planning, Jawaharlal Nehru University, Delhi
  - ◆ National Council for Applied Economic Research, Delhi
  - ◆ Economics Department, University of Mumbai
  - ◆ Indira Gandhi Institute of Development Research, Mumbai
  - ◆ Bombay Chamber of Commerce & Industry, Mumbai
- *Discussions and small group meetings in South Africa* at which research findings were shared included the following persons:
  - ◆ Chief Executive, Pharmaceutical Manufacturer’s Association (northern manufacturers’ lobbying group for South Africa)
  - ◆ Chairperson, National Association of Pharmaceutical Manufacturers (SA – and more recently Indian – firms’ lobby group)
  - ◆ Vice President, Pharmaceutical Society of South Africa (lobby group of dispensing pharmacists)
  - ◆ Inspectorate Unit Manager, Medicines Control Council (regulator)
  - ◆ Senior executives, Roche Pharmaceuticals, Boeringer Ingelheim (European companies with SA operations)
  - ◆ Senior executives, Aspen Pharmacare (second-largest SA generics producer)

- ◆ Officials of Congress of SA Trade Unions and its affiliate CEPWAWU (Chemical, Energy, Paper, Printing Wood & Allied Workers Union)
- ◆ General Secretary & Legal Advisor of Treatment Action Campaign (TAC), major civil society group in SA involved in HIV/AIDS social action
- ◆ Democratic Alliance (official opposition) Parliamentary spokesperson on trade & industry
- ◆ Former Department of Trade & Industry official responsible for pharmaceutical sector
- ◆ Chairperson, Competition Tribunal (statutory body)

### Rob Jenkins

- Presented a paper entitled [India and the Trade-and-Labour-Standards Controversy](#) (pdf file-94KB) at a conference on "India at the Start of the 21st Century" at the University of Lisbon (March 2001), attended by both academics and officials of the governments of Portugal and India.
- Presentation entitled [Where Domestic Politics Meets the WTO: The Case of Indian Agricultural Trade Policy](#) (pdf file-69KB) to the LSE/ODI Seminar Series, 15 May 2002. This was based on preliminary findings.
- Presentation entitled [Making WTO Agreements More Advantageous to the Poor: 'Targeted Autonomy' and Improved Domestic Policymaking Processes](#) (pdf file-73KB) to pre-Doha ODI meeting "Making the WTO more responsive to the interests of developing countries" held on 2 October 2001. Attendees included members of DFID, NGOs, and private sector associations.
- Presentation on 'WTO-related accountability failures' to preparatory meetings for the UNDP *Human Development Report* 2002, which included donor, academic, and non-governmental representatives. Meetings on 5 June, 3 August, and 6 Nov 2001.
- Interview on BBC Radio 4 relating to the politics of Dispute Settlement at the WTO, 22 August 2001.
- October 2001: At the request of the Trade Policy Team of DFID's International Trade Department, reviewed advance copies of speeches and op-ed articles written under the Secretary of State's name for the Indian press in the run up to the Doha meeting. Prepared written comments and recommendations.
- Presented a paper based on findings from the research at a conference (17-19 February 2003) convened at the India International Centre in New Delhi by the University of Pennsylvania's Centre for the Advanced Study of India – funded by the Konrad Adenauer Foundation.
- Discussed viability of competing DSM reform proposals with representatives of WTO member-state delegations, officials of the WTO, UNCTAD and ILO, and NGOs (including CEIL and ICTSD), February 12-13 2001.
- Discussed preliminary findings with India country director and programme officers of ActionAid at informal meetings in New Delhi and Hyderabad, February 2002.
- Presented a brief overview of the findings from component no. 1 of the project to a meeting of DFID Policy Division's 'Drivers of Change' Team, 29 May 2003.

- Presentation (22-23 April 2003) on the labour standards component of the project at a workshop on 'Bridging the Divide' at the Carnegie Endowment for International Peace, Washington DC, involving members of the US Government, NGO representatives, officials of the International Confederation of Free Trade Unions, the AFL-CIO, Social Accountability International, and other relevant stakeholder groups.
- Invited to present findings from project component no. 1 to a panel on 'Strengthening Private Sector Associations' at a Phom Penn workshop on 'Trade Capacity Building' organised by the OECD Development Co-operation Directorate, the Cambodian Ministry of Commerce, the United Nations Economic and Social Commission for Asia and Pacific, and UNDP Cambodia, 2-3 December 2003.

