

Geoff Moore
Editor

The International Society of Business, Economics, and Ethics Book Series

Fairness in International Trade



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UNCORRECTED PROOF

91 Geoff Moore
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Fairness in International Trade

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01 Introduction to Fairness in International Trade

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13 The chapters in this book all have their origins in the International Society for
14 Business, Economics and Ethics (ISBEE) World Congress that was held in Cape
15 Town, South Africa in July 2008 (see www.isbee.org) under the title 'Global
16 Fairness – Local Integrity'. ISBEE, as many will know, aims to be a truly global
17 association which draws together scholars and practitioners from all continents.
18 In doing so, it helps to counter the kind of parochialism that is all too often a
19 temptation – to work with others and write for others that share similar cultural
20 assumptions. South Africa in general, and Cape Town in particular, was a good
21 venue to host such a conference with its history as a meeting place for the peoples
22 of the world.

23 The World Congress of ISBEE is sometimes referred to as the Olympics of
24 Business Ethics conferences because it meets every four years. A lot of work, how-
25 ever, takes place in between Congresses because one of the key contributions that
26 ISBEE makes is to co-ordinate Global Research Projects. These are loose but global
27 networks of academics working on related areas with the World Congress as the
28 initial focal point for the dissemination of that research. I had the privilege of co-
29 ordinating one of the two Global Research Projects for the 2008 World Congress –
30 Fairness in International Trade and Investment – and the papers from that research
31 project form the second part of the book. The first part of the book contains a careful
32 selection of other papers from the World Congress.

33 34 35 Part I: Economic Development, Wealth Creation and Africa

36 Given that the World Congress was being held in Africa for the first time, there is
37 a deliberate bias towards African scholarship here with three of the five chapters
38 being by African authors. This part of the book begins, however, with a chapter
39 based on an edited version of one of the keynote addresses given by **Paul Collier**.
40 We were, indeed, privileged to have Prof. Collier with us. His work on develop-
41 ment economics and African economics in particular is well known. In his speech
42 he reviewed the economic divergence of the poorest one billion from the other five
43 billion people in the world. These people, he argued, lack any credible hope of ever

46 emerging from their poverty, and their position has been made worse by commodity
47 booms and the recent rise in food prices. He criticised the ‘bottom of the pyramid’
48 solution which sees people in the developing world as consumers, but also criticised
49 micro-credit which sees them as entrepreneurs. What these people need from busi-
50 ness, he argued, is to become wage-earning producers in manufacturing industries.
51 And to enable this solutions are needed to both restrictive World Trade Organisation
52 (WTO) policies and the powerful agricultural lobby in developed countries. So here
53 the WTO emerges as a key player in enabling the bottom billion to break free from
54 the chains of poverty – an issue that is considered in much more detail in the second
55 part of the book.

56 The chapter by **Georges Enderle** is a more reflective piece, but nonetheless is
57 related both to Paul Collier’s chapter which precedes it and to the three African
58 chapters which follow. He considers the concepts of wealth and wealth creation
59 which, as he argues, are often assumed in discussions of business ethics – we are all
60 *for* wealth creation. But Enderle shows that this is often because we have either
61 a simplistic understanding of wealth (as in making money), or a vague concept
62 (as in adding value). Instead, he argues that the concept of wealth is a rich and
63 varied one – one that includes physical, financial, human and social capital wealth,
64 takes both private and public forms, involves a consideration of both wealth cre-
65 ation and distribution, and has both material and spiritual aspects. Sustainability,
66 and therefore intergenerational considerations, are also essential elements of any
67 serious consideration of wealth creation. Hence there are challenges here for busi-
68 ness and business ethics in considering the purpose of business – what it is for,
69 what kinds of goods it produces or services it provides – rather than just how it
70 goes about its business. In relation to development economics, this raises a ques-
71 tion about a single-minded concentration on material wealth measured in monetary
72 terms, important as that clearly is. Perhaps a wider understanding of wealth, and
73 a focus on well-being and quality of life measures rather than just GDP per head,
74 would help to ensure that development is truly beneficial to those whose need is
75 greatest.

76 **Symphorien Ntibagirirwa**’s chapter links with the issues of wealth creation
77 and economic development. He makes the argument that cultural values under-
78 pin the pursuit of self-interest and rational choice that have led to growth and
79 development in western economies. That these cultural values are fundamental to
80 economic growth is often an unstated assumption, and an assumption that then
81 leads to the simplistic conclusion that self-interest and rational choice (*western val-*
82 *ues*) can and perhaps should be universalised. In showing that this is not the case,
83 Ntibagirirwa derives a powerful explanation for the failure of economic development
84 in sub-Saharan Africa and, by considering shared African values, he argues for the
85 development of an ‘Ubuntu economy’ which is true to Africa’s cultural heritage.
86 The concept of Ubuntu has an ontological basis to do with the nature of our shared
87 humanity but also normative implications in fostering harmony in both society and
88 with the ecological environment. There may be challenges here for Collier’s pro-
89 posals which may seem to suggest, at best, the export of a western economic model
90 and, at worst, western economic colonialism.

91 **Munjaradzi Murove's** chapter on Black Economic Empowerment (BEE)
92 reviews the problems with both capitalism as applied in South Africa (that it had
93 tamed Africans into being victims of expropriation) and colonisation (that it had
94 expropriated African resources and was, therefore, a form of legalised robbery). He
95 then moves on to the commonplace that political independence has not meant eco-
96 nomic independence or control; the problem remains that western countries are in
97 favour of economic decolonisation only in so far as it provides fertile ground for
98 perpetuating western economic interests. This leads on to a consideration of the
99 policy of BEE, an attempt to draw indigenous Africans into capitalist forms of busi-
100 ness. But he argues that this has merely served to produce a partnership between
101 an African ruling class and international capitalism and that its benefits have not
102 been widely shared. Drawing on Veblen's Institutional Evolutionary Economics, he
103 argues that BEE will merely create a class of African capitalists whose economic
104 standing will make it impossible for them to be in solidarity with the majority of the
105 African poor.

106 The first part of the book concludes with **Christine Gichure's** chapter in which
107 we see the impact of economic colonialism very directly as she discusses the case
108 of the Kenyan cut flower industry. Here the (quite possibly ignorant but nonetheless
109 not innocent) demands of western consumers are mediated through western compa-
110 nies and have serious effects on Kenyan employees in the industry. She provides a
111 summary of the issues to illustrate the deleterious knock-on effects down the supply
112 chain. In support of Murove she argues that this has resulted in exploitation and the
113 violation of some basic rights of some of the more vulnerable stakeholders.

114 In considering theoretical perspectives that might help to resolve these issues, she
115 draws particularly on Pope Benedict's encyclical *Caritas in Veritate* to argue for the
116 common good as the missing link between ethical sourcing and moral responsibility.
117 This moves moral responsibility from satisfying minimal requirements or comply-
118 ing with regulation to meeting aspirations of an ethical ideal based in distributive
119 justice and gratuitousness. There are links here with African Ubuntu philosophy
120 (see Ntibagiriwa's chapter).

121 122 123 124 Part II: Fairness in International Trade – A Global Perspective

125
126 We move then to the second part of the book which, as noted above, contains the
127 papers from the ISBEE Global Research Project on Fairness in International Trade
128 and Investment. International trade and investment are, perhaps, the most visible
129 form of globalisation and raise issues that touch on the lives of hundreds of millions
130 of people across the world. One focal point for this activity is the WTO and this
131 was taken as the starting point for the five regional projects – from Africa, Latin
132 America, Japan, North America, and Europe – that made up the global project. The
133 order in which these are presented is quite deliberate – to allow the perspectives from
134 the developing world to speak first rather than, as so often, to find them speaking
135 second and on an agenda that has already been set.

136 The questions that each regional project agreed to review were as follows:

137

- 138 1. To what extent are the workings and outcomes of the WTO perceived as fair in
139 your region/continent?
- 140 2. What are the main ethical issues regarding international trade and investment (or
141 alternatively the WTO) in your region/continent?
- 142 3. What developments are there in your region/continent to address the above
143 ethical issues?

144

145 These questions have, perhaps inevitably, been interpreted broadly by the dif-
146 ferent regions, and here I summarise the contributions and then attempt a global
147 overview from these five projects. We begin with **Piet Naude's** chapter on Africa.
148 He identifies Africa's dire economic situation: that with 13% of the world's popula-
149 tion it has only 1% of the world's GDP; that over 40% of the sub-Saharan population
150 lives on less than US\$1 per day. He then traces the historical development of Africa
151 including the slave trade, colonisation, de-colonisation and the development of the
152 current global financial system which, he argues, has always been centrally managed
153 with a severe democratic deficit in decision-making power as a result. He notes a
154 general Afro-pessimism – something similar to Paul Collier's idea that the bottom
155 billion (of which many are in Africa) lack credible hope.

156 In turning to trade and the role of the WTO Naude notes Africa's lack of ability to
157 participate, that the agenda is not pro-development, the inappropriateness of a 'one-
158 size-fits-all' strategy for trade liberalisation, and the need for aid to meet adjustment
159 costs. But he also notes Africa's need to regain its own sense of self-worth and, in a
160 manner similar to Ntibagirirwa, the need to reconstruct Africa's own identity. This
161 will require special and differential treatment (as agreed in principle by the WTO)
162 and, more generally, a redefinition of distributive justice. But he also turns to Ubuntu
163 philosophy as something that Africa may be able to offer not only as an appropri-
164 ate underpinning philosophy for African economic development (see Ntibagirirwa's
165 chapter again), but for the global trading system in general. The ancient wisdom of
166 interconnectedness and reciprocity may be part of what Africa can contribute as we
167 face the challenges of sustainable development.

168 **Elio Ferrato and Cecilia Arruda's** chapter reports on the Latin American per-
169 spective. In a similar fashion to the chapter on Africa, they provide evidence of the
170 lack of economic progress that has been made across Latin America. The chap-
171 ter then produces a litany of protectionist measures, operated under WTO sanction,
172 against these countries. As a result, it seems that they may be condemned to being
173 the suppliers of primary goods only, instead of gaining the economic benefits of
174 adding value in-country and exporting higher value goods. About the only posi-
175 tive aspects that they are able to report on is the impulse for the development of
176 an understanding of the benefits of free trade among Latin American countries and,
177 more specifically, some benefits deriving from Trade-Related Aspects of Intellectual
178 Property Rights (TRIPS).

179 With these kind of challenges from developing countries, how do the developed
180 nations view the WTO? We look first at **Iwao Taka's** contribution from Japan. He

181 identifies that, while broadly in agreement with WTO principles, Japan's history
182 (particularly when it took protective measures during its own post-World War II
183 development) has led Japan to be sympathetic to developing countries' needs for
184 special treatment. Japan also recognizes, along with other countries, that WTO out-
185 comes are not always fair and that the WTO does not always function as it should. In
186 the light of the latter, Japan's strategy has moved from negotiating WTO-based mul-
187 tilateral agreements to bilateral Economic Partnership Agreements (EPAs), though
188 still operating within WTO guidelines. But there is also evidence that, while fair in
189 terms of process, the outcomes of EPAs are not always fair to the bilateral partners.
190 Japan is also sensitive to its own continued protectionism in relation to food security
191 in general and rice production in particular.

192 This leads Taka to consider the purposes of globalization and the WTO and,
193 drawing on a Rawlsian analysis, he concludes that in both cases the purpose must
194 be to share the benefits of globalization and improve the situation of the least advan-
195 taged countries. This leads him to show how Japan has taken its responsibilities in
196 this regard, as the world's second largest economy, seriously. So he identifies Japan's
197 contribution to investment in Asian countries, and its more recent work in solving
198 food production and poverty problems in Africa, particularly through infrastruc-
199 ture investment. He also notes the private sector's contribution to such development
200 through projects in education, healthcare and security. All in all, then, it seems Japan
201 sees the benefits of globalization and of WTO-style processes to free up trade, but is
202 both sensitive to developing countries' needs and prepared to make its contribution
203 to ensure the benefits of globalization are shared.

204 The chapter by **Fred Bird, Thomas Vance and Peter Woolstencroft** takes a
205 'big picture' perspective on fairness in international trade, focusing particularly on
206 North America (Mexico, Canada and USA). They begin by discussing the trading
207 relations between these three countries, noting that Canada has used WTO dispute
208 resolution procedures successfully against the USA, and claiming that multi-lateral
209 trade relations like those embodied in the WTO can be used to serve the interests of
210 economically weaker nations. They then note four typical and competing normative
211 views of what represents fairness in trade, each of which is or has been evident in
212 North American trade – protectionism, the hegemonic liberal fair play approach, a
213 concern for outcomes under a distributive justice approach, and anti-globalization
214 dissent in the name of the environment or the working classes.

215 They acknowledge that any universal resolution between these normative views
216 is unlikely, but offer some common points of reference which might usefully be
217 used to inform and help towards resolution in such debates. These comprise respect
218 for flexibility, the importance of institutions, greater attention to the commutative
219 justice principles for fair exchanges between nations with asymmetrical economic
220 power, the need to find a fitting balance between local, national, regional and inter-
221 national trade, and finally more concern for the ways false pricing and abusive
222 transfer pricing distort international trading relations. In particular, they focus on
223 the way in which such transfer pricing can distort international trade relations and
224 suggest that there may be a role here for the WTO in shaping transfer pricing
225 policy.

Finally, we turn to my own chapter (**Moore**) which offers a critical perspective on European trade relations with African, Caribbean and Pacific (ACP) countries. The recent focus for these relations has been the negotiation of WTO-compatible bi-lateral Economic Partnership Agreements (EPAs – see also Taka’s chapter above). These have given rise to concern for five main reasons: their detrimental effects on the ability of the individual ACP regions to achieve local integration; the need for reform in local institutional arrangements for EPAs to have beneficial effects; the estimated direct trade and fiscal effects, which are generally predicted to be poor (see again Taka’s chapter on Japan in this respect); the introduction of ‘Singapore’ issues to do with investment, competition, government procurement and services which are not required for such an agreement to be WTO-compatible; and issues over the amount and conditionality of aid to support ACP countries by mitigating supply side constraints such as poor infrastructure, weak production facilities and low levels of human resource capacity.

The position with regard to signing these EPAs is summarized in the chapter as of December 2008. Since that time further interim EPAs have been signed, but the overall situation – developing countries generally signing because they have most to lose while Least Developed Countries (LDCs) tending not to sign – remains the case. In other words, the contentious nature of EPAs is still very much in evidence.

Assessing fairness in international trade is problematic, but I discuss conventional procedural and distributive approaches and suggest, from virtue ethics, that an Aristotelian, *teleological* question over the purpose of EPAs (how they will support and benefit community both within developing countries and between developing and developed countries) may be a helpful addition. Applying these principles to the case of EPAs leads to various conclusions: the EU has generally both prioritized and compromised on procedural fairness whereas the ACP countries have, unsurprisingly, sought but failed to achieve distributive fairness. Asking questions about community and purpose, which the ACP countries have been better at doing than developed countries, may help to ensure that the necessary flexibility is built in to enable LDCs in particular to develop at their own pace and thus genuinely benefit from trade liberalization.

Taking these five chapters together, then, what key themes emerge? We can discern five:

1. The benefits of international trade have clearly not been fairly distributed to date, with developing countries lagging far behind and in danger of losing out even further by being condemned to be, at best, the providers of primary goods;
2. Protectionism has played a key part in developed countries’ economic progress and hence the inappropriateness of a ‘one-size-fits-all’ approach to development becomes apparent. This leads to the need for flexibility of approach to allow developing countries to protect infant and fragile industries and to liberalise when the time is right;
3. The over-riding purpose of trade liberalisation should be pro-development and, though this came out to only a limited degree, increasingly pro-sustainable development;

271 4. There is an appropriate degree of critical analysis of developed countries'
272 approaches, and some evidence of these countries taking their responsibilities
273 seriously towards developing countries in terms of aid and technological
274 assistance, but questions remain over self-interested motives;

275 5. Developing countries may well have something to offer in relation to their
276 understanding of community, of interconnectedness and reciprocity, that will be
277 important as we strive towards a greater degree of fairness in international trade.

278
279 One final but important point is that the WTO came in for repeated criticism
280 throughout these chapters. As the key organisation at the centre of international
281 trade agreements it is both a relatively easy target for criticism and a fundamentally
282 important organisation if trade is to be for the common good. This raises the question
283 about the role and purpose of the WTO – whether it should be concerned solely
284 with trade liberalisation or should take on a more development-oriented stance. Not
285 surprisingly the dividing line between the camps taking these alternative positions
286 is broadly defined by developing countries on one side of the line and developed
287 countries on the other. It seems that resolution of this issue is crucial if the concerns
288 expressed here over the observed unfairness in international trade are to be resolved.

289 The contribution of this book towards this debate, and more generally towards
290 fairness in international trade, then, is more than simply academic commentary and
291 critique. There is a practical edge to the various dissatisfactions expressed here. It is
292 certainly my hope, and a hope that is evidently shared by the other contributors, that
293 the future of international trade is, indeed, fairer. If this book makes even a small
294 contribution towards the goal of the common good for all, it will have served its
295 purpose.

296
297 Durham
298 November 2009

Geoff Moore

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Part I

Economic Development, Wealth Creation and Africa

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Chapter 1

The Bottom Billion and What We Can Do to Help

Paul Collier

1.1 Introduction

Paul Collier was introduced by Georges Enderle:

Let me now introduce our first speaker, Professor Paul Collier. For people like me who are not experts in development economics but concerned about globalisation and development, Prof. Collier is best known for his recent book about why poor countries are failing and what can be done about it. He developed a perspective for overcoming poverty that lies between those who think development has failed completely and those who advocate the substantial increase of aid believing that the problem could be solved that way.

Prof. Collier is from Oxford University where he is the Director of the Centre for the Study of African Economies. He has previously served as Director for Development Research at the World Bank from 1998 to 2003 and he was a senior advisor to the former Prime Minister of UK, Tony Blair, as part of his Commission for Africa. He is carrying out current research on the challenges facing low income countries including research on the economics of conflict, governance and macro-economic policy with a strong focus on the effect of AIDS, exchange rates, and trade policy. We are particularly grateful for Prof. Collier for interrupting his family vacation and flying to Cape Town last night to speak to us, so please give him a warm welcome.

1.2 Paul Collier

Well thank you very much for inviting me. I think the ethical discussion on globalisation is being horribly and dysfunctionally polarised. There are two camps, and there has been a dialogue to the death between them. The one camp, which is implacably hostile towards globalisation and business in all its forms, sees global capitalism as evil. And there is another bunch of denying optimists, which see globalisation and business as a panacea. I think both of these camps are seriously wrong.

P. Collier (✉)

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46 My book, *The Bottom Billion* (2007), is about a divergence, a term for what we
47 used to call developing countries. When I grew up the world looked rather stark
48 where there were 1 billion people living in rich countries and 5 billion people in
49 poor countries. And that is still how, for example, the United Nation's Millennium
50 Development Goals rate the performance amongst the 5 billion people living in
51 developing countries. The world has not been quite balanced and has not been so
52 for quite a long time. But I think that the world is about the 5 billion versus the
53 1 billion, or perhaps better the 1 billion, 4 billion, 1 billion. And that's the shape of
54 the world we need to look at.

55 Yes, there are 1 billion people living at the top in the rich countries that have
56 comfortably "made it". Then there are 4 billion people that are living in countries
57 that are converging on that 1 billion at the top, and that are converging at rates which
58 have no historical precedence. But that means 1 billion people are left at the bottom.
59 One billion people living in about 60 countries that probably for the last 40 years
60 have stagnated. And because they have stagnated and everybody else is growing,
61 what we have is a process of divergence, divergence between those billion at the
62 bottom and everybody else. And a divergence especially between the 1 billion at the
63 bottom and the next 4 billion.

64 Now there are still a lot of poor people amongst those 4 billion. There are many
65 poor people in China. But the poorest people are in Chad. And there is a big differ-
66 ence between being poor in China and being poor in Chad, and that can be summed
67 up in one word – and that word is hope. A poor family in China has a credible
68 prospect that their children will grow up in a transformed society. The parents will
69 stay poor for the rest of their lives, but their children are likely to grow up in an
70 economy that is rich enough to make them fully participating members of a modern
71 global society.

72 But a poor family in Chad does not have that credible hope. The last 40 years
73 have been stagnant and the danger is that the next 40 years will be the same.
74 So the big divergence between the bottom billion and the rest is that of credi-
75 ble hope and the absence of credible hope in those societies. And that is both a
76 human tragedy on a massive scale and a nightmare globally because the world,
77 although economically divergent, is socially integrated, and 1 billion people living
78 in societies that cannot provide credible hope is quite a bill for the future world to
79 pay off.

80 So, my book is about why that divergence has happened, what has gone wrong,
81 what the four traps¹ are that have prevented the 60 now poorest countries from
82 growing, and then more particularly what can be done about it. And I do not want
83 to go through the book today. I wrote the book so that you could read it at your
84 leisure on a beach. Sixty thousand people have bought it and I now know that

85
86
87 ¹ The four traps are the conflict trap, the natural resource trap, being landlocked with bad
88 neighbours and bad governance in a small country.
89
90

91 many people have indeed read it on a beach on their vacation, and that is what I
92 recommend.

93 Now what I want to do first is move on a little bit from that process of divergence.
94 That process of divergence is a very long slow process over the last 40 years
95 and there are two reasons which we can now say have complicated it. One is com-
96 modity booms, and commodity booms have provided an enormous opportunity for
97 some of the countries of the bottom billion. Take a country like Angola. Angola is
98 getting oil revenues of something over \$50 billion US per year and that is much
99 more than the entire net inflow of revenue to the 60 countries at the bottom. So how
100 Angola uses its oil money is a first order issue of opportunities for transformation,
101 and rapid transformation at that. There were opportunities like this that happened
102 before in the 1970s, and usually they became lost opportunities. They could have
103 been used for transformation, but that would have turned the politics of the coun-
104 try very sour. So a country like Nigeria is actually poorer now than if it hadn't had
105 the first barrel of oil. So that is the first problem with the recent phenomena of
106 commodities.

107 And then the more recent issue in relation to commodity prices has been the
108 rise in food prices. And just as the commodity booms are a big opportunity for
109 some of the countries at the bottom, so the enormous increase in food prices are a
110 real nightmare, not just a potential nightmare, but a current nightmare for a lot of
111 countries at the bottom. Food price rises are hitting one segment of the population
112 very hard indeed and that is the urban poor, the urban population, because they have
113 to buy their food. The rural population is to some extent protected because they
114 grow their own food. The urban population has to buy their food. For not only do
115 the urban poor have less money, but as you get poorer, a higher share of your budget
116 goes on food. So the urban poor are spending about half their budget on food. And
117 that is a really big nightmare in itself, but then worse than that is that those at the
118 bottom of the food chain are the children of the urban poor.

119 We now know from nutrition studies that when children are malnourished for
120 a continuous period of more than 2 years, it causes stunting. The stunting causes
121 not only irreparable, irreversible physical damage, it causes irreparable, irreversible
122 mental damage. So unless we can bring global food prices down fast, the current
123 generation of children will grow up and will have irreversible damage done to it and
124 we will witness the problems that will arise from this for another 70 or 80 years.

125 So the slow crisis of economic divergence in the countries of the bottom billion
126 has been made more complicated by the huge opportunities, the high risk opportuni-
127 ties that commodity booms have led to, coupled with the current crisis of exploding
128 global food prices.

129 And now I want to turn to what businesses can and should be doing about it. And
130 let me start off with this slow process of the economic divergence of the 60 countries
131 at the bottom of the world economy and what could probably be done about it. There
132 is a business discourse on this and I do not want to be disparaging about it, but I want
133 to suggest that to an extent it is disappointing.

136 The business discourse which I hear most often, and even though I have written
137 a book called *The Bottom Billion*, they termed it the “Bottom of the Pyramid”,²
138 and this idea is very fashionable in business. I am not the writer of the “Bottom of
139 the Pyramid”. The guys who wrote that missed the point. For there is basically an
140 opportunity for business, but it is not an opportunity for the people at the bottom as
141 consumers. In fact, really poor people are so poor that there is not much of a market
142 at all. Treating these people as *consumers*, misses the point. The real opportunity
143 is to harness them as *producers*, because the tragedy of these billion people is that
144 they are so unproductive. That’s why they are very poor. But we now know how
145 to organise economic life so that they, ordinary people, are much more productive
146 than they have ever been in history. That is what business does, it organises ordinary
147 people to be productive. That is what the bottom billion need. They need to be
148 treated as producers, not just as consumers. And business needs to work its magic
149 and raise their productivity and hence their income.

150 Now to an extent business is focussed on people as producers, but then it flips
151 over from what I regard as the obvious focus and it goes all the way to treat people as
152 entrepreneurs. And that is this huge movement for micro-credit, for micro-finance.
153 And again I do not want to be disparaging, but frankly this flip from treating peo-
154 ple as consumers who are so poor that they do not represent a sensible market to
155 target, to treating them as entrepreneurs, growing their own businesses, is also so
156 silly. For some of them will be entrepreneurs, but the reality of these terribly poor
157 countries in Africa is that far too many people are being forced into the role of
158 entrepreneur.

159 Most people in most societies are not suited to be entrepreneurs. The success of
160 an entrepreneur is about risk taking, of an obsessive concern for details, all these per-
161 sonal characteristic that most people just do not have. That is why in most societies
162 where people are given the choice, most people prefer to participate in production
163 as wage earners rather than to act as entrepreneurs. And that is very sensible. Those
164 ordinary people are much better as wage earners, for they do not need to make the
165 everyday decisions themselves as entrepreneurs. And in the societies of the bottom
166 billion, they are thrust into the role of entrepreneurs because there are no jobs. So
167 then the job of business is obvious – to teach ordinary people to become decent wage
168 earners. These wage-based jobs that provide the organisation with what it needs also
169 make ordinary people more productive.

170 Now, some of this is happening, and there is a new wave of *social* entrepreneurs,
171 and I think it is a hugely exciting phenomenon. I have lived through three instances
172 of public concern with developing economies. The first instance came after the war,
173 where the big public enemy was the World Bank, the United Nations and the big
174 democracies. And then about 20 years ago we got a new way which was the com-
175 passionnate organisation, the compassionate NGOs. And they had huge energy, but
176 they were not really very good at looking after business strategy. And now the new
177 way of social entrepreneurship combines all the compassion of entrepreneurs with

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180 ² See the references for details.

181 all the business “savvy” and flexibility required. And there is only one thing that is
182 missing at the moment, and that is any sense of being strategic, intervening, pro-
183 viding the businesses which in a particular environment can scale up and make an
184 overall massive difference to these economies.

185 So, what I urge is to become more strategic and pursue those opportunities in
186 particular environments which have the ability to scale up. The big thing that pow-
187 ered Asia’s poverty was Asia breaking into global manufacturing. And that really
188 happened only from the 1980s on. Until the 1980s global manufacturing was basi-
189 cally a developed country activity. But that has changed. Take the case of buttons.
190 Two-thirds of all the buttons made in the world are now made in one city. This
191 is as a result of what is known as clustering – the formation of clusters of mutu-
192 ally supporting firms (suppliers of various forms, manufacturers, distributors) which
193 develop a combined technological expertise. This would be an ideal, scalable tech-
194 nology for the bottom billion, but the difficulty is in breaking in to that kind of cycle
195 of economic development.

196 For the Least Developed Countries (LDCs) a system known as “Everything But
197 Arms” (EBA) exists. This was originally adopted by the European Commission,
198 granting duty-free access to imports of all products from all LDCs without any quan-
199 titative restrictions, except to arms and munitions. But in practice this is ineffective
200 and is, in effect, no more than gesture politics. It might be better termed EBM –
201 “Everything But Manufacturing”! What Africa needs is temporary access to devel-
202 oped markets in order to be able to break in to these markets and develop the kind of
203 manufacturing base that would provide long-term economic development. We need
204 a temporary waiver of World Trade Organisation trade laws, perhaps for a period of
205 2 years or so, for that to be possible.

206 However, one of the traps that I identified in my book is the problem of being
207 landlocked with bad neighbours. This means that, even if a manufacturing base
208 could be established in some of these countries, the problem of poor transport
209 infrastructure in neighbouring countries would mean that the supply chain would
210 be costly and difficult to maintain. For that reason the best place for manufacturing
211 to be developed is in coastal areas. For that reason too, it may be that e-services may
212 be part of the solution.

213 I want to return finally to the problem of the present food crisis and the need to
214 bring world food prices down, in order to make one further point. Western societies
215 have the solution to this problem. In the USA one third of grain is now grown for
216 bio-fuels instead of for food. In the European Union there is a ban on production
217 using genetically modified crops. Changes to either or both of these policies would
218 make a huge difference to the quantity of food produced and hence to its price.
219 But, as usual, there is another factor here and that is that both of these situations
220 are being exploited by the greedy agricultural lobby. So, we need to find solutions
221 to this kind of protectionism if we are to help solve the problem of the bottom
222 billion.

223 As I said towards the end of my book, our approach toward the bottom billion
224 has been failing. Unfortunately, many of these countries are heading down, not up,
225 and they are collectively diverging from the rest of the world. But it does not have

226 to be like that. If we could narrow the target onto these bottom billion and broaden
227 the range of instruments that we bring to bear on the problem, we can solve it.

228 Thank you.
229

230

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01 **Chapter 2**

02 **A Rich Concept of Wealth Creation Beyond**
03 **Profit Maximization and Adding Value**

06 **Georges Enderle**

13 *“Making money” can be destroying wealth while creating
14 wealth can be losing money.*

15 *A thorough understanding of wealth creation enables us to
16 sharpen our economic critique of fashionable and short-sighted
17 management recipes and to bring the power of ethics to bear
18 where it matters most.*

19 **2.1 Need for a Fresh Look at the Creation of Wealth**

21 The purpose of this chapter is to take a fresh look at the concept of the creation of
22 wealth. We need a fresh look because the notion of wealth creation we encounter is
23 often very simple (as in “making money”) or extremely vague (as in “adding value”).
24 Moreover, the urgency for a fresh look becomes even more articulated and pressing
25 when we envision the global importance of wealth creation and its widespread fac-
26 tual neglect. Not only need we better understand what wealth creation really is,
27 but we also need to understand how it should be valued in the global context from
28 moral, cultural and religious perspectives. Therefore, the search for the meaning
29 of wealth creation can’t be conducted but in both a critical and a constructive
30 approach.^{1,2}

31 **G. Enderle (✉)**

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33 Notre Dame, Notre Dame, IN, USA
34 e-mail: genderle@nd.edu

35 ¹ On a personal note, I may add my exposure to and my interest in the question of wealth creation,
36 having taught and done research in China for many years.

37 “To be rich is glorious,” a famous saying attributed to Deng Xiaoping in the mid 1980s (see
38 note 2), marked a radical change of attitude towards wealth and prosperity, one that came to con-
39 stitute a core value of the moral foundation for China’s economic reform and open-door policy. It
40 has been embraced by millions and millions of Chinese and proved, overall, to be quite success-
41 ful. I personally have been fortunate, since 1994, to observe and study the remarkable economic
42 development in China and particularly in Shanghai, to seek possible lessons applicable to other
43 parts of the globe and to reconsider my own views with regard to poverty and wealth and business
44 responsibility.

46 In order to illustrate the huge gap between the global importance of wealth cre-
47 ation and the attention paid to it, I would like to point to three concerns about
48 globalization and the roles and responsibilities of corporations.
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52 **2.1.1 *Winners and Losers in the Process of Wealth Creation*** 53 ***Over the Last 50 Years***

54
55 The first concern is highlighted in the fascinating and powerful historical account
56 “why some [nations] are so rich and some so poor,” of David Landes (1999), who
57 scrutinizes the winners and losers in the process of wealth creation over the last
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60 These Chinese challenges are in stark contrast to what I had experienced before my involvement
61 with China and in other regions of the world. Highly motivated by an eye-opening trip to India
62 in summer 1970, I wanted to complement my education in theology with studies in economics,
63 especially on poverty and income inequality. My focus was clearly on the poor, not the rich. How
64 could the rich be “glorious” when, as Jesus said, “it is easier for a camel to go through the eye
65 of a needle than for someone who is rich to enter the kingdom of God” (Luke 18: 25)? Although
66 living in Europe, I was strongly influenced by the Latin American theology of liberation, the pref-
67 erential option for the poor, and the debate on the pastoral letter *Economic Justice for All* of the
68 U.S. Catholic bishops (Enderle, 2002b). To fight against poverty made sense. Jesus’ saying that
69 “you always have the poor with you” never meant to me to accept the fact of poverty in resignation
70 and to give up the hope to essentially eradicate poverty. Thus I wrote my “habilitation” (Enderle,
71 1987) in business ethics on economic and ethical aspects of poverty in Switzerland and, by doing
72 so, discovered how poverty research can open up a wide range of perspectives that are also of great
73 relevance to business and economic ethics in general (see Enderle, 1991). But at that time I didn’t
74 realize the importance of the creation of wealth.

75 In the 1990s I was increasingly exposed to two very different types of continental experiences.
76 I couldn’t help comparing them on a continuous basis, although such comparisons are certainly
77 incomplete and somewhat biased and unfair. My connections to and activities in Latin America,
78 and particularly my involvement in the long preparation of the World Congress of Business,
79 Economics, and Ethics in São Paulo (2000), helped me to understand more deeply the ethical
80 challenges of business ethics on that continent and the presence of Catholicism in its multiple
81 forms (see Enderle, 2003). My trips to East Asian countries and my studies of some of their core
82 ethical issues opened my Western eyes to a very new and highly complex reality with which I still
83 have difficulty coming to grips (see Enderle, 1995; Lu and Enderle, 2006).

84 In juxtaposing and comparing those countries’ experiences, I’m beginning to understand how
85 important a proper concept of and a determined focus on wealth creation are precisely for address-
86 ing the issues of poverty and inequality of income and wealth. Furthermore, these vital problems
87 cannot be dealt with in a purely technical and value-free manner. Culture and religion obviously
88 matter and their impact, for better or worse, needs to be investigated and evaluated.

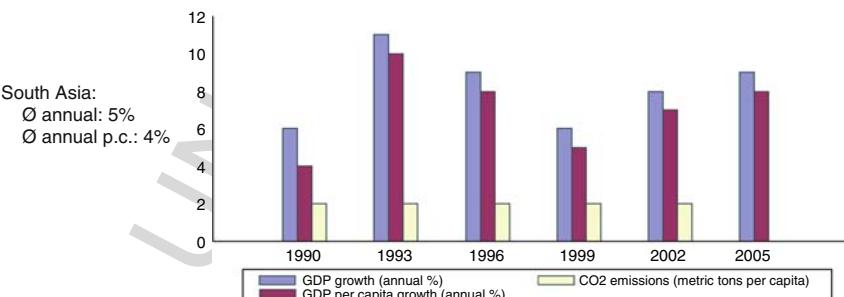
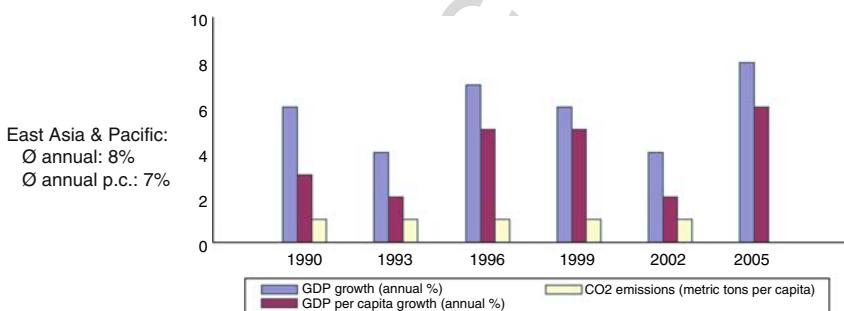
89 ²Remark about the saying “to be rich is glorious”: This saying (“zhi fù guāng róng”), actually, was
90 neither directly uttered nor denied by Deng Xiaoping. A journalist asked the leader in an inter-
91 view on September 2, 1986: “How would Mao Zedong see the current situation?” and proposed
92 the answer that remained uncontested by Deng Xiaoping: “In such a way as the current lead-
93 ers maintain that to be rich is glorious....” (*Deng Xiaoping’s Selected Works in Chinese*, vol.3,
94 Beijing: People’s Publishing House, 1993, p. 174). I acknowledge my gratitude to Xiaohe Lu for
95 this information.

50 years. On the winners' side, in addition to "the thirty wonderful years from 1945 to 1975" of France and the "economic miracle" in Germany, he highlights the East Asian success stories of Japan, the four "Little Tigers" (South Korea, Taiwan, Singapore, and Hong Kong), and the regional followers such as Malaysia, Thailand, and Indonesia, referring, among others, to the World Bank's study *The East Asian Miracle* (1993), and adding China in his "Epilogue 1999" (Landes, 1999, pp. 524–531). The losers are the Middle East, Latin America, the countries of the Communist-Socialist bloc, and sub-Saharan Africa.

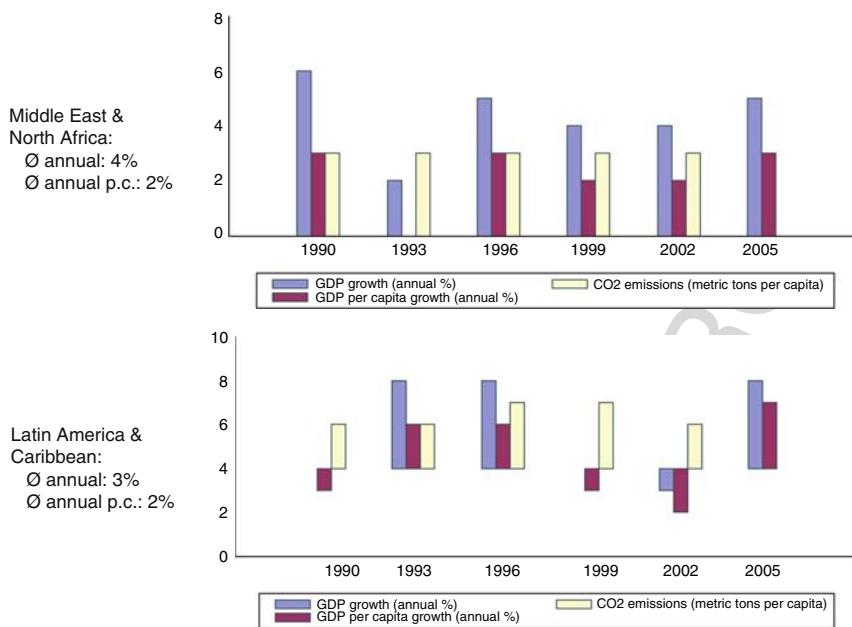
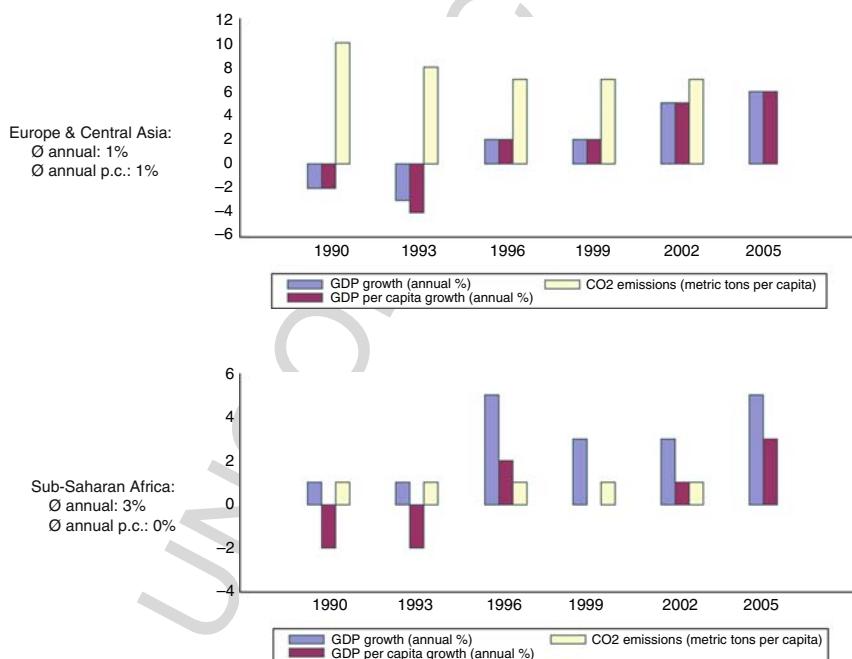
We may add some historical trends based on the World Bank's "World Development Indicators." The first set of charts (Tables 2.1, 2.2, 2.3 and 2.4; World Bank, 2007) depicts the annual growth rates in percent of the Gross Domestic Product (GDP) in different world regions (showing only the values of every third year and with varying scales of the vertical axis). It also contains the GDP growth rates in percent per capita, accounting for the changes of the respective populations over the years. Of course, these indicators can provide only a very rough picture of what might be called "creation of wealth."

Among others, it does not account for environmental degradation. Therefore, we supplement the growth rates with CO₂ emissions (metric tons per capita) as an indicator of this kind of degradation. It turns out that the "winners" over the last 15 years are East Asia and the Pacific as well as South Asia. Little economic growth with some negative annual growth rates can be found, in decreasing order,

Table 2.1 Strong economic growth: GDP growth, GDP per capita growth, CO₂ emissions



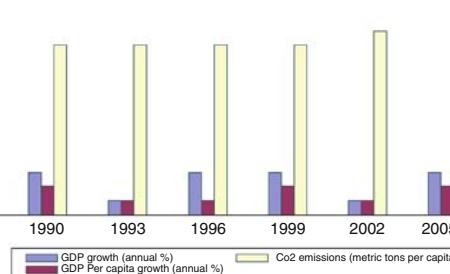
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Table 2.2 Little economic growth: GDP growth, GDP per capita growth, CO₂ emissions**Table 2.3** Little economic growth: GDP growth, GDP per capita growth, CO₂ emissions

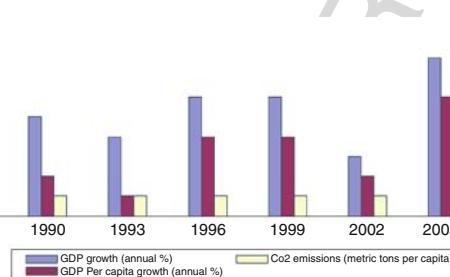
181 **Table 2.4** GDP growth, GDP per capita growth, CO₂ emissions

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High Income Countries (\$10,066 and above in 2004):
 \varnothing annual: 2.4%
 \varnothing annual p.c.: 1.7%



Low Income Countries (\$823 or less in 2004):
 \varnothing annual: 5%
 \varnothing annual p.c.: 3%



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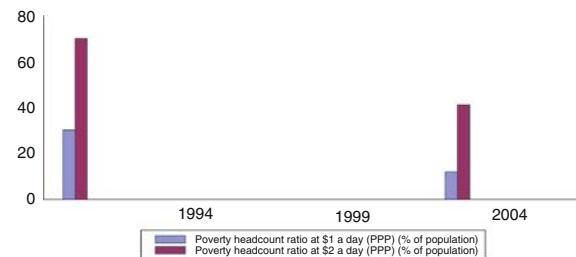
in the Middle East and North Africa, Latin America and the Caribbean, Europe and Central Asia, and Sub-Saharan Africa. Overall, High Income countries (\$10,066 and above in 2004) showed low annual growth rates of GDP and GDP per capita (an average of 2.4% and 1.7% respectively), but very high levels of CO₂ emissions (12 and more metric tons per capita). In contrast, Low Income countries (\$823 or less in 2004) had higher growth rates (i.e., 5% and 3% respectively) and very low levels of CO₂ emissions (1 metric ton per capita).

The second set of charts (Tables 2.5, 2.6 and 2.7; World Bank, 2007) shows the ratio of the poverty population as an important aspect of the unequal distribution of wealth, namely the poverty headcount ratio at \$1 and \$2 a day (in purchasing power parity) as percentage of the entire population in 1990 and 2002 (which are the only available data for that period of time). While the poverty ratios decreased dramatically in East Asia and the Pacific and considerably in South Asia, they declined only slightly in Latin America and the Caribbean and in the Middle East and North Africa, stagnated in Sub-Saharan Africa and even increased markedly in Europe and Central Asia.

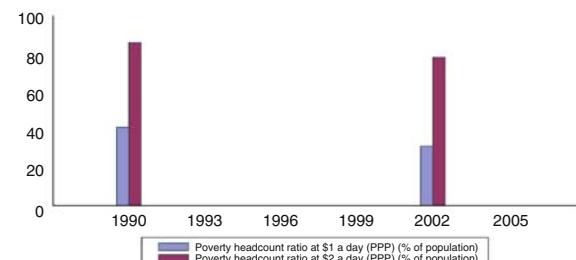
Obviously, these very diverse developments have been caused by multiple factors which cannot be discussed at present. But these facts are enormous and provide paramount import to the question of how we may understand the creation of wealth with its environmental and distributional implications.

226 **Table 2.5** Significant poverty reduction: Poverty headcount at \$1 and \$2 a day (PPP) (% in
227 population in 1990 and 2002)

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231 **East Asia & Pacific:**
232 at \$1: reduction of 18%
233 at \$2: reduction of 29%



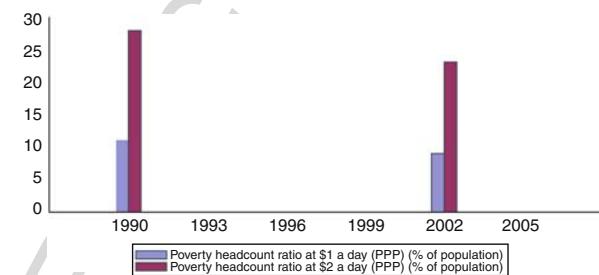
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239 **South Asia:**
240 at \$1: reduction of 10%
241 at \$2: reduction of 8%



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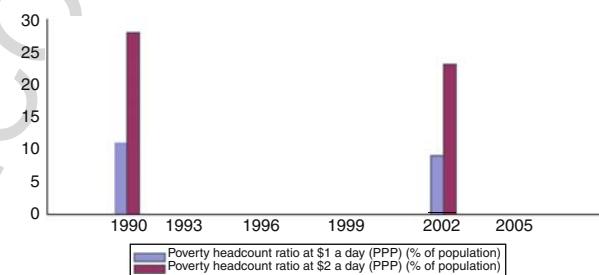
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247 **Table 2.6** Modest or no poverty reduction: Poverty headcount at \$1 and \$2 a day (PPP) (% in
248 population)

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253 **Latin America &**
254 **Caribbean:**
255 at \$1: reduction of 2%
at \$2: reduction of 5%



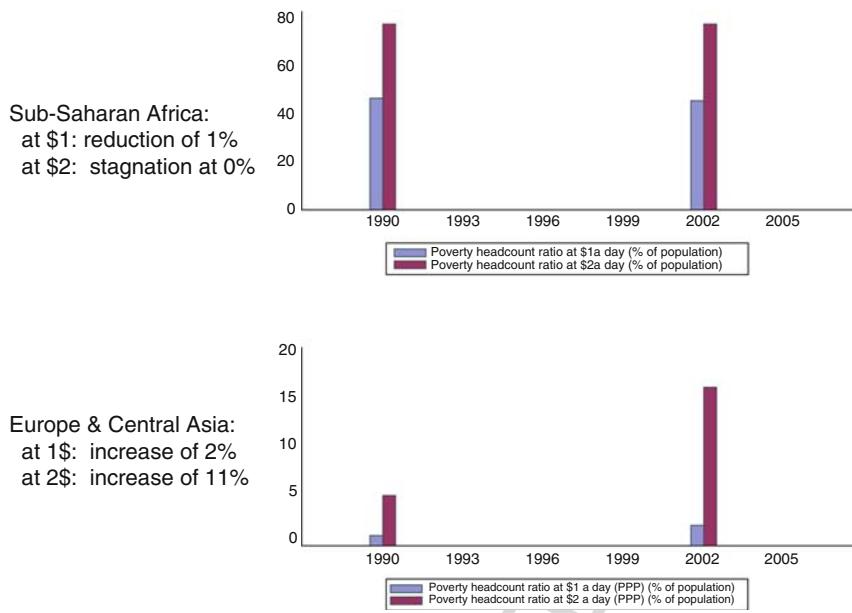
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261
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264 **Middle East &**
265 **North Africa:**
266 at \$1: reduction of 2%
at \$2: reduction of 5%



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271 **Table 2.7** Stagnation or poverty increase: Poverty headcount at \$1 and \$2 a day (PPP) (%) in
 272 population)



2.1.2 Wealth Creation: A Blind Spot of CSR?

A second concern relates to the worldwide discussions about “corporate social responsibility,” or CSR, that have gained considerable momentum in the last 10 years. Corporations are expected to care about their environmental impact, to behave as corporate citizens, to defend freedom on the internet, to support cultural and sports events in their communities, to help the victims of natural disasters such as the tsunami and Katrina, to provide health care at reduced prices or for free to the needy who can't afford it, etc. Against the backdrop of this wealth of expectations, it is striking that, quite often, the financial and economic responsibilities of business organizations seem to be ignored, and, more specifically, no attention is paid to the questions of how companies can and should create wealth. In fact, creating wealth seems to have nothing to do with the social responsibility of companies.

2.1.3 What Is the Economic Underpinning of “Maximizing Shareholder Value” and “Adding Value”?

Finally, surveying the management literature, a third concern arises. It seems fair to say that a large part of this literature assumes the companies' objective of

“maximizing shareholder value,” giving it no critical examination in economic terms. A prime example is found in the survey “The Good Company” published by *The Economist* in January 2005. The authors present and criticize the almost irresistible rise of the CSR movement and conclude by falling back on Milton Friedman’s catchy but poorly grounded slogan of 1970 “The business of business is business. Period.” Moreover, when the broader objective of “adding value” is adopted, it is unfortunately often used as a black box that can be filled with any type of so-called value. Indeed, the notion of wealth creation is not seriously scrutinized even by prominent writers like J. Collins and J. Porras (Collins and Porras, 1994; Collins, 2001). Here again, in the management literature, we can often observe a strange phenomenon that the notion of wealth creation is taken for granted without critical reflection.

2.2 Conceptual Clarifications: What Is the Creation of Wealth?

Wealth can be defined in several ways. As Robert Heilbroner states (1987, p. 880), “wealth is a fundamental concept in economics indeed, perhaps the conceptual starting point for the discipline. Despite its centrality, however, the concept of wealth has never been a matter of general consensus.” As for the term itself, it figures prominently in Adam Smith’s work, *An Inquiry Into the Nature and Causes of the Wealth of Nations* (1776), but is conspicuously absent from Gunnar Myrdal’s *Asian Drama: An Inquiry Into the Poverty of Nations* (1968) and is complemented with its opposite in David Landes’s book title, *The Wealth and Poverty of Nations: Why Some Are So Rich and Some So Poor* (1999). It is noteworthy to see how Smith’s “wealth” is translated into other languages: as *Wohlstand* prosperity (not as: *Reichtum* riches, *Wohlfahrt* welfare, *Vermögen* wealth) in German, *richesse* riches in French, *riqueza* riches in Spanish and *fù* rich in Chinese. Figure 2.1 offers an overview of the components of wealth creation as they are presented in the following. How this concept can be applied to wealth creation in China is discussed elsewhere (Enderle, 2010).

In order to discuss the concept of wealth, we first might concentrate on what is meant by the wealth of a single nation. While this approach may seem outmoded and inappropriate because of the “decline of the nation-state” in present times, the increasing number of pressing international challenges and the extraordinary power of many transnational corporations, however, it provides some advantages when compared to other approaches. When we ask for the “wealth of a nation,” it is difficult to deny that wealth should encompass both private and public goods or assets, that is, endowments of two types: those that can be attributed to and controlled by individual actors, be they persons, groups or organizations, and those from which no actor inside the nation can be excluded. (In technical economic terms, “public goods” are defined by the characteristics of non-rivalry and non-exclusive consumption; see Enderle, 2000.) For instance, a SARS-free environment is a “public good” and a SARS-threatened environment a “public bad” that has clearly a material component, even though it might be difficult to put a price on it. It is obvious that the functioning of the markets and the production of private goods depend on such

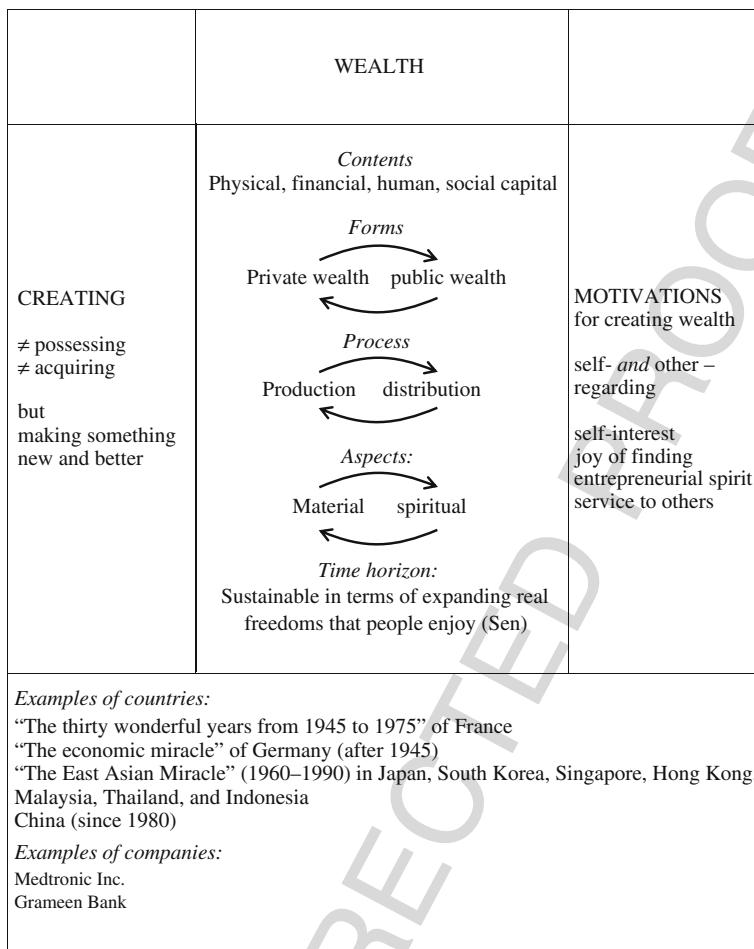


Fig. 2.1 A rich concept of wealth creation

public goods and public bads. In contrast, when speaking of the wealth of an individual or a company, we usually consider only the assets under its control while ignoring the public goods it also benefits (or suffers) from. In the international realm, public goods are only beginning to be discussed, although they are of increasing importance and often the driving force for transnational regimes and institutions (see, e.g., Kaul et al., 1999).

We may define the wealth of a nation as the total amount of economically relevant private and public assets including physical (i.e., natural and produced), financial, human, and “social” capital. Consequently, the creation of wealth includes the production of public as well as private assets, which indicates the important but limited role of the market and price mechanism. Wealth is primarily a stock (an economically relevant quantity at a certain point in time); but, in a broader sense, it also

406 includes flows (increasing or decreasing quantities over a certain period of time).
407 This basic distinction in economics is particularly relevant for our discussion on
408 wealth because flows such as income per person, a commonly used indicator of
409 the development of a country, express the economic situation of an economic actor
410 only inadequately; the expected flows in the future are subject to a great deal of
411 uncertainty and risk.

412 Another fundamental issue, fraught with multiple difficulties, is the question of
413 how wealth as “economically relevant stocks and flows” can be properly expressed
414 in monetary terms and added up to a total amount of money. From the recent experi-
415 ences of the U.S. stock market, we all know that there might be huge gaps between
416 the real economic and the monetary performances of companies, as the monetary
417 indicators are only reliable if the markets function properly. Even then, this pertains
418 only to private and not to public goods. In other words, sound economic thinking
419 offers serious caveats against equating money with wealth. “Making money” can be
420 destroying wealth while creating wealth can be losing money. It goes without saying
421 that making money and creating wealth should go hand in hand.

422 What do we mean by the “creation” of wealth? Obviously, wealth creation is both
423 more than possessing wealth and is only one form of increasing wealth. According
424 to Jacob Viner, “Aristotle . . . insisted that wealth was essential for nobility, but
425 it must be inherited wealth. Wealth was also an essential need of the state, but it
426 should be obtained by piracy or brigandage, and by war for the conquest of slaves,
427 and should be maintained by slave works” (quotation in Novak, 1993, p. 105). In the
428 course of history, the colonial powers acquired a great deal of wealth, usually with
429 no regard for legal and ethical concerns, which, by and large, amounted to a redis-
430 tribution rather than a creation of wealth. In the capitalistic system, the “acquisitive
431 spirit,” “the accumulation of capital,” and the “acquisition of companies” do not
432 necessarily entail the creation of wealth, properly speaking. It is, therefore, crucial
433 to investigate precisely what this concept of “creation” means.

434 To create is to make something new and better. Take the example of Medtronic
435 Inc., which is proud to be “the world’s leading medical technology company, pro-
436 viding lifelong solutions to chronic disease” (<http://www.medtronic.com>). In its
437 over 50-year history, it has developed a wide range of medical devices, from heart
438 pacemakers to devices to alleviate neurological and spinal disorders and to manage
439 diabetes, and it continues to be in the forefront of the industry (see *Financial Times*,
440 “Medtronic shows off future of healthcare,” February 8, 2002). Inspired to serve the
441 customers, its innovative spirit has revolutionized not only its products and services
442 but also its production processes, organization, culture, and identity, while yielding
443 continuous financial success. As this company illustrates, while wealth creation has
444 a lot to do with technological innovation, it is more than that, since the innovation
445 is made feasible and successful in economic and financial terms. Aiming at material
446 improvement for the benefit of human lives, wealth creation includes both a mate-
447 rial and a spiritual side and goes beyond the mere acquisition and accumulation of
448 wealth. It is a qualitative transformation of wealth.

449 On a national scale, the meaning of wealth creation can be easily understood
450 against the backdrop of the debacle of a war. In the aftermath of the Second World

451 War, Germany and Japan had to create, to a large extent, new economies; and China,
452 after the traumatic civil war of the Cultural Revolution (1966–1976), engaged in a
453 transformation process from a centrally planned to a market-oriented economy. In
454 those situations, creating wealth is a national objective that mobilizes a great many
455 forces for a new and better future. In general, the state and companies operate on
456 a broad consensus regarding the need for the creation of both public and private
457 wealth. Without a doubt, the material side of these endeavors is essential, but the
458 spiritual (or ideological) side is indispensable as well. As a good example for both
459 the material and spiritual commitment of companies to participate in public wealth
460 creation, we may recall Konosuke Matsushita's determination in 1954 to continue,
461 despite serious financial difficulties, the joint venture with Philips. "I definitely do
462 not think that the tie-up has been a failure... I did not choose to form a technical tie-
463 up with Philips in order to stimulate the growth of Matsushita Electric. I did not do
464 it to gain personal publicity. I did it in order to bring the underdeveloped electronics
465 industry in Japan up to world standards more quickly" (Yamaguchi, 1997, p. 6).³

466 In further exploring the notion of wealth, we may question its purpose and use,
467 first in economic terms and then in noneconomic terms as well. Besides the fact
468 that wealth creation can have intrinsic value (for instance, the hard and diligent
469 work and great enjoyment of producing life-saving medical equipment), wealth has
470 instrumental value, being usable for consumption or investment. If consumption is
471 the sole purpose, the road to poverty is predetermined. For an historic example, we
472 may recall the decline of Spain in the seventeenth century. As Landes writes (1999,
473 p. 175), "Spain... became (or stayed) poor because it had too much money. The
474 nations that did the work learned and kept good habits, while seeking new ways to
475 do the job faster and better. The Spanish, on the other hand, indulged their penchant
476 for status, leisure, and enjoyment, what Carlo Cipolla calls 'the prevalent *hidalgo*
477 mentality'." And Landes offers a moral (relevant to the United States of today):
478 "Easy money is bad for you. It represents short-run gain that will be paid for in
479 immediate distortions and later regrets" (p. 173).

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483 ³ One might ask whether this innovative spirit leading to wealth creation is one or even the essential
484 feature of capitalism? Different scholars offer a variety of answers. David Landes argues that it was
485 already in the Europe of the Middle Ages when the division of labor and widening of the market
486 encouraged technological innovation (Landes, 1999, p. 45). For the peculiarly European cultiva-
487 tion of invention, as distinct from the Chinese attitude, he stresses the importance of the market.
488 "Enterprise was free in Europe. Innovation worked and paid, and rulers and vested interests were
489 limited in their ability to prevent or discourage innovation. Success bred imitation and emulation;
also a sense of power that would in the long run raise men almost to the level of gods" (p. 59).

490 For Michael Novak, the innovative spirit becomes the hallmark of capitalism. Criticizing Max
491 Weber who holds "economic rationality" to be the essence of capitalism and drawing on Hayek,
492 Schumpeter, Kirzner and others, Novak states: "The heart of capitalism... lies in discovery, inno-
493 vation, and invention. Its fundamental activity is insight into what needs to be done to provide a
494 new good or service. The distinctive materials of capitalism are not numbers already assembled for
495 calculation by the logic of the past. On the contrary, its distinctive materials are new possibilities
glimpsed by surprise through enterprising imagination" (Novak, 1993, p. 10).

496 Investment is necessary for both wealth maintenance and growth. Of course, if
497 the investment rate is very high, the present generation may carry an undue bur-
498 den of reduced consumption for the benefit of future generations. However, today's
499 consumer society tends to move in the opposite direction with a high preference
500 for consumption to the detriment of investment. This trend becomes particularly
501 clear when we take into serious account not only "the nature of wealth" but also
502 "the wealth of nature."⁴ One can reasonably argue that humankind at present is
503 over-exploiting nature, the costs of which future generations will have to pay. It is
504 therefore imperative to include the concept of sustainability in our notions of con-
505 sumption, investment, and wealth. Wealth creation must be "sustainable," fulfilling
506 the demand "to meet the needs of the present without compromising the ability of
507 future generations to meet their own needs" (as defined by the World Commission
508 on Environment and Development, see WCED, 1987, p. 8).

509 While this definition clearly presupposes a wide, intergenerational time horizon,
510 it does not specify "the needs" of the present generation and "the ability" of future
511 generations to meet their own needs. I therefore suggest adopting Amartya Sen's
512 "capability approach," masterfully crafted in *Development as Freedom* (1999), in
513 order to substantiate the concepts of needs and capabilities in this definition of sus-
514 tainability. Development is defined as "a process of expanding the real freedoms that
515 people enjoy" (Sen, 1999, p. 3). Although Sen does not directly refer to the WCED
516 definition, from the outset he mentions "worsening threats to our environment and
517 to the sustainability of our economic and social lives." He argues that:

518 individual agency is, ultimately, central to addressing these deprivations. On the other hand,
519 the freedom of agency that we individually have is inescapably qualified and constrained
520 by the social, political and economic opportunities that are available to us . . . It is important
521 to give simultaneous recognition to the centrality of individual freedom *and* to the force of
522 social influence on the extent and reach of individual freedom. To counter the problems that
523 we face, we have to see individual freedom as a social commitment. (Sen, 1999, pp. xi–xii)

524 In addition, it is easily ignored that wealth creation involves a distributive
525 dimension, permeating all of its stages from the preconditions to the generation
526 process, the outcome, and the use for and allocation within consumption and invest-
527 ment. In fact, the productive and the distributive dimensions of wealth creation are
528 intrinsically interrelated. However, the separation between "producing the pie" and
529 "sharing the pie" has marked for too long the ideological struggle between "the
530 right" and "the left," despite its flawed economic underpinning. The time has now
531 come to correct this misleading separation and to take the interrelations between the
532 two dimensions (again) into account.

533 Having clarified different aspects of the concept of wealth creation, we now turn
534 to the question of motivation. What motivates people, companies, and countries
535 to engage in wealth creation? Common answers in the economic and sociological

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539 4 An interesting attempt to take nature into account has been made in the report to the Club of
540 Rome by Wouter Van Dieren (1995).

