

CATALOGUE OF BRIEFING PAPERS

TRADE AND DEVELOPMENT

1995

1. GATT, Patent Laws and Implications for India (CUTS: No.2/1995)

A patent, according to the UN definition, is a legally enforceable right granted by a country's government to an inventor and other persons deriving their rights from the inventor for a limited number of years. At the same time, a patent excludes other persons from manufacturing, using or selling a patented product or utilising a patented method or process.

This Briefing Paper describes the background that has practically led to the sidetracking of other equally important issues, highlights the advantages and disadvantages of the unique patent protection set-up in India and suggests a way out of the imbroglio.

2. Social Clause in the GATT – A Boon or Bane for India (CUTS: No.3/1995)

In addition to the environmental clause, the demand for a social clause may turn out to be the most shackling clause in the new global agreement that seeks to promote international trade without barriers. Despite that, why has the proposed social clause kicked up so much dust in many of the world's leading capitals? Is there a hidden agenda behind the social clause?

This Briefing Paper traces the history of the social clause proposal, its advantages and disadvantages and also tries to explain why India and many other developing countries are opposed to its inclusion in trade matters.

3. Trade and Environment: The Inequitable Connection (CUTS: No.5/1995)

Trade and Environment! Is there any organic link between the two? Or, is environment just another pretext to increase the leverage of developed countries in determining the market access to developing nations?

This Briefing Paper discusses the background, the status and the implications of some of the potential issues that dominate the ongoing debate on trade and environment.

4. Anti-dumping Measures under GATT and Indian Law (CUTS: No.6/1995)

Dumping may be attractive to consumers in the short run, but in the long run, it has an adverse effect on the national economy. This practice is, however, widely condemned because of the unfair competition it represents.

This Briefing Paper examines the meaning of 'dumping'; when dumping takes place; the role of the GATT to prevent dumping; action suggested by India under anti-dumping legislation; and, finally, makes recommendations.

5. No Patents on Life Forms! (CUTS: No.8/1995)

The Agreement on TRIPs is the most controversial one in the GATT 1994. TRIPs covers seven issues, viz. copyrights, trademarks, geographical indications, industrial designs, patents, integrated circuits and trade secrets. Of this lot, it is patents, which have caused the most concern.

This Briefing Paper examines the existing debates on patents of life forms and what needs to be done to prevent this unethical exploitation.

1996

1. The Freezing Effect – Lack of Coherence in the New World Trade Order (CUTS: No.1/1996)

Even before the ink could dry on the texts of the various agreements under the GATT 1994, or the gains and losses could be reasonably assessed, several new trade issues have been loaded on a fatigued, incapacitated and bewildered South. These are environment, labour standards and investment. What the environmentalists and bureaucrats cannot see is that the bagful of new issues is causing a freezing effect on the South.

This Briefing Paper examines the incoherence of the new issues and places them in the context of a holistic view.

2. WTO: Beyond Singapore – The Need for Equity and Coherence (CUTS: No.12/1996)

Nearly two years after the new multilateral system came into being, as a consequence of the GATT/WTO, the members are calculating their gains and counting the losses. From initial reports, it appears that the LDCs are the worst losers. According to an estimate by the World Bank, they are expected to lose 0.7 percent of their incomes from international trade.

This Briefing Paper examines the current situation, looks at the road blocks ahead and argues for equity and coherence in the multilateral trading system, so as to create a win-win situation.

1997

1. The Uruguay Round, and Going Beyond Singapore (CUTS: No.1/1997)

The World Trade Organisation (WTO) came into being on 1st January 1995 as a successor to the General Agreement on Tariffs and Trade (GATT), 1947. The WTO is not a simple extension of the old GATT; it completely replaces its predecessor and has a very different character. The GATT was an agreement on rules for the conduct of international trade with a small secretariat, while the WTO encompasses the GATT, 1994 and several other agreements into a 'single undertaking'.

This Briefing Paper informs the reader about the basic facts on the WTO, and what happened, or did not happen, at Singapore.

2. Non-Tariff Barriers or Disguised Protectionism (CUTS: No.2/1997)

One of the most important objectives of establishing the GATT, 1947, was to achieve substantial reduction in tariffs and other trade barriers, i.e., the non-tariff barriers, and thus to secure a freer access to the markets.

This Briefing Paper examines various non-tariff barriers maintained by some countries, their impact on trade and how best they can be dealt with.

3. Anti-dumping Under the GATT – The Need for Vigilance by Exporters (CUTS: No.3/1997)

When the General Agreement on Tariffs and Trade (GATT) was drafted, it included provisions for imposing company-specific anti-dumping duties against price discrimination in import trade. The number of anti-dumping investigations being initiated is increasing day by day. More and more countries are using these measures to protect their domestic industry against dumped imports.

This Briefing Paper examines, in some detail, the anti-dumping provisions in the GATT (1994), of which little is known to many.

4. Subsidies and Countervailing Measures (CUTS: No.4/1997)

Subsidies may take various forms, from direct transfer of funds to waiver of taxes, grants of land or buildings, etc. Subsidisation has existed as an ancient practice, but it is only recently that serious attention has been paid to its trade-distorting effects.

This Briefing Paper deals with some of the main provisions of the Agreement on Subsidies and Countervailing Measures that came into effect from 01.01.1995

5. Textiles and Clothing – Who Gains, Who Loses and Why? (CITEE: No.5/1997)

After patents and agriculture, textiles and clothing is the murkiest drama on the stage of trade politics. Essential items of basic need, they both cover and decorate the human body and the living environment.

This Briefing Paper examines the history of the textiles and clothing trade, the debate on trade liberalisation and its impact on sustainable development and suggests steps to achieve the same.

6. Trade in Agriculture – Quest for Equality (CITEE: No.6/1997)

Agriculture is among the major sectors of the economy. It is an activity which takes care of one of the basic needs of life, i.e., food. With economic growth, the relative position of agriculture within the national economy changes considerably.

To reap the benefits of global (trade) integration, a set of agricultural exporting countries, both developing and developed, had adopted a proactive stance at the launch of the Uruguay Round, for gaining greater market access in the developed world. This Briefing Paper examines the various issues relating to trade in agriculture, market access and its impact on developing and least developed countries.

7. Trade in Services – Cul de Sac or the Road Ahead! (CITEE: No.7/1997)

With the progress of an economy, the importance of the services sector grows rapidly. Structural change in national income, with the services sector accounting for a major portion, is a sign of robust economic growth.

The Uruguay Round (UR) negotiations under the GATT added the new area of trade in services, and thus came the General Agreement on Trade in Services (GATS). This Briefing Paper examines various aspects of trade in services, particularly (proactively) analysing the strength and potential of developing countries.

8. TRIPs and Pharmaceuticals: Implications for India (CITEE: No.8/1997)

One of the seven intellectual properties covered under the Agreement on TRIPs is that of patents. This has been the contentious issue for several reasons. India is committed to amending its patent laws by the year 2005. The objective is to change the patent system, which, in turn, is supposed to facilitate the research and development activities within the country.

This Briefing Paper examines the issue of patents and their impact on the pharmaceutical industry in India and consumers.

9. Movement of Natural Persons under GATS: Problems and Prospects (CITEE: No.9/1997)

The Uruguay Round of the GATT negotiations encompassed a number of 'new' areas, like the GATS, TRIMS and TRIPs. While textiles, clothing and agriculture are old economic areas, they are 'new' to full GATT regulation. The developed countries pushed the 'new' economic areas, whereas the areas 'new' to the GATT regulation were pushed by the developing world.

This Briefing Paper analyses various issues regarding the movement of natural persons under the GATS framework. In particular, the issue of market access in the developed world is argued in detail.

1998

1. Tariff Escalation – A Tax on Sustainability (CITEE: No.1/1998)

Tariff Escalation is said to occur when relatively high rates of tariffs are applied to imports of processed commodities compared to those on unprocessed commodities or raw materials. The issue is whether the prevailing escalated tariff structure in most of the developed countries is in fact a hindrance to sustainable development, or not.

This Briefing Paper examines various issues regarding tariff escalation and argues that the removal of the same will lead to a win-win situation for both developing as well as developed countries.

2. TRIPs, Bio-technology and Global Competition (CITEE: No.2/1998)

The TRIPs provisions of the GATT Agreement, which deals with intellectual property rights (IPRs), have come under strong criticism for their effect on developing countries. The critics are particularly concerned that these provisions will hamper the development of agriculture in developing countries.

This Briefing Paper examines various issues of TRIPs and its impact on research in agricultural biotechnology and, particularly, from the viewpoints of global competition and technology acquisition by developing countries.

3. Trade Liberalisation, Market Access and Non-tariff Barriers (CITEE: No.4/1998)

In simple words, the term “market access” describes the extent to which a good or a service can compete with locally-made products in another market. In WTO terms, it is expressed through broader measures, i.e., tariff and non-tariff measures in the case of goods and regulations inside the market in the case of services and IPRs.

This Briefing Paper provides a broad view of the degree of market access that has been made available and the various barriers to trade that remain in one or other form.

4. Trade, Labour, Global Competition and the Social Clause (CITEE: No.5/1998)

The social clause debate comprises of an economic argument and a moral argument. The forces lined up in favour of the social clause have often mixed up their economies and their politics. However, the economists studying the issue have fairly conclusively established that there is a relatively small link between import competition and unemployment.

This Briefing Paper is an abridged version of a research report with the same title, which attempts to tread the path between these “straw man” positions and to draw together evidence, theory and practical experience of the social clause.

5. Trade Liberalisation and Food Security (CITEE: No.6/1998)

Food security is a complex issue. There is production (the supply side) as well as consumption (the demand side) aspects of the debate on food security. There are proponents who argue that liberalisation of trade in agriculture will ensure global food security by balancing the demand for and the supply of food items across the globe.

This Briefing Paper examines the issue of the interface between trade liberalisation and food security in a balanced manner, in particular, focusing on the consumption aspects.

1999

1. The Linkages: Will It Escalate? (CITEE: No.1/1999)

Developing countries have already pointed out that the International Labour Organisation is the right forum to discuss issues in the realm of labour standards. The former WTO Director General, Renato Ruggiero, suggested the idea of a World Environment Organisation and appealed that those environmental issues should not be allowed to crowd out the other substantive trade agenda to be discussed at the WTO.

This Briefing Paper discusses the incoherence and inequity of introducing environmental issues and labour standards on to the WTO platform and their harm to the sustainable development prospects of the developing world.