### Lyla Mehta

- *Presentation of findings at conferences:*
  - ◆ Presented a paper on GATS and the right to water at the annual conference of the Science and Democracy Network held at the John F. Kennedy School of Government, Harvard University, Cambridge, MA. The meeting included academics from European, North American, Japanese and Indian universities.
  - ◆ Participated in a Globalisation and Poverty Programme workshop organised at DFID attended by DFID officials, UK academics, representatives from NGOs (such as CAFOD) and the print media (such as Larry Elliot of *The Guardian*).
- *Dissemination to the popular media*
  - ◆ Drew on findings of GATS research for an opinion piece published in *The Guardian* (Monday March 17 2003) 'Activists tapping into water row'.
  - ◆ Findings of GATS research disseminated through radio interviews on the politics of water with the BBC world service (march 2003) and Radio Austria International (October 2002).
- *Meetings with high-level policy makers*
  - ◆ Presented research findings at a meeting in Geneva with Sudhakar Dalela and Sumanta Chowdhury, of India's permanent mission in Geneva. These concerned how GATS-driven liberalisation processes were different from those caused by structural adjustment and IMF processes.
  - ◆ Presented findings to Robert Archer of the International Council on Human Rights Policy and Simon Walker of the Office of the High Commissioner on Human Rights concerning how WTO rulings could be more compatible with states' human rights commitments.
  - ◆ Discussions with Ann-Mary Redmond and Nathalie Chaze of the Permanent Delegation of the European Commission concerning developing country perceptions of EU-led requests in GATS.
  - ◆ Presented research findings to Mr Toufique Rahman and Ambassador Dr Toufiq Ali on the potential implications of water liberalisation under GATS for poor people's access to water in a meeting held at the Permanent Mission of Bangladesh, Geneva.

- ◆ Research findings discussed at a meeting with Mireille Cossy of the WTO Secretariat in Geneva.
- ◆ Presented research findings regarding the potential implication of GATS for South Africa's free and basic water policy to F. Ismail, Head of Delegation to the WTO and to Mr Klobus du Plooy at the DTI in Pretoria.

### Raghav Narsalay

- February, March 2003: Meetings with Manmohan Singh, former Finance Minister and Leader of the Opposition, Rajya Sabha (upper chamber of the Indian parliament) on the issue of possible liberalization commitments of India in the area of water services as a part of GATS "request-offer" approach. Research team has been regularly following up with Dr Singh and sending him written inputs.
- February 10, 2003: Delivered a lecture on "Water Sector Privatization: Local, National and International Debates" at the St. Pious College for social activists and local groups from Mumbai. The objective of this lecture was to provide activists with an understanding of the possible impacts of GATS.
- February 13, 2003: Delivered a lecture on "Privatization of Public Services: Some Critical Issues" in an event organized by Mumbai Grahak Panchayat, one of the largest consumer organizations in India. Event included representatives from the Maharashtra Economic Development Council and the Municipal Corporation of Greater Mumbai. Research team followed up with written submissions to Mr. Ranadive of the Municipal Corporation on its privatization policy.
- March 10, 2003: Spoke on the issue, "Unravelling the Politics of the ADB in India" organized by Coalition of Peoples Movement in Madhya Pradesh at Bhopal. The object of this meeting was to engage with representatives of grassroots groups in Madhya Pradesh on their understanding of the ADB in the state particularly concerning the politics of the ADB surrounding issues of privatization.
- March 2003: Attended an interaction with Pascal Lamy organized by the Delegation of the European Commission, New Delhi, concerning the European Union's position on liberalisation of water services through the GATS.
- July 8-9, 2003: Spoke at a seminar organized by major social movements and trade unions (such as the National Alliance of Peoples Movements, All India Trade Union Congress, CITU, IFTU, etc) on the issue of the possible impacts of liberalization of public services under the GATS regime. This involved a presentation on the relationship between GATS and discussions on investment at the WTO.
- Met with officials from the Ministry of Commerce and have sent briefing notes to the Indian Ambassador to the WTO on critical issues concerning services and investment.

### Saurabh Sinha and Bhaskar Sharma

- Sinha discussed the findings of the child labour rights component of the research project at the Nepal Rugmark Foundation (NRF), Kathmandu in June 2003 to provide feedback to NRF on the research findings.

- Sinha made a presentation on the preliminary results of the component 'International Labour Standards and Living Standards of Poor Households' at GTZ, Nepal in May 2003. The meeting was attended by representatives of ILO, UNICEF, Child Workers in Nepal Concerned Centre (CWIN), and GTZ Nepal.
- Sharma (Research Assistant) discussed the findings of the research project with the Coordinator of Nepal's Accession to the WTO to analyse possible implications for child labour in Nepal's carpet sector after Nepal's accession to the WTO.