541 literature are self-interest, greed, the will to survive, the desire for power aggran-
542 dizement, the enjoyment of riches, and the glory, honor, and well-being of nations.
543 However, these motivations, taken individually or in mixed combinations, are rarely
544 related specifically to the creation of wealth, but instead drive economic activities
545 in general and, most often, incite merely the acquisition and possession of wealth.
546 When economic activities clearly focus on wealth creation, other motivations such
547 as the entrepreneurial spirit, the desire to serve others, and the *joie de trouver* (or the
548 “joy of finding” that, in Landes’s judgment [1999, p. 58], was the distinctive motiva-
549 tion in medieval Europe as compared to Islamic countries and China) become more
550 important. At the same time, the purpose of business and consequently its role in
551 society gets elevated. Business is no longer just about making money and acquir-
552 ing wealth, relegated to the role of the ugly, yet indispensable servant that provides
553 others with the material means to pursue higher, i.e., spiritual ends. Accordingly, it
554 does not deserve a low reputation that is, unfortunately, even reinforced by those
555 who stress the purely material and instrumental view. Rather, it is a creative and
556 thus noble activity including both material and spiritual aspects, driven by a mix of
557 motivations that are self- and other-regarding.

558 We may ask why, in history, wealth creation has often been ignored, disregarded
559 or even treated with contempt. It seems to me that these attitudes depend on the val-
560 ulation of the material world and the “bodiliness” of the human person as well as on
561 the notion of creation. If the material world is considered inferior or even evil and
562 if hostility towards the human body prevails, wealth cannot but share these qual-
563 ities and is likely to be denigrated. Operating under those assumptions, it becomes
564 nonsensical to produce such wealth, were it not for another, really valuable purpose.
565 Moreover, without proper understanding, the creation of wealth cannot be really
566 appreciated for its capacity to serve as a purpose of economic activity that mat-
567 ters more than the possession and acquisition of wealth. In sum, the determined
568 affirmation that wealth creation is both good and necessary constitutes an essential
569 prerequisite for thriving business in the long run. This necessarily includes, as men-
570 tioned above, a distributive dimension that permeates the entire creation process. It
571 deeply affects the motivation for wealth creation as this motivation, in turn, strongly
572 impacts wealth distribution.

573 What has been developed in the previous conceptual clarifications of wealth
574 creation can be substantiated with Benjamin Friedman’s work on *The Moral*
575 *Consequences of Economic Growth* (2005). A prominent economist, he provides
576 the facts and the analyses of how economic growth or stagnation may interact
577 with the moral character of society and its social and political development over
578 time. Carefully researching the histories of the United States, Britain, France, and
579 Germany as well as the economics and politics in the developing world, he devel-
580 ops a deep understanding of “economic growth,” similar to our notion of wealth
581 creation. Economic growth is the production of a combination of private and pub-
582 lic goods by both market forces and public policy. It should be broadly based and
583 sustainable, thus involving necessarily a distributional and an environmental dimen-
584 sion. Economic growth has not only negative side-effects but also bears moral
585 benefits in terms of openness of opportunities, tolerance of diversity, economic

586 and social mobility, commitment to fairness, and dedication to democracy. In turn,
587 the moral quality of society affects economic activity and policy. Consequently,
588 Friedman conceives economic growth in both material and moral terms and rejects
589 opposing material versus moral considerations as a deeply flawed and false choice.
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591 2.3 Challenges for Business Ethics 592

593 After exploring the meaning of wealth creation, we now try to relate it to business
594 ethics. But, by doing so, aren't we sending owls to Athens? Isn't this relationship
595 so obvious that any thought would be superfluous?⁵ After all, business is about pro-
596 ducing wealth and ethics has to make sure that this is done properly. Nevertheless, I
597 would like to argue that we need to pay serious attention to this relationship because,
598 without this focus, business ethics becomes a superficial undertaking, evading the
599 struggle with arguably the central issue of economic activity while expanding its
600 reach far beyond what it can and should deliver.
601

602 In my view, a thorough understanding of wealth creation enables us to sharpen
603 our economic critique of fashionable and short-sighted management recipes and to
604 bring the power of ethics to bear where it matters most. From the conceptual analysis
605 in the previous section we can draw a number of lessons for a sound, comprehensive,
606 and differentiated understanding of business ethics. To equate business with just
607 making money is not only questionable from the ethical perspective, one that asks
608 for the ethical quality of both its means and its ends, but also from the economic
609 perspective. Without adequate economic underpinning, making a lot of money can
610 entail the destruction of much wealth, as the recent debacles of Enron and the like
611 have demonstrated.⁶

612 It is relatively easy, though necessary as well, to criticize scandalous business
613 behavior. But from the perspective of wealth creation, examples of an innovative
614 spirit and best practices of "making things new and better" are more inspiring
615 and should play a more prominent role in business ethics research and teaching.
616 They would also highlight the fact that wealth creation forces the economic actor
617 to look beyond the short term and definitively adopt a long-term perspective as
618 well, in which "sustainability" is the key. As examples we may mention Medtronic
619 Inc. (see above), Rohner Textil AG (www.climateX.com), and the Grameen Bank
620 (www.grameen-info.org; the latter two companies being featured in Enderle, 2004).

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624 ⁵ One might wonder if this is the reason why an entry on "wealth" (and on "poverty" as well) is
625 missing in the *Encyclopedic Dictionary of Business Ethics* (Werhane and Freeman, 1997, 2005).

626 ⁶ With the benefit of hindsight we wouldn't qualify Enron as a company that created enormous
627 wealth in the late 1990s despite its spectacular published financial results: its operating results,
628 for instance, increased from \$515 million in 1997 to \$698 million in 1998, \$957 million in 1999,
629 and \$1.266 billion in 2000. The bankruptcy filing lists \$31.2 billion of debt, later revised to \$40
630 billion and the asset values estimated at \$62 billion in the Chapter 11 filing were later revised to
631 \$38 billion (Tonge et al., 2003, p. 5).

When exploring the concept of the wealth of nations, we concluded that it should encompass both private and public wealth. As we know from economic theory, properly functioning markets are powerful instruments to create private wealth, but they fail in creating public wealth. This involves far-reaching implications for business ethics. Business ethics should not be limited to the creation of private wealth and reduced to corporate ethics, that is, the ethics of business organizations, because the economy is bigger than the realm of markets and companies. Rather, business ethics should include the ethics of the economic system (and therefore go beyond “market morality”). It is only in this context that the creation of wealth with its productive and distributive dimension and, we may add, the re-distribution of wealth, can be treated in a proper and comprehensive manner.

With regard to globalization, wealth creation provides a focus for business ethics, the importance of which cannot be overestimated. As long as globalization is the acquisition of wealth, most often by the rich from the poor, it does not create but only reshuffles and redistributes wealth, although accumulated wealth may masquerade as created wealth. The creation of sustainable wealth is a highly complex and demanding process and cannot be achieved without paying serious attention to its distributional preconditions and consequences. Moreover, if it is true at the national level that the creation of private wealth necessitates a certain amount of public wealth, the same is likely to hold at the international and global levels. Given the difficulties in creating public wealth at the local and national levels, one can easily imagine the almost insurmountable problems to do so at the global level.

These difficulties in creating wealth call for a thorough examination of motivations. They should be strong and effective, providing the driving force necessary not simply for acquiring and possessing wealth but, more importantly, for creating wealth. Furthermore, they should aim not only at private, but also at public wealth at all levels, from the local to the global. Recalling the array of motivations indicated above, I suggest considering a mix of motivations that are self- as well as other-regarding. Certainly, self-interest and the honor of the country remain powerful driving forces and, properly understood, are ethically legitimate. But if they are purported as the sole important motivations (for economic activity), they are questionable on empirical grounds and can involve grave inconsistencies (for instance, the self-interest of the manager may conflict with the self-interest of his company, or the honor of the country may require the sacrifice of the individual's interests). For the very creation of wealth, as mentioned above, other motivations such as the entrepreneurial spirit, service to others, and the joy of finding (that might be combined with the will to make a decent living for oneself and one's family) assume more importance and are indispensable to producing public wealth. Generally speaking, the enormous challenges of creating wealth require a shift in motivations that shape the cultures of companies, countries and the world. But such a shift cannot take place unless it is internalized and advanced by individuals.

The motivation for wealth creation can be further strengthened to the extent that the production of economic wealth is intrinsically coupled with the production of non-economic, e.g., social and environmental, wealth, thus designed “to hit two birds with one stone.” No doubt, to achieve this is an even bigger challenge

676 to the entrepreneurial spirit, but the gain is bigger as well. At the organizational
677 level, companies can employ strategies that simultaneously fulfill both economic
678 and also social and environmental responsibilities so that the different dimensions
679 of corporate activities reinforce rather than weaken each other. To give a few exam-
680 ples: Activities such as feeding hungry workers in poor areas will improve their
681 productivity. Empowerment of workers on the shop floor will have a similar wealth-
682 enhancing effect. Extending a plantation's water system into the local squatter
683 community or investing in a hospital will improve worker health and motivation
684 with a resulting productivity and positive cash-flow impact. In the environmental
685 realm, programs to reduce energy consumption can enhance economic wealth. In
686 other words, economic growth not only generates the means for social and envi-
687 ronmental progress, but also social and environmental advances can enhance the
688 economic performance of companies. As Benjamin Friedman points out for the
689 societal level, there is also interaction between economic, social, and environmen-
690 tal activities at the corporate level. To account for this interrelationship, we may
691 speak of a "balanced concept of the firm," which, in my view, is one of the top chal-
692 lenges for corporate ethics in the twenty-first century (see Enderle and Tavis, 1998;
693 Enderle, 2002a).

694 Having said this, we should not forget that wealth creation at the national as well
695 as the international level is a combined production of private and public wealth.
696 This means that companies cannot generate wealth without benefiting from pub-
697 lic wealth, and public wealth cannot be created without profiting from companies.
698 In addition, this implies that companies should not be held responsible for nearly
699 everything as many champions of CSR seem to demand; however, they do bear
700 responsibility (shared with other social actors) for creating public wealth, which
701 those deny who claim that profit maximization be the sole responsibility of business.
702

703 **2.4 Conclusion**

704 In this essay we have tried to show the need for taking a fresh look at the creation
705 of wealth. From a global perspective it is crucially important to understand why
706 some countries are so rich and some are so poor. From a business perspective and
707 in the wake of the financial and economic crisis it seems necessary to better cali-
708 brate the purpose of the corporation. We suggest adopting a multifaceted concept
709 of wealth and a genuine understanding of its creation. Wealth is more than financial
710 capital by including physical, human, and social capital. Wealth is not only private
711 wealth but also encompasses public wealth, both influencing each other in multiple
712 ways. Because the process of wealth production inescapably involves a distributive
713 pattern, wealth creation and wealth distribution, strictly speaking, cannot be sepa-
714 rated (often "wealth distribution" actually meaning wealth *re*-distribution.) Wealth
715 is not merely material but also has a spiritual side, which ennobles its creation to a
716 truly human activity. By placing wealth creation in the time horizon of sustainabil-
717 ity enriched by Sen's capability approach, one overcomes an exclusively short-term
718 view and integrates an intergenerational fairness perspective. The emphasis on
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720

721 creating as distinct from possessing and acquiring highlights the need for innovation
722 in both private and public wealth creation and requires “mixed” motivations (that is
723 self- *and* other regarding) in order to overcome the exclusive and thus insufficient
724 motivations of either self-interest or collective interests.

725 Such a rich concept of wealth creation involves far-reaching consequences for
726 business ethics. It brings the power of ethics to bear where it matters most: the proper
727 understanding of wealth, its creation and the motivations thereof. The purpose of
728 business becomes a noble and sustainable goal that diligently serves customers,
729 attracts talented and committed employees, provides decent returns to investors and
730 protects the environment. Because the wealth of a nation (and of similar entities
731 from the local to the global level) results from the combination of private and public
732 wealth, business ethics should include the ethics of economic systems and deal with
733 the proper roles the various social actors should play in this systemic context. With
734 regard to globalization, business ethics should not content itself with the acquisition
735 and/or redistribution of wealth; rather it should focus on genuine wealth creation,
736 particularly among the losers of globalization.

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01 **Chapter 3**
02 **Cultural Values, Economic Growth**
03 **and Development**

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07 **Symphorien Ntibagirirwa**
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13 **3.1 Introductory Background**
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15 The intention behind this chapter is to raise awareness of the importance of cul-
16 tural beliefs and values as an important factor, one of the root-sources of economic
17 development that should be taken seriously, particularly in Africa. So far little or
18 no attention has been paid to the cultural factor in Africa's economic development.
19 Cultural values in Africa have been mostly perceived negatively in economic mat-
20 ters both by African economists, policymakers and planners themselves as well as
21 the consultants of the international institutions and Western donors. As a conse-
22 quence, there is a tendency to shift away from them, even from those values such
23 as solidarity and cooperation which, nowadays, are important in today's economic
24 business. Much attention is concentrated on the claim that appropriate economic
25 policies (mostly neo-liberal policies) necessarily achieve economic growth and
26 development.

27 Accordingly, this chapter consists of six major points. In the first point I will
28 outline the issues that are at stake in the whole reflection. The second point considers
29 the sense of neo-liberal's claim and underlines its limits. The third point questions
30 the link between self-interest and economic growth and development by considering
31 the economic experiences of East Asia and Sub-Saharan Africa. The aim of this
32 point is to suggest that one needs to look beyond the mere concept of self-interest as
33 the basis of economic development. In the fourth section I will review the principle
34 of self-interest against its historico-cultural background in order to show that what
35 led to economic development is not the self-interest per se but rather cultural beliefs
36 and values that produced it. My main objective is to show the necessary link between
37 cultural values, economic growth and development (fifth section), by paying more
38 attention on the case of Africa (sixth section). In the conclusion I summarize the
39 macro-argument and give the implications of my reflection.

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41
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46 **3.2 The Issues at Stake**

47

48 Four key issues are at stake in this reflection. The first one is the issue of the impact
49 of people's cultural beliefs and values on economic development. I am aware that
50 certain cultural beliefs and values of a people could enhance or hamper their eco-
51 nomic development. In this reflection, and as far as African economic development
52 is concerned, I am much more inclined to place weight on those beliefs and values
53 that would likely enhance economic development.

54 The second issue is a practical follow up of the first: it is the whole issue of how
55 what people believe and value can be validated in terms of policies of economic
56 development. Nowadays, the concept of participation has become the catchword in
57 developing countries. However, it is not enough for people to "participate" if the
58 model of economic development proposed to them is based on a cultural foundation
59 which is not theirs. Participation in a perspective of economic development which is
60 not rooted in one's cultural beliefs and values could only be contingent rather than
61 essential. I believe that participation could only be essential if it applies to those
62 economic development projects that are founded on the beliefs and values of the
63 people concerned.

64 The third issue is the philosophical foundation of economic development. In
65 effect, what people believe and value are based on their being or ontological status.
66 In other words, the beliefs and values people hold are a reflection of their iden-
67 tity, that is, their sense of self. Thus, ultimately, it is from this ontological status
68 that a given people structure its own economic development that cannot easily be
69 transferred to another people whose ontological status is different. What we are as
70 a people determines the way we structure and shape our economic development
71 (economy being, qualitatively, a cultural phenomenon) (see Throsby, 2001: 7ff).

72 Yet, and this is the fourth issue at stake, the way people view themselves and
73 live in the world can be enhanced or hampered by others with whom they do not
74 share the ontological status, as has been the case with slavery and colonisation or
75 other forms of domination. The problem here is the refusal of the difference based
76 on the fact that a group of people can feel powerful enough to universalise its way of
77 life, thus undermining the whole issue of particularity. How can what certain people
78 claim to be universal be appropriated in another context that has its own particu-
79 larities (see Gyekye, 1997)? Cultural values matter (cf. Harrison and Huntington,
80 2000; Sen, 2006, Ch. 6); and my effort will consist in showing how they matter (see
81 Section 3.6).

82 83 **3.3 Making Sense of the Neo-liberal's Claim**

84

85 The proponents of the neo-liberal economics have often tried to make us believe
86 that the freedom to pursue one's self-interest as well as one's rational choice lead to
87 successful economic growth and development. Accordingly, neo-liberal economists,
88 planners and policymakers tended to universalize this claim, and insistently argued
89 that appropriate economic policies effectively implemented produce everywhere

91 the same results independently of cultural values (see Williamson, 1993; Olson,
92 1982; Hayek, 1949, 1978; Downs, 1957). Some of these economists and policy-
93 makers often support their argument by the view that modern economics is based
94 on mathematical methods that are universal¹ (see Rosenberg, 1992; Yonay, 1998;
95 Hodgson, 2001). Thus, policies and principles of economic development that are
96 derived from it are universally applicable irrespective of the culture in which they are
97 applied. Accordingly, they suggested that developing countries should embrace the
98 neo-liberal economic policies for them to escape from the trap of economic underde-
99 velopment and poverty. This, indeed, has been the case with the ten macroeconomic
100 principles that constitute the core of the Washington Consensus² (Williamson,
101 1990: 1993).

102 The economic success of South East Asian countries on the one hand and the
103 failure of economic development in Sub-Saharan Africa on the other, are increas-
104 ingly proving that the “economic” argument alone cannot be taken as a dogma:
105 self-interest and rationality do not seem to be the only avenues for economic
106 growth and development to take place in any given society. One other avenue
107 to be explored is the link between cultural values and economic growth and
108 development. My concern is that even though they cannot be taken as the sole fac-
109 tor,³ cultural values are crucial for economic growth and development. Economic
110 growth and development can occur only if they are a substantiation of a people’s
111 beliefs and values. For alien economic policies to be effective in a cultural sys-
112 tem other than that which generated them, they need to be appropriated by such
113 culture.

114

115

116 ¹ In his recent publication, the winner of the prestigious Myrdal prize 2008, Erik Reinert (2007:
117 42–46) has complained about the quantification and the mathematics being the only recognized
118 form of doing economics, and thus, requested for room to bring qualitative analysis back into
119 academic economics.

120 ² Principle 1: Fiscal discipline;
121 Principle 2: Concentration of public expenditure on public goods including education, health and
122 infrastructure;
123 Principle 3: Tax reform toward broadening the tax base with moderate marginal tax rates;
124 Principle 4: Interest rates to be market determined and positive;
125 Principle 5: Competitive exchange rates;
126 Principle 6: Trade liberalization;
127 Principle 7: Openness to foreign direct investment;
128 Principle 8: Privatization of state enterprises;
129 Principle 9: Deregulation – abolishment of regulations that impede entry or restrict competition,
130 except for those justified on safety, environmental, and consumer protection grounds, and pruden-
131 tial oversight of financial institutions;
132 Principle 10: Legal security for property rights.

133 ³ For instance, in his *Cultural Factors and Economic Performance in East Asia and Latin America*,
134 Jiang Shixue (2008) argues that “each culture has its own unique positive and negative components,
135 but the positive ones cannot automatically create better economic performance in the absence
of other necessary conditions like sound economic policies, effective institutions, favourable
world economic situations, the right timing of a nation’s entry into industrialisation, and political
stability.”

3.4 Questioning the Link Between Self-Interest and Economic Growth

The claim that “the freedom to pursue one’s self-interest leads to economic growth” comes from Adam Smith’s reflection on how the wealth of a nation could be increased (Smith, 1965). Smith believed that human behaviour is guided by self-interest. However, when one looks at the way the economic perspective based on the principle of self-interest is failing in Africa, particularly with the Structural Adjustment Program of the 1980s on the one hand, and the economic success the South East Asia on the other, one cannot but wonder whether self-interest really leads to economic efficiency as neo-liberal economists and policymakers would make us to believe.

The idea of self-interest is apparently, if not obviously, in contradiction with the earlier ideas in his book, *The Theory of Moral Sentiments* (1808) in which Smith developed the concept of sympathy considered to be the concern for the interest of the other. Sympathy requires the benefactor to suspend his own interest for the sake of the beneficiary. Although this altruism does not necessarily give Adam Smith communitarian credentials of the African or Oriental type, one may wonder whether the spirit of sympathy could not increase wealth in the same way as self-interest does, if oriented in economic matters. So that one can say that sympathy could lead to economic success just as self-interest does.

I am aware, as Smith would be, that the motive to satisfy one’s self-interest and the interest of others both come from the same human tendency to sympathise with self and with the beneficiary (Khalil, 2001). However, in so far as the economic discourse of neo-liberalism lays much emphasis on self-interest rather than on the interest of the other, the centre of focus in neo-liberal economic ordering is self-interest. There are a number of issues that are raised here. Would people really achieve economic success if they behaved in an exclusively self-interested way (see Sen, 1987: 21)? Even if economic success were to be achieved, to what extent can one really say that it is only the principle of self-interest that led to such a success? Do people really behave in an exclusively self-interested way in economic matters? Are there no other aspects that may serve as catalysts of economic success such that self-interest is but one of them or not even necessary? Amartya Sen has this crucial question: “the real issue is whether there is plurality of motivations, or whether self-interest alone drives human beings” in economic matters (Sen, 1987: 13).

This series of questions led Mark Lutz and Kenneth Lux to explore the possibility of a *Humanistic Economics* as can be seen in their conclusive observation:

Where it has been acknowledged that human behaviour might have another dimension than self-interest, it has been decided that this part of the person is irrelevant to economics and therefore is outside the scope of science. [...] Such an exclusion is theoretically wanting, empirically questionable, a serious social mistake with unfortunate consequences (Lutz and Lux, 1988: 102).

The idea of self-interest was boldly underlined at the time when the production of goods and services was being developed thanks to the development of natural

181 sciences and their technological dividends, especially in England. Furthermore this
182 increasing production required larger markets which were being conquered in the
183 new English colonies in various parts of the world. This seems to lead one to believe
184 that the principle of self-interest may achieve economic growth and development
185 only for those who can sell or buy and who actually have the means to do so. On the
186 contrary it does not work for those who cannot buy or sell, and hence are excluded.
187 According to Michael Todaro (1989: 84), the principle of self-interest and the so-
188 called invisible hand of the market that results from it often act not to promote the
189 general welfare, but rather to lift up those who are already well-off while leaving
190 others behind.

191 There is here a whole argument that runs counter to the ethical theory of utilitar-
192 ianism, but I will not play on this field for the time being. But what Todaro seems to
193 be saying is that for self-interest to work there must be other conditions that must be
194 fulfilled. Thus I would go as far as saying that it is not just having something to sell
195 on the market and/or having the means to buy that matters. But one must also have
196 in oneself self-interest as a value, more precisely, an economic value. The question
197 is to what extent this is the case.

198 According to Amartya Sen (1987), in the case of the economic success of Japan,
199 there is empirical evidence showing that there were systematic departures from the
200 self-interested behaviour in the direction of cultural values such as duty, loyalty,
201 good will that played an important role in the Japanese economic success (cf. Lutz
202 and Lux, 1988: 84). Sen himself was drawing on the reflection of Michio Morishima
203 (1982), a Japanese scholar who argued that what has played an important role in the
204 Japanese economy is much more the Japanese spirit which is rooted in Shintoist and
205 Confucian values. Nowadays it is being argued that the economic success in other
206 South East Asian countries is also being achieved thanks to the same Confucian
207 values (Granato et al., 1996; Franke et al., 1991; Hofstede and Bond, 1988). Onis
208 (1995) argued that, the East Asian economic miracle has been possible thanks
209 to the developmental state provided by the Confucian heritage which emphasizes
210 hierarchy and group solidarity. The group solidarity provides a ground for coop-
211 eration within the same East Asian society, while the hierarchical authority of the
212 government provides incentives, political framework, the infrastructure and other
213 means necessary for the enterprises of its country to compete on the international
214 scene.

215 Economists and policymakers who defend the philosophy of self-interest in eco-
216 nomic growth and development argue that, in the case of Africa, the state has been an
217 obstacle to self-interest and its success, and thus is a hindrance to economic growth
218 and development. This argument is built on the debate between the libertarians
219 defending the priority of the individual over the community, and the communitar-
220 ians who defend the priority of the community over the individual. Hence those
221 who believe that in Africa the state is an obstacle to the principle of self-interest
222 and its economic achievements are the libertarians who argue that in the African
223 culture, the community is hampering individual freedom and responsibilities, and
224 hence an obstacle to the individual flourishing (Kenyan, 2006; cf. Dalacoura, 2002;
225 Nozick, 1974). It is true that the community can effectively be a limit or an obstacle

226 to individual freedom and responsibility; but it is equally true that the community
227 can be a context in which the individual flourishes more than if one were left
228 alone, particularly when the values which the community cherishes are harmonised
229 with those which the individual cherishes for mutual advantage (see Mbiti, 1970;
230 Tshamalenga, 1985; Shutte, 1993; Gyekye, 1997; Sandel, 1982, 1996, Taylor, 1989,
231 MacIntyre, 1981).

232 In the case of the Asian economic miracle, it has been observed that the state,
233 far from being a handicap for the market economy that is thought to result from
234 the principle of self-interest, played an important role in the economic development
235 (Biel, 2000: 202; Dasgupta, 1998; Onis, 1995). Furthermore, even in Latin America,
236 the introduction of the neo-liberal principles in the 1980s required an authoritarian
237 state to deal with opposition from the rent-seekers who had benefited from the
238 structuralist import substitution policies.

239 Of course, my intention is not to advocate for authoritarianism in the present
240 era of political liberalism in so far as I believe that democracy is a historicopolitical
241 achievement which people embrace as they become aware of their political
242 nature. My point here is that it is possible to achieve economic growth and development
243 with community-centred interest just as it can be achieved with individual
244 self-interest. If this were found to be the case, the traditional values of African
245 communitarian society should be explored to see whether they may not be pregnant
246 with economic potentials. In fact, the point of incompatibility between self-interest
247 as the ground of economic growth and development and African culture has not yet
248 been tackled as an issue. I should say that certain societies, especially the African
249 one, have been misled by the link between capitalism and individualism built in the
250 belief that self-interested individuals and the subsequent invisible hand of the market
251 increase wealth. This has been the case with the introduction of neo-liberalism
252 in Africa in the 1980s and the subsequent trade liberalisation, privatisation of state
253 enterprise, and deregulation of national economies (see note 2). The neo-liberal
254 economists and policymakers have been so dogmatic to the extent that it was easily
255 forgotten that capitalism could be possible even in non-individualistic societies.
256 Yet it is clear that the neo-liberal capitalist (which I consider to be linked with
257 individualism), with its private markets, well defined property right, entrepreneurship,
258 is but one version of capitalism. To be precise, the market-led capitalism of
259 the United States of America and the United Kingdom is not the corporate capitalism
260 of Japan and South Korea; the social-democratic capitalism of Scandinavia
261 and Austria is not the state-led capitalism of France (see Brauer et al., 1999). Is
262 a capitalist version that fits with the structures of African society, for instance,
263 conceivable?

264 Thus, the problem might not be the belief itself since it might work for some
265 societies. The real problem lies in the tendency to universalize it as if it is the only
266 possibility. The implication is that other avenues are neglected and undermined,
267 especially for those countries which are historically, politically and economically
268 dependent. The consequence is that the victims of this economic dogma find themselves
269 confused about what values really lead to economic growth and development.
270 And under the pressure of achieving this economic growth and development in the

271 short term, they don't strive to make a difference which would be derived from the
272 validation of their cultural beliefs and values.

273 274 3.5 Viewing the Principle of "Self-Interest" 275 Against Its Historico-cultural Background

276 The point I want to substantiate in this section is that what achieves economic suc-
277 cess is not the self-interest per se but rather the cultural beliefs and values from
278 which it resulted. If Smith claimed that the freedom to pursue one's self-interest
279 leads to the increase of wealth for a nation, it is apparently because he was reflect-
280 ing in a new cultural environment where the individual was henceforth sovereign.
281 And indeed, the sovereignty of the individual was a new conception of the human
282 being which came to the fore as a result of the intellectual and historical mutations
283 of 17th/18th century in Europe. This means that the individual who became now the
284 source of wealth of the nation was the product of a new cultural universe in Europe.
285 Here are the salient characteristics of this new culture:

286 3.5.1 *Human Sovereignty*

287 The first characteristic of the new culture is the human sovereignty over the natural
288 world. This aspect is better described by Klaus Nürnberger, in his book, *Beyond
289 Marx and Market* (1998: 31):

290 No part of reality is forbidden ground for human investigation and utilisation. There are no
291 uncanny forces, magical powers, divine beings or eternal principles which human beings
292 must fear, respect, or obey. Human beings are masters over the world.

293 This reality itself was henceforth discovered by means of investigation (empir-
294 ical philosophy of John Locke and David Hume), penetrated by logical thought
295 (Rationalist philosophy of René Descartes) and manipulated for the desired result
296 (technological advances). The implication of this was a culture which gave human
297 beings a new way of looking at the world and affirming themselves (Nürnberger,
298 1998: 31).

299 3.5.2 *Individual Sovereignty*

300 This characteristic is, in fact, the implication of the first one and has been empha-
301 sized by a great number of western philosophers. The first philosopher who
302 underlined boldly the sovereignty of the individual is René Descartes with his
303 famous principle: "I think therefore I am". The implication of this principle was
304 that from then on, the human being was the creator of his own self, his world,
305 and depended on no one else except his own individual self. John Locke is another
306 defender of individual sovereignty. He argued that people are equal and that every

316 individual has the right to self-preservation. This self-preservation goes with per-
317 sonal property. Every individual has a property in his own person. Locke shares his
318 thought on the sovereignty of the individual with Thomas Hobbes, although this lat-
319 ter viewed the individual from a negative perspective as can be seen in his principle:
320 “Man is a wolf against man”. Yet this does not prevent him from sharing with Locke
321 the view of the individual as an atomic unit sufficient unto itself, interacting with
322 others primarily in the pursuit of their self-interest (Ingersoll and Matthews, 1991:
323 37–38). Another important figure in the defence of individual sovereignty is Kant.
324 The idea that lurks behind Kant’s categorical imperatives is that the individual is the
325 starting point of universality.

326 Finally, that the individual is sovereign means that the society plays a second role.
327 That is what Jeremy Bentham affirms when he views the community as a fiction
328 and a collection of individuals, and that no objective social interest exists except
329 individual interest independently of fictitious society.

330 One may summarise these different views on the individual as follows: The indi-
331 vidual who was now defined by reason (the thinking being) became the source of
332 not only morality (Kant’s categorical imperatives), but also of every aspect of life:
333 Political life (democracy as a political system of equal and free individuals), social
334 life (the individual could now act unconstrained by the society and the hierarchi-
335 cal authority), religious life (the individual is no longer defined by any divinity),
336 moral life (against Aristotelian teleological definition of human action), and eco-
337 nomic life (one’s self-interest and rational choice increase a nation’s wealth) (cf.
338 MacIntyre, 1981).

340 **3.5.3 Freedom**

341 The new culture insists on freedom of individuals to organise their own lives, alone
342 or in cooperation with others. According to Klaus Nürnberg (1998: 30), freedom
343 goes with the virtues of taking bold initiatives and using all one’s gifts and talents
344 for self-determination, self-realisation and self-responsibility. Freedom is associ-
345 ated with personal choices, self-fulfilment and personal initiatives. Thomas Hobbes,
346 John Locke, and David Hume argued that all people possess the freedom necessary
347 to secure their natural rights, that is, the rights that are not subjected to any other
348 authority other than the human beings themselves. This freedom is the necessary
349 means to pursue one’s ends.

350 **3.5.4 Private Property**

351 The fourth salient feature of the culture that fuelled the classical economy is the
352 emphasis on private property which goes with self-interest. Private property is
353 viewed as an expression of human potential and an indication of human creativ-
354 ity (Ingersoll and Matthews, 1991: 39). According to Jean Jacques Rousseau, there

361 is a link between freedom and private property: private property is an instrument
362 without which one's freedom cannot be secured. Linked with private property
363 is the whole notion of self-interest which has been emphasized by Hutchison,
364 Hume, Tucker, Furgeson, Mandeville, and in a particular way Adam Smith (see
365 Haney, 1921).

366

367 **3.5.5 Materialism**

368

369 The materialist outlook of the new culture can be seen from two important aspects,
370 namely a new sense of value and labour. According to Jeremy Bentham, the human
371 being is governed solely by the hedonistic principle of seeking pleasure and avoiding
372 pain. And utility maximising is the only standard of evaluation. He further
373 argued that money is the most accurate measure of the quantity of pain or plea-
374 sure a human being can be made to receive. Accordingly, the valuation of what
375 is good or bad, profitable or not, pleasure or pain, rests solely on the subjective
376 judgement of the individual with money as the measure of welfare (Bentham, 1970:
377 Ch. 1). Such a notion of value is also connected with the individual and one's self-
378 interest. However, this materialist conception of value is very limited. At most it
379 could cover what people can do (quantification of our pain or pleasure), but it does
380 cover what people can be (qualification of our pain or pleasure). In other words
381 one's pain or pleasure is quantified in terms of money (exchange value) but not
382 qualified.

383 Materialism can also be seen in the instrumentalisation of labour. The tradi-
384 tional belief in labour as an important social resource and the means by which
385 a society advances was rejected. Accordingly, in his *Political Discourses* David
386 Hume (1987) argued that everything in the world is purchased by labour, and that
387 our passions are the only cause of labour. Jeremy Bentham argued that the love
388 of labour is a contradiction in terms. From the utilitarian point of view labour is
389 not undertaken for the benefit of those performing the labour, but for those hiring
390 labour power to generate exchange value. Workers must be bribed to expend effort
391 through payment of wages. Even Adam Smith tended to limit productivity to trad-
392 able commodities to the extent that even people themselves are viewed as other
393 commodities.

394

395 **3.5.6 Reason**

396

397 The new culture emphasized reason as the regulator of everything. It is said that
398 when individuals use their reason and industry in the pursuit of personal gain,
399 everyone in the society gains. This means that reason is the criterion for the dis-
400 tribution of profits and burdens in a given society, particularly a utilitarian society.
401 Economically, the role of reason is to instruct people on how to secure these desires
402 most efficiently (Ingersoll and Matthews, 1991: 38). However, from the contractual
403

406 point of view, the role of reason is to deal with conflicts which arise because self-
407 interest leads people to desire the same object. Thus the traditional understanding
408 of reason as the essential characteristics of human nature is seemingly dropped as
409 as reason is considered mostly from an instrumental perspective rather than comprehen-
410 sively. According to David Hume, reason is and ought only to be the slave of the
411 passions and can never pretend to any office other than to serve and obey them.

412 The above characteristics underlie the cultural value system which gives the
413 individual a particular ontological status. People in turn orient all the aspects of
414 their life in a way that responds to this ontological status. Thus classical economic
415 liberalism and the liberal revival in the 1980s can be understood against this back-
416 ground. The appeal to a minimal involvement of the state in the economy was the
417 outcome of such a culture and the ontological status it produced. Adam Smith's
418 economic thought has been revived as a ground of universal economic develop-
419 ment inherited from this cultural value system. His assumptions of self-interest
420 and *laissez-faire* economic policy developed from and within this cultural envi-
421 ronment. That economics is concerned with wealth of the nations, that economic
422 activity is embedded in the pursuit of wealth, and that the mainspring of economic
423 activity is self-interest, can only be understood against this cultural and individual's
424 ontological background.

425 In today's economic thinking, one major feature of these beliefs that goes with
426 self-interest as a principle of economic growth is rationality. Self-interested produc-
427 ers and consumers mindful of economic growth and development are presupposed
428 to be utility and profit maximizers who respond rationally and efficiently to market
429 signals. Rationality is thus the central characteristic of the self-interested economic
430 people, and consists in the logical application of economic means to attain particular
431 economic ends. The human being becomes that being whose economic behaviour
432 conforms to the dictates of reason. Accordingly, the neo-liberal economists tend to
433 advise the policymakers of the developing countries to simply get "the price right".

434 Rationality as a major feature that underlies economic behaviour is emphasized
435 by various theorists who treasure the neoclassical economics. Bill Gerrard (1993:
436 52), for instance, argues that the axiom of rationality is the cornerstone of modern
437 economics. Economic behaviour is interpreted as the outcome of optimizing choices
438 by rational economic agents. Daniel Hausman (1992: 278) posits that "much of the
439 methodological distinctiveness of economics stems from the remarkable fact that
440 a theory of rationality lies at its theoretical core". Ann Cudd (1993: 102) argues
441 that rationality is the capacity inherent primarily in individuals, and these agents
442 act to maximise their subjectively given utility, and thus to give substance to their
443 self-interest.

444 From what I have developed so far, it is clear that what achieves economic suc-
445 cess is not self-interest *per se* but the set of cultural beliefs and values from which
446 it resulted. The claim I am trying to establish so far is that economic growth and
447 development is a product of the validation or substantiation of peoples' cultural
448 beliefs and values. In the next section, I would like to consider this necessary link
449 between cultural values and economic growth and development by paying much
450 more attention to the case of Africa.

451 3.6 Cultural Values, Economic Growth and Development: 452 The Necessary Link

453
454 The cultural outlook I have just reviewed has been so intuitive to its promoters that
455 it tended to be universalised to other societies to the point that their cultural beliefs
456 and values (henceforth viewed as traditional) came to be considered as economi-
457 cally worthless (cf. Mehmet, 1995). Indeed, this has become a background against
458 which the developing nations are viewed and advised for their economic growth
459 and development. In the 1960s and 1970s, for instance, modernisation theorists
460 argued that, for underdeveloped nations to achieve economic growth and develop-
461 ment, they have to take the same road that modern societies took (see Rostow, 1960;
462 cf. Weber, 1971).

463 The consequence of all this is that most of the societies of the south, particularly
464 in Africa south of the Sahara, came to neglect unduly their cultural beliefs and val-
465 ues arguably because they lacked the potentials and the rationality peculiar to the
466 modern economics. But this neglect is more a result of the complex of economic
467 powerlessness felt by some societies that their beliefs and values are economically
468 barren without exploration. For instance, Etounga Manguellé (1990), in his cele-
469 brated *L'Afrique a-t-elle besoin d'un programme d'ajustement culturel?*,⁴ argues
470 that Africa needs a programme of cultural adjustment that would transform its men-
471 tality to one which is consistent with values in the rest of the world. Of course, it is
472 not clear what those universal values are that he is referring to. However, one may
473 presume that Manguellé is referring to western values.

474 According to Sally Matthews (2004: 380), a project of economic development
475 premised upon a set of values cannot succeed in the absence of those values. A
476 project which has its roots in particular assumptions and values cannot succeed in
477 the absence of the relevant assumptions and values. Thus, Manguellé's suggestion
478 can be interpreted as follows: if Africans want to achieve the economic growth
479 and development of the West, they first have to espouse the type of beliefs and
480 values upon which it is premised. This was the argument developed by the propo-
481 nents of the modernisation theory. Despite the injunction of this theory in Africa
482 (one may refer to certain colonial approaches such as assimilation practiced by
483 France) as well as Western influences, most Africans still retain most of their val-
484 ues: they still converse in their own languages, still have their African style homes,
485 African food, and Africans' world views and values systems remain noticeably
486 different from those of the West (Matthews, 2004: 379). I shall come to the mean-
487 ing of this in terms of Africa's economic development later. For the time being,
488 I would like to consider another African who has an argument similar to that of
489 Manguellé.

490 Axelle Kabou (1991) argues that, although they never appear on the long list of
491 official causes of underdevelopment, African cultures and mentalities are the main
492

493
494 495 ⁴ Does Africa need a cultural adjustment program (my translation).

496 obstacles to development. Effectively it may be true that some mentalities and attitudes
497 can effectively be obstacles to economic growth and development. One may refer, for instance, to those mentalities that tend to limit people's production to their
498 immediate consumption with little or no conception of the long term.⁵ A communal,
500 paternalistic outlook can hamper the spirit of creativity, initiatives and innovation.
501 Much emphasis on family ties is often the source of nepotistic behaviour linked to
502 incompetence of which Africa is often accused. One may also refer to the fact that
503 some traditional religious faiths do emphasize detachment from material goods and
504 wealth. But those mentalities cannot take priority to the fact that people produce
505 for their subsistence or produce to acquire what they do not produce; this being
506 the starting point of economics. Neither can they take priority on the fact that people
507 produce and exchange as part of their self-realisation or self-actualisation and
508 self-transcendence.

509 Manguellé and Kabou seem to be biased to the point of considering only the negative
510 aspects of African culture that effectively have a negative impact of economic
511 development. Messay Kebede (2004) might be right to suggest that they need to undergo
512 a mental decolonisation so as to emancipate their views from non-African
513 constructs. The communal outlook thought to be an obstacle to creativity and initiative
514 is also the ground of economic cooperation. In effect, the extended family, for instance, is, indeed, the nucleus for a cooperative spirit, solidarity, care and self-help.
515 The family could be the source of the value which consists in considering and
516 protecting the goods and the services of a company as one's own (see Wong, 1988).
517 Paternalistic behaviour can be the source of authority that managers need to lead
518 their companies (see Reddy, 2009). At the same time, this paternalistic behaviour
519 could be the source of a kind of leadership strong enough to ensure accountability
520 (cf. Asante, 1991: 69).

521 Thus, there is a link between what one believes and what one lives (*passage du*
522 *cru au vécu*).⁶ In other words, as Asante (1991: 68) puts it, "it is the totality of the
523 values, norms, attitudes, beliefs of a society which shapes its social, political and
524 economic organisation and inculcates a general feeling towards development." This
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529⁵ This point could be deepened especially when dealing with the concept of time in the African
530 context. For instance, John Mbiti (1970) argues that in traditional Africa, there are only two
531 aspects of time: the present (*sasa*) and the past (*Zamani*). The consequence of this conception
532 of time would lead one to believe that planning for the future is rather speculative. If this were
533 the case, then it would be difficult to talk of planning of economic development (Nyang, 1994).
534 However Mbiti was obviously mistaken since in all Bantu languages there is the future tense as
535 well. And the akamba culture of which Mbiti is part is not an exception. Yet it may be possible
536 that what Mbiti might have had in mind is that the past, the present and the future merge
537 in the same way as the individual is ontologically part of the community in the African con-
538 ception of the human being. If this was the case, is it not the prospective nature of economic
539 development that would be endangered along with the meaning that people derive from the future
(Diagne, 2004)?

540⁶ For a more extended reflection on the point, one could refer to my article "Le miracle asiatique":
541 qu'apprendre de l'expérience asiatique du développement (The Asian miracle: what can be learned
from the Asian experience of development), in *Ethique et Société*, 2006, 3 (1): 18–34.

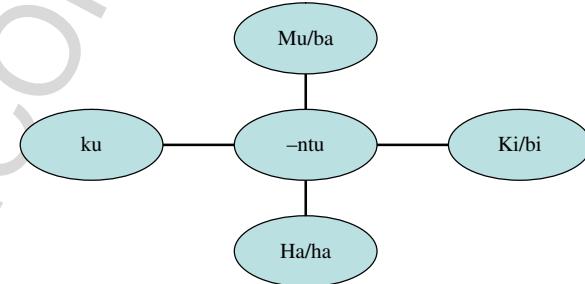
541 is the case irrespective of whether the culture of such a people is individualistic or
 542 communal. Thus, Messay Kebede (1999) argues that,

543 The depiction of development in terms of mere satisfaction of needs rather than validation
 544 of beliefs largely explains the underdevelopment of Africa. By not being a program of
 545 corroboration of beliefs, development fails to be animated by a competitive, insatiable, and
 546 creative spirit.

547 Michael McPherson (1987) argues that economics itself is part of a cultural
 548 milieu. This point is also echoed by David Throsby when he says: “The fact that
 549 economic agents live, breath and make decisions within a cultural environment
 550 is readily observable” (Throsby, 2001: 9). The cultural milieu, in large measure,
 551 endows economic goods and activities with meaning and presents people with the
 552 matrix of constraints and opportunities within which they develop themselves.
 553

554 3.7 Linking African Cultural Values to Africa’s Economic 555 Growth and Development

556 The crucial question one should ask at this juncture is how African cultural values
 557 are structured and what kind of economic development could fit with this cultural
 558 value system. I shall attempt a response to this question by considering how the
 559 Bantu people conceive of themselves and reality. The Bantu are a group of Africans
 560 who occupy almost all the Southern part of the Equator and its surroundings. They
 561 cover more than 60% of the African population in Sub-Saharan Africa, and occupy
 562 geographically one third of the whole African continent (Kagame, 1976). This may
 563 justify why most African and non-African thinkers tend to refer to Bantu philosophi-
 564 cal principles to make the point of what unifies Africans (Tempels, 1959; Jahn,
 565 1961; Eboussi-Boulaga, 1981). According to Alexis Kagame,⁷ the lowest common
 566 denominator of the Bantu people is the fact that their value system is structured
 567 according to the way they conceive of the categories of being in their ontology
 568 (Kagame, 1976, cf. Kagame, 1956). There are four of these categories (Fig. 3.1),
 569 namely:



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 582 Fig. 3.1 The structure of the
 583 Bantu universe

584
 585 ⁷ Kagame collected data on 180 languages from the Bantu zone, read 300 books on the various
 Bantu.

- 586 – The category of *mu-ntu* (plural: *ba-ntu*): intelligent (or rational) being(s). It is the
587 category of human beings;
- 588 – The categories of *ki-ntu* (plural: *bi-ntu*): non-intelligent beings. It is the category
589 of things including animals, plants, and inanimate beings such as stones;
- 590 – The category of *ha-ntu*: Spatio-temporal being. It is the category of time and
591 space;
- 592 – And finally, the category of *ku-ntu*: Modal being. It refers to the way different
593 beings are shaped, their position, their relation, their colour, etc.

594 All these four categories (mu, ki, ha, ku) are built on the same root, *ntu* (being)⁸
595 and are arranged in a hierarchical order with the human being standing at the top
596 of the hierarchy. Contrary to what Nhlanhla Mkhize (2008: 41) holds, it is obvious
597 from the above figure that *ntu* is not only reserved to human beings. Mkhize (2008:
598 38) rightly talks of the cosmic unity but fails to discover that *ntu* underlies it, maybe
599 because the four categories seem to be unknown to him.

600 There has been a question of why “*bu*” of (*u*)*bu-ntu*,⁹ for instance, does not
601 constitute a fifth category. According to Kagame (1976), with the concept of
602 *u-bu-ntu*, one is already in the formal logic as a condition for (African) philo-
603 sophizing. In effect, the Bantu distinguish between the concrete and the abstract.
604 They separate the abstract of accidentality expressing entities which do not exist
605 independently in nature such as *u-bu-gabo* (courage, force, and virility), *u-bu-*
606 *shingantahē* (integrity, equity); and the abstract of substantiality. Both of them are
607 connoted by *-bu*. *Ubuntu* (humanity or humanness) enters in the latter category.
608 Of course, *ubuntu* as a metaphysical concept has moral implications. In effect,
609 *ubuntu* is a moral character and even a value of people when they live, act and
610 behave in the way that fosters harmony in the society and the universe around
611 them. The use of *ubuntu* of Southern Africa refers to this moral character or value.
612 In fact, when one says that people are living according to the value of *ubuntu*,
613 one means that these people live in a way that fulfils their nature as intelligent
614 beings.¹⁰

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619 8 Kagame claimed that these four categories correspond to the ten Aristotelian categories (one
620 substance and nine accidents). However, his biographer, Kagabo (2006: 236), questioned this claim
621 arguing that Aristotelian categories are classes of predicates while Kagame’s categories are classes
622 of beings. However, this is not to say that Kagame is wrong since as far as the Bantu languages are
623 concerned, Kagame is right to stress that any conceivable entity comes down to one of those four
624 and there is no entity outside those four categories (Kagame cited by Kagabo, *ibid.*).

625 9 According to Ramose (1999: 41, see also Mkhize, 2008: 41) *ubuntu* has two particles, the prefix
626 *ubu* and the stem *ntu*. But actually there three particles: *u* which is an article, *bu* which denotes the
627 abstract. For instance the Bantu would refer to the dog-ness of a dog as *u-bu-bwa*, the animality
628 of an animal as *u-bu-koko*. When *bu* is combined with the stem *-ntu*, it means the humanness or
629 humanity.

630 10 I am also using the word “intelligent” to mean “comprehensive rationality” that allows people
631 to transcend calculations geared to substantiating their personal interests rather than harmony in
632 the universe.

631 What these Bantu categories of beings underlie is the notion of community. The
632 human being, the *mu-ntu*, is first of all part of the universal community (the com-
633 munity of *ntu*) which includes beings other than the human being. In other words,
634 the different realities of the universe belong together. As Mkhize (2008: 38) rightly
635 puts it, different realities of the universe form the cosmic unity.

636 Secondly, the human being belongs to the human community (family, clan, vil-
637 lage, etc.) from which one is born. One is *mu-ntu* among the *ba-ntu*. The *muntu* is
638 conceived of as part of the social web which incorporates other *Bantu*. These *Bantu*
639 include human beings actually living (the present generation), human beings who
640 are dead (the past generation), and human beings who are not yet born (the future
641 generation). This sense of community which is not limited to the present generation
642 is peculiar to African way of life. For Dickson Kwesi, it is a characteristic mark that
643 defines African-ness (Kwesi, 1977). In Southern Africa, this sense of the (human)
644 community is expressed in the following popular Zulu and Xhosa saying: “*umuntu*
645 *ngumuntu ngabantu*”¹¹ (a person depends on other people to be a person; or better,
646 you are a person in that you carry within yourself your humanity and the humanity
647 of others).

648 Thus, in the African value system, the first value is the value of the community.
649 The ontological primacy of the community in the African value system may lead one
650 to wonder what happens to individual agency. In effect, one may be made to believe
651 that the individual is swallowed up by the community to the extent that one cannot
652 have a freedom and responsibility of one's own. Kwame Gyekye (1997) felt uncom-
653 fortable with the seeming radicality of the African sense of community and asked
654 himself whether a moderate perspective of the African community can be envisaged.
655 In fact, his whole book, *Tradition and Modernity* is an effort to substantiate such
656 a moderate perspective. However, the African value system naturally accommo-
657 dates both the individual as well as the community as ontologically interdependent
658 without reducing the ontological density and the primacy of the community. I have
659 developed this point elsewhere by making a distinction between the human being as
660 a being-with/in-self (*umuntu-w'-ubuntu*) and human being as being-with/in-others
661 (*umuntu-mu-bantu*) (see Ntibagirirwa, 1999, 2003: 75–77). Maybe what I could add
662 here is the fact that the value of *ubuntu* is both an ontological and moral value of
663 people individually as they live according to their nature as well as collectively when
664 their interdependence is geared to achieving social harmony.

665 There is a host of moral values that go with the value of the community. I will
666 not dwell much on them but will only refer the reader to the reflections of thinkers
667 such Julius Nyerere who tried to build a political and economic system based on the
668 values of the family (*ujamaa*), cooperation, sharing, care and compassion (Nyerere,
669 1968); Kaunda (1968) whose humanism is built on such values as mutual aid, coop-
670 eration, responsibility and concern for others; and Senghor (1964) who emphasized
671 communion, participation and sympathy. All these thinkers who also happen to be

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674 11 This saying is also found in other languages such as Sesotho (*Motho ke motho ka batho*), in
675 Kirundi and Kinyarwanda (*Umuntu ni umuntu mu Bantu*).

676 the fathers of Africa's independence aimed at building a socialist type of economy
677 on the community and the values that flow from it. However, my observation is that
678 their socialist response to the Africa's quest of economic development was rather a
679 question in search of an answer: which economic system is most likely to harmonise
680 with the African value system and its ontological structure?

681 Today's economic development involves three major actors which tend to com-
682 pete in the economic order: the state, the markets, and the people. What the Bantu
683 conception of reality leads us to is the fact that the three forces have to interact
684 in synergy for a meaningful development to be achieved. In other words, in the
685 Bantu conception of reality, economic development should be inclusive rather than
686 exclusive. Obviously this goes in the opposite sense of the neoliberal belief that self-
687 interest and rational choice require that the market run the economic show alone,
688 thus excluding the state and the people. The implication is that the market alone
689 becomes the agent of economic growth and development, while the role of the state
690 and the people is reduced to being the patients. On the contrary, the African value
691 system as can be seen from the Bantu conception of reality would not divide the
692 actors of economic development into agents and patients, producers whose respon-
693 sibility is to produce and accumulate on the one hand, and on the other hand the
694 consumers. The African value system gives us a framework in which all could be
695 agents whose solidarity and cooperation would lead to economic growth and devel-
696 opment. In such a framework, one achieves one's humanity as a producer and a
697 consumer, a buyer and a seller, who responds not only to the forces of the market
698 but also to both the material and spiritual needs of the being human. This is the very
699 meaning of *ubuntu*; I mean *ubuntu economy*.

700

701 3.8 Conclusion

702

703 In this chapter I have tried to challenge the neo-liberal claim that the freedom to
704 pursue one's self-interest and rational choice lead to economic growth and devel-
705 opment. I argued that this claim cannot be universalised as neo-liberal economists
706 and policy-makers have led us to believe. I endeavoured to demonstrate that cultural
707 values are an important factor that needs to be taken seriously to achieve economic
708 growth and development. I showed that self-interest and rational choice themselves
709 are part of a cultural value system. This led me to substantiate the claim that there
710 is a necessary link between cultural values and economic growth and development.
711 Against certain arguments that have tried to marginalise the African value system on
712 the ground that it is an obstacle to economic development, I argued a contrary point
713 by considering the Bantu conception of themselves and reality. Such a conception
714 structures a whole system of values that could enhance rather than undermine eco-
715 nomic growth and development in Africa. The major advantage of the African value
716 system I underlined is the fact that it guards us against exclusion and the separation
717 of people into categories of agents and patients in the process of economic develop-
718 ment. Seen against this background economic growth and development is a product
719 of the synergy of all actors: the state, the market, and the people.

721 Thus if the argument of the necessary link between cultural values and economic
722 development is convincing enough, it is misleading to try to universalise the values
723 of self-interest and rationality as the only ground of economic growth and develop-
724 ment. Accordingly, my reflection has two major implications. The first implication
725 is that my argument should be understood as a reflective invitation to political lead-
726 ers, economists, policymakers to concentrate much effort on creating a political
727 and socio-economic environment in which cultural values can catalyse economic
728 growth and development. From this point of view I am in the line of the World Bank
729 which, in October 1999, declared that culture is an essential component of economic
730 development that should play an important role in economic processes.

731 The second implication is rather a warning based on the history of economic
732 development. The experience of the last decades of the 20th century as well as
733 the present financial crisis have shown us that neither the state alone, nor the
734 market alone, can lead societies to a meaningful economic growth and develop-
735 ment. The last years have also witnessed to some kind of collective mobilisation
736 of marginalised groups against the disempowerment tendency of the state and the
737 market thanks to the development of civil society movements (Mohan and Stokke,
738 2000), particularly in developing countries. What one can learn from African values
739 centred on the community is that what would work to achieve economic develop-
740 ment is not exclusion but inclusion of all the actors. Accordingly, I am suggesting
741 that, in the African context, what could achieve economic growth and development
742 is the synergy of the state, the market and the people. I called this *ubuntu economy*.

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01 **Chapter 4**

02 **Black Economic Empowerment**
03 **and the Post-Apartheid South African Quest**
04 **for the Domestication of Western Capitalism**

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08 **Munyaradzi Felix Murove**
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13 **4.1 Lay People's Discussion on South African Black Economic**
14 **Empowerment (BEE)**

16 We were watching television in a tavern in Sobantu township in South Africa whilst
17 treating ourselves to some nice cold beers and snacks. After some few minutes of
18 adverts, a popular South African black business man appeared on television narrat-
19 ing a story on how he managed to get rich and be where he is today. He looked smart
20 indeed. A three piece charcoal grey suit, elephant leather black shoes, his left hand
21 adorned with a gold watch and a gold marriage ring. His appearance in itself was a
22 story to the effect that he had it all in life. We previously knew him from our mem-
23 ory of the struggle as a tall, slender and cheerful man who had always expressed
24 insurmountable zeal and unsurpassable passion for social, political and economic
25 justice. But now those clothes which he wore during the struggle can no longer fit
26 his body.

27 His appearance on the national television told a story of someone who had it
28 all in life. Rumours from oral tradition circulating among newspapers has it that
29 since he joined the business fraternity 5 years ago, his fortunes have arisen to tens
30 of billions of dollars, and that he stays in a mansion or palace which many third
31 world presidents might envy. Whilst most of his business associates are from Europe
32 and America, all his businesses are in African names. Like all African indigenous
33 names, the names of his companies are pregnant with symbolism. One could read
34 from the symbolism behind these names messages such as, "A new era has dawned
35 in South Africa", "The sun has risen", "Nothing comes easy without going through
36 turmoil of the struggle", "Follow the ancestors" – and the list is inexhaustible. In
37 pursuit of more and more fortunes, he made himself a friend to all companies and

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corporations. His message to them was always clear and the most seductive as it was articulated as follows: (a) Previously white owned companies and corporations have no business future in the new South Africa and a new world order. They needed to tune themselves into the new legislation that stipulates that companies should have those who were previously disadvantaged in management positions as well as transforming those who were previously disadvantaged into shareholders. (b) That his participation in their companies or corporations would be to their own self-interest as he is more knowledgeable in the contemporary political and economic policy landscape. (c) His appearance in overseas business meetings on behalf of these companies and corporations would be a wise business decision as such appearance will inevitably be viewed as “overseas companies doing business with Africans who were previously disadvantaged”, hence “overseas companies bringing business transformation to post-colonial Africa”.

The appearance of this African business person on national television business programme was aimed at mentoring young aspiring black Africans on how to become successful business people. His speech went as follows:

- It's all about believing in yourself.
- You must tell yourself that you can do it.
- You must be focused on what you want to achieve and set goals on how to achieve your dreams.
- Work hard in whatever you do.
- Don't be discouraged when you don't achieve that which you had set yourself to achieve.
- Tell yourself that next time your dreams will come true.
- Don't wait for others to employ you.
- Tell yourself that you are your own employer.
- You are the master of your own dreams and it's up to you to see to it that they come true.
- Your destiny is within your hands.
- Apply your very best to take advantage of the opportunities before you.

This talk was very touching and inspiring indeed. However the owner of the tavern interrupted and managed to draw all our attention. With a frowned face, and a voice of disbelief in what was being said by our newly empowered businessman, he asked, “Gentlemen how can it be possible for someone who was not even a businessman five years ago to become a multimillionaire within such a short space period of time”? Someone in the group answered this question by saying that Black Economic Empowerment programmes are more lucrative than any other business venture you could ever think of. The owner of the tavern went on to pose a question to the effect that, “Why are these Black Economic Empowerment programmes not accessible to the majority of us who have been involved in businesses for decades? Would it not make empowerment sense if businesses and corporations

91 are to empower the majority of poor people who live under subsistence level than
92 empowering individuals who are already well-off?".¹

95 4.2 Introduction

97 The most controversial issue that is currently sweeping across the post-apartheid
98 South African political and economic landscape is mainly about the ethical jus-
99 tifiability of post-apartheid South African economic policy of Black Economic
100 Empowerment (BEE)/Africanisation/Indigenisation. Such an economic policy has
101 been implemented in many post-colonial African societies without success. Whilst
102 all these post-colonial African economic programmes were prompted by the need
103 to transform capitalism from being a foreign owned economic system to a domesti-
104 cally owned economic system, such transformation did not necessarily result in the
105 domestication of capitalism but rather in a creation of economic inequalities among
106 those who have been previously disadvantaged by colonialism and apartheid. The
107 creation of insurmountable inequalities among those who have been previously dis-
108 advantaged has given rise to a situation where the majority of the South African
109 citizens have come to question the morality of such an economic programme,
110 especially in the face of inadequate government provision of basic needs such as
111 education, health and transport.

112 Arguments that are usually proffered in support of BEE/Indigenisation/
113 Africanisation are as follows:

114

- 115 (1) The African economy under colonialism and apartheid was based on giving
116 business opportunities to whites as opposed to black people, hence to
117 redress this colonial economic legacy, it is imperative that the post-colonial
118 African government should give preference to black people in all sectors of
119 the economy.
- 120 (2) Since capitalism has been the handmaid of colonialism and apartheid, the
121 continuous existence of this economic system under the hands of those who
122 were the beneficiaries of colonialism and apartheid can only perpetuate neo-
123 colonialism in post-colonial or post-apartheid South Africa.
- 124 (3) Real political power is in the hands of those who own and control the
125 economy. It follows that political power will remain inadequate without
126 economic power by those who were previously disadvantaged to own and
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130 ¹ I am very much indebted to my friend Muthandeni Duma for introducing me to Zenzele tav-
131 ern, a place where I managed to interact with ordinary people whom we in academia have often
132 marginalized in our academic discourses. The experience of coming face to face with poor and
133 uneducated people engaging in a conversation that has a strong bearing on economic ethics within
134 South African contemporary political and economic changes has motivated me to embark on
135 African Business Ethics as an appropriate focus for the study of business ethics in post-apartheid
South Africa.

control all the sectors of the economy. For that to happen, it is indispensable that governmental legislative authorities should enact laws that promote BEE/Indigenisation/Africanisation in the modus operandi of companies and in the issuing of tenders. In so doing, economic power is being transferred to those who were previously disadvantaged.

(4) Capitalism in Africa has helped to promote the westernization of Africans and operated in ways that only helped to serve western economic needs. To reverse such a scenario, post-colonial Africa needed to domesticate capitalism, and the most effective way towards the domestication of capitalism was for black Africans to wrest control of this economic system such that African values, modes of production and consumption should become prominent in this economic system. Hence the post-apartheid economic policy of BEE/Indigenisation/Africanisation is regarded as the most effective economic policy towards the domestication of capitalism.

On the other hand, those who argue against BEE/Indigenisation/Africanisation have the following arguments in this debate:

- (1) BEE/Indigenisation/Africanisation amounts to some form of legalized looting by those who have political power and their closest friends.
- (2) BEE/Indigenisation/Africanisation creates a class of African capitalists who will rely heavily on political relatives and friends, thus making it difficult to distinguish between ethical business practices and corrupt business practices.
- (3) In an economic context such as that of South Africa with enormous challenges for economic development, government policy and funding priorities should be focused on urgent issues such as education, health and infrastructure. Ignoring these areas amounts to perpetuating the injustices of the past.
- (4) Beneficiaries of BEE/Indigenisation/Africanisation will not necessarily lead to the domestication of capitalism in Africa. These beneficiaries will end up identifying themselves with yester-year colonial capitalists instead of uplifting the black communities.
- (5) There is no empirical evidence all over post-colonial Africa that can help us to support the view that BEE/Indigenisation/Africanisation will lead to the domestication of western capitalism.

Within the limited scope of this chapter, I will not go into a detailed discussion of all these arguments, rather, my focus will be on ethical challenges that arise from BEE. The first part of this chapter will look into the colonial heritage of BEE in which it is argued that the failure to transmit capitalist values led to the failure of the ascendency of capitalism. In the second part it will be shown that while the idea of BEE/Indigenisation/Africanisation as a post-colonial African economic transformation policy was aimed at domesticating capitalism or giving it an African flavor, there is no evidence where the policy has succeeded in many parts of post-colonial Africa. This claim will be supported in the third part of the chapter where it is argued

181 that BEE/Indigenization/Africanisation does not necessarily lead to the domestication
182 of capitalism, but to a creation of a class of capitalists whose economic behavior
183 is based on the emulation of other capitalists in all parts of the world. In this vein,
184 this chapter will argue that BEE/Indigenisation/Africanisation policies are mistaken
185 policies when seen from an economic developmental perspective. Lastly, it is argued
186 that such policies do lead only to weak participation in global capitalism by African
187 countries.