2. Trade and Environment – An Agenda for Developing Countries (CITEE: No.2/1999)

Some trade and environmental linkages work out the same way for developing countries as they do for developed countries. However, most of the positive environmental spillovers arising out of the process of globalisation and trade expansion

accrue at certain threshold levels of economic development and more easily to countries which are well integrated into the global economy. On both these counts, developing countries risk further marginalisation.

This Briefing Paper examines whether in the structure of the current debate at the Committee on Trade and Environment (CTE) there are items of interests to developing countries on which they could formulate a proactive agenda to fuse their trade expansion and environmental concerns.

3. Dispute Settlement at WTO – From Politics to Legality? (CITEE: No.3/1999)

The Dispute Settlement Mechanism at the WTO, unlike the GATT system, is much more legalistic, time-bound, predictable, consistent and, thus, binding in nature. The provisions of appeal, negative consensus and cross-retaliation are some of the major improvements over the old system. In other words, it is based on ‘adjudicatory’ model, unlike the ‘negotiatory’ model, as in the past.

This Briefing Paper tries to simplify the provisions of the Dispute Settlement Undertaking (DSU). It examines the improvements over the GATT system and the problems faced by the developing and least developed countries vis-à-vis the new system.

4. TRIPs and Bio-diversity (CITEE: No.4/1999)

Underlying the complex link between intellectual property rights (IPRs) and biological diversity is the ambiguity regarding the relationship between the two Agreements – the Convention on Biological Diversity (CBD) and the Trade-related Aspects of Intellectual Property Rights (TRIPs) at the WTO.

This Briefing Paper begins with a brief outline of the two Agreements where provisions concerning IPRs and biodiversity are highlighted. Finally, it analyses some of the biodiversity-related aspects of the IPRs, paying particular attention to the case of plant breeders’ rights (PBRs).

5. Overdue Reforms in European Agriculture – Implications for Southern Consumers (CITEE: No.6/1999)

In 1957, the then members of the European Economic Community had adopted ambitious aims in the field of agriculture, like increasing farm productivity, offering a fair standard of living to producers, while protecting consumers’ interests with reasonable prices, assuring food supply and stabilising markets.

One important question that ‘how’ these objectives will be achieved was not elaborated in the treaty, and thus, it was discussed in a meeting in Northern Italy in 1958, resulting in the genesis of the European Common Agricultural Policy (CAP). This Briefing Paper reviews the history of the CAP, its objectives, the 1992 reforms, Agenda 2000 reforms and, overall, their implications for Southern consumers.

6. The Non-trade Concerns (NTCs) in the WTO Agreement on Agriculture (AOA) (CITEE: No.8/1999)

The policies governing agricultural sector are currently going through a metamorphosis the world over. One reason for this is that countries are making attempts to implement the commitments they have agreed to under the AOA. The Agreement has also made

references to the NTCs that would have to be taken on board while the AOA is being implemented by the WTO member-countries.

This Briefing Paper provides a brief sketch of the NTCs that have been used to reflect the 'multifunctionality' of agriculture and other such agreements prior to the review of the AOA.

7. Negotiating the History of the Uruguay Round (CITEE: No.9/1999)

The Uruguay Round (UR) of trade negotiations, conducted under the auspices of the GATT, was the most comprehensive and ambitious among the multilateral trade negotiations. It increased the involvement of developing countries in the liberal trading system and resulted in the formation of the WTO, replacing the GATT.

The purpose of this Briefing Paper is to revisit the intricacies involved in the UR negotiating process and also to highlight the loopholes of the major agreements at a point of time when the industrial countries are once again preparing for a new round of negotiations under the WTO.

8. Professional Services under the GATS – Implication for the Accountancy Sector in India (CITEE: No.10/1999)

This Briefing Paper discusses the progress of discussions on professional services, with a special emphasis on accountancy services in different committees that have been set under the GATS umbrella.

Given that further negotiations on the GATS Agreement would resume in 2000, this Paper also analyses the negotiating modalities suggested by different countries in this regard. In this context, it also highlights issues that are of importance to the Indian accountancy sector.

2000

1. Implementation of the WTO Agreements: Coping with the Problems (CITEE: No.1/2000)

Implementation of agreements and decisions is very crucial for the effective functioning of any organisation. This is more so for a multilateral body like the WTO, which administers an effective set of rights and obligations in the field of trade in goods, trade in services and protection of intellectual property rights. However, there are serious problems in the implementation of the WTO agreements, especially from the perspective of the developing countries.

This Briefing Paper examines the various WTO Agreements vis-à-vis the problems of implementation associated with them as well as the possible remedies, especially from the point of view of developing countries.

2. Trade and Environment: Seattle and Beyond (CITEE: No.2/2000)

Even after years of intensive discussion and learning about the relationship between trade and environment, many continue to have mixed feelings about how to go about

trade and environment. It seems that this relationship has become a puzzle to traders and environmentalists alike.

This Briefing Paper arises from a deep concern about the issues of trade and environment and their inter-relationships. The concern stems from the observation that after years of debate and tedious work, the gap seems to persist, if not widen. The integration of trade with environment continues towards an unlikely and strained goal prone to immense risks to developing countries.

3. WTO and the Poor Countries (CITEE: No.3/2000)

One of the significant developments of the world trade talks at Seattle, USA, were the open protests by representatives of many small developing countries at the undemocratic manner in which the meetings were being conducted and the complete neglect of their own interests. The protests were remarkable for two reasons: first, the fairly strong language used to express dissent, which is unusual in such inter-governmental negotiations, and, second, the sheer length of time they took in coming at all.

This Briefing Paper discusses the reasons for these protests by poor countries, in particular, and investigates what the current world system has meant for small and least developed countries so far.

2001

1. Trade and Sustainable Development: An Outline of a Southern Agenda (CITEE: No.1/2001)

The Preamble of the Agreement establishing the WTO abundantly makes it clear that unless trade and economies grow and needs are met everywhere, development cannot be sustainable. And, if the development is not sustainable, it will be difficult to alleviate poverty. Thus, the growth has to be pro-poor.

With this as the backdrop, this Paper has tried to outline two pertinent questions. First, how does trade policy relate to sustainable development? Second, is there any developing countries' (southern) agenda on trade and sustainable development?

2. Human Rights and International Trade: Right Cause with Wrong Intentions (CITEE: No.3/2001)

Human rights, in their broadest meaning, covering political, economic, gender, social, civic and minority guarantees, have meant securing for all people the right to live a life of dignity. The WTO, in 1995, was created with the objective of increasing international trade and removing the existing barriers and, thereby, improving the quality of life of all. It is certainly important to ensure human rights to all parts of the world.

This Briefing Paper on human rights and international trade focuses on the desirability, practicality and effectiveness of the human rights clauses at the WTO.

3. Framework for Fair Trade and Poverty (CITEE: No.4/2001)

Eradication of poverty is a shared and moral responsibility of the international community. If we take a higher cut-off point of US\$2 per day, it would encompass 2.8 billion people, or almost half of the world's population. A combination of policies, both at the national and international levels, is required to tackle the problem of poverty.

The subsequent sections of this Paper, substantiated with empirical data, highlight various issues concerning the market access potential of the developing countries. They are now to be addressed by the international community on a priority basis. Otherwise, the notion 'trade as an engine of growth' may not hold true.

4. Implementation of the Uruguay Round Agreements: Need for a Front-loaded Agenda (CITEE: No.5/2001)

The agreements that emerged from the 1986-94 Uruguay Round of multilateral trade negotiations under the GATT are almost seven years old. Since 1995, the WTO is monitoring the implementation of provisions of these agreements.

This Paper tries to address only those implementation issues which could be resolved before the Doha Ministerial Conference and during the period immediately after Doha. This is to take a realistic view of the implementation agenda by taking into account the developments on implementation of the Uruguay Round Agreements since the Seattle Ministerial Meeting of the WTO.

5. Proactive Agenda for Trade and Poverty Reduction (CITEE: No.6/2001)

Before the 4th Ministerial Conference of the WTO, Mike Moore, Director General of the WTO, cautioned members "to get real" over agreeing on an agenda for new trade talks. It was brought into focus that future trade negotiations should be based on the

link between trade and the reduction of poverty. The moot question is how countries can use trade to make faster progress in the reduction of poverty? To approach this question in a substantive and proactive manner, the existing international trade rules, the capacity of poor countries to take advantage of new trade opportunities and the role of developing countries within the WTO need to be looked into.

With this as a background, some thoughts on how one could construct an agenda for a new round by taking into account various ground realities for development and concerns for the poor are presented in this Paper.

6. WTO Transparency and Accountability: Need for Reforms (CITEE: No.7/2001)

A necessary condition for better functioning of any international/national organisation is to maintain openness and transparency in its work. Every organisation has its own system of transparency. In the last few years, the WTO has been under pressure to improve transparency in its work and public participation in its activities.

In this Briefing Paper, two aspects of the transparency in the WTO's functioning have been revealed. First, better internal transparency would help all the members to be more active in the ongoing work at the WTO. Second, improved external transparency would help in boosting public support and, thus, accountability of the WTO to the civil society at large.

7. European Union's (EU) Environmental Agenda: Genuine Concern or Pitching for Protectionism (CITEE: No. 8/2001)

While the EU, a champion of liberalisation, has been campaigning for the launch of a new 'round' of trade negotiations, it, at the same time, has also been pushing for a three-point environmental agenda, which the low income countries think could be distorted into a protectionist device. The developing countries have a feeling that, in the context of international trade, environment is an unfair lever of power which can be used only by the rich to discipline the poor and it can disturb the 'balance' of benefits of trade liberalisation to all the members of the WTO.

This Paper analyses the three-point agenda of the EU and attempts to summarise developing countries feelings and concerns on the issues mentioned. It also lists out some possible implications for developing countries.

2002

1. Amicus Curiae Brief

Should the WTO Remain Friendless?

(CITEE: No.1/2002)

The issue of *amicus brief* has been contentious in the context of the WTO dispute settlement process ever since the Shrimp-Turtle case, when the WTO Appellate Body of dispute settlement considered such briefs from non-governmental organisations for the first time in its history.

This Briefing Paper observes that the admittance of *amicus briefs* is likely to bring greater transparency to the system that would ensure equity and fairness and would be good for the global community as a whole in the long run.

2. Market Access: The Major Roadblocks (CITEE: No.2/2002)

The Uruguay Round of trade negotiations has resulted in some degree of advancement of the integration of the developing countries into the multilateral trading system. It has, no doubt, contributed to the liberalisation of developing countries' own trade regimes and some improvement in the conditions affecting access to the major markets for their export products.

It is against this backdrop that the Briefing Paper identifies and analyses the major hurdles being faced by developing and poor countries in accessing the markets of developed countries.

