



# WTO, International Trade and Globalization with Special Reference to Jordan

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The world's rich nations have long preached the advantage of free trade for the world's developing nations. But it simply has not been a level playing field. This in-depth piece shows how and why. The author argues that the free trade regime is often rigged against the developing nations. Globalization which is reflected in the current WTO regime has been introduced to basically serve the interest of existing global economic powers. This current state of economic inequality has caused resentments all over the world especially in the developing countries. The developing countries have framed laws which are directly challenging the global WTO regime. This has further resulted into a sort of deadlock over many important international trade issues<sup>1</sup>. Globalization process has of late suffered multiple hindrances, leading to the widening of gap between pro and anti globalization forces. Therefore the need of the hour is to see the viable and equitable working of international trade from the global perspective.

## **Understanding Globalization**

Globalization (or globalisation) in its literal sense is a social change, an increased connectivity among societies and their elements due to transculturation<sup>2</sup>; the explosive evolution of transport and communication technologies to facilitate international cultural and economic exchange. The term is applied in various social, cultural, commercial and economic

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contexts.<sup>3</sup>

Economic globalization means more freedom of trade and increasing relations among members of an industry in different parts of the world.

It shares a number of characteristics with internationalization and is used interchangeably, although some prefer to use globalization to emphasize the erosion of the nation state or national boundaries.

In other ways, globalization can be defined as a historical stage of accelerated expansion of market capitalism, like the one experienced in the 19th century with the industrial revolution. It is a fundamental transformation in societies because of the recent technological revolution which has led to a recombining of the economic and social forces on a new territorial dimension.

We can today say that globalization and increased market opening has had very positive effects and some negative consequences.

Globalization has enabled individuals, corporations and nation-states to influence actions and events around the world — faster, deeper and cheaper than ever before — and equally to derive benefits for them. Globalization has led to the opening, the vanishing of many barriers and walls, and has the potential for expanding freedom, democracy, innovation, social and cultural exchanges while offering outstanding opportunities for dialogue and understanding.

But the global nature of an increasing number of some worrisome phenomena — the scarcity of energy resources, the deterioration of the environment and natural disasters (including recently, hurricane Katrina and the Asian tsunami) the spread of pandemics (AIDS, bird flu), the growing interdependence of economies and financial markets and the ensuing complexity of analysis, forecasts and predictability (financial crisis), and the migratory movements provoked by insecurity, poverty or political instability are also a product of globalization<sup>4</sup>.

Indeed it can be argued that in some instances, globalization has reinforced the strong ones and weakened those that were already weak.

It is this double face of globalization that we must seek ways of addressing if we want to “humanise globalization”. To do this, we need to

“reform globalization” with a clear view to enhancing the development of social, economic and ecological aspects of humanity. This is also in line with the millennium development goals<sup>5</sup> that can be achieved through a “reform of globalization from within and for development”.

Nobody would dispute that there is a widening gap between global challenges and the traditional ways of working out solutions, our traditional institutions. One of the most striking consequences of this gap — the notion of individual powerlessness and the political constraints of governments — has two impacts: first, it impacts the confidence and trust in the national system of governance, and second, it destroys any hope of being able to influence one’s future. The future becomes a matter of anxiousness, because citizens are not convinced that there is a captain to pilot their plane.

It is not globalization that creates this feeling of anxiety, it is the absence of the means to tackle it appropriately. In other words, it is the absence of governance at the global level that is problematic. The new issues raised by global crises and by certain political developments oblige us to contemplate new forms of governance. To address global questions, problems, threats, fears, at the appropriate level, we need more governance at the global level responsive to emerging global challenges.

At the same time, globalization needs to be humanised: if solutions must often be global, the negative effects on individuals and societies must also be tackled. Humanising globalization means that we must take care of the victims of globalization. To achieve this, global solutions must be sought for addressing the negative impact of globalization at all levels — individual, community and universal levels.