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190 **4.3 BEE/Indigenisation/Africanisation and the Colonial 191 Heritage**

192

193 The world renowned African scholar, Ali Mazrui advanced the argument that capitalism
194 failed in post-colonial Africa because of the inherent historical problem that
195 originated in the transmission of capitalist values during the colonial epoch. As he
196 put it,

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198 The colonial master did not normally dig his own land physically, or clean his own cattle,
199 or sweep his own barn, or wash his own clothes, or change his own tyres. There was always
200 a Black man around to do the physical chores. . . .The aristocratic legacy of masters and
201 servants had its adverse consequences for the work ethic in post-colonial Africa, just as it
202 had on industrial relations in Britain. White masters in Africa drinking their gin and tonic
203 leisurely while their servants pulled off their boots – this was the colonial caste which
204 transformed physical labour into a burden of servitude (Mazrui 1986: 233).

205

206 The implication of the above quotation is that it was part and parcel of the
207 colonial economic practice that one could accumulate wealth without necessarily
208 sweating for it. The idea of capitalism through accumulation was severed from
209 accumulation through hard work and frugality as advocated by Max Weber. Thus
210 one finds one of the owners of Lever Brothers say that, “. . . the organizing ability
211 is the particular trait and characteristic of the white man. . . I say this with my lit-
212 tle experience, that the African native will be the best, and live under the larger
213 conditions of prosperity when his labour is directed and organized by his white
214 brother who has all these million years’ start ahead of him” (see Davis 1973:
215 385).

216 Whilst Weber depicted rational organization as one of the elements inherent in
217 the spirit of modern capitalism, this element of organized labour was violated in
218 colonial Africa because colonial capitalistic production often involved manipulation
219 when the African work force did not appear voluntarily. In this vein, Karl Polanyi
220 alleged that the colonists used to “impose a hut tax on the native [in order] to force
221 him to barter away his labour” (Polanyi 1968: 164; see Murove 2005: 394–395).
222 Karl Polanyi’s argument can be supported by taking recourse to the observation that
223 was made by Felix Gross about Cecil John Rhodes. Gross said that in order to make
224 Africans work for him, Rhodes had to devise a plan: “It called for special enticement
225 to lure them to the farms, and a good psychological understanding of their primitive
though complicated mentality to keep them there. Cecil found out that many Natives

needed money to pay their hut-tax. He lent them the money on their promise to work for him. And they never let him down. ‘Karrirs’, he wrote home, are really safer than the Bank of England” (Gross 1956: 11).

It is from such historical evidence where it is argued that BEE/Indigenisation/Africanisation policies are intended to redress the injustices of the past whereby black Africans had their labour used and at the same time found themselves excluded from reaping the fruits of their labour. This is evident where one finds the then Minister of Bantu Affairs, Verwoerd stating that, “There is no place for [the Bantu] in the European Community above the level of certain forms of labour...it is of no avail for him to receive a training which drew him away from his own community and misled him by showing him the green pastures of the Europeans but still did not allow him to graze there” (see Lipton 1986: 24). It is in such utterances that it is argued that the demise of these political systems also called for the restructuring of the capitalist economic system in post-colonial or post-Apartheid South Africa as a way of redressing the economic injustices of the past.

In this regard, advocates of BEE/Indigenisation/Africanisation argue that one could not redress the injustices of the past solely through political control, rather political control is supposed to be complemented by economic control. It was the greatest conviction of African nationalists that economic control could only be effected through the domestication of capitalism because during colonialism, capitalism had turned Africans into victims of expropriation. Kwame Nkrumah referred to this expropriation as follows, “While missionaries implored the colonial subject to lay up his ‘treasures in Heaven, where neither moth nor rust doth corrupt’, the traders and administrators acquired his minerals and land. There was no intention of processing locally the discovered raw materials. These were intended to feed the metropolitan mills and plants, to be exported back to the colonies later in the form of finished commodities” (Nkrumah 1970: 22). Here the main argument is that African economic relations under colonialism were not about developing or transferring capitalistic values to the colonized. It is also for this reason that Nkrumah argued against those who gave moral support to colonialism on the grounds that it was indispensable to Africa’s appropriation of capitalism and modernity.

According to Nkrumah, colonialism represented the expropriation of African resources. He writes, “In her African colonies, Britain controlled the export of raw materials by preventing their direct shipment to foreign markets. After satisfying the demands of her home industries, she sold the surplus to other nations and netted the profits herself. The colonial farmer and worker had no share in those profits. Nor was any part of them used in providing public works and social services in the colonies” (Nkrumah 1970: 22–23). The economic modus operandi of colonial economic practices could not be severed from the idea of legalized robbery on the grounds that African resources were controlled by their respective colonial powers – be they French, British or Portuguese. The coming of political independence was also followed with what Julius Nyerere called economic nationalism. For Nyerere, economic nationalism was about the control of the economy. In support of economic nationalism Nyerere had this to say,

271 Such an economic expression of nationalism is nothing new in the world; although the manner
272 of the action may have been peculiarly Tanzanian, its motivation is common enough.
273 Every country – whether it be capitalist, communist, socialist or fascist – wants to control
274 its own economy. . .At independence we achieved political control, but all important
275 industries remained in foreign hands. . .Whatever economic system the peoples of different
276 African countries eventually adopt, it is quite certain that sooner or later they will demand
277 that the key positions of their economy are in the hands of their own citizens (Nyerere
1968: 262).

278 It is evidently clear that the post-colonial concept of economic nationalism was
279 about the control of capitalism which African nationalists for so long had suspected
280 to have been controlled externally. For this reason, an externally controlled capitalism
281 as it was under colonialism was deemed exploitative. In pursuit of economic
282 nationalism, Nyerere became hostile to the whole concept of economic growth and
283 development through direct foreign investment. He writes, “. . .I do not think there is
284 any free state in Africa where there is sufficient local capital, or a sufficient number
285 of local entrepreneurs, for locally based capitalism to dominate the economy. Private
286 investment in Africa means overwhelming foreign private investment. A capitalistic
287 economy means a foreign dominated economy. These are the facts of Africa’s sit-
288 uation. The only way in which national control of the economy can be achieved is
289 through the economic institutions of socialism” (Nyerere 1968: 264).

290 Those who argue against the idea that colonialism was about the expropriation
291 of African resources maintain that since African traditional values were prohibitive
292 to the appropriation of capitalism, there was no way in which Africa would have
293 developed its own capitalism without the colonial intervention. In other words, the
294 providential aspect of colonialism to Africa lay in the fact that Africa would have
295 remained poor and backward if intercourse with western economies did not occur.
296 One of the most notorious defender of the providence of colonialism, A. J. Hanna
297 did not mince his words when he said,

298 . . .[I]t is virtually certain that conditions in Africa would still be roughly what they were
299 a century ago, had it not been for the introduction of European administration, European
300 instruction, and contact with the European economy. . .It has often been asserted that
301 investment in Africa involved injustice to the Africans, since it was a device for draining
302 the wealth of their continent into the pockets of investors in Europe. This is an elemen-
303 tary misconception. The mineral and other resources of Africa were useless to the native
304 inhabitants until they were developed, and they could not be developed without transport,
305 machinery and skill. By making these things available the European investor, however self-
306 interested he may have been, was serving Africa; and if his enterprise came to an end
307 through bankruptcy, Africa gaining nothing through his misfortune (Hanna 1961: 11–17).

308 As it can be deduced from the above quotation, Hanna’s main argument was that
309 colonialism was morally justifiable on the grounds that if it were not for colonial-
310 ism, then the African economy would not have accrued economic benefits from its
311 contact with the western world. In other words, it was to the benefit of the African
312 economy that there was colonialism. It is also part of Hanna’s argument that the
313 expropriation of African resources is morally justifiable because those resources
314 were not being used at all. Since those African natural resources were not being
315 used at all, it becomes a reckless mistake for one to interpret the whole colonial

316 economic enterprise as stealing and expropriation of African resources. But Hanna's
317 reading of the colonial history was not shared by everybody who officially participated
318 in colonial administration. Thus one finds the French Colonial Secretary of State,
319 Albert Sarraut arguing passionately that colonialism was mainly about the
320 expropriation of African resources. As he puts it,

321 What is the use of painting the truth? At the start colonization was not an act of civilization,
322 nor was it a desire to civilize. It was an act of force motivated by interests. An episode
323 in the vital competition which, from man to man, from group to group, has gone on ever
324 increasing; the people who set out to seize colonies in distant lands were thinking primarily
325 of themselves, and were working for their own profits, and conquering for their own power.
326 ... The origin of colonization is nothing else than enterprise of individual interests, a one-
327 sided and egotistical imposition of the strong upon the weak (see Nkrumah 1970: 21).

328 Surely Sarraut was a pragmatist who did not hesitate to call a spade a spade. In
329 this type of pragmatism, colonialism was solely about economic expropriation of
330 the colonized Africans. Accordingly, there wasn't any room for moral justification
331 of colonialism at all. Since colonialism could not promote the ascendancy of capital-
332 ism in colonial Africa, it is also the argument of post-colonial African scholars
333 that colonialism should be seen solely as a moment of expropriation within African
334 history. This is the argument that was advanced by Ali Mazrui when he said that,

335 The greatest mockery about Western imperialism does not lie in its promotion of capitalism
336 in Africa; it lies in its failure to do so. ... the West destroyed traditional African economies
337 without really creating capitalist foundations to replace them. In this sense, the problem of
338 dependency in Africa is about who controls capitalism within Africa, rather than about the
339 merits of capitalism as such. ... Western imperialism transmitted capitalist greed to Africa –
340 but without capitalist discipline. It transmitted the profit motive – but not the entrepreneurial
341 persistence and risk-taking (Mazrui 1986: 215).

342 In the light of Mazrui's argument as stated above, colonialism failed to promote
343 capitalism nor did it create any alternative economic system, hence the problem of
344 dependency became the main pre-occupation of post-colonial scholars and policy
345 makers on ownership and control of capitalism in Africa. In this vein, one finds
346 that most post-colonial African scholars have persistently maintained that the west
347 were the real owners of capitalism in Africa, hence the second phase of Africa's
348 struggle for independence was to be focused on economic decolonization. In this
349 regard, the post-colonial African economy came to be understood as a remnant of
350 colonialism. Thus one finds Chinweizu saying that, "Political decolonization and
351 formal independence in Africa have not meant the end of imperialism. They have
352 only meant a change in the *guise* of imperialism. Political decolonization has not
353 been accompanied by economic decolonization" (Chinweizu 1999: 769).

354 The idea of economic decolonization fueled the post-colonial African economic
355 policy of BEE/Indigenisation/Africanisation. Whilst western capitalism tends to
356 agree on the importance of such a policy in the domestication and appropriation
357 of capitalism, Chinweizu argued that these western countries are only in favour of
358 such a policy in so far as it provides fertile ground for the perpetuation of western
359 economic interests. It is on these grounds that Chinweizu said that the decolonization
360 of the economy through indigenization of capitalism remained a contentious

361 issue between the west and post-colonial Africa. He writes, “On economic decolo-
362 nization, the African states and the West were in sharp conflict. The African states
363 wanted to wrest control of their economies from a West which has determined
364 to retain that control. For the West, losing control would mean giving up what
365 a century of conquest and colonization had achieved for them, and what political
366 decolonization had aimed to preserve. For the African states, however, not to wrest
367 away that control would be to defeat the economic aim of their struggle for political
368 independence” (Chinweizu 1999: 771).

369 As indicated previously, in post-colonial Africa, the most effective instrument
370 for economic decolonization was indigenization or Africanisation. In this regard,
371 “Decolonisation was generally seen as no more than Africanisation, in the sense of
372 putting more Africans into the economic structures inherited from colonial times.”
373 (Chinweizu 1999: 777). To those western countries who were owners of capitalism
374 in colonial Africa, Africanisation was preferred on the grounds that those educated
375 Africans who were also westernized through education would not endanger their
376 economic interests, but rather they will simply give an African face to western
377 capitalism. But Chinweizu (1999: 790) argued that the Africanisation of capitalism
378 could not succeed because those Africans who were supposed to be the agents of
379 this policy “had enormous appetites for material consumption”. Since they had this
380 insatiable appetite for consumption, “They craved the best that the industrial world
381 could offer, and were therefore preoccupied with the distribution for consumption of
382 whatever income was available from an economy which remained colonial in char-
383 acter”. Contrary to the economic behavior of African capitalists, “the bourgeoisie of
384 the Western core were habitual accumulators of capital, highly experienced at it, and
385 with highly developed productive organization as well as vast sums of already accu-
386 mulated capital which they could deploy for further accumulation” (*ibid*, 790). Here
387 Chinweizu’s argument is that the idea of creating a group of African capitalists
388 who will be responsible for the domestication of capitalism will not prevail because
389 the consumption habits of African capitalists are contrary to the spirit of accumula-
390 tion and saving as is the case among western capitalists. The same observation was
391 also made by Nkrumah when he said that,

392
393 Thrift has not been a characteristic of our people, largely because they have not enjoyed
394 enough income to make the question anything but academic. How to instill a need to spend
395 and save wisely among them has become a major preoccupation now that they are beginning
396 to enjoy higher incomes and the taste for amenities. Our family system actually discourages
397 family heads from saving, for the system, in effect, penalizes the man with initiative in
398 favour of the lazy and the weak. The indigent members of the family live upon the more
399 fortunate ones. A praiseworthy and useful practice in our past, more or less stagnant society
400 based on subsistence farming, it acts today as a break upon ambition and drive. At
401 the present time, the man who makes a reasonable living finds his money eaten up by his
402 relatives. . . so that he simply cannot meet his personal obligations, let alone save anything
(Nkrumah 1970: 100).

403 Nkrumah’s pessimism on the domestication of capitalism through indigenization
404 was based on Max Weber’s theory that said that there was some early connection
405 between the Protestant ethic of thrift, frugality and hard work and the ascendance

of modern capitalism in western societies. According to Nkrumah, the stumbling-block to the domestication of capitalism through indigenization was in the African traditional communalism which puts emphasis on the need for the individual to demonstrate a sense of concern for the well-being of others through sharing of material possessions. This African traditional prestige motive is thus seen as an inherent hindrance to saving and accumulation of wealth.

Unlike Nyerere, Nkrumah was convinced that the domestication of capitalism was supposed to be attained through indigenous capitalists. For this reason he was distrustful towards foreign capitalists as much as he was towards indigenous capitalists. Since foreign capitalists and indigenous capitalists could not be trusted Nkrumah suggested that the government was the most appropriate agent to bring about the domestication of capitalism. He writes, “We have had enough of European monopoly domination of our economy. We have emancipated ourselves politically, and we have now to take off the economy monopoly that was the objective of foreign political control. This is the crux of our economic policy, and the essential heart of our endeavours. For unless we attain economic freedom, our struggle for independence will have been in vain, and our plans for social and cultural advancement frustrated” (Nkrumah 1970: 102). Many scholars have come to argue that the idea of domesticating capitalism through policies of indigenization/Africanisation/BEE does not have any empirical evidence that shows that such economic policies have yielded the intended results. Many economic developmental theorists have argued that such policies tend to perpetuate the previous colonial economic situation where wealth ends up cornered by a few at the expense of the majority of the populace. Some argue that the indigenized African capitalists are most likely to emulate the accumulation and consumption habits of other capitalists all over the world.

4.4 BEE/Indigenisation/Africanisation and the Problem of Emulation

It has been argued repeatedly by some post-colonial African critics of indigenization that for government to embark on policies aimed at creating a class of African capitalists was an exercise in futility. African scholars such as Claude Ake argued that those who end up benefiting from governmental economic interventions in favour of black economic empowerment are mostly in solidarity with international capitalism rather than with their fellow African poor (Ake 1981: 32). The idea of solidarity between those Africans who are economically empowered and international capitalism has its explanatory logic in Thorstein Veblen’s Institutional Evolutionary Economics. In his *The Theory of the Leisure Class*, Veblen argued that the capitalistic practice of economic predation is a shared characteristic among all capitalists despite their backgrounds because, “In order to stand well in the eyes of the community, it is necessary to come up to a certain, somewhat indefinite, conventional standard of wealth . . .” (Veblen 1931: 30). According to Veblen, this predatory habit

451 has no proper explanation besides the seeking of power and honour through endless
452 accumulation and acquisition of wealth. The appetite for acquisition and accumula-
453 tion of wealth among the leisure class (capitalists) manifests itself as insatiable.
454 The need to acquire more becomes too addictive to such an extent that it leads to
455 compulsive acquisitiveness. He writes,

456 But as fast as a person makes new acquisitions, and becomes accustomed to the resulting
457 new standard of wealth, the new standard forthwith ceases to afford appreciably greater
458 satisfaction than the earlier standard did. The tendency in any case is constantly to make the
459 present pecuniary standard the point of departure for a fresh increase of wealth; and this in
460 turn gives rise to a new standard of sufficiency and a new pecuniary classification of one's
461 self as compared with one's neighbours. So far as concerns the present question, the end
462 sought by accumulation is to rank high in comparison with the rest of the community in
463 point of pecuniary strength (Veblen 1931: 31).

464 In the light of Veblen's theory of the evolution of institutional economics, sol-
465 idarity between the rich and the poor becomes untenable because those who are
466 capitalists are driven by an insatiable need for wealth whereby that which has been
467 acquired is always inadequate because, as Veblen put it, "the normal average indi-
468 vidual [among the leisure class] will live in chronic dissatisfaction with his present
469 lot" in the sense that, "when he has reached what may be called the normal pecu-
470 niary standard of the community, this chronic dissatisfaction will give place to a
471 restless straining to place a wider and ever-widening pecuniary interval between
472 himself and this average standard" (Veblen 1931: 31). The main psychological rea-
473 son behind this insatiability comes from the fact that in the leisure class, individuals
474 are always driven by the urge to emulate those who belong to their class – thus
475 setting a path to an endless economic state of competitive accumulation without
476 stipulating standards for sufficiency. Within this psychological state of a compulsive
477 urge for endless accumulation, the individual thus severs himself from communal
478 belongingness. According to Veblen, the leisure class is endowed with conspicu-
479 ous consumption patterns that can only be appeased by extraordinary lifestyles. He
480 writes, "The quasi-peaceable gentleman of leisure, then, not only consumes of the
481 stuff of life beyond the minimum required for subsistence and physical efficiency,
482 but his consumption also undergoes a specialization as regards the quality of the
483 goods consumed. He consumes freely and of the best, in food, drink, narcotics,
484 shelter, services, ornaments . . ." (Veblen 1931: 73).

485 Veblen maintained that such consumption habits are vicarious because they are
486 done as a way of expressing one's economic status within the leisure class. But such
487 conspicuous consumption habits are something which the individual is expected
488 to maintain if s/he is to remain honourable within the circles of the leisure class.
489 In characterization of the leisure class which was rendered by Veblen was that "the
490 wealthy class is by nature conservative" in the sense that this class "opposes innova-
491 tion". Its opposition to innovation is not only caused by the factor of vested interest,
492 but this conservatism has "a certain honorific or decorative value". As he puts it,
493 "Conservatism, being an upper-class characteristic, is decorous; and conversely,
494 innovation, being a lower-class phenomenon is vulgar" (Veblen 1931: 198–200).
495 In other words this conservatism

496 makes it incumbent upon all reputable people to follow their lead [i.e., the wealth class]. So
497 that, by virtue of its high position as the avatar of good form, the wealthier class comes to
498 exert a retarding influence upon social development far in excess of that which the simple
499 numerical strength of the class would assign it. Its prescriptive example acts to greatly
500 stiffen the resistance of all other classes against any innovation, and to fix men's affections
501 upon the good institutions handed down from an earlier generation (Veblen 1931: 200).

502 In other words, the conservatism of the leisure class is inevitable because it is
503 parasitic or predatory on the poor. This conservatism of the leisure class becomes
504 a mechanism that safeguards its own class-interests. Consequently, the leisure class
505 adopts an understanding of evolution based on the belief that, "Whatever is, is right";
506 whereas the law of natural selection, as applied to human institutions, gives the
507 axiom: Whatever is, is wrong". Veblen went on to say that such a type of class-
508 interested conservatism perpetuates the existence of unjust or inhumane institutional
509 practices (Veblen 1931: 207). The conservatism of the leisure class is not so much
510 concerned with perpetuating the received moral values, rather, moral values can only
511 be conserved when they help to support the long entrenched economic interests of
512 the leisure class. Thus he characterized the industrial processes and the economic
513 institutions of this leisure class as follows, "Their office is of a parasitic character,
514 and their interest is to divert what substance they may to their own use, and to retain
515 whatever is under their hand. The conventions of the business world have grown up
516 under the selective surveillance of this principle of predation or parasitism. They are
517 conventions of ownership; derivatives, more or less remote, of the ancient predatory
518 culture" (Veblen 1931: 203)

519 For Veblen, the business world of the leisure class is simply predatory and para-
520 sitic in as far as it feeds on the labour of others whom it denies access to the tastes of
521 its class. Such a business practice was archaic; hence it could not be applied in the
522 present context. The continual survival of such business practices owes its indebted-
523 ness to the past economic outlooks that cannot be applied to today's socio-economic
524 conditions.

525 The implications of Veblen's theory of Institutional Evolutionary Economics to
526 BEE/Indigenisation/Africanisation economic policy has already been observed by
527 many African developmentalist scholars. Among some of their observations was
528 the idea that BEE economic programmes would inevitably create a class of African
529 capitalists whose economic standing will make it impossible for them to be in soli-
530 darity with the majority of the African poor. Claude Ake advanced the argument that
531 BEE/Indigenisation or Nationalisation economic programmes do not necessarily
532 lead to the decolonization of the African economy as it is generally assumed. Such
533 programmes "[e]ssentially...amount to a new partnership between the African rul-
534 ing class and international capitalism to their mutual benefit and often reduce areas
535 of conflict between them. By operating under the umbrella of the state, foreign cap-
536 ital reduces the visibility of its exploitation while enjoying new immunities" (1981:
537 39). Ake went on to say that,

538 Imperialist exploitation of Africa occurs precisely because of the existence of capitalism in
539 Africa. For the most part, the African ruling class is the creation of Western imperialism and
540 remains largely a tool of Western imperialism. . .their interests coincide on the fundamental

541 issue of maintaining capitalist relations of production. The African ruling class survives
542 in so far as capitalist relations of production are maintained. And international capitalism
543 maximises its exploitation of Africa by keeping African economies capitalist and dependent
544 (Ake 1981: 35–36).

545 Within such an analysis, there is obviously an echo of Veblen's theory that
546 the leisure class (which Ake has identified as the ruling class) tends to form
547 bonds of solidarity based on their own conventional methods of acquiring and
548 consuming of wealth. Such a solidarity drives the poor to the peripheries of the
549 economy, thus further perpetuating the legacy of economic imperialism which the
550 BEE/Indigenisation/Africanisation policy had purported to terminate. It is partly for
551 this reason that other African scholars have sarcastically argued that indigenisation
552 or BEE is about the indigenisation of privatization. These scholars argue against the
553 old argument that has often been proffered by advocates of indigenisation which
554 says that indigenisation of capitalism does avoid the externalization of profits that
555 are made on African soil. Related to this is also the claim that international capital-
556 ism thrives on the mobility of capital, that is, foreign capitalists can easily relocate
557 their business operations to other countries or regions depending on profitability of
558 such a venture.

559 Against all those arguments, Chanda Chisala argued that we should accept capi-
560 talist practices as they are practiced all over the world and concentrate on improving
561 our African economic environment. Thus Chisala writes,

562 The only way is to change our environment and this will start by changing our atti-
563 tude to the whole idea of capitalism. Capitalism simply means allowing the environment
564 to be as free as possible. We destroy the environment when we start intervening in
565 it in order to force our ideas of who should own what; how much should what he
566 bought for [sic]; how should this one pay that one; who should pay less taxes than who;
567 etc. . . . The answer to our economy simply lies in a true understanding of the capital-
568 ist philosophy, period. And the logic is really simple: the most capitalist nations in the
569 world are the richest countries in the world – can it get simpler than that? It really has
570 nothing to do with constitutions (even though we do need a good constitution); with
571 foreigners; with agriculture; or even with national airlines (Chisala C. "Indigenisation
572 of Privatisation (Part 2): Some General Comments on Privatisation and Capitalism",
file:///E:/Indigenisation%200f%20Privatisation –Botswana.htm, Accessed 22 April 2007).

573 Chisala's argument as stated above is that African states should just embrace
574 capitalism as it has been practiced in the western world. Programmes that tend to go
575 against the logic of the capitalist system can only be counter productive. The capital-
576 ist logic is based on the idea that in economic matters, the free market should decide
577 on who gets what and who deserves what. A whole hearted embrace of capitalism
578 would also imply that government should not come up with legislation with the
579 aim of aiding a particular segment of the population against the other. Obviously
580 the moment government tries to assist the individual's efforts to accumulation of
581 wealth through legislation and incentives, such actions become ethically problem-
582 atic. Here the problem arises with reference to who should be indigenised among
583 those who have been previously disadvantaged by colonialism or apartheid. If indi-
584 genisation is aimed at correcting the economic oppressions of the past, the question
585 that also arises is that are the beneficiaries of indigenisation the only ones who were

586 disadvantaged? Thus Ray Matikinye critiqued indigenisation in Zimbabwe on the
 587 grounds that,

588 A first attempt at indigenisation succeeded in creating a legion of briefcase business-
 589 men and petty traders. It also created a small clique of *nouveaux riches*, largely thriving
 590 on crony capitalism and feeding on an intricate patronage system. . .Many complaints
 591 revolve round the repeated appearance of the same beneficiaries in different deals and
 592 guises. . .Black empowerment can only succeed in an environment of economic growth
 593 buttressed by a vibrant private sector with full accountability all the way down the line
 (www.theindependent.co.zw/news/2).

594
 595 Matikinye's argument is that the economic policy of BEE/Indigenisation/Africanisation
 596 does not solve the problem of economic decay and the resultant
 597 poverty among the poor; rather it creates a small African elite class whose eco-
 598 nomic privileges are the direct result of governmental efforts. A popular critique of
 599 BEE among South Africans has been that those who are politically well connected
 600 end up remaining the only beneficiaries of BEE.

601 Recently Finance minister Trevor Manuel was interviewed by the London based
 602 *Financial Times* in which he suggested that the South African government's eco-
 603 nomic policy of BEE has to be reviewed. As a followup to Manuel's suggestion,
 604 the chief director of BEE, Polo Radebe conceded that, "The problem he highlighted
 605 is in the implementation, it's not a problem in the content of the policy. It's the
 606 practice of BEE that we need to rectify" (*Mail & Guardian*, April 20–25, 2007).
 607 Asked whether it was crucial for there to be a sunset clause, Polo retorted that, "You
 608 cannot put a sunset clause on transformation, [because as things are, BEE was] self-
 609 propelling" so that the economy will reach a point in the future when 'legislation
 610 was no longer necessary'. "That's when the market starts taking care of itself, when
 611 equity becomes part of our psyche. . .At that point I would like to remove that 'B'
 612 from BEE so that people stop talking about black people and see empowerment as
 613 an integral economic driver"

614 Whilst criticisms of BEE have raged on the grounds that it was mainly enriching a few indi-
 615 viduals that were properly connected to the ruling party, Polo Radebe refuted this criticism
 616 on the grounds that, "But if we assume that the 67% votes that went to the ANC are a reflec-
 617 tion of their support throughout the economy, then it suggests that 67% of the population
 618 are in one way or another connected to the ANC. So when you make the argument that
 619 politicians, or those with political connections are the ones benefiting, then you are almost
 620 suggesting that BEE should be confined to 30% of the population. So for me the discussion
 621 always baffles me" (*Mail & Guardian* April 20–25, 2007).

622 Polo however admitted that it was difficult in the light of the present codes to reg-
 623 ulate those who are using BEE for their own personal enrichment: "But how do you
 624 determine how rich is rich enough. . .Even if we were ready to go the route of regu-
 625 lation, would these guys give us access to their balance sheets? Much of their wealth
 626 is still on paper too. We would start entering murky territory" (*Mail & Guardian*,
 627 April 20–25 2007). Whilst Polo is admitting that BEE is being abused by a few
 628 individuals, she does not spell out explicitly what has to be done in order to rectify
 629 the situation. It is abundantly clear that she admits that the BEE economic policy
 630 is beset with enormous moral problems in the sense that such a policy empowers

631 those who are already privileged whilst ignoring the majority of the previously dis-
632 advantaged. It is mainly for this concern that such an economic policy creates strong
633 bonds of solidarity between the newly economically empowered black people and
634 capitalists from the previous colonial or apartheid era. The main presumption of
635 the advocates of BEE/Indigenisation/Africanisation policies is usually based on the
636 idea that domestic capitalists are indispensable to the domestication of capitalism,
637 “and that factors characteristic of traditional society, especially ‘traditional values’,
638 inhibited the emergence of such elites” (Leys 1994: 16). In this regard, domestic
639 capitalists are presumed to be in the position to do so. However, since capitalism
640 is about accumulation, it also follows that those who have accumulated more and
641 more as a result of BEE/Indigenisation/Africanisation policies will always retain
642 the advantage of opportunities that present themselves for further accumulation of
643 wealth. The argument that such policies will inevitably lead to continuous accu-
644 mulation of wealth by the same individual cannot be easily explained away. For
645 example, Vuyo Jack said that after making lots of accumulation of wealth through
646 BEE deals, Mzi Khumalo “notified the public that he was no longer available for
647 BEE deals”. Jack went on to command that,

648 Herein lies a good lesson. Once BEE beneficiaries operate in the mainstream economy
649 without the need for assistance envisaged by BEE, they should no longer monopolise the
650 opportunities presented by BEE but allow other people to use the policy to gain access to
651 the mainstream economy. The principle of graduation is simple – if no one graduates, the
652 school will soon become too full and all students will suffer. . . . The graduation from BEE
653 will most commonly be based on wealth levels, which government cannot set. Individuals
654 must determine their own graduation level (Jack & Harris & Harris 2007: 59–60).

655 Here I would like to argue against Jack by saying that graduation by essence
656 is marked by a completion of a certain set of requirements that are known and
657 accepted by everyone. As stated above, Jack’s view is that graduation is by self-
658 determination informed by self-satisfaction of accumulation of limitless wealth. In
659 a desperate attempt to support this confused rendering of self-graduations he cannot
660 help but to cite one graduand as adequate representation of the whole BEE empire of
661 accumulation. What a representative sample! But Jack also raised an issue of ethical
662 concern to the effect that BEE was actually empowering the same individuals who
663 are in most cases politically well connected to national centres of political power.
664 Thus within BEE, Jack avers,

665 The more influential the politician, the greater the attraction the suitors have for him or
666 her. Furthermore, the more deals the former politician can conclude, the more bankable
667 he or she becomes as a deal-maker and the stakes get higher. The trend is evident when
668 tracking the deals entered into, for example, by Tokyo Sexwale, Cyril Ramaphosa and Saki
669 Macozoma. Their early transactions were smaller in value but increased substantially as
670 they landed more deals. . . . BEE does not intentionally advocate empowering the same
671 individuals. Companies seeking Black ownership credentials frequently choose the same
672 individuals and do not cast their nets wider in search of other Black people to partner with
(Jack & Harris 2007: 60).

673
674 Obviously if what is stated by Jack is a true expression of how BEE operates,
675 then the previous claim that has been made by people that this economic policy was

676 designed to help a few is valid. If such a policy can only benefit a few of those
 677 who are well connected politically then in no way can BEE policy ever lead to the
 678 domestication of capitalism. My argument here is that if capitalist accumulation
 679 requires hard work, thrift and frugality as it is generally agreed by economists, an
 680 economic policy that is mainly oriented towards accumulation and political con-
 681 nectivity as the ultimate value without hard work degenerates into some form of
 682 legalised looting. For this reason, other critics of BEE have raised their moral agi-
 683 tation towards this policy on the grounds that such a policy betrays the spirit of
 684 *Ubuntu* which is at the heart of African ethics. This moral agitation was expressed
 685 by Mike Boon when he said that African capitalists “are self-serving and care noth-
 686 ing for the community other than what it can deliver to them personally...”(Boon
 687 1996: 48). Other developmental economists have maintained that an economic pol-
 688 icy that elevates individual accumulation without limit does militate against broad
 689 economic development of the country. It is for this reason these critics have argued
 690 that BEE/Indigenisation/Africanisation is just a mistaken policy prompted mainly
 691 by political opportunism and the desire for a luxurious life without any sense of
 692 concern for the well-being of others or the greater good.

693

694

695 **4.5 BEE/Indigenisation/Africanisation as Mistaken Policies**

696 Adebayo Adedeji argued that the idea of indigenisation as a development policy
 697 objective has evolved through various stages of evolution. As he puts it,
 698

700 As a policy, however, one gets the impression that the approach to its development and
 701 application has been rather *ad hoc*, piece-meal and lacking in internal consistency. It has
 702 been a product of circumstances, and at times mainly of politicians reacting to unfavourable
 703 economic situations and the demands of small groups of indigenous businessmen who felt
 704 that the prevailing economic conditions put them in an unfair position *vis-à-vis* their for-
 705 eign competitors. It was hardly the original work of development planners, although their
 706 involvement became inevitable after political decisions have been made. Just as the articu-
 707 lation of a policy of indigenisation came about in a piece-meal fashion, so the measure for
 708 its realization was equally *ad hoc* and unplanned (Adedeji 1981: 45).

709 The implication of the above quotation is that the economic evolution of indi-
 710 genisation does not reflect a well reflected and planned economic policy. Its
 711 implementation carried with it some form of reaction on the part of African busi-
 712 nessmen to foreign economic relations. Ali Mazrui is more radical on this issue
 713 when he said that the whole thrust towards indigenization policy was aimed at
 714 making multinational companies more relevant to the African context. He writes,
 715

716 The economic interests of the newly westernized Africans become interlinked with those
 717 of the multinationals at some levels. More and more jobs within the multinationals become
 718 accessible to the locals. More and more decision-making roles are Africanised. Increasingly
 719 the faces behind the managerial desks are local. Increasingly the boards of directors co-opt
 720 westernized locals to lend further legitimacy to their operations (Mazrui 1978: 294).

721 In the light of Mazrui's observation we can deduce that the aims of indigenization
722 in post-colonial Africa was partly to give a local semblance to multinational capital-
723 ism by co-opting local personnel. Once co-opted into multinational capitalism,
724 Africans become representatives of multinational capitalism par excellence. In this
725 way, Mazrui maintained that, "The growth of [the market] for western consumer
726 goods partly depended on the spread of western tastes and life-styles. . . . Some
727 aspects of African culture have reinforced the temptation to emulate and imitate the
728 West. Most of western political and economic culture has been conditioned by the
729 respect given to both political individualism and the profit motive" (Mazrui 1978:
730 295). Within this state of emulation of western patterns of consumption, "western
731 consumer goods started to widen their culturally relevant market" (Mazrui 1978:
732 296). According to Mazrui, "The pace-setters in all this world of status and pres-
733 tige were the more educated and more westernized Africans. Some of these later
734 owned mines and not just jewellery, rode in a Mercedes-Benz and no longer on a
735 bicycle, and drank imported liquor and mineral water from Europe and not merely
736 imported foodstuffs. . . . Those few leaders that are struggling to control the revolu-
737 tion in consumption patterns risk their own survival in so doing unless they combine
738 these efforts with a revolution in education" (Mazrui 1978: 296).

739 In other words, in historical origins of BEE/Indigenisation/Africanisation policy
740 the orientation of such a policy created a class of Africans who became indis-
741 pensable instruments for the ascendency of western capitalism in post-colonial
742 Africa. Whilst proponents of BEE/Indigenisation/Africanisation have always main-
743 tained that such a policy is aimed at transferring colonial capitalist institutions
744 into African hands so that Africans would have effective control of these insti-
745 tutions, African dependency developmental theorists do argue that such a policy
746 can only lead to strong solidarity between African capitalists and global capitalism.
747 These critics maintain that the economic power of foreign owned companies has
748 managed to successfully contain the momentum of expropriation of their wealth
749 through BEE/Indigenisation/Africanisation policy. It is partly on these grounds
750 that Africa dependency theorists insist that African capitalists were contributors of
751 post-colonial African underdevelopment. To illustrate the validity of this argument,
752 Chinweizu said that,

753
754
755 Nigeria's inability to accumulate and properly invest its enormous oil income was largely
756 due to the origins, ideology and aspirations of its governing class. The dominant section of
757 the elite were mandarins, largely originating from the non-producer sections of the colonial
758 *petite-bourgeoisie*. Even those who originated from the producer sections had been turned
759 into mandarins by their long, academic preparation for bureaucratic careers. As a result,
760 they were, on the whole, inexperienced in production, averse to its rigours and risks, and
761 even superciliously hostile to material production. On the other hand, they had enormous
762 appetites for material consumption. Forgetting that hunting is not the carcass on the plate,
763 they conceived development planning as the making of shopping lists of modern artifacts
764 to be imported and consumed. They craved the best that the industrial world could offer,
765 and were therefore preoccupied with the distribution for consumption of whatever income
766 was available from an economy which remained colonial in character (Chinweizu 1999:
767 789–790).

According to Chinweizu, African capitalists will always be outsmarted by western capitalists especially when it comes to what to do with the wealth which has been overaccumulated. African capitalists are prone to lavish spending whilst western capitalists put all their energies mainly on accumulating insatiably on that they could lay their hands on. For this reason, African capitalists “were ill disposed to capital accumulation for productive investment”. On the other hand, “In contrast, the bourgeoisie of the Western core were habitual accumulators of capital, highly experienced at it, and with highly developed productive organisations as well as vast sums of already accumulated capital which they could deploy for further accumulation” (Chinweizu 1999: 790). In this comparative study of western capitalists and African capitalists Chinweizu is arguing that African capitalists cannot be seen as agents of development because of their consumption habits. The same argument was also made by Mazrui when he said that, “When Westerners call upon African countries to privatize, they are expecting the profit motive to be given free play. But in fact, the problem in most of Africa is not simply how to liberate and activate the *profit motive*, but also how to control and restrain the *prestige motive*. Arguably the latter crusade is even more urgent than the former. Indeed, the ultimate crusade may well turn out to be how to tap the prestige motive in such a way that it serves the goals of production and not merely the appetites of consumption” (Mazrui 1999: 493). The behaviour of African capitalists in relationship to profit and prestige motives that go hand in glove with capitalism is always seen as something that is predetermined by African culture and values. In African culture, someone who eats alone or who accumulates wealth without sharing that wealth with others in community is mainly regarded as anti-social and such wealth is usually seen as some products of wicked machinations on the part of the business person concerned. Whatever is to be eaten by the individual should be made accessible to everybody. In this regard, to what extent can African capitalists through BEE/Indigenisation/Africanisation policy find their way in global capitalism? To what extent can African capitalists lead to the evolution of a globally competitive African capitalism?

4.6 BEE/Indigenisation/Africanisation and Global Capitalism

However, with the globalisation of neo-liberal capitalism there is no way where one can expect a unique capitalism that is distinctively African without some influence of the processes of global capitalism. Chinweizu argued that from the word go, policies and programmes of indigenisation or Africanisation were met with economic resistance from the western world. The western world suspected that such policies were only another way whereby Africans try to expropriate the western wealth. According to Chinweizu,

Expropriation, whether by nationalisation or indigenisation, did not go without responses from the West. Western governments in the 1960s threatened crippling reprisals against those who nationalised their assets. . . . There was also a shift from parent-company direct control of African subsidiaries to management participation, technical assistance and

811 training arrangements, production sharing and supply contracts. French investors began to
812 rely on investment guarantee and insurance schemes provided by their home governments
813 to cover non-commercial risks like war, revolution and expropriation. Other European pow-
814 ers followed suit. Such schemes were applicable for investments in countries with whom
815 their home governments had Investment Protection Agreements (IPAs) which provided for
816 fair and prompt compensation in cases of expropriation. . . . By such devices, the West often
817 under both French and American leadership contained the momentum of expropriation, and
made it safe for Western companies to keep investing in Africa (Chinweizu 1999: 779).

818 As stated above, Chinweizu's argument was that the economic power of west-
819 ern owned companies successfully contained the momentum of Indigenisation
820 or Africanisation through protective schemes such as Investment Protection
821 Agreements (IPAs). Another way in which western governments managed to avert
822 the momentum of expropriation of their companies in post-colonial Africa was
823 through international trade. Within international trade, Chinweizu writes, "Neither
824 partial nor total African ownership of companies operating in Africa improved the
825 prices Africans got for their exports, the quantities they could sell, or the prices
826 they had to pay for imports. They discovered that the power over these lay with the
827 handful of Western companies which dominated world trade in each commodity" (Chinweizu 1999: 779). Chinweizu's argument is also that it is the reality of unfair
828 trade conditions within the international market that rendered indigenization or
829 Africanisation a mere exercise in economic futility. Within South Africa, the govern-
830 ment has been very cautious in its application of BEE requirement for multinational
831 companies. In the BEE Codes, a multinational is defined as "a measured entity
832 with a business in the Republic of South Africa and elsewhere, which maintains
833 its international headquarters outside the Republic" (see Jack & Harris & Harris
834 2007: 221). Within such a definition a multinational with its headquarters outside
835 South Africa can hardly be expected to comply with BEE. The problem here is
836 that a multinational is mainly concerned with a standardized form of business oper-
837 ation and is mostly interested in its profits and the protection of its investments.
838 In cases where economic policies of particular countries become unbearable the
839 multinational company can easily relocate somewhere.

840 4.7 Conclusion

841 In this chapter I started by giving an ordinary people's conversation about BEE. I
842 have shown through this story that BEE does create some ethical questions with
843 regards to whom this economic programme is benefiting. Through this story, the
844 main ethical problem is that such an economic policy is only benefiting those who
845 are well connected politically. I have also shown that BEE was not an invention
846 of post-apartheid South Africa, rather, such an economic policy has been experi-
847 mented with in many parts of post-colonial Africa with the aim of domesticating
848 capitalism.

849 An analysis of BEE/Indigenisation/Africanisation policy has also revealed that
850 such a policy only leads to the creation of African capitalists who will end up
851 being in solidarity with other capitalists. By applying Thorstein Veblen's theory
852

of Institutionary Evolutionary Economics, it was argued that African capitalists cannot be seen as different from other capitalists because by belonging to the capitalist class, they are bound to emulate fellow capitalists in terms of accumulation and consumption. Many post-colonial economic dependency theorists have argued that BEE/Indigenisation/Africanisation does not have any developmental contribution to make towards the socio-economic upliftment of the majority of the citizens in post-colonial African society. The gist of their argument here was that there was no empirical evidence that BEE/Indigenisation/Africanisation will lead to the domestication of capitalism or to the development of African economies.

The questions I would like to pose for future research are as follows:

- 1) Why does BEE/Indigenisation/Africanisation enrich a few when the majority of the citizens are living in desperately poor conditions?
- 2) Would it not make sense to have some Economic Empowerment that is directed towards education, infrastructure and health?
- 3) Does not BEE/Indigenisation/Africanisation policy pose a conflict of interest when politicians or former politicians collude with businesses in pursuit of best deals?

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01 **Chapter 5**

02 **Ethical Sourcing and Moral Responsibility** 03 **in Global Business: Is ‘the Common Good’** 04 **the Missing Factor? The Case of the Cut Flower** 05 **Industry in Kenya**

06
07
08
09
10 **Christine Wanjiru Gichure**

11 **5.1 Introduction**

12
13
14 International business today is estimated to constitute a singularly big employment
15 capacity in developing countries (Chang 2003). For the rich countries, global mar-
16 keting has stimulated the search for areas in which to outsource production at low
17 cost, with a view to reducing the prices of a wide variety of goods, while increasing
18 purchasing power and accelerating the availability of consumer goods. This trend
19 prompts competition between countries, as they seek to set up production centres
20 around the globe. In Africa, some studies say that global business has facilitated
21 much economic growth in terms of resources and certain skills (Roozendaal, 1994;
22 Hennock, 2002; Lehmann, 2004). However, that growth is increasingly being ques-
23 tioned when compared to the huge benefits that the North, the developed world,
24 reaps from the labour and environment of the South, the developing world (Ngotho,
25 2005; Esipisu, 2007).

26 This scepticism is justified on various accounts. In the first place, global investors
27 want a ‘favourable fiscal’ regime and regulation of the labour market. This, in many
28 instances, means downsizing of social security systems as the price to be paid for
29 seeking greater competitive advantage in the global market with consequent grave
30 danger for the rights of workers and for fundamental human rights (Kenya Human
31 Rights Commission [KHRC], 2004: 11, Benedict, 2009: 25). On their part, the
32 developing countries, in order to attract investment, strive not only to compete with
33 each other, but also to provide a favourable, conducive or enabling environment for
34 the investors (Mwakungu, 2003; KHRC, 2004: 16–17).

35 ‘Favourable conditions’, ‘favourable environment’ or ‘deregulation’ generally
36 mean labour processes characterised by casual or informal work, flexible working
37 days or hours in order to meet the needs of employers or the business cycle, and
38 wages that are often pegged on profit margins achieved by the business (Majtenyi,
39 2002; KHRC, 2004: 17–22; Benedict, 2009: 21). In addition, the management in

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46 many types of global businesses in the developing world tends to opt for a work-
47 force that is expendable. As a result, the opportunity cost of offering these incentives
48 results in a shift of the social cost to the workers in sweatshops or farms and environ-
49 mental degradation of the natural resources (Gibbon, 1992; Food and Water Watch
50 Canadians [FWW] 2008; Benedict, 2009: 25). This practice is typically exempli-
51 fied in the Export Processing Zones (EPZ) and in the cut flower industry in Kenya,
52 which is the focus of this chapter.

53 Within this context, an example of the problematic can be explained as follows.
54 A developing country, A, that wants to attract a cut-flower growing company will
55 offer strong tax incentives. In the meantime, two neighbouring countries, B & C,
56 which are also interested in attracting the same growers, will each try to offer
57 investment deals that undercut the tax incentives offered by the others. From there
58 a race and row arises between the two or three developing countries to see who
59 can offer the most 'favourable condition'. Finally, the government with what the
60 global investor happens to consider 'favourable fiscal' and deregulation conditions
61 hosts the flower growers and is happy with the short-term benefits. These benefits
62 are usually employment opportunities for some of its people and prospects of some
63 gain on taxes and work permits. In the meantime, it may realise that it has sacrificed
64 the ability to provide its own citizens with some basic legal, human and infrastruc-
65 tural support (FWW, 2008). Due in part to these factors, the success of floriculture
66 has been tempered by an extremely politicized backlash centred on allegations that
67 flower farms generate profits at the expense of Kenyan environments and workers.

5.2 Kenya Floriculture in Global Business

70 Floriculture first arose in Kenya in the 1970s, fuelled by development aid aimed
71 at integrating African producers into the global economy (Kenya Flower Council
72 [KFC], 2008; Hennock, 2002). In the last two decades, Kenya has turned into
73 a successful cut flower exporter, thereby becoming a strong competitor on the
74 European cut flower market. However, the country seems to be heavily depen-
75 dent on ownership, knowledge and technology from the North (Roozendaal &
76 Commander, 1994).

77 The major destinations for the Kenyan flowers are the Netherlands, United
78 Kingdom, Germany, France, and other European Union (EU) countries. The EU
79 is believed to consume over 50% of the world's flowers and, of these, 25% is
80 exported from Kenya (Roozendaal, 1994). In the UK alone, an ETI media briefing
81 indicated that, on a day like Valentine's Day, one in every four flowers sold in the
82 UK comes from Kenya. That makes Kenya the third-largest exporter of cut flowers,
83 after Colombia and the Netherlands (Roozendaal, 1994; Ethical Trading Initiative
84 [ETI] Briefing, 6th February 2008).¹

85
86
87
88
89 ¹ The Ethical Trading Initiative [ETI] is an alliance of companies, trade union organisations and
90 non-government organisations (NGOs) committed to working together to achieve that aim. "Our

91 The value of the export of cut flowers from Kenya to the European market is
92 estimated at approximately 43 billion Kenya Shillings (approximately USD 12.9
93 billion) ranking them among the most important agro-export products of the country
94 (Roozendaal, 1994). But the development of the cut flower sector often involves
95 large governmental investments in infrastructure, such as roads and cold storage
96 facilities, to enable the rapid export of the perishable product. That means that, in
97 reality, only a small portion of the investment is recovered through tax income.
98 This makes it an expensive sector to invest in, especially for a government that
99 suffers from declining budgets. Recently, some municipal leaders, such as those
100 from Naivasha, the city bordering the lake which is the hub of the flower farms, are
101 pushing for a law to enable it to tax the farms 1% of their annual output. But with
102 this proposal a high percentage of growers have threatened to move their operations
103 to neighbouring Ethiopia (Interview, Human Flower Project [HFP]² with Naivasha
104 Town Clerk, July 2009).

105 The accredited body to monitor floriculture activities in Kenya is KFC. It is,
106 therefore, the legal body that oversees the audits, gives certification for good practice
107 to the flower growers, and collects standard levy fees on behalf of the Kenya Bureau
108 of Standards (KEBS). Working closely with KFC is the ETI, which regularly reports
109 on what is going on in the horticulture industry. In its briefing report of February
110 2008, the ETI estimated that over 55,000 Kenyan workers and their dependents rely
111 on jobs within the industry (ETI, 2008). These figures vary from report to report,
112 however, with the KFC putting it at 100,000 direct workers, but claiming that all in
113 all approximately 1.2 million people rely on it, if one adds other people indirectly
114 employed in transport and packaging roles (KFC, 2008).

115 These large numbers of employees in the cut flower industry, coupled with the
116 apparently huge earnings for Kenya, show the industry to be capable of improv-
117 ing the economy and the lives of Kenyan people. However, this perception has
118 been disputed by other reports. The Town Clerk of Naivasha laments that, while
119 “these farms earn billions of shillings every year, a municipal council like the one
120 of Naivasha only benefits from the industry through the meagre levies it charges
121 for business permits and the land it owns – not sales. That means Naivasha takes in
122 only about \$32,835 annually (2.2 million Kenyan shillings) from the flower indus-
123 try. Furthermore, wages at the flower farms amount to only between \$37 and \$104
124 per month” (Interview with Ardery, HFP, 2009).

125 These complaints are corroborated by a Kenya Human Rights Commission
126 (KHRC) survey of 2002–2004, which was carried out in various flower farms and
127 the EPZ sector in the Kenya. Its findings showed that, despite the huge profits, the
128 Kenyan people, including local Kenyan flower growers, gain little foreign exchange
129 from the cut flower business (ETI Survey, 2005). Other researches give similar
130 observations (Smith et al., 2005; Dolan & Opondo, 2005; Black, 2004).

131
132 ultimate goal is to ensure that the working conditions of workers in companies that supply goods
133 to consumers in the UK meet or exceed international standards.” See www.ethicaltrade.org.

134
135 ² The Human Flower Project is an international newsgroup, photo album and discussion of how
people live through flowers.

136 A special report carried in Kenya's *Sunday Standard* of April 17, 2005 (which
137 has not been refuted) highlighted various discrepancies between the apparent huge
138 earnings from the flower industry for Kenya and the reality on the ground in terms
139 of gains for the Kenyan people. Firstly, just like the coffee, tea and tourism indus-
140 tries, the floriculture sector remains largely a foreigners' affair. Specifically, of the
141 approximately 500 flower farms in the country, a total of 76% is concentrated in
142 foreign-owned flowers farms around Lake Naivasha in the Rift Valley. The largest
143 are the Homegrown, Sulmac, Sher, Oserian and Finlay flower companies. Oserian
144 alone employs more than 5,000 workers and has been the subject of many workers'
145 strikes (Smith et al., 2005).

146 Other complaints come from local indigenous flower growers, who lose in the
147 manner that flowers are assessed and sold in Amsterdam. While their flowers are
148 sold as Kenyan flowers and taxed as such, the Dutch companies growing their flow-
149 ers in Kenya tend to sell theirs as Dutch flowers, because in that way they receive
150 preferential treatment at the auction. This includes exempting those flowers from
151 the EU-imposed export rules (Harper, 2009; Ngotho, 2005). Ultimately, this means
152 that the indigenous Kenyan grower earns less than his expatriate or foreign counter-
153 part who has a flower farm or company in Kenya. In addition, most of the earnings
154 gained at the auctions are banked in the investor's home country.

155 A third and more alarming observation has to do with the working conditions
156 of the employees in the flower farms. Generally, the people who seek work in this
157 industry are poor, which makes them vulnerable to exploitation. Their plight even-
158 tually leaks out to the media and the human rights groups. For many years, the
159 cut flower industry in Kenya has been covered by the media, revealing the poor
160 labour practices and treatment of the workers and the adverse effects of some of the
161 growers' practices on the environment, especially on Lake Naivasha. Among the
162 most recent, one can mention Ngotho (2005), Esipisu (2007), FWW (2008), Riungu
163 (2009), Ardrey (2009) and the scientist Harper (2009). All of these reports confirm
164 the ETI Report findings of 2002–2004. That research revealed widespread discrim-
165 ination against women workers, workers kept on rolling temporary contracts, poor
166 health and safety, low wages, long working hours and low levels of union repre-
167 sentation. That report gave some recommendations for the improvement of human
168 rights, but going by later media reports, the improvement cannot be significant.

169 The fourth and most pernicious problem is the ongoing destruction of Lake
170 Naivasha, the centre of most of Kenya's flower business. Nestled in the Rift Valley,
171 the lake is a source of abundant wildlife and a rich variety of bird species. Tens of
172 thousands of people rely on the fragile ecosystem to preserve their livelihoods in an
173 environment that has increasingly come under threat. These threats are of various
174 kinds. In the first place, the fishing communities around the lake complain of the
175 increasing spread of water hyacinth, a weed that thrives due to the continuous sup-
176 ply of phosphates and nitrates used in the water farms, which are later drained into
177 the lake. With the growth and spread of this weed, the sunlight, much needed by
178 species living below for breeding and sustenance of life, is blocked, thereby reduc-
179 ing fishing stocks. In addition, fishermen who depend on the lake for their livelihood
180 claim not only that the pesticides and fertilizers also drained into the lake pollute the

181 water, but also that, in the process of pumping it into the flower farms, many fish
182 eggs and small fish are sucked in and killed.

183 After 25 years of conducting research in the Lake Naivasha area, a leading
184 scientist, Dr. David Harper is reported to have told ScienceNews:

185 Roses that come cheap are grown by companies that have no concern for the environment,
186 who cut corners and avoid legislation, who sell their flowers into the auction in Amsterdam
187 so that all the buyer knows is the flowers 'come from Holland (Harper ScienceDaily, Feb.
188 14, 2009).

189 The shrinking water levels of Lake Naivasha are an evident environmental prob-
190 lem, much publicised, and still largely ignored by the farmers. About a half of the
191 good cut flower companies breed their flowers around this lake. On paper, the coun-
192 try has strong legislation on the use of water for the flowers, which should come
193 from boreholes, but its enforcement is weak. So, companies whose only interest is
194 profit take advantage of that (Harper, 2009; CEO KFC, 2009; Riungu, 2009; Ardery,
195 2009; Food and Water Watch Canadians [FWW], 2008). The lake has immense
196 potential for sustainable, small-scale agriculture and ecotourism that could protect
197 both the lake and the livelihoods of the communities around it. The former would
198 promote food security for Kenyans; the latter would attract even more local and for-
199 eign visitors, who would help the local economy, while causing little or no damage
200 to the environment.

201 The flower companies, on their part, and with them the KFC, either deny that
202 these things are happening, or consider them solely from an economic point of view.
203 They, too, have complaints: the costs of production are higher in Kenya than in
204 the developed countries, owing to various factors. They cite poor infrastructure,
205 inadequate air cargo capacity and high airfreight rates, high prices of inputs such as
206 fertilizer and chemicals, inability to sustain high quality of the fresh flowers due to
207 transportation problems and lack of sufficient technical knowledge (Roozendaal &
208 Commander, 1994; Author's personal interview with CEO Lankas Ltd, 2008).³

209 Thus far, we have looked at four major types of problems involving the Kenya
210 cut flower industry, problems which are evidently complex and certainly beyond
211 the scope of one chapter. The focus of this chapter is ethics and, therefore, it will
212 limit itself to the theoretical question of what appears to be a paradox, whereby
213 Kenya's cut flower industry is one of the most heavily audited sectors for 'ethical
214 sourcing' using multi-stakeholder designed ethical codes but, on the other hand, the
215 same industry continues to be in the spotlight frequently for the ethical malpractices
216 that I have highlighted.

217 Having given this background and stated the problem and objectives of this chap-
218 ter, I now turn to the notion of 'ethical sourcing' as a concept in global business, in
219 order to examine how it is understood within the two major business management
220 models, namely, the shareholder organizational theory and the stakeholder model.
221 That analysis will be followed by an examination of the facts on the ground, guided
222 by the results of the three related researches that explored the trajectory of 'ethical
223

224
225 ³ Not real name of the Farm in question.

226 sourcing' in Kenya, namely the report by Dolan and Opendo (2005), Smith et al.
227 (2005) and the ETI Report 2002–2004 (2005). Since these reports already question
228 the factors underlying the design and implementation of the Horticultural Ethical
229 Business Initiative (HEBI) codes, purportedly designed through a multi-stakeholder
230 processes (MSP) to audit the farms for 'ethical sourcing', the objective of this chap-
231 ter is to identify what might be missing from the management philosophy governing
232 the concept of 'ethical sourcing' and social responsibility, and to make some rec-
233 ommendations. Unfortunately it has not been possible to obtain permission to work
234 with what the researchers term 'base code' for purposes of this chapter.⁴

235

236

237 **5.3 The Concept of 'Ethical Sourcing' and Social Responsibility**

238 **in Global Business: The Problematic of Its Application**

239 **in the Kenya Cut Flower Industry**

240

241 Ethical sourcing is described as a process whereby a company at one stage of
242 the supply chain takes responsibility for the ethical, social and environmental per-
243 formance at other stages of the chain, especially for that of primary producers
244 (Blowfield, 2000: 1). However, the way it is understood by the different players
245 within the global business chain, from the production, packaging and distribution
246 stage, depends largely on the kind of perception of ethics a company may have, and
247 the management theory to which it subscribes. That perception is what guides their
248 particular codes of ethics. The implementation of the codes is, in turn, expected
249 to give ethical assurance, especially if there are annual audits, as in the case of
250 Kenya's flower farms. Given the fact that there are divergent theories and models
251 of business management and its moral responsibilities, no one should be surprised
252 that each company or business sector can easily have its [their] own understanding
253 of the kind of issues that constitute 'ethical sourcing', a process that has grown in
254 popularity from the early 1990s, when national and international trade unions and
255 non-governmental organisations (NGOs) started to campaign about social and envi-
256 ronmental conditions in the cut flower industry worldwide. These campaigns were
257 geared towards raising awareness among consumers in market countries, about the
258 conditions in the industry in both Latin America and Africa (ETI Report, 2005).

259 Within the present decade, following various workers strikes, particularly at
260 Oserian Farm, one of the largest flower holdings with 50,000 acres on Lake
261 Naivasha, and media exposés, there have been efforts to alert the consumers of the
262 fact that the goods they buy could possibly have been acquired at the cost of human
263 basic rights (Smith et al., 2005; ScienceDaily, 2009; FWW, 2008; HFP, 2009). But,
264 as we have seen, excessive exploitation of resources, both human and the natural
265 environment, continues to be highlighted with the aim of pressurizing companies
266 to become more ethically responsible. The result has been a proliferation of good

267

268

269 4 A special permission is required by the KFC in order to see and use the code. This permission
270 was not given to the author.

271 practice mechanisms, such as codes of ethics, good practice statements, vision and
272 mission statements and agendas for 'social responsibility' initiatives, with varying
273 degrees of success, which can be found in nearly every company and organization
274 today.

275 276 5.3.1 *Flower Labelling Program (FLP)*

277 To ensure the implementation of those initiatives, many markets in the North now
278 require 'labelling' as a sign of ethical sourcing (Holtshaussen, 2007). In the cut
279 flower industry, this is done through the Flower Label Program (FLPs). However,
280 while those efforts may have addressed certain aspects of ethical practice, it appears
281 that in Kenya they have not managed to provide significant ethical or social respon-
282 sibility, corporate or otherwise. The indication from studies carried out in those
283 parts of the world (Hughes, 2000, 2001) is that the consumers of goods bearing
284 such labels as the FLP, more often than not, have little clue of what it means for
285 a product to have been 'ethically sourced'. They are happy to see that the prod-
286 uct they purchase bears the label, because that gives them some kind of comfort.
287 They feel that at least they are acting responsibly towards the promotion of ethical
288 business. An empirical study carried out by graduate students in the UK among 34
289 respondents within the food and agricultural industry showed that no strict definition
290 of 'ethical sourcing' was discernible, even among people who are not only active
291 defenders of 'ethical sourcing', but would not knowingly use a product sourced
292 otherwise (Holtshaussen, 2007). According to this research, however, when asked
293 what they meant by 'ethical', for example, most of them spoke of fair trade. But,
294 as to what makes such trade fair or unfair, they had absolutely no notion. This, they
295 believed, depends on the interpretation of each person. Hence, to different respon-
296 dents it meant different things. In some instances, according to the report, companies
297 were found to adopt a holistic interpretation of the concept of 'ethically sourced'
298 product, where it could mean anything from the manner of producing and packag-
299 ing a product to the treatment of the workers, fair remuneration for work, and their
300 rights to certain social benefits which everyone seemed to admit must all be part of
301 'ethical sourcing'. Very few individuals focussed on social benefits for their work-
302 ers, the protection of children, equal opportunity and occupational health and safety
303 (Holtshaussen, 2007: 2).

304 One other factor, as noted by the Canadian human rights body, Food and Water
305 Watch, that the consumer at the other end of the market may not be aware of,
306 is that one can easily be fooled by the market chain: for example, through false
307 labelling. This is what Harper is cautioning the flower buyer about in relation to
308 Lake Naivasha. The flowers may continue to bear the labels, despite the fact that
309 the lake is literally being drained dry by flower growers. But, since these flower
310 growers know about the bad publicity that Kenyan-grown flowers have been receiv-
311 ing for lack of environmental responsibility and other malpractices, they sell their
312 flowers at the flower auctions in Amsterdam as being Dutch- or German-grown,
313 so that when people buy their flowers, they think they are buying them from the

316 Netherlands instead of Lake Naivasha (2008). The surprising thing is that nobody
317 talks about corruption in these cases.

318 319 320 **5.3.2 The Ethical Sourcing Audits**

321
322 The usual instrument used to measure ‘ethical sourcing’ is the code of ethics. A code
323 of ethics is commonly defined as “a written, distinct, and formal document which
324 consists of moral standards used to guide employee or corporate behaviour, but it is
325 recognized that such documents can take a variety of forms” (Moore, 2006: 411).
326 Codes take a variety of forms, depending on the kind of ethical issues they want to
327 address. Moore identifies three clusters of codes, namely “those dealing with issues
328 impacting primarily on employees, on companies or on wider society” (*ibid.*).

329 Most companies like codes of ethics, because, once drafted and launched, that
330 fact alone gives the impression that the company is taking ethics seriously. However,
331 since companies are presumed to be voluntary entities, the content of the codes and
332 their implementation is largely dependent on the management model governing the
333 business (Samet, 2003; Gichure, 2008: 202–206). This can explain, in part, why so
334 far it has not been proved anywhere that codes of ethics significantly influence the
335 practice of ethics in business and, secondly, there remains the delicate side to their
336 use. “This may be the core to the problem in ‘ethical sourcing’. For a code to be
337 comprehensively effective depends largely on various factors, such as how it was
338 designed, who designed it, what interests it was primarily designed to serve, how it
339 was supposed to be implemented, how often, and who would audit the company for
340 good practice” (Gichure, 2008).

341 The motivation for producing and implementing a code of ethics is an important
342 factor in ethical sourcing, for it determines the effectiveness of the audit document.
343 This motivation, according to Moore (2006), focuses more often than not on internal
344 issues and on issues relating to the company itself, rather than on issues relating to
345 external stakeholders, such as consumers and the wider public. “This suggests that
346 the motivation for introducing a code relates more to firm protection and compliance
347 issues (preventing harm, particularly to the company) than to a more positive and
348 outward-looking motivation” (Moore, 2006: 411). Applied to ethical sourcing, this
349 means that there are varying degrees of its implementation, with equal possibility
350 for some important stakeholders to be omitted, even legally, from the improvement
351 process (Moore, 2006).