3. Negotiating the TRIPs Agreement (CITEE: No.5/2002)

The WTO Agreement on TRIPs represented a major political failure for India – firstly, in failing to prevent TRIPs being brought onto the negotiating agenda of the Uruguay Round of multilateral trade negotiations under the GATT and, secondly, for failing to block an agreement on it in a system that relied on the support of every member state, including those opposed to it.

This Briefing Paper attempts to explain the failure of India's negotiating strategy in the context of international and domestic developments during the UR. It further tries to draw lessons from what actually happened and suggests how policy processes could be reformed and reorganised to address the negotiating requirements of a country like India in dealing with such issues in the future.

4. IPRs, Access to Seed and Related Issues (CUTS: No. 6/2002)

Farmers' access to seed has been a subject of intense debate in recent years. The debate has been triggered by the increased use of Intellectual Property Rights (IPRs) in agriculture. As members of the WTO, developing countries are required to provide protection to plant varieties through the IPRs.

Based on a recent study of the Central and North Eastern Himalayas, the implications of the IPRs on farmers' access to seed and other related issues are discussed in this Briefing Paper.

5. Market Access Implications of SPS and TBT – A Bangladesh Perspective (CUTS: No.7/2002)

The objectives of this Briefing Paper are to identify major features in the Sanitary and Phyto-sanitary (SPS) and Technical Barriers to trade (TBT) agreements which are of concern to Bangladesh, identify problems emanating from the provisions in the SPS and TBT, having impact on market access capacity of LDCs such as Bangladesh and articulate specific measures and amendments to current disciplines in the SPS and TBT to address the particular concerns of Bangladesh in the relevant areas.

6. Multilateral Environmental Agreements, Trade and Development – Issues and Policy Options Concerning Compliance and Enforcement (CITEE: No.8/2002)

Ever since the inception of the WTO Committee on Trade and Environment in 1995, multilateral environmental agreements (MEAs) have been a favourite topic of discussion. The MEAs have been on the frontier of discourse on trade and environment.

This Briefing Paper highlights the positive (carrot) approach, the negative (stick) approach, increased use of trade measures and compliance and enforcement of MEA obligations.

7. Agreement on Agriculture: “Which Way Now?” (CUTS: No.12/2002)

The impact of WTO on different sectors of developing remains a contentious issue. Agriculture stands at the apex of debate. The word trade in agriculture will no longer be standing at the threshold of liberalised market. Now it has stepped into an era of free competition. Such a situation presupposes dismantling of tariff and non-tariff barriers and reduction of subsidy on agricultural products to reach a liberalised trade regime and enhanced market access as enshrined in the Agreement on Agriculture (AoA) under Uruguay Round of WTO.

8. Farmers’ Rights in the Indian Himalayan Region under WTO (CUTS: No. 13/2002)

Over the last decade, with the development of a new global economic order under the aegis of the WTO, these rights are threatened to be encroached upon, if not usurped. The question of farmers’ Rights assumes special importance in the Himalayan regions of India, particularly in the context of globalisation and the WTO.

This Briefing Paper discusses the importance of the traditional rights of the Indian farmers in respect of the distinctive features of Himalayan agriculture, and the major implications of globalisation and WTO on those rights.

2003

1. India Must Stop Being Purely Defensive in WTO (CITEE: No. 5/2003)

The Fifth Ministerial Conference (MC) of the WTO for a mid-term review of the Doha round of trade negotiations will open in Cancun, Mexico, on September 10.

This Briefing Paper says that India should offer its own proposals that further its own interests, rather than merely reacting to others. Offering little in exchange while asking a lot of others is a sure way of becoming a marginal player with negligible influence on the outcome of negotiations.

2. Convention on Biological Diversity: A Comparative Analysis (CUTS: No. 7/2003)

Farmers in the tropical countries played a vital role in the selection of crop/seed varieties, conservation of land races and producing new breeds. The ‘Convention on Biological Diversity’ (CBD) laid down the basic principles of sovereignty of a nation over such resources and suggested a process of equitable benefit sharing between

conservers and providers on one hand and the users in commercial sector on the other.

The farmers in the biodiversity-rich ‘Himalayan region’ need to document, conserve and use the resources on the principles of GBD to ensure sustenance of livelihood.

3. TRIPs and Public Health: Ways Forward for South Asia (CITEE: No. 10/2003)
Trade-related Intellectual Property Rights (TRIPs) have always been one of the contentious issues at the WTO. A multilateral agreement was signed at the end of the Uruguay Round, despite the reluctance of many developing countries such as India, Brazil, etc. The increasing significance of intellectual property rights (IPRs) is posing policy makers with difficult questions regarding the precise limits of state authority in respect of public health governance structures against the background of global private networks.

The Paper anchors the discussion of public health and the impact of TRIPs on the social and cultural environment of South Asian region.

2004

1. Farm Agenda at the WTO: The ‘Key’ to Moving the Doha Round (CITEE: No. 1/2004)

Agriculture continues to dog the debate at the WTO, with a knockout effect on nearly all other issues under negotiations. One needs to understand why agriculture trade talks drag on all the time and how they always feature as the makers or breakers of the international trading system.

This Briefing Paper analyses the tussle between the rich countries like the EU and the USA, on the one hand, and the developing countries like Brazil, India and South Africa, on the other, to discipline the farm regime in the WTO in their favour.

2. “TRIPs-Plus”: Enhancing Right Holders’ Protection, Eroding TRIPs’ Flexibilities (CITEE: No. 2/2004)

The focus of this Paper is limited to those TRIPs plus issues that are related to patents. The developed countries are implementing these TRIPs plus provisions by enforcing stricter patent rules through bilateral and regional trading arrangements. We need to understand how these agreements are threatening to limit the ability of weaker bilateral/regional partners to promote technological innovation, facilitate the transfer and dissemination of technology, take necessary measures to protect public health and take appropriate measures to prevent the abuse of intellectual property rights by patent holders.

**3. Global Partnership for Development
-The Way Forward** (CITEE: No. 3/2004)

The eighth goal of the Millennium Development Goals (MDGs), MDG 8, is the only goal that talks about global partnership and entrusts the developed countries with

some responsibility to promote development. It talks about developing a global partnership for development wherein both the developed as well as the developing countries work on an understanding that their approach should lead to poverty reduction and development in the low income developing economies.

In this Paper, we focus on debt relief, aid and trade and their role in promoting development and what measures can be implemented for enhancing the effectiveness of these tools. We also look at the present and potential role of civil society organisations in achieving the MDGs.

4. The End of WTO's Agreement on Textiles and Clothing: Opportunity or Threat? (CITEE: No. 4/2004)

The share of textiles and clothing (T&C) makes up less than six percent of world trade in merchandise. Still, this sector employs more than 40 million people globally, the majority being in the developing world. Indeed, in some developing countries, the share of T&C in total exports exceeds 50 percent. The year 2005 will witness the abolition of quotas. This development is expected to benefit some countries, while some others may struggle to protect their T&C industries.

This Paper aims to introduce the subject, current state of affairs as well as possible scenarios. The main tenet is that consumers will benefit, as well as several economies, such as India. Anyhow, gains will not be equally distributed.

5. Movement of Natural Persons and Regional Trade Agreements (CITEE: No. 5/2004)

By the end of September 2001, 239 Regional Trade Agreements (RTAs) had been notified to the WTO. A considerable number of RTAs, though, did not last long and as of January 2002, 162 agreements remained in force. Nevertheless, it is estimated that by July 2005, if all the RTAs that are being negotiated or are under consideration are concluded, then the total number of RTAs in force might touch 300.

Without analysing whether RTAs are good or bad, this Paper studies the link between the RTAs and movement of natural persons (MNPs), both skilled and unskilled, across borders. This linkage is important to see whether RTAs promote movement of natural persons, especially in developing countries. Also, we try to see whether the provisions mentioned in various agreements have actually been beneficial for developing countries, with emphasis on India.

6. GSP Dispute: Winning the battle, losing the war (CITEE: No 1/2004)

The Generalised System of Preferences (GSP) in international trade is a mutually acceptable system of generalised, non-reciprocal and non-discriminatory preferences beneficial to developing countries. The primary aim of such a programme is to accelerate the rates of economic growth of developing countries.

This programme was recently scrutinised by the Appellate Body (AB) of the World Trade Organisation (WTO) in the matter of India's dispute against the European Commission (EC). India claims victory in terms of being successful in demonstrating that the EC's drug arrangements, under which it provided additional concessions to Pakistan, were inconsistent with the GSP programme. The EC feels

that the AB has not invalidated its GSP programme *per se*. This trade law brief critically examines some of the aspects of this important case.

2005

1. Farm Trade Liberalisation: *The Challenge of Reducing Subsidies and Trade Barriers* ? (ABMA Policy Brief, No.1/2005)

Agriculture trade remains by far the most distorted one in international trade. The continuing distortion in the farm trade policy by the developed countries is causing a major political and economic problem. Opposition to further agricultural trade liberalisation in many developing countries is bolstered by the continued large-scale support for OECD farmers. Therefore, substantial reduction in OECD agricultural support is not just important for developing countries in its own right but is critical to support efforts by developing country governments to pursue domestic reforms.

The policy brief underscores the need for dismantling farm trade barriers, which are the main stumbling blocks in the way of establishing a free and fair multilateral trading system.

2. Trade in Services & Developing Countries: *The Market Access Barriers* ? (ABMA Policy Brief, No.2/2005)

The services sector has emerged as the largest and the most dynamic component of both developed and developing country economies. However, the world trade in services gives a contrasting picture. It is expected that by 2050, the world services exports would exceed that of merchandise. Developing countries recognise the potential benefits of liberalisation in trade in services. However, gains from services liberalisation have not been realised much because of limited access in modes and sectors of export interest to developing countries and/or supply-side constraints. Further, developing countries need to give priority to the provision of universal access with regard to essential services and public goods. This can only be met if they are provided with institutional and capacity building support to maintain adequate flanking policies.

The policy brief focuses on the modes (of service supply) and sectors of developing countries' interests where they need better market access.

3. Trade in Textiles & Clothing: *Likely Problems in the New Regime* ? (ABMA Policy Brief, No.3/2005)

It is difficult to predict what the effects of the Agreement on Textiles and Clothing (ATC) would now be when quotas have expired. It is not even certain how much market access this would create, since the agreement did not relate to tariff and other non-tariff barriers (NTBs). One important fear could be the increased use of safeguard measures such as anti-dumping, by the developed countries. The other concern is that even after the quotas go, exports of T&C from developing to developed countries would face tariff peaks and tariff escalation.

The paper has tried to put together probable inter-related issues. The challenge is to avoid further hold-ups on these and introduce corrective measures to trade policy.