## Annexe III

### Overview of Written Outputs

#### 1. *The Domestic Politics of Trade Policymaking.*

[The Domestic Politics of TRIPS: Pharmaceutical Interests, Public Health, and NGO Influence in India](#) (268 KB) by Keshab Das. This paper examines some of the political implications of the coming into force, in 2004, of provisions of the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). It argues that these will have serious implications for India's pharmaceutical industry, as well as for the political environment within which pro-poor policy change can be effected.

[The WTO and the Politics of Reform in India's Textile Sector: From Inefficient Redistribution to Industrial Upgradation](#) (pdf file 236 KB) by Errol D'Souza. This paper examines the dynamics of domestic interest-group politics, as these are affected by impending changes to WTO rules concerning the textile sector. Issues of concern to the poor are mainly related to future employment trends and the impact of competitive pressures on labour policy.

[Lessons Not Learned: India's Trade Policymaking Process from Uruguay to Doha](#) (pdf file 241KB) by Julius Sen. This paper argues that India's largely ineffectual performance in the Uruguay Round of global trade negotiations could, in theory, have spurred a thorough reform of the country's approach to multilateral policy-making processes – but did not. The paper outlines the reasons why this did not happen, and some of the implications for the trade policymaking process.

[The Limits to the Constituent Diplomacy Paradigm: India's States and the Making of Foreign Economic Policy](#), by Rob Jenkins is forthcoming in [Publius: The Journal of Federalism](#). The paper examines, among other things, the lack of access (by vulnerable groups seeking representation through their provincial governments) to WTO-related domestic processes (including not just the formulation of negotiating mandates, but also issues related to anti-dumping investigations, special safeguards and the TPR process). [Abstract](#) available (pdf file-82KB).

[How Federalism Influences India's Domestic Politics of WTO Engagement \(And Is Itself Affected in the Process\)](#) by Rob Jenkins, published in the peer-reviewed [Asian Survey](#) (University of California Press). Vol 43, No. 4 (2003), pp. 598-621. This paper addresses the literature on how domestic institutional structures affect the way in which key political and economic actors perceive the multilateral commitments entered into by their governments, and also examines the impact of domestic politics of the evolution of these institutions. [Summary available](#) (pdf file-40KB).

[Wake up and smell the coffee, Oxfam](#). Article published in *The Guardian* by Rob Jenkins. Monday October 7 2002. Further information on the larger debate can be found at *The Guardian's* [Fair Trade Special Report](#) site.

[The Domestic Politics of Agricultural Trade Policymaking in South Africa](#) by Aaron Griffiths. This paper concerns the interface between South Africa's domestic politics and the WTO in order to illuminate the complex political context within which pro-poor policies might be pursued. The paper analyses key influences on the shape of South Africa's agricultural 'trade' policies, which in the WTO-era includes not just tariff levels and other conventional policy instruments. Three broad sources of influence on agricultural trade policy are considered: those emanating from (a) domestic interest-group pressure, (b) the institutional structure of the South African state, and (c) the nature of the international political environment within which South African policymakers must operate.

## **2. Reforms to WTO Institutional Mechanisms.**

[Linking Trade and Poverty: Reinventing the Trade Policy Review Mechanism](#) (189 KB) by Barbara Evers. This paper considers the WTO's Trade Policy Review Mechanism (TPRM) as a possible entry point for bringing a pro-poor dimension to trade policy and practice. It provides a summary of the Trade Policy Review Mechanism and critically reviews calls for its reform.

[Trade Policy in the Cut Flower Industry in Kenya](#) (pdf file 208KB) and [Figure 1](#) (pdf file 102KB) by Mary Magdalene Opondo. This paper outlines the individuals/institutions that participate in the horticultural trade policy formulation process to determine how gender-inclusive it is and to identify potential entry points for women's voices to be incorporated.

[Gender, International Trade and the Trade Policy Review Mechanism: Conceptual Reference Points for UNCTAD](#) (pdf file-83KB) by Barbara Evers. Published in UNCTAD, *UNCTAD-Civil Society Dialogue on Selected Development Issues Being Addressed by the United Nations System: Papers Prepared in Support of the Issues Discussed* (Geneva: United Nations, December 2002, UNCTAD/ISS/Misc. 385), pp 194-201. This paper examines the capacity of developing countries to participate in the WTO – with particular reference to the TPRM – and to benefit from new trade rules and globalisation in general from a gender perspective.

## **3. The WTO and rights.**

[Is the WTO After Your Water? The General Agreement on Trade and Services \(GATS\) and the Basic Right to Water](#) (pdf file 279 KB) by Lyla Mehta and Birgit La Cour Madsen. This paper investigates controversies surrounding efforts to liberalise domestic water-related services under the auspices of the World Trade Organisation's (WTO) GATS (General Agreement on Trade in Services) framework. In particular, it examines the potential implications for poor people's right to water.