352 This assumption is affirmed by the findings of Dolan and Opondo (2005) in the
353 case of the cut flower industry in Kenya. Their findings showed that, despite being
354 one of the most codified industries, ethical violations of basic rights of the workers
355 and the natural environment continue to be rife. A further investigation revealed that
356 the codes used to audit the farms had originally been imported from the Dutch flower
357 industry, where the workers’ conditions and the environment are very different from
358 those of Kenya. Wood (1995) points to another reason why such codes may not serve
359 to provide ethical sourcing in a situation like that of Kenya. Generally, corporations
360 in the North assume that, because developing countries ‘appear’ to operate at lower

361 ethical standards (often due to lack of education and means), it is not ethically wrong
362 to operate with values and norms that would otherwise be questionable in their own
363 countries. As a result, with only superficial changes in supplier practices, products
364 sourced under questionable ethical standards reach the developed countries where
365 the markets are bearing FLP tags as guarantee of having been sourced ethically.

366

367 **5.3.3 Business Management Models, Ethical Sourcing** 368 **and Social Responsibility**

369

370 It would not be justified to attribute blame to any party along the production,
371 supply and distribution chain without having first examined ethical sourcing as
372 a concept within the business organizational models in vogue in global business.
373 The two most commonly used models of business organization are the
374 agency/shareholder/stockholder model and the stakeholder model, to which we shall
375 now turn.

376 According to the proponents of the shareholder model, the purpose of the firm
377 is to maximize shareholder value, since all corporate profits belong by right to the
378 stockholders as the owners of the firm. Hence company managers are simply agents
379 of the stockholders and, in that capacity they have a moral obligation to manage the
380 firm solely in the interest in the owners. That interest is to maximize shareholder
381 wealth (Friedman, 1970; Boatright, 2001). This is the rationale behind Friedman's
382 famous statement: "The social responsibility of business is to increase its profits".

383 Freeman (1984) speaks of a narrow and a broad way of understanding the stake-
384 holder model of the purpose of business, and how it should be managed. In the
385 narrow sense, the stakeholders of a business are those groups who are vital to the
386 survival and success of the corporate firm, such as owners, employees, customers,
387 suppliers, and local community (Freeman, 1984: 31). In the broad or wider sense,
388 the concept of stakeholder includes any group or individual who can affect or be
389 affected by the corporation. Furthering this notion, other scholars have affirmed that
390 the stakeholders not only have interests in the affairs of the corporation, but that the
391 interests of all stakeholders have intrinsic value (Donaldson & Preston, 1995: 81).

392 Schaefer (2008), Phillips (2003) and Melé (2008) have attempted to show the
393 complexities underlying the relationship between these two theories from a moral
394 point of view. In the following section of this chapter, I attempt to characterize those
395 complexities within the paradigm of 'ethical sourcing' in the cut flower industry in
396 Kenya. The points of departure are the testimonies of workers within this indus-
397 try, unearthed by the two researches already cited: the exploiting of the unfortunate
398 plight of workers, pollution of the lake, unfair competition with local flowers at
399 the market end of the chain, downsizing without warning. All of these practices
400 should have been detected by the ethics audits, but never were. They should have
401 been within the demands of the code of good practice, but for some reason they do
402 not appear to have been violated at the time of the audits. Faced with such accu-
403 sations, what do the traditional management models say with regard to, say, moral
404 responsibility?

406 5.3.4 'Ethical Sourcing' Under the Agency Model of Business 407 Management

409 This model assumes that the purpose of the firm is to maximize shareholder wealth.
410 Therefore, the managers are agents of the shareholders, who are the business owners
411 or its principals. As such, the managers have fiduciary duties to do their best to serve
412 their principals' interests. From an ethical perspective, fiduciary duties of managers
413 are moral duties and, in most countries, legal duties as well (Melé, 2008), because
414 managers are fiduciaries or trustees of the shareholders. Hence, the fulfilment of
415 the duties corresponding to that relationship entails an ethical obligation, because a
416 fiduciary relationship is based on good faith, loyalty and trust.

417 The question then arises: is it ethical to serve the principal's interests at the cost
418 of unethical behaviour toward others? In other words, can fiduciary duties be ever
419 overridden by moral duties towards other constituencies affected by the business
420 activity? This, according to an analysis of this model by Schaefer (2008), does not
421 appear to be the case, because "from a shareholder management perspective, the
422 purpose of the corporation is to realize the specified ends of the share holders, with
423 the caveat that those ends are legal and basically non-deceptive" (Schaefer, 2008:
424 297). Those ends are nearly always to maximize the corporation's profits – so much
425 so that to characterize shareholder theory by reference to maximization of corpo-
426 rate profits has been accurate for all practical purposes. Friedman, the best known
427 proponent of this theory explains that,

428 In an ideal free market resting on private property, no individuals can coerce any other, all
429 cooperation is voluntary, all parties to such cooperation benefit or they need not participate.
430 There are no values, no 'social' responsibilities in any sense other than the shared values
431 and responsibilities of individuals (Friedman, 1970, in Boatright, 2001).

432 The next question is: what is the content of the morality that holds in an ideal free-
433 market capital society? Schaefer's analysis of the above statement suggests that it is
434 one in which individual freedom and private property take on the highest priority,
435 that is to say, "property, where the freedom of the capitalist [read principal] takes
436 priority over all other considerations" (Schaefer, 2008: 298 footnote 56). He further
437 observes that, whereas this model frequently emphasises non-interference, or 'neg-
438 ative duties', towards one another as strong moral duties of the manager, there is a
439 loud silence on the presumably 'positive duties' that one would expect to be also
440 highlighted. By 'negative duties' is meant "to respect one another's individual free-
441 dom and private property, while 'positive duties' are said to be, by their very nature,
442 coercive in a way that disrespects the values associated with those [former] goods"
443 (Schaefer, 2008: 300).

444 There is a discrepancy here between the emphasis of 'negative duties', on one
445 hand, and on the other hand, the understatement of what are the 'positive duties'.
446 This discrepancy, in my view, renders this approach to criticism on various grounds.
447 Firstly, by getting overly concerned to protect the rightful interests of the share-
448 holders, the model ends up out-rightly rejecting moral responsibilities for all other
449 constituencies outright. Secondly, its proponents equate legality with morality.

451 When drafting and implementing a code of ethics, the management cannot help but
452 address only those issues which the law recognizes, with the argument that legal-
453 ity means that the behaviour of a corporation is right when its activities seek to
454 maximize profits and wrong when they do not.

455 Secondly, the model appears to overlook the fact that the law, especially in the
456 developing countries, may not be able – for any number of reasons, some of which
457 were highlighted in the introduction to this chapter – to guarantee adequately that
458 the rights and interests of all current and future generations of local stakeholders
459 will be represented satisfactorily by the law. In such cases, under this model, those
460 concerns, or ‘positive duties’, fall beyond its immediate concerns, for it is not the
461 business of companies to take responsibilities that should be catered for by gov-
462 ernment.⁵ To this objection should be added Melé’s observation that “laws are not
463 themselves a moral justification and, unfortunately, they do not always respond to
464 ethical principles, but to ideology; and the law in favor of maximizing shareholder
465 value as the purpose of business is not an exception. In addition, laws do change
466 over time, and no country has identical laws” to another (Melé, 2008: 14).

467 Thirdly, this model suggests, though implicitly, that people are mere human
468 resources; hence, their relationship to the firm is simply a matter of ownership, in
469 which certain services are bought and sold, in some cases forgoing the fact that the
470 corporation is basically formed of persons. Some scholars have tackled this problem,
471 which they considered to be “an affront to natural justice, in that it gives inadequate
472 recognition to the people who work in the corporation and who are, increasingly, its
473 principal assets” (Handy, 2002, in Melé, 2008: 14).

474 Finally, in our democratic era, in which the tendency is to be more tolerant in
475 considering the interests and rights of other people or stakeholders, the principles
476 of maximization of shareholder value are rather anachronistic. Yet, this business
477 management model continues to be predominant in many companies and demo-
478 cratic countries, even those which presumably have taken on stakeholder interests,
479 as we shall now see. In doing so, they make the model increasingly controversial
480 (Melé, 2008).

481 The crucial question and the basis from which we can judge this model, from an
482 ethical point of view, is the market logic, from both the shareholder and stakeholder
483 points of rationality, especially in those cases when a situation arises where the law
484 does not provide the proper regulation to protect possible violation of basic human
485 rights. Without such considerations, it becomes difficult for the model to make any
486 honest claim of ‘sourcing ethically’.

487 This is the problem highlighted by Benedict XVI:

488 One of the greatest risks for businesses is that they are almost exclusively answerable to
489 their investors, thereby limiting their social value. Owing to their growth in scale and the
490 need for more and more capital, it is becoming increasingly rare for business enterprises
491 to be in the hands of a stable director who feels responsible in the long term, not just the
492 short term, for the life and the results of his company, and it is becoming increasingly

493
494 5 An interview of the author with the CEO of an important cut flower farm in Naivasha and member
495 of the KFC, confirmed that this is indeed the stance taken by the shareholders in this sector.

496 rare for businesses to depend on a single territory. Moreover, the so-called outsourcing of
497 production can weaken the company's sense of responsibility towards the stakeholders —
498 namely the workers, the suppliers, the consumers, the natural environment and broader
499 society — in favour of the shareholders, who are not tied to a specific geographical area and
500 who therefore enjoy extraordinary mobility (Benedict, 2009: no. 40).

501 Today, the growing conviction is that business management cannot concern itself
502 only with the interests of the proprietors, but must also assume responsibility for
503 all the other stakeholders who contribute to the life of the business (Melé, 2008)
504 and take proactive responsibility to avoid any negative effects that their business
505 may have on all stakeholders including the environment. This portrays the logic of
506 the shareholder model as being less consistent with 'ethical sourcing' and moral
507 responsibility in global business.
508

509 510 **5.3.5 'Ethical Sourcing' Under the Stakeholder Model 511 of Business Management**

512

513 This model borrows from the rights theory, and particularly the Universal
514 Declaration of Human Rights (1948), which provides that all men and women every-
515 where in the world have the right to life, liberty and security of person, freedom from
516 slavery and servitude and to proper legal process. Thus, any employee, shareholder,
517 creditor, consumer or member of a similarly interested group is regarded as a rights
518 bearer, whose diverse claims must be respected by the organization's management.
519 Because the Universal Declaration of Human Rights casts its net so wide, it is not
520 easy to pin down firms on violations of their duties using the model.
521

522 In essence, however, the stakeholder model contends that firms have obligations
523 to parties beyond shareholders. In recent years, it has gained strength in international
524 development circles in forging coalitions between business, government and the
525 civil society, a fact noted by Dolan & Opondo (2005) in their survey report of the
526 cut flower industry and confirmed by, among others, the works of Freeman (1984),
527 Phillips (2003) and Schaefer (2008).

528 A stakeholder theory of the firm holds "that the corporation should be run for the
529 benefit of all stakeholders regardless of whether doing so maximizes the corpora-
530 tion's profits" (Schaefer, 2008: 297). Although it is generally agreed in this model
531 that the relation of each stakeholder to the firm may be different, there is within
532 that common understanding a disagreement amongst scholars regarding the degree
533 of stakeholder status. Donaldson and Preston (1995) tried to solve this difficulty by
534 introducing the notion of legitimacy and illegitimacy of stakeholders, but, as Phillips
535 notes (2003: 27), this concept remains imprecise within the stakeholder literature.

536 In Phillips' view, stakeholder obligations and, therefore, stakeholder status are
537 created when the organization voluntarily accepts the contributions of some group
538 or individual. This voluntary acceptance is likened to consent, contract, or promise
539 in its capacity for generating obligations. Such obligations are not imposed or stip-
540 ulated from outside the relationship, such as those duties and rights that are one's

541 simply on account of being a human being (Phillips, 2003: 27). From this reasoning,
542 the employment of a person does *ipso facto* create moral duty for the employing
543 body on at least two counts: the duty to respect the unwritten basic human rights
544 arising from the fact of being a human, or human dignity, and the moral obligation
545 of stakeholder fairness. Phillips puts it this way:

546 Obligations of stakeholder fairness are additional moral obligations that are created based
547 on the actions (in this case the voluntary receipt of benefits) of the parties. They are the
548 obligations that are created among persons and organizations within the sphere of 'private
549 associations' rather than at the level of the 'basic structure of society' and are therefore
550 better adapted for use as an ethics of organizations (Phillips, 2003: 27–28).

551 To sort out the distinction between various kinds of stakeholder rights and duties,
552 some scholars take recourse to the notions of normative and derivative stakeholder
553 legitimacy, with the aim of creating a middle ground in the broad and narrow notions
554 of stakeholder given by Donaldson and Preston (1995). Phillips describes normative
555 stakeholders as "those stakeholders to whom the organization has a moral obligation,
556 an obligation of stakeholder fairness, over and above that due other social
557 actors simply by virtue of their being human beings. These", he continues "are those
558 who would fit in the stakeholder question: 'for whose benefit...should the firm be
559 managed?'" (Phillips, 2003: 30). But he still cares for the apparently non-normative
560 stakeholders who, he reckons, should "still be morally considered and their human
561 rights respected and protected. However, *no additional moral consideration is due to*
562 *them in managerial decision making, and the organization has no special obligation*
563 *to attend to their well-being*" (Phillips, 2003: 30).⁶

564 By limiting the radius of its moral responsibility to only those groups to whom
565 a moral obligation is owed, this model, in a manner analogous to that used by the
566 shareholder model, leaves out a large group of sensitive constituencies, who are
567 considered to fall under the 'broad stakeholder' category. This point has important
568 significance in the 'ethical sourcing' concept and the kind of draft code used to
569 do the audits. It is possible for some constituents such as casual workers, to be
570 locked out from the status of legitimate stakeholders for which the organization has
571 moral obligation (Phillips, 2003: 29). Other constituents likely to suffer the same
572 fate are the environment and communities that are directly or indirectly affected by
573 a company's presence and activities. Even from a strategic theory of management
574 view, this renders the model significantly incomplete and ethically questionable. The
575 notion of legitimate and illegitimate appears to run "contrary to much of stakeholder
576 scholarship and literature on stakeholder legitimacy in other fields, such as law,
577 politics, moral theory and in organizational studies" (Phillips, 2003: 29). It was from
578 within this complexity of the many nuances of stakeholder and moral obligation that
579 a multi-stakeholder process (MSP) came into existence (Dolan & Opondo, 2005).

580 The proponents of the MSP base code envisaged the formation of an alliance
581 of normative and derivative stakeholders through dialogue, from which solutions
582 to problems such as those concerning 'ethical sourcing' in developing countries

583
584
585 ⁶ Emphasis in the original.

586 could be adequately addressed. It was hoped that the alliance would also prepare
 587 codes of ethics to foster greater accountability in the business practices of global
 588 corporations. Once a multi-stakeholder framework for each sector of business was
 589 in place, a code and its implementation were presumed to become the panacea for
 590 ethical malpractices in local and international business (*ibid.*).

591

592 **5.3.6 *The Betrayal of MSP-Generated Base Codes in Kenya Cut***
 593 ***Flower ‘Ethical Sourcing’ Audits***

594

595 When the Kenyan cut flower producers started to embrace codes,⁷ they borrowed
 596 codes already generated in similar establishments overseas, with the idea that with
 597 time they would design their own. It was with this spirit that the Horticultural Ethical
 598 Business Initiative (HEBI), a Kenya flower stakeholder group, was formed to guide
 599 and monitor social accountability in the cut flower industry by identifying the points
 600 of consensus and conflict as articulated by all member flower growers. The HEBI
 601 framework was based on that of the ETI, the international organization based in
 602 the UK that monitors ethical trading worldwide. HEBI’s base code was launched
 603 in 2002, and thereafter became the basic ethical code in Kenya’s floriculture. The
 604 issues involved in it are, however, determined by the KFC. On its part, the KFC’s
 605 membership comprises the major flower growers (principals), with representations
 606 of some non-governmental organizations, a few members of the departments of for-
 607 eign governments such as DfID and the Royal Netherlands Embassy (RNE), plus
 608 three representatives from the Ministries of Agriculture, Trade and Labour. At the
 609 end of the day, it is not clear that the workers from the grassroots are in truth
 610 represented.

611 The ETI code, the model through which the Horticulture industry created the
 612 HEBI base codes is a MSP-generated base code that had been in use for some years
 613 in Britain. A number of factors, however, seem to limit the extent to which this kind
 614 of code could address the needs of workers or assure social responsibility for the
 615 communities surrounding the places where the flowers are grown. The first factor
 616 is the nature of the codes itself. As noted above the motivation for introducing a
 617 code is important and, more often than not, this relates more to firm protection and
 618 compliance issues (preventing harm, particularly to the company) than to the more
 619 positive and outward-looking motivation, such as the welfare of the workers. For
 620 this reason, the question, “who writes the code is itself an important issue, with
 621 wide involvement generally recommended if employee acceptance is to be high”
 622 (Gichure, 2008).

623 Both Moore (2006: 411) and Dolan and Opondo (2005) seem to agree that MSP
 624 base codes can be effective when and where there is flexible application, and local
 625

626

627 ⁷ Multi-stakeholder codes: ETI Base Code developed by company, trade union and NGO members
 628 of the UK’s Ethical Trading Initiative; International Code of Conduct for Cut Flowers, developed
 629 by NGOs and trade unions in Europe, and used by the German-based ‘Flower Label Programme’
 630 (FLP).

631 ownership in the process of code implementation and verification. This is not the
632 case in the Kenyan cut flower industry, because, as we have seen, the ownership
633 of the cut flower industry in the South is mostly foreign. Consequently, while it is
634 possible that some MSP codes may have emerged in the South, those currently in use
635 are mostly replicates of codes from the North, where the process of implementation,
636 the agenda of implementation, and the standards of implementation are different.
637 This is largely the case with HEBI and EUREPGAP⁸ base codes, which give the
638 standard criteria for 'ethical sourcing' in the horticultural sector. One could safely
639 say that the effectiveness of the MSP, at least in Kenya's cut flower sector, has not
640 been encouraging.

641 The experience of the Kenyan cut flower industry seems to indicate that, despite
642 their noble aim, the multi-stakeholder base codes may have served to fulfil some
643 'negative duties' but, in the process, they have neglected those of other very crucial
644 stakeholders and the environment. Hughes' (2001) explanation of this discrepancy
645 is that the presence of codes does not, by itself, guarantee greater social or envi-
646 ronmental justice. This view is corroborated Moore (2006: 412) in regard to the
647 influence of codes in general and attested to by Dolan and Opondo (2005) in
648 their evaluation of the Kenya cut flower industry, using the MSP HEBI base code.
649 What they considered to be the major setback for effective application of the code
650 was the fact that, instead of addressing important local considerations, as replicas
651 from another country, these codes represented the interests of the UK and Dutch
652 companies (Holtshaussen, 2007: 5).

653 There are two other reasons why the MSP-generated base codes may not have
654 provided genuine 'ethical sourcing' results. The first one has to do with the nature
655 of regulation. As we saw earlier, part of the package in global business is relax-
656 ation of laws to attract investors and to ensure that they do not relocate. The second
657 and most basic reason is the fact that these, just like most other codes, generally
658 address the minimum requirements, remaining mute on issues that could make a
659 significant impact on the societies of the countries in which the businesses oper-
660 ate. Consequently, the North ends up having an economic advantage over the South
661 which can be termed 'exploitative'. This advantage is what we earlier saw enshrined
662 in the notion of 'favourable conditions'. That is to say, the North can lay certain
663 conditions on the host country, such that, if a country through its representatives
664 in a body like the KFC demands the flower growers to meet certain regulations, if
665 those regulations are not favourable to them, they threaten to relocate. This is some-
666 thing which governments in the South do not like very much, among other reasons,
667 because that creates massive unemployment. And so the 'arm twisting' continues.

668 So long as companies operating in the cut flower and other similar businesses
669 continue to limit their concerns to the 'deregulated' system and follow the law as
670 stipulated in their base codes, certain basic human goods will necessarily be vio-
671 lated. And, so long as those human goods are overlooked, the sourcing of products
672 cannot be considered genuinely ethical. Unfortunately, the flower auctions in the

673
674
675 ⁸ Euro-retailer Produce Working Group on Good Agricultural Practice.

676 European markets either do not know about these background problems or prefer
677 not to know about them so long as the flowers bear the hallmark that they have
678 been sourced ethically. At best, businesses, both foreign and local, may claim that
679 the workers offer their services 'freely' or that they are better off working for low
680 wages than not working at all, but not that ethics has been observed in the sourcing
681 of the product at the different levels of the chain.

682

683 **5.3.7 *Exploitation: A 'Grassroots' Experience in the Cut Flower***

684 ***Industry in Kenya***

685 Exploitation as a concept is tied to that of unfairness, and unfairness to that
686 of injustice. Morally, fairness is an important property of institutions, organiza-
687 tions, schemes, games and activities at all levels of human interaction. It is
688 usually associated with ideas like justice, equality, proportionality, reciprocity, and
689 impartiality.

690 To exploit something means to take an unfair advantage of it or to make the most
691 of it irresponsibly. We can speak of exploiting people or a natural resource. In both
692 cases, the implication is that an unfair use is made of, or taken advantage of, by one
693 party over another, which is presumed to be unable to protect itself or its citizens.
694 Exploitation as a concept does not usually apply to actions that can be described
695 using other terms, such as corruption, robbing, stealing, murdering, etc. Rather, it
696 specifically signifies taking advantage of someone else's unfortunate situation, for
697 example, taking advantage of someone's indigence, ignorance, physical weakness,
698 or utter need, where there are no alternatives. From the exploiter's point of view, the
699 aim is to secure an advantage or profit for oneself.

700 The *Encyclopaedia of Ethics* (1992) makes four distinctions of exploitation. One
701 form is where an exploiter may or may not coerce or defraud the person whom he
702 is exploiting. In this case, the person being exploited may or may not voluntarily
703 consent to the transaction. A second form, typical in all cases of exploitation, is
704 where, in the act of exploitation, the exploited person is made worse off than he was
705 before the exploitation. A third form is where the exploited person neither benefits
706 nor becomes worse off than he was before. The fourth is where the exploited person
707 may profit from the transaction but disproportionately less than the benefits that the
708 exploiter gains. It is worthy of note that, in all the four of the forms of exploitation,
709 the exploited party is treated unfairly because an agent (the exploiter) systematically
710 uses another person to his or her own advantage, and in so doing acts unfairly.
711 Looking at the workers in the cut flower industry, and the country itself, it is clear
712 that both suffer from one or another of these four forms of exploitation.

713 Developing countries are aware of this fact. For some time now, they have been
714 pointing fingers at the industrialized North on grounds of exploitation. Their argu-
715 ment is invariably that the North is creating wealth at the material expense of the
716 South in terms of natural resources and labour, but the South, and especially the
717 labourer, is left out of stakeholder benefits. Specifically, it is pointed out that it must
718 be morally wrong for global investors to create so much wealth from the resources

721 and hard labour of poor countries, only to repatriate it in one way or another, leaving
722 the land and the people who made those profits possible bereft of their resources,
723 energies, and even their self-esteem. If, by way of example, a company repatriated
724 99 to 100%⁹ of its gross earnings, could it still claim to have upheld moral respon-
725 sibility towards its stakeholders, when some of them earn and live and work under
726 substandard conditions? One typical excuse is to claim that the investor has com-
727 plied with the law. Often, however, that is not the whole truth, as we shall soon see.
728 Even where this may be the case, the question of 'ethical sourcing' remains dubious.
729 The problem here consists in the excision of the notion of *moral responsibility* from
730 that of *ethical sourcing*.

731 The problem of exploitation and abuse of human rights in the cut flower indus-
732 try was first highlighted in the early 1990s through the activities of some national
733 and international trade unions and NGOs. The major aim of those activities was
734 to raise awareness among consumers in market countries regarding the workers'
735 conditions in the industry in Southern countries. The outcome was a variety of net-
736 works of interested organizations, created to work together in order to address those
737 problems. Subsequently, several conferences were held, including two in Nairobi in
738 2002, on 'Corporate Responsibility and Workers Rights' and 'Human Rights and
739 Development of International Obligations for Corporations', respectively. These
740 conferences were held under the auspices of the Workers Rights Alert (WRA), a
741 coalition of non-governmental organizations that monitors workers rights in various
742 industries in Kenya. It was in the course of these two conferences that the possibil-
743 ity of gross ethics violations in Kenya's flower industry first emerged. Following on
744 that cue, some researchers soon got involved in the field, whose findings we shall
745 now explore briefly.

746 One of their findings was that workers on flower farms tend to be predom-
747 inantly women. This was what triggered the interest of the representatives of Women
748 Working Worldwide (WWW) a UK-based NGO, which participated in the two
749 Nairobi conferences and heard what was unfolding in some of the local presen-
750 tations. Thereafter, WWW urged and sponsored a Kenyan NGO, Kenya Women
751 Workers Organization (KEWWO), to conduct a survey of labour rights violations on
752 flower farms in Kenya. That survey conducted 120 random interviews with work-
753 ers, and compiled its findings as part of the ETI Report (2005). The issues raised by
754 workers representing their experience in face-to-face meetings were:

- 755 • Low pay, as low as Ksh 64 a day, which is less than US\$ 1
- 756 • Lack of adequate housing
- 757 • Excessive overtime
- 758 • Unfair dismissal
- 759 • Health and safety issues, in particular with regard to pesticide spraying

760
761
762 ⁹ The CEO of Lankas Ltd., farm known for its Best Practice in Ethics Audits, disclosed in an
763 exclusive interview with the author that the company leaves behind around 5% of the gross earnings
764 which includes wages, purchases and other services. This is much more than what many of the
765 other flower companies leave behind.

- 766 • Deductions from pay
- 767 • Denial of severance pay
- 768 • Sexual harassment, in particular by supervisors
- 769 • Lack of contracts
- 770 • Short-term contracts
- 771 • Social security payments not met
- 772 • Lack of freedom of association
- 773 • Denial of maternity leave and day care

774
775 The ETI survey (2005) highlights two basic concerns;

776
777 1. The evidence was gross abuse of a variety of labour rights in the management of
778 the industry.

779 2. That the Ethics Audits somehow could not detect those abuses.

780
781 Smith et al. in their survey report the following as being a typical example of the
782 interview with the workers:

783 When asked if their wage covered their basic needs, a woman in Kenya replied, 'It is not
784 enough at all. For housing I pay Kenya Shilling (Ksh) 400,¹⁰ school fees are about Ksh
785 500 per month, food about Ksh 1,500,¹¹ water about Ksh 200, clothing about Ksh 600, and
786 sickness which varies... since the salary is about Ksh 3,000 per month, then I strain (to
787 make ends meet) (Smith et al., 2005).¹²

788 What the researchers found most puzzling was that these problems had not come
789 out into the light earlier. Even more surprising was the fact that many farms named
790 by the workers, either because they worked or had worked there sometime, included
791 large holdings with direct supply relationships with the UK and Amsterdam, with
792 smaller farms selling to those larger farms at peak season. Some of these had
793 excellent or 'Best Practice' reputations. From the foregoing, only two possible
794 explanations can be found: either that the ethical/social auditing methods being
795 employed by retailers abroad, the flower farms owners, and other industry play-
796 ers in Kenya were all defective, or that the concept of 'ethical sourcing' in vogue
797 was a camouflage one (Smith et al., 2005), or both.

798 This takes us back to the concept of stakeholder and its different nuances. Into
799 what category does the ordinary worker, permanent or casual fall in, in global busi-
800 ness, and what are his or her rights? From the delineation of stakeholder categories
801 and the moral obligation appertaining to each category (Freeman, 1984; Phillips,
802

803
804 10 Housing in a slum area is the only one which can cost this amount of money (author's
805 interpretation).

806
807 11 *Ugali* with or without *Sukuma Wiki* and *Githeri* are the only foodstuffs which can cost this
808 amount of money. *Ugali* is a stiff porridge made solely of maize flour and water; *Sukuma Wiki* is
809 kale while *Githeri* is meal of boiled maize with beans.

810
811 12 Between 1 May 2002 and 31 April 2003, the statutory minimum wage for unskilled employees
812 in Kenya agriculture was Ksh 1,642 per month, or Ksh 68.90 a day, i.e. equivalent to 1 US\$. Today
813 this is slightly higher.

811 2003) it appears that such workers are normative stakeholders. If that be the case,
812 then, in this industry, these stakeholders are being exploited on at least two different
813 accounts:

814 a) "As social actors and simply by virtue of their being human" (Phillips, 2003:
815 30), the workers do not get their rightful due from the organizations. In addition,
816 as members of communities living in the lake areas, these people are exploited
817 in various indirect ways, such the egregious pollution of the water deprives them
818 of much needed fishing and a good ecosystem. Phillips contends that: "Simply
819 because a person or group does not merit the additional moral consideration
820 conferred upon normative stakeholders does not mean that they may be morally
821 disregarded. One still may not break promises without sufficient cause, kill com-
822 petitors for market share, and violate the rights of or otherwise act immorally
823 towards these groups" (*ibid.*).

824 b) As normative stakeholder of the organization, the latter can be said to exploit the
825 workers from the point of view of *stakeholder* fairness, over and above that due
826 to them by virtue of their being human. Under this proviso, Phillips includes
827 the violation of human rights by an organization, the use of forced labour,
828 racial/ethnic/sexual discrimination, lying and breaking contracts, are some of the
829 "likely examples of activities that would be wrong irrespective of the stakeholder
830 status of the victims. These violations may occur against a group or individual
831 who is also a normative stakeholder, but it is not due only, or even primarily,
832 to this stakeholder status that these actions are morally prohibited. They are
833 wrong for reasons prior to any stakeholder obligation that may obtain" (Phillips,
834 2003: 30).

835 It should be evident from the foregoing that the use of MSP 'base codes' alone
836 cannot suffice to adequately address the real needs of this class of stakeholders.
837 There is a default in the ethical or moral and the non-ethical, similar to that which
838 governs, and also limits the shareholder model with regard to moral responsibility.
839 That is to say, despite the efforts to delineate, categorize and demarcate stakeholder
840 categories and the kind of moral responsibility a firm should have towards each of
841 these categories, there is still a missing factor for moral responsibility to effectively
842 cut through all the categories. This is the topic to which we shall now turn.

843 5.4 Common Good: The Missing Factor in 'Ethical Sourcing' 844 and Social Responsibility in Global Business

845 5.4.1 Globalization and Ethics

851 Sometimes *globalization* is viewed in fatalistic terms, as if the dynamics involved were the
852 product of anonymous impersonal forces or structures independent of the human will. In this
853 regard it is useful to remember that while globalization should certainly be understood as a
854 socio-economic process, this is not its only dimension. Underneath the more visible process,
855 humanity itself is becoming increasingly interconnected; it is made up of individuals and

856 peoples to whom this process should offer benefits and development as they assume their
857 respective responsibilities, singly and collectively (Benedict, 2009: 42).

858
859 Thus, if globalization is viewed from a deterministic standpoint, the criteria with
860 which to evaluate and direct it can dissipate. But, if we sincerely want to speak of
861 or observe a global ethic, there has to be a common understanding of the tenets of
862 that ethics in global business. The truth of globalization as a process, and its fun-
863 damental ethical criterion, should necessarily emerge from what all human beings
864 share as humans. That is to say, from the unity of the human family and its devel-
865 opment towards what is good. For that project to be sustainable there is need for a
866 commitment on the part of the principal stakeholders and governments “to promote
867 a person-based and community-oriented cultural process of world-wide integration”
(Benedict, 2009: 42).

868
869 This concept has its origins in the classical philosophy of Plato, Aristotle, and
870 the Stoics. Later, it was adopted in Judeo-Christian ethics, but its vestiges are clear
871 in all virtue ethics. For contemporary ethicists, one could say that it is based on
872 the Kantian maxim to always see every human person as an end in himself who
873 should not be used as a means. There have been many nuances to the notion of the
874 common good, but basically it refers to the right social order that permits and, as far
875 as possible, facilitates upright living based on the right of every human being to a
876 minimum of material well-being in order to lead a virtuous life.

877 As a guide to ethical business management the concept of common good can
878 be defined as a broad composite reality embracing the private and public spheres,
879 which does not exclude profit, but instead considers it a means for achieving human
880 and social ends. It grants that the manner in which the individual company dis-
881 tributes its dividends and its juridical structure can vary, but what is constant is
882 the willingness to view profit as a means of achieving the goal of a more humane
883 market and society. Hence, its economic activity pursues not only the commer-
884 cial logic, but it also endeavours to cater for the overall human good of all its
885 stakeholders, especially the most vulnerable, based on the simple fact of their dig-
886 nity as human beings. The common good model seeks to create a convergence
887 between economic science and moral evaluation, based on the financial ability of
888 each organization. In the long run this model should also benefit the company
889 because of the well known economic fact that “structural insecurity generates anti-
890 productive attitudes wasteful of human resources, inasmuch as workers tend to adapt
891 passively to automatic mechanisms, rather than to release creativity” (Benedict,
892 2009: 46).

893 There are increasingly more contemporary business ethicists who see the viabil-
894 ity of this concept as a management guide if we are to have a more comprehensive
895 understanding of the moral management of business beyond the two traditional
896 ones. One can mention, among others, Argandona (1998), Velasquez et al. (1992)
897 Alford & Naughton (2001), and Melé (2008). All of these scholars argue that the
898 classical understanding of the ‘common good’, based on the intrinsic worth of every
899 human being, is a defensible “model of market economy capable of including within
900 its range all peoples and not just the better off” (Benedict, 2009: 39).

Appeals for the consideration of the common good concept as a management model are surfacing in different discussions of ethical and social responsibilities, from environmental pollution to problems related to crime and poverty. Different authors may give it different names, but irrespective of the name used, the bottom line is always that of a 'Balanced Concept of the Firm' (Enderle, 2006; Franceschi, 2004) and the underlying concern is always the same. This is not to say that everybody agrees on the significance of this concept, because, as Koslowski (2008) notes, history is replete with examples in which the notion of common good was distorted for the manipulation of the masses, or to serve non-ethical practices, even within the agency and stakeholder management models.

The term 'common good' has been criticized on another score: its ethical basis in morally pluralistic societies, as we find in contemporary ethics. Already in 1987 MacIntyre showed how difficult it is for the followers or heirs of the different moral theories such as, say, Hume, Kant or Mill, to engage in moral decision making. According to him, the different factions get into "a battle in which no one is finally defeated, only because no one is ever a victor". And, adds, "One interesting response to the recognition of the situation is the recent redefinition of the task of moral philosophy (ethics) as that of rendering coherent and systematic 'our' intuitions about what is right, just, and good where 'we' are the inhabitants of a particular social, moral-political tradition of liberal individualism" (MacIntyre, 1987: 176). This could not be truer in global business. Viewed from this perspective, the common good could easily be misunderstood to mean a widespread pursuit of individual interests; interests that are defendable through a notion of moral pluralism in which nearly every stance, including ethical egoism, can find a theoretical grounding. This is contrary to the notion of the common good that this chapter proposes.

The concept of the common good that is envisaged here is one that rests on truth regarding the dignity of man and woman and that asks three basic questions: one, why should we never treat humanity, whether in oneself or in another, never as a means but always as an end (Kant)? The second one derives from the first, based on Socratic wisdom, and asks: 'how should we live', and how should we treat one another if all human beings have intrinsic worth? And, finally, what is the basis of that intrinsic worth? In the tradition that upholds the concept of the common good, the intrinsic worth of every human being is human dignity based on the fact of having a rational nature. In other words, a spiritual nature; this factor sets humans apart from the rest of Nature and gives their actions moral value. Hence, "when business ethics overlooks this reality of man, it inevitably falls prey to forms of exploitation. More specifically, it risks becoming subservient to theorisations which, rather than correcting the dysfunctional aspects of management, try to justify their unethical actions as being ethical. The word 'ethical' then becomes the instrument to justify ideological distinctions in such a way as if to suggest that initiatives not formally so designated would not be ethical" (Benedict, 2009: 45).

Under this light, it appears that the glaring scandals of exploitation and the violation of basic human rights are consequences of the consideration of ethical action in dealing with other human beings only from a purely legal and obligatory point

946 of view. And this is what justifies looking for an overarching attitude and model
947 for business management that always seeks human good. The common good model
948 calls for virtue on the part of the acting agent, rather than on the legal obligation
949 which may or may not apply in a given situation.

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952 **5.4.2 Ethical Sourcing and Social Responsibility**

953 **from a Common Good Perspective**

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956 The difficulty arises when we come to the effective participation in the common
957 good management of the firm. This is not something automatic. It requires the internalization
958 of certain attitudes and convictions, among them a sense of justice and
959 goodwill, especially at the management level. Hence, the grounding factor for the
960 exercise of the model is a notion of justice, rooted in virtue ethics tradition, with an
961 emphasis on its distributive and legal forms.

962 The market is subject to the principles of so-called *commutative justice*, which
963 regulates the relations of giving and receiving between parties to a transaction.
964 “Distributive justice refers to the duties and obligations of the whole – in this
965 case, the firm – to its parts, while legal justice spells out the duties and obliga-
966 tions of the parts – primarily, workers and other stakeholders – to the whole” (Sison
967 & Fontrodona, 2008: 24). In business practice, it demands of the firm to pay a
968 just wage, just in proportion to the profits generally obtained and the needs of its
969 normative stakeholders in the first place. The legal form of justice requires that
970 workers dedicate their best efforts to the firm and take care of its resources (Sison
971 & Fontrodona, 2008).

972 A fundamental consequence of the exercise of distributive and legal justice in
973 regard to any ‘ethical sourcing’ should be responsibility for the integral welfare of
974 the employees. The term ‘responsibility’, according to Enderle (2006), derives from
975 the idea of *re-sponding* or giving valid answers to questions asked by others. In this
976 sense, the notion of responsibility is similar to that of accountability. It would be
977 reductive, therefore, to limit the scope of one’s ethical responsibility to merely ful-
978 filling roles and rules. Under the common good notion of responsibility, one must
979 distinguish between moral responsibility understood from the minimal requirement,
980 such as those defined by regulation and which must be met under all circumstances,
981 to moral responsibility based on the aspirations of an ethical ideal that goes beyond
982 strict regulation. This latter considers that even when one may claim to have acted
983 legally, if those actions violate any aspect of the human standards that regulate dis-
984 tributive justice and gratuitousness, even if these are not legally spelt out, one cannot
985 be said to observe moral responsibility.

986 This is the missing factor in the plethora of codes of ethics in global business.
987 Here, too, we find why the flower farms in Kenya have failed to deliver the promise
988 of better lives for the poor. ‘Ethical sourcing’ on a common good understanding
989 demands practising moral responsibility in a manner that respects, provides and pro-
990 tects both the material and the non-material needs of integral human development

and association. Even in economics, this has important and beneficial repercussions. The economy needs ethics in order to function correctly; not any ethics, but an ethics which is people, and environment centred. This is the common good content of management.

‘Ethical sourcing’ of products starts with the observance of the basic human rights among ones’ own immediate stakeholders, such as the employees and the environment that supports neighbouring communities. People may have wants that fall outside what a company can provide, but at the outset, the scale of their remuneration ought to be commensurate to their cost of living. From a distributive justice point of view, this means that for a company that can afford to pay a living wage proportionate to the qualifications and skills of the employees, failing to do so does not look ethical. Similarly, failing to grant permanent employment in order to avoid responsibility for workers and instead hiring them as intermittent casual labourers must be understood as exploitation of their indigent condition.

5.5 Conclusion and Recommendations

The aim of this chapter is to give an overview of the ethical challenges of global business in poor countries. To this purpose, I have used the cut flower industry as the model. We have seen how, at times, the political, social and economic conditions can make a country vulnerable to the interests and, often, inconsideration of richer countries. We have seen how an entire sector of the Kenyan population is succumbing to poverty, even as they pour their whole energies into serving an industry that drains them but has nothing to give back in return. It would not be false, then, to argue that a new form of poverty is emerging, occasioned by the notion of global business.

Benedict XVI observes: “Among those who sometimes fail to respect the human rights of workers are large multinational companies as well as local producers. For the ‘super-developed’ countries the craving to provide their consumers creates an unacceptable contrast with the ongoing situations of dehumanizing deprivation” (Benedict, 2009: 32). To turn this trend round, the proposed common good notion of the purpose of the firm needs to be taken serious by the different acts in global business: the business owners, governments and the international organizations.

5.5.1 The Role of Global Business

In all business, global or local, it is clear that the “simple application of *commercial logic* cannot solve all social problems” (Benedict, 2009). As alternative, it is necessary to consider the company as a multi-purpose organization that encompasses economic, social and environmental purposes, all of which have their intrinsic value and are related to each other in a circular rather than hierarchical manner. To act in

1036 an adequate social and morally responsible manner, there are other values beyond
1037 profits that need attention. These values form the fabric on which the moral respon-
1038 sibilities are built and which we have termed the common good concept of the
1039 firm.

1040 The practice of this model can benefit from the guidance of the three basic prin-
1041 ciples of moral responsibility, namely, *the principle of human dignity*, the principles
1042 of *non-maleficence and beneficence*, and the principle of *justice* (fairness). We shall
1043 now summarise the significance of each of these in the common good approach of
1044 ethical management.

1046 **5.5.1.1 The Principle of Human Dignity**

1047 Dignity is something people are born with. It denotes an intangible value or worth.
1048 The good of dignity, therefore, sets a limit to what can be done to a person. As
1049 a guiding principle of management wisdom, it enjoins the principals and manage-
1050 ment to see that economic choices do not cause excessive disparities in wealth in
1051 a morally unacceptable manner. Under the common good model, 'ethical sourcing'
1052 the fulfilment of such responsibilities is not simply 'helping' people, rather, it is car-
1053 rying out one's *moral obligations* to one's stakeholders in a balanced manner. For
1054 that reason, codes of ethics, even comprehensively generated ones, may serve as a
1055 guide for ethical sourcing, but can never sufficiently cover moral responsibility for
1056 all one's stakeholders.

1057 That demands the good-will of all actors. Specifically, it enjoins the manage-
1058 ment to look beyond rhetoric, beyond the mandatory vision and mission statements,
1059 which are also needed, and to address the real needs of society. Such corporate com-
1060 munity engagement (CCE) should not be limited to merely what the law demands,
1061 which is always a minimum, but rather should be a morality guided by respect for
1062 the basic human goods, respect for human rights, societal values and the environ-
1063 mental context within which an organisation works. This is an essential part of the
1064 understanding of 'ethical practice' and moral management. It is hoped that this will
1065 be the interpretation that ISO 26000 makes of its ethics provision.¹³

1067 **5.5.1.2 The Principles of Beneficence and Non-maleficence**

1068 These are two related principles that derive from the classical First Principle of
1069 Morality that 'Good must be done and evil must be avoided' (Gómez-Lobo, 2002).
1070 In contemporary ethics, this translates to the 'Golden Rule'. Hence, the principle
1071 of *beneficence* entails concern for people's safety, protection from harmful products
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1075 ¹³ ISO, the International Organization for Standardization, has decided to launch the development
1076 of an International Standard providing guidelines for social responsibility (SR). The guidance
1077 standard will be published in 2010 as ISO 26000 and be voluntary to use. It will not include
1078 requirements and will thus not be a certification standard.

1081 or work environments, provision of means for medical attention when they suffer
1082 illness, hunger or exhaustion, and care for the environment. This focus is often bro-
1083 ken further into other logically related norms such as: *Not to do harm* or the duty
1084 of *non-maleficence*. All rational beings know this within themselves. In a proactive
1085 sense, it means *to do good* by providing benefit wherever possible.

1087 5.5.1.3 The Principle of Justice

1089 We have already considered justice. Under this principle of justice we are urged to
1090 observe the requirements of fair dealing. Newton (2005) and Sison & Fontrodona
1091 (2008) focus on certain general tenets of justice that are basic for the existence of
1092 even the minimum of respect and consideration of human dignity in the treatment
1093 of other people:

- 1094 • The obligation to acknowledge our membership and dependence on human
1095 community in which we live and operate;
- 1096 • The need to contribute to its life, obey its laws and policies;
- 1097 • The need to be honest in all our dealings with them and, above all, the need to
1098 hold ourselves accountable to them for our actions.

1100 Benedict XVI explains this principle as follows: “Economic life undoubtedly
1101 requires contracts, in order to regulate relations of exchange between goods of
1102 equivalent value. But it also needs just laws and forms of redistribution governed by
1103 politics, and what is more, it needs works redolent of the spirit of gift” (Benedict,
1104 2009: 37).

1107 5.5.2 The Role of International Bodies

1109 International business ethics would be next to impossible without the good-will of
1110 other players to whom the international community has entrusted certain tasks, such
1111 as International Labour Organization (ILO), the World Trade Organization (WTO)
1112 and environmental programmes such as the United Nations Environmental Program
1113 (UNEP). Through their firm intervention, presence, and supervision, these organi-
1114 zations can require global business to entrench more responsible ethical practice in
1115 the manner products are sourced and in the treatment of the environment. “Human
1116 beings legitimately exercise a responsible stewardship over nature, in order to pro-
1117 tect it, to enjoy its fruits and to cultivate it in new ways, with the assistance of
1118 advanced technologies, so that it can worthily accommodate and feed the world’s
1119 population” (Benedict, 2009: 48).

1121 To date, the actual effectiveness of some of the international organizations, such
1122 as the UNEP, whose headquarters in Nairobi are less than seventy kilometres from
1123 Naivasha, the hub of much of the floriculture in Kenya, is inconspicuous.

5.5.3 The Role of Political Authorities

The temptation to solve immediate economic problems through global business is understandable. However, through inter-continental of states and the collaboration of international organizations of such bodies as the United Nations, it is possible to protect the long-term interest of the developing countries rather than make deals that have no long-term sustainability because they do not cater for the overall development of the citizens. The relaxation of regulation to create a favourable atmosphere for global business has proved to be open ground for the exploitation of humans and nature, without making any significant contribution to the welfare of the local society. In this sense, the criterion to guide the political authorities with regard to global or local business is the fact that “the primary capital to be safeguarded and valued in any nation is the human person in his or her integrity” (Benedict, 2009: 32).

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Part II

Fairness in International Trade—A Global Perspective

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Chapter 6

Fair Global Trade: A Perspective from Africa

Piet J. Naudé

6.1 Introduction

I consider it a great honour to be part of the global panel on fair trade, and thank my colleagues for their constructive comments and co-operation. I am proud to be an African and wish to present the view of my continent in an open and objective manner.

6.1.1 Personal and Hermeneutical Limitations

My academic background has been shaped by philosophy and Christian theology and I have only recently ventured into the relationship between ethics on the one hand and economics and business on the other. My knowledge of economics and the financial world is therefore extremely limited and it restricts my ability to make informed judgments on technical data, or intra-disciplinary arguments and counter-arguments. However, issues related to fair global trade, require an open inter-disciplinary approach like the one attempted in this chapter. A possible weakness in this chapter is a lack of depth and specific detail in certain instances. However, the strengths are – hopefully – the breadth of scope and the presentation of new questions that extend beyond the boundaries of the traditional disciplines that usually engage in global economics.

Debates concerning fair global trade and analyses of globalization are notoriously emotive.¹ There are ideological positions over a wide spectrum and data (both historical and current) are interpreted differently according to the economic

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¹ No wonder books by Joseph Stiglitz (2002, 2006) and Jagdish Bhagwati (2004) on globalization have become international bestsellers! There is a growing mountain of literature on the subject from all different perspectives. See the excellent overview of contrasting views by Held and colleagues (1999).

46 or social development assumptions of the proponent of a particular view, for example, the neo-liberal, structuralist, “left”, “right” or Marxist viewpoints. Perhaps a
47 debate about assumptions and presuppositions would aid the hermeneutics of dialogue. Unfortunately, this chapter does not have room for an extensive debate on
48 historiography, the benefits or not of the free market and the contradictory impact
49 of globalization. At certain points in the chapter, convictions will merely be stated
50 without the requisite ground-argumentation.

51

52 **6.1.2 *The Complex Notion of “Africa” and Its Dire*** 53 ***Socio-economic Development Needs***

54 If one wishes to bring historical and contemporary perspectives into the debate on
55 fair global trade, one is struck by the complexities of what we call “Africa”. There
56 is no single history for Africa, only a multitude of regional histories. “Sub-Saharan
57 Africa” is mostly used as a geographical demarcation² of the “southern” half of the
58 continent, but even in this region slavery, colonialism, post-colonial politics, and
59 current socio-economic developments are widely divergent, defying in most cases
60 any unifying terms. Therefore, for the purposes of an overview such as this, we have
61 to accept generalizations beyond what would make serious historians, economists
62 or political scientists feel comfortable. There are always exceptions to whatever is
63 claimed in the name of “Africa”.

64 This chapter is not an attempt to speak “on behalf of” Africa. This I cannot do, as
65 I neither have the necessary knowledge nor the mandate to do so. What is presented
66 here, though, is a perspective on fair trade and related issues from Africa, based
67 on the work of the African Union, developed through my own views and auxiliary
68 literature.

69 The African Union (AU) was established as an inter-governmental organization
70 in July 2001, as an amalgamation of the former African Economic Community
71 (AEC) and the Organization of African Unity (OAU). Its headquarters are in Addis
72 Ababa, Ethiopia, where the African Union Commission (AUC) co-ordinates the
73 work on behalf of the 53 member states. The AU has ambitious goals to achieve
74 greater unity among African countries via the creation of a free trade area, a
75 central African bank, a common currency and the creation of a single customs
76 union. The AU aims “to promote and defend common African positions on issues
77 of interest to the continent and its peoples” (www.african-union.org). The main
78 sources for this chapter are the *Strategic Plan of the African Union Commission*
79 (3 volumes, 2004 quoted as AUC 1, 2 and 3) and the *Economic Report on Africa*
80 *2007: Accelerating Africa’s Development through Diversification* (ERA) drafted by
81 Economic Commission for Africa.

82 Africa is in serious need of socio-economic development, but is currently under
83 threat due to marginalization, in an increasingly globalized economy. Unlike Asia
84

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86 ²The African Union insists that one of Africa’s greatest challenges is exactly to overcome divisions based on so many differences, for example, culture, language, religion, economic status and political systems (AUC 3, pp. 4–22).

and Latin America that have succeeded in taking advantage of the global economy, Africa has failed to become an important member of the international economic community. The results are a deep cause for concern and the source for a general Afro-pessimism inside and outside of Africa itself. Here is some basic information³:

- Africa's population of 832 million represents 13% of the world population, but Africa accounts for only 1% of Foreign Direct Investment, 1% of gross domestic product and about 2% of world trade⁴
- Of the 48 least developed countries in the world, 35 are in Africa and African countries are mainly in the lowest 20% of the UN Human Development Index
- Over 40% of the sub-Saharan population live below the international threshold of \$1 a day
- Nearly 80% of the continent's labour force "remains mired in manual and archaic agricultural practices" (AUC 1, p. 6) compounded by hostile climatic conditions and persistent animal diseases that threaten food security. Per capita food production fell in 31 of the 53 African countries in the period 2000–2005
- Diseases like malaria and AIDS (a deadly combination in many cases) are taking its daily toll on life-expectancies (2 million AIDS deaths in 2005) and the economy: 60% of HIV-positive people world-wide live in Africa and on average adult HIV prevalence is 6.1% of the population (UNAIDS, 2006 *Report on the global AIDS epidemic*)
- Africa's isolation, marginalization and even exclusion (Hoogveld 2002) is increasing due to the continued widening of the digital divide (AUC 1, p. 13) with huge backlogs regarding intra-African communication and the inability to "log-in" into the digital global economy

This list can be extended, but is adequate to highlight the dire socio-economic development needs of Africa and the danger of remaining a marginalized continent. From an African perspective, a fair global trade regime must contribute to the continent's development and enhance Africa's ability to participate in the processes of global decision-making, overcoming its marginalized position and weak negotiating power, and ensuring that benefits accruing from global economic interaction are sustainable.

6.2 Historical Background to the Current Debates About Fair Global Trade

As Africans we argue that our current marginal position must be viewed from an historical perspective. According to paleo-anthropological studies, Africa is the

³This information is mostly available in AUC 1, p. 9 ff.

⁴If one accepts that a very high percentage of international trade is "virtual" (shares, futures), Africa's share of real commodity trading – minerals, and increasingly oil – would be considerably higher. The lack of participation in all forms of trade is a sign of Africa's marginalization as it points to weak financial institutions and a lack of connectivity in a widening digital divide.

motherland of *Homo sapiens*. It was a major force in world affairs over the centuries with its various empires and kingdoms from long before the Christian era up to the fifteenth century (AUC 1, pp. 4–5). An understanding of the marginalization and exploitation of Africa and Africans, between the fifteenth century and the present time, illustrates the reason for the asymmetrical trade situation in which Africa finds itself today. This disproportionate economic and technological situation arose over many centuries and is the cumulative result of at least three factors: (1) the Atlantic slave trade (1440–1870); (2) the colonization of Africa (1884–1961) and post-colonial misrule in Africa (1950–present day); and (3) the creation of a global monetary system (1878–1990).

Hundreds of books have been written on each of these topics. For the purpose of this chapter, I will spend more time on the emerging monetary system (as this is the current context in which the fair trade debates occur), and make only very brief comments on the other two factors.

An important pre-observation is required: This chapter does not attempt to apportion “blame” for Africa’s current weak position in international trade. The aim of the historical material is to provide a context in which the current situation may be interpreted. Such context can then provide credence to the moral and material claims made by Africa and other developing regions, in order to support such concepts as “special and differential treatment” (see below) with a view to establishing a new trade order for the global economy. History, in this case, is not to be used as a cheap moral propaganda tool. However, there is mounting empirical evidence to support the argument that there is an implicit causal link between history and the current economic performance of Africa, and indeed this should be credibly demonstrated.⁵

6.2.1 The Slave Trade⁶

The Atlantic slave trade developed over a period of just over 400 years (1440–1870). There is no scholarly consensus as to the origin, extent and effects of the slave trade on Africa and slave importing nations. A middle position would probably agree on the following encapsulation of the African slave trade.

Slave trading was an integral part of African societies, long before the actual Atlantic slave trade started. In the absence of clear rights to property, slaves (cheap labour) were an important means of production and slaves were taken from African tribes themselves, in the normal course of inter-tribal conflicts.⁷ However, it must be

⁵For an empirical argument, see Nathan Nunn (2007) and his many references to literature from development economists defending the link between Africa’s current underdevelopment and historical legacies.

⁶For this section I rely on: Hugh Thomas (1997). *The slave trade. The history of the Atlantic slave trade 1440–1870* and John Thornton (1998) *Africa and Africans in the making of the Atlantic world, 1400–1800*.

⁷See Thornton’s persuasive argument of the link between slavery and African social structure (1998, pp. 72–97).

stated, that the rising demand for slave labour in the Americas led to an enormous expansion of intra-African trade in human capital, with competitive co-operation amongst European slave merchants and the African elite. Only in rare cases were slave raids undertaken by Europeans, normally occurring through the course of war on the African continent.⁸ However, this does not imply a passive role by Europeans, who entered into agreements with their African counterparts to ravage the lives and social structures of ordinary Africans.

The outcomes for Africa were mixed: On the one hand the barter trade in goods like iron, textiles and liquor, and the opportunity to access more advanced arms brought about many positive economic effects, including a diversification of the local economies. On the other hand, there were devastating demographic⁹ and social effects on African societies that were built primarily on kinship and patriarchy. The increasing power of African rulers, as a result of the slave trade, led to them selling even more people into slavery, thus perpetuating the social crisis.

The effect on the Americas and Europe were more uniformly positive. Africa provided a market for produced goods and was a source for labour that made possible the agricultural revolution in what is now known as Latin America and parts of North America (then under European colonial rule). Contrary to Eric Williams' argument,¹⁰ no linear causal relationship between the slave trade and the subsequent emergence of industrialization is feasible. However, there is no doubt that industries like ship-building, marine insurance and rope-making were stimulated by the slave trade and that the capital gained from trading humans and agricultural production by slaves (virtually free labour!) made a variety of industrial projects possible (Thomas 1997, p. 795).

The thesis by Walter Rodney that the Atlantic slave trade was a first step in the under-development of Africa, is no longer supported by main-stream academics. However, one has to state clearly that between 10 and 13 million slaves were exported from Africa¹¹ and this played an indispensable role in the economic and cultural¹² development of Europe and the Americas. In fact, the rapid progress in agriculture in these regions would have been very difficult – if not impossible – without enslaved African human capital.

⁸See Thornton's discussion of early slave raids in Angola by the Portuguese army (1998, p. 115), but also his sober conclusions regarding the link between European war-abilities and enslavement (1998, p. 116ff).

⁹The AUC refers to this as a "demographic haemorrhage occasioned by the paroxysm of the slave trade" (AUC 1, p. 5).

¹⁰Williams was the prime minister of Trinidad and wrote the controversial book *Capitalism and slavery* in which he argues for a link between slavery and industrialization.

¹¹See the estimated statistics of the slave trade as cited by Thomas (1997, pp. 805–806) in terms of carrier countries (Portugal 4.6m and Britain 2.6m); destinations (Brazil 4m); origins (Congo/Angola 3m) and type of labour (sugar plantations 5m).

¹²See Thornton's very interesting chapters (5–9) on the effect of slaves on the cultures of the so-called New World and how reciprocal transformations occurred.

226 6.2.2 Colonialism¹³ and Post-colonial Africa

227
 228 The abolition of the slave trade eventually led to a markedly different economic and
 229 political relationship between Africa and Europe. What slowly emerged was that
 230 Europe no longer needed to control human capital, but rather it needed economic
 231 and political control over actual African territories. This was necessary to secure
 232 trade in goods like gold, ivory, timber and palm oil, and the drive for such con-
 233 trol was also influenced by the competitive intra-European rivalries over the period
 234 1870–1945.

235 Trade in pre-colonial times was essentially co-determined by Africans and their
 236 European counterparts, where Africans (although mostly rulers and the trading elite)
 237 had a direct influence on events. However, we now enter a phase where asymmetri-
 238 cal power relations play themselves out on the African continent. Commenting on
 239 the nineteenth century, Fage observed: “In any clash between European and African
 240 interests or beliefs, Europe now possessed both the material means – steam power,
 241 firepower, medical power – to impose its will upon Africa, and the moral strength –
 242 the certainty that European civilization would prevail, and also that it was in the
 243 interest of the African peoples to do so” (Fage 1988, p. 333, see also p. 352).

244 Starting in West Africa and spreading over into South, East and North Africa, the
 245 major European countries increased their administrative, economic and eventually
 246 military-political control over Africa. By 1914, Africa – with rare exceptions in
 247 cases such as Liberia – were under foreign control¹⁴ (see map in Fage 1988, p. 402),
 248 and lost the ability to compete equally in the commercial exploitation of its own
 249 natural resources.

250 Both the process toward and the “reasons” for colonization are too complex
 251 when examined over various regions, to summarize in one sentence.¹⁵ Colonization
 252 occurred in phases and whereas the initial phases of partial control were motivated
 253 by factors as diverse as securing the abolishment of the slave trade and expanding
 254 commercial trade in products such as palm oil, the later phases were more directly
 255 linked to European political events (the two World Wars and the depression of the
 256 1930s). As Europe’s industrialization reached its fulfilment, greater emphasis was
 257

258
 259 ¹³For this section I rely heavily on J.D. Fage (1988). *A history of Africa*. He commences his
 260 study with early African societies (part 1), the impact of Islam (part 2) and more importantly,
 261 for this chapter, he discusses European expansion and colonial power in parts 3 and 4. The well-
 262 known book by Thomas Packenham (1991). *The scramble for Africa*, reads like a novel and focuses
 263 more closely on the colonial period and actual territorial invasion of Africa between 1870 and
 264 1906. Each region is discussed in detail, and makes clear how complex the process of colonization
 265 was. A more journalistic book with a fairly critical view of Africa is Robert Guest’s (2004). *The
 266 Shackled Continent*. He starts off by arguing that Africa’s basic problem is not its past, but its lack
 267 of leadership in the post-colonial period (see pp. 12, 23).

268 ¹⁴Fage remarked that: “Europe and the world had accepted by 1902 that the whole of Africa was
 269 the property of one or other of the European colonial powers” (1988, p. 391).

270 ¹⁵See Packenham’s (1991) fairly detailed accounts of the various regions, starting with King
 Leopold II of Belgium’s dealings with the Congo.

271 placed on the direct economic benefits that the colonies could provide in the form
272 of raw material (rubber, iron ore) and precious goods like oil, gold and diamonds.

273 Not all the colonies brought immediate profit and wealth to the colonizers and
274 the idea that colonies ought to be invested in only emerged much later in the
275 colonization process. The colonies were considered to be indispensable political
276 building blocks in the intra-European conflicts among countries like Britain, France,
277 Belgium, Italy, Germany and Spain (see Packenham 1991, p. xxii). The proverbial
278 “scramble for Africa”¹⁶ was driven by a powerful combination of economic and
279 political forces, and was based on the emerging assumption that European civiliza-
280 tion was superior to Africa’s and that the latter needed developing towards a societal
281 model based upon European religion and values.¹⁷ The first comprehensive devel-
282 opment plans for the socio-economic upliftment of Africa occurred only after the
283 Second World War (Fage 1988, pp. 422–423).

284 The rapid de-colonization of Africa started in the late 1940s and occurred *inter*
285 *alia* due to the rising tide of nationalist liberation movements, political instabil-
286 ity, and the acceptance of the Universal Declaration of Human Rights by the
287 newly established United Nations. Post-colonial Africa was ill prepared by its colo-
288 nial and cultural histories to accept responsibilities for its own affairs. A number
289 of factors contributed to a somewhat sombre picture of Africa after indepen-
290 dence. Colonial powers neglected to invest in general education, and training in
291 political-administrative rule. Power transitions were poorly managed and new rulers
292 compiled economic policies that could not be sustained and which lead to indebt-
293 edness. Dictatorships emerged due to weak civil societal structures, and corruption
294 and misrule became widespread. Tribal wars escalated, and multi-party democracies
295 were not sustainable due to inadequate levels of preparation for governments of this
296 nature.

297 There is just no way in which we as Africans can escape the failures of leadership
298 in many parts of post-colonial Africa and which have contributed to a general Afro-
299 pessimism. The AUC mentions slavery and imperialism only in passing. It notes
300 that we should not forget, but “we must learn to put things behind us” and focus on
301 Africa’s own responsibilities (AUC 1, p. 7). The self-judgment is fierce and candid:
302 “Distrust for constituted authority, corruption and impunity, coupled with human
303 rights abuses have kept Africa in a situation of conflict, thereby undermining all
304 initiatives towards sustainable development” (AUC 1, p. 14). Coupled to this, is
305 the deep and enduring socio-psychological impact of a colonized self-perception
306 and a mind-set that leads to cultural diffidence and a notion that “foreign” must be
307 “better”.

308
309
310 ¹⁶The *scramble for Africa* is – as indicated above – the title of the magnificent account of colo-
311 nization by Thomas Packenham (1991), but the use of this expression probably originated as early
312 as 1884.

313
314 ¹⁷The link between Christian mission and colonial power is an ambiguous one. Packenham states
315 unequivocally that the scramble for Africa was led by “the empire-building alliance of God and
Mammon” (1991, p. 673), introduced as “Christianity, commerce and civilization” by British
explorer, David Livingstone. For us in Africa, a fourth “c” is added: conquest.

316 Although Africa eventually regained her political independence, an important
317 factor – crucial to the overall argument of this chapter – must be kept in mind.
318 Between 1935 and 1950 there were dramatic increases in foreign trade in areas like
319 the Belgian Congo, French West Africa, Uganda and Northern Rhodesia (see table
320 5 in Fage 1988, p. 423), and by the mid 1950s “African colonies were participat-
321 ing in the world economy as never before” (Fage 1988, p. 423). The question then
322 arises: How was this world economy in which Africa was participating, structured?
323 The answer to this important question lies in the emerging monetary system from
324 approximately 1870 to the present day.