Integration into global markets offers potential for more rapid growth and poverty reduction. The policy brief tries to highlight some of the market access issues, which may prove detrimental for developing countries and also suggest policy measures to counter them.

4. Is Anti-dumping Causing More Harm than Good? (ABMA Policy Brief, No.4/2005)

Today, anti-dumping is nothing but protection in disguise, and it has proved to be a bad policy. The growing use of anti-dumping action to protect domestic industries has occurred during the same time as tariff reductions and trade liberalisation under the Uruguay Round (UR) Agreement. There exists a widespread concern that anti-dumping measures are both misapplied and used to protect domestic industries. One of the major hurdles in enabling developing countries to achieve better market access is the imposition of anti-dumping measures. What has actually gone wrong? Economists have long questioned the need for anti-dumping laws as they may cause more harm than good to the economy of the country.

This policy brief throws light on some of these critical issues, which need to be addressed under the current Doha Round of trade negotiations.

5. Multilateral Trading System: *The Developmental Challenges?* (ABMA Policy Brief, No.5/2005)

For a long time it has been argued that the role of international trade is significant in achieving higher growth rate and reducing poverty. There is no dearth of empirical studies claiming that the multilateral trade liberalisation under the aegis of the WTO would result in immense global welfare gains. The estimates of the Organisation for Economic Cooperation and Development (OECD), World Bank (WB) and others suggest that the static welfare gains from removing barriers to merchandise trade would be huge – with developing countries capturing a sizeable share of these gains, largely by opening their own markets. However, in practice the positive role of trade in poverty reduction is actually being realised in very few LDCs. Therefore, the biggest challenge for the international community remains how to make LDCs partners in sharing the benefits of globalisation.

This policy brief critically evaluates the role of special & differential treatment (S&DT) under the WTO, the technical and capacity building programmes undertaken so far by various international agencies and donors and poor implementation of special provisions related to LDCs' concerns.

6. Enhancing South-South Cooperation on Trade: *An Alternative to Northern Market* ? (ABMA Policy Brief, No.6/2005)

South-South cooperation has emerged not only to create synergies for collective efforts towards development but also as a response to imperfections in North-South cooperation. South-South cooperation acknowledges the fact that 'one size fits all' approach at the global level is not appropriate. The Southern countries need customised policies and alternative developmental strategy for growth. The South-South trade cooperation is gaining ground not only within the continents but also across them. In the prevailing

multilateral trading system, it holds a dynamic potential that could be realised more effectively through further trade liberalisation.

This policy brief, besides underlining its importance, recommends effective and meaningful implementation of non-reciprocal trade preferences among Southern countries and South-South free trade agreements (FTAs).

7. Trilateral Development Cooperation: An Emerging Trend (CITEE No. 1/2005)

Overseas aid from the rich to the poor countries for their development is a well-established institution. In the recent years, the Millennium Development Goals (MDGs), the Monterrey Consensus among other international covenants have reinforced the need for enhanced and targeted delivery of overseas aid to developing countries. Most of the aid goes through the bilateral route with a large amount being channelled through inter-governmental organisations (IGOs).

Another new route is through ‘trilateral development cooperation’ where aid is channelled through institutions in third countries for being applied to development projects in poor countries. There are two major advantages in this approach. Firstly, it is cheaper. Secondly, learning from one developing country to another are more relevant than from a rich country to a poor one. However, trilateral development cooperation has not received the kind of attention that it deserves. On the basis of experiences gained while implementing multi-country projects of CUTS, this paper makes an effort, with the hope that rich countries realise its value and make it a part of their aid strategy.

8. Economic Cooperation in South Asia: Current State and Prospects (CITEE No. 2/2005)

Economic Cooperation in South Asia has not taken off. Though the plan to create the South Asian Preferential Trade Area (SAPTA) was announced in 1993, the actual exchange of preferences remained extremely limited. As the South Asian economies got integrated into the world market, their export performance became highly dependent on global changes. Regional economic cooperation, therefore, is pivotal for enhancing economic growth and development of individual countries.

This paper attempts to explain various issues on the current state and need for economic cooperation among South Asian countries. It also discuss the issues relating to the prospects of South Asian Association for Regional Cooperation (SAARC), SAARC Preferential Trade Arrangement (SAPTA) and the progress towards South Asia Free Trade Agreement (SAFTA) besides the strategies for economic cooperation, both within and outside the purview of South Asia. Finally, the paper examines various critical issues on its current state and emphasise the need for economic cooperation among South Asian countries.

9. Regionalism: A Stumbling Block for Trade Liberalisation (CITEE No. 3/2005)

The surge in regional agreements has continued unabated since the early 1990s. The emergence of this new regionalism raises many issues. One of them is its impact on the multilateral trading system (MTS), including whether regional integration is a building or a stumbling block, or a stepping-stone towards multilateralism.

The emergence of new regionalism brings new challenges and opportunities for participating developing countries. These regional trade agreements (RTAs) are likely to be trade creating because of existing complementarities, and regionalism being used as a means of expanding the trade agenda beyond what is currently possible in the multilateral trading system. As regionalism becomes a larger and more embedded aspect of the international trading system, a sustained commitment to multilateralism can help contain the potential divisiveness of regionalism, while harnessing its energy for deeper and more rapid reforms. In this paper, an attempt is being made to understand the entire gamut of issues connected with regionalism.

10. India, SAARC, ASEAN, BIMSTEC – Commonalities, Differences and Future Cooperation (MGR No.1/2005)

The major objectives of forming any Free Trade Area (FTA) or Preferential Trade Agreement (PTA) are to strengthen and enhance economic, trade and investment cooperation among the parties with a view to create trade in the region, and not lead to diversion. But it has been generally observed that the establishment of any FTA or PTA with preferential tariff leads to both 'trade creation' and 'trade diversion' The issue to examine is whether 'trade creation' is more than 'trade diversion.'

This paper discusses the commonalities, differences on the areas of economic cooperation and investment and possible future cooperation among South Asia Free Trade Agreement (SAFTA), ASEAN Free Trade Agreement (AFTA), BIMSTEC and India. Even though SAARC, ASEAN and BIMSTEC are regional/sub-regional economic cooperation groupings in South and Southeast Asia, each has a distinct purpose, background and rationale.

11. Enterprise Development in the Sub-Mekong Region: Its Transformation and Impact (MGR No.2/2005)

The experiences of the three sub-Mekong region countries Vietnam, Lao PDR and Cambodia in their transition from centrally planned to market economies provide useful insights into changes in ownership structures and their wider impact on the economy and society. It is shown in this paper that all three countries have benefited from the enterprise developments, e.g. through their contributions to job creation and poverty reduction.

This paper looks at how firm structures have changed since the market-oriented reforms were first initiated, what impact enterprises have had on job creation and poverty reduction, and how SSC has influenced the development of enterprises.

12. India-GMS Trade and Investment Corridor: Possible Role & Responsibility of Thailand (MGR No.3/2005)

There are currently some 300 bilateral and regional trade agreements (RTAs) under negotiation or in force around the world. Thailand's role in developing Mekong-Ganga relationship is a case in point. Based on its strategic position in Southeast Asia and its engagements in RTAs in both South and Southeast Asia, it has the potential to act as a gateway between India and the Greater Mekong Sub-region (GMS), including the sub-Mekong Region countries like Vietnam, Cambodia and Lao PDR.

This paper analyses the three modes of entry for India into the GMS: the proposed India-Thailand Free Trade Area (FTA), closer relations between India and the GMS through Thailand, and involving India in the FTA being negotiated by the Association of South East Asian Nations (ASEAN) and China. It argues that the third scenario presents the greatest potential mutual benefits.

13. Agriculture and Agro-industry in Cambodia (MGR No.4/2005)

Cambodia's economy has gradually expanded since it began to open up and take steps toward a market economy in the late 1980s. It has become more and more integrated with the world economy – including becoming a member of the Association of South East Asian Nations (ASEAN) and the World Trade Organisation (WTO). However, it remains one of the poorest countries in the world.

This paper explores the recent developments and current state of Cambodia's agriculture sector and its agribusinesses. Constraints are evaluated, as are opportunities and threats. Although measures have been taken to promote the country's agro-industry, it is clear that many obstacles have to be overcome for it to be able to reach its potential.

14. Trade in Textiles and Clothing: *Exploring Cooperation between SAARC and ASEAN* (MGR No.5/2005)

The global textile and garment industry has grown continuously to meet the demands of an increasing world population and standards of living world-wide. The elimination of global textile and apparel trade quotas on January 1, 2005 has brought about a dramatic shift in the world market for textiles and apparel products.

This policy brief addresses the trade in textiles & clothing (T&C) by focusing the cooperation between ASEAN and SAARC. It explores the competitiveness and prospects for cooperation in ASEAN and SAARC, including business climate, infrastructure, labour costs, availability of raw material and proximity to markets, etc. It also outlines the transfer of technology, which plays a crucial role in productivity improvement.

INVESTMENT AND COMPETITION

1996

1. Competition Policy in a Globalising and Liberalising World Economy (CUTS: No. 4/1996)

As a general rule of thumb, consumers gain from healthy competition between firms for their custom. However, competition is not a naturally occurring phenomenon. The natural instinct of a firm is to maximise its market position and gain a dominant share of a market.

This Briefing Paper examines the need for both a strengthened domestic competition policy and an international competition policy, which is imperative for all countries in this age of globalising and liberalising world economy.

2. Globalising Liberalisation without Regulations! – Or, How to Regulate Foreign Investment and TNCs (CUTS: No. 6/1996)

The Uruguay Round of the GATT 1994 accelerated the globalisation and liberalisation process. New areas like services, IPRs and investment measures were added to the WTO accords. This facilitated and liberalised trade and investment by harmonising national rules.

This Briefing Paper looks at the history of investment regulation and suggests measures which are needed to ensure an equitable framework for investment, if one is necessary at all, at this stage.

2000

1. Competition Regime in India: What is Required? (CITEE: No. 5/2000)

Since 1991, India has been witnessing increasing foreign direct investment inflows, growing numbers of mergers and acquisitions and accelerated trade liberalisation, which have influenced the structure of the concerned markets and the conduct of corresponding domestic and international players.

Responding to this challenge, the Government, in 1999, decided to set up an expert group that would look into drafting of a state-of-the-art competition policy and law. This Paper discusses various dimensions the new competition policy and law should address. It also suggests an institutional structure that would ensure fair regulation of competition in a country as diverse as India.

2. Trade, Competition & Multilateral Competition Policy (CITEE: No. 9/2000)

The issues relating to a multilateral arrangement on competition rules encompass several important and varied facets, which form the core of current debates at various fora, domestic, regional as well as international.