### **Signs of Globalization**

Globalization has become identified with a number of trends, most of which have developed since World War II. These include greater international movement of commodities, money, information, and people; and the development of technology, organizations, legal systems, and infrastructures to allow this movement. More specifically, globalization refers to<sup>6</sup> :

- F Increase in international trade at a faster rate than the growth in the world economy

- F Increase in international flow of capital including foreign direct investment
- F Greater transborder data flow, using such technologies such as the Internet, communication satellites and telephones
- F Greater international cultural exchange, for example through the export of Hollywood and Bollywood movies.
- F Some argue that even terrorism has undergone globalization. Terrorists now have attacked places all over the world.
- F Spreading of multiculturalism and better individual access to cultural diversity, with on the other hand, some reduction in diversity through assimilation, hybridization, Westernisation, Americanization or Sinosization of cultures.
- F Erosion of national sovereignty and national borders through international agreements leading to organizations like the WTO and OPEC
- F Greater international travel and tourism
- F Greater immigration, including illegal immigration
- F Development of global telecommunications infrastructure
- F Development of a global financial systems
- F Increase in the share of the world economy controlled by multinational corporations
- F Increased role of international organizations such as WTO, WIPO, IMF that deal with international transactions
- F Increase in the number of standards applied globally; e.g. copyright laws
- F Creation of local clusters of competence (Porter's clusters) having a world wide competitive advantage

Many of these trends are seen as positive by supporters of various forms of globalization, and in many cases globalization has been actively promoted by governments and other institutions. For example, there are certain economic arguments supporting globalization, such as the theory

of comparative advantage suggesting that free trade leads to a more efficient allocation of resources, with all those involved in the trade benefitting. Conversely, critics of globalization bring different economic arguments, such as those put forward by fair trade theorists, which seem to indicate that unrestricted free trade benefits those with more financial leverage (i.e. the rich) at the expense of the poor<sup>7</sup>.

### **Globalization in Question**

There is much academic discussion about whether globalization is a real phenomenon or only a myth. Although the term is widespread, many authors argue that the characteristics of the phenomenon have already been seen at other moments in history. Also, many note that those features that make people believe we are in the process of globalization, including the increase in international trade and the greater role of multinational corporations, are not as deeply established as they may appear. Thus, many authors prefer the use of the term internationalization rather than globalization<sup>8</sup>. To put it simply, the role of the state and the importance of nations are greater in internationalization, while globalization in its complete form eliminates nation states. So it is evidenced that the frontiers of countries, in a broad sense, are far from being dissolved, and therefore this radical globalization process is not yet happening, and probably won't happen, considering that in world history, internationalization never turned into globalization (the European Union and NAFTA are yet to prove their case.)<sup>9</sup>

However, the world increasingly share problems and challenges that do not obey nation state borders, most notably pollution of the natural environment, and as such the movement previously known as the anti-globalisation movement has transmogrified into a movement for globalisation from below seeking, through experimentation, forms of social organisation that transcend the nation state and representative democracy<sup>10</sup>. So, whereas the original arguments of anti-global critique can be refuted with stories of internationalisation, as above, the emergence of a global movement is indisputable and therefore we can speak of a real process towards a global human society of societies.

### **The Global WTO Regime**

The WTO came into being on 1st January 1995 after the completion of the General Agreement on Tariffs and Trade (GATT) Uruguay

Round in 1994. It is headed by its highest authority the Ministerial Conference<sup>11</sup> comprising member states and meets at least every two years. The day to day operations notably dispute settlement procedures and trade policy review are overseen chiefly by the General Council which reports to the Ministerial Conference and a number of subsidiary bodies. The WTO is not a part of the UN, nor is it a specialised agency of the UN. Although the WTO is a successor to GATT, it covers not only areas pertaining to trade in goods but includes trade in goods, services and ideas and knowledge systems<sup>12</sup>. Unlike GATT which was only an agreement the WTO has a formal identity as an intergovernmental organisation. It contains a framework for the enforcement of rights and obligations to Agreements.