325

326

327 **6.2.3 The Evolution of the Contemporary Monetary**

328 **and Trade Regime**

329

330 The growing economic integration of the world¹⁸ implies that decisions taken
331 by one actor in the economic sphere affect other actors much more directly and
332 intensely than ever before in history. It necessitates forms of co-operation to ensure
333 orderly trade, generally accepted rules and regulations regarding the stabilization
334 of the various monetary systems *inter alia* through the “standardizing” of exchange
335 rates.

336 Economic historians¹⁹ generally agree that three such attempts at “standardized
337 monetarization” (SM) developed between 1870 and our present time: The Gold
338 Standard, the Bretton Woods system and the current emerging system of free capital
339 flow that is subject to negotiated trade rules.

340 The Gold Standard (GS), formalized in 1878, remained in force until the advent
341 of the First World War.²⁰ In simple terms, the monetarization at work here was
342 to link the value of major currencies to a fixed price of gold, setting up a system
343 of regulated exchange rates. The initial key-currency areas committed themselves
344 to a free flow of gold and to convert national currencies at a fixed rate into gold,
345 when requested to do so.²¹ This created a system of standardized monetarization,
346 facilitating international transactions and protecting participants against currency
347 volatility.²²

348

349 ¹⁸Madison (2001) shows how this integration has grown by indicating that for the world as a whole,
350 the ratio of merchandise exports to GDP rose from 5.5% in 1950 to 17.2% in 1995.

351

352 ¹⁹I am not an expert in economics or monetary policy and for this section rely heavily on the
353 exposition by Peter Isard (2005), who was for many years a senior adviser at the IMF, and writer
354 of *Exchange rate economics* (1995).

355 ²⁰There was fractional support for the GS up until 1933 – see Isard (2005, p. 15), footnote 5.

356 ²¹For a simple explanation of the orthodox account of the Gold Standard, see Held et al.
357 (1999, p. 196).

358 ²²In theory at least, this is the first example of a system embodying globally integrated financial
359 markets, where domestic or national economies were subject to international financial discipline, to
360 which they were required to adjust. One might refer to the Gold Standard as the origin of what has

361 However, the collapse of the GS did not remove the need for international
362 monetary cooperation. Already, during the Second World War, negotiations com-
363 menced that eventually led to a monetary agreement amongst the forty-four nations
364 at a conference in Bretton Woods, New Hampshire, July 1944. This became
365 known as the Bretton Woods System (BWS) and entailed the declaration of fixed
366 exchange rate parities by a substantial group of countries (Held et al. 1999,
367 pp. 199–201).

368 In contrast to the GS, the BWS was a managed multilateral system that left indi-
369 vidual countries with considerable autonomy to pursue national economic goals,
370 whilst they subjected their exchange rate and international trade practices to interna-
371 tional agreements. Two important institutions embodied the BWS: The IMF focused
372 on monetary cooperation and an orderly exchange rate system, whereas the World
373 Bank financed economic reconstruction and development (Isard 2005, pp. 27–29;
374 69–118).

375 Gold still played a role, although a considerably different international gold stan-
376 dard was established in this new exchange rate system. The US was the only country
377 that actually pegged its currency to gold (at a par value of \$35 per ounce), but other
378 countries in turn pegged their currencies to the dollar. The BWS was thus a monetary
379 system based on the dollar. In this system, private financial flows were restricted, and
380 to diminish market volatility, the US undertook to sell gold only to foreign central
381 banks and governments, and to licensed private users (Isard 2005, p. 29).

382 According to Held et al. (1999, pp. 201–202), the BWS that formally operated
383 between 1946 and 1971, broke down under exactly the three forces that shaped the
384 current situation of financial globalisation. Firstly, the dramatic increase in highly
385 mobile private capital put the control systems of the BWS under severe stress.
386 Secondly, the emerging Eurocurrency markets (dollar deposits in European banks
387 from multinational companies and the Soviet Union) were also not easily subjected
388 to national capital controls. Thirdly, the OPEC crisis of 1973 resulted in huge flow
389 of funds from oil-exporting to oil-importing countries. This increased the liquidity
390 of international banks with an even greater flow of capital across national bound-
391 aries, and higher speculative trading. In short, the intensity and increasing diversity
392 of global financial flows broke the back of the BWS and its intended stable monetary
393 system. In place of the fixed system, where the value of gold, or the dollar acted as
394 a “standardization measure”, there emerged a floating exchange rate system where
395 the only remaining “standard” was the value assigned to a particular currency by the
396 day-to-day trading on foreign exchange markets (Held et al. 1999, p. 209). Needless
397 to say, in such a system volatility is higher and the power to determine market per-
398 ceptions is a crucial factor in who will gain or loose. The “hot money” of private
399 speculators moves with great velocity and intensity. This has a significant impact on
400 financial markets, in some cases leading to currency crises that threatened national

401
402
403 become known as economic globalization, i.e. “the increasing flow of goods and services, financial
404 resources, workers, and technologies across national borders” (Isard 2005, p. 4).
405

406 and regional economies, due to the contagion effect of emerging market economies
407 (Held et al. 1999, pp. 209, 213).²³

408 This third, and still evolving international monetary system, has retained the
409 major institutions of the BWS (the IMF and World Bank), although their roles
410 have been redefined, due to lessons learnt about currency instability and develop-
411 ment economics. To ensure some coherence in the increasing volume and extent of
412 trade, the WTO replaced the failed GATT, and has become the only global orga-
413 nization dealing with the rules of trade between nations, acting as tribunal in the
414 case of disputes. General trade agreements reached at the WTO are ratified in the
415 parliaments of participating nations, of which there were 146 in 2003 (Bhagwati
416 2004, p. 270).

417 In the first era, the gold standard was fairly tightly controlled with restricted
418 national autonomy. In the BWS, there was more freedom to pursue national eco-
419 nomic goals, but the stability was provided by the gold-dollar price and restrictions
420 on private capital flow. In the current era, there is such a high degree of intercon-
421 nectedness, and such a rapid flow of (speculative) capital that national autonomies
422 are severely restricted – especially in weaker nations.

423 Consequently, there has been a structural shift in the balance of power between
424 public and private authority in the global financial system. This is a matter of
425 fierce debate and one may cite examples and counter-examples, but without being
426 a “hyperglobalist”, one must admit that, “there is much compelling evidence to
427 suggest that contemporary financial globalisation is a market-driven rather than a
428 state-driven phenomenon” (Held et al. 1999, p. 234). The nation-state is, according
429 to Stiglitz, squeezed between political demands at local level, and the economic
430 demands of a global system. The problem is that economic globalisation has
431 outpaced political globalisation, resulting in uncoordinated systems of global gov-
432 ernance, which is particularly evident in issues of global health and the environment
433 (Stiglitz 2006, p. 21). The power vacuum has been filled by the most powerful pro-
434 ponents of unlimited trade liberalization, and by staunch believers in only partially
435 successful “trickle-down” economics (Stiglitz 2006, p. 23).

436 For the purposes of this chapter, I wish to point out a common element in all
437 three monetary systems. *From the beginning they created a fundamental differen-*
438 *tiation between “central” and “periphery”*: The gold standard was managed by
439 the Bank of England in London; the BWS was dependent on dollar policies in
440 Washington; the current emerging financial system is determined by the triad of
441 New York, London and Tokyo. Today’s poorer countries were for the most part still
442 colonized when these monetary systems took shape and they played only a marginal
443 role in their origin and current direction. The consequence is that a hierarchical,
444 uneven and asymmetrical system has emerged (Held et al. 1999, pp. 213, 224) with
445 clear democratic deficits in decision-making power, and trade agreements that make
446 the poorest countries worse off (Stiglitz 2006, p. 58). This forms the background to

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448
449 23 For a discussion of the different currency crises between 1994 and 1999 in Mexico, the Asian
450 countries and Russia, read Isard (2005, pp. 119-151).

451 the establishment of the WTO, the current trade negotiations, and the expectations
452 that Africa has of the latter.

453

454

455 **6.3 Africa's Expectations of the WTO and Doha Trade 456 Negotiations**

457

458 The Doha Development Round of the WTO trade negotiations commenced in 2001
459 and halted in July 2006, continuing on an informal and bi-lateral level. As the
460 promise of multilateral trade negotiations continues to disappoint, Africa is clearly
461 seeking to develop closer ties with the rising giants of China, India²⁴ and to a
462 lesser extent Latin America, in the form of South-South-partnerships. The move-
463 ment toward a truly “Development Round” of trade negotiations raised Africa’s
464 expectations and brought the following salient factors to the fore.

465

466 **6.3.1 Values²⁵**

467

468 Despite experiments in “African socialism” in early post-colonial times, Africa
469 accepts the principles of a market economy to maximize her potential. But con-
470 trary to a narrow mercantilist view of trade negotiations, based on the principle of
471 self-interested bargaining, “economic efficacy and solidarity, efficiency and equity,
472 growth and sustainable development, short term gains and long term prospects”
473 must be combined (AUC 1, p. 10) to inform trade negotiations and to judge their
474 outcomes.

475

476 **6.3.2 Participation**

477

478 Like many other developing regions, Africa has low negotiation capacities both in
479 terms of human resources²⁶ and technical knowledge. “Africa could in effect remain
480 in a ‘spoke’ situation while richer countries with more negotiating capacities are
481 able to place themselves at the centre – the hub – of a network of trade agree-
482 ments” (ECA 2007, p. 90). Africa is in the process of self-developing its trade
483 negotiation capacities, but would need the assistance of the WTO to participate
484 effectively.

485

486 ²⁴ At the first major bi-lateral meeting between Africa and India in New-Delhi (8 April 2008), it
487 was announced that India would grant priority trade access to the least developed countries of the
488 world.

489 ²⁵ See the discussion of *ubuntu* as a value expression under section 5. See also the passionate
490 arguments for embedding fairness and social justice in the WTO by Stiglitz and Charlton (2005).

491 ²⁶ There are hundreds of meetings and informal negotiations to be conducted, but some developing
492 countries can scarcely afford a permanent trade representative in Geneva, and are outnumbered by
493 other countries and the special interest groups that represent them.

496 6.3.3 *Agenda*

497

498 An explicitly pro-development agenda holds the potential to overcome the imbal-
 499 ances of earlier trade negotiations (e.g. the Uruguay Round) by actually reforming
 500 the multilateral trading system to ensure a more equitable share in the gains of global
 501 trade (ECA 2007, p. 76). Africa has a particular interest in negotiations concerning
 502 agriculture and services. Although the outcomes have not been finalized, there is
 503 at least agreement in principle that the distorted subsidies in the North, and market
 504 access for the South should be realized by 2013, though intermediate deadlines have
 505 yet to be achieved.

506

507

508 6.3.4 *Trade Liberalization and “Aid for Trade”*

509

510 Africa accepts trade liberalization as the general aim of trade negotiations, but has
 511 been at the receiving end of failed development interventions in the form of enforced
 512 structural adjustment programmes (AUC 1, p. 9). Therefore, allowance must be
 513 made for trade liberalization according to the development needs and adjustment
 514 capacities of a particular country or region, because a “one size fits all”-strategy
 515 creates huge adaptation costs and actually retards development (ECA 2007, p. 87).
 516 In this regard, Africa supports the notion of aid specifically aimed at meeting
 517 the adjustment cost of trade liberalization. However, it is important that this aid
 518 is not misused as a political weapon in the negotiation process, or as a replace-
 519 ment for current aid commitments (0.7% of Gross National Income) (Stiglitz &
 520 Charlton 2006).

521

522

523 6.3.5 *African Union Initiatives and the Question of Identity*

524

525 The underlying question facing the AU is how to regain relative autonomy and ini-
 526 tiative for a continent that has lost its sense of self-worth over the past 500 years?
 527 This is extremely difficult for a continent that is emerging from colonial rule, and
 528 finding itself on the margins of a global system from which it cannot and does not
 529 want to escape, but where the power to shape that system towards justice and equity
 530 is clearly lacking. This fundamental question of identity underlies initiatives like
 531 NEPAD and the African Renaissance. In a courageous paragraph the AUC writes:

532

533 Therefore, as far as Africans are concerned, it is no longer a question of catching up with
 534 anything; it is no longer a question of trailing behind any one or being relegated to the
 535 sidelines by anyone; rather, it is a question of being at the centre of their own affairs.
 536 Africans should devise for themselves watchwords, namely self-development, self-reliance,
 537 self-reliance for recognition and development... Having thus clarified the direction of its
 538 endeavors for full development, Africa can seek to integrate itself into the globalization
 539 process without losing its soul (AUC 1, p. 10).

540

541 One could translate the above as follows: Without reconstructing the African
 542 identity, socio-economic reconstruction will be extremely difficult. This brings trade

541 negotiations into the ethical arena of cultural justice and the rights of indigenous
542 peoples. Only then can the hard economic policies outlined by the AU follow,
543 namely: modernization of agriculture; acceleration of industrialization; beneficia-
544 tion of Africa's enormous mineral wealth; integration of the sub-regions of Africa;
545 and a decisive drive towards the diversification²⁷ of African economies.

546

547

548 6.4 Differential Treatment and Prioritarian Justice

549

550 Africa has high expectations concerning the principle of “special and differential
551 treatment” (part of GATT and accepted by the WTO) and especially the hope that
552 it will be mainstreamed into all trade negotiations and enforced in practice. For
553 example, there are 34 African countries in the Least Developed Countries (LDC)
554 group, and initiatives such as the Generalized System of Preferences and the EU's
555 “Everything but Arms” have brought additional benefits to them. Although not
556 directly related to WTO negotiations, special actions like debt relief²⁸ and collective
557 efforts to reach the Millennium Development Goals are important to many African
558 countries.

559 The notion of “special and differential treatment” introduces *new kinds of jus-
560 tice* that were previously absent or under-represented. One thinks, for example, of
561 emerging debates about ecological justice, inter-generational justice, cultural jus-
562 tice²⁹ and participative justice.³⁰ Africa understands that it will never reach a point
563 of higher integration into the global economy unless a *redefinition of distributive
564 justice* in the context of an integrated global monetary system is accepted.

565 Distributive justice³¹ is a form of socio-economic justice that regulates the dis-
566 tribution of goods and services amongst the people of a specific society, or amongst
567 societies in a regional or global arrangement. The result of such a distribution will
568 obviously depend on the notion of justice and the specific theory of justice adopted.

569

570

571

572 ²⁷Note the sub-title of the Economic Report on Africa: “Accelerating Africa's development
573 through diversification” and the discussion of diversification in the report itself (ECA 2007,
574 p. 113ff).

575 ²⁸Of the 19 countries that reached completion point in the HIPC debt relief process, 15 were from
576 Africa.

577 ²⁹This is a form of justice not as widely discussed in the literature yet. I have found the essay
578 by Kwenda (2003) very helpful in this regard. He argues that cultural justice is established when
579 people are allowed unselfconscious living, i.e. they live in acceptance and appreciation of their
580 own identity. For an analysis of the link between cultural justice, identity and globalization, read
Naudé (2005).

581 ³⁰Bedford-Strohm makes the astute observation that both material and socio-cultural poverty find
582 their origin in “fehlende Teilhabe” (1993, p. 169). People are poor because of a lack of participation
583 in the (in)formal economy and a lack of power to influence decisions. This is one of the most urgent
issues in discussions of global economic justice today.

584 ³¹For a definition and wide-ranging discussion of different theories of distributive justice, read
585 Roemer (1998).

586 Egalitarian understandings of justice will, for example, seek to spread benefits more
 587 evenly than entitlement notions of justice.³²

588 There is now a growing consensus that to make the emerging global monetary
 589 system moral and sustainable, special focus on disadvantaged nations and people is
 590 needed. The notion of “preferential” treatment, has over the last few decades been
 591 expressed in different terms by theologians, philosophers and economists:

592 In the 1960s and 1970s, Latin American liberation theologians³³ – followed later
 593 by African liberation theologians³⁴ – developed “the preferential option for the
 594 poor” as a prophetic critique against failed development and structural adjustment
 595 policies in Latin America and Africa.

596 John Rawls developed his ideas about “justice as fairness” and the priority of
 597 the least advantaged person in his remarkable book, *A theory of justice* (1971). He
 598 based this on his judgment that utilitarian ethics that simply maximizes happiness
 599 will not create just societies, and later (1999) stated that burdened societies need –
 600 at least for a specified period – special assistance in a new global order.

601 Joseph Stiglitz (2006) recently made a strong economic argument to replace
 602 “reciprocity for all” with the dictum of “special and differential treatment” for the
 603 poor nations of the world. In what he calls “fair trade for the poor”, he suggests a
 604 reform of international trade. This reform entails that the principle of “reciprocity
 605 for and among all countries – regardless of circumstances” should be replaced by
 606 the principle of “reciprocity among equals, but differentiation between those in
 607 markedly different circumstances” (Stiglitz 2006, p. 83, my emphasis).

608 In practice, Stiglitz proposes a three-tier system of rich, middle-income and poor
 609 countries – a classification based on agreed empirical norms. The rich countries
 610 open up their markets to others in their own group, but also to the middle-income
 611 and poor countries without reciprocity, or political conditionality expected from the
 612 latter two groups. The middle-income group opens trade to all in its own group
 613 and to the poor countries without conditionality, but is not required to extend such
 614 preferences to the rich countries. In such a system, developing nations will receive
 615 “special and differential treatment”, as has already happened in some bilateral trade
 616 agreements (see the EU in 2001; Stiglitz 2006:83). However, such preferential treat-
 617 ment should not be voluntary, but become part and parcel of WTO negotiations and
 618 enforced in fields such as agriculture, tariffs and non-tariff barriers.

619 The clear WTO Ministerial Declaration adopted on 14 November 2001 gave
 620 Africa at least, theoretical hope:

621 We agree that special and differential treatment for developing countries shall be an inte-
 622 gral part of all elements of negotiations and shall be embodied in the schedules and
 623

624 ³²This difference is, for example, illustrated in the debate between John Rawls (egalitarian view)
 625 and Robert Nozick (entitlement view).

626 ³³The most famous proponent of this radical challenge to traditional Catholic social thought is
 627 Gustavo Gutierrez, whose classical Spanish exposition was published in English as *A theology of
 628 liberation* (1973).

629 ³⁴Well-known names are Manas Buthelezi, Desmond Tutu, Itumeleng Mosala, Allan Boesak, and
 630 womanists like Mercy Oduyoye and Isabel Phiri.

631 concession and commitments and as appropriate in the rules and disciplines to be nego-
632 tiated, so as to be operationally effective and to enable developing countries to effectively
633 take account of their development needs, including food security and rural development
634 (paragraph 13).

635 We as Africans view this as a sincere commitment to and as a yardstick for the
636 processes and outcomes of trade negotiations.
637

638 6.5 Ubuntu as Guiding Philosophy for a New Trade Regime?

641 The ancient value system of traditional African societies is condensed in the notion
642 of *ubuntu*.³⁵ Whereas the Enlightenment view of the human person – power-
643 fully expressed by, for example, René Descartes and Immanuel Kant – focuses
644 on individuality and an assumed universal rationality, African philosophy rests on
645 the assumption of communality: *Cogito ergo sum* stands in contrast to *ubuntu* as
646 explained by African philosopher, John Mbiti (1969, pp. 108–109): “I am, because
647 we are; and since we are, therefore I am.” In short: I am a person through other per-
648 sons. The “other” does not stand in an accidental or a posteriori or pragmatic relation
649 to me, but is in fact a constitutive ontological part of my identity. My success is
650 invariably tied up with the promotion of communal well-being, and the criterion of
651 “success” is not in the first place material wealth accumulation, but the promotion
652 and restoration of vital force, the life-giving spirit that permeates our existence and
653 the cosmos of which we are a part.

654 If one translates this ethic from its tribal and local roots, to the emerging global
655 order, one realizes that what the ecological crisis and global warming recently
656 brought to our attention – namely that we share this finite world and we are liter-
657 ally dependent upon one another and cannot “go it alone” – was already embedded
658 in ancient African wisdom. A trade negotiating system, primarily imbued by self-
659 gain in the power game of win-lose-scenarios, may lead to short term “victories”,
660 but will not yield the required social goods for sustainable economic growth in the
661 medium to long term.

662 If all countries enter trade negotiations on the premise to build one human com-
663 munity, they will understand that building such a community requires sacrifices,
664 and at times altruism instead of strict reciprocity. Furthermore, if burdened societies
665 (Rawls) that are in transition are treated in a special and differential way – Africa
666 might at one point in history also be in a position to reciprocate materially to a
667 greater extent than is possible at the moment.

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³⁵ *Ubuntu* has been widely discussed by African and other international scholars. Mbiti (1969) is
676 considered to be the *locus classicus* in academic literature in this regard. Recent contributions are
677 by Gyekye (1996), Ramosa (1999) and Shutte (2001). Like all good notions, *ubuntu* has also been
678 misused and must obviously be subject to critical analysis. *Ubuntu* has in recent years also been
679 translated into business management and leadership literature. See for example Broodryk (2005)
680 and Mbigi (2005).

676 Despite the shortcomings of the WTO,³⁶ ranging from member access to asymmetric
 677 enforcement, the Ministerial Declaration does reflect this spirit of a single
 678 world community:

679 We recognize the need of *all our people* to benefit from the increased opportunities and
 680 welfare gains that the multilateral trading system generates... We shall continue to make
 681 positive efforts designed to ensure that developing countries, and especially the least developed
 682 among them, secure a share in the growth of world trade commensurate with the needs
 683 of their economic development (paragraph 2, my emphasis).

684 As far as we keep one another to this vision, there is indeed hope.
 685 Nkosi sikelel' iAfrika!³⁷

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 721 36 See the incisive critique of both the assumptions and actual functioning of the WTO by
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Chapter 7

Fairness in International Trade and Investment: Latin American Challenges

Elio Ferrato and Maria Cecilia Coutinho de Arruda

7.1 Introduction

The objective of this chapter is to discuss a Latin American perspective on three topics raised by the coordination of the International Society of Business, Economics, and Ethics (ISBEE), as part of the Global Research Project on Fairness in International Trade and Investment:

1. To what extent are the workings and outcomes of the WTO perceived as fair in your region?
2. What are the main ethical issues regarding the WTO in your region?
3. What developments are there in your region to address these ethical issues?

Despite differences in the social, economic and historical formation of Latin American nations, we can assume that the data and ideas in this paper are sufficiently representative, as we have relied upon regional sources such as Economic Latin America and the Caribbean World Trade Organization (WTO), Economic Commission for Latin America and Caribbean (ECLAC), Inter-American Development Bank (IADB), and professional and academic associations and universities, among others, in twelve countries in the Region.

7.2 Fairness in International Trade

Speeches and proposals of member countries in the WTO, either poor or rich, often mention the need for fairness, justice and legitimacy. The actor, other negotiating parties, and the forum in which negotiations are taking place are factors that influence the criteria for a clear definition of fairness.

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46 Thomas Franck's conception of fairness has often served as a starting point:

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48 . . . fairness is a composite of two independent variables: legitimacy and distributive justice.
49 Thomas Franck's Fairness discourse is the process by which the law, and those who make
50 law, seek to integrate those variables, recognizing the tension between the community's
51 desire for both order (legitimacy) and change (justice), as well as the tensions between
52 different notions of what constitutes *good* order and *good* change in concrete instances
(Franck, 1995, pp. 26–27).

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54 Suranovic (2000) described seven principles to divide *equality fairness* and
55 *reciprocity fairness*. Equality fairness includes non-discrimination, distributional
56 fairness and golden rule fairness. Reciprocity fairness embraces positive reciprocity
57 fairness, negative reciprocity fairness, privacy fairness, and maximum benefit
58 fairness.

59 Davidson et al. (2006) describe a series of surveys related to what they call a
60 "language" of fairness. Among several meanings, the authors indicate that "one of
61 the most fundamental foundations for public claims about fairness in Liberal society
62 is (in)equality. Conditional on a wide variety of contextual information, there is
63 considerable evidence that people possess some preference for equality" (p. 997).
64 "We are only at the very beginning of a systematic understanding of the public
65 politics of trade policy, but it seems likely that an understanding of the politics of
66 fairness will be central to any advance in this area." (p. 1001)

67 In a more concrete way, for Narlikar (2006) fairness means legitimacy of pro-
68 cess and equity of outcomes in the context of the General Agreement on Tariffs and
69 Trade / World Trade Organisation (GATT/WTO). Analyzing the shifts in attitudes of
70 developing countries toward the GATT/WTO, she noticed some changes in the con-
71 cepts. Different concepts may result in "claims that are mutually contradictory and
72 yet equally legitimate" (p. 1005). Disputes between North and South may indicate
73 these differing claims.

74 Brown and Stern (2007) argue that fairness in the global trading system is not to
75 be understood as a moral principle, but as an instrumental criterion. Thus, equality
76 of opportunity and distributive equity are conditions for fair agreements.

77 Our understanding is that Brown and Stern's principles to guide the relation-
78 ships among WTO members should be reciprocity, most favored nation treatment
79 and national treatment. Furthermore, the respect given to these values should be
80 considered moral and not only instrumental. De Jasay (2006) even discusses the
81 convergence of the terms *fairness* and *justice* whose concepts are frequently applied
82 as synonymous.

83 84 85 7.3 Perception of Fairness in Workings and Outcomes 86 of the WTO in Latin America

87 A starting point is to look at the WTO self definition and its statement of main
88 purposes:

91 The World Trade Organization is the only international body dealing with the rules of trade
92 between nations. At its heart are the WTO agreements, negotiated and signed by the bulk
93 of the world's trading nations. These documents provide the legal ground-rules for inter-
94 national commerce. They are essentially contracts binding governments to keep their trade
95 policies within agreed limits. Although negotiated and signed by governments, the goal
96 of these contracts is to help producers of goods and services, exporters, and imports con-
97 duct their business" ...the system's overriding purpose is to help trade flow as freely as
98 possible – so long as there are no undesirable side-effects. That partly means removing
99 obstacles. It also means ensuring that individuals, companies and governments know what
100 the trade rules are around the world, and giving them the confidence that there will be no
101 sudden changes of policy. In other words, the rules have to be "transparent" and predictable.
102 Because the agreements are drafted and signed by the community of trading nations, often
103 after considerable debate and controversy, one of the WTO's most important functions is to
104 serve as a forum for trade negotiations. A third important side to the WTO's work is dispute
105 settlement. Trade relations often involve conflicting interests. Contracts and agreements,
106 including those painstakingly negotiated in the WTO system, often need interpreting. The
107 most harmonious way to settle these differences is through some neutral procedure based
108 on an agreed legal foundation. That is the purpose behind the dispute settlement process
109 written into the WTO agreements (WTO 2008).

110 The General Agreement on Tariffs and Trade (GATT) had provided the rules for
111 the trading system since 1948. The Uruguay Round lasted from 1986 to 1994 and
112 led to the creation of the WTO on 1 January 1995, but its trading system seemed
113 half a century older. Whereas GATT had mainly dealt with trade in goods, the WTO
114 and its agreements now additionally cover trade in services and in traded inventions,
115 creations and designs (intellectual property).

116 A framework to address the topic Fairness in International Trade and Investments
117 was Singer's four charges to WTO, which appear to be applicable to Latin America:
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- 119 1. The WTO places economic considerations ahead of concerns for the environ-
120 ment, animal welfare, and even human rights.
- 121 2. The WTO erodes national sovereignty.
- 122 3. The WTO is undemocratic.
- 123 4. The WTO increases inequality; or (a stronger charge) it makes the rich richer
124 and leaves the world's poorest people even worse off than they would otherwise
125 have been (Singer 2002, p. 16).

126 These charges raise a question: How can one identify or make such a judgment
127 about WTO? Concerning Latin America, it seems that most dispute panels and
128 results are almost solely controlled by the WTO. According to its internal principles,
129 some decisions may be interpreted as complying with particular interests. This can
130 be judged as undemocratic, as it erodes national sovereignty and increases inequal-
131 ity. A current example of that is the Doha Round. Apparently, instead of moving
132 forward to positive results for every country involved, it seems to go backwards,
133 imposing that developing countries individually negotiate – as much as possible –
134 with developed countries.

135 The evidence to support the first of Singer's charges to WTO is often found
136 in the media, for instance, when the global warming risk to mankind is pointed
137 out. Regarding Latin America, a large area of the Amazon rainforest is located in

136 different countries. Little international support has been offered to preserve it from
137 devastation and erosion. The WTO seems indifferent to the impact of free trade on
138 workers' rights, child labor, the environment and health. These and other realities
139 may indicate that WTO lacks democratic accountability, in that its hearings on trade
140 disputes are closed to the public and the media (BBC 2008). The IADB (2007a) has
141 raised significant issues in the health sector, which are a consequence of corruption
142 and lack of transparency. The studies provided by the IADB (2007b) can be helpful
143 to support strategies, policies and procedures of the WTO, related to sustainable
144 development of Latin America and the Caribbean.

145 The Uruguay Round discussed the need of a fair and market-oriented agricultural
146 trading system. This could be reached with more discipline in the areas of market
147 access, export subsidies and internal support. Protectionism has been shown to be
148 an obstacle to the development of the countries and the achievement of positive
149 results with such a system. WTO should be concerned and neutral about the eco-
150 nomic opportunities of developing countries, which have commodities to offer and
151 are attempting to develop manufacturing industries, while developed countries tend
152 to protect their agricultural markets, imposing the export of industrialized products.
153 It would be a responsibility of WTO to reduce this inequality. On the other hand,
154 Latin America and the Caribbean countries tend to adopt offensive and defensive
155 positions on different topics within agricultural negotiations. For instance, Brazil
156 and Argentina have proposed ambitious proposals on tariff cuts. However, China,
157 India and South Africa have significantly supported proposals such as trade facil-
158 itation, intellectual property, and public health, special and differential treatment
159 (ECLAC 2006).

160 As reported by Klapper from Associated Press (2007), in a meeting promoted by
161 WTO involving the United States (US), European Union (EU), Brazil and India, it
162 would be "crucial" if the WTO were to succeed in concluding a deal to liberalize
163 the world by the end of 2007. The US and Brazil disagreed in that meeting over
164 how far the US should cut farm subsidies as part of a global trade pact. The US indi-
165 cated it was willing to limit its trade-distorting farm subsidies to \$17 billion, while
166 Brazil insisted on a figure somewhere below \$ 15 billion. Critics of the subsidies say
167 they unfairly depress international prices, making it impossible for poorer nations
168 to develop their economies by selling their agricultural products abroad (Singer's
169 fourth charge). The North American government has not publicly moved since
170 offering in October 2005 to restrict its subsidies to \$ 22 billion. Both the US and
171 EU say that their agriculture concessions must be matched by lower industrial tar-
172 iffs in Brazil and India. The Doha Round is already years behind schedule and may
173 set the whole process back to 2010 as subsidy and tariff concessions were seen as
174 unlikely in 2008, when US elections were held, and in 2009, when Indian elections
175 are scheduled.

176 As per Djelic and Quack (2003), the rational choice perspective is found predom-
177 inantly amongst economists and political scientists, particularly, for the latter group,
178 in the International Relations literature. Nevertheless, some politicians and scholars
179 of other areas seem also to be concerned about the growth of social problems caused
180 by the lack of equilibrium in international commerce. Such a perspective tends to

181 focus on formal and structural political and economic institutions worldwide. To a
182 certain extent, this could explain how and why corruption is universalized and lasts
183 so long. Despite an intense effort of the Organization for Economic Co-operation
184 and Development (OECD), World Bank, IADB and of other organizations to eradicate
185 it in many countries, in Latin America, corruption deeply affects the image
186 of the Region and enables barriers to be imposed in international commerce. As
187 a paradox, a United Nations (UN) publication (UNCTAD, 2008) indicated Latin
188 America as an excellent region for foreign long-term investments, because Brazil
189 is ranked 8 in the world after the United Kingdom (UK), The Netherlands, France,
190 US, China, Singapore, and Russian Federation. Very recently, the two most famous
191 rating Indicators, Standard & Poor's and Fitch, have elevated Brazil to Investment
192 Grade, which is going to speed up direct investments in the country. For the
193 time being in Latin America only Chile, Peru, Brazil, and Mexico are qualified
194 Investment Grade. On the other hand, research reports have found, and authorities
195 have warned, about some kinds of corruption (*Transparency International* 2007 and
196 *Transparencia Brasil* 2007). A controversial explanation of this fact is that Latin
197 American countries were discovered and settled by developed countries. For cen-
198 turies developing countries served as a source of genuine raw material suppliers, no
199 matter the social cost to reach the goals. According to this perspective, the creation
200 of the WTO as an institution to mostly support the interests of rich countries can be
201 perceived as unfair by many Latin Americans (Abramo 2007a, b).

202 According to its objectives and mission, the un conformity of certain procedures
203 by the WTO can be perceived as unfair by societies, especially in the developing
204 world. In many ways, good examples were expected from the developed countries,
205 concerning the capacity and skills to orchestrate actions toward the developing and
206 less developed ones. Rich countries can be, and have been shown to be, as corrupt
207 as less developed or developing nations. In fact, the means of communication have
208 disclosed scandals in the US, Japan, UK, Italy, France and several others countries
209 widely perceived as less corrupt. Therefore, poverty should not be perceived as a
210 synonym of corruption, as ethics does not necessarily mean wealth (IADB 2007b).

211 Therefore, the existence of irregular or unfair decisions by WTO leads develop-
212 ing countries to lose confidence about those who are supposed to manage based on
213 principles of goodwill, moral equilibrium, equity and integrity (Llano 1991a, b, c).

214 Nevertheless, it is plausible, and it would be unfair not to recognize, that WTO
215 has provided among countries in Latin America a certain impulse for the devel-
216 opment of a free trade sense, especially with the assistance of the International
217 Chamber of Commerce (ICC), based in most countries in the world, by establishing
218 the Incoterms (2000) and Banking Regulations through Brochure 600 (ICC 2008).

219 220 7.4 Ethical Issues Regarding the WTO in Latin America

221 Ethical issues regarding international trade and investment can be closely related
222 to the image of countries that have experienced economic uncertainties and politi-
223 cal instabilities since they were created. In this regard, the Link Global Economic

Outlook (United Nations, 2007) states that the trade balances in developing countries reached the amount of 615.4 billions of US dollars against 62.9 billions of US dollars in Latin America and the Caribbean. The annual growth rate of real Gross Domestic Product (GDP) in developing countries reached 6.9% in 2007 against 5.2% in Latin America and the Caribbean, which puts Latin America behind the rest of the developing world. Aiming at change, some corruption tools have been shaped mainly by non-governmental organizations (NGOs) in several countries in Latin America. A number of politicians perceive that corruption may lead to a sad end of a career, either for those who decide to be corrupt or those who act as the corruptor. Booklets and books have been issued by individuals and NGOs, to explain the procedures to impeach mayors in city government throughout Latin America. In addition, specifically in Brazil, private initiatives are developing a sustainability program for competition among local (national and transnational) corporations, associating financial results to environmental and social targets, as a way to inhibit corruption and promote ethical development. It expresses goodwill to eliminate corruption, aiming at possibilities to progressively increase local and external trade and investments.

Contrasting situations may remain, no matter the political trends in government. In spite of all uncertainties and complexities, Latin Americans' typical spirit is described by Castells (1975) and Osland et al. (1999) as full of personal dignity, classism, personalism, paternalism, collectivism, humor and happiness. The easy-going style may hide some lack of trust and opportunism, and does not deny the stigma inherited from slavery, not only of Negroes or natives in the pre-colonial era, but also of whites composed of European immigrants, especially those not affected by the savage capitalism.

Some figures on international merchandise and services trade in Latin America can be helpful to understand these ideas. Table 7.1 offers a general view of trade operations by Latin American countries.

It is obvious that these figures indicate relevant factors that contributed to the countries' economic growth as a result of international trade. Nevertheless, social improvement still needs the boost of political measures to establish a sort of equilibrium in the respective economies, in order to diminish or eliminate severe debts that "erode national sovereignty" (Singer 2002).

Table 7.1 shows positive Account Balance in Argentina, Bolivia, Brazil, Chile and Venezuela. Other Latin American countries would have many reasons for the important debts upon the International Monetary Fund (IMF), the World Bank and other financing organizations, mainly those owned by private banks and equities in developed countries.

Again, Table 7.1 indicates that the growth itself (imports and exports) seems to be excessively high. Nevertheless, looking at the results of fifteen years, the outcomes can be considered poor and far away from ideal, especially when compared with Asian countries.

It is important to notice in Table 7.1 that most Latin American countries presented a negative balance trade during a long period of time. The results could suggest

271 **Table 7.1** Trade development in the period 1990–2005 (in percentage, accumulated)

272 Countries	Imports (%)	Exports (%)	Trade Balance (*) (%)	Current account balance(**)
273 Argentina	510	313	−197	127%
274 Bolivia	264	323	+59	493%
275 Brazil	347	382	+35	528%
276 Chile	416	467	+51	218%
277 Colombia	363	281	−82	Negative
278 Costa Rica	457	495	+38	Negative
279 Cuba	Not registered	Estimated 159	Unknown	Not registered
280 Dominican Republic	507	548	+41	Negative
281 Ecuador	469	350	−119	Negative
282 El Salvador	471	470	−1	Negative
283 Guatemala	526	314	−212	Negative
284 Honduras	448	331	−117	Negative
285 Mexico	468	472	+4	Negative
286 Nicaragua	482	474	−8	Negative
287 Panama	253	242	−11	Negative
288 Paraguay	189	156	−33	Negative
289 Peru	371	471	+100	Negative
290 Suriname	183	163	20	Negative
291 Uruguay	279	235	−44	Negative
292 Venezuela	305	302	−3	+ 308%

293 Source: World Trade Organization (2007), adapted by the authors

294 (*) Trade Balance is the arithmetical difference between imports and exports per country, in the
295 period 1990–2005

296 (**) Current Account Balance represents the sum Trade Balance + net factor incomes + transfer
297 payments in the period 1990–2005

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300 that WTO should re-visit David Ricardo's (Ricardo 1817) comparative advantage to
301 better understand what happened to Latin America in the period 1990–2005.

302 Table 7.2 shows the low social and economic growth in Latin America. An impor-
303 tant point to be observed is that no single Latin American nation presented a GNP
304 *per capita* higher than US\$ 9,000.00 in the year 2006.

305 It appears to be significant that about 8 million families in Latin America (out of
306 524 million inhabitants in the Region) can afford monthly installments of US\$ 200
307 to cover college expenses (MEC/INEP).¹ By the way, only three Latin American
308 universities are cited among the best 200 in the world. The University of Sao Paulo
309 and the University of Campinas in Brazil are respectively ranked 175th and 177th
310 positions. The National Autonomous University of Mexico occupies the 192nd (QS
311 World University Rankings 2007).

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314 ¹ See www.inep.gov.br. Accessed 29 October 2009.

Table 7.2 Nominal GDP in the period 1990–2005

Countries	1990 (Millions US\$)	2005 (Millions US\$)	Population/ (thousands)/GNP* per capita in US\$-2006	Average Growth rate 2004–2005 (%)
Central America				
Costa Rica	7.254	19.818	4.399/4,792	2.3
El Salvador	4.801	16.980	6.762/2,188	2.1
Guatemala	7.650	31.923	13.029/1,610	3.2
Honduras	3.049	8.374	6.969/1,365	4.2
Mexico	262.710	768.437	105.342/6,322	2.8
Nicaragua	3.598	4.910	5.532/843	4.0
Panama	6.077	15.241	3.288/4,749	5.5
South America				
Argentina	141.353	183.310	39.134/8,733	9.2
Bolivia	4.868	9.728	9.354/1,058	2.7
Brazil	438.228	799.413	189.323/4,021	3.3
Chile	33.507	111.339	16.465/5,873	5.9
Colombia	47.743	121.877	45.558/2,674	4.0
Ecuador	11.248	33.062	13.202/1,608	0.7
Guyana	396	786	739/858	-2.8
Paraguay	4.904	7.684	6.016/1,396	2.7
Peru	29.281	76.607	27.589/2,555	5.5
Suriname	467	1.503	455/2,343	5.1
Uruguay	8.368	16.792	3.331/6,770	6.4
Venezuela	47.028	132.373	27.191/5,429	9.3

Source: UNCTAD, 2008/CEPAL (United Nations, 2007), adapted by the authors

* Per capita gross product, at constant market prices – dollars at constant 2000 prices

According to Table 7.2, only 6 out of 19 countries achieved more than US\$ 1 hundred billion of Nominal GDP in 2005. Brazil, Mexico and Argentina lead the group. Most Latin American countries depend considerably on exports of commodities in general to develop their economies. However, due to Doha Round decisions by developed countries, the barriers remain strong and seem to limit the growth of developing countries. The major reason why developing economies do not open up to the developed world is in response to those barriers. They may be procrastinating future social problems, as they open facilities for opportunism to manage countries with weak or no institutional rules. Douglas North, the 1993 Nobel Prize of Economics winner, stated: “Only countries that develop solid institutions will have progress” (North 2004).

Latin America ended 2009 with various leftist governors. Why? Singer’s charges or arguments of 2002 still seem to be valid. No significant changes have occurred since then. A simple case, among others, could be added to Singer’s report. In 2001, Brazil submitted a trade consultation question to the US through the WTO. No answer was received by 2008. Who is to be blamed for such a delay? Meanwhile, Brazil continued to face barriers in the introduction of certain goods in the US.

361 Not written down but apparently effective is that trade flow is tied up by economic
362 interests that transcend the WTO limits of power. More bargaining articulation is
363 given to developed nations as compared to developing ones. Speaking in financial
364 terms, developing countries have had a very limited participation as members of
365 the WTO. This issue is frequently summarized in the question: Does every member
366 have the same power to vote in the sessions? If not, why? The transparency concept
367 mentioned in the WTO purposes can become questionable, as dispute panels proce-
368 dures are not described. It is not clear who is nominated to participate in a dispute
369 judgment.

370 Interpretation seems to be another issue. As an example, the import of sec-
371 ond hand tires into Brazil from other Latin American countries has been stopped
372 by the WTO, while the EU received the exclusive right to be the only economic
373 group to export those goods to Brazil. Apparently this is not what fair trade
374 implies.

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377 **7.4.1 Protectionism and Barriers Suffered by Latin American 378 Countries**

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380 Despite all efforts of developing countries to reduce tariffs, developed countries
381 found new ways to reinforce protectionism on the basis of non-tariff barriers:
382 sanitary, phytosanitary and environmental. A recent example is the European
383 embargo towards Brazil, one of the most important beef exporters in the world,
384 and the major supplier of the EU. A list of qualified sanitary farms, ready to
385 export beef, was presented to the EU and refused. Disproportional criteria were
386 required from some countries, characterizing a true protectionism measure to ben-
387 efit Ireland. The Brazilian Government and the Associacao EuBrasil (EuBrazil
388 Association) considered the decision a real boycott. Cristiana Muscardini, an Italian
389 Congresswoman, sent a document to Mr. Markos Kiprianou, head of the European
390 Health Commission, stating:

391 One thing is correct: the European Union never registered a case of aphthous fever
392 attributed to the beef imported from South America. As opposed to Ireland and the United
393 Kingdom, Brazil currently has no registration of any case of mad cow and the beef exported
394 to the European Union follows the standards established by the World Animal Health
395 Organization, according to which the aphthous fever virus can not survive ... the restric-
396 tions are purely commercial and protectionist, with no scientific basis. (Muscardini 2007,
397 our translation)

398 Similar controversy seems to exist in the WTO concerning the Agriculture
399 Agreement. Constant conflicts of interest between developed and developing coun-
400 tries rise due to the lack of compliance with the commitments assumed in the
401 Uruguay Round (Jank 2005; Carvalho 2007). The current ethanol case is a typical
402 example.

403 A Brazilian sector that may attract more international attention in what relates to agricultural
404 subsidies is the sugar-alcohol production. The catalyser of this process would be a proposal

406 from the United States to establish a partnership with Brazil, broadening the global market
407 for ethanol, so that this product could become a global commodity. Such a partnership
408 foresees the involvement of other South American countries, either in the biofuel production
409 or the consolidation of the consumer market. (Carvalho 2007, p. 88).

410 Jank (2005) calls attention to the circumstances that may lead to a new kind of
411 protectionism. When the main focus of discussions and negotiations related to the
412 Agriculture Agreement are the reduction of subsidies and tariffs, and the increase of
413 quotas of exports, new trends seem to be consolidating the application of sanitary
414 and phytosanitary measures to food products. The Sanitary and Phytosanitary (SPS)
415 Agreement seems to be an efficient support for agricultural protectionism, due to
416 the rapid results that each of these measures can generate.

417 Taking this into consideration, it seems strange that the WTO allows an exception
418 to free trade as a protectionist measure, using as tools the high and legitimate
419 interests of protecting human, animal and vegetable life and health. "Between 1995
420 and 2004, 204 specific trade issues related to the SPS Agreement were detected by
421 the WTO Secretariat." (Carvalho 2007, pp. 88-89).

422 Several situations have been analyzed by the Agency for Solving Controversies,
423 which belongs to the WTO. For instance, the Peruvian *sardine* generated a recent
424 controversial issue. Its species was classified as *Sardinops Sagax*, found in the
425 Pacific coast of Peru and Chile. In the North Atlantic and in the Mediterranean, the
426 common species was named *Sardina pilchardus*. Both were sold as tinned sardines.
427 In 2001, the EU claimed that only products using *S. pilchardus* could be sold for
428 tinned sardines. Peru's appeal was accepted in 2002 (Carvalho 2007).

429 It is also clear that Article X: 3 of the GATT 1994 establishes certain minimum
430 standards for transparency and procedural fairness in the administration of trade
431 regulations which, in our view, are not met here. The non-transparent and *ex parte*
432 nature of the internal governmental procedures applied by the competent officials in
433 the Office of Marine Conservation, the Department of State, and the US National
434 Marine Fisheries Service throughout the certification processes under Section 609,
435 as well as the fact that countries whose applications are denied do not receive formal
436 notice of such denial, nor of the reasons for the denial, and the fact, too, that there is
437 no formal legal procedure for review of, or appeal from, a denial of an application,
438 are all contrary to the spirit, if not the letter, of Article X:3 of the GATT 1994 (Da
439 Silva 2002):

440 The provisions of Article X: 3191 of the GATT 1994 bear upon this matter. In our view,
441 Section 609 falls within the "laws, regulations, judicial decisions and administrative rulings
442 of general application" described in Article X: 1. Inasmuch as there are due process
443 requirements generally for measures that are otherwise imposed in compliance with WTO
444 obligations, it is only reasonable that rigorous compliance with the fundamental requirements
445 of due process should be required in the application and administration of a measure
446 which purports to be an exception to the treaty obligations of the Member imposing the
447 measure and which effectively results in a suspension *pro hac vice* of the treaty rights of
448 other Members. (Da Silva 2002).

449 Since 1991, Brazil has suffered such barriers in other fruits or vegetables, regarding
450 the Sanitary and Phytosanitary (SPS) agreement. Long inspection and liberation

451 processes either in local ports, or in the importer countries, mostly in the US char-
452 acterizes the protectionism that jeopardizes the developing nations, condemning
453 them to become only suppliers of primary goods for developed countries and going
454 against the equal conditions preconized by the WTO (Moraes 1995):

455 Despite progress, SPS measures remain significant barriers in many cases, in part driven by
456 Brazil's implementation of the harmonized phytosanitary standards of the Southern Cone
457 Phytosanitary Committee (COSAVE). Brazil prohibits the entry of poultry products from
458 the United States, alleging lack of reciprocity. The issue, however, should not be reciprocity,
459 but rather the fulfillment of WTO obligations regarding sanitary and phytosanitary
460 decisions, which dictate that such determinations shall be based only upon sufficient scientific
461 evidence. Brazilian legislation bans the importation of beef produced with growth
462 hormones; however, beef imports from the United States have been allowed on a waiver
463 basis since 1991. (Da Silva 2002).

464 The Doha Round still does not include this issue in the agendas of the WTO
465 meetings. The complexity of SPS measures, as well as the stages of application and
466 requirements to be followed, seems to bring more difficulties to negotiations, mainly
467 with the EU (Da Silva 2002).

468 Negotiations around the SPS Agreements can be polarized by developed countries,
469 which reflect the consumers' always more severe requirements concerning
470 quality and control. The developing countries interpret these measures as dissimulated
471 trade barriers (Thorstensen 2003; Carvalho 2007).

472 **7.4.2 Sustainable Development and the Environment**

473 The sustainable development concept has become a development paradigm in the
474 last decade with special interest in multilateral organizations, governments, development
475 agencies, NGOs and private sector, in many areas, but mostly in health and organic products.
476 Protection of the environment generated several multilateral agreements and conventions.
477 Some of them are:

478 – (b) necessary to protect human, animal or plant life or health; (...);
479 – (g) relating to the conservation of exhaustible natural resources if such measures
480 are made effective in conjunction with restrictions on domestic production or
481 consumption. (GATT 1947, Art. XX, pp. 27, 28)

482 The WTO is not and has no intention to be an environmental protection agency.
483 Nevertheless, in its area of competence promoting the relationship between trade
484 and environment, its policies are limited to the commercial objectives, and to the
485 significant impact of the environmental aspects upon the trade activities (WTO
486 2004). In this sense, members do not expect that the WTO offers answers to the
487 environmental issues. They do believe that the trade and environmental policies are
488 mutually complementary:

489 In reaching these conclusions, we wish to underscore what we have not decided in this
490 appeal. We have not decided that the protection and preservation of the environment is of
491 no significance to the Members of the WTO. Clearly, it is. We have not decided that the

496 sovereign nations that are Members of the WTO cannot adopt effective measures to pro-
497 tect endangered species, such as sea turtles. Clearly, they can and should. And we have not
498 decided that sovereign states should not act together bilaterally, plurilaterally or multilaterally,
499 either within the WTO or in other international *fora*, to protect endangered species or
500 to otherwise protect the environment. Clearly, they should and do (Da Silva 2002).

501 Thus, the WTO is not involved with environmental legislations, but with the
502 intensity of laws and rules that may interfere in the trade of products, meaning
503 to balance environmental concerns and free trade. Extreme protectionism exists in
504 some developed countries that mostly encourage developing nations to adopt free
505 trade. With this practice developing countries find difficulty in accessing the mar-
506 ket of products and services that compete with those of the developed countries
507 (Carvalho 2007).

508 Even though some Latin Americans perceive the current WTO president as pos-
509 itive and fair, nonetheless, it is generally believed that the WTO is dominated by
510 unfair neo-liberal economic attitudes. Certainly, almost nothing has been changed,
511 in the sense of putting into effective practice the written rules. For instance, con-
512 tracting parties agree that there is a need for positive efforts designed to assure
513 that less developed contracting parties secure a share in the growth in international
514 trade commensurate with the needs of their economic development (Carvalho and
515 Barbieri, 2008).

516 Details of the WTO definition, mission and principles indicate outstanding
517 humanitarian and economic concerns. However, what is observed in Latin America
518 is that the WTO administrators treat certain issues with an exclusive economic
519 power bias, or allow politics to influence and guide some resolutions and conclu-
520 sions. In this sense, Singer's four charges to WTO may be perceived as applicable
521 and may be used, as per analogy, in limited circumstances, as related to the local
522 power in towns and cities in Latin America.

523 A group of Latin American authors of books and booklets denouncing corrup-
524 tion in different spheres declares that a permanent supervision and monitoring of
525 public administrators' lives is an ethical way to lead the political system into jus-
526 tice. It impels organizations to be honest and fair both internally and abroad. This
527 requires available information, which is expensive and time consuming. One pub-
528 lication refers to the case of Ribeirao Bonito, a town of Sao Paulo State, in Brazil.
529 Founders of the "Friends of Ribeirao Bonito" organization, monitoring the acts of
530 public local administrators, led the mayor to be impeached from governance of the
531 town. He was sued, and several judicial processes were started, implicating him in
532 various sorts of crimes. This case reflects the abuse of power by corrupted politi-
533 cians to the detriment of the system. The population supports many private and
534 non-governmental organizations in Latin America, to avoid the proliferation of cor-
535 ruption, which is deeply perceived as a cancer that destroys any society. Because of
536 the stigma of corruption in the Region, Latin Americans are more and more reluctant
537 to comply with immoral ways to do business.

538 Most countries in Latin America have their own ethics institutions, generally
539 established in the form of a non-governmental organization, which independently

541 monitor private and state enterprises. The Asociacion Latinoamericana de Etica,
542 Negocios y Economia (Latin American Association of Business, Economics, and
543 Ethics, ALENE)² was created in 1998, and the most active members live in
544 Argentina, Bolivia, Brazil, Chile, Ecuador and Peru. Its regular meetings enable it to
545 maintain the objective of questioning and discussing ethical issues in governments
546 and companies in the Region. Other organizations in Latin America are very active
547 and dynamic, aiming mostly at corporate social responsibility and sustainability. It
548 is often seen that socially and environmentally responsible enterprises attract invest-
549 ments, as corporate codes of ethics are perceived as a clue that the organization is
550 ready to start a substantial negotiation.

551 552 553 **7.4.3 Moral Norms Framework**

554
555 De George (1993) states that moral norms in international business can be uni-
556 versally formulated, despite different interpretations related to characteristics of
557 different societies:

558 Some general ethical norms apply to any business operating anywhere. These norms are
559 universally applicable because they are necessary either for a society to function or for
560 business transactions to take place. They are widely held, and everyone is expected to live
561 by them and up to them; they are obvious, common sensical, and available to all. If they
562 were arcane or difficult or available only to an intellectual elite, they could not serve as basic
563 norms governing all human interactions. (De George 1993, p. 19)

564 Fairness in international trade and investments can be observed through prohi-
565 bition against arbitrariness in commerce, truthfulness, transparency, and respect for
566 properties, citizens, companies and governments. The WTO could certainly be the
567 sphere to assure that these ethical values are present in all rules and agreements.

568 We can speak similarly about exercising fairness in business dealings. If there were not
569 some minimum level of trust between buyer and seller on international level, just as on the
570 national level, business transactions would prove impossible . . . lack of fairness undermines
571 the systems and works against the norm of efficiency so important to the workings of a free
572 market. (De George 1993, p. 21)

573 According to this perspective:

574 . . . these general ethical norms apply to all businesses in all countries and across all borders;
575 they do not depend on one's ethical theory (p. 21) . . . The reason why the norms apply no
576 matter which of the basic ethical theories one adopts is that of these theories attempt to
577 justify these norms, which are pretheoretic. (De George 1993, p. 199)

578 Just as it is expected that multinational companies operate with integrity abroad
579 as they do in their home country, so too governments should be careful when
580 negotiating through multilateral or bilateral agreements. De George (1993) calls

581
582
583
584 ² See www.alene.org Accessed 31 October 2009.

586 attention to differences that may occur in doing business in the international
587 scenario:

588 – Absence of many legal and other restraints that constrain American business at
589 home;
590 – Varying outlooks, needs and practices of foreign societies and of multinational
591 corporations from those countries;
592 – Presence of corruption of governmental and other levels within some societies that
593 far exceeds the corruption found in the United States (which has its fair share);
594 – Economic power between the largest of the multinationals and the smallest and
595 the frailest of the less developed countries in which they sometimes operate (De
596 George 1993, p. 22).

597
598 These same procedures should be applied to the decisions of the WTO. Mahoney
599 (1999) encourages organizations to develop a climate of compliance with the
600 approved procedures. It not only facilitates ethical behavior, but encourages indi-
601 viduals to act in ways which on occasion may not be foreseen by these established
602 procedures. In this sense, the virtue ethics can bring out more than any other ethical
603 theory applied to business activities. “There is no substitute for the integrity, includ-
604 ing the trustworthiness, loyalty, and moral courage of the individual person working
605 within the company and for its best interests” (Mahoney 1999, p. 258). This ratio-
606 nade is applicable to all persons involved with the WTO, if the goal is to reach the
607 common good.

609 610 611 7.5 Developments in Latin America to Address 612 the Ethical Issues

613 Based upon Elkington’s triple bottom line model, and the SustainAbility assump-
614 tions, a Brazilian sustainability index was created in 2006, as a joint effort of
615 BOVESPA (Sao Paulo Stock Exchange), Fundacao Getulio Vargas (Center of
616 Studies on Sustainability of the Business School in Sao Paulo) and other organi-
617 zations. Over 200 large companies filled out questionnaires, and a ranking of the
618 20 most sustainable was published in *Revista Exame*, a leading business maga-
619 zine in Brazil. The publication of these results has served as benchmarking for
620 enterprises – including state owned corporations – willing to become more transpar-
621 ent and eliminate organizational corruption, which indicates deep commitment with
622 social and environmental responsibility, transparency and corporate governance.
623 In 2007, these companies were: Accor, Acesita, Amanco, Aracruz, Arcelor, Basf,
624 Brasken, Caterpillar, CPFL, Elektro, IBM, Itau, Mapfre, Natura, Philips, Promon,
625 Banco Real, Serasa, Suzano, and Unilever.

626 These reports are submitted once a year, aiming to measure sustainability in its
627 strategic, economic, financial, environmental and social aspects. At times ethics is
628 understood as one more characteristic of sustainability, while ethicists stress that it
629 has to be the basis, the essence of the process.

631 It is expected that within ten years similar contests will attract more than five hundred
632 companies in the whole Region, also called *The Latin American Continent*. It will imply more transparency and less corruption in a generalized context, where
633 governments will be involved in the process in a natural manner. From 2010 onwards, Brazilian companies expanding IPO's in the Stock Exchange will have
634 to adapt themselves to the International Financial Reporting Standards, corresponding
635 to the Sarbanes-Oxley procedures in the US. Their true commitment with ethics
636 and sustainability will then be clear.

637 Just as the criticism of WTO measures was brought up by this Latin American
638 Panel, expecting immediate effective changes for the good, in terms of actions versus goals, WTO deserves the compliments from this Panel for some positive efforts
639 regarding the Trade-Related Aspects of Intellectual Property Rights (TRIPS) in the last few years. Correa (2000) shows that TRIPS contain elements which whenever
640 adequately applied allow a certain equilibrium in its implementation. For example, the agreement establishes in its preamble the recognition of the basic objectives of
641 political policies of national systems for the protection of the intellectual property,
642 including the objectives of technological development.

643 The 7th Article, referring to objectives of the agreement, declares that the protection
644 to these rights may contribute to the promotion of the technological innovation, the transfer and diffusion of technology, in mutual benefit of producers and users of
645 technological knowledge, in a way conducive to the social and economical welfare
646 and a balance between rights and obligations.

647 The 8th Article establishes among the agreement principles that members, by formulating or amending laws and rulings, may adopt necessary measures to protect
648 public health and nutrition, as well as to protect the public interests and sectors of vital interest for its social economical development. It also determines that measures
649 may be adopted in order to avoid the abuse of proprietors of those rights or in order to avoid practices that limit in an unjustifiable way the commerce or
650 affect adversely the transfer of international technology. Among those measures, Correa (2000) cites the parallel import admissibility, according to the international
651 principle of exhaustion of rights, contemplated in the 6th Article of TRIPS; the non-patentability of substances existent in nature, plants, animals, and the compulsory
652 license. The preamble, objectives and principles of the agreements administered by
653 WTO are frequently used by the Controversy Solution Agency to mitigate conflicts.

654 Two relevant points are to be recommended to those responsible for TRIPS at WTO:

- 655 1. The question of technology transfer as a promise by TRIPS still remains a critical
656 blank to be filled out (Barbieri and Chamas 2008)
- 657 2. Latin American countries find limited capacity to develop and to deal with many
658 details in terms of intellectual property and commerce. It is imperative that urgent
659 investments in human resources and in capabilities in intellectual property be
660 made, so that those countries may be in condition to analyze and propose public
661 policies concerning economic, technological, and industrial development. In a
662 more intensive and continuous basis, they could influence the global debate.

7.6 Final Considerations

676 Singer points out the importance of the WTO:

677
678 Even those who accept the general argument for the economic benefits of a global free
679 market should ask themselves how well a global free market can work in the absence of any
680 global authority to set minimum standards on issues like child labor, worker safety, the right
681 to form a union, and environmental and animal welfare protection. (Singer 2002, p. 103).

682
683 An honest, transparent, egalitarian, and fair global leadership could lead nations
684 to discuss their ethical dilemmas in the light of social and economic justice. It should
685 not be overlooked that even in developing countries there are intellectuals aware of
686 crises and trends in political, economic, and social arenas. It seems to be the case of
687 the Doha Round: why are the negotiations of the Doha Round moving backwards,
688 instead of forwards? This might happen because the US and the EU have a common
689 understanding about settling agribusinesses, according to their respective interests:
690 the US, by cutting down subsidies; the EU, by defining less or lower tariffs. In a
691 related step, developing countries as Brazil, Argentina, Mexico, among others, are
692 pressured to make more concessions in the manufacturing industry, services, and,
693 nowadays, in the environmental area as well. It means that developed countries offer
694 a little, as compensation for the higher prices charged. Up to a certain level, the
695 developing countries ask themselves whether it is worthwhile to negotiate.

696
697 The agribusiness market is a good example of these trends: many countries
698 have already cut import tariffs to combat inflation. As food prices are high, they
699 reduce the duties to allow cheaper imports. Currently, the situation has reached a
700 point in which the reduced import duties became higher than what the Doha Round
701 may offer.

702
703 For Latin Americans, it seems clear that global negotiation brings results, pro-
704 vided that there is an effective agreement. Such an agreement will possibly be
705 implemented within perhaps ten years. This means that the tariff cutting or sub-
706 sidies will not happen all of a sudden. This is why Argentina states that the country
707 has already earned what it had to earn in agribusiness. Indeed, the reduction of tar-
708 iffs has already happened. In this context, why should Latin Americans accept the
709 price to expand its market for foreign industrial and consumer products?

710
711 This is the most common picture perceived in the Region. Developed coun-
712 tries agree among themselves and pressure the emergent. Developing countries like
713 Mexico, Argentina, Brazil, among others, have the feeling that they do not need to
714 make concessions in other areas to obtain worldwide agribusiness openings, which
715 necessarily occur due to the increase of food prices. What could then be expected?
716 Will the Doha Round negotiations be settled by 2010? Hopefully they will.
717 Significant movements seem to be influencing the trends: Mexico or Brazil join-
718 ing G8, active participation in G20, intensive agreements through Mercado Comun
del Sur (MERCOSUR), or Southern Cone Common Market (MERCOSUR 2008).

719 Rich countries manipulating the poor has led Latin Americans to think that they
720 can be cheated by the First World with the consent and approval of the WTO.

721 This cannot be considered positive in institutional terms, which is aiming at the
722 preservation of good customs and at friendly relationship among peoples.

723 If trade or commerce were the only reason for creating the WTO, maybe GATT
724 and other mechanisms might have been enough. Development should be pursued
725 as an objective, as sustainability becomes the order of the day (Carvalho 2007).
726 Consensus in multilateral agreements, characteristic of WTO, will occur only if the
727 nation-members aim at the same target. Barriers, tariffs, antidumping, anticorruption
728 and several other practices will make sense only if there is a fair trade in the
729 international context. This requires a high level of ethical commitment on all sides
730 and respect to the economic vocation of each country. Growth without development
731 does not lead to sustainability. Narlikar (2006) emphasizes the significant role of
732 India and Brazil as large developing countries in WTO and concludes, as follows,
733 that her paper:

734 ... has traced the process through which notions of fairness, as advanced by developing
735 countries, have evolved in the WTO since the early days of the GATT. It is still too early
736 to assess the effectiveness of re-introducing the fairness-as-equity discourse into the WTO,
737 but the strategy of challenging the institution on its own terms by framing issues in con-
738 formity with its underlying norms seems to have already generated some success. Perhaps
739 the biggest indicator of the new-found sensitivity to the concerns of developing countries
740 is the name of the new round, the Doha *Development Agenda*. Paragraph 2 of the main
741 Ministerial Declaration states: *The majority of WTO member are developing countries. We*
742 *seek to place their needs and interests at the heart of the Work Programme adopted in this*
743 *Declaration.* (p. 1028).