This Briefing Paper is divided into three sections. The first section, “Trade and Competition Policy”, explores the interaction between trade and competition policy. The second section, “Competition and WTO”, explains and deals with the status of competition policy issues at the WTO. The last section, “Whither Multilateral Competition Policy”, explores the current debate vis-à-vis multilateral arrangement on competition policy.

2001

1. Contours of a National Competition Policy: A Development Perspective (CITEE: No. 2/2001)

In a competitive market, firms face incentives to produce efficiently and to respond to consumer needs, in terms of product range and specifications, wealth and prosperity will also be more equally shared between producers and consumers.

This Paper outlines the contours of a national competition policy. Countries at different levels of development and with different economic structures have different needs in terms of their competition policy.

2002

1. Foreign Direct Investment in India and South Africa:

A Comparison of Performance and Policy (CITEE: No. 3/2002)

India and South Africa are both large emerging economies with great potential for growth. Still, neither country receives a significant amount of foreign direct investment (FDI), especially in comparison to other large emerging markets like China and Brazil. There is a feeling in the governments as well as civil society in the two countries that foreign investors are wrongly neglecting them.

This paper seeks to identify some of the reasons for this poor performance and offers some tentative policy recommendations that might help to address their problems.

2. Regulating Corporate Behaviour (CITEE: No. 4/2002)

Transnational corporations (TNCs) operate across borders and are generally large in terms of assets or sales, with headquarters in developed countries. The belief that TNCs are more powerful than host developing countries has given rise to the demand for regulating the corporate behaviour of TNCs.

This Briefing Paper looks at the history of international investment agreements, as codes of conduct are usually discussed with reference to such agreements, broadly discusses the general principles found in different codes, outlines the debates surrounding the codes and argues for mandatory codes of conduct for TNCs.

3. Regulatory Reforms in the Converging Communications Sector (No. 6/2002)

With the convergence of different activities in the communications sector, the pressure on the sector's regulatory systems has increased. To tackle this, regulatory reforms are necessary. In India, the Government has introduced the Communications Convergence Bill to set up a regulatory regime to oversee the sector in the 21st century.

This Briefing Paper uses the Bill to identify the important factors that have to be taken into account when setting up the ideal regulatory regime in the converging communications sector and identifies areas where the Bill needs to be improved.

4. Multilateral or Bilateral Investment Negotiations: Where Can Developing Countries Make Themselves Heard? (No. 9/2002)

The question countries are facing is, if they want to liberalise their investment regimes, whether to do so on a unilateral or bilateral basis or go for negotiations of multilateral rules.

This Briefing Paper, firstly, examines what the attitude of developing countries has been on the multilateral and bilateral levels, respectively. Secondly, it examines the pros and cons that a multilateral instrument would bring, as compared to the present situation.

2003

1. How Mining Companies Influence the Environment (CITEE: No. 1/2003)

Mining is an important sector attracting significant amount of foreign investment in a large number of countries. Mining activities are intimately related to the environment, due to their inherent characteristics. It can harm the environment adversely, mainly by affecting wildlife and fishery habitats, water balance and local climates, especially the pattern of rainfall.

This Paper studies the importance of mining TNCs in the global mining sector, the effects of operations of these companies on the environment and the general relationship between environmental regulatory structure and FDI flows to a country. It also discusses the uncertainties faced by companies, steps taken by companies to overcome these uncertainties and steps taken by governments to protect the environment.

2. Competition Policy in South Asian Countries (CITEE: No. 4/2003)

Competition is the foundation of an efficiently working market system. However, there are several pre-requisites that have to be met in order for the competition process to run smoothly.

This Paper discusses the approaches towards competition policy in South Asia. The countries covered are Bangladesh, Bhutan, India, Nepal, Pakistan and Sri Lanka. It discusses the prevailing competition regimes in these countries and the ways the countries attempt to deal with cross-border competition concerns.

3. Multilateral Framework on Investment (IWOGDA Policy Brief)

FDI has been recognised as a source of finance, a principal channel for transfer of technology and managerial know-how, a tool for increasing productivity and expanding productive capacity to create export potential and improve competitiveness in the international market.

The prime aim of this Policy Brief is to analyse the elements identified in the Doha Declaration for a Potential Multilateral Framework on Agreement. These issues/elements have been discussed in this Paper, which covers all the elements of potential Multilateral Framework on Investment (MFI) and discusses the proposals for each element, their implications for development, the issues that need further discussion and the way forward.

4. Multilateral Competition on Agreement (IWOGDA Policy Brief)

It is widely agreed that all countries, developed and developing, should have an effective competition policy framework in place to support fair competition, consumer welfare, economic efficiency and growth.

The prime aim of this Policy Brief is to analyse the elements identified in the Doha Declaration for a potential multilateral competition agreement (MCA). These issues/elements have been discussed in this Paper, which covers all the elements of potential MCA and discusses the proposals for each element, their implications for development, the issues that need further discussion and the way forward.

5. Pulling Up Our Socks (C-CIER: No. 1/2003)

Transition from a command-control to a market economy is a difficult process for any country, especially owing to the need for structural changes and new policy regimes. There are innumerable problems in establishing new policy regimes and making them efficiently functional, not to speak of the inherent conflicts in the objectives of one policy with those of another. In this context, competition policy is a particularly interesting subject to analyse.

This Paper discusses the findings of the 7-Up Project concluded by CUTS, which was centred around the problems of competition regimes in seven developing countries of Asia and Africa.

6. How is FDI Related to Economic Development? (C-CIER: No 2/2003)

This Paper examines whether the positive impact of FDI on development in a country depends on the quality of FDI it is receiving. It also looks at the global FDI trend, which is important to understand the debate on FDI and development. The Paper discusses the benefits developing countries expect from FDI, while pointing out the fact that countries compete with each other for FDI.

It argues that a strategy to facilitate favourable effects of FDI on development will be the one that promotes overall economic development in the country. Lastly, the Paper outlines some measures to maximise benefits from FDI and looks very briefly at the debate whether FDI follows.

7. Investment Policies that Really Attract FDI (C-CIER: No 3/2003)

Foreign Direct Investment (FDI) leads to economic growth, and economic growth leads to poverty reduction: this line of reasoning forms the foundation of contemporary thinking about FDI.

FDI may be beneficial to the economy, but FDI flows may be very difficult in qualitative terms. Governments, therefore, face a two-fold challenge: to attract FDI and to secure benefits from these flows. However, this Paper focuses on the first challenge, i.e., how countries can really attract investment.

8. Public-Private Partnerships in the Essential Services Sector (C-CIER: No 4/2003)

Public-Private Partnership (PPP) recognises that both public and private sectors have certain advantages relative to the other in the performance of specific tasks. By allowing each sector to do what it does best, public services and infrastructure can be provided in the most economically efficient manner.

This Briefing Paper looks at various ways in which PPPs can be undertaken once a decision to involve the private sector has been taken. It also looks at the current trend in PPP in essential services and some country examples and offers some suggestions as to what should be kept in mind when a PPP is entered into.

9. Competition and Sectoral Regulation Interface (C-CIER: No. 5/2003)

This paper is aimed at presenting a critical examination of this 'no small matter' – the interface between competition and sectoral regulatory laws, especially on the 7-Up (a CUTS project which involved a comparative study of the competition regimes of seven developing countries of the Commonwealth) countries, with a view to assisting

institutional designers in providing for appropriate distribution of the complementary roles of sectoral regulators and the competition authority in the process of promoting competition and economic development.

10. The Role of International Co-operation in Building an Effective Competition Regime (C-CIER: No 6/2003)

Although competition policy has a long history in Canada and the United States (they adopted their competition laws in 1889 and 1890, respectively), it took many years for countries outside North America to adopt competition law. The decade of the 1990s saw considerable changes in the priority given to competition law in many jurisdictions.

The principal finding is that about 40 jurisdictions adopted some type of competition law since 1990, taking the total number of jurisdictions with such laws to above 80. Also of interest is that about 75 percent of the 40-odd jurisdictions were developing countries.

11. Investor-to-State Dispute Settlement: What Can We Learn? (C-CIER: No 7/2003)

Cross-border investment has been increasing at a rapid rate, as has been the signing of treaties, bilateral and regional, which provide for investor-to-state dispute settlement. Investment agreements are often signed to display the good relations between two countries and the countries' welcoming attitude towards foreign investments, though little attention is given to the investors' rights created through agreements.

This Briefing Paper examines the "investors rights" that investment agreements (IIAs) create, by looking at some examples of investment disputes and the nature of dispute settlement under investment agreements. It analyses controversial standards of treatment and provides some examples of the issues raised by dispute settlement.

12. National Champions – National Interests vs. Competition: Where to Strike the Balance? (C-CIER: No 8/2003)

Competition law and policy have an extensive interface with other government policies, as the objectives of different policies can be complimentary to, or in conflict with, competition. Time and again, controversy has raised its head on account of various governments' conduct when it comes to choosing between simultaneous aims of ensuring full and free competition in the market and making a mark on the international stage by promoting "national champions" – companies strong enough to take on global competitors and act as national flag-bearers in the global market.

This question involves striking balance between achieving competitiveness, progress and efficiency for the economy as a whole and preserving consumer welfare and the degree of competition in the segments concerned.

13. Ensuring Corporate Social Responsibility – What is the World Thinking? (C-CIER: No 9/2003)

This Briefing Paper examines the debate on the necessity of adopting voluntary and/or mandatory guidelines for transnational corporations (TNCs). It also discusses enforceability of a code: whether it should be legally binding or a soft law.

This question arises since there is scepticism over effectiveness of voluntary principles. The Paper discusses various opinions on this. It also talks about various efforts to standardise Corporate Social Responsibility (CSR) practices. Lastly, it talks about the demand for international regulation of companies.

2005

1. Investment for Development – Civil Society Perceptions (No.1/2005)

Investment for Development (IFD) project implemented by CUTS during 2001-2003, conducted a survey on the civil society's views on foreign direct investment (FDI) in seven select countries representing different geographical, political, social and economic scenarios. The countries included in the project survey were: Bangladesh, India, South Africa, Zambia, Tanzania, Brazil and Hungary.

This paper addresses the civil society perceptions, which have been shaped by a combination of the current economic climate of greater liberalisation and openness in economic policy, and perhaps more importantly, on the actual experiences of their countries. The survey intended to obtain the views/perceptions of the civil society on a number of issues pertaining to FDI. It also intended to raise awareness and build capacities of civil society, policymakers and investors on investment issues.

2. Foreign Direct Investment and Competition Policy (No.2/2005)

The proper implementation of competition policy can play an important role in promoting an open and competitive environment for both domestic and foreign enterprises. An empowered competition agency can play a significant role not only by removing the anticompetitive practices that act as entry barriers, but also by advising the government on related policy issues to remove other types of entry barrier and thereby facilitating more investment in the economy.

This paper draws heavily from the experience/output from the '7Up Project' that involved a comparative study of competition regimes in seven developing countries. The project was implemented by CUTS during 2000-2002 in partnership with local institutions in selected counties: India, Kenya, Pakistan, Sri Lanka, South Africa, Tanzania and Zambia, and with the support from Department for International Development (DFID), UK.

CONSUMER PROTECTION

1995

1. Rational Drug Policy in South Asia: The Past, Present and Future

The concept of Rational Drug Policy (RDP) in the developing countries emerged since mid-1970s. The World Health Organisation (WHO) has also formulated guidelines to assist member countries to draw up a list of essential drugs.

It is high time that rational drug policies are formulated from the perspective of the health needs of the people, rather than in the interest of the economic health of the industry. This Briefing Paper examines the progress of drug policies and suggests ways forward.

2. Why a Consumer Policy? (CUTS: No. 10/1995)

Governments declare their policy in relation to what they will do in areas concerning governance for the benefit of the people and the guidance of the administration. There are several policy statements on forests, abatement of pollution, conservation of environment and development, road safety, health and education, but none in the context of consumer protection.

This Briefing Paper examines the need for an integrated consumer policy and suggests the basic outline for one.

1996

1. An Integrated Consumer Policy – The Rational Base for Protecting Consumers (CUTS: No. 3/1996)

The Constitution of any country spells out the rights of citizens and the state policy defines the remedies. These are then reflected in the legislations, enforcement mechanisms and administrative structures. So, one needs a clear policy statement from the government before legislations can be enacted.

This Briefing Paper examines the need for an integrated consumer policy and suggests the basic outline for one.

1999

1. Nagrik Adhikar Patra – Sarvajanik Sevaon Mein Sudhar Hetu Ek Pahal – (Hindi) (CUTS: No. 1/1999)

The objective of the “*Nagrik Adhikar Patra*”, or the Citizen’s Charter, an initiative towards social reforms, is to provide a responsible, accountable and transparent government to the people. It is an effort to check and correct the loopholes in the government departments and to make the government more sensitive towards the requirements of the people.

This Briefing Paper helps in bringing about awareness by providing information about the concept of Citizen’s Charter to the citizens, workers and various organisations.

2001

1. Investor Education on Capital Market (English)

Poonji Bazar Per Niveshak Shiksha – (Hindi) (CUTS: No. 1/2001)

A potential investor invests in the stock market with certain expectations about the performance of a company, the prospects of income from and/or the capital growth of the security and the corporate benefits that may accrue.

This Briefing Paper provides the basic knowledge about the rights and responsibilities of the investors, risks in the trading and transfer of securities and other related key terms on capital market.

SUSTAINABLE PRODUCTION AND CONSUMPTION***1995*****1. Greening Consumer Choice? – Environmental Labelling and the Consumer** (CUTS: No. 4/1995)

What is a “green” product? Do the labels such as “eco”, “green” and “bio” mean anything? Environmental labelling attempts to switch consumption in the direction of those products that cause less damage to the environment.

This Briefing Paper looks at the issues raised by environmental labelling schemes. It also looks at the various types of environmental labelling schemes in operation and discusses their relationship with sustainable consumption and trade.

1996**1. Sustained Advertising Promoting Unsustainable Consumption** (CUTS: No. 2/1996)

Dramatic changes have taken place in India’s market place in recent years. At one end of the spectrum, even poor Indians are snapping up various consumer goods in millions every year. At the other, thrift is no longer a virtue even among middle class Indians. The “buy now pay later” culture has taken roots in India, mainly due to innovative marketing strategies and aggressive advertising.

This Briefing Paper analyses the adverse impact of advertising on consumption patterns and suggests measures to regulate the same, so as to enhance sustainable living.

2. Consuming Sustainably – About Consumption and Production Patterns (CUTS: No. 7/1996)

The issue of ‘sustainable development’ has been a favourite of development economists for more than four decades. A very important constituent of this expansive concept, which was getting step-motherly treatment, was ‘sustainable production and consumption’. The OECD countries took an initiative and arranged a series of meetings to understand and act on the multifaceted issue of sustainable consumption.

This Briefing Paper looks at the evolution of the concept of sustainable development and subsequently evaluates the concepts chosen by the OECD countries

to frame their policies and their relativity to the problems faced by developing countries.

3. The Circle of Poison – Unholy Trade in Domestically Prohibited Goods (DPGs) (CUTS: No. 8/1996)

One major issue concerning the global environment is the production, distribution and consumption of unsafe products. Many of these are banned or severely restricted in the world of domestically prohibited goods (DPGs). The issue of double standards regarding the export of DPGs arises with developed countries prohibiting imports of products supposedly contaminated with toxic substances from developing countries. The rationale for adopting such double standards is to break the circle of poison.

This Briefing Paper examines the broader issue of international trade and investment in DPGs, their impact on local and global environment, human welfare and what appropriate actions should be taken to stop the unholy trade in DPGs.

4. DPGs, Toxic Waste and Dirty Industries – Partners in Flight (CUTS: No. 11/1996)

In recent years, as the “green” movement targets other dirty sectors of the economy, many more items of unwanted toxic wastes like municipal wastes, industrial wastes and hazardous substances have joined DPGs.

This Briefing Paper argues about the need for equitable regulation for the sake of the “global” environment and humanity.

1999

1. Prithvi Ke Shikhar Se Jadmul Tak (September 1999)

Since 1991, consumerism has dug its deep roots in India. We are under the influence of the lavish western culture and our needs have become too dominant.. This has limited our thinking power. Our demand for various forms of entertainment has increased. We are not thinking of our future generations. All this has badly affected real all-round development Consumption should be sensible and sustainable at the rural, national and international levels.

This Briefing Paper discusses the objectives, work-plan and implementation of an ideal, balanced consumption pattern in Rajasthan.

2000

1. Bio-safety Protocol: Sweet ‘N’ Sour (CITEE: No. 6/2000)

The Bio-safety Protocol is an example of the increasing effect of civil society’s influence on the international trade policy-making process. The Protocol tastes both sweet as well as sour as many things have been achieved, while many things would have to be done to give these ‘achievements’ the much-needed practicality.

This Briefing Paper, endeavouring to demystify the Protocol, is divided into three sections. In Section I, the Paper focuses on the negotiation aspect of the Protocol. Section II of the Paper deals with some of the important provisions of the Protocol.

Section III of the Paper throws light on the relationship between the Bio-safety Protocol and the WTO Agreements.

2002

1. Water Sustainability: Issues for Development (No. 1/2002)

Water is needed in all aspects of life. However, the United Nations estimates that still more than a billion people lack access to fresh water. The looming water crisis is one of the most critical challenges facing the world today.

This briefing paper examines the problems related to availability, use and management aspects of water resources. Then it tries to highlight some options available for better management of water resources. It also tries to highlight another important dimension from the point of view of sustainability viz. private-public partnership (PPP) in water use and management.

2. South Asian Parliamentarian Consultation on Atmospheric Issues (No. 2/2002)

A South Asian Parliamentarian Consultation on atmospheric issues was organised by the CUTS Centre for Sustainable production and Consumption, Calcutta, along with the South Asia Watch on Trade, Economics and Environment (SAWTEE), Kathmandu and United Nations Environment Programme (UNEP) DTIE OzonAction Programme, Paris on May 10-11, 2001.

This briefing paper tries to highlight the background of the consultation, country profiles and actions, the deliberations that took place and some crucial policy responses that were outlined at the consultation for addressing atmospheric issues in South Asia.

3. World Summit on Sustainable Development (No. 3/2002)

The theme of World Summit on Sustainable Development (WSSD) was “Planet, People and Prosperity”. The WSSD aimed to reach an international consensus to halve by 2015 the proportion of earning less than a dollar a day, while preserving the planet’s resources for future generations. This aim was based on declaration the United Nations’ Millennium Summit that was held in 2002.

This briefing paper tries to highlight the preparatory process before WSSD, proceeding at WSSD, CUTS-Centre for Sustainable Production and consumption (CUTS-CSPAC) contribution at WSSD, the outcome and implications of this crucial meeting.

4. Climate Change and Kyoto Protocol: Options before South Asian Countries (No. 4/2002)

Global climate is becoming warmer. New evidences indicate that this global warming, especially in the last five decades, is mainly attributable to anthropogenic activities. The most affected due to this unwarranted increase in temperature will be the poor people in developing countries and the small islands.

This briefing paper tries to elucidate the climate change phenomenon and the Kyoto Protocol. It tries to show how unsustainable production and consumption are

responsible for climate change and its impacts. It also explains the features of South Asian countries viz. Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka and the impact of climate change on these countries and the desired adaptation and mitigation options for these countries.

SOCIAL ISSUES

1995

1. Access to the Constitution – A Neglected Right

We, the People of India, have given ourselves a Constitution so that there is a rule of law to enable good governance and proper conduct of one citizen against another and the State. In addition to the Constitution, what the Supreme Court says is the law of the land. The Constitution itself is not static, but dynamic, and can be amended by the State to give meaning to it according to the need of the hour.

This Briefing Paper examines a few key judgements and concludes by advocating why a comprehensive amendment to Articles 19 and 21 of the Constitution is necessary to give proper meaning to the same and empower citizens fully.

1999

1. Eradicating Child Labour while Saving the Child – Who Will Pay the Costs? (CITEE: No. 5/1999)

Child labour is a complex socio-economic phenomenon and a serious social malaise needing a cure.

This Briefing Paper examines the issue of costs of displacing child labour as well as the effectiveness of trade-restricting measures as a means of eradicating child labour. On the basis of the examples and logical arguments, it concludes that trade-restricting measures have every potential of eliminating the child labour itself. Thus, unless the root causes of poverty are addressed, it will be difficult to eradicate child labour.

2003

1. Labour Standards: Voluntary Self-regulation vs. Mandatory Legislative Schemes (CITEE: No. 2/2003)

As developing countries compete against each other to attract foreign investment, they often adopt measures that help them keep the labour costs down. These include relinquishing minimum wage protection, trade union rights, social insurance provisions and secure employment contracts. In this way, increased international trade strongly impacts the conditions of labour in liberalised economies.

The objectives of this Paper are to review 1) the issues under current discussions on labour standards; 2) their linkage with trade; and 3) the scope of codes of conduct and social labels for improving the conditions of labour in India, based on the experience of the codes of conduct in other countries.

2. Child Labour in South Asia: Are Trade Sanctions The Answer? (CITEE: No. 3/2003)

In the countries of South Asia, poverty remains the fundamental variable in explaining high incidences of child labour.

This Briefing Paper is an abridged version of a research report with the same title, which attempts to provide the theoretical and empirical understanding of the problem of child labour. In the context of the debate on the introduction of social clause, including elimination of child labour in the WTO and the regional dimension of the problem, this Paper critically evaluates the use of trade measures in alleviating the problem of child labour in South Asia.

ECONOMIC ISSUES

1995

1. Legislative Reforms in a Liberalising Economy (CUTS: No. 9/1995)

Legislation has been successfully used around the world for providing subsistence, equality of opportunity and security for all. It is the task of the legislature to consciously design and mould the law so as to serve the needs of the changing times.

This Briefing Paper attempts an objective appraisal of our existing laws in the light of the economic reforms currently under way and pinpoints the deficiencies therein and suggests the need for legislative reforms to make our legal system vibrant and justice-oriented.

1996

1. Curbing Inflation and Rising Prices – The Need for Price Monitoring (CITEE: No. 5/1996)

In the year 1991, India launched an economic liberalisation programme to wean away from a control and command economy. Though the process of liberalisation has brought some tangible beneficial results, yet a feeling is gaining ground that these benefits are not reaching the common man. Thus, a call was put out in 1994 for reforms with a human face.

This Briefing Paper attempts an appraisal of the economic liberalisation programme and argues that for reforms with a human face, it is imperative that there be an adequate system for monitoring prices, not controlling them.

1997

1. Regulatory Reforms: Why and How? (CITEE: No. 10/1997)

In recent years, the political and economic rationale for regulation has undergone change, thanks to the rapid stride in technology, increasing complexities in the global market and varying demand patterns of consumers. But, many a times, especially in developing countries, constituencies of consumers are marginalised, as compared to their counter part, the industry, during the reform process. Hence, consumer welfare is

not given an equal footing with industries during the reform process and, therefore, consumers suffer in spite of reforms.

With the above as a backdrop, this Briefing Paper makes an effort to educate consumers on the concept of regulatory reforms with the help of a framework and goes to explain the applicability of this framework with a contextual example.

1999

1. Liberalisation and Poverty: Is There a Virtuous Circle for India? (CITEE: No. 7/1999)

Countries liberalise their trade and investment regimes because they believe that this will lead to more rapid growth through a more efficient allocation of resources. It is evident that reforms will not deliver the required results in isolation. Which means that one needs to identify a set of questions which, if satisfied, would establish a positive connection between trade and investment liberalisation and poverty alleviation.

This Briefing Paper analyses macroeconomic and industry-specific data to help identify such a set of conditions in the context of the ongoing Indian reform process.

2000

1. Globalisation: Enhancing Competition or Creating Monopolies (CITEE: No. 8/2000)

The need for an effective competition regime at the national as well as some kind of arrangement at the international levels to curb anti-competitive conduct of firms has been felt ever since the processes of globalisation and liberalisation began..

This Briefing Paper argues for a multilateral framework on competition rules, throws light on development dimensions of competition law/policy, highlights UNCTAD's contribution and recommends that it should study in-depth the development impact of possible agreements on competition and the relationship between competition and competitiveness as well as the trade-related aspects of competition.

2. Dispute Settlement under the GATT/WTO: The Experience of Developing Nations

Any legal system, especially an international system, must have credibility to function properly. The strengthened Dispute Settlement Mechanism (DSM) of the WTO, embodied in the Understanding on Rules and Procedures governing the Settlement of Disputes (DSU), has a complete set of formal and informal enforcement tools.

This Paper shows that the goal of developing countries in the evolution of the DSM is no different from that of the developed nations. It highlights the specific challenges developing countries have to face. It also highlights the recent developments to provide developing countries with better access to the dispute settlement system and examines the confidence placed by them in the new DSM.

3. Process and Production Methods (PPMs) – Implications for Developing Countries

A process and production method (PPM) is the way in which a product is made and natural resources are harvested. In the context of the trade and environment relationship, PPMs have become one of the most debated sets of words in trade law history. Many developing countries are also worried about the possibility of PPMs becoming non-tariff trade barriers.

This Briefing Paper examines the pros and cons of PPMs as a trade issue. In fact, most of the environmental problems are intrinsically local and their effects do not get transferred to importing countries through products. Hence, there is little justification for applying PPM standards to imported products.

4. The Functioning of Patent Monopoly Rights in Developing Countries: In Whose Interest?

The advocates of strong international protection for patents argue that developing countries would gain from increased flow of trade, investment and technology transfer. This Paper questions this view by examining both the functioning of patents in the developing economies in the past and the current structural trends in the world economy in these areas.

This Paper outlines the structural changes in the world economy that gave impetus to the demand by industrialised countries for stronger intellectual property protection at an international level and the strategies that were adopted to achieve this end. The theoretical justification for having strong patent protection and critiques of these positions are discussed.

REGIONAL ISSUES

1996

1. Swim Together or Sink – Costs of Economic Non-co-operation in South Asia (CUTS: No. 9/1996)

Self-imposed restrictions on inter-regional trade and economic policies of SAARC countries have created unwarranted costs for the consumers. The underlying hypothesis is that non-co-operation on issues of trade and economics could lead to avoidable higher prices that the consumers in the region would have to, and do, pay and thus to losses in consumer welfare. These are the costs of non-co-operation.

This Briefing Paper shows that the costs of non-co-operation in intra-regional trade to the consumer, in particular, and the countries, in general, can be appreciable. It ends with some suggestions for extending and speeding up the process of co-operation among geographically contiguous countries in South Asia.

2. Carrying the SAARC Flag – Moving towards Regional Economic Co-operation (CUTS: No. 10/1996)

In the new world economic order, regional economic co-operation has become an imperative. A great expectation is that it will promote the region's interest to the world outside, by operating under a common umbrella, and will create a strong platform for the region in the world economy.

This Briefing Paper describes the evolution and the present status of the SAARC as an emerging regional economic grouping or, more specifically, the attempts and strategies adopted to-date in the direction of promoting greater economic co-operation among the SAARC countries.

2001

1. US Politics and Free Trade: Trade Policy Options for Africa (CUTS-ARC No.1/2001)

On the heels of the Quebec Summit of the Americas and the meeting of the Organisation of American States to re-energise efforts to create the world's largest free trade area of the Americas (FTAA), America's trade focus has turned to Africa. May 23, 2001 marked the first anniversary of the passage of the Africa Growth and Opportunity Act (AGOA).

The AGOA itself is little more than a framework for shaping the future US-Africa economic relations. Even this fact did not slowdown the public relations campaign from all quarters, praising AGOA as the first step in the beginning of a new era.

In this Brief, the issues represent important policy and political contexts for African nations to consider, as they contemplate the role of trade and economic relations with America in relation to issues of peace, reconstruction, growth and development.

2. Enhancing LDC Exports to OECD Markets: Challenges and Opportunities (CUTS-ARC No.2/2001)

Efforts towards enhancing export opportunities of least developed countries (LDCs) acquired a fresh impetus during the Third UN Conference on LDCs, held in Brussels in May 2001. Prior to this, there were two initiatives by the rich countries which intend to offer better market opportunities for the LDC exports. The US introduced the AGOA, while the EU came out with the Everything but Arms (EBA) initiative.

This policy Brief provides an objective assessment of the marginalisation of the LDCs in the global trading system, by citing suitable examples and highlighting the need for sustained global actions for strengthening the LDC exports. An effort has been made to understand the possible outcomes of the EBA, by examining its weaknesses, challenges and opportunities from the political economy.

3. Capacity Building for WTO Participation: African Perspectives CUTS-ARC No.3/2001)

An essential requirement of participation in the trade regime under the WTO is more rapid investment and overall economic growth by securing better market access for products. For African countries, this can be possible only if they can participate more effectively in the design and enforcement of trade rules as well as strengthening the institutional mechanism that shapes the trade regime on appropriate terms.

This Policy Brief explores the question of why has African countries' participation in the WTO been marginal and suggests recommendations to improve the situation.

4. East African Community (EAC) and the Need for a Regional Trade Agreement CUTS-ARC No.4/2001)

During a summit in Arusha, Tanzania, in January 1999, the three Heads of State of Kenya, Tanzania and Uganda resolved to sign a treaty re-establishing the East African Community (EAC). The purpose was to achieve a set of development objectives for the three countries as well as to promote trade within the region. It was expected to improve their economic and political bargaining power by forming a united entity. In January 1999, the EAC was reconstituted to achieve a set of developmental objectives.

This Policy Brief examines the arguments for a regional trade agreement among members of the EAC and points out the benefits that these countries could draw from such an arrangement.

2002

1. Environment at the WTO (CUTS-ARC No.1/2002)

This Briefing Paper stresses the point that the work on trade and environment in the GATT/WTO is not new and, though dating back to 1972, there is still much to be done. Environment is one of the key post-Doha WTO Ministerial Conference areas for immediate discussion.

2. Development and the Challenge of Poverty (CUTS-ARC No.2/2002)

The New Partnership for Africa's Development (NEPAD) has been promoted as an internally-driven and new strategic framework for re-engineering Africa's development. This Briefing Paper argues that NEPAD is donor-focused and rooted in the neo-liberal macro-economic discourse of the post-Washington Consensus.

In the area of how development programming addresses the challenge of poverty, we encounter NEPAD's disappointing inability to transcend the discourse of the Bretton Woods Institutions (BWIs). The Paper argues the need to transcend current discourse and practice embedded in NEPAD and the BWIs.

3. WTO and Competition Policy: A Comesa Perspective (CUTS-ARC No3/2002)

The issues pertaining to competition and the measures to deal with restrictive business practices were raised in the Uruguay Round negotiations. Although there is no multilateral agreement on trade and competition policy, the issue is very much present in many of the existing WTO Agreements.

The Agreements that refer to competition issues are General Agreement on Trade in Services (GATS); Trade Related Aspects of Intellectual Property Rights; and Trade Related Investment Measures (TRIMs). The Paper deals with WTO Agreements, which are related to a number of competition issues.

4. From Uruguay Round to Doha: *Developing Countries' Experience with Trade Negotiations* (CUTS-ARC No.4/2002)

The passage from the General Agreement on Trade in Services (GATS) to the WTO represented a major turning point for trade in developing countries. The real and more effective participation in developing countries began after the launch of the Uruguay Round of trade negotiations in 1986, when countries' own development strategies had changed to emphasising exports.

Given this background, this Briefing Paper examines the way in which developing country participation in GATT/WTO negotiations developed from the Uruguay Round to the present.

2003

1. COMESA Competition Policy – A Consumer Perspective (CUTS-ARC No.1/2003)

The experience of the Common Market for Eastern and Southern Africa (COMESA) points to the need for competition policy and law, and also for the establishment of appropriate institutions to enforce it at both national and regional levels. Over the years, competition-related concerns have arisen in the regional groupings that relate to monopolistic behaviour, market segmentation and cartel behaviour. Consumer protection provisions also form part of the COMESA's regional competition policy and law.

The purpose of this policy brief is to provide an overview of the COMESA's competition policy, with specific reference to how it will affect the consumers in the region.

2. The Trade Performance under AGOA and Cotonou Initiatives: The Case of Tanzania (CUTS-ARC No.2/2003)

The Africa Growth and Opportunity Act (AGOA) intends to replace the Generalised System of Preferences (GSP) and will be directing trade between Africa and the United States until September 2008. Many African countries were made eligible for AGOA benefits since its inception in 2000. The European Union (EU) and Africa, Caribbean and Pacific (ACP) countries (excluding South Africa), also signed a new partnership agreement in Cotonou, Benin, replacing the Lome IV Convention, on 23rd June 2000. Under the Cotonou Agreement, the EU has agreed to expand trade and investment with 77 ACP countries. The Cotonou Agreement is a 20-year-old accord, under which the nature of cooperation between the EU and ACP countries are guided by Economic Partnership Arrangements (EPAs).

This paper discusses the challenges and opportunities under AGOA and Cotonou trade arrangements for Tanzania and other African countries.

3. COMESA Regional Trade Agreements – The Zambian Experience (CUTS-ARC No.3/2003)

Zambia hosts the Common Market for Eastern and Southern Africa (COMESA) secretariat and is also a member of the Southern Africa Development Community (SADC). While COMESA wants to negotiate the Economic Partnership Agreements (EPAs) with the European Union (EU), so does SADC. But, countries with dual memberships will have to determine which organisation serves their interests best, for no country can belong to two customs union at the same time.

The purpose of this policy brief is to analyse that what happens when the country is caught in the web of two competing regional organisations.

4. Investment Policy – Performance and Perceptions: Case Studies of Tanzania and Zambia (CUTS-ARC No.4/2003)

Economic transformation achieved through foreign direct investment (FDI) is now widely acknowledged as an engine of growth in developing countries, including least developed countries (LDCs). LDCs have low incomes and generally exhibit low rates of growth. They receive relatively small amounts of FDI, which can play an important role in their capital formation. But, there are vast differences in the growth offered by FDI in various LDCs, where social and economic conditions vary, sometimes vastly.

This Policy brief discusses the role FDI has come to play in the economy of two LDCs: Tanzania and Zambia. These countries are similar in many ways, but differ fundamentally in their approach to a similar external influence. This policy brief is based on findings of the country research studies carried out under a CUTS project, entitled, 'Investment for Development'.

2004

1. Economic Partnership Agreement Negotiations: Cotonou Undermined (CUTS-ARC No.1/2004)

The trade arm of the Cotonou Agreement (CA), the Economic Partnership Agreements' (EPAs) negotiations have so far paid limited attention to the fundamental values and objectives originally set out in the CA, and arte, therefore set to threaten and undermine its vision. The WTO law, with regard to Regional Trade Agreements (RTAs), offers only limited provisions for Special and Differential Treatment (S&DT) and demands that substantially all trade be liberalised in an agreement to qualify as an RTA. The EU has, therefore, demanded that the EPAs require liberalisation of 90 percent of EU-ACP trade, a demand which threatens the ability of ACP countries to protect a wide range of vulnerable sectors in their economies, whose further growth is vital to development efforts and poverty reduction. The EU has so far rejected a wide range of proposals by ACP negotiators without a suggestion of compromise, threatening the vision of Cotonou as an Agreement based on equality of partnership.

2005

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2. Are Civil Society Organisations Genuine Partners in the EPA Negotiations? (CUTS-LRC No 2/2005)

The Cotonou Agreement governs economic and political relations between the African Caribbean and Pacific (ACP) countries and the European Union (EU). Economic Partnership Agreements (EPAs) that are supposed to be reciprocal trade agreements, will probably require ACP countries to open their economies to the EU, their largest trading partner, to a great extent than ever before. Civil Society Organisations (CSOs), therefore, have a very important role to play in helping to identify the strengths and weaknesses of the ACP economies so that decisions can be made as to which sectors are to be opened to greater competition with the EU and what period of time they need to prepare for these reforms.

MISCELLANEOUS

2000

1. Rajasthan Ke Vidyut Kshetra Mein Sudhaar (Power Sector Reforms in Rajasthan)

In recent years, a lot of changes have come about in regulatory political and economic thinking. This is because of the rapidly changing technology, increasing complexities in world trade and variations in the demand by consumers.

Keeping this in mind, this Briefing Paper is an effort to describe the status of regulatory reforms in the power sector in the context of the State of Rajasthan.

2001

1. The Californian Energy Crisis and Lessons for India

California's new wholesale power market and customer choice programme, which started in March 1998, worked fairly well for about a year-and-a-half. In the summer of 2000, the retail electricity prices in Southern California reached an all-time high and generation capacity shortages forced temporary power shortages in northern California.

To relate the California experience to India, we find that, as India struggles with the problem of inadequate electricity supply, the course of action taken has been to ensure that the state gets out of the power business.

The Government has been quite serious on this stance, despite the fact that there is still the thinking that power is a natural monopoly and, hence, government regulation is still the best option. This Brief provides the step by step events of the crisis and lessons and recommendations in the Indian context.

2002

1. Dabhol: A Lesson to All (CART: No.1/2002)

The Indian power sector was opened up to foreign investors in October 1991. In 1992, Enron offered to build a power plant at Dabhol in Maharashtra, through a subsidiary organisation, the Dabhol Power Company (DPC).

From the outset, the project was plagued by controversy and criticism on social, economic, political, environmental and techno-commercial grounds and the purchasing agreement turned out to be unsustainable. In this Briefing Paper, the Dabhol Power Project is used to demonstrate the potential pitfalls and it also offers suggestions of how to avoid them in the future.

2. The Electricity Bill

The Electricity Bill 2001 envisages a comprehensive framework, entailing a systematic unbundling of the state electricity boards into horizontally separated entities, whether private or public. This step would sharpen incentives and harness the ongoing technological advances for delivering reliable electricity at economic prices. However, the framework envisaged in the Bill may not produce the desired results, especially because the time is not yet ripe and there is little flexibility for adjustments.

This Briefing Paper suggests an alternative framework designed to provide the requisite freedom and flexibility to the states to determine their own pace and priorities. Alongside, it would enable them to modernise their electricity industry in line with the best internationally accepted practices.

3. Indian Medicinal Knowledge: Possibilities of Benefit-sharing in the Context of the Present Trade and the IPR Regime

For millennia, the traditional people all over the world had played an important role in the management of biological resources and had been the custodians of related knowledge that they acquired through trial and error over centuries.

The issue of benefit-sharing is based on the premise that ensuring a fair and equitable benefit from the commercial utilisation of the local biological resources and knowledge to the local and traditional communities would generate greater stake for these communities in the conservation of these fast eroding resources and knowledge they directly depend upon.

4. Genetically Modified Plants: Where Law and Science Meet

There has been a time in human history when the use and application of science has not been fraught with the fear of the ‘imponderables’ and uncertainties. Yet, the basic strength that the pursuit of science has relied on its standards for conclusive findings and elimination of uncertainties to the extent possible.

This Briefing Paper attempts to provide an overview into the promises, concerns and controversies in the area of Genetic Modifications (GM) of Plants. It will also highlight the basic issues for law and policy, analyse how the law in India attempts to regulate the risks of GM plants and identify the legal and institutional constraints for such regulation. It will then identify certain recommendations for the way forward.

EINTAD BRIEFING PAPERS

1. Why the Economic Case for a Multilateral Agreement on Investment in Weak

The demand of the industrialised countries for a multilateral agreement on investment (MAI), to be negotiated under the WTO roof, is meeting with considerable resistance from several developing countries. The proponents of a multilateral framework agreement argue that binding the disciplines of capital-importing countries would help reduce uncertainty and, hence, result in more foreign direct investment (FDI) in developing countries.

Contentious issues related to a multilateral agreement on investment centre around four questions. This Study attempts to answer all those questions, which are: is there any need for such agreement, what should it contain, should we aim for binding rules or flexible guidelines and what would be the likely effects on the quantity and quality of FDI?

2. The EU and India on Competition Policy at the WTO: Is There a Common Ground?

The development dimension of competition laws implies that, even for closed markets, it is desirable to have domestic laws on competition. In this connection, we note that the EC proposals are consistent with a wide variety of approaches and we do not seek to advocate any detailed options.

The Brief analyses the stated positions of the EC and India, based on their submissions at the WTO Working Group on Interaction between Trade and Competition Policy and explores whether there is not common ground between them.

3. The Temporary Movement of Workers – GATS Mode 4

One of the least liberal and most inequitable areas of the General Agreement on Trade in Services (GATS) in the temporary movement of natural persons are Temporary Movement of Natural Persons (TMNP-Mode 4). Developing countries are replete with labour willing to move temporarily to work, yet TMNP accounts for less than two percent of services trade and even less of GATS concessions.

The present Study is not intended to address these issues *per se*, but it helps to shed light on them in several ways. Some EU health sectors heavily rely on overseas doctors and a high proportion of Indian doctors spend at least part of their career abroad. But, surprisingly, very little is known about the costs and benefits of such movement.

4. The Use and Reform of Anti-Dumping Measures

An exporting country is said to be dumping its products in the importing country's markets when it sells its products at a price lower than the one at which it has sold in its domestic market, or if it sells its products abroad at a price that is less than its per unit cost. The use and abuse of anti-dumping measures has increased manifold.

This Paper would enable us to understand the dynamics of the anti-dumping measures, investigations and the lacunae in the Anti-dumping Agreement (ADA) and to remove the ambiguities and arbitrariness in administering the anti-dumping measures, i.e., what possibly can be done to make the ADA effective.

5. The Coming Death of the ATC and China's WTO Accession: Will Push Come to Save for Indian T & C Exports?

The bottom line of this Study is an overview of the impact of China's WTO accession on global trade patterns and India. Incorporated into this Study are knowledgeable insights of how major manufacturers and/or buyers in Hong Kong have already reacted to China's accession and what they plan for the future.

The Briefing Paper draws on this to examine India's competitive position and notes what needs to be done to improve India's competitiveness in the Textiles and Clothing industry.