The WTO is the body that governs international trade. It is the maker and enforcer of rules that limits every nation's ability to make its own laws and policies to protect its national interests. It is thus vested with immense power and authority over trade matters overriding nations and their right to sovereignty. The WTO administers and enforces more than 20 international trade agreements and its rules and agreements have an enormous impact on all facets of life affecting nations and societies namely, in the economic, political, social, environmental and cultural spheres<sup>13</sup>

WTO's central premise is that global free trade must not be impeded by national governments even if national laws have been put in place to protect the environment, vulnerable groups and social justice. National governments must apply the 'least trade restrictive measures' to achieve environmental and health protection. For example laws that allow a government to protect the environment, or workers and consumer health; subsidies to promote energy conservation or sustainable farming methods will be against free trade and WTO rules. Under 'nontariff barriers' any measure that is not a tariff but inhibits trade is forbidden by governments. In this manner, it becomes illegal when governments ban dangerous technologies, contaminated or toxic foods and products, and culturally unsuitable TV programmes and films. What is even more alarming is that the WTO requires that the future laws of all member states must also comply with WTO rules. Thus national governments when promulgating new laws or amending them must ensure that their national legislation conform to WTO rules. Under WTO, all corporations must be given 'national treatment' which means that national governments cannot give

preference or favour domestic companies and their citizens.

Thus under the WTO, the rule of governments are weakened and the unfettered power of the transnational corporations are strengthened<sup>14</sup>. It serves as the government of the world order for corporate interests. Although it is an inter-governmental body comprising member states, it is the TNCs that sit on the important advisory committees which decide policy and set the agenda.

This multilateral trade regime, referred to as the World Trade Organization, is primarily composed of the various trade agreements that serve as the legal ground rules for much of international commerce today. It began in 1947 with twenty-three contracting parties for the Protocol of Provisional Application of the General Agreement on Tariffs and Trade (GATT). If we consider GATT-1947 a club, then both club membership and club rules have changed dramatically since its inception. Many successive rounds of trade negotiations have since increased both the scope of membership in the trade regime and the range of areas covered within its discipline. In particular, the last two rounds of negotiations, the Tokyo Round (1973-79) and the Uruguay Round (1986-94), signalled an unprecedented deepening of the integration and harmonization of rules in the multilateral trade regime, as opposed to the previous trade rounds, which focused mainly on lowering tariff barriers. Among the key areas covered in these two rounds were safeguards and the dispute settlement mechanism (in the Tokyo Round) and investments, services, and intellectual property rights (in the Uruguay Round). Most important, the WTO was launched as a consequence of the Uruguay Round, with the intention of possibly fostering further trade integration among a growing number of member countries. Today the WTO has 150 member countries, with at least 30 more planning to accede<sup>15</sup>.

This expansion in membership, as well as the increased coverage and depth of rules, makes the trade regime a de facto global public good. That is, it has been made available to the global public through agreement among sovereign nations. To clarify, services provided by government(s) or public institutions can be considered public goods insofar as “they facilitate the conveniences of daily living and provide a measure of order and predictability to daily life”. The trade regime certainly fits this description, by lessening the probability of costly “trade wars” through mutually binding

codes in the conduct of much of international trade. Seen as a system that builds on deeper integration within a shared rule-based framework, the trade regime also provides benefits across nations by restraining costly and inefficient protectionism, fostering cost-reducing scale economies in production and distribution of goods and services, and helping prevent races to the bottom (i.e., investment policy) that would otherwise have occurred from competitive pressures

Having said that, it does not mean that WTO-regime has emerged as the solution of all the ills which are plaguing the countries the world over. A decade into the WTO experiment, it is clear that the WTO model of corporate globalization has not delivered the promised benefits of increased economic prosperity, while economic, social, and environmental conditions have worsened in many rich and poor countries alike. Because of this failed record, opposition has grown worldwide to the WTO model of globalization which has been driven by a narrow group of corporate elites to suit their interests. The collapse of the Doha Round WTO expansion talks offers an extraordinary opportunity for a fundamental re-think of the direction of the global economy.