744 A lack of greater development outcomes in developing countries can be the
745 result of the policy of preferences. On one side, trade may enable a unidirectional
746 economic growth and development. On the other side, each country may adopt its
747 own trade and investment policies and strategies, in line with its development needs
748 (Ochieng 2007).

749 Thanks to Latin American idealists with ethical principles in business, corrup-
750 tion possibly will reduce power in the medium and long run (Paladino et al. 2007;
751 Schmidt 2000). Similarly, with the same degree of effort, rich countries must change
752 the image for fair business doers in the short run. Initiatives as the sustainability
753 index will reinforce the need of changes in enterprises and in society. This should
754 occur in such a way that investments, production, and trade serve as levers for
755 prosperity, to the benefit of all Latin Americans.

756 Hayes and Moore (2005, p. 3) point out that, according to FINE,³ an informal
757 network that involves several institutions in Europe, an acceptable definition of Fair
758 Trade is: "Fair Trade is a Trading Partnership, based on dialogue, transparency and
759 respect, that seeks greater equity in international trade." So far, this concept seems
760 to mean more for trade among enterprises than among nations. Under the Latin
761 American point of view, provided WTO works under these guidelines, life would

762
763 ³ FINE (2008). An informal network that involves Fairtrade Labelling Organizations International
764 (FLO), the International Federation for Alternative Trade (IFAT), the Network of European World
765 Shops (NEWS!) and the European Fair Trade Association (EFTA).

766 be better for all, because it would bring and support a real development among
767 countries worldwide.

768 The objective of this chapter was not to offer a deep analysis of actions taken
769 by the WTO regarding Latin America, but to raise discussions on the proposals
770 made by the Coordination of the ISBEE Congress. However, future studies can add
771 contributions from other Latin-American perspectives, mainly in what is related to
772 ethics in the Region. Similar or different research projects or surveys are strongly
773 encouraged, so that information can be shared and compared with other countries.
774 Interesting findings may emerge.

775 The intention here was not to offer a one sided criticism of the WTO, but to raise
776 issues that may improve the image of an institution created by governments, aiming
777 at the improvement and development of countries in the whole world.

778
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785 different Latin American countries, which dedicated time and attention to providing adequate
786 information. Without it, the ideas here registered might have been understood as
787 emotional.

788

789

790 Abbreviations

791 BOVESPA	Bolsa de Valores do Estado de São Paulo (São Paulo Stock 792 Exchange)
793 ECLAC	Economic Commission for Latin America and Caribbean
794 EU	European Union
795 GATT	General Agreement on Tariffs and Trade
796 GDP	Gross Domestic Product
797 IADB	Inter-American Development Bank
798 ICC	International Chamber of Commerce
799 ISBEE	International Society of Business, Economics, and Ethics
800 MEC/INEP	Instituto Nacional de Estudos e Pesquisas Educacionais Anísio 801 Teixeira – Ministério de Educação
802 MERCOSUR	Mercado Comum do Sul
803 NGO	Non-Governmental Organization
804 OECD	Organization for Economic Co-operation and 805 Development
806 UK	United Kingdom
807 UN	United Nations Organization
808 UNCTAD	United Nations Conference on Trade and Development
809 US	United States of America
810 WTO	World Trade Organization

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Chapter 8

02

Fairness in International Trade and Business

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Ethics: A Japanese Perspective

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Iwao Taka

8.1 Introduction

The following questions were raised by the FITI project. Therefore, the purpose of this chapter is to answer all those questions.

1. To what extent are the workings and outcomes of the World Trade Organization (WTO) perceived as fair in your region/continent?
2. What are the main ethical issues regarding international trade and investment (or alternatively the WTO) in your region/continent?
3. What developments are there in your region/continent to address the above ethical issues?

In order to answer those three questions, in this chapter, we will refer to the following six points:

- (1) Formal Position of the Japanese Government on the WTO
- (2) From the WTO-Centered to the Bilateral EPA Approach
- (3) A Typical Ethical Issue for Japan: Protecting Rice Farming
- (4) Reconsideration over Globalization and the WTO: Poverty Reduction
- (5) Initiatives by the Japanese Government: MDGs and TICAD
- (6) Initiatives by Leading Japanese Corporations: Education and Basic Infrastructure

With regard to the first question, “To what extent are the workings and outcomes of the WTO perceived as fair in Japan?” we will answer by referring to point (1) and (2) at Sections 8.2 and 8.3. As for the second question, “What are the main ethical issues regarding international trade and investment (or alternatively the WTO) in Japan?” we will pick two ethical issues, (3) protecting rice farming and (4) poverty

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46 reduction, each of which is discussed at Sections 8.4 and 8.5. In order to answer
47 the last question, “What developments are there in Japan to address the ethical
48 issues?” we will introduce initiatives taken (5) by the Japanese Government and
49 (6) by leading Japanese corporations at Sections 8.6 and 8.7.

50 51 **8.2 Formal Position of the Japanese Government on the WTO**

52 The first question is “To what extent are the workings and outcomes of the WTO
53 perceived as fair in Japan?” In order to answer this question, we will highlight the
54 formal position of the Japanese Government on the WTO and EPAs as the following
55 two sections.

56 **8.2.1 Free Trade and the WTO Are Indispensable 57 for Development**

58 Like other developed countries, the Japanese Government basically has seen that
59 the WTO and its Agreement are necessary and desirable for developing the global
60 economy. In accordance with the preamble of the Agreement Establishing The
61 World Trade Organization, *The 2007 Report on Compliance by Major Trading
62 Partners with Trade Agreement* published by the Ministry of Economy, Trade,
63 and Industry (METI) of Japan describes the objectives of the WTO Agreement
64 as raising living standards, ensuring full employment, growing income and effec-
65 tive demand, and expanding the production of and trade in goods and services
66 (METI 2007a: 247).

67 Japan has long benefited from the free trading system based upon the GATT.
68 Thanks to this system, after World War II, it miraculously revived out of the dev-
69 astating situation it faced, and has grown up to be one of the biggest economies in
70 the world. Because of this, Japan is likely to think that free trade is an indispens-
71 able basis for nations’ economic development, and is a very effective activity to get
72 nations out of poverty. With regard to solving poverty issues, this way of thinking
73 is very much like a conclusion of the WTO secretariat study published in the year
74 2000: It says, “trade liberalization helps poor countries to catch up with rich ones,”
75 and “faster economic growth helps to alleviate poverty” (WTO 2000). The Japanese
76 Government basically agrees with this conclusion.

77 **8.2.2 Provisions on Exemptions Are Necessary**

78 Due to this, the Japanese Government supports the WTO’s fundamental principles
79 like Most-Favored-Nation Treatment, National Treatment, and General Prohibition
80 of Quantitative Restrictions, because those principles are very clear and simple
81 to understand, and are designed to remove various barriers for the purpose of
82 promoting international trade.

91 But at the same time, when Japan was at the earlier developmental stage, it
92 took various protective measures such as import control, restrictions on foreign
93 investment, and supports for technological developments of private corporations
94 (Oxfam 2002: 231–232). Therefore, while welcoming the free trading system, the
95 Japanese Government also shares understanding over the necessity of exceptions to
96 those fundamental principles. Namely, it considers that the fundamental principles
97 should not be enforced to all nations at once and uniformly (Oxfam 2002: 233).
98 Especially when developing countries have not yet fostered enough abilities to ful-
99 fill their trade obligations, Japan believes that the WTO Members (Members) should
100 provide them with a special status (METI 2007a: 249).

101 For this reason, the Japanese Government appreciates the fact that the WTO
102 considers not only traditional matters but also new issues such as environmental
103 protection and developing countries (METI 2007a: 247). As for environmental con-
104 sideration, the WTO allows “the optimal use of the world’s resources in accordance
105 with the objective of sustainable development,” which makes it possible for each
106 country to protect and preserve the environment in a way consistent with their needs
107 and concerns at different stages of economic development. As for consideration
108 for developing countries, the WTO expects developed countries to make efforts to
109 ensure that developing countries, especially the least developed countries, enjoy a
110 share of the growth in international trade (METI 2007a: 251; Urata et al. 2007: 26).

111 112 113 8.2.3 *List of Annexes*

114
115 Up until the Uruguay Round (from 1986 to 1994), the GATT had concentrated on
116 introducing tariffs to trade in all goods (except for agricultural products). Its main
117 strategy had been (1) to replace quantitative restrictions with tariffs, and then (2)
118 to gradually reduce tariff rates through negotiations on a reciprocal basis. In other
119 words, before the Uruguay Round, it was not so complicated for Members to under-
120 stand how the GATT worked. At the same time, because Members did not raise
121 serious questions on agricultural policies of developed countries, the GATT worked
122 in favor of industrialized countries. But this picture started to change drastically
123 during the Uruguay Round.

124 On the one hand, developing countries began to criticize the agricultural poli-
125 cies of developed countries, insisting that import restrictions on agriculture products
126 should be replaced with tariffs, tariff rates should be reduced, and export subsi-
127 dies and domestic support should be abolished as early as possible. On the other
128 hand, developed countries proposed that the WTO Agreement include agreements
129 designed to liberalize services (GATS) and designed to protect intellectual property
130 rights (TRIPs), expecting to enter services market in developing countries, and to
131 prevent developing countries from using intellectual properties free of charge.

132 GATS and TRIPs were the last things developing countries wanted to include
133 so that they strongly opposed this proposal. But since developed countries did not
134 make any concession on this proposal, in the end, in exchange for GATS and TRIPs,
135 developing countries requested to add agreements on agriculture and textiles, hoping

136 **Table 8.1** Contents of the WTO agreement

137	AGREEMENT establishing the World Trade Organization (Marrakesh Agreement)
138	ANNEX 1
139	ANNEX 1A: Multilateral Agreements on Trade in Goods
140	(b) Agreement on Agriculture
141	(d) Agreement on Textiles and Clothing
142	ANNEX 1B: General Agreement on Trade in Services (GATS)
143	ANNEX 1C: Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)

144
145 that those sectors of developed countries would be liberalized in a way consistent
146 with GATT basic rules. What is more, developing countries urged the developed
147 countries to introduce provisions of Special and Differential Treatment (SDT) to
148 most of the WTO agreements. Therefore SDT provisions are now spread across
149 almost all the agreements.

150 The result of compromising and coordinating processes between developed and
151 developing countries is now clearly reflected in Annex 1 (Table 8.1). In response
152 to developing countries' requests, ANNEX IA now includes new agreements like
153 Agreement on Agriculture and Agreement on Textiles and Clothing. In response
154 to developed countries' requests, ANNEX IB (GATS), and IC (TRIPs) are newly
155 created.

156 Even if the Japanese Government formally supports the WTO and its purpose,
157 we have to admit that from the beginning of its establishment, the WTO has
158 grappled with complicated issues, many of which are extremely controversial and
159 mutually exclusive (METI and Keidanren 2007: 5). At the same time, because the
160 WTO decision-making process is consensus-based, and because the Membership
161 has rapidly increased to over 150, it has been getting more and more difficult for
162 Members to reach an agreement within the WTO framework.

163 8.3 From the WTO-Centered to the Bilateral EPA Approach

164
165 Japan had long supported multilateral negotiations within the GATT and WTO
166 frameworks, and had assumed that regional efforts for Free Trade Agreements
167 (FTAs) are rather undesirable for fair development of the global economy (Urata
168 et al. 2007: 112). It had believed that the multilateral approach is much better than
169 the FTA case-by-case approach, simply because the former minimizes distortions in
170 international trade, applies the same rules to all Members non-discriminately, and
171 thereby reduces transaction costs as far as possible. Put differently, the latter makes
172 market transactions very complicated, requires strenuous efforts to coordinate rules
173 set out among different trade partners, and thereby makes transaction costs very
174 expensive.

175 During the 1990s, however, notifications on establishing FTA to the WTO rapidly
176 increased. Entering the 21st century, this number continued to rise, and finally
177 reached 210 in the year 2006 (rising from 27 in 1990). The establishment of the

single market within the European Economic Community (1992), the agreement to promote the ASEAN Free Trade Area (1992), and the inauguration of the NAFTA (1994) were part of this sharp increase in number (METI 2007a: 515). In this context, Japan began to reconsider its long-standing position toward the multilateral negotiation approach. What made the Japanese Government decisively change its approach is a failure of the Seattle WTO Ministerial Conference in 1999, which revealed how difficult it was to promote multilateral trade negotiations only within the WTO framework (Urata et al. 2007: 112; METI 2007a: 517).

8.3.1 Shifting to Bilateral Economic Partnership Agreements

After the Seattle Conference, in fact, many countries accelerated their efforts to establish FTAs, so as to eliminate tariff and non-tariff barriers between contracting countries, and to establish new rules in areas of investment, competition, services, and intellectual property rights. Seeing this new trend, the Japanese Government also started to establish Economic Partnership Agreements (EPAs) with a number of countries (METI 2007a: 517).

Needless to say, the METI thinks, “the efforts toward multilateral trade policies in the WTO and the efforts for bilateral agreements in EPAs are complementary to each other,” and “under the WTO framework, EPAs are positioned as an exception” (METI 2007a: 516; Urata et al. 2007: 20–23). But at the same time, it strongly believes that there are many advantages of bilateral EPAs over WTO multilateral negotiations. That is, even if contracting parties have difficult issues, which have not been resolved within the WTO framework, by considering actual economic conditions of each country, they could find realistic solutions in a flexible and constructive manner (METI 2007a: 517).

Thinking this way, Japan initiated its first negotiation with Singapore in January 2001. Since then, it has been making bilateral EPAs with a number of countries (Urata et al. 2007: 113; METI 2007a: 518). So far, EPAs with Singapore, Mexico, Malaysia, Thailand, and the Philippines already came into effect. EPAs with Indonesia, Brunei, and Chile were signed. Negotiations with Switzerland, Gulf Cooperation Council, India, Vietnam, Korea, China, Australia, and others are underway (METI 2007b: 226–227).

8.3.2 Five Characteristics of Japan’s EPAs

There are five characteristics of Japan’s EPAs. These are as follows:

- (a) It places emphasis on eliminating non-tariff barriers such as complicated customs procedures;
- (b) Most of Japan’s EPAs have taken a form of bilateral co-operation. Making use of know-how accumulated through Overseas Development Assistance (ODA) programs in the past, the Japanese Government has been responding to various requests from partners in the fields of trade, investment, competition, human resources, services, intellectual property, and environment. Such co-operations

226 are believed to contribute to improving trade and investment infrastructure of
227 contracting partners;

228 (c) Japan's EPAs aim to facilitate the movement of people from partners (mainly
229 Asian countries) to Japan. In fact, it plans to accept more skilled workers from
230 Singapore, the Philippines, and Indonesia (Urata et al. 2007: 110–111);
231 (d) The main purpose of establishing EPAs with Mexico and Chile is to make it
232 possible for Japanese corporations to catch up with American and European
233 counterparts, which have taken advantage of RTA or FTA with Latin American
234 countries. Now that EPAs with Mexico and Chile have started, Japanese corpor-
235 ations can do business on an equal footing with those non-Japanese competitors
236 (Urata et al. 2007: 115);
237 (e) Japan regards EPAs with ASEAN countries as a hub of a broader free trade
238 network, which will cover India, China, Korea, Australia, and New Zealand
239 (Urata et al. 2007: 81–109).

240

241 **8.3.3 Is the WTO Effective and Fair?**

242

243 With those movements in mind, we simply conclude that the Japanese Government
244 views that (1) at least to some countries, the outcome of the WTO does not seem
245 fair enough, and because of this, (2) the WTO is not functioning effectively (METI
246 2007c: 5). Based upon this observation, Japan has shifted its approach from the
247 WTO-centered multilateral negotiations to the bilateral EPAs.

248 Nonetheless, even if the Japanese Government thinks the WTO is not functioning
249 effectively, as far as the Dispute Settlement Body (DSB) is concerned, Japan
250 believes that the WTO is basically working in a fair and balanced manner. Under
251 this Dispute Settlement Mechanism, Members have an equal right to take a case to
252 the DSB (Takikawa 2005: 22–24). Discussed in this forum are a variety of issues
253 such as technical barriers to trade, antidumping measures, export subsidies, coun-
254 tervailing measures, trade in services and the like. In fact, since its establishment in
255 1995, the WTO has settled 361 cases as of March 2007 (MTSD 2007: 3).

256 Like other member countries, when faced with difficulties in trade with
257 Members, Japan has also resorted to this mechanism (MTSD 2007: 3). In the case of
258 EPAs, however, even if there is an agreement on a dispute resolution mechanism, we
259 cannot expect this mechanism to work as effectively as the DSB. Yet, when parties
260 are truly dissatisfied, in the end, they could bring cases to the WTO as its Members.
261 Thanks to existence of this system of the DSB, EPA partners are likely to make
262 some compromises, before going to the WTO panel. Seeing this practical merit, the
263 Japanese Government feels that the DSB and its mechanism are basically useful,
264 effective, and fair for all the WTO Members (METI and Keidanren 2007: 12).

266 **8.3.4 Is the Outcome of Japan's EPAs Fair?**

267 By mentioning that the DSB seems to work in a fair manner, we have suggested
268 that part of the WTO "process" is fair. But this does not mean that the "outcome"

271 **Table 8.2** Is WTO fair?

272	273	274	A View of the Japanese 275 government	276	277	A View of NGOs or 278 developing countries
279	280	281	282	283	284	285
Process of the WTO	<i>At least, the DSB process is Fair</i>					<i>Probably Unfair</i>
Outcome of the WTO	<i>Not Working</i>					<i>Not Satisfactory</i>

279 of activities by the WTO is also fair (Table 8.2). In order to evaluate the outcome,
280 probably we would need to have a couple of decades to observe the full effects.
281 Yet, most of us cannot wait so long. Although we cannot definitely conclude that
282 the outcome of the WTO is not fair, at this point of history, one thing is very clear.
283 That is, NGOs and developing countries insist that the outcome of the WTO is not
284 satisfactory (they might also think that the process has not been fair, either).

285 If we assume that the outcome of the WTO is not fair, then how about the out-
286 come of Japan's EPAs? In comparison with European EPAs with African, Caribbean
287 and Pacific countries, Japan's EPAs have not been severely criticized yet in Japan.
288 According to Geoff Moore, in Europe there has been a "Stop EPAs campaign" run
289 by NGOs for a number of years (see Moore's chapter later in this volume). As far
290 as Japan's EPAs are concerned, we have not seen radical campaigns led by Japan's
291 civil society. To be sure, there have been opposing activities organized by farmers,
292 hog-raisers, and other agricultural stakeholder groups. But their main concern is not
293 on fairness of EPAs but on protection of their vested interests.

294 Nonetheless, outside of Japan, globally acting environmental NGOs have been
295 criticizing Japan, saying that Japan's EPAs include a provision for transferring
296 hazardous wastes between contracting countries. Although Japan ratified the 1989
297 Basel Convention on the Control of Transboundary Movements of Hazardous
298 Wastes and Their Disposal, it has not ratified the 1995 amendment, because this
299 amendment prohibits all the transnational movement of wastes even if its purpose
300 is to recycle wastes and to reduce an environmental impact. Whatever reasons the
301 Japanese Government gives, those NGOs have been attacking Japan's EPAs from
302 the viewpoint of the environmental impact. Environmental News Service describes
303 this as follows (<http://www.ens-newswire.com/ens/mar2007/2007-03-14-02.asp>):

304
305 SEATTLE, Washington, March 14, 2007 (ENS) -Since 2002, Japan has been laying the
306 groundwork for a plan to liberalize and promote toxic waste trade among Asian countries
307 in violation of an international treaty, claims a hazardous waste watchdog group based in
308 Seattle. The Seattle-based Basel Action Network, BAN, filed a formal complaint against
309 Japan on Monday concerning what BAN calls Japan's 'intent to create toxic waste colonies
310 around Asia.' BAN says that Japan is utilizing bilateral trade agreements concluded with
311 Singapore, the Philippines, Malaysia, and Thailand that eliminate tariffs on hazardous
312 wastes such as pharmaceutical wastes and waste oils containing PCBs to promote trade
in these substances.

313 We do not know the credibility of this news (Taka 2006: 227–236). But if this
314 information is not one-sided, then we have no choice but to say that the outcome of
315 Japan's EPAs is not fair.

316 8.3.5 Is the Process of Japan's EPAs Fair?

317 Then how about the process of Japan's EPAs (Table 8.3) (EPA Team, 2007: 380–
 318 381)? As far as the process is concerned, we might be able to say that it could be
 319 fair. Three reasons are worth referring to. First, in the case of Asian countries, Japan
 320 did not tempt contracting partners with ODA. The decade in which Japan inten-
 321 sively provided them with ODA was the 1990s. At that time, Japan did not have any
 322 plan to form EPAs with them. Second, in the case of Latin American partners, they
 323 were far better than Japan at making a Free Trade Agreement. Mexico especially
 324 had already accumulated experiences of establishing FTAs. Therefore, making full
 325 use of such experiences, Mexico entered negotiations with Japan. Because of this,
 326 Japanese experts confess that through a series of negotiations Japan learned a lot
 327 from Mexico (EPA Team, 2007: 70–82). Third, when Japan started to explore
 328 possible co-operations with a contracting partner, Japan tried to understand devel-
 329 opmental stages of the candidate. In other words, placing oneself in the partner's
 330 shoes, and taking their conditions into account, Japan has offered an EPA model
 331 suitable for the contracting partner. This is why Japan has always taken a form of
 332 bilateral EPAs.

333 Needless to say, those reasons might not be enough to convince all the contracting
 334 partners that the process of Japan's EPAs is fair. Despite such possibilities, we would
 335 like to mention that at least the Japanese Government feels that the "process" of
 336 EPAs is fair for most of its trading partners. The main reason why it feels so is that so
 337 far trading partners have not shown clear indignation and have not made substantial
 338 complaints against Japan. If the view of the Japanese Government reflects the reality,
 339 we could say that the "process" of EPAs is fair. Yet even if this conclusion is correct,
 340 this does not imply that the "outcome" of Japan's EPAs is also fair. Although the
 341 Japanese Government assumes that the outcome of EPAs is also fair, the actual
 342 outcome could be much different from this assumption (MOFA 2005b: 8).

343 To sum up, as far as officially published documents are concerned, firstly we con-
 344 clude that the Japanese Government thinks that the WTO is not working effectively
 345 (because some Members feel that the outcome and process of the WTO are not
 346 fair). And this is why the Japanese Government has shifted its focus from the WTO
 347 to EPAs. Secondly, we could say that the government believes that the process of
 348 Japan's EPAs is fair on the whole, but that in the latter case this belief is contested.
 349 These are the answers to the first question of the FITI project.

350
 351
 352
 353 **Table 8.3** Is Japan's EPA fair?

	A view of the Japanese government	A view of contracting partners	A view of NGOs
354 Process of Japan's EPAs	<i>Fair</i>	<i>Probably Fair</i>	Unknown
355 Outcome of Japan's EPAs	<i>Probably Fair</i>	Unknown	<i>Unfair</i>

8.4 A Typical Ethical Issue for Japan: Protecting Rice Farming

The second question is “What are the main ethical issues regarding international trade in Japan?” In order to respond to this question, we shed light on two issues. The first one is a very sensitive issue for Japanese people, and the second one is also extremely important for the global community.

8.4.1 Issues of Agriculture

GATT Article XI does not admit any restrictions other than duties, taxes or other charges, simply because other restrictions are basically against the WTO basic principles. The WTO assumes the imposition of tariff as the only method to control trade. Following this principle, the Uruguay Round and Doha Round have been exploring various possibilities in reducing tariff rates on agricultural products and in abolishing other restrictive measures.

For example, Members have been in discussion over the modalities, which contain general rules and formulae for cutting tariffs and trade-distorting subsidies. Within this framework, Members are given flexibility in determining where to reduce tariffs significantly and where to make lesser tariff cuts, as long as such an approach is not against the tariff reduction formula in the modalities (ICTSD 2002: 17).

The general ideas evident in the modalities are (1) Tariff reductions should be progressive with deeper cuts in higher tariffs. (2) Linear tariff reductions should be applied at different rates to developed countries and developing countries. For instance, in the case of the lowest tariff band range, reduction rates could be from 25 to 70 percent for developed countries and from 15 to 50 percent for developing countries. In the case of the highest range, reduction rates could be from 40 percent for developed countries and from 30 percent for developing countries. (3) Members should be given a right to decide “sensitive products,” and set lower tariff reductions on sensitive products (Blandford and Josling 2006: 9; MAFF 2008a: 14).

As we can imagine from these general ideas, interests of Members are so complicated that fulfilling demands of all the parties requires strenuous efforts for Members to achieve and needs seemingly an unlimited number of years to discuss (Maeda 2007).

8.4.2 High Tariff Rates on Agricultural Products

Taking into account results of the Uruguay Round (1993 Agreement on Agriculture), and in response to criticisms from agricultural exporting countries (G20), Japan gave up its long-standing import restrictions, replaced them with the imposition of tariffs on agricultural products. As far as rice is concerned, tariffs were introduced to import rice with the minimum access obligation, in which Japan has to import a certain quantity of rice with no tariffs (Takikawa 2005: 115). But the

406 Japanese Government is said to maintain protective tariffs on import rice exceeding
407 the predetermined quantity (e.g., 778 percent tariff on polished rice, 568 percent on
408 unpolished rice, 252 percent tariff on wheat) (MAFF 2008a: 1–4; MAFF 2008b: 7).
409 Because of this, we have to admit that basically Japan has not changed its stance
410 of protecting rice and rice farmers for a long time. The reasons why the Ministry
411 of Agriculture, Forestry, and Fisheries (MAFF) of Japan consistently supports this
412 stance are as follows.

413 In 2000, agricultural negotiation among Members started to explore the General
414 Framework designed to overcome sensitive issues for the Doha Round (WTO 2001).
415 Before entering details of this round in December 2000, the MAFF formally made
416 five proposals, stating that, “Agriculture is the foundation of society in every country,
417 and provides a variety of functions that are beneficial to the society. As there are
418 differences in the natural conditions and the historical background from one country
419 to another, the diversity and coexistence of agriculture among various countries need
420 to be preserved.” After this introduction, five proposals were made (MAFF 2000):

421 “(i) Consideration of the multifunctionality of agriculture; (ii) Ensuring food security, which
422 is the basis of the society in each country; (iii) Redressing the imbalance between rules and
423 disciplines applied to agricultural exporting countries and those applied to importing coun-
424 tries; (iv) Consideration for developing countries; and (v) Consideration for the concerns of
425 consumers and civil society. These five points reflect the general consensus of the people of
426 Japan, which itself is the biggest net food-importing country, having imports equivalent in
427 amount to the consumption of 75 million people.”

428 **8.4.3 *Mutli-functionality***

430 In relation to the first point, GATT Article XX on General Exemptions shows
431 instances in which Members could be exempted from GATT basic rules. It describes
432 that if it is necessary to protect human, animal or plant life or health, or if it is related
433 to the conservation of exhaustible natural resources, Members are allowed to adopt
434 policy measures that would normally be inconsistent with GATT principles.
435

436 With those exemptions in mind, the MAFF thinks that life in Japan’s rural areas
437 is heavily dependent upon rice farming in an economic and cultural sense. And it
438 believes that rice farming has made sustainable use of natural resources, and through
439 this activity, rice cultivation has long maintained the landscape and natural envi-
440 ronment of rural areas. That is, the MAFF feels that fulfilling the minimum needs
441 of rural areas’ life, and protecting the natural environment meet the conditions of
442 GATT Article XX.

443 Reflecting this, Japan’s Basic Law on Food, Agriculture and Rural Areas
444 (Article 3) stipulates, “In consideration of the importance of maintaining the stabil-
445 ity of the people’s lives and the national economy, the multiple roles that agriculture
446 plays through stable production in rural areas, from the conservation of national
447 land, water resources, and the natural environment to the formation of a good
448 landscape and maintenance of cultural tradition, in addition to its conventional role
449 as a primary food supplier shall be fulfilled sufficiently for the future” (MAFF
450 1999).

451 8.4.4 Food Security

452

453 With regard to the second point, food security, the MAFF places emphasis on the
454 fact that Japan is the biggest net importer of agricultural products, and that its degree
455 of self-sufficiency in foods is the lowest among the major developed countries. As
456 far as agricultural products are concerned, in the year 2004, Japan's total importa-
457 tion was US\$ 41.5 billion, while its exportation US\$ 1.9 billion. This means,
458 Japan's agricultural trade was in the red, and still remains almost the same. The gap
459 between importation and exportation, 39.6 billion dollars worth of the net importa-
460 tion, is the largest in the world (the second biggest net importer is the UK, whose
461 net importation was US\$ 20.2 billion in 2004) (MAFF 2008b: 3).

462 In order to deal with this unstable situation, the Basic Law on Food, Agriculture
463 and Rural Areas (Article 2) states "(1) In consideration of the fact that food is
464 indispensable in maintaining human life and important as a basis for healthy and
465 fulfilled living, a stable supply of good-quality food at reasonable prices shall be
466 secured for the future. (2) In consideration of the fact that there are certain unsta-
467 ble factors in the world food trade and supply/demand, this stable food supply to
468 the people shall be secured with the increase in domestic agricultural production
469 as a basis, together with an appropriate combination of imports and stockpiles"
470 (MAFF 1999).

471 The MAFF has long believed that in every country, agricultural products are
472 extremely important and indispensable for people's life, and therefore, the supply
473 of foods must be guaranteed. But Japan does not have a reasonable ability to supply
474 foods to its people. Therefore, if something serious happens to the supply of agricul-
475 tural products, Japanese people might starve within a year or so. To be sure, GATT
476 Article XI prohibits quantitative restrictions not only on importation of products but
477 also on exportation of products to other countries.

478 Yet, in 2008, for the purpose of keeping agricultural products for their own peo-
479 ple, exporting countries (in the case of rice, India, Vietnam) reduced the export of
480 their products to other countries. We understand that such a governmental inter-
481 vention is a rational action or rather an obligation any government has to take for
482 the benefit of its people. Seeing this situation, however, the Japanese Government
483 sensed a crisis, and accordingly it insisted on the necessity of ensuring food security
484 far more seriously than previously.

485 486 8.4.5 Other Factors: Environmental Impact and Food Safety

487

488 Currently environmentalists have begun to refer to another factor. That is, they
489 assert the necessity of reducing the total emission of carbon dioxide, using the
490 words, "food mile" or "food mileage," which is defined as the aggregate prod-
491 uct of a food item's weight and transportation distance. Although food mileage is
492 just one factor in the total environmental impact, proponents are insisting that by
493 reducing food imports from a great distance, societies could reduce carbon dioxide
494 emissions.

495

496 In addition to this, citizens and consumers began to avoid buying imported foods,
497 with concerns over food safety. Even if exporters explain that the production process
498 is safe, and free from toxic chemicals, they are now very skeptical about overseas
499 safety standards and labeling practices. To be sure, extremely protective measures
500 taken by a government are against the Technical Barriers to Trade Agreement. But
501 if exporters' explanations are not based upon scientific data, and products do not
502 meet basic requirements of the international safety standard, non-tariff restrictions
503 imposed by a government would be acceptable. This is because ensuring food safety
504 is another obligation each government has to take.

505

506 **8.4.6 Protecting Rice Farming**

507

508 On the surface, the first point (multi-functionality) seems plausible and justifiable,
509 because liberalization of rice importation could destroy not only the lives of peo-
510 ple in the rural areas (on the whole, the less advantaged people in Japan), but also
511 the culture and natural environment of the countryside of Japan. The second point
512 (food security) is also important, since further importation of agricultural products
513 could threaten the food security of Japan. Third, buying more foods from domestic
514 suppliers contributes to reducing carbon dioxide emissions, and lastly food safety is
515 an indispensable obligation every government has to take, so as to ease concerns of
516 citizens and consumers.

517 Although those reasons seem persuasive, if we look at them from the view-
518 point of GATT's basic principles such as the General Prohibition of Quantitative
519 Restrictions, we have to admit that Japan's logic is inconsistent with the spirit of a
520 free trading system. In addition, from the perspective of agricultural exporting coun-
521 tries, Japan's logic could be seen to be self-centered. For Japan, this is a very difficult
522 ethical dilemma between increasing import from developing countries and protect-
523 ing interests of the less advantaged people in Japan, because they seem mutually
524 exclusive. For now, although we do not know how to handle this situation, Japan has
525 been exploring possibilities of overcoming this dilemma. We will return to Japan's
526 initiative in this regard at Section 8.6.

528

529 **8.5 Reconsideration of Globalization and the WTO:**

530 **Poverty Reduction**

531

532 Importation of rice is a difficult issue for Japan. Therefore, we have reviewed this
533 issue and described reasons why the Japanese Government has long protected rice
534 and other sensitive agricultural products. From the size of the Japanese economy,
535 however, we cannot confine our focus to just a domestic agricultural issue. With a
536 broader perspective, we have to highlight other ethical issues, which are extremely
537 important for the global community. So what is the most important global issue? We
538 believe that it is the issue of poverty reduction.

541 8.5.1 *The Ultimate Purpose of Globalization in the Original* 542 *Position*

543
544 What is the ultimate purpose of globalization? We believe, that it is not to maximize
545 profits of some private corporations, that it is not to benefit specific countries or
546 regions, and that it is not to develop certain industries. Whatever globalization has
547 been actually bringing about, or no matter how difficult the issues that globalization
548 has caused, its ultimate purpose must be to benefit all countries, every race, and all
549 citizens. In other words, its purpose must be to make the world a better place to live,
550 to share the merits of trade among Members, to alleviate poverty, and to get poor
551 nations out of desperate situations.

552 This belief should be established theoretically. To this end, we utilize a concept of
553 “the veil of ignorance” and the “rational person in the original position,” which John
554 Rawls once introduced. As is well known, he tried to identify fundamental principles
555 of justice, from the viewpoint of a rational person on the original position, a person
556 behind a veil of ignorance. The veil of ignorance is a hypothetical situation where a
557 person does not know his/her place in society, his/her strength in comparison with
558 others, which income class he/she belongs to, which generation he/she belongs to,
559 etc. Rawls assumed that if this rational person with no information of his/her place
560 in society tried to derive ideal Principles of Justice, the rational person eventually
561 would come to an ideal set of principles (Rawls 1971: 11–22).

562 For example, Rawls assumed that in the original position, natural talents dis-
563 tributed in a society are regarded as a common asset for a society, and an individual’s
564 talent is regarded as just a part of a common asset. Because of this, the rational
565 person thinks that advantaged persons with talents may gain benefits only if their
566 conduct would improve the situation of the least advantaged in the society. This is
567 the core part of the Difference Principle.

568 But unfortunately this principle does not explain to what extent a situation of the
569 least advantaged should be improved. To be sure, whatever principles we propose,
570 and no matter how carefully those principles are applied, it could be almost impos-
571 sible to show clearly how much the situation should be improved. Therefore, we do
572 not intend to define here how much it should be improved. We would rather sim-
573 ply confirm what is the ultimate purpose of globalization, from the viewpoint of the
574 rational person behind a veil of ignorance.

575 In order to do this, (1) we suppose that a rational person knows at least the gaps
576 between the situation of the most developed countries and the situation of the least-
577 developed countries at the global level, and gaps between the situation of the most
578 advantaged class of people and the situation of the least advantaged class of people
579 at the national level. Then, (2) we assume that this rational person does not know
580 which group of countries and which class of people he/she belongs to. And finally,
581 (3) we check why this rational person joins the movement for globalization, on the
582 grounds that there should be a substantial motive to join.

583 When those conditions are given, we believe that this rational person eventu-
584 ally comes to think that the ultimate purpose of globalization is to narrow gaps
585

586 by improving the situation of the least-developed countries and the situation of the
587 least advantaged class of people. Stated another way, with this definition, all parties
588 in the global community are expected to contribute somehow to poverty reduction
589 internationally and domestically.

590

591

592 ***8.5.2 Criticism Against the WTO***

593

594 If we define the goal of globalization like this, a number of NGOs and developing
595 countries might continue to attack the WTO and its outcomes. It is because they
596 believe that the WTO is acting as an agent for influential corporations, and does
597 not consider the interests of the poor seriously (Sachs 2005: 355). Although we do
598 not know whether their criticism is correct or not, at least we have to face the fact
599 that they are likely to insist that both the process and the outcome of the WTO are
600 neither acceptable nor fair (Oxfam 2002: 217, 221).

601 For example, the Third World Traveler insists, “Every ruling of the WTO proves
602 that the institution is fundamentally flawed, designed to place corporate profits
603 above the need to protect our environment, our health and our democracy” (Third
604 World Traveler). We can easily find similar critical articles on the web. A typical
605 one is on the ZNET. In one article, the author (Vodovnik) quotes the following
606 communiqué (communiqué of Subcomandante Marcos), which was addressed to
607 the civil society at the time of the WTO Ministerial Conference in Mexico in
608 September 2003:

609

610 In complex equation that turns death into money, there is a group of humans who command
611 a very low price in the global slaughterhouse - the indigenous, the young, the women, the
612 children, the elderly, the migrants, all those who are different. That is to say, the immense
613 majority of humanity. This is a world war of the powerful who want to turn the planet
614 into a private club that reserves the right to refuse admission. . . All of us are given the
615 option of being inside this zone (club), but only as servants. Or we can remain outside
616 of the world, outside life. But we have no reason to obey and accept this choice between
617 living as servants or dying. . . Brothers and sisters, there is dissent over the project of eco-
618 nomic globalization all over the world. Those above, who globalize conformism, cynicism,
619 stupidity, war, destruction and death. And those below, who globalize rebellion, hope, cre-
620 ativity, intelligence, imagination, life, memory and the construction of a world that we can
621 all fit in, a world with democracy, liberty and justice. We hope the death train of the World
622 Trade Organization will be derailed in Cancun and everywhere else (Ziga Vodovnik, “WTO
623 Derailed,” December 2004, p. 3).

624

625 We refrain from making comments on this communiqué. But from the rhetoric
626 and tone of the communiqué, one thing is very clear. That is, there exists a deep-
627 rooted suspicion on the side of radical NGOs or bellicose activists, and in the future,
628 this suspicion might trigger severe violence and in a very extreme case, it might
629 mistakenly justify acts of terrorism against developed countries or multinational
630 corporations, even against citizens in developed countries. Needless to say, all who
631 believe that human rights should be respected and protected never tolerate any form
632 of terrorism, whatever reasons exist.

8.5.3 *The Ultimate Purpose of the WTO*

Then how should we define the purpose of the WTO? This institution was established in 1995, so as to liberalize unnecessary regulations and so as to develop the global economy. Usually, we define its purpose as developing the global economy through the liberalization of trade in goods and services. Yet, we would like to define it here in a different manner. As long as the WTO is a means of globalization, its purpose should also be the alleviation of poverty. It is because, as noted above in relation to globalization, in the original position, any rational person, who knows the gaps between developed and least-developed countries, and who does not know which group of countries he/she belongs to, will eventually come to conclude that the main reason why a country should join the WTO is to alleviate poverty at the global as well as the national levels, and to make the world a better place to live.

At Section 8.3, we referred to both the process and the outcome of the WTO, the process and outcome of Japan's EPAs, and then discussed them in terms of fairness. Now that we have defined the purposes of globalization and of the WTO like this, the process of the WTO or the process of EPAs becomes less important than the outcome. The outcome here means how much poverty has been reduced. In other words, even if the process of alleviating poverty was agreed upon among Members, if this process is not contributing to poverty reduction, soon Members will raise a question on the process, and begin to insist upon changing the process, in a way to make it easier to achieve the purpose (the outcome). Although we do not intend to ignore the importance of the process (rule-making process, decision-making process, monitoring process, dispute settlement process, etc.), once we adopt this definition of poverty reduction, the outcome eventually becomes far more important than the process.

8.5.4 *How to Make Use of Globalization*

There exist criticisms against globalization and the WTO, saying that globalization does not reduce poverty. According to Ann Harrison, there is not enough evidence on the relationship between globalization and poverty reduction. But we witness that one way or another globalization has steadily reduced poverty in the past 50 years (Harrison 2005: 3, 32–33). According to Jeffrey Sachs, a head of the UN Millennium Project, two generations ago, a half of the world population lived below the poverty line (1.08 US\$ a day, usually rounded down to 1.00). At that time, no one could imagine that solving the poverty issue was achievable. But one generation ago, that proportion declined to 1/3. And now it has reached 1/6. It means even if globalization has been causing problems, it has been somehow reducing poverty (Sachs 2005: 289).

On account of this, just criticizing the WTO, multinational corporations, and globalization might not contribute to solving the poverty issues. Of importance seems to be finding out creative ways to make full use of the merits of globalization for getting the poorest out of a desperate situation and helping poor countries start

their own sustainable development. Then how do we alleviate poverty in the world? Regarding this question, Sachs suggests that if a small percentage of GNP of developed countries, which consists of 1/6 of the world population, is invested in basic infrastructure (transportation, electricity, water supply, soil development, hygiene, epidemic prevention, medical care) and human resources (education) of the poorest countries, extreme poverty would disappear within a decade (Sachs 2005: 227).

Amartya Sen also places emphasis on basic infrastructure and education. For him, poverty means the deprivation of basic human capabilities rather than the low level of incomes. Although he assumes low income as one of the major causes of poverty, he does not think that low income is identical with poverty. Coupled with low income, other causes such as physical handicaps, illness, isolation, or lack of information place people in poverty or a desperate situation. With this in mind, instead of simply saying that income should be increased, Sen insists that the human environment should be improved in a way to make it possible for people to demonstrate their potential and capabilities (Sen 2000: 87–110). For this purpose, he emphasizes the importance of infrastructure such as healthcare and basic education. Since Sachs regards basic infrastructure and human resources as key factors to alleviate poverty, we could say that both of them agree on the same requirements for poverty reduction.

In order to respond to the second question, “What are the main ethical issues regarding international trade in Japan?” we have suggested that typical issues are (1) protection of rice farming and (2) poverty reduction. The last question required us to ask how Japan has been addressing this identified issue. We feel that Japan has engaged in a number of initiatives especially in the fields of basic infrastructure and human resources at the level of government and at the level of private corporations. And we believe that those initiatives have somehow contributed to poverty reduction in the world, mainly in the Asian region. Having TICAD (Tokyo International Conference on African Development) in May 2008, and facing the world food crisis, Japan is about to make the best use of its own experience and its experience in Asia for poverty reduction in Africa.

8.6 Initiatives by the Japanese Government: TICAD and MDGs

At Section 8.4, we described how Japan has been exploring possibilities of overcoming the dilemma between the interests of Japanese farmers and the interests of agricultural exporting countries. In this section, first of all, we will see agricultural initiatives taken by the Japanese Government in Africa. Although those initiatives promised in the TICAD process might not directly overcome that dilemma, they could contribute to poverty reduction, the ultimate purpose of globalization. Then, secondly, we will overview Japanese initiatives relating to the Millennium Development Goals (MDGs), and describe initiatives in the TICAD process, which also constitute a major part of the MDGs. We regard all those initiatives as developments in Japan to address the two major ethical issues.

8.6.1 World Food Crisis and TICAD IV

In April 2008, the World Bank explained that the price of all staple food had risen by about 80 percent in the past 3 years. Experts list a number of reasons. One of the plausible reasons is environmental challenges to convert agricultural land into biofuel production. For example, in the US, the government has encouraged farmers to switch their land from food supply to energy supply, and in Europe, the European Union plans to boost biofuel production. Seeing such changes, other countries like Argentina, Brazil, Canada and Eastern Europe have been diverting foods into biofuels.

As a result, in 2008 the price surge on staple food hit the poorest, especially Sub-Saharan Africa, very hard, and the world itself fell into a food crisis. But just criticizing biofuels does not solve problems of food shortage and climate change simultaneously. From the viewpoint of food security, we had better explore other creative ways to solve the problem. Thinking this way, the Japanese Government has initiated several initiatives in this regard.

In May 2008, hoping to make the 21st century “the Century of African Growth,” Japan held TICAD IV (the Fourth Tokyo International Conference on African Development), which received the attendance of representatives from 52 African countries, including 36 heads of state, and major international organizations (MOFA 2005a: 5). At the end of the conference, it adopted the Yokohama Action Plan, which covers a variety of initiatives in the next 5 years. One of them is on Agriculture and Rural Development of Africa (TICAD 2008a). Regarding this initiative, this action plan lists three actions for Japan to take in Africa. That is, (1) To enhance capacity to increase food production, (2) To improve access to markets, and (3) To support sustainable management of water resources. Let us review the first and the third actions.

8.6.2 Boosting Rice Production in Africa

As for the first action (Increasing food production), Japan’s then Prime Minister Yasuo Fukuda stated that, “In order to fully ensure growth in Africa, the development of agriculture is extremely important, as some two-thirds of the total population of Africa is engaged in it. As Africa seeks to achieve its own Green Revolution, I would like to put out a call for action, aiming to double the current rice production output of 14 million tons over the next ten years” (TICAD 2008b).

Since Africa’s current food self-sufficiency is around 50 percent, having dropped from 96 percent two decades ago, the food price surge dealt African countries a severe blow. In order to make the impact of food shortages smaller in the long run, agricultural productivity of Africa should be enhanced as early as possible (TICAD 2008b). Keeping this belief in mind, in the past Japan has provided technological supports as a part of MDGs (MOFA 2005a: 9), and from now through the TICAD process, it will offer more concrete support to the production of New Rice for Africa (NERICA), which could grow even in harsh climate conditions (TICAD 2008a).

To proceed with this action, the Japanese Government newly created an international organization in October 2008 (the headquarters is located in Nairobi), so as to analyze ways to increase rice production and to select nations as recipients of assistance.

771

8.6.3 Sustainable Management of Water Resources

With regard to the third action, then Prime Minister Fukuda also emphasized the necessity of sustainable management of water resources. Focusing on water management, Japan has long offered “comprehensive assistance that covers provision of drinking water and sanitation, improvement of water productivity, water pollution control, disaster mitigation and water resources management.” It is said that in quantitative terms, “Japan has been the largest contributor in the water supply and sanitation sector. Its assistance accounted for 41 percent of the global total in the five years from 1998 to 2002” (MOFA 2005a: 13).

Based upon such experiences in the past, Japan now plans to promote further “development, rehabilitation and maintenance of water resources management infrastructure to contribute to the joint efforts aiming at expanding the irrigated area by 20 percent in 5 years” (TICAD 2008a). In this regard, for example, Japan organizes a new technical assistance team of water specialists known as W-SAT (Water Security Action Team), which works with people in Africa, in drilling new wells, fixing broken water supply pipes, etc. (TICAD 2008b).

As mentioned before, Japan's policy on rice import has long been criticized. But in the past Japan has made constructive use of its own experiences in the field of agriculture for poverty reduction overseas, and now intends to utilize them far more seriously than ever for the benefit of Africa. What is more, the Japanese Government facilitates research and development on the next generation of biofuels, and plans to share the results with poverty-stricken countries. Currently, it has been studying possibilities to use crop waste such as straw for production of biofuels. It might be too early to predict anything at this point. But if such efforts bear fruit, Japan's initiative would surely contribute to solving problems of food shortage and global climate change simultaneously. To sum up, by challenging agricultural, environmental, and global issues with firm determination, Japan expects the global community to show some understanding over Japan's own policy on agriculture. At any event, those agriculture-related initiatives toward Africa could be regarded as some of the developments to address the issue of protecting rice farming in Japan.

8.6.4 Major Initiatives Related to Millennium Development Goals (MDGs)

Then how has the Japanese Government been responding to the global ethical issue, poverty reduction? Needless to say, supporting African agriculture is a part of the poverty reduction initiative. But from the broader perspective, we want to

811 see Japan's MDG activities, and then characterize its basic stance toward poverty
812 reduction.

813 According to a report published by the MOFA, during the 1990s, Japan's ODA
814 toward basic education, basic health, nutrition, water and sanitation, was at its high-
815 est levels in terms of volume among the DAC (Development Assistance Committee)
816 member countries (MOFA 2005a: 1–2). Since Japan believes that education plays a
817 critical role in human development and nation-building, it has used a large portion
818 of ODA for education (MOFA 2005a: 10). It also believes that without a safety-net
819 for people's lives, any country cannot maximize the use of people's experiences,
820 skills, and know-how in their society. Coupled with this reason, Japan has long sup-
821 ported activities to fight HIV/AIDS, Tuberculosis and Malaria. For example, as far
822 as combating Malaria is concerned, Japan had provided 10 million special mosquito
823 nets to African countries by the year 2007 (MOFA 2005b: 9).

824 Although there have been a variety of MDG initiatives like these, Japan has
825 always placed a great importance on economic infrastructure. The main reason
826 comes from its own and East Asian experiences. The same report describes, "Japan's
827 ODA to East Asia and the Pacific, which accounted for about 60 percent of its total,
828 played an important role in supporting the development efforts of the countries in
829 the region." "Based on this experience as well as its own experience after World War
830 II, Japan has placed an emphasis on the provision of economic infrastructure in its
831 ODA. The development of infrastructure in the developing countries in areas such
832 as transportation, energy, and water is essential for promoting private sector activi-
833 ties and economic growth. Japan's ODA for infrastructure development in East
834 Asia, together with relevant capacity building, has been instrumental in facilitat-
835 ing growth in the region. Japan's ODA for economic infrastructure between 1990
836 and 2003 totaled 66.9 billion dollars – by far the largest among the DAC member
837 countries" (MOFA 2005a: 8).

838

839

840 *8.6.5 Mobilizing Private Sector and Japan's ODA Policy*

841 The Japanese Government basically thinks that in order to promote economic
842 growth, the private sector should be mobilized as effectively as possible. Namely, it
843 considers that if the private sector is at the centre of strategy, eventually poverty will
844 be reduced, and then MDGs will be achieved accordingly. From 1990 through 2001,
845 average GDP growth rate of East Asia and the Pacific region was 7.5 percent, which
846 led to a reduction of nearly 200 million people out of poverty. During the same
847 time period, the total amount of ODA provided to this region was about 78 bil-
848 lion dollars. This amount was less than the total provided to Sub-Saharan Africa,
849 which received about US\$ 110 billion. Taking this data into account, Japan insists
850 that how ODA is utilized is extremely important for countries' economic develop-
851 ment (MOFA 2005a: 7–8). A lesson Japan learnt from its own development is, at
852 the early stage of economic development, to concentrate as much investment as pos-
853 sible on infrastructure such as transportation, energy, and water, which eventually
854 encourages the private sector's investment (MOFA 2005a: 5).

856 **Table 8.4** Industrialized countries' debt ratio (%)

857 Year	1995	2000	2005	2007
859 Japan	87.7	137.1	173.1	177.6
860 USA	70.7	55.2	61.8	61.8
861 UK	52.4	45.7	46.7	49.0
862 Germany	55.7	60.4	71.1	69.9
863 France	62.6	65.2	76.1	74.6
864 Italy	121.8	121.0	120.4	121.0
865 Canada	101.6	82.1	70.8	66.3

866 *Calculation based upon OECD Data originated by the Ministry of
 867 Finance of Japan

868 Although Japan provided the largest ODA in the 1990s, we have to admit that
 869 it has been reducing ODA and, in 2007, it finally dropped to 5th place in terms of
 870 the total amount of assistance. Since it is still the second-largest economy, the inter-
 871 national community might have doubt as to the seriousness of Japan's commitment
 872 to poverty reduction. While we understand such a criticism against Japan, it might
 873 need to be set in the context of Japan's financial situation.

874 To be frank, the Japanese Government has serious trouble with a towering bud-
 875 get deficit. As of March 2008, it accumulated about US\$ 5.5 trillion of debt, and the
 876 ratio of accumulated governmental bonds to Japan's GDP reached almost 180 per-
 877 cent (see Table 8.4). This ratio is the worst among the industrialized countries,
 878 and its debt is still mounting. Because of this, Japan is now searching for a new
 879 and sustainable way of managing itself, which also enables Japan to keep taking
 880 international responsibilities in a consistent manner.

881 But even if Japan is suffering from a towering budget deficit, it has to make the
 882 best efforts to support developing countries as effectively as possible. For this rea-
 883 son, Japan is exploring three directions to go forward. First, it is steadily shifting its
 884 emphasis from Asia to Africa, since some of the Asian and the Pacific countries have
 885 already succeeded in achieving economic growth. Second, it intensively applies
 886 financial support like ODA to specific fields. As noted above, since Japan assumes
 887 that economic infrastructure is important, it tends to concentrate on construction
 888 of transportation networks and the like. Third, it also supports fundamentals such
 889 as finance, trade insurance, livelihood protection, and human resources, because if
 890 those fundamentals are not provided, the private sector might not be mobilized.

891 8.6.6 Establishing Economic Infrastructure in the TICAD Process

892 From the viewpoint of these directions, let us describe the initiatives in the TICAD
 893 process. First of all, at the Opening Address, Mr. Fukuda emphasized, "The time has
 894 come for the countries of Africa to adopt as their own a model that led to success in
 895 post-war Japan and many other Asian countries." Then, secondly he described the
 896 importance of economic infrastructure. That is, "In particular, the experiences of

901
902 **Table 8.5** Contents of TICAD IV Yokohama Action Plan

903	Preamble
904	I. Boosting Economic Growth
905	(a) Infrastructure
906	(b) Trade, Investment and Tourism
907	(c) Agriculture and Rural Development
908	II. Achieving MDGs
909	(a) Community Development
910	(b) Education
911	(c) Health
912	III. Consolidation of Peace, Good Governance
	IV. Addressing Environment/Climate Change Issues
	V. Broadening Partnership

913
914
915 Japan and other Asian countries tell us that improvements in transportation infrastructure play a critical role in attracting private investment.” Because of this, as we see in the Contents of the Yokohama Action Plan (see Table 8.5), this formal document starts with “Infrastructure,” aiming at “Boosting Economic Growth.”

916 This “Infrastructure” section covers (1) Regional transport infrastructure, including roads and ports, (2) Regional power infrastructure, (3) Water-related infrastructure, (4) Enhanced involvement of regional institutions, and (5) Promotion of public-private partnership (PPP) in infrastructure. Placing extreme importance on (1) Regional transport infrastructure, Japan believes that missing links in transportation networks should be connected as early as possible.

917 As concrete measures, Japan plans to “Provide financial and technical assistance for the planning, construction and improvement of regional transport corridors and international ports,” “Support capacity building for the management and maintenance of regional infrastructure,” and “Promote facilitation of cross-border procedures such as One Stop Border Post (OSBP)” (TICAD 2008b). As far as OSBP is concerned, since building roads, linking roads, and connecting roads with ports are not enough to achieve its original purpose, the Action Plan touches upon the necessity of training officials at OSBP, on the ground that better customs and immigration procedures would contribute to making cross-boarder transportation more efficient and less time-consuming (TICAD 2008b).

918 By establishing and improving such economic infrastructure, Japan hopes the private sector will increase its investment, and transfer technologies and managerial know-how to Africa, thereby creating more job opportunities in the continent. As for fundamentals, Japan plans to reinforce trade insurance, and to launch the Facility for African Investment within the Japan Bank for International Cooperation (JBIC), the purpose of which is to finance businesses in African countries and to guarantee the financing provided by Japanese banks for businesses in Africa. It is said that financial assistance for Africa through the JBIC will be on a scale of US\$ 2.5 billion over the next 5 years. Through such public-private collaborative initiatives, Japan plans to double private investment in Africa (TICAD 2008b).

8.6.7 MDG Initiatives in the TICAD Process

946 As in the Yokohama Action Plan, there are many other initiatives such as agriculture,
947 community development, education, and health. At TICAD IV, Japan promised to
948 gradually double the amount of ODA, currently around US\$ 0.9 billion (excluding
949 debt waivers), to US\$ 1.8 billion over 5 years (this does not include debt waivers).
950 Japan plans to use a large portion of ODA for alleviating issues in those areas.
951 Among them, basic education is given great importance.
952

953 As his philosophy, then Prime Minister Fukuda mentioned, “For Japan, a country
954 with virtually no underground resources to speak of, the most important type
955 of resources is human resources. First, we give our children a thorough education.
956 Then, we make them self-reliant. On that basis, they live in harmony together
957 with others, pooling their abilities to deal with any difficulties that their friends
958 might face. This is the principle of “self-reliance and mutual cooperation.” This is
959 almost the same as the founding philosophy of TICAD, namely “ownership” and
960 “partnership.” Where there is no “ownership,” which respects self-reliance, neither
961 sustainable development nor growth is possible” (TICAD 2008b).

962 With this premise, the Yokohama Action Plan refers to the importance of basic
963 education - expansion of access and quality, on the ground that in order to eradicate
964 extreme poverty, access to education should be provided securely and equally. In
965 this regard, Japan has pledged to “Support construction and rehabilitation of school
966 buildings and related infrastructure,” and to “Provide assistance to train and retain
967 primary and secondary school teachers and support the establishment and expansion
968 of teacher training systems and organizations” (TICAD 2008b). For example, Japan
969 plans to build about 1,000 primary and secondary schools in Africa within 5 years
970 to come. This plan will provide around 400,000 students with 5,500 classes to study.
971 Since it is reported that teachers are not well trained in Africa, Japan will offer training
972 programs to 300,000 instructors of science and mathematics, including 100,000
973 African teachers.
974

975 In order to answer the third question, what developments are there in Japan to
976 address the ethical issues, we have seen governmental initiatives such as agricultural
977 contributions, efforts toward MDGs, and promises at the TICAD IV. We assume
978 that all these initiatives led by the Japanese Government could be regarded as
979 developments to address the agricultural (food security) and global poverty issues.
980

981 8.7 Initiatives by Leading Japanese Corporations: Education 982 and Basic Infrastructure

983 The governmental initiatives are just a part of the developments in Japan to address
984 ethical issues. Other stakeholders are also addressing those issues. Among them,
985 multinational corporations are especially important in the context of global issues.
986 Therefore, with the intent of supplementing our answer to the third question, we
987 would like to review contributions made by major Japanese corporations.
988

8.7.1 Contributions Corporations Can Make

991 MDGs might be understood as goals to be pursued by governments. Nonetheless,
992 this does not mean that corporations are not expected to help in alleviating world
993 poverty. On the contrary, No. 8 of MDGs expects the private sector to cooperate. In
994 fact, corporations have very competitive technology, know-how, skilled and talented
995 staff, well-organized networks, and ways to operate with high efficiency. Therefore,
996 if they cooperate with governments and others, extreme poverty might be reduced
997 far more effectively than if governments work alone.

1000 According to our research, Japanese NGOs and the mass media believe that the
1001 WTO widens the income gap within a country. NGOs also suggest that the WTO
1002 does not bring benefits to all countries. This is in clear contrast to the perceptions
1003 of officials at Business Federations and business people. In spite of such percep-
1004 tion gaps among different Japanese stakeholders, all the stakeholder groups believe
1005 that multinationals can play an important role in solving global issues as good part-
1006 ners. Reflecting this shared belief, Japanese corporations have long been involved
1007 in Corporate Social Responsibility (CSR) activities. Therefore, in this section, we
1008 would like to see what initiatives leading Japanese corporations have taken so as to
1009 address the poverty issue.

1010 Needless to say, there must be a variety of ways to alleviate poverty. But here
1011 let us confine our focus to major contributions in the fields of education (human
1012 resources) and basic infrastructure, because the Millennium Project assumes that
1013 those two fields are especially important for poor countries to achieve sustain-
1014 able development. In addition to this, although there are a number of corporations
1015 involved in such activities, it is impossible to refer to all of them. Therefore, we
1016 would like to introduce only a few typical examples.

8.7.2 Improvement of Educational Environment

1017
1018 As we have seen at Section 8.6, the Japanese Government places a stress on
1019 basic education, promoting a variety of programs such as constructing schools,
1020 offering training to instructors, etc. Interestingly, Japanese corporations have also
1021 been proceeding with similar programs in various countries. Three cases are worth
1022 referring to.

1023 First, in South Africa, with six NGOs and educational institutions, Toyota has
1024 participated in a training program for teachers and administrators. Before starting
1025 this program, they came to the conclusion that in South Africa, a large number of
1026 students are not academically prepared for high schools or vocational schools, and
1027 it is because teachers themselves are not sufficiently trained (Neighbors 2005: 10).
1028 Taking this conclusion very seriously, they launched the training program for the
1029 purpose of helping South Africa improve its educational environment.

1030 Second, an initiative of Mitsui & Co. is also worth mentioning. In Thailand,
1031 through its subsidiary (Mitsiam International), Mitsui & Co. has taken part in the
1032 Doi Tung Development Project, a national project. The purpose of this project is

1036 to alleviate rural poverty, by helping villagers master how to manufacture their
1037 own local products. In fact, this project has successfully provided them with job
1038 opportunities and effectively eradicated illicit activities related to drug production.
1039 In addition to this national project, as an independent initiative, in 2006, Mitsui &
1040 Co. launched the Library Gift Project, believing that reading is a key to develop
1041 promising people in Thailand. In this project, they selected the poorest and the most
1042 underprivileged 10 elementary schools, visited all the 10 schools so as to under-
1043 stand their real needs regarding a library. Based upon their inquiry and analysis, it
1044 has donated a library suitable for each of those elementary schools.

1045 Lastly, an initiative in Sub-Saharan countries by Sumitomo Group four corpo-
1046 rations is also noteworthy. Since they believe that the educational environment for
1047 children is a key element for poverty reduction in Africa, and this is a practical way
1048 for them to contribute to MDGs, Sumitomo Chemical, Sumitomo Trust & Banking,
1049 Sumitomo Life Insurance, and MSIG (Mitsui Sumitomo Insurance Group) joined
1050 the elementary school construction project organized by World Vision. So far they
1051 have built elementary schools equipped with a dining hall and teachers' accommo-
1052 dation in Tanzania, Kenya, Uganda, and Zambia. The school construction project
1053 of the Japanese Government could be considered an imitation of this Sumitomo
1054 Group's initiative.

1055 1056 **8.7.3 Improvement of Basic Infrastructure**

1057 As the Japanese Government has contributed to poverty reduction by improving
1058 conditions of health, safety, agriculture, and land use, Japanese corporations have
1059 also engaged in similar activities. Let us review three typical contributions Japanese
1060 corporations have made in this regard.

1061 First, in poverty-stricken communities of the Philippines, Toyota Motor and its
1062 charitable foundation have conducted the so-called Medical and Dental Outreach
1063 Program. The program has taken place twice a year. By 2006, more than 75,000
1064 people had received medical attention through this program. According to a report
1065 published by Toyota, most of the patients might have otherwise never received care
1066 from medical professionals. Usually parents bring children for treatment of a par-
1067 asitic disease. And when it is necessary, physicians perform simple surgery at the
1068 outreach sites (Neighbors 2006: 24–25).

1069 Second, Sumitomo Chemical's contribution in the field of healthcare might be
1070 well known. It is said that each year, about 300 million people contract Malaria
1071 and one million die of it. In order to challenge this tragedy, Sumitomo Chemical
1072 has participated in the roll back Malaria campaign and has supplied its original
1073 mosquito nets (Olyset nets) to poor villages through UNICEF and WHO. While the
1074 company offered manufacturing know-how to a Tanzanian company free of charge,
1075 it has also been expanding the production capacity in response to increasing needs
1076 for the nets. So far Sumitomo Chemical has supplied 30 million nets to the global
1077 community. The Olyset net is said to be very effective in preventing Malaria. For
1078 example, in 2006 the company donated 330,000 nets to the Millennium Promise,

1081 one of the influential NGOs, and this donation is believed to save and protect over
1082 500,000 people from Malaria.

1083 The last one is a very brave and far-reaching initiative. The president of
1084 Yamanashi Hitachi Construction Machinery, a very small company, has been making
1085 strenuous efforts to return fertility to land and safety to children in poor countries
1086 devastated by wars. According to a report, currently about 110 million antipersonnel
1087 landmines are in place around the world. If people try to find all of them following
1088 the established procedure, it will take more than 100 years. Shocked by this reality,
1089 Mr. Kiyoshi Amemiya, president of the company, launched a landmine clearance
1090 project to improve the situation where many civilians, especially children, become
1091 victims of those mines. Keeping a strong belief that without cultivable and fertile
1092 land any country cannot support itself, he has devoted his life to developing special
1093 bulldozers and to clearing the land of many countries with his inventions.

