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Comment

The WTO and Sustainable Development

By Gary P. Sampson

United Nations University Press, Tokyo, 2005, 315 pages

In the decade since the WTO began to operate, serious questions have arisen about its prospects. In these circumstances, it is disappointing to find an experienced commentator, like Gary Sampson, prepared to compromise that system. He supports extending WTO responsibilities to accommodate the demands from UN agencies and advocacy groups (NGOs), which seek to exploit the leverage of trade negotiations to pursue environmental, development, and social goals. The failure of other international agencies to deal with these problems indicates the global trading system would be jeopardized.

My difficulties with this book begin with its title. 'Sustainable development' is a convenient political catch phrase for journalists, publicity-seeking politicians, and NGOs, but in serious debate it must be defined. Sampson avoids this by resorting to 'a convention'. He adopts the rather tired and controversial definition adopted in the Brundtland Report (1987); namely, that present actions should not compromise the opportunities of future generations. Since technical and innovative advances vastly increase future potential and facilitate substitutability, the prospects of future generations seem assured. So what is the WTO required to do?

Sampson sifts his 20 years' experience with the GATT/WTO in search of an enhanced role for 'sustainable development'. By importing details of two specialist WTO committees – the Committee on Trade and Development (CTD) and the Committee on Trade and Environment (CTE) – he argues that 'sustainable development' already influences the work programme. This is drawing a long bow, because at different times North–South divisions have prevented constructive negotiations in both these committees. Moreover, these committees are not central to WTO activities.

Since the conclusion of the Uruguay Round, the WTO has had an overloaded agenda. Outstanding issues include quarantine and other technical standards, biotechnology (including genetically modified organisms covered in the Cartagena protocol), intellectual property rights, trade in services, and trade and development issues as set out in the Doha Round agenda. This book has chapters on each of these subjects.

Other 'trade linked' issues, placed on the WTO work programme since the Uruguay Round was concluded, focus on liberalizing 'beyond the border': investment rules, competition regulations, labour market controls, and government procurement policies. Discussion of these issues was blocked by developing countries at the Singapore ministerial meeting in 1996, and they remain wary that any agreement might reduce their policy freedom. At Cancun in 2003, the EU and Japan continued to press demands for negotiations on these 'link' issues, to the point where the chairman terminated that meeting early to prevent a total breakdown. At several points,

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Sampson offers his view that these issues should not be included in WTO negotiations. Yet elsewhere, he argues that the environment and development fall within the WTO's ambit, based on his experience with the CTD and CTE.

For many years, environmental groups have argued that GATT/WTO dispute procedures should be used to provide environmental protection. In the 1990s, environmentalists and other NGOs launched campaigns to protect dolphins and turtles from dangerous fishing methods used to catch tuna and shrimp, respectively. WTO dispute panels on tuna–dolphin and shrimp–turtle heard the complaints, and decided trade restrictions were inappropriate instruments to protect endangered species. After NGOs' lobbying and criticisms of the WTO, these decisions were reversed on appeal. After a thorough review (chapter 4), Sampson expresses doubts about these appeal decisions. The difference between the panel decisions and the judgments on appeal was that the former were decided in accordance with GATT/WTO trade rules, whereas the appeal lawyers chose to take a broader view to accommodate environmental interests, based on the Preamble to the Uruguay Round Final Act and their interpretation of GATT article XX covering general exceptions. These ambiguities remain open for future appeals.

Trade plays a major role in economic development, but lately the rationale of development theory has become lost in political aspirations about income redistributions, social justice, and charity in this age of popular compassion. Providing trade preferences to promote poor countries' exports may promote development, but domestic trade liberalization offers wider opportunities for specialization and productivity gains across the whole economy, not just the export sector. This is seldom acknowledged in the current development debate. Sampson proposes that more cooperation between the WTO and UN agencies could achieve 'sustainable development'. However, cooperation within the United Nations' family of agencies, with NGOs as members of advisory commissions, is a tough proposition that would weaken further the consensus-based, inter-governmental WTO.

The WTO's decision processes are based on national sovereignty and policy autonomy to pursue economic and social goals. By admitting this in the introduction, the author announces his concerns about the UN proposals for global governance and 'participatory democracy', which have become a mantra in annual reports by UN agencies and in World Commissions' reports. In the introduction he claims, 'I do not advocate a greater role for sustainable development in the WTO.' However, when he reviews outstanding WTO problems in detail, he waivers. (For a review of global governance and 'participatory democracy', see Robertson, 2006).

While demonstrating detailed and comprehensive understanding of WTO committees and UN agencies dealing with the environment and development matters, this book is repetitive and becomes tedious in places. The conclusions in the final chapter are weak and especially confusing. The main proposal is that the WTO and trade policies can contribute to environmental regulation without loss of economic efficiency. There is no attempt at cost–benefit analysis to justify this assertion. While acknowledging that the WTO is legally binding, which UN agencies are not, Sampson concludes, 'there is potential for mutually supportive and consistent policies between the WTO and specialized agencies of the United Nations'. His support for this cooperation is founded on the Uruguay Round declaration on 'Greater coherence

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in global economic policymaking', which has brought cooperation between WTO, IMF, and World Bank officials. Consequently, his principal proposal is to establish another committee of UN agencies to 'explore their cooperation'!

The other three proposals in the final chapter are equally insubstantial:

- another scholarly review by independent experts;
- combining CTE and CTD to study 'sustainable development';
- exploring new mechanisms to clarify WTO agreements, short of binding declarations.

The striking feature of these proposals is their similarities with conclusions of various UN studies and World Commissions, where officials seek to by-pass governments. This would eviscerate the WTO and drag it down to UN levels. Perhaps such sacrifices are necessary to get a book published by the United Nations University!

Past GATT/WTO successes have attracted interest from UN agencies and lobby groups that have been less successful in achieving their goals. Little thought is given to the reasons why one international agency has been effective where others have failed. One of the major reasons why the GATT/WTO has been effective is that its aims were limited; to liberalize international trade by negotiating rules agreed by consensus among national governments. This depends on member governments' willingness to negotiate as determined by their national economic policies. On the other hand, UN agencies vote on draft propositions, or seek reconciled texts, both of which tend to exacerbate differences or lead to 'empty' agreements. Demands that the WTO's work programme should be expanded, or that its management should be 'democratized' by allowing NGO participation or some kind of representative (peoples') council to advise the WTO Council, could only undermine the organization and its effectiveness. The unanswered question is; would sacrificing the WTO enhance 'sustainable development'?

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