### **A Decade of WTO Results has Undermined Support for WTO Expansion**

Instead of promised gains, during the WTO decade, economic conditions for the majority have deteriorated. The number and percentage of people living on less than \$1 a day in Sub-Saharan Africa and the Middle East have increased while the percentage living on less than \$2 a day has increased in these regions, as well as in Latin America and the Caribbean<sup>16</sup>.

Growth and the rate of poverty reduction have slowed in most parts of the world since implementation of the WTO's policy package – a model imposed a decade earlier on many developing countries by the International Monetary Fund and World Bank.

There is growing consensus that the clear failure of the model – often called “neoliberalism”<sup>17</sup> – to deliver economic growth or better standards of living for most is translating into electoral victories for leaders who have made rejection of this agenda a staple of their platforms. Nowhere is this more evident than in Bolivia, Argentina and Venezuela whose

economies all have been decimated under previous neoliberal governments. After adopting alternative domestic economic policies, Argentina and Venezuela now boast the highest economic growth and fastest poverty reduction in the region. Likewise, Bolivia's new president Evo Morales was elected on a platform of opposition to flawed trade deals after previous neoliberal governments' policies resulted in a lower per capita GDP today in Bolivia than 27 years ago. Even Costa Rica, Peru, and Mexico, traditionally neoliberal strongholds, have experienced presidential elections almost entirely dominated by debate over trade liberalization.<sup>18</sup>

The number of people living in poverty has also increased in South Asia, while growth rates and the rate of reduction in poverty have slowed in most parts of the world – especially when one excludes China, where huge reductions in poverty have been accomplished, but not by following WTO-approved policies (China became a WTO member only in 2001). Indeed, the economic policies that China employed to obtain its dramatic growth and poverty reduction are a veritable smorgasbord of WTO violations: high tariffs to keep out imports and significant subsidies and government intervention to promote exports; an absence of intellectual property protection; government-owned, operated and subsidized energy, transportation and manufacturing sectors; tightly regulated foreign investment with numerous performance requirements regarding domestic content and technology transfer; government-controlled finance and banking systems subsidizing billions in non-performing debt; and government-controlled, subsidized and protected agriculture. Many of these same policies are those employed by the now-wealthy countries during their period of development<sup>19</sup>.

It's not as if the status quo is working for most people in the rich countries either. During the WTO era, the U.S. trade deficit has risen to historic levels – from \$130 billion (in today's dollars) in 1994 (the year before the WTO went into effect) to more than \$717 billion in 2007. The U.S. trade deficit is approaching 6 percent of national income – a figure widely agreed to be unsustainable, putting the United States and global economy at risk.

Although trade and the failure of corporate globalization will be important issues in many 2008 U.S. congressional races, the bottom-up public pressure that has altered trade politics in many nations has not risen

to a level in the United States that translates into significantly altered negotiating positions. Thus, while a majority of the U.S. public is losing under the Bush administration's trade agenda, the U.S. WTO position continues to be that of the narrow commercial interests that have bankrolled the administration's campaigns and those of the Republican majority in Congress<sup>20</sup>.

### **The Failed Model of Corporate Globalization and its Alternatives**

Underlying the continuing faltering of the WTO negotiations and those of other agreements based on the same model of corporate globalization is not a battle between "protectionism" and "free trade." Rather, the current globalization model implemented by the WTO is being challenged increasingly by large numbers of elected officials, economists and civil society analysts, joining workers, farmers, and environmentalists worldwide, because the set of policies embodied in the model have proved to be harmful across the globe to all but a corporate elite representing the management of the largest of grain trading, pharmaceutical, banking and other multinationals. As we live in a world where 24,000 people die every day of hunger and poverty-related diseases, wages are stagnant yet corporate profits soar, we need to identify the causes of all of this damage – and how to fix the situation.

Historically, trade agreements have dealt with lowering tariffs on goods. The United States and European nations relied heavily on