1094 We have indirectly suggested that in order to mitigate criticisms against the
1095 WTO and the business community, multinationals have to make social contribu-
1096 tions. But as far as corporations introduced here are concerned, we cannot see such
1097 motives in a clear manner. They seem to have engaged in global challenges and pro-
1098 moted philanthropic movements, just because of a very strong sense of corporate
1099 social responsibility. In other words, they take poverty as one of the most important
1100 ethical issues, and have proceeded with their self-setting missions. Regarding the
1101 third question of the FITI project, we believe that a series of those initiatives taken
1102 by leading corporations could be also noteworthy developments by the business
1103 community.

1104

1105 **8.8 Summary and Closing Remarks**

1106

1107 ***8.8.1 Answering the First Question***

1108

1109 In this chapter, we have discussed a number of issues so as to answer three ques-
1110 tions of the FITI project. As for the first question, we described the formal position
1111 of the Japanese Government. In a nutshell, it considers that a part of the WTO pro-
1112 cess (DSB) is fair and effective, but it sees that the WTO has not been working
1113 effectively, because the outcome of the WTO does not seem fair enough to some
1114 Members. This is the main reason why Japan has shifted its position from a WTO-
1115 centered to a bilateral EPA-driven strategy. When it comes to the perceptions of
1116 ordinary Japanese, we found that most of them (except for NGOs) are likely to con-
1117 sider that the WTO is working in a fair manner. One of the interesting points is that
1118 every stakeholder group in Japan including NGOs feels that corporations and civil
1119 society could work together as good partners.

1120

1121 ***8.8.2 Answering the Second Question***

1122

1123 With regard to the second question, we identified two ethical issues as the most
1124 important and challenging issues.

1126 First is protection of rice farming in Japan. From the viewpoint of life in rural
1127 areas, natural environment, sustainable management of water resources, cultural tra-
1128 ditions, and food security, the Japanese Government has long protected rice farming.
1129 On the other hand, agricultural exporting countries have urged Japan to import more
1130 agricultural products, and reduce tariff rates on them, including rice.

1131 Second is poverty reduction, especially alleviation of extreme poverty in the least
1132 developed countries. Given the size of its economy, Japan has to take this respon-
1133 sibility far more seriously than ever. It is suggested that so far Japan has made
1134 contributions mainly to the development of East Asia and the Pacific. Now that
1135 many countries in this region have began to develop economically on their own,
1136 even if poverty remains in some areas of this region, it is clear that Japan has come
1137 to a point to shift its focus from Asia to Africa.

1138 Before answering the third question, we defined the ultimate purpose of glob-
1139 alization and the WTO, from the viewpoint of a rational person on the original
1140 position. That is to reduce both the gap between developed and developing coun-
1141 tries at the global level, and the gap between the most advantaged people and
1142 the least advantaged people at the national level. With this definition in mind, we
1143 explained typical initiatives led by the Japanese Government and by major Japanese
1144 corporations.

1145 1146 **8.8.3 Answering the Third Question (1): Protecting Rice Farming**

1147 As for the first ethical issue, protection of rice farming in Japan, through the TICAD
1148 process, the Japanese Government has started to make the best use of Japan's experi-
1149 ences in rice production for the benefits of Sub-Saharan Africa. Faced with the food
1150 shortage crisis, Japan has facilitated the development of NERICA, and explored poss-
1151 abilities of producing the next generation of biofuels. By committing itself to those
1152 initiatives, Japan expects WTO Members to understand its policy on rice and its
1153 contributions to rice harvesting in poor countries, even if such contributions do not
1154 solve clearly the dilemma between the requests of agricultural exporting countries
1155 and the interests of domestic rice farmers.

1156 1157 **8.8.4 Answering the Third Question (2): Poverty Reduction**

1158
1159 With regard to the second ethical issue, poverty reduction, like other developed
1160 countries, Japan has also engaged in MDGs from the beginning. Based upon its
1161 own experience and its experience in East Asia, the Japanese Government will
1162 input more resources into the infrastructure of Africa. As one of the major ini-
1163 tiatives through the TICAD process, Japan plans to connect missing links in
1164 transportation infrastructure. It strongly believes that by improving market access,
1165 the private sector would eventually be mobilized. On top of that, the Japanese
1166 Government has initiated the primary and secondary school construction project,
1167 and offers training programs to instructors of science and mathematics in Africa.

In addition to those governmental initiatives, major Japanese corporations have also addressed the second issue. As we have seen, when it comes to the development of a country, Japanese people are likely to place great importance on education. Following that belief, in the field of education, the private sector has offered training programs to local teachers and administrators, has provided libraries to elementary schools in the most underprivileged areas, and has constructed primary schools in the least developed countries. Many corporations have also made contributions in the fields of health and security. For instance, some have supplied mosquito nets to fight Malaria, and others have made strenuous efforts to clear anti-personnel landmines so as to make the war-devastated land safe and cultivable. All of them, including governmental initiatives, could be regarded as developments in Japan to address these global issues. This is the answer to the last question the FITI project raised.

8.8.5 Remaining Issues

We have seen initiatives to achieve poverty reduction. All those initiatives, whether government-led or private sector-led, are basically voluntary not obligatory. As long as those voluntary-based initiatives are working well, we might not need to consider other ways to assist. But at the end of this chapter, we would like to mention a little bit about a new movement, which might give us some ideas, when we think of making the world a real global community. This is the so-called “global taxation” movement. A typical example is to impose a tax on airline tickets for achieving MDGs, mainly for funding the global fight against diseases like HIV/AIDS, Tuberculosis, and Malaria.

TRIPs came into effect in 1995, which prohibited pharmaceutical manufacturers from producing generic medicines without authorization of the patent right holders. As a result, the price of quality drugs like HIV-related drugs became very expensive. To be sure, developing countries can still manufacture or import cheap generic drugs, if they invoke the compulsory license procedure within the TRIPs framework. But even in those countries there are still many people who cannot afford quality drugs. As one of the effective ways to alleviate this situation, the global tax was introduced and imposed on airline tickets. On the basis of this taxation system, UNITAID, an international drug purchase facility, negotiates prices for those drugs on behalf of poor patients. Seeing this mechanism working well, NGOs began to explore possibilities to impose global taxes on other activities or sectors such as speculative money transactions, carbon dioxide emissions, etc.

It is clear that in this taxation system there are many difficult issues such as how to maintain fair taxation among industries or among taxpayers, how to distribute tax revenues among recipients in a fair manner, and how to govern this taxation system in a responsible and accountable manner. Despite those complicated issues, we feel that at least, this mechanism designed to contribute to MDGs might be useful, since it could work on an obligatory-basis. Imposing taxes on individuals not on countries is also a very interesting point. If we take into consideration the fact that even in

1216 developed countries there are many poor people, and even in developing countries
1217 there are wealthy people, imposing global taxes on individuals could be rational and
1218 practical. With those reasons in mind, we conclude by suggesting that the global
1219 taxation movement would be worth examining further.

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01 **Chapter 9**

02 **Fairness in International Trade and Investment:**
03 **North American Perspectives**

04
05
06
07 **Frederick Bird, Thomas Vance, and Peter Woolstencroft**

08
09
10
11
12 **9.1 Introduction**

13
14 North Americans have adopted a number of different views with respect to what
15 they consider fair in relation to international trade and investment. These differences
16 reflect the distinctly different histories of the United States, Canada, and Mexico;
17 the varied roles that international trade plays in these countries; markedly different
18 social and economic positions of groups within these countries; and varied political
19 and economic interests. Within each country typically different positions regard-
20 ing fairness in international trade have been taken by small and large businesses,
21 farming groups, trade unions, consumers, and different regions. In spite of these dif-
22 ferences, Canada, Mexico, and the United States have joined together in the North
23 American Free Trade Agreement (NAFTA), which has been both widely applauded
24 and criticized. All three countries are members of the World Trade Organization
25 (WTO).

26
27 In the initial part of the chapter we review recent developments with respect to
28 trade. We note the way that the multi-lateral trade arrangements associated with
29 the WTO have modified how regional bi-and-tri-lateral agreements have been inter-
30 preted in ways that have at times promoted the interests of smaller countries. In
31 the second part of the chapter we discuss four typical normative views that North
32 Americans have taken with respect to international trade and investment. In addi-
33 tion to a traditional and currently resurgent protectionist stance, the other major
34 view, which we refer to as the liberal fair play position, has championed both inter-
35 national trade and fairness in such trade based on notions associated with procedural
36 justice. This mind set has not only at times influenced official government policies,
37 especially in the United States, but also informed the negotiations that led to the
38 creation of the General Agreement on Trades and Tariffs (GATT). While likewise
39 championing international trade, a third perspective, has called for greater atten-
40 tion to concerns for distributive justice and fair outcomes. Finally, while not being

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46 overtly protectionists, a number of North Americans have raised serious questions
47 about the ways current trading relations endanger the environment and aggravate
48 inequalities.

49 These differing interests and views of international trade and the fairness of
50 this trade – national, sectoral, and normative – do not seem to be simply resolv-
51 able, either by invoking overarching principles or common interests. However,
52 adopting a normative perspective in parts three and four, we argue that fairness is
53 best approached not by trying to overcome these different interests and values but
54 through open and reciprocating political processes that enable these differences to be
55 voiced, acknowledged, and debated and thereby encourage compromises to emerge.
56 In addition, we identify five fundamental affirmations, which seem to be both impor-
57 tant for these inevitable ongoing debates and ones that these diverse points of view
58 can embrace as basic despite their differences. In the last two parts of the chapter,
59 we outline these views calling particular attention to views of commutative justice
60 and issues associated with abusive transfer pricing.

61 Since its birth in 1995, the WTO, successor to the GATT, has grown rapidly –
62 from an original 76 members to its current roster of 152, with approximately 30
63 additional “observer governments” making strides toward full membership (WTO,
64 2008). Membership growth has been accompanied by an expanding agenda. While
65 GATT restricted itself to commercial trade issues, the WTO’s initial mandate was
66 wider; and since then it has had to deal with myriad issues, especially pertaining
67 to the environment and human rights, trade in services and intellectual property
68 rights, unknown in the pre-WTO period. Some see the emergence of the WTO
69 as the embodiment of globalization and economic liberalism (Hart, 2002: 434–7).
70 Others see the WTO as not just a trade liberalizing vehicle but one that is oriented
71 towards privatization of services – for example, health and education – that hereto-
72 fore had been the prime responsibilities of governments; that is, they argue, the
73 WTO’s agenda has come to include more than issues related to trade and invest-
74 ment; it has come to include a number of more value-laden and thus contested social,
75 economic, and political objectives (McDougall, 2006: 64–5).

76

77 9.2 Bilateral and Multilateral Trade Relations in North

78 America: Recent Developments

79

80 North Americans have adopted a number of quite different views with respect to
81 whether, and to what degree, current international trade practices are fair or unfair.
82 The Mexican, Canadian, and American governments frequently hold different views
83 on these matters, even though all three countries are members of the North American
84 Free Trade Agreement (NAFTA). In each country various groups have defended
85 positions associated with fair trade, protectionism, economic nationalism, bilater-
86 alism, and free trade. In the first part of this chapter, we examine issues of fairness in
87 international trade largely from a Canadian perspective. We begin with recognition
88 of the asymmetrical relationships between the three large countries that constitute
89 North America.

9.2.1 Three Asymmetries

91 North America is a complex social, economic, and political entity, characterized
92 by growing commonalities and also great differences. Since the 1980s two overall
93 themes have been evident in discussions about the future of North America. First,
94 since the 1988 Canadian-US Free Trade Agreement (CUSFTA) and NAFTA (signed
95 in 1994), which created the world's largest trading bloc, there has been increasing
96 interest in – and debate about – the desirability of North American economic inte-
97 gration. For many, increasing economic integration leads to more and more political
98 integration, desirable or not. At the same time, heightened consciousness of three
99 asymmetries between Canada, Mexico, and the United States raises questions about
100 how future economic and political arrangements will be structured.

101 First, by measures of gross economic activity, the three countries of North
102 America rank in the top 15 of the world's economies. However, the United States,
103 the world's largest economy (with about one-quarter of the world's economic activ-
104 ity), exercises far greater economic power in the world than do Canada, ranked
105 eight (less than 1 percent of the world's economic activity) and Mexico, ranked
106 15 (International Monetary Fund, 2008). Further, the United States – the world's
107 leading political and economic power – overwhelms its northern and southern neigh-
108 bours in many other respects, such as population, per capita purchasing power, and
109 annualized growth rates. For example, Canada's market is only 9 percent of the US
110 market.

111 Second, Canada and the United States clearly represent developed economies, a
112 small subset of all the world's economies in terms of numbers, at the same time as
113 they constitute a large fraction of the world's economic activity, with both countries
114 belonging to the G8. Mexico, by contrast, clearly falls into the category of devel-
115 oping countries, which number many and are slowly growing in economic weight.
116 Differences between developed and developing countries underlie much of the pro-
117 tracted and failed Doha development round of negotiations. The differences between
118 these countries in terms of per capita income or overall economic activity have not
119 decreased over the past several decades.

120 The third asymmetry pertains to the role of international trade in each nation's
121 economy. Global international trade is immensely important for both Canada and
122 Mexico (respectively, trade-to-GNP ratios in 2006 being 70.1 and 65.1), but less
123 important for the United States, with a ratio of 28.1, the lowest of states in
124 the Organization for Economic Co-operation and Development (OECD Statistical
125 Abstracts).

126 As shown in Table 9.1, there are important differences in trade patterns within
127 North America. For both Canada and Mexico, trade with the United States is of
128 signal importance, representing for each country over 85 percent of its global trade.
129 Trade between the United States and its neighbours commands less weight, though
130 Canada is the leading destination for American exports and Mexico the third.

131 Regular meetings between the leaders of Canada, Mexico, and the United States
132 speak to the continuing importance of intra-regional issues, with trade and invest-
133 ment being prominent but security issues assuming great importance, principally

136 **Table 9.1** Percentage of all merchandise imports and exports between Canada, Mexico, and the
 137 United States, 2007

	Exports to			Imports from			
	Canada	Mexico	USA	Canada	Mexico	USA	
141	Canada		1.1	79.3		4.2	54.2
142	Mexico	2.6		89.5	2.3		59.9
143	USA	21.4	11.7		15.7	10.6	

144 Source: World Trade Organization, International Trade Statistics, 2008

145
 146 driven by the attacks on the United States on September 11, 2001. The three coun-
 147 tries signed in 2005 the “Security and Prosperity Partnership of North America”
 148 (SPP). Its purpose was twofold: to develop trilateral agreements on security issues
 149 and to provide for economic cooperation and information sharing. Both Canada and
 150 Mexico are apprehensive that American security issues will lead to hardening of
 151 America’s two borders with economic consequences more severe for Canada and
 152 Mexico than for the United States. Indeed, some see the United States in the post
 153 9/11 period turning away from its long-standing and public commitment to trade
 154 liberalization in favour of “strategic power” and “economic power” (Staples, 2007).

155
 156 The idea of “asymmetrical dependency” best captures the dynamics of the eco-
 157 nomic relations between the three countries in that one – the United States – is much
 158 less dependent on the other two than are the latter two dependent upon the United
 159 States (Baldwin, 1980: 471–506).

160 161 162 **9.2.2 North America and the WTO**

163 In general, Canada and the United States have supported trade liberalization in both
 164 the GATT and WTO eras. Mexico moved toward support of trade liberalization in
 165 the 1990s. The United States, again in general, has justified trade liberalization in
 166 terms of enhancing choice and spurring economic growth through competition and
 167 comparative advantage. Canada and Mexico, conscious of size differentials between
 168 themselves and the United States and desirous of protecting social, economic, and
 169 political institutions, have perceived competitive pressures and economic weight as
 170 potentially disrupting, if not destroying, “Canadian” or “Mexican” ways of doing
 171 things.

172
 173 North American debates about trading arrangements and governments pivot on
 174 two questions. The first concerns whether regional or global trading agreements
 175 are preferable. The second pertains to the relationship between society (advocacy
 176 groups, interest groups, and political parties) and governments.

177 In the case of Canada, after over a century of political argumentation about the
 178 desirability of “free trade” with the United States, the signal event clearly was the
 179 1998 CUSFTA. The voluminous literature on the agreement contains two signifi-
 180 cant points. First, an important motivation for the Canadian government to enter into

negotiations with the United States was the fear of ascendant protectionist forces, especially in the U.S. Congress. Canada was perceived to be especially vulnerable in the absence of formalized trade arrangements. Second, in an age of concern about fossil-fuel reserves and security of supply, coupled with price uncertainties, the United States will be increasingly looking for Canada to meet its future energy needs (Council on Foreign Relations, 2005). The growing interdependence between the Canadian and American economies makes it very difficult for the Canadian government to interfere with the flow of energy to the hungry American market. Mexico, for its part, was interested in a trade arrangement with the United States in order to establish itself as a secure and attractive destination for investment monies. Canada joined what became NAFTA in order to protect its interests in any agreement reached between the two countries to the south.

Multi-lateral trade arrangements highlighted, of course, by the WTO provide a telling contrast with the regional trade arrangements found in North America. The WTO – in its stated objectives – clearly is oriented toward trade liberalization on the basis of general rules. That is, very much embedded in the WTO system is the establishment and implementation of policies, procedures, and practices that allow for free, smooth, and predictable trade flows, all of which should be reflected in international trade law. Five principles constitute the WTO's framework for trade policies; they are:

- non-discrimination;
- reciprocity;
- binding and enforceable commitments;
- transparency; and
- “safety valves” which allow governments, under certain conditions, to restrict trade.

The premise, then, of the WTO is that unencumbered international economic exchanges will be beneficial to all countries. Let us turn to the case of North America, primarily through an examination of the American and Canadian cases, the two countries having had a long history of commercial relations, to understand the differences between regional and multilateral trade arrangements.

The two North American trade treaties, in comparison with the European Community and the WTO, have one important distinguishing feature, namely the lack of overarching institutional structures. Free-market proponents of the trade agreements did not appreciate the need for supranational political institutions. Those looking for such institutions were confronted with the clear unwillingness on the part of the United States to contemplate the possibility and the fear on the part of Canada and Mexico that they, singly or jointly, could and would not be heard in such institutions. Simply, trade arrangements did not change political ones, with the United States happily pursing its tradition of unilateralism and Canada and Mexico relying on bilateralism for the furtherance of their interests (Pastor, 2001). Indeed, the three governments, in the course of the NAFTA negotiations, “seemed to be haunted by the specter of the European Union” and its many institutional forms

226 which incorporated many of the executive, legislative, and judicial functions of
227 government (Clarkson, 2008: 51).

228 Another telling feature of the North American trade agreements is the organi-
229 zation of dispute resolution mechanisms (DRM). In the case of NAFTA, provision
230 is made for governments to attempt to resolve disputes about interpretative matters
231 through discussion and negotiation. Failing such agreement, the matter is transmit-
232 ted to ad hoc bilateral panels for arbitration. These panels are low-level in that they
233 lack enforcement mechanisms, thus allowing governments to follow decisions as
234 they wish. A similar low degree of institutionalization is evident in regards to the
235 settlement of disputes about anti-dumping or countervailing duties. While Clarkson
236 argues that NAFTA trade disputes have been successful in attenuating somewhat
237 the power differences between the United States and its two neighbours, he points
238 to an important condition: Washington has accepted decisions when there is little
239 domestic opposition, but “bi-national panel rulings have not managed to discipline
240 American government behaviour on issues of major domestic salience” (Clarkson,
241 2008: 81). On critical matters, then, the trade agreements do not appreciably alter
242 the asymmetrical power relations in North America.

243 What does the WTO mean for North America? That question leads to consid-
244 eration of the WTO and its two decision-making features. First, decisions are to be
245 made consensually. Second, the current (and now failed) negotiations were a “single
246 undertaking”. This means that instead of negotiations proceeding sequentially from
247 issue to issue or from sector to sector, all issues proceed simultaneously and must
248 be resolved before the negotiations have concluded. Failure in one part is a failure
249 in all parts.

250 The fundamental decision-making rules of the WTO are highly contentious.
251 The requirement for consensus is problematic in small groups as it encourages
252 “hold-out” behavior; (some) participants, knowing the norm, take hard positions,
253 calculating that others will concede at least some critical points. Within larger
254 groups, the likelihood that negotiations will be successful would seem to be quite
255 low. A compounding institutional factor that contributes to the low probability of
256 success is that states vary enormously in their approval processes, highlighted by
257 the United States, where the Senate must approve any international commitments.
258 Assertive domestic political interests may trump what American negotiators have
259 accepted. American leaders have spoken glowingly about the desirability of trade
260 liberalization. However, many cases that have gone before the WTO concerning
261 American actions and laws have been resolved in ways that have been favorable to
262 economic interests in the United States.

263 The “single-undertaking” requirement has been interpreted by many to be
264 inordinately demanding and inevitably destructive of success. The “utilitarian”
265 interpretation of states and interests says that negotiations take place within the
266 context of each state trying to maximize its gains and minimize its losses. Two pre-
267 dictions follow from this perspective: first, that there will be collapsed negotiations
268 because of the unwillingness to make the compromises necessary to reach consen-
269 sus; second, the agenda of western industrialized nations – the liberalization of trade
270 in its many forms – will not be matched by the full opening of their markets to the

271 produce and products of developing countries because of the heavy weight that they
272 bring to negotiations; in other words, the asymmetries between the developed and
273 developing countries work to the advantage of the former.

274 A contrary view, cogently argued by Robert Wolfe (2008), sees the negotiating
275 context of the WTO in positive terms. His “constructivist” perspective is predicated
276 on the assumption that actors enter negotiations, not with interests in mind that per-
277 haps will be begrudgingly trimmed in light of their bargaining strategies, but in a
278 context “in which contracts and treaties furnish a framework for an ongoing rela-
279 tionship of the relationship, not a precise definition of the relationship.” Arguing
280 processes lead actors to contemplate reasons for positions – for all actors, not just
281 theirs—and to think about ways to reach agreement in light of what they have
282 learned. In other words, the institution of trade negotiations embodied in the WTO
283 system will not only reflect power politics but also the reasoned accommodation
284 by actors of interests through the interpretation, understanding, and appreciation
285 of the reasons for stated positions. The constructivist perspective, as compared
286 to the underlying “power” politics of utilitarianism, is consistent with the idea of
287 procedural fairness.

288 From the perspective of Canada and Mexico, the WTO represents their best
289 hope of arriving at trade and investment agreements that do not reflect the strong
290 asymmetries that exist in North America. In utilitarian terms, regional or bilateral
291 agreements will reflect the weight of the United States. (And, indeed, some com-
292 mentators see an emerging interest on the American side in the marginalization of
293 the WTO in favor of bilateral trade agreements.)

294 Three important cases point to the importance of the WTO for Canada. The
295 first originated in the WTO ruling in 1997 that “content requirements for magazine
296 advertising were illegal, raising the prospect that quotas and subsidies protecting
297 Canadian culture would be stripped away” (Byers, 2007: 113). In the subse-
298 quent decade the Canadian government worked energetically to move the WTO
299 to accept that cultural industries are separate from other economic sectors despite
300 American objections that choice by consumers and the profits of its large corporate
301 entertainment sector were threatened.

302 The second case comes from the agricultural sector. Agriculture is not ordinarily
303 identified as being caught up in globalizing forces, yet, as Coleman and his col-
304 leagues (2004) point out, it is very much at the centre of the interaction between
305 myriad actors – states, transnational corporations, global institutions (including the
306 WTO), international non-governmental organizations (NGOs), and social move-
307 ments – and the intersection between issues of intellectual property (especially
308 genetically-modified seeds), food supply and security, biological diversity, and envi-
309 ronmental protection and enhancement. The linkages between the state, the market,
310 and agricultural producers are also variable, as is exemplified by the comparison
311 between Canada and the United States. One important difference is the existence in
312 Canada of a number of marketing boards which have monopoly buying and sell-
313 ing powers whereas in the United States producers operate in the open market
314 (although subsidies, as in many countries, are an important element of the agri-
315 cultural economy). Agriculture is one of Canada’s leading value-added economic

316 sectors, with wheat constituting an important export product, thereby competing
317 under the auspices of the Canadian Wheat Board with American producers. The
318 difference between the Canadian and American approaches in support of their agri-
319 cultural industries is that there “is a perception in the American wheat industry that
320 the Canadian Wheat Board (CWB) is structured in such a way as to ensure it will
321 not operate in accordance with commercial considerations – that is, in the interests
322 of free market competition” (Froese, 2008: 2).

323 The United States challenged the Canadian system at the WTO by arguing that
324 the Canadian Wheat Board, a state-trading enterprise (STE), acted as a monopsony.
325 By being the single buyer and seller of wheat, it alleged that the CWB undercut the
326 workings of competitive markets. However, the issue was more than just a matter of
327 economic outcomes, but, rather, one that reflected different approaches to the role
328 of government in the economy (Froese, 2008: 5). In 2004, the WTO ruled, for the
329 most in favour of Canada, and on the central issue of the legality of the marketing
330 board supported Canadian arguments.

331 The third case concerned the softwood lumber industry in Canada. It paralleled
332 the agriculture issue in one sense as Canadian practices related to stumpage fees
333 (how Canadian governments sell harvesting rights on crown land, which consti-
334 tute over 90 percent of Canada’s forestland) were seen by protectionist-minded
335 American competitors, who work within a market-system, as leading to an unfair
336 competitive advantage; however, the issue was more complex, as American con-
337 sumers, benefiting from lower Canadian prices for softwood, were an interest not
338 at play in the dispute about the CWB’s impact on global wheat pricing. The issue
339 was also more protracted, running for about 25 years and going through many FTA,
340 NAFTA and WTO dispute settlement mechanisms (Anderson, 2006: 586).

341 One point is especially pertinent in light of the foregoing discussion of fair-
342 ness in trade and investment. As the American case failed in the course of going
343 through various dispute settlement mechanisms, the response of the United States
344 government was to seek solutions outside of NAFTA – that is, through a negotiated
345 settlement between the Canadian and United States governments (Gagne, 2003).
346 The long-term goal of Canadian governments in pursuing formalized trade agree-
347 ments with the United States had been institutionalization of the dispute settlement
348 mechanisms, which would have the effect of depoliticizing disputes. Although the
349 eventual decision – rendered by a WTO panel – was mixed, nonetheless it was a
350 victory for the Canadian government inasmuch as a solution to the impasse was
351 found. At the same time the panel supported the basic contention of the US gov-
352 ernment that stumpage fees amounted to a subsidy for Canadian softwood exports
353 (Williams, 2008). On the whole, American economic power and pressures were
354 undercut by the WTO. Tellingly, however, with the American government refusing
355 to accept judgments from both NAFTA and WTO panels, the Conservative govern-
356 ment of Canada bowed to the American demand for a negotiated settlement, which
357 in its details contradicted WTO rulings (Clarkson, 2008: 83).

358 In constructivist terms, large-scale negotiations promise the possibility of balanc-
359 ing interests given the WTO’s two overriding principles – that of non-discrimination
360 and most-favoured-nation (in which trade concessions to one must be extended to

361 all). The constructivist perspective presumes that learning (and attendant appreciation
362 and understanding) will function to balance the weight of state interests.

363 Clearly multi-lateral trade relations, like those embodied in the WTO, function
364 to serve the interests of relatively large economies like Canada's and Mexico's in
365 their relationships with the much larger economy of the United States.

366

367 **9.3 Several North American Normative Perspectives** 368 **on Fairness in International Trade and Investment**

369

370 In part one, we have examined several active political positions which North
371 Americans have adopted with respect to achieving what proponents of these several
372 movements have regarded as fairness in international trade. We have in particu-
373 lar examined the practical impact of the multilateral approach on trading issues
374 between the United States and Canada. In part two, we will examine several nor-
375 mative perspectives articulated by North Americans on how to foster fairness in
376 multilateral trade. While all parties invoke basic principles of fairness, they do so in
377 quite different ways.

378

379 **9.3.1 Protectionism and the Prevailing Liberal Views of Fair Play**

380

381 In order to protect what Alexander Hamilton regarded as its infant industries, the
382 early American Republic adopted a protectionist perspective towards international
383 trade. Tariffs served both as a means of fostering domestic businesses and industries
384 as well as a reliable means of raising public revenues. This position remained dom-
385 inant until sometime during the New Deal years of the 1930s as Americans began
386 to develop what we are here labeling as the liberal fair play view of fairness with
387 respect to international trade. As they negotiated a number of bilateral treaties in the
388 thirties and forties and as they took the lead in championing multilateral approaches
389 to trade in the post world war two years, American governments sought to encour-
390 age the expansion of foreign trade in keeping with certain basic principles of fair
391 play. Several principles have remained basic to the notions of fair play with regard
392 to international trade throughout the subsequent years.

393 One, the initial assumption emphasizes the importance of free choice.
394 Accordingly, trading arrangements ought to be established so that firms and nations
395 can freely negotiate the terms of their exchanges. The traditional rules and tariffs
396 restricting these choices should be liberalized in due course. Two, countries should
397 proceed with these negotiations in keeping with the principle of non-discrimination
398 such that all nations would be treated the same in keeping with a general set of rules.
399 Often referred to as the "most favored nation" principle, this standard requires that
400 the same basic rules and procedures be followed in negotiating trading relations with
401 any and all other countries. Finally, three, it was assumed that these liberal market
402 exchanges only became viable to the extent that contracts and property rights were
403 adequately guaranteed in law. These principles of fair play have been typically justi-
404 fied in utilitarian terms. Thus, as governments created opportunities for free market

406 negotiations and exchanges, it has been widely argued that they thereby also fostered
407 arrangements that favored constructive wealth creation.

408 Based on these normative beliefs, American governments from the 1930s onward
409 negotiated dozens of bi-lateral treaties to liberalize trade. In the post World War
410 Two years they proposed establishing an International Trade Organization and when
411 this effort failed, they joined with other countries in efforts to promote the General
412 Agreement on Tariffs and Trade (Zampetti, 2006).

413 The liberal ideas of fair play assume that governments should and would pro-
414 ceed to work to liberalize trading rules with other countries, thereby enhancing
415 the opportunities of domestic exporters and investors. In exchange the government
416 would make concessions that provided opportunities for foreign firms to sell imports
417 domestically so long as imports in no way injured the opportunities of domestic
418 firms. Liberal notions of fair play were thus closely connected with assumptions
419 about reciprocity. Opportunities would be extended mutually on something like a
420 tit for tat basis so long as these arrangements did not put domestic businesses at a
421 decided disadvantage.

422 Similarly with liberal ideas about equal opportunity, these beliefs about fair play
423 focus on the conditions that allow for open, rule-regulated, competition. Ideas of
424 fair play do not focus on whether outcomes are just or not. Rather, this perspective
425 seeks to allow for and support the free choices of individuals and firms: it assumes
426 that individuals and firms will compete on the basis of their own self-interest; it
427 seeks to identify and reinforce impersonal rules that will facilitate the expansion of
428 trade; and it assumes that public good will be maximized by fostering this kind of
429 self-interested competition.

430 This view of fair play is limited in several important ways. One, it is assumed
431 that, while governments ought to restrain their intrusive efforts to over-regulate com-
432 mmerce, they will nonetheless act to provide the legal and political infrastructures that
433 facilitate and protect free market exchanges (Finn, 2006). Two, the beliefs about fair
434 play presuppose as well that governments will act constructively in several different
435 ways to support domestic enterprises as these firms enter into competition in inter-
436 national markets: by protesting against what seem like unfair competition by others,
437 by offering subsidies for industries especially threatened by foreign competitors
438 with cheaper labor markets, and by keeping them well informed of technological
439 and even economic innovations. Three, additionally this liberal fair play approach
440 assumes a national not global perspective. This view has been used progressively
441 to liberalize trading relations within particular industries and sectors but only to
442 the extent that reciprocating relationships can be developed with other countries.
443 Where this kind of mutual adjusting and repositioning has been resisted both by
444 other countries and national enterprises, for example, with respect to a wide range
445 of agricultural products, then these trading relations have not been correspondingly
446 liberalized.

447 Liberal views about fair play in international trade have been widely embraced.
448 They have been articulated and defended as economic common sense. Along with
449 some protectionists' sentiments voiced in defense of domestic workers, in prac-
450 tice these views have shaped much of American international trade policy since the

451 Great Depression. These views have also influenced American policies with respect
452 to the proper role of the World Bank, the International Monetary Fund, and the
453 General Agreement on Tariffs and Trade. To a large extent, Mexican and Canadian
454 economic liberals adopt similar views.

455 Over the years different groups have interpreted and expressed the core set of
456 basic liberal standards of fair play somewhat differently. While some neo-liberal
457 defenders of these principles have set forth their views in ways that seemed to sug-
458 gest that international trading markets were almost free standing institutions, other
459 more traditional liberals have called for greater attention to the important roles that
460 governments, their laws and regulations, trade agencies, and central banks, have
461 played in creating and maintaining these institutions. Because of these variations,
462 the liberal views of fair play have often seemed vague if not amorphous.

463 464 465 **9.3.2 The Liberal Search for Distributive Justice**

466
467 Typically, North Americans have dissented from this liberal position by supporting
468 some form of trade protectionism. Whether in defense of particular industries, in
469 the name of national self-determination, on behalf of domestic workers and their
470 wages, or in protest against the environmental damages of international businesses,
471 many North Americans at both ends of the political spectrum have assumed genuine
472 fairness would be best achieved through tariffs and subsidies in support of the farm-
473 ers, laborers, and businesses of their own countries. However, there have also been
474 those who criticized the liberal fair play position in hopes of achieving a more just
475 although still liberal system of international trade. Basically, these liberal dissenters
476 argue that the fair play ideas as they have been put into practice have been applied
477 in ways that been both inconsistent and excessively doctrinaire. They argue further,
478 that the fair play liberals have not given sufficient attention to whether the actual
479 experiences of fair play trading arrangements have worked in practice to occasion
480 outcomes – patterns of distribution—that were also fair.

481 Joseph Stiglitz and Andrew Charlton have recently published an articulate state-
482 ment outlining an alternative liberal approach in defense of international trade with
483 greater focus on achieving practical outcomes that were just for all. We will use their
484 account as a contemporary expression of liberals who especially signal the impor-
485 tance of distributive justice. Stiglitz and Charlton set forth their ideas in a book *Fair*
486 *Trade For All: How Trade Can Promote Development*. They mount a number of crit-
487 icisms of the fair play ideas, which they refer as the “classical model.” This model
488 erroneously assumes, they argue, full employment in all countries engaging in trade.
489 It assumes as well that local markets everywhere work effectively, overlooking in
490 the process how the absence of effective legal, regulatory, and physical infrastruc-
491 tures distorts markets. Further, they argue that the fair play model overlooks the
492 historical fact that industrializing nations as well as new nations have traditionally
493 used tariffs both to develop their national industries and to raise public revenues.
494 Stiglitz and Charlton note as well that the fair play model fails to take account of the
495 often excessive costs involved in instituting and implementing fair trade practices.

Finally, and in some ways, most importantly, because of its national bias and its continued commitment to protect certain industries, the fair play doctrine has allowed liberal-minded politicians to defend the continued existence of international trade-restricting tariffs, subsidies, and regulations with respect both to trade in agricultural products and services (Stiglitz and Charlton, 2005).

In keeping with their reading of Rawls' *Theory of Justice* (1970), Stiglitz and Charlton insist that a fair system of international trade ought to be one that not only operates in terms of liberal principles of free choice to liberalize trading arrangements but also works to the advantage of the least advantaged peoples (Stiglitz and Charlton, 2004). That is, the situation of developing countries ought to be improved and not aggravated as a result of way the rules governing international trade are interpreted and applied. Stiglitz and Charlton make a number of proposals.

First, they set forth in principled terms guidelines on thinking about the "Special and Differential Treatment" for which developing countries supposedly qualified in keeping with the charter that established the WTO. In practice the language of "special and differential treatment" has been used to extend the deadlines by when developing countries have to comply with a number of the WTO regulations. In addition, Stiglitz and Charlton propose a couple of basic principles with respect to market access. These guidelines are as follows. One, countries with larger economies and larger per capita incomes should establish no barriers to trade arriving from countries with smaller economies and lower per capita incomes. Two, in order to help their own economies to grow, countries with smaller economies and lower per capita incomes can impose tariffs on goods and services arriving from countries with larger economies and higher per capita incomes. Stiglitz and Charlton defend these standards as being procedurally fair because they apply the same to all countries and fair in keeping with norms of just distributions because these standards would both foster increased trade, which is advantageous to all, and would especially help the poorest countries to enter into trading relations in ways that would facilitate their own development.

Second, Stiglitz and Carlton argue that a system of international trade only becomes genuinely fair when all countries have comparable capabilities to participate in this system. Here the authors are focusing on practical matters. For example, all countries, they argue, should have equivalent opportunities to assess the consequences for their own economies when alternative trading arrangements are being discussed. The WTO ought, therefore, to provide the research services that would help each country to gain a good sense of the economic impact of alternative regulations and trading regimes. Additionally, each country ought to be able to call upon relevant legal and accounting services so they are not disadvantaged in trade negotiations and dispute resolution conferences. If the least developed countries cannot afford these services, then by some means these services ought to be made available for them. In practice the prevailing fair play model overlooks these discrepancies, which greatly disadvantage poorer countries.

Third, Stiglitz and Charlton make a number of specific recommendations with respect to the items discussed as part of the Doha Round of international trade negotiations. Their aim here is to identify in general terms some modification in overall

systems of rules governing international trade which would both foster increased liberalization of trade and do so in ways that would especially benefit poorer countries. Thus, with respect to the proposed General Agreement on Trade in Services (GATS), they observe that poorer countries would especially benefit from changes that would allow the temporary migration of low skilled laborers, who typically send home remittances that greatly help their home economies. Stiglitz and Charlton support as well proposed broad changes in the rules governing international agricultural trade that would reduce tariffs and price supports for agricultural products currently employed by the industrialized countries. They go on to note that while these proposed changes are consistent with the general support for free trade, they are likely to produce uneven benefits for poorer countries, helping larger producer countries while raising food prices for consumers. They suggest some more specific reforms, such as reducing tariffs for all tropical products, which are overwhelmingly produced by poorer countries, as well as cotton. Stiglitz and Charlton suggest specific foci for liberalizing trade in industrial goods, namely reducing the tariffs for low-skilled manufactured goods from developing countries. By retaining these tariffs, industrialized countries penalize developing countries from developing their own value-added industrial processes. Stiglitz and Charlton propose that developing countries might focus greater attention on how they might use existing non-tariff barriers for their own purposes. By and large dumping duties, countervailing duties, and safeguards have been used by the large industrialized countries to the disadvantage of poorer countries. However, these authors note that in a number of cases developing countries might well use these devices to their own advantage. Finally, these authors examine the domestic costs involved in adjusting to more liberalized trading arrangements. They offer a number of practical suggestions on how to reduce and manage these costs.

As they make these proposals, Stiglitz and Charlton adopt a pragmatic posture. Although they work to find principled justifications for the rules and policies they propose, they demonstrate their own conviction that justice is often found in the impact of detailed rules and practices on actual outcomes. A just and fair system of international trade, while based upon universal principles and arrived at through fair procedures, should also produce results that can be judged to be fair. Producing these results often requires directing attention to assessing likely impact of proposed changes, effects of alternative institutional arrangements, and consequences of overlooked details.

9.3.3 *Questions, Criticisms, and Dissent from Non-liberal Perspectives*

Beginning in the late 1990s, a large number of North American labour and civil society groups came together in a loosely organized anti-globalization movement in opposition to the Multilateral Agreement on Investment (MAI) proposed by the OECD. Canadian groups had been energized by the protracted debate over the signing of CUSFTA, which had been a central issue in the 1988 Canadian federal

586 election. The movement's success in derailing the MAI led to them next targeting
587 the WTO. With slogans such as "No New Round: Turn Around," the WTO was
588 described by its opponents as a vehicle promoting the interests of large, multina-
589 tional business enterprises. Led by Global Trade Watch in the United States and
590 the Council of Canadians in Canada, hundreds of civil society organizations and
591 trade unions organized protests at the third ministerial meetings of the WTO in
592 Seattle in 1999. More than 1500 organizations world-wide endorsed a statement
593 entitled "Shrink or Sink" opposing trade liberalization (often simply equated with
594 globalization) and calling for a trimmed-down WTO. The protests, sometimes vio-
595 lent, succeeded in shutting down the WTO talks. The failed Seattle talks meant that
596 trade discussions would occur "in an increasingly competitive environment where
597 newly emboldened developing states would seek greater concessions from wealthy
598 states, while civil society group agitated to bring their agenda of accountability,
599 transparency, legitimacy, equity, and representation to the bargaining tables" (Ayres
600 and Macdonald, 2007: 27). In 2000 more than 100 civil society groups met in Boston
601 over four days to map out next steps in the anti-globalization movement. Led in part
602 by North American groups, the movement staged protests in Genoa, Prague, and
603 Quebec City over the next couple of years. Consistent with the long tradition of
604 protectionist thinking in North America, the anti-globalization movement warned
605 of the destruction of local and national economies by unfettered trade between high
606 and low wage states. This movement also was energized by the view that trade liber-
607 alization initiatives downplayed a wide range of environmental issues as well as the
608 plight of developing countries, and put economic efficiency ahead of basic needs,
609 social justice, and communitarian values.¹

610 These critics raised serious questions about current patterns of international
611 trade and investment. For example, there is a deep and wide-spread suspicion
612 that current systems of global trade are designed primarily for the benefit of large
613 corporations. These systems, many North Americans argue, put the economic inter-
614 ests of large businesses ahead of human needs, varied cultural values, and even
615 citizen's rights. These critics maintain that the current international trade arrange-
616 ments favor the copyright entitlements of pharmaceutical companies over health
617 needs of AIDS patients in developing countries, support economic growth over
618 democratic involvement, and work to advance the success of businesses over envi-
619 ronmental concerns (McMurtry, 1998; Saul, 2005; Daly and Cobb, 1989; Korton,
620 1996). These critics point to the ways trade and investment policies tend to reflect
621 very much the successful influence-playing of large, powerful, organized business
622 groups to the disadvantage of civil society and trade labor movements (Gawande
623 and Hockman, 2006).

624 Other North Americans especially interested in the condition of the working
625 classes have opposed the liberalization of trade in products and services because
626 they believe that these liberalizing moves have directly and unfairly aggravated

627
628
629 ¹This description of the loosely-organized oppositional movement to economic globalization is
630 from Alain Roy (2010).

631 domestic unemployment and reduced the real wages of thousands of workers.
632 Certainly the steady growth in the number of workers hired conditionally on part
633 time and/or temporary contracts has taken place during the eighties and nineties as
634 international trade has steadily grown. Additionally, large numbers of Canadians and
635 Mexicans have been especially suspicious of the role played by the United States
636 both within NAFTA and the WTO unfairly to further its interests to the disadvantage
637 of its neighboring trading partners.

638 This deeply-rooted divergence of views with respect to fairness in international
639 trade is not likely to diminish if left to its own devices. Any proposals regarding
640 fairness in international trade are likely to meet with challenges if not opposition.
641 This fact makes it very difficult to arrive at a common position within or among the
642 nations of North America. Comparable differences of view exist among the other
643 nations and peoples of other continents.

644 645 9.4 Open Political Processes and Fundamental Considerations

646 Given the asymmetrical relations among these countries, decidedly different views
647 regarding the importance of international trade, and different assumptions regarding
648 fairness in trade, it is not likely that we can identify a set of first principles that
649 will provide common reference points for transcending these differences. However,
650 it may be possible to move forward towards more common trading arrangements
651 by first acknowledging these differences and then considering their implications.
652 Ultimately, this may lead to consensus about several elements that need to be
653 considered as basic and fundamental as people think about current international trade
654 patterns and ways to reform them.

655 In the paragraphs that follow, we discuss five considerations that are relevant to
656 the ongoing highly value-laden – and typically ideologically informed – debates
657 over international trade, debates that variously invoke the values of fair play, dis-
658 tributive justice, and respect for local interests, civil society, and the environment.
659 We do not argue that these five basic considerations will overcome differences in
660 normative views. Rather, we do contend that these considerations can gain assent
661 from opponents as well as proponents and, further, that they can serve as mediating
662 values to foster possible compromises regarding fair trading relations. We discuss
663 four of these considerations in this part of the essay and the fifth consideration in
664 the last part of this essay.

665 One: Any workable approach to establishing greater fairness in international
666 trade needs to be flexible and respective of local traditions and institutions. Dani
667 Rodrik, a Harvard economist, makes a strong economic argument for this point.
668 He notes that national economies have developed using quite different policies.
669 Countries that have been able to develop have done so because they have found ways
670 to marshal their own energies, utilize their own institutions, and draw upon their own
671 resources in effective ways (Rodrik, 2007, Chapters 1, 2, 3, and 8). The WTO, there-
672 fore, ought to utilize its energies not to harmonize these differing policies of trading
673 countries but to facilitate negotiations and exchanges between countries that will

inevitably approach trade and development in different terms. The efforts to create what fair play liberals refer to as a level playing field operate to ignore, under-value, and/or treat these national cultural and institutional differences as problems to be overcome rather than assets to be respected.

An equivalent argument can be made in more strictly ethical terms. Humans have crafted and followed diverse ethical traditions associated with their religions, ethnic traditions, political beliefs, legal practices, and cultural values. They are most likely to arrive at common moral understandings as they seek to address specific historically contingent issues – such as, banning land mines or managing intractable debts of the least developed countries—and as they explore ways of fostering civil, reciprocating, communications across these differences (Bird, 1996).

Two: Any viable system of fair international trade must be articulated in terms of institutions that make markets possible as well as market principles themselves. Fair play liberalism tends to take these institutions for granted focusing attention instead on procedures and principles. Dani Rodrik addresses this point as well, while defending liberal economic ideas as basically sound. In order for markets to work effectively, he argues, governments and civil societies need to establish and maintain a range of political, legal, economic, and social institutions that provide a variety of infrastructural supports for markets. These include not only the identification and protection of property, the definition and enforcement of contracts, and the delineation and maintenance of rules of competition, but also establishing and protecting systems of credit as well as currency exchanges.

In addition, markets are unable to operate freely and effectively when governments are not able to provide public order and security. Markets work best where governments are also able to support educational systems that help prepare citizens to take places in the work force and to provide social insurance safety nets to assist workers in managing the economic insecurity associated with economic cycles and volatile labor markets (Rodrik, 2007, Chapters 4, 5, and 6). Dan Finn, an American theologian and economist, has made a comparable argument in ethical terms, calling attention to what he refers to as “The Moral Ecology of Markets.” (Finn, 2006, Chapters 6, 7, and 8). The freedom of markets, he explains, is made possible by sets of fences that protect markets from diverse threats. Liberals and conservatives disagree about the number and nature of these threats and how the protective fencing ought to be best established. Although they often presume their existence, liberals and conservatives don’t disagree on the need for some kinds of institutions and regulations to establish and protect markets. With these observations in mind, we can correspondingly argue that international trade regimes should minimally operate in ways that do not undermine the capacity of national governments to provide the requisite infrastructural and institutional supports for effective market operations.

Three: In a fair system of international trade each country should be able to exercise basic bargaining power on its own behalf. As we observed above, Stiglitz and Charlton have directed attention to this point. The WTO was established as a multi-party arena in which countries would negotiate with each other to establish rules for international trade, would develop particular trading arrangements, and would raise and settle disputes about trade. Inevitably, some countries exercise more power

721 in these negotiations because they control access to certain vital resources (oil or
722 certain manufactured goods, for example, or certain valued currencies), they have
723 larger economies, their economies are less dependent on foreign trade, and/or they
724 can variously influence the positions other countries take. For all of these reasons,
725 the United States, for example, wields disproportionate power compared, for exam-
726 ple, to Mexico or Canada. These variations in effective power are, in large part,
727 inevitable outgrowths of historical developments. However, in spite of these dif-
728 ferences, each country should be well-equipped and empowered to represent its
729 vital interests. That means, at a minimum, that each country should have access
730 to accountants, economists, and lawyers to represent and defend its interests ade-
731 quately. Most of the less and least developed countries have not been in position to
732 well-represent their own interests by means of effectively prepared lawyers, accoun-
733 tants, and fact-finders in many trade negotiations and dispute resolution sessions. At
734 a minimum, a fair system of international trade should move to reduce this basic
735 inequality.

736 The rationale for this position is well-articulated by the basic ethical standards
737 associated with commutative justice. This approach to justice, articulated tradition-
738 ally by both Aristotle and Aquinas, has not recently received as much attention
739 as the several well known and widely discussed efforts to define and defend stan-
740 dards for distributive justice and procedural justice. Ideas of commutative justice
741 call for fair exchanges based on free choice, full disclosure of all relevant infor-
742 mation, and adequate support for the systems of institutions and rules that make
743 these exchanges possible. Commutative justice is associated with reciprocal but not
744 necessarily equal and symmetrical relations. It is possible to develop and to sustain
745 reciprocating, mutually satisfactory, but unequal relationships between parents and
746 children, masters and servants, public officials and citizens, professionals and their
747 clients, as well as employers and employees. Although asymmetrical, these relation-
748 ships remain reciprocal and fair so long as both parties can initiate interactions and
749 help set agendas; both remain responsive to the voiced interests of the other; and
750 both agree to end negotiations only when both consent. Ideas of commutative jus-
751 tice, rightly and broadly understood, have considerable relevance for international
752 trade.

753 These ideas indicate how countries should approach and engage in negotiations,
754 that is: on the basis of full disclosure, with neither party being forced to take posi-
755 tions to which they do not freely consent. Further, trading relationships should
756 support and not undermine the institutions that make these trading relationships pos-
757 sible. Correspondingly, these relationships should support and not undermine the
758 administrative capacity of national governments to establish the rules and institu-
759 tions that make international trade possible. Most importantly, from the perspective
760 of commutative justice, each party engaging in exchanges judged to be fair should
761 be equivalently able to state its cases, bargain, raise complaints, and make appeals.
762 Negatively expressed, a party unable to exercise this minimum level of capacity
763 lacks the corresponding ability to state and choose positions based on full access
764 to relevant information. Many of the standards associated with commutative justice
765 accord well with the focus of fair play liberalism on free choice, reciprocity, and

766 full disclosure. Commutative justice, however, calls for greater efforts to insure that
767 those engaged in negotiating exchanges can do so with basic capabilities to state
768 and defend their positions (Bird, 2006).

769 Four: A fair system of international trade ought to be well integrated with
770 national and regional and local systems of trade: that is, it should support and
771 not undermine less distant patterns of commerce in so far as the latter are effec-
772 tive and efficient. Fairness calls for a fitting balance between local and distant
773 trade. Ordinarily, trade initially develops locally. Within specific locales, districts,
774 provinces, countries, and regions, trade and commerce grow. Most trade is not in the
775 beginning distant. Local trade in turn fosters local economic development as well
776 as the development of local infrastructures. These include not only physical infras-
777 tructures like roads, canals, water systems, sewage systems, and electrical systems
778 but also the economic, social, and legal infrastructures that occasion, support, and
779 protect the development of local markets. Local trade in turn helps to develop webs
780 of interactions between individuals, enterprises, and communities involved. People
781 enter into exchanges, which in turn are seen as being in the interests both of each
782 and all who participate in these exchanges.

783 In a number of places the emphasis on the value placed on local trade has been
784 expressed in WTO documents. Thus, the document on intellectual property rights
785 allows countries to override patent laws in order to protect the health and security
786 of their population. Moreover, as part of the final efforts to arrive at an agreement
787 with respect to the Doha round of negotiation, trade ministers agreed in Hong Kong
788 (CRS, 2006) countries could act to restrain international trade in order to protect the
789 food security, the livelihoods of workers, and the rural economies of their people
790 (CRS, 2008).

791 Countries often engage in distant trade in order to enhance local trade. They
792 seek out items not available locally – technologies, fuels, minerals, spices, produce,
793 skilled workers, low-cost supplies, etc. They seek to sell items in order to obtain
794 foreign exchange values, with which they can purchase items otherwise not available
795 locally. Within reasonable measures, it has been acceptable for countries to institute
796 tariffs in order to protect infant industries and local trade against the threat posed
797 by international businesses and trade. Most of the industrialized countries protected
798 their industries as they were developing. The fastest growing Asian countries all
799 protected their infant industries. For the most part the African and South American
800 economies more clearly grew as they followed import substitution policies in the
801 sixties and seventies than when they later abandoned these policies (Rodrik, 2007,
802 Chapter 1; Chang, 2007, Chapters 2, 3; Wade, 1990).

803 Anti-dumping regulations have been instituted in part to protect local trading
804 arrangements from being undermined by foreign enterprises selling products at
805 costs below normal market value. By WTO rules countries may judge that for-
806 eign products are being sold at “dumping” prices” if they can demonstrate that
807 products sold at these prices meet the following criteria: One, foreign products
808 sold at these prices put their own domestic industry at risk and, two, the foreign
809 firms are selling at below market value. Countries, which judge that they have been
810 harmed by sales at “dumping” prices, can then impose anti-dumping fees in order

811 to protect and compensate domestic firms. For the most part, anti-dumping rules
812 have been used without any clear pattern by some of the larger economies – the
813 USA, India, the EU, Argentina and South Africa—against other large economies –
814 China, the EU, the USA, and Japan—as well as some smaller countries like Taiwan
815 and South Korea. Potentially, developing countries might make much greater use of
816 anti-dumping rules, especially to protect their local agricultural industries in foods
817 and agricultural by-products.²

818

819

820 **9.5 Fairness and Transfer Pricing**

821

822 A fair system of international trade should especially work to counter and limit a set
823 of questionable, deceptive, and often illegal trading practices – including corruption,
824 abusive transfer pricing, and false pricing – that utilize public trading systems
825 for private advantage. While we contend that all three warrant attention from the
826 WTO, we choose to highlight abusive transfer pricing of internationally traded
827 goods and services for several reasons. One, developing countries probably lose
828 as much or more by these practices than by the skewed rules with respect to inter-
829 national trade in agriculture goods and by-products. Two, the continued poverty of
830 the least developing countries, reinforced by these practices, occasions and under-
831 girds political instability in these areas (Collier, 2007). Three, these practices result
832 in market distortions with corresponding miss-information about actual supplies
833 of, and demand for, items in question. Finally, these practices help to accentuate
834 the excessive and politically unaccountable influence of off-shore financial centers
835 (Baker, 2005; Ramos, 2007).

836 *What is a transfer price?* As firms become decentralized in operation, transac-
837 tions occur between segments as well as with external entities. Transactions between
838 a given segment of a firm and a party outside the firm are readily priced by the
839 prevailing market forces of supply and demand. However, transactions between
840 autonomous segments within a firm are more difficult to manage and are often sub-
841 ject to significant distortion by firm management (see Desai et al., 2006; Kozlow and
842 Abaroa, 2006). The amount charged in these within-firm transactions is referred to
843 as the transfer price (Garrison et al., 2006).

844 The transfer price directly affects the allocation of profit to the segments; a higher
845 transfer price results in greater costs for the purchasing segment, reducing income
846 for that segment. For a firm operating internationally, the incentives and a mecha-
847 nism (i.e. transfer pricing) are in place for firm managers to shift income to low tax

848
849
850 ²Anti-dumping rules will remain controversial because of the difficulties and disagreements asso-
851 ciated with standards and processes used to determine “normal market value.” Market values
852 clearly vary. It seems illegitimate to use market prices in other industrialized countries to determine
853 whether or not firms in developing countries are selling products at “dumping” prices. Nonetheless,
854 industrialized countries have invoked these kinds of standards. It would seem to be much fairer if
855 dumping prices were determined in relation to the actual local costs of production (Stiglitz, 2007,
2006).

856 **Scenario One – 100 units at \$10 per unit**

	Segment A	Segment B	Corporate
Revenue	\$-	\$1,000.00	\$1,000.00
Costs	\$1,000.00	\$-	\$1,000.00
Effect on Income	\$(1,000.00)	\$1,000.00	\$-
Tax Rate	20%	30%	
Effect on Taxes	\$(200.00)	\$300.00	\$100.00

867 **Scenario Two – 100 units at \$1 per unit**

	Segment A	Segment B	Corporate
Revenue	\$-	\$100.00	\$100.00
Costs	\$100.00	\$-	\$100.00
Effect on Income	\$(100.00)	\$100.00	\$-
Tax Rate	20%	30%	
Effect on Taxes	\$(20.00)	\$30.00	\$10.00

883 **Fig. 9.1** Transfer price illustration

886 regimes, thereby avoiding tax obligations in a high tax regime (see Dean et al., 2008,
 887 Kuschnik, 2008). This is illustrated in Fig. 9.1 where Segment A buys from Segment
 888 B at different prices in the two scenarios. All else equal, because the tax rate is higher
 889 where Segment B operates, a lower transfer price yields a reduced tax burden for the
 890 corporation (i.e. \$10 versus \$100). Empirical evidence presented in the accounting
 891 and tax literatures is consistent with this occurring in practice (e.g. Swenson, 2001;
 892 Clausing, 2006).

893 *A global issue.* There is significant evidence that transfer pricing is a global
 894 issue of importance to business managers, accounting firms, governments and advo-
 895 cacy groups. Neighbor and Owen (2002) report that in 2001, 60 percent of world
 896 manufacturing trade was comprised of transactions involving transfer pricing. All
 897 four major accounting firms (Deloitte, Ernst & Young, PricewaterhouseCoopers and
 898 KPMG) have significant operations dedicated directly to transfer pricing activities
 899 and several publish strategy guides (Deloitte, 2007; PricewaterhouseCoopers, 2006;
 900 KPMG International, 2008).

901 Ernst & Young publish a biennial survey of multinational enterprises focusing on
902 transfer pricing. In the 2007–2008 edition, 850 firms were surveyed and nearly 40
903 percent of respondents reported that transfer pricing was the single largest tax issue
904 to be faced (Ernst & Young, 2008). In addition, 75 percent believe that transfer
905 pricing will be “absolutely critical” or “very important” in the next two years and
906 over half have been subjected to review by a revenue authority since 2003 (Ernst
907 & Young, 2008). Finally, over half of those audited were subjected to a transfer
908 price adjustment as a result of the review, suggesting either broad confusion around
909 complying with transfer pricing regulation or deliberate manipulation. In addition
910 to management concerns, various inter-government organizations around the globe
911 are involved with the orchestration of international trade. All of these organizations,
912 to greater or lesser degree, take a position or advocate policy on transfer pricing –
913 World Customs Organization (WCO), Organization for Economic Cooperation and
914 Development (OECD), WTO, United Nations (UN), United Nations Conference on
915 Trade and Development (UNCTAD), World Bank, European Commission and many
916 others. Taken together, these results suggest that transfer pricing is an especially
917 important global issue.

918 *North American perspectives.* Exposure to transfer pricing as a significant issue
919 is, of course, correlated with the prevalence of trade conducted by multinational
920 firms in the home country. As a result, for North American firms, those in the United
921 States and Canada have a disproportionate interest in transfer pricing policy rela-
922 tive to Mexico. This is supported by the Ernst & Young survey findings (2008).
923 Managers in Canada and the US report that transfer pricing is critical or very impor-
924 tant at 96 percent and 73 percent, respectively. Just 56 percent of Mexican firm
925 managers respond similarly.

926 More than 80 percent of Canadian and US firm managers reported being subject
927 to an audit by a revenue agency since 2003. Just 8 percent of Mexican managers
928 responded similarly. The global average was 52 percent, suggesting that within
929 the North American region, the experiences with respect to transfer pricing are
930 extreme. A recent survey on North American transfer pricing issues published by
931 PricewaterhouseCoopers (2006) observes that the transfer pricing situation in North
932 America is relatively stable, as compared to the rest of the world. This is reflec-
933 tive of the fact that US law has incorporated transfer pricing policy in some form
934 since 1928 (Kuschnik, 2008). In contrast, in many developing countries the transfer
935 pricing rules are less than a decade old (O’Brien and Oates, 2008). The over-
936 all complexity of the transfer pricing problem is increasing in North America, as
937 in the rest of the world (see PricewaterhouseCoopers, 2006; Taylor, 2008; Dean
938 et al., 2008).

939 Conditions are similar in Canada and the US. Both countries have seen reg-
940 ulatory changes in the mid-1990s to address various issues such as pricing of
941 services and intangibles as well as an increase in audit frequency and intensity
942 (O’Brien and Oates, 2008; PricewaterhouseCoopers, 2006). This is consistent with
943 the Ernst & Young survey data, which reports that 84 and 92 percent of Canadian and
944 US respondents expect to be audited again within two years (2008). As of 2003, the
945 US requires contemporaneous data from both sides of each transaction, increasing

946 the need for, and benefit from, greater multinational coordination and information
947 sharing.

948 Mexico is unique among North American countries at this point. Transfer policy
949 is relatively new (PricewaterhouseCoopers, 2006) and is being developed in a man-
950 ner consistent with OECD policy (as opposed to US and Canadian policy, the origin
951 of which predates the OECD Guidelines). The Ernst & Young survey results are
952 consistent with a system that is under development and is moving toward the global
953 position (2008). For instance, few respondents report being audited (8 percent),
954 however, nearly half expect to be audited within the next two years and over half
955 consider transfer pricing to be an issue of significant importance (Ernst & Young,
956 2008). The first legal challenges to transfer pricing audit decisions and adjustments
957 are beginning to reach the courts in Mexico (PricewaterhouseCoopers, 2006), so an
958 increase in litigation and legislation is likely on the horizon.

959 *Ethical dimension.* The majority of the writings on transfer pricing are centered
960 on whether it occurs (see Clausing, 2006; Desai et al., 2004), the mechanics of
961 complying with the legal requirements (see O'Brien and Oates, 2008), and on the
962 wisdom of tax avoidance as a business practice (see Dean et al., 2008). However,
963 evidence supports the assertion that transfer pricing has resulted in enormous trans-
964 fers of wealth from developing to industrialized countries. Baker estimates that the
965 amount of taxes correspondingly lost to developing countries per year amounts to
966 tens of billions of dollars (Baker, 2005). Abusive transfer pricing practices without
967 question violate standards associated with distributive, commutative, and procedu-
968 ral justice, yet very little discussion of the ethical components of the behavior is to
969 be found.

970 One notable exception is Hansen et al. (1992) who directly address the ques-
971 tion of whether transfer pricing is an ethical dilemma. They begin by making the
972 case that tax avoidance is appropriate and is consistent with existing regulations.
973 As a result, firm managers making internal decisions that do not violate existing
974 law are simply being smart managers minimizing costs. Further, maximizing profits
975 is a morally defensible policy that is the ultimate social responsibility of the firm
976 (Friedman, 1970). This position is consistent with the perspective (often tacitly)
977 championed in the existing literatures. The authors then present the “moral ethical
978 view” to contrast the “tax ethical” view that dominates the discourse:

979 This common principal, which is the heart of ethical action, is the willingness to sacrifice
980 one's self interest for the well-being of others. This ethical principle does not preclude the
981 pursuit of profits by an organization. In planning, controlling, and making decisions, how-
982 ever, managers should always consider the impact of their actions on others, both within
983 the organization and without. Thus, the objective of profit maximization should be con-
984 strained by the requirement that profits are achieved through ethical means. (Hansen et al.,
985 1992: 684).

986 The authors then make a key distinction: profit maximization and tax avoidance
987 are certainly acceptable; however, altering the transfer pricing arrangement from
988 what it “normally” would have been to avoid paying taxes that would have been
989 due is ethically untenable. In other words, they conclude that “tax avoidance does
990 not provide an exemption from ethical behavior” and that there needs to be more

concern with “what is right than with technical compliance with the law” (Hansen et al., 1992). That is, the pursuit of profit must be tempered by accountability to a more general standard of well-being.