[Who Controls Rights Over Water in an Unfolding GATS Regime? A Case Study of India](#) (pdf file-397KB) by Raghav Narsalay. This paper seeks to understand the implications of the evolving GATS trading regime on water rights in the Indian context. Starting from a historical perspective, it analyses the official Indian position on GATS, as well as the role of the drivers of water privatisation and the activists that oppose it.

[International Labour Standards and Living Standards of Poor Households - How do they Relate? A Case Study of Rugmark, Nepal](#) (309 KB) by Saurabh Sinha and Bhaskar Sharma. This paper examines the contribution of non-WTO-enforced labour standards to workers' welfare. It analyses whether, and if so under what conditions, the implementation of the Rugmark label certification scheme helps poor households in Nepal's carpet sector to raise their living standards.

[Activists tapping into water row.](#) Article published in *The Guardian* by Lyla Mehta. Monday, March 17 2003.

[Of Human Rights and Corporate Wrongs: Why Global Labour and Environmental Standards are not a North-South Issue](#) (pdf file-132 KB) by Rob Jenkins.

[India and the Trade-and-Labour-Standards Controversy](#) (pdf file-94KB) by Rob Jenkins. This paper outlines the key concerns of developing concerns such as India, which if addressed by developed



member-states could facilitate the emergence of a consensus on including trade-related labour standards issues within the WTO framework.

#### 4. **Further Publication Plans.**

- Rob Jenkins has received a positive statement of interest in an edited volume based on a selection of the project papers from the coordinator of the International Political Economy Series at Macmillan/Palgrave. The papers for the edited volume, tentatively entitled *Domestic Politics and the WTO*, will be submitted for peer review by external referees assigned by the publisher.
- Mehta is exploring with ID21 the possibilities of bringing out a special issue of *INSIGHTS: Development Research* on the politics of GATS and water.
- The paper, 'Is the WTO After Your water?' is being revised for submission to a peer-reviewed journal – most likely either *World Development* or *Development and Change*.
- Mehta and Narslay are adapting their two individually written outputs for a co-authored article on GATS and water for an Indian audience, to be submitted to the Mumbai-based *Economic and Political Weekly*.
- 'The WTO and Democratic Accountability: The Case of the Dispute Settlement System' by Rob Jenkins is in process, and will be published in Arthur Benz and Yannis Papadopoulos (eds), *Democratic Legitimacy: Transnational, European and Multilevel Issues* (London: ECPR/Routledge, forthcoming).
- 'The Domestic Politics of TRIPS: Pharmaceutical Interests, Public Health and NGOs in South Africa' by Stephen Gelb is in process, and will be included in the edited volume noted above. This paper argues that TRIPS allows developing countries flexibility to pursue pro-poor policy – especially regarding access to cheaper drugs. This, however, depends not only on intellectual property policy, but also on complementary interventions via other industrial policy instruments, including competition and traditional trade (ie tariff) policy. Moreover, making use of this flexibility depends on whether developing countries can withstand pressure from developed country firms and governments. This requires cross-country alliances of state and non-state actors. The sustainability of pro-poor policy will depend in large part on longer-term trends in pharmaceutical R&D and manufacturing. In SA, supply-side measures to support domestic production of cheaper drugs are being established, partly in response to lobbying from domestic firms and civil society organisations. Maintaining pro-poor impact requires that domestic production increase.
- 'GATS, Financial Services and the Poor in South Africa' by Stephen Gelb is in process, and will be included in the edited volume noted above. It argues that for the SA financial services sector, GATS involved a formalisation and 'locking in' of the status quo – ie commitments to liberalisation already made in domestic policy and regulation. These commitments involved significant regulatory protection of the major domestic commercial banks and long-term insurance companies, but only limited protection of domestic firms in other market segments. This outcome reflected the lobbying power of the major domestic financial institutions. Foreign firms were restricted to corporate and upper-income markets in banking, and the limit on competition meant that financial services liberalisation was, in the short run, decidedly *anti-poor*. For a range of reasons connected more to the 'black economic empowerment' thrust of policy than any explicitly pro-poor arguments, financial institutions are now under pressure to widen access to their services to poor people, and it is possible that the industry will agree with

government on targets in this respect. It is hard to see how increased trade in financial services can directly widen access at the lower end of the market, though the latter should be a central plank of any pro-poor policy. By their very nature, the financial services required by poor people are less likely to be supplied by financial institutions seeking to operate transnationally. The policy conclusion therefore is that that GATS commitments in this sector are unlikely to promote pro-poor policy, as both domestic and foreign financial institutions focus on more lucrative market segments. Only a strengthening of domestic legislation and regulation can impact positively on the poor, and this depends more on domestic politics than on GATS and the WTO.