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**MULTILATERALISM AND REGIONALISM:
THE NEW INTERFACE**

**Chapter VII: Special and Differential Treatment
Under North-South Trade Agreements**



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Chapter VII

SPECIAL AND DIFFERENTIAL TREATMENT UNDER NORTH-SOUTH TRADE AGREEMENTS

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North-South Trade Agreements came into prominence in the 1990s as a result of the negotiations of important free trade agreements involving developing countries, as is the case with NAFTA.

To a large extent these agreements are a consequence of intensified competition between the two Northern partners: the US and the EU, and from the insufficiencies of the multilateral rounds in providing deeper cuts in barriers to trade in developing country markets. Equally important, the North-South agreements would provide a tool to break new ground for new areas of commercial interests of the developed countries, such as intellectual property, services and investments, commitments on which were facing difficulties in the multilateral negotiations (or were not going to the extent desired by the North).

Likewise, it appears that market strategies of transnational corporation (TNCs) (globalization), as well as political considerations played an important role in promoting such agreements.

North-South agreements can provide gains to developing countries if they result in additional (to the multilateral trade agreements) opening of the northern markets to products and services of their special export interest, as well as in substantial inflows of FDI in particular in sectors that may create or improve competitive advantages and generate new production/export capacities in developing countries.

Market access barriers in North-South agreements should normally be addressed by means of an asymmetric removal of the impediments, such as front-load for products of export interest to developing countries and back-load for products of export interest to developed countries. In other words, developed countries are introducing substantial cuts in tariffs in a much shorter time-span than developing countries (in 5 years as opposed to 15-20 years, for example). The issue of entry barriers (such as technical barriers, or obstacles to access distribution channels) is more difficult to address. In general, products exported by developing countries may not pass quality tests applied by regulatory agencies or standard-setting entities in developed countries, or are not able to penetrate distribution channels for their internal marketing.

One possible way of tackling this problem would be to subordinate the liberalizing process to a transition period, after which the agreement could be reviewed to ascertain whether it has provided effective opening for products exported by developing countries, and whether the latter have been able to benefit from it.

At the same time, during the transition period developing countries would receive technical assistance (from the developed country partner(s) concerned or a designated international entity) to raise the standards or technical specifications of their products in order to conform with the requirements of the developed country they entered into agreement with.

The same procedure could be applied insofar as market entry barriers are concerned. The government agency of a developed country could assist in facilitating penetration of the products exported by the developing countries in the distribution channels of its internal market by cooperating with the companies and entities concerned.

From the perspective of developing countries, a North-South agreement should not lead to the outright dismantling of productive capacities as a result of the elimination of the tariff protection. A transition period also should be offered for the sectors to adjust. The agreement should provide for technical and financial assistance for adjustments to be made. During the adjustment period, tariff protection would be phased out at a pace compatible with the gradual competitive improvement of the sector. Such an adjustment could either take the form of government assistance or a business association with a developed country partner who could provide the investment, transfer of technology and marketing channels.

It goes without saying that these suggestions are purely theoretical, as they will need to be tested in real negotiations, where the bargaining power, more often than not, hardly argues in favour of the weakest partner. However, developing countries can put to good use the value of their domestic market and test the degree of interest of developed countries to assure themselves the support of the developing countries for agreements in new areas. See, for instance, the interest of the US with the FTAA (WTO plus in services, intellectual property rights and investment).

WTO rules should be adapted to allow such cooperative mechanisms to operate in the context of North-South agreements. One possibility could be to amend the Enabling Clause so as to include also or Free Trade Agreement that would provide for such flexibilities.

UNCTAD could stimulate discussions on the promotion of enlarging the SDT provisions of WTO agreements and other instruments, in order to provide for more flexibility in the multilateral rules. It could also assist developing countries to devise the best strategies to guide them when negotiating North-South agreements through policy analyses that would eventually result in a better definition of the priorities and potentialities to be explored by a developing country in a North-South agreement, and by facilitating business/entities contacts for developing countries in sectors of their interest.