The fact that transfer pricing practices within a firm can have far-reaching effects, including shifts in government tax receipts, is certainly not disputed. The notion of tax avoidance simply being appropriate business practice dominates the discourse. The necessary consequence of this practice – the ability or inability of the revenue agencies to provide funds to support the well-being of the community represented by that government – is rarely directly addressed.

The role of the WTO. This global concern and the involvement of myriad parties are leading to tremendous complexity in transfer pricing policy. OECD Guidelines, including the position that an arm’s length standard – the price that would have been negotiated had the buyer and seller been independent entities – should be applied, currently dominate (Wundisch, 2007; Dean et al., 2008; van Hiltén, 2002); however, there is disagreement about the scope and applicability of the Guidelines (van Hiltén, 2002). Further, the proscription that an arm’s length transaction approach be applied does not suit a great many transactions where an arm’s length price cannot be determined, leaving open the question of what firm management should do in these instances (Kuschnik, 2008).

In a piece designed to prompt debate around the political strategies related to transfer pricing, Wundisch (2007) argues that the variation in policy, and the unilateral action taken by individual governments, is costly to economic trade by creating confusion and increasing risk. Kuschnik (2008) asserts that cooperative work environment among nations would be of great assistance in addressing transfer pricing challenges. The common thread is that in a matter of global concern, global cooperation as opposed to unilateral action is the key to resolving these issues.

Taken together, the overall picture of transfer pricing is one of global significance, ethical considerations and complexity. As such, it may be that the WTO is in a relatively unique position to weigh in on future transfer pricing policy; however, the Organization for Economic Cooperation and Development (OECD) currently sets the global tone in terms of transfer pricing standards (Kuschnik, 2008) while the WTO is largely silent on the issue. The OECD has 30 members, dominated by developed nations in Europe, but “shares expertise” with more than 100 additional nations (OECD, 2008). By contrast, the WTO has 152 members, including significant numbers of developing economies. Given the need for broad international membership as well as international cooperation, it would seem that the WTO would be a natural body to take a forceful role in shaping transfer pricing policy going forward. Raymond Baker argues that the WTO should “place honest pricing firmly on its agenda, because false pricing distorts free and fair trade and moves more illicit money across borders than any other single mechanism.” (Baker, 2005: 349).

A number of people have urged the WTO to become the champion for human rights and environmental concerns – issues already covered by other global institutions, like the International Labor Organization and varied international associations working for sustainable development, climate controls, and bio-diversity. Given its

1036 current difficulties, the WTO may or may not have the ability to take up these con-
1037 cerns. In the meantime, it remains both the special and central mandate of the WTO
1038 to work to foster and facilitate the international trading relationships and, therefore,
1039 to identify and limit trading activities that directly undermine transparent rule-
1040 regulated trading like the practice of abusive transfer pricing. Further, the parties
1041 involved and the tax structures implicated make this one of the most daunting issues
1042 facing international trade. It is this very degree of complication, combined with the
1043 potential economic significance of transfer pricing policy, that make the topic appro-
1044 priate for inclusion when discussing the WTO and the ethics of international trade,
1045 regardless of the region of the globe under consideration.

1046 1047 9.6 Conclusion

1048 Many people and countries have benefitted as international trade has expanded
1049 during the second half of the twentieth century. After surveying the history of inter-
1050 national trade since primitive times, William Bernstein concludes that this post
1051 Second World War expansion of trade has often worked especially to the advan-
1052 tage of poor households, both as consumers and producers. The proportion of the
1053 world population that was impoverished declined during these years, especially
1054 in the sixties and seventies (Bernstein, 2008, chapter 14). Moreover, those coun-
1055 tries least connected with these systems of international trade remained the most
1056 poverty-stricken (Group of Lisbon, 1995; Legrain, 2003). However, internationally,
1057 regionally, nationally, and locally, all systems of trade produce winners and losers.
1058 As the often-cited essay by Stolper and Samuelson make clear, at any particular
1059 point in time and in ways likely to change over time, the benefits of expanding trade
1060 are likely to extend to certain but not all sectors of any one society. At varying times
1061 and in different countries, they argue, some but not all of those whose incomes
1062 and wealth derive from land, capital, and/or labor are likely to benefit (Stolper and
1063 Samuelson, 1941). Any system of trade is, therefore, likely to seem unfair to some.
1064 While NAFTA and the WTO have probably helped to occasion some plant closures
1065 and job losses, these trading arrangements have also in modest ways helped to nudge
1066 up the average levels of employment and wages in all three countries. Nonetheless,
1067 for complex reasons, related in large part to domestic taxation policies and salary
1068 practices, the overall levels of benefits have been decidedly skewed in all three coun-
1069 tries with the well-to do gaining proportionately and decidedly much more in terms
1070 of opportunities, wealth, and income.

1071 North Americans have correspondingly adopted a range of positions with respect
1072 to international trade. Because of the asymmetrical relations between them, Mexico,
1073 Canada, and the United States have developed different views of fairness in inter-
1074 national trade. Additionally, within each country, citizens have supported varied
1075 positions regarding foreign trade. Protectionist sentiments have been fueled both
1076 by economic nationalists and by those who in the name of environmental con-
1077 cerns and human rights have opposed economic globalism. In so far as they seek
1078

1081 to enhance international trade, many citizens, industry representatives, and politi-
1082 cians have favored bi-lateral or regional trade agreements as being both more easily
1083 established and maintained. As the Doha round of multilateral negotiations faltered,
1084 North American governments at the same time were taking steps at establishing var-
1085 ied bi-lateral and regional agreements with other Western Hemisphere countries as
1086 well as with countries in Europe and Asia. Nonetheless, at the same time the govern-
1087 ments of these countries have generally supported efforts to expand and liberalize
1088 international trade through the WTO.

1089 As they have argued for and against expanding and liberalizing the rules govern-
1090 ing multilateral trade, North Americans have readily invoked ideas of self-interest
1091 as well as ideas of justice, which they have in turn variously formulated in relation
1092 to concerns for fair procedures, fair distributions, and/or fair exchanges. Notions of
1093 fairness have correspondingly been invoked to stress the importance of rules, trans-
1094 parency, proportionality, equity, absence of corruption, absence of discrimination,
1095 and due process. Ideas of fairness have been referred to in order to call for both the
1096 fitting balance between rewards, risks, efforts, and investments as well as impartial
1097 and impersonal deliberations and adjudications. While some have called for poli-
1098 cies for equalizing opportunities – placing emphasis on fair procedures – others
1099 have called for greater attention to outcomes that can reasonably be called just –
1100 placing emphasis on whether the results of these processes seemed fair.

1101 There is little likelihood of resolving this debate once and for all. There are too
1102 many parties with different interests, even in an area as delimited and as closely
1103 linked by international trade as North America. Politics within nations in good mea-
1104 sure involves continuing argumentation over these and other issues and continuing
1105 efforts to respond to, address, and balance the interests of diverse parties. The funda-
1106 mental argument is that fairness exists within political systems if the various major
1107 social formations believe, however begrudgingly, that the balancing of procedural,
1108 distributive, and commutative perspectives is acceptable.

1109 At the same time, as these political debates continue, we have argued that it
1110 would be useful to identify and acknowledge several considerations that might well
1111 serve as common points of reference. These include not only the need for flexibility
1112 and the importance of supporting both national and international trade supporting
1113 institutions. They also include the need to develop arrangements so that each coun-
1114 try has the basic capacity to bargain for its own interests. They include as well the
1115 recognition that international trade ideally should act to support, complement, and
1116 extend local, national, and regional trade and that the possibility to debate how to
1117 balance these interests must remain open. Finally, we have argued that international
1118 system of trade will remain both fundamentally flawed and unjust until more con-
1119 cerned efforts are made to address the way the practices of abusive transfer pricing
1120 and false pricing distort international trading relations.

1121
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01

Chapter 10

02

Fairness in International Trade: The Case

03

of Economic Partnership Agreements

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Any attempt to define fairness in global trade relations should teach humility. Brown & Stern (2007: 316)

10.1 Introduction

There are, perhaps, three reasons why humility is both required and will be learned from studying fairness in international trade. The first is due to the inherent complexity of international trade relations, which makes any attempt to grasp them difficult and the danger of over-simplification rife. The second is that, if it were possible to adequately summarise even a particular aspect of such relations, the application of fairness principles is by no means straightforward. While there have been numerous attempts to apply such principles, so that in one sense the ground is well-trodden, the judgements that emerge do not necessarily bring the kind of clarity that might be desired – in other words, judgments that such and such a practice is unfair and should be changed, or otherwise, are few and far between. Brown & Stern, cited above, continue: “even if we could transcend the self-serving bias inherent in the judgment of all interested parties, there is still no conclusive and incontrovertible way of assessing fairness” (2007: 316). And this leads to the third reason why humility will be required and learned, which is that fairness judgements on particular aspects of international trade relations, even if they were to be clear and unequivocal, may not lead to any change by those deemed to have infringed fairness towards those who are on the receiving end of such acts. Humility is involved in finding that one’s work may lead to nothing substantive by way of change “on the ground” – where it really matters.

Despite these three reasons, any one of which might seem to be enough to persuade one not to embark on this particular journey, this chapter sets out to explore the case of Economic Partnership Agreements (EPAs). These are bilateral trade agreements between the European Commission (EC) and various groupings of African,

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46 Caribbean and Pacific (ACP) countries, which have been the subject of intense nego-
47 tiations leading up to and beyond the deadline of 31 December 2007 by which all
48 such agreements were due to be set in place. The case of EPAs, therefore, provides
49 both a timely and an excellent test case for exploring the fairness or otherwise of
50 trade relations between developed and developing countries.

51 The chapter begins by setting out the background to international trade relations
52 between the EC and developing countries before turning to look at EPAs themselves
53 in more detail and the effects that have been predicted on the developing countries if
54 EPAs were to be introduced in the way envisaged, together with a number of asso-
55 ciated issues related to the introduction of EPAs. The chapter then comments briefly
56 on a “Stop EPAs” campaign that has been run by NGOs for a number of years,
57 before presenting and commenting on the current position showing which EPAs
58 have been signed. The literature on fairness in international trade is then reviewed
59 and, to some extent, extended and applied to the case of EPAs. Conclusions which,
60 as might already be predicted, are somewhat tentative, but do raise some new issues
61 are then drawn.

62

63 **10.2 The Background to EU–ACP International** 64 **Trade Relations**

65

66 When the European Communities, as they were originally known, were founded
67 in 1957 by the Treaty of Rome they rapidly established preferential relations with
68 the ACP countries that had recently gained independence from their former colo-
69 nial masters (Lang 2006: 1). From 1975 until 2001 trade relations between what
70 became the European Union (EU) and the ACP countries were governed by the
71 four Lomé Conventions. These represented a form of the EU’s Generalized System
72 of Preferences (GSP) which “put ACP countries at the top of the pyramid of pref-
73 erences granted by the EU to developing countries” (Ochieng 2007: 367). These
74 have provided ACP countries with “a very favourable trade regime, a substantial
75 aid budget, and a set of joint institutions” which has meant that “ACP exporters
76 have generally enjoyed a tax advantage over some of their competitors when selling
77 products facing tariffs into the European market” (Stevens 2006: 442). These trade
78 relations have been non-reciprocal in the sense that ACP countries have not been
79 required to assume corresponding obligations to allow tax advantages to imports
80 originating in EU countries (Ochieng 2007: 367).¹

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83 ¹Such preferential treatment is allowable under what is known as the “Enabling Clause”, but
84 is officially the “Decision on differential and more favourable treatment, reciprocity and fuller
85 participation of developing countries” that was adopted by the General Agreement on Tariffs
86 and Trade (GATT) in 1979. The Enabling Clause provides the legal basis for the World
87 Trade Organisation’s (WTO) GSP by which developed countries offer non-reciprocal preferen-
88 tial treatment (e.g. zero or low duties on imports) to products which originate in developing
89 countries. Preference-giving countries can unilaterally decide which countries and which products
90 to include. See www.wto.org/english/tratop_e/dev_e/dev_special_differential_provisions_e.htm,
accessed 12/12/08.

91 However, such non-reciprocal arrangements have become increasingly open to
92 challenge in the World Trade Organisation (WTO) because they were seen to dis-
93 criminate against other developing countries (Powell 2007: 8). There is, therefore,
94 immediately an issue of fairness between one set of developing countries and
95 another set, as well as the possibility that such other developing countries might
96 mount a legal challenge based on the General Agreement on Tariffs and Trade
97 (GATT) Article XXIV (see further below). Indeed Peter Mandelson, the former
98 European Commissioner for Trade since 2004, has claimed that “other developing
99 countries are watching these final stages of our negotiations [over EPAs] like hawks”
100 (Mandelson 2007), precisely to ensure fair treatment between all parties and the end
101 of preferential treatment to ACPs. Despite this, there are a number of “special and
102 differential treatment” (SDT) provisions, most notably the notion of non-reciprocity,
103 that are enshrined in GATT articles and the Enabling Clause (Ochieng 2007: 391 and
104 see Ochieng 2007: 367 and Footnote 1) which might allow more flexibility.

105 The successor to the Lomé Conventions between the EU and ACP countries
106 was the Cotonou Agreement which was signed in 2000 for a period of 20 years.
107 This Agreement “aims to promote economic growth and development as well
108 as the smooth and gradual integration of ACP states into the world economy”
109 (Borrman & Busse 2007: 403). Although a 20 year Agreement, from a trade per-
110 spective the time period is shorter because of the WTO-compatibility issue identified
111 above. Thus, at the WTO Doha conference in November 2001 a temporary waiver
112 was granted giving a deadline by which WTO-compatible reciprocal trade agree-
113 ments had to be signed of 31 December 2007. It has been the prospect of the end
114 of this temporary waiver that has led to the negotiation of the EPAs which are the
115 subject of this chapter.

116 The Cotonou Agreement placed these new arrangements under the jurisdiction of
117 GATT Article XXIV whereas previously under the Lomé Conventions the arrange-
118 ments were under the jurisdiction of the Enabling Clause. Article XXIV governs
119 Free Trade Agreements (FTAs) between states or groupings of states, and includes
120 the requirement that FTAs must eliminate tariff barriers on “substantially all trade”
121 (SAT) within a “reasonable length of time” (see Lang 2006, Ochieng 2007, Powell
122 2007). Article XXIV defines the time period stating that it should exceed 10 years
123 only in exceptional cases, such exceptions requiring specific justification. The exact
124 definition of “substantially all trade”, however, is not provided for within the Article
125 but is usually taken to mean a minimum of 80% (Busse & Grossmann 2007: 808)
126 allowing flexibility both over which 20% is omitted and whether this is divided
127 equally. Lang (2006: 12–13), however, states that the EU has traditionally argued
128 that liberalisation should extend to 90% of existing trade, but that this might be split
129 unevenly so that, for example, the EU could accept full liberalisation of 100% with
130 ACP countries committing to 80%. We will return to both these issues – of how
131 much liberalisation and over what period – when considering EPAs in more detail
132 below.

133 Despite the requirement to negotiate revised and reciprocal trade agreements,
134 the Cotonou Agreement, as noted above, is more broadly based and includes spe-
135 cific provisions for development strategies and priority for the objective of poverty

reduction, and a special focus on the Millennium Development Goals.² There is also a provision for a transitional period of up to at least 12 years on the new trade agreements, apparently in contradiction of the 10 year maximum under Article XXIV,³ although the U.K.'s Department for International Development (DFID) suggests such periods may be as much as 25 years.⁴ Both Powell (2007: 8) and Ochieng (2007: 382–3) draw attention to the objective of EPAs within the Cotonou Agreement as follows: “Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP states into the world economy, with due regard for their political choices and development priorities, thereby promoting sustainable development and contributing to poverty eradication in the ACP countries”.

This leads us on to consider two other aspects of the context within which EPAs have been negotiated. The first is the WTO itself which has become the subject of bitter dispute and anti-globalization protests such as those at Seattle (Elsig 2007: 75). While providing, as we have seen, the overall legal context within which trade agreements such as FTAs are to be negotiated by those countries which have chosen to become WTO members (such that GATT Article XXIV, for example, forms part of WTO Law – Ochieng 2007: 365), there remains a dispute over whether the WTO is a trade rather than development organisation, and so whether it should or should not “be burdened by broad development concerns of which it has no comparative institutional advantage” (Ochieng 2007: 383). Not surprisingly the EU takes a pro-trade stance in which trade liberalisation, greater integration of the world economy, the increasing role of the market and a correspondingly diminishing role of the state all form key elements. However, “ACP countries and a number of scholars object to this conception of the objects and purposes of both EPAs and the WTO” (*ibid.*: 384, and see also Griffith & Powell 2007: 7–11).

The Doha Development Round of the WTO which began in 2001, was suspended in July 2006 and resumed in February 2007, had, as its name suggests, a fundamental focus on the needs of developing countries and has foundered on the issues of market access and agricultural subsidies (IDC 2007: 10). Negotiations may, however, now be moving towards some form of resolution.⁵ The point in relation to EPAs, however, is that their WTO-compatibility, while not in dispute in itself and, indeed, part of the Cotonou Agreement (Lang 2006: 2), is subject to disagreement over what precisely such compatibility entails. Ochieng, for example, argues that the

²See http://ec.europa.eu/development/geographical/cotonouintro_en.cfm?CFID=2311138&CFTOKEN=de5549ec566e53bc-44BE1EAC-BCAD-6AE3-85FE869240E498A7&jsessionid=243062fb88384a375d62, accessed 12/12/08.

³See http://ec.europa.eu/development/geographical/cotonouintro_en.cfm?CFID=2311138&CFTOKEN=de5549ec566e53bc-44BE1EAC-BCAD-6AE3-85FE869240E498A7&jsessionid=243062fb88384a375d62, accessed 12/12/08.

⁴See, www.dfid.gov.uk/aboutdfid/organisation/economic-partnership-agreements.asp, accessed 12/12/08.

⁵See http://www.wto.org/english/tratop_e/dda_e/dda_e.htm, accessed 12/12/08.

181 EU takes a literal (textual) approach to the interpretation of WTO laws, an approach
182 described as “legally problematic and relatively developmentally restrictive com-
183 pared to the ACP’s teleological approach to interpretation – a holistic examination
184 involving textual, contextual and case law analyses of specific WTO Agreements,
185 and assessment of the objects and purposes of the WTO” (Ochieng 2007: 364).
186 Thus, not only are specific issues such as GATT Article XXIV open to renegotiation
187 (Lang 2006), but the purpose of the WTO itself continues to be the subject of
188 contention.

189 The final contextual issue that we need to take account of is the economic situ-
190 ation and trade objectives of the ACP countries. In 1976, just after the first Lomé
191 Convention was introduced, the ACP states accounted for 6.7% of the EU market,
192 while by 2005 it accounted for only 3% (see Borrmann & Busse 2007: 403). ACP’s
193 trade with the rest of the world has also fallen over the same period (Ochieng 2007:
194 377–8). In addition, about 68% of total ACP exports to the EU consists of agricul-
195 tural goods and raw materials, with ten products accounting for some 74% of this
196 (Borrmann & Busse 2007: 404). This is, of course, despite the trade preferences that
197 the ACP countries have enjoyed over many decades. Thus, while trade with the EU
198 continues to be important to ACP countries, there is evidence that it is in decline,
199 at least proportionately, and that primary commodities continue to form a substan-
200 tial part with little apparent progression to added value processed goods. Additional
201 preferences on market access are, therefore, unlikely to benefit ACP countries in the
202 future (*ibid.*: 404).

203 Perhaps associated with the decline in international trade, the African countries
204 within the ACP have long held the view that regional integration leading eventually
205 to full continental integration is a desirable objective (see Powell 2007: 18–23).
206 Thus, there have been various regional groupings involving more than 20 eco-
207 nomic co-operation arrangements and, while the success of these groupings is not
208 proven and their considerable overlapping membership remain problematic (Powell
209 2007: 22, Stevens 2006: 445), the vision of regional integration remains and has
210 recently been reinforced by the establishment of the African Union (succeeding the
211 Organisation of African Unity) and the founding of the New Partnership for Africa’s
212 Development (NEPAD) (Powell 2007: 23).

213 Associated with this, the negotiations between the EC and ACP countries have
214 been conducted not on a country-by-country basis, but between the EC and six
215 regional groupings – four in Africa and one each in the Caribbean and Pacific.
216 The groupings and countries within each group are shown in Appendix 1. Within
217 each of these groupings it will be noted that there is a mixture of Least Developed
218 Countries (LDCs) and others generally known as developing countries. While the
219 United Nations maintains a precise definition and listing of the 50 LDCs in the
220 world,⁶ no official definition and listing of developing countries exists. In relation
221 to EPAs the fact that each grouping contains a mixture is important, for under WTO

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224 ⁶See www.un.org/special-rep/ohrlls/lcd/list.htm, accessed 12/12/08.

rules developed countries can give non-reciprocal access to only two groups – either to LDCs only or to all developing countries.⁷ Thus, it would be possible to negotiate different agreements with the two different types of countries within a regional grouping but potentially problematic to negotiate one overall regional agreement – a point to which we will return.

Given that negotiations were always likely, and have proven, to be problematic, one obvious question has to do with the fall-back position should such negotiations fail. Here, a further reason for difficulties associated with combinations of LDC and other developing countries within one regional grouping emerges. For LDCs a system known as “Everything But Arms” (EBA) exists. This was adopted by the EC in February 2001, granting duty-free access to imports of all products from all LDCs without any quantitative restrictions, except to arms and munitions. The EBA Regulation foresees that the special arrangements for LDCs should be maintained for an unlimited period of time and not be subject to the periodic renewal of the EC’s scheme of generalised preferences.⁸

However, for non-LDCs a more restrictive GSP+ scheme, approved in June 2005, exists. To qualify for this a large number of good governance and economic conventions have to be implemented, which most ACP countries have not ratified,⁹ and even then “this would mean less-favourable access to the EU market than the one granted under . . . the Cotonou Agreement and thus a decline in their export earnings from the EU market” (Busse & Grossman 2007: 788). For this reason non-LDCs have been keener to sign up to EPAs than their LDC regional partners which have less to lose – a source of tension within some of the regional groups (see Borrmann & Busse 2007: 408). An illustration of the effects on non-LDCs is given in Ross (2007) citing the case of a Ghanaian pineapple producer with a turnover around \$50 million supplying to the U.K. supermarket chain Marks and Spencer. Once the tariff-free status is removed, the juice products would become immediately unviable. If prices with European supermarkets could not be renegotiated, the company might be forced to consider relocating – presumably to a LDC where the tariff-free status would remain.

10.3 Economic Partnership Agreements and Their Predicted Effects and Associated Issues

With this as background, we are now in a position to look in more detail at EPAs themselves, their predicted effects and a number of associated issues. Given the requirement to have new trade agreements in place by the end of 2007, negotiations

⁷See, for example, www.dfid.gov.uk/aboutdfid/organisation/economic-partnership-agreements.asp, accessed 12/12/08.

⁸See http://ec.europa.eu/trade/issues/global/gsp/eba/index_en.htm, accessed 12/12/08.

⁹See www.dfid.gov.uk/aboutdfid/organisation/economic-partnership-agreements-myths.asp, accessed 12/12/08.

271 started in September 2002 but, as might be expected from the discussion above,
272 have not progressed smoothly. This is despite the fact that, at least according to
273 DFID, EPAs “are intended to be instruments for development, as opposed to stan-
274 dard trade agreements” with the aim being that ACPs “gradually build their capacity
275 to compete in world markets”.¹⁰ This was expected to be a three-stage process first
276 with regional integration within ACP regions, then with integration with the EU so
277 that the EU market is slowly opened up, and finally integration as a whole with
278 the world economy. At first sight, therefore, EPAs seem to be simple replacements
279 for the WTO-incompatible agreements and to be beneficial to ACP countries, pre-
280 serving the preferential treatment that has long been afforded to these countries and
281 leading to regional and world integration.

282 What, then, are the concerns that have meant that EPAs have become the subject
283 of such concern within ACP countries themselves and have led to a campaign by
284 various NGOs against the EC? The main point of concern, as we noted above, is that
285 these new agreements must be reciprocal if they are to be WTO-compatible, and
286 this therefore involves liberalising substantially all trade and within a reasonable
287 period. But, while such liberalisation has been the main source of concern, there
288 have been a number of other associated issues. All in all, we can identify five such
289 issues.

290 The first is the effects of EPAs on regional integration which, as we saw above,
291 is a key objective particularly of African countries. There is a potentially nega-
292 tive effect on African regional integration with regional groups splintering between
293 those countries which are willing to liberalise and those which are not (Stevens
294 2006: 446). This could cause regional realignments and, because of the possibil-
295 ity of differential liberalisation schedules, make regional partners reluctant to open
296 their borders to trade with each other – making smuggling across borders a possi-
297 bility (*ibid.*: 451). Powell (2007: 5–6) cites United Nations research estimating that
298 West African countries would experience net trade diversion amounting to US\$365
299 million of which US\$35.6 million represents foregone exports from the Economic
300 Community of West African States (ECOWAS) to the rest of the region. Stevens
301 concludes, “All in all, the outlook for EPAs to support regional integration is not
302 good” (2006: 455).

303 The second issue is an associated argument against EPAs put forward by
304 Borrmann & Busse (2007). Their concern is with the quality of institutions and in
305 particular market entry regulations for starting a business, the efficiency of the tax
306 system and labour market regulation (Borrmann & Busse 2007: 406). Where these
307 are in place and not excessive there is a positive relationship between trade liberali-
308 sation and growth, whereas the opposite is true where the institutional arrangements
309 are poor. Analysing the ACP countries on this basis they find that there is lim-
310 ited concern in the Caribbean and Pacific countries due to the stage of institutional
311 development already achieved. For the four African regions, however, the story is

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314 ¹⁰See www.dfid.gov.uk/aboutdfid/organisation/economic-partnership-agreements.asp, accessed
315 12/12/08.

316 very different: “the large majority of African countries [33 out of 46]¹¹ . . . are not
317 likely to benefit from an increase in trade due to EPAs” (*ibid.*: 407). Hence, they
318 argue that “reform of the institutional frameworks should be an important topic on
319 the EPA agenda” (*ibid.*: 407), but are not convinced that even then, and even with
320 appropriate aid assistance, sufficient time exists for such reforms to be introduced –
321 a further point in relation to the “within a reasonable length of time” issue noted
322 above. Borrmann & Busse (2007: 414) also note that larger or more powerful coun-
323 tries with good institutions may then force weaker countries into EPAs when the
324 effects on the weaker countries may be for them to suffer rather than benefit. The
325 alternative is the undermining of regional integration if they opt out of the EPA
326 process – as we have already noted above.

327 The third issue, which follows from the first two, is the trade and fiscal impact of
328 EPAs. As might be expected, various assessments of such effects have been made.
329 Lang (2006: 13) compares the impact of EPAs under three scenarios – full reciprocal
330 liberalisation; asymmetrical liberalisation (EU 100%, ACP 80%, SAT = 90%) under
331 the EU’s classic interpretation; and a larger degree of asymmetry (EU 100%, ACP
332 60%, SAT = 80%). The most favourable, of course, is the last scenario and only
333 here does GDP increase for ACP countries though there are still fiscal losses due
334 to reduced tariff income. The effect of reciprocity on the consequent reduction in
335 revenues from tariffs is illustrated by the case of Zambia which would lose \$15.8 m
336 per year – the equivalent of its annual HIV/Aids budget (Bunting 2007).

337 Busse & Grossmann (2007) look specifically at the trade and fiscal impact on
338 West African countries. While the detailed results that they present are beyond the
339 scope of this chapter, their conclusions are instructive. Assuming complete tariff
340 liberalisation, trade creation would exceed trade diversion in all West African coun-
341 tries, with total imports from EU countries also increasing in all countries (*ibid.*:
342 795). The effect on government revenues, however, is a decline of between 4% and
343 9% in most West African countries, although Cape Verde and Gambia would be
344 more seriously affected (*ibid.*: 808). Since full liberalisation is unlikely the actual
345 effects would be smaller, but nonetheless Busse & Grossman conclude that since
346 “tariff revenue is a significant source of financing government expenditures in most
347 of the West African countries . . . the most urgent task . . . will be to take measures
348 to offset the decline . . .” (*ibid.*: 809), though they note the difficulties inherent in
349 replacing this funding with domestic taxation. “To sum up”, they say, “negotiations
350 on EPAs pose a major challenge to West African countries. While there is little
351 doubt that West African countries would benefit from improved or more secure
352 access to EU markets, it is not clear whether it is in the interest of West African
353 countries to eliminate customs duties for almost all EU products by 2020” and they
354 call for the well-designed opening up of domestic markets “with specific attention
355 given to country specifics and capabilities” (*ibid.*: 809). This echoes the call by
356 Borrmann & Busse (2007: 414) for a high degree of flexibility in the EPA process
357 if pro-development outcomes are to be achieved.

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360 ¹¹Countries included in the analysis differ very slightly from those in Appendix 1.

361 Anderson & van der Mensbrugge (2007) studied the specific case of Uganda.
362 They compare full mutual liberalisation (including the removal of developed coun-
363 tries' agricultural subsidies) with two alternative scenarios. The first is a multilateral
364 partial reform under the WTO's Doha round and the second is under EPAs. Again,
365 the details of the findings need not concern us, but the conclusions are that "Uganda
366 is not likely to gain a lot – and may even lose very slightly – from further reducing
367 its tariffs, and likewise from the EU waiving the remaining tariffs on imports from
368 Uganda and other ACP countries" (*ibid.*: 548). They stress that this does not mean
369 that there is no need for Uganda and its ACP partners to undertake further trade
370 reform, but again it seems that the conditions need to be right for Uganda to benefit
371 significantly from trade liberalisation.

372 More anecdotal evidence from NGOs indicates the actual effects of rapid trade
373 liberalisation "on the ground". A Traidcraft report showed that Jamaica's dairy mar-
374 ket liberalisation "decimated small farmers, left local milk production with barely a
375 tenth of the market, and led to the EU supplying two-thirds of the island's milk
376 powder", while a "Christian Aid assessment of tomato liberalisation in Senegal
377 showed that the local price halved, while imports of EU paste increased twenty-fold"
378 (Cobham & Powell: 2007). These may be anecdotal but the effects on actual people
379 in ACP countries reminds us that statistics ultimately mean people and communities.

380 This collection of evidence then, albeit based mainly and necessarily on a fore-
381 casting of the effects, indicates that ACP countries are unlikely to benefit directly
382 from EPAs. Nor should this surprise us, given the evidence that exists generally on
383 trade liberalisation. Ochieng (2007: 377–8) summarises this well:

384 The relationship between trade and growth has been shown to be complex, if not ambigu-
385 ous . . . there is little evidence that trade liberalization is correlated with economic growth,
386 poverty reduction, or economic development. Whilst no country has developed success-
387 fully by turning its back on international trade, none has developed by simply liberalizing
388 its trade. The critical balance lies in each country adopting its own trade and investment
389 policies and strategies, in line with its development needs . . . [A]nalysis of trade, economic
390 growth and poverty reduction needs to go beyond trade liberalization to include *inter alia*:
391 the relationships between trade and inequality, trade and employment, bargaining power in
392 global production chains and the distribution of gains from trade, the effects of trends in,
393 and variability of terms of trade on poverty, the effects of primary commodity dependence,
and the relationship between export and import instability and vulnerability.

394 Again the evidence in favour of the flexibility of individual countries to determine
395 their own development needs is clear.

396 This brings us to the fourth issue of concern and one which is also related to the
397 issue of flexibility. This is that the EC has attempted to include what are known as
398 the "Singapore Issues" on the agenda within the negotiations on EPAs. These relate
399 to investment, competition, government procurement and services, and the EC's
400 position is that these should also be subject to negotiation within EPAs apparently
401 "in order to achieve ACP development objectives" (Griffith & Powell 2007: 8). ACP
402 countries, by contrast, have generally indicated that they do not wish these issues to
403 be part of EPAs negotiations and, apart from services, these issues remain outside
404 the ambit of the WTO. Within the Cotonou Agreement there is only an agreement

406 to discuss co-operation not to agree binding rules (*ibid.*: 8–9). Again, there seems
407 to be a lack of flexibility here on the EC's part, and an unwillingness to allow ACP
408 countries the flexibility to negotiate on these issues at their choice and speed. This is
409 exactly the concern of the U.K.'s International Development Committee which has
410 expressed its view that the EU is abusing its position on this issue (IDC 2007: 14),
411 and DFID in the U.K. is similarly concerned.¹²

412 The fifth and final issue is to do with aid. Given that there are, as already noted
413 above, a series of supply side constraints such as poor infrastructure, weak produc-
414 tion capacity and low levels of human resources (Powell 2007: 4) that need to be
415 addressed in any case to enable development in ACP countries, together with the
416 adjustment costs that EPAs themselves would entail, aid has always been a part of
417 the negotiations (Griffiths & Powell 2007: 19). The core funding for supply side
418 issues comes from the European Development Fund (EDF) but there is evidence
419 that the tenth EDF, from which such funds would come, is both under-funded and
420 will suffer a delayed start in 2010 leaving a 2 year gap between it and the ninth EDF
421 (Powell 2007: 45). The EU has also promised further aid targeted specifically as "aid
422 for trade", planned to reach €2 billion by 2010.¹³ However, the issue of contention
423 has been the extent to which such aid is being made conditional on signing EPAs.
424 Not surprisingly, the two sides differ – DFID is explicit in stating that the EC's posi-
425 tion is that "aid for trade is not conditional on EPAs",¹⁴ while those reporting the
426 ACP position are equally unequivocal in stating that, "aid is clearly being offered
427 on condition of commitments made in EPAs" (Powell 2007: 45).

428 Whatever the rights and wrongs of this particular issue, there remains the fact
429 that negotiations over EPAs have become highly contentious and politicised. The
430 effects on regional integration, the need for reform in institutional frameworks, the
431 estimated direct trade and fiscal effects of EPAs, together with the introduction or
432 otherwise of the Singapore issues and the amount and conditionality of aid, all make
433 for a complex situation where any assessments of fairness or unfairness are clearly
434 not straightforward. However, NGOs have traditionally seen their role as cutting
435 through the complexities and running campaigns to highlight what they perceive to
436 be gross injustices. Before turning to issues of fairness, a brief look at the campaign
437 against EPAs is worthwhile.

438

439 10.4 The "Stop EPAs" Campaign

440

441 Once negotiations on EPAs had begun in September 2002 African organisations
442 became concerned at the potential effects of these new agreements and contacted

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445 ¹²See www.dfid.gov.uk/aboutdfid/organisation/economic-partnership-agreements-myths.asp, ac-
446 cessed 12/12/08.

447 ¹³See <http://europa.eu/scadplus/leg/en/lvb/r13002.htm>, accessed 12/12/08.

448 ¹⁴See www.dfid.gov.uk/aboutdfid/organisation/economic-partnership-agreements-myths.asp, ac-
449 cessed 12/12/08.

451 European charities to help. In 2004, after 2 years of detailed analysis, the “Stop
452 EPAs” campaign was born (Traidcraft 2008). Since then an orchestrated campaign
453 involving many organisations linked to the Trade Justice Movement (TJM),¹⁵ has
454 attempted at the very least to ensure that “fair” EPAs were negotiated or that
455 alternatives such as EBAs and GSP+ were introduced to allow more time for the
456 negotiations over EPAs themselves. It is not clear that the campaign ever had
457 the objective or thought that it might actually “stop EPAs” from occurring, but in
458 the nature of NGOs and campaigning a snappy title is more important than accuracy.
459 Similarly, the content of some of the campaigning material expresses the enormous
460 complexity of the issue in rather more bite-sized language. A briefing for U.K. MP’s
461 by the TJM issued in September 2007, for example, stated that “If [EPAs] are not
462 changed dramatically in the next few months, they will threaten the futures of up
463 to 750 million people” – quite what “threaten the futures” means in practice is far
464 from clear.

465 This is not to say that the campaign has not had the intellectual weight behind
466 it that such campaigns deserve – two extensive reports (Griffiths & Powell 2007,
467 Powell 2007) have already been cited from above. One of these reports had as
468 its focus not so much the content of the EPA negotiations but the manner in
469 which they have been conducted – an approach that is described as “undermining
470 partnership” (Griffiths & Powell 2007: 13). The claim is that in the dismissive
471 approach to ACP proposals, the disregard for ACP institutions and processes, the
472 forcing of negotiation on the Singapore issues, the manipulation of the prospect
473 of aid, the threat of loss of market access, the refusal to consider alternatives,
474 the exclusion of dissenting voices and the imposition of deadlines before devel-
475 opment, the EC’s conduct has been far from exemplary. This is an interesting and
476 unusual “process” report which ends by placing the onus on EU states “to rein in
477 the [European] Commission and insist upon a fundamentally different approach,
478 based on non-reciprocity” (*ibid.*: 31). The issue of process is one that we will return
479 to below.

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481

482 **10.5 EPAs – The Current Situation**

483

484 The situation with regard to which EPAs had been signed was, of course, changing
485 rapidly as the 31 December 2007 deadline came and passed. The position as of the
486 date of writing in December 2008 (1 year after the supposed deadline), is shown in
487 Appendix 2 where it may be seen that 35 countries in total out of 76 (46%) have
488 signed EPAs. Of these, however, only 9 out of 39 (23%) are LDCs, whereas 26 out
489 of 37 (70%) non-LDCs have signed. Given the option for LDCs to use EBA, making
490 essentially no difference to their previous position under the Cotonou Agreement,
491 it is not surprising that many have opted not to sign. Equally predictable is the

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494 ¹⁵See <http://www.tjm.org.uk>, accessed 12/12/08.

496 number of non-LDCs which have signed given that their alternative GSP+ gives
 497 less favourable access to the EU market and would thus lead to a decline in their
 498 export earnings. In terms of regional groupings, only the Caribbean has signed in its
 499 entirety, but given the presence of only one LDC (Haiti) in a group of 15 countries
 500 this is equally not surprising.

501 As noted in Appendix 2, the regional groupings that have signed EPAs are
 502 slightly different from the original groupings with which the EC was nego-
 503 tiating. Thus, seven EPAs have been signed in total.¹⁶ Of these, only one –
 504 the Caribbean EPA – is considered to be a full or comprehensive EPA by the
 505 EC. The Caribbean EPA includes not just provisions for trade in goods, which
 506 were, of course, essential to comply with WTO rules, but services, investment,
 507 competition and public procurement aspects – in other words the contentious
 508 “Singapore” issues. The remaining six EPAs are regarded as “interim” in that
 509 they focus on goods only, but mostly include clauses to allow negotiations to
 510 continue on these other areas.¹⁷ These Interim EPAs (IEPAs) have only been
 511 initialled rather than signed – an important difference since although the negoti-
 512 ations have come to a conclusion there is still a formal ratification process to be
 513 undertaken.

514 In a recent assessment of the legal texts of the EPAs that have been signed
 515 or initialled (Oxfam 2008), it is claimed that these are not development friendly.
 516 While the actual impact on those countries which have not signed EPAs at present
 517 has been small (*ibid.*: 8), the projected effects of EPAs themselves are gener-
 518 ally felt to be against the interests of ACP countries. The liberalisation of goods
 519 is higher than Europe originally proposed, at between 67% and 83% of trade,
 520 although the timescales vary between 0 and 25 years (*ibid.*: 14). Regional disinte-
 521 gration is predicted (*ibid.*: 17), and ACP countries will be left worse off financially
 522 with a need for significant aid to upgrade basic infrastructure (*ibid.*: 19). The
 523 conclusion is that the initialled EPA deals “fail the ‘development test’. Far from
 524 restructuring economic relationships to stimulate development, they risk locking
 525 ACP countries into current patterns of inequality and marginalisation, and further
 526 bias the multilateral trading system against the interests of developing countries”
 527 (*ibid.*: 34). While much of this is familiar from the earlier discussions, it is of
 528 note that Oxfam calls for “renegotiation of any aspect of the initialled EPAs ...
 529 to reduce the deals to the minimum needed for WTO compliance” (*ibid.*: 38).
 530 Despite the 31 December 2007 deadline, the initialling process seems to have

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533 ¹⁶The seven are: West Africa (Ghana, Ivory Coast); Central African Economic and Monetary
 534 Community (Cameroon); East African Community (Burundi, Kenya, Rwanda, Tanzania and
 535 Uganda); East and Southern Africa (Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe);
 536 Southern African Development Community (Botswana, Lesotho, Mozambique, Namibia and
 537 Swaziland); Caribbean (all countries – see Appendix 1); Pacific (Fiji and Papua New Guinea),
 538 www.dfid.gov.uk/aboutdfid/organisation/epas-progress-update.asp, accessed 12/12/08.

539 ¹⁷See www.dfid.gov.uk/aboutdfid/organisation/epas-progress-update.asp, accessed 12/12/08. An
 540 alternative web-site for regular up-dates can be found at www.acp-eu-trade.org. See also
http://ec.europa.eu/trade/issues/bilateral/regions/acp/regneg_en.htm.

541 bought time with the WTO, and may now allow the opportunity for further
542 negotiations.

543 544 545 546 10.6 Assessing Fairness in International Trade 547

548 As noted at the outset, the inherent complexity of the situation described above
549 rules out any simplistic application of fairness principles. So, we begin by look-
550 ing at fairness principles themselves to see what light might be shed by such a
551 review, before turning to their application. And while fairness has, of course, been
552 the subject of much philosophical debate in general, it has also been the subject
553 of discussion specifically in relation to international trade (Brown & Stern 2007,
554 Davidson *et al.* 2006, de Jasay 2006, Franck 1995, Maseland & de Vaal 2002,
555 2003, Narlikar 2006, Ochieng 2007, Suranovic 2000). Much of this originates in
556 the economics literature, from which three points are worth noting immediately.
557 The first is that economists frequently “dismiss notions of rights, justice and fair-
558 ness as, at best, muddled, and more likely welfare worsening” and that the most
559 characteristic normative method adopted by economists is “straightforward individ-
560 ualistic utilitarian consequentialism” (Davidson *et al.* 2006: 989). This ‘free market’
561 position, of course, lends strong support to trade liberalisation and opposes pro-
562 tectionism in all its forms. And protectionism is the second point worthy of note,
563 for ‘fair trade’ is often contrasted with ‘free trade’ to denote protectionism which
564 seeks to mitigate the effects of international competitors on domestic industries
565 (see, for example, Bhagwati 1995, Maseland & de Vaal 2002, Howse & Trebilcock
566 1996). This understanding of fair trade gives rise to the view that fair traders
567 are “charlatans (protectionists masquerading as moralists)” (Howse & Trebilcock
568 1996: 61).

569 However, while we can dismiss this particular use of the term fairness, it is clear
570 that issues of fairness do play “a non-trivial role in the politics of trade policy”
571 (Davidson *et al.* 2006: 990) so that questions such as, “Is it fair for all countries
572 to be held to the same set of standards when these countries are at different levels
573 of economic development?”, or “What are fair responses to the imminent changes
574 in world trading patterns?” (Suranovic 2000: 283), or of direct relevance to this
575 chapter, “Are EPAs fair?”, are entirely legitimate. And the third point to note stems
576 from this. As Franck (1995) has observed, for any discourse on fairness to take
577 place, two preconditions must exist. The first is moderate scarcity: “Discussion
578 about fairness . . . is most likely to be productive when the allocation of rights and
579 duties occurs in circumstances which make allocation both necessary and possi-
580 ble. This circumstance . . . John Rawls has aptly called a condition of ‘moderate
581 scarcity’” (*ibid.*: 9). The second precondition is community: “It is only in commu-
582 nity that the bedrock of shared values and developed principles necessary to any
583 assessment of fairness is found” (*ibid.*: 10). And in Franck’s view “we are witness-
584 ing the dawn of a new era, defined both by moderate scarcity and by an emerging
585 sense of global community” (*ibid.*: 11). In other words, the preconditions are now

met and the time is right for substantive discussion about fairness in international trade.

With this as background, we can turn to fairness principles themselves. And we find, not surprisingly, that these divide into the conventional distinction between procedural and distributive fairness – although “justice” is often used instead of fairness, a point to which we will return. That fairness has two dimensions – the process by which outcomes are derived and the outcomes themselves – is, of course, a common-place, but it is worth exploring some of the nuances that emerge within this distinction.

On the procedural side, Suranovic (2000), amongst the seven fairness principles that he derives,¹⁸ gives four that relate to procedural fairness. These are non-discrimination fairness (where, if one group is allowed to take some action, then all other groups deemed to be equal should be similarly allowed – *ibid.*: 288); Golden Rule fairness (based on Kant’s categorical imperative, where an agent should take some action which has an effect on another only if that agent is willing to have another agent take a comparable action with the identical effect on himself – *ibid.*: 291); and positive and negative reciprocity fairness (where agents exchange either positive “you scratch my back and I’ll scratch yours”, or negative “tit for tat” actions – *ibid.*: 295, 299). Brown & Stern (2007: 299–302) also discuss reciprocity noting that, understood as “rough equivalence”, it remains an important criterion for negotiations in international trade.

Maseland & de Vaal (2002) make a distinction of fairness along deontological versus consequentialist grounds, the latter of which we will return to under distributive fairness, but the former of which is worth noting now. Essentially it is to do with the “conditions under which trade, and the production of traded goods, should minimally take place” (*ibid.*: 254). In a later paper they refer to this as “principle” fairness (Maseland & de Vaal 2003) and identify it as being trade conducted in compliance with designated basic prohibitions such as the absence of child labour or environmentally harmful production methods. They note that, while free trade can lead to the absence of such conditions, for instance because it raises incomes, it lacks a self-regulating mechanism to ensure such conditions are met. It therefore seems appropriate to categorise it here, under procedural fairness, because of the procedural requirements to enforce such compliance and because the overall outcome that follows may not necessarily be efficient – a distributive matter.

Legitimacy fairness is another way of describing procedural fairness (Franck 1995: 7–8, Narlikar 2006: 1007–8), a point that Elsig (2007: 81) using the term “input legitimacy” makes in relation to the WTO, and to which we will also

¹⁸ Suranovic (2000) divides these seven into two categories: equality fairness and reciprocity fairness. I will cover six of the seven here, the seventh being privacy fairness – “an agent should be free to take any action which has effects only on himself” (*ibid.*: 301)

631 return. Meanwhile, Brown & Stern refer to “equality of opportunity” as a procedural issue noting, however, that they do not advance it as a high moral principle but merely an “instrumental criterion to be valued for its consequences, namely that it facilitates the reaching of inter-governmental agreements that protect and enhance the mutually advantageous trading system” (2007: 295). This relationship between the two forms of fairness is also something to which we will need to return.

632 On the distributive side many of the authors already cited note the importance
633 of outcomes for fairness assessments (Brown & Stern 2007, Maseland & de Vaal
634 2002, 2003, Narlikar 2006, Ochieng 2007, Suranovic 2000) and it is in relation to
635 this discussion that economists refer to the concepts of welfare efficiency and Pareto
636 optimality:

637 “For many economists – borrowing from welfare theory – a practically acceptable criterion
638 of fairness would be that the trade negotiations result in a more efficient global
639 economy. Greater efficiency is defined as a movement towards Pareto optimality and, in
640 the context of international trade, such a state would be reached when no country can
641 be made better off without some other country being made worse off” (Brown & Stern
642 2007: 296).

643 An alternative expression of this is to refer to “maximum benefit fairness”
644 (Suranovic 2000: 302–4), in which the utilitarian rhetorical device of “the greatest
645 good for the greatest number” is, in effect, applied irrespective of the consequences
646 for affected minorities.

647 However, another distributional principle that is included in the literature is perhaps best termed “poverty alleviation fairness” (Maseland & de Vaal 2003) and is one in which “beneficial consequences for the poorest groups in the world” (Maseland & de Vaal 2002: 256) are to be taken into account. As Maseland & de Vaal note, this concept draws on Rawlsian thinking and attempts to combine Pareto optimality with the idea that “the only inequality a rational individual would accept is the minimum inequality necessary to improve the situation of the least well off in society” (*ibid.*: 256). Franck refers to this as the ‘maximin’ principle (1995: 18–19) and notes that it is a neo-egalitarian principle of distributive fairness. In relation to the fairness of EPAs this will clearly be an important concept, but is also one that acknowledges the “unequal starting positions” (Maseland & de Vaal 2003) of different countries. While a Nozickian approach would ignore such inequalities, it would seem to be very much to the point that they be included in any consideration of the fairness of international trade. This is not to argue for a socialist redistribution of input factors (even were that to be possible), but for negative consequences of inequalities to be at least taken into account (see Maseland & de Vaal 2002: 255–6).

648 An attempt at resolving the terminological issue that we noted above between
649 fairness and justice is made by de Jasay (2006). He argues, in effect, that justice
650 refers to procedural issues, while fairness refers to outcomes. On this basis (one
651 that is by no means universal) he is able to argue that trade made fair by regulation
652 violates freedom of contract and as such is an injustice (*ibid.*: 175–6). In other
653

676 words, fair is not, or is not necessarily, just (and *vice-versa*). While we do not particularly
677 need to follow the terminology here, the point is important – that procedural
678 and distributive fairness do not necessarily follow one another with one leading
679 automatically to the other, but are different aspects of fairness which may not coincide
680 (Franck 1995: 22). Franck makes the further point that they may not even pull
681 in the same direction, since distributive fairness is likely to lead to change, whereas
682 procedural fairness tends towards stability (*ibid.*: 7).

683 However, it is often the case that both forms of fairness are needed if true fairness
684 is to result – Elsig (2007), for example, refers to the need to balance what he calls
685 input and output legitimacy in the WTO. Stiglitz & Charlton's set of principles (cited
686 in Brown & Stern 2007: 312–3), in relation to the Doha Development round of
687 the WTO, provide a further example. It is clear that the first two are to do with
688 distributive fairness while the last two are procedural in nature.

689

690 1. Any agreement should be assessed in terms of its impact on development; items
691 with a negative effect on development should not be on the agenda;
692 2. Any agreement should be fair (i.e. that the outcome should provide a larger share
693 of aggregate benefits to the poorer countries);
694 3. Any agreement should be fairly arrived at;
695 4. Any agreement should be limited in scope (i.e. preventing unwarranted intrusions
696 into national sovereignty).

697

698 While this completes a brief summary of fairness principles as covered in the
699 relevant literature, there is one further and important area that we need to consider
700 before we turn to an assessment of the fairness of EPAs. In some ways this takes
701 us back to one of the two preconditions that Franck identified – that it is “only
702 in community that the bedrock of shared values and developed principles necessary
703 to any assessment of fairness is found” (Franck 1995: 10). The question that
704 this raises is really an Aristotelian one, and so differs from the Enlightenment
705 concepts of fairness discussed so far, and over which perhaps limited agreement can be
706 reached.

707 The Aristotelian question is always to do with what makes for the flourishing
708 of life as a whole both individually and in community. It therefore asks questions
709 of purpose and relationship and is, in that sense, essentially *teleological*. Modern
710 work on virtue ethics, as it is known (MacIntyre 2007), and as applied at the level of
711 business organisations rather than trade *per se* (Moore & Beadle 2006, Moore 2009)
712 focuses on such a teleological approach and encourages the pursuit of excellence
713 rather than the “levelling tendency” that deontological ethics has been charged with
714 (Koehn 1995: 537). In terms of something essentially practical like the negotiation
715 of EPAs this will encourage us to ask what the purpose of such agreements are, how
716 they support and benefit community both within developing countries and between
717 developing and developed countries, and what excellence means in this context. It
718 is probably apparent that questions such as these take us beyond the conventional
719 approaches to ethics via the fairness discourse, but also that they have something
720

721 in common with the teleological approach to interpretation of WTO laws taken by
722 ACP countries, as noted above.

723

724 10.7 An Assessment of the Fairness of EPAs

725

726 From all that has been said above, it will come as no surprise that the fairness
727 assessments that can be made are somewhat tentative. But the reasons for such
728 tentativeness will become clearer as we proceed, so we begin by considering
729 issues of procedural fairness. The most extensive consideration of this is given in
730 Griffith & Powell (2007), covered above in the “Stop EPAs” section. In “under-
731 mining partnership” through the eight procedural issues that were identified, in all
732 of which the EC was regarded as being at fault, procedural fairness seems to have
733 been compromised by the EC. That, at first sight, might seem a straightforward and
734 incontrovertible judgment.

735 However, in considering WTO negotiations in general (of which EPAs can be
736 viewed in this context as a separate but inter-related part), the situation becomes
737 less clear-cut. Narlikar (2006: 1009) argues that the WTO has, in general, paid
738 limited homage to the fairness discourse but “particularly its distributive justice
739 component”. In other words, the WTO, where it has included fairness consider-
740 ations, has focused on procedural fairness, and has done so partly because any
741 notion of *redistributive* justice through global trade has sat uneasily with “more
742 liberal trade principles” and “with the national interests of already institutionalised
743 countries” (Ochieng 2007: 389). Narlikar reinforces this point: “even if provisions
744 in the WTO on distributional fairness are few, . . . its dedication to fair process,
745 order and legitimacy is borne out in its rules of non-discrimination and reciprocity”
746 (2006: 1009). The concerns of the EC in ensuring that EPAs were WTO-compatible,
747 and awareness of the procedural unfairness associated with the fact that such non-
748 reciprocal agreements discriminated against non-ACP states, are further evidence of
749 this approach.

750 Ochieng notes that even by the early 1990s “developing countries had been
751 forced to change tack, toning down on the notion of *fairness of outcomes* and
752 moving towards accommodating the *fairness of process* concept (even whilst com-
753 plaining that WTO processes were not fair to them)” (Ochieng 2007: 389, emphasis
754 in original). It seems, therefore, that developing countries might have been better
755 prepared for negotiating on EPAs, having accepted that this would be the focus of
756 the EC in such negotiations. Being better prepared might have helped the ACP coun-
757 tries to negotiate more forcefully and within the reasonable time periods laid down
758 in the Cotonou Agreement.

759 Accepting that ACP countries might have expected the EC to focus on procedu-
760 ral issues does not, however, mean that they would or should have abandoned their
761 interest in distributive fairness. Narlikar (2006: 1028), indeed, suggests that develop-
762 ing countries generally have had some success in maintaining a focus on distributive
763 fairness and that this may lead to the reintroduction of the fairness-as-equity
764 discourse into the WTO, with the Doha *Development Agenda* as an indicator of this.

766 Elsig, however, recognises the link between the two forms of fairness arguing that
767 “the input side should not be neglected as the belief in fair processes potentially
768 increases the rate of compliance with negotiated treaties, thus increasing output
769 legitimacy” (2007: 89).

770 However, allowing for the continuing asymmetries in the WTO and the contin-
771 uing complaints of the developing countries over equity of process (Narlikar 2006:
772 1024–5), and therefore their likely extension into negotiations over EPAs, it seems
773 probable that procedural fairness has been compromised during the process. The
774 attempt (and success with the Caribbean grouping) to bring the Singapore issues
775 onto the agenda, and the attempt to introduce conditionality on aid strengthens the
776 suspicion that EPAs have not been fairly negotiated.

777 What, then, of distributive fairness? While, of course, the judgment in this case
778 has to be tentative until actual outcomes are known, the evidence cited above in
779 relation to the likely negative impact on regional integration especially in Africa; on
780 the timing of the introduction of EPAs in relation to the poor institutional quality
781 which is likely to mean, again, that African countries are not in a position to benefit
782 from trade liberalisation; and the more general trade and fiscal effects, all suggest
783 that the distributive outcomes will not benefit ACP countries.

784 The counter argument to this, however, is the potential distributive unfairness
785 that non-ACP, non-LDC countries have been experiencing (following the procedu-
786 ral unfairness noted above) – and hence the reason that they have been watching
787 the EPA negotiations “like hawks” (Mandelson 2007, cited above) and might mount
788 a legal challenge under Article XXIV. The EU countries, and on their behalf the
789 EC, have, they would argue, been negotiating on EPAs in order to ensure that a
790 WTO-compatible legal basis on which continuing preferential treatment of ACP
791 countries could be provided. It is not their fault, they can argue, that the WTO
792 requires reciprocity on substantially all trade within a reasonable period. In addi-
793 tion, the extended time periods (at least 10 years and possibly up to 25 – see above)
794 allowable within EPAs for SAT to be realised would, the EU states might well argue,
795 give both sufficient time and incentive to resolve the institutional development and
796 other issues.

797 That it is in both the developing and developed countries’ interests ultimately to
798 make significant progress on trade liberalisation is something both sides can prob-
799 ably agree on. That EPAs are necessary in this is something developing countries,
800 with the exception of the Caribbean grouping, are clearly more reluctant to agree
801 on. That EPAs are likely to lead to appropriate and substantive development, and
802 therefore to distributive fairness, is something that the two sides are, again with the
803 possible exception of the Caribbean grouping, at odds over and only time will tell
804 which side is right.

805 Within this debate, however, the issues of community and purpose, the
806 Aristotelian questions, seem rarely to get asked, with sides being taken and per-
807 sonal advantage being sought. This takes us back to the different interpretations of
808 WTO laws discussed in the background section above. Here, it would seem that
809 the ACP’s teleological approach is the more appropriate. The ACP states see the

811 WTO as developmentally oriented while the EC and other developed countries see
812 it as solely a trade organisation. Although not explicit, it could be argued that the
813 ACP countries see the “dawn of a new era” characterised by “an emerging sense of
814 global community” (Franck 1995: 11, cited above), and would argue for notions of
815 excellence in international trade to emerge. Such excellence might well include the
816 flexibility necessary to recognise the different starting positions and speed of devel-
817 opment that developing countries in general, and LDCs in particular, are capable
818 of, and to design processes that would allow such flexibility – a key point of con-
819 cern noted on a number of occasions above. To achieve this flexibility, while still
820 enabling regional integration, is obviously no simple task, but one that excellent
821 trade negotiations and outcomes ought to seek.

822 Perhaps, a more genuine attempt by the EC to take a developing country perspec-
823 tive, to seek to realise the purpose of EPAs and the Doha Development Round more
824 generally as to do with sustainable development as we try to learn to live together on
825 one earth, and to effect that through more community-minded initiatives that extend,
826 if necessary, to other non-ACP countries, might have led not only to a process that
827 was more acceptable to ACP countries but one in which the outcomes are more
828 likely to be developmentally good. The opportunity for further negotiations may yet
829 lead to such an outcome.

830

831 10.8 Conclusion

832

833 I indicated at the outset that the conclusions that could be drawn would necessar-
834 ily be somewhat tentative. It is difficult to be conclusive in such a fast-moving and
835 complex area. However, while the evidence is generally against the EC and, behind
836 it, the EU states, it does seem that both “sides” may have lessons to learn from EPAs
837 over both the process of negotiating and the outcomes that are sought, even though
838 the actual outcomes may in some cases be many years away from being realised.
839 The existing conceptualisations of fairness, based on Enlightenment principles, pro-
840 vide a basic mechanism by which such fairness claims can be examined, but they
841 do not take sufficient account of the purposive and community aspects of interna-
842 tional trade negotiations. Perhaps here, as EPAs continue to be negotiated and these
843 agreements are implemented, there is a chance for something developmentally ben-
844 efiticial to emerge. This will require the EC to focus more on distributive fairness,
845 and accept the changes that will necessarily accompany this, rather than rely upon
846 the stability that arises from procedural fairness considerations.

847 Within this, there is a potential knock-on effect on the WTO itself. As Ochieng
848 concludes, “development-oriented EPAs will require not only innovations in their
849 design and scope but also innovative interpretation of existing WTO rules or inno-
850 vations to some of the existing WTO rules, most notably, Article XXIV and a wide
851 array of other SDT provisions” (2007: 395). Hence, one of the benefits of EPAs may
852 be to challenge the WTO and the EU’s conservative interpretation of its purpose, and
853 lead to international trade that is, indeed, not just procedurally fair in its negotiation

856 and distributively fair in its implementation, but also genuinely develops the global
 857 community.

858

859

860 **Appendix 1**

861

862

863

864 **ACP countries by regional groupings**

	ECOWAS	CEMAC	ESA	SADC	Caribbean	Pacific
866 1	<i>Benin</i>	Cameroon	<i>Burundi</i>	<i>Angola</i>	Antigua & Barbuda	Cook Is.
867 2	<i>Burkina Faso</i>	<i>Central African Republic</i>	<i>Comoros</i>	Botswana	Bahamas	Fed. Micron.
868 3	<i>Cape Verde</i>	<i>Chad</i>	<i>Djibouti</i>	<i>Lesotho</i>	Barbados	Fiji
869 4	<i>Gambia</i>	Congo (Brazzaville)	<i>Eritrea</i>	<i>Mozambique</i>	Belize	<i>Kiribati</i>
870 5	Ghana	<i>Congo (Dem. Rep.- Kinshasa)</i>	<i>Ethiopia</i>	Namibia	Dominica	Marshall Is.
871 6	<i>Guinea</i>	<i>Equatorial Guinea</i>	Kenya	Swaziland	Dominican Rep.	Nauru
872 7	<i>Guinea-Bissau</i>	Gabon	<i>Malawi</i>	<i>Tanzania</i>	Grenada	Niue
873 8	Ivory Coast	<i>Sao Tome & Principe</i>	Mauritius	South Africa	Guyana	Palau
874 9	<i>Liberia</i>		<i>Madagascar</i>		<i>Haiti</i>	Papua New Guinea
875 10	<i>Mali</i>		<i>Rwanda</i>		Jamaica	<i>Samoa</i>
876 11	<i>Mauritania</i>		Seychelles		St. Kitts & Nevis	<i>Solomon Is.</i>
877 12	<i>Niger</i>		<i>Sudan</i>		St Lucia	Tonga
878 13	Nigeria		<i>Uganda</i>		St Vincent & the Grenadines	<i>Tuvalu</i>
879 14	<i>Senegal</i>		<i>Zambia</i>		Surinam	<i>Vanuatu</i>
880 15	<i>Sierra Leone</i>		<i>Zimbabwe</i>		Trinidad & Tobago	
881 16	<i>Togo</i>					
882	No. LDCs	13	5	11	4	1
883						5

884 Sources: http://ec.europa.eu/trade/issues/bilateral/regions/acp/plcg_en.htm, accessed 12/12/08;
 885 www.dfid.gov.uk/aboutdfid/organisation/epas-progress-update.asp, accessed 12/12/08, and Lang
 886 2006: 36–38

887 Note: Countries in italics are Least Developed Countries (LDCs) – 39 out of a total of 76

888 Key:

889 ECOWAS Economic Community of West African States

890 CEMAC Economic and Monetary Community of Central Africa

891 ESA Eastern and Southern Africa

892 SADC Southern African Development Community

901 Appendix 2

	Signatories to economic partnership agreements					
	ECOWAS	CEMAC	ESA	SADC	Caribbean	Pacific
1	Ghana	Cameroon	<i>Burundi</i>	Botswana	Antigua & Barbuda	Fiji
2	Ivory Coast		<i>Comoros</i>	<i>Lesotho</i>	Bahamas	Papua New Guinea
3			Kenya	<i>Mozambique</i>	Barbados	
4			Mauritius	Namibia	Belize	
5			<i>Madagascar</i>	Swaziland	Dominica	
6			<i>Rwanda</i>	<i>Tanzania</i>	Dominican Rep.	
7			Seychelles		Grenada	
8			<i>Uganda</i>		Guyana	
9			Zimbabwe		<i>Haiti</i>	
10					Jamaica	
11					St Kitts & Nevis	
12					St Lucia	
13					St Vincent & the Grenadines	
14					Surinam	
15					Trinidad & Tobago	
16						
No. LDCs	0	0	5	3	1	0

925 Source: http://ec.europa.eu/trade/issues/bilateral/regions/acp/regneg_en.htm, accessed 12/12/08.
 926 The web-site gives slightly different groupings from those shown in Appendix 1. For ease of
 927 comparison, the same groupings are maintained

928 Note: Countries in italics are Least Developed Countries (LDCs). Only 9 from a possible 39 LDCs
 929 have signed EPAs; for non-LDCs the number is 26 from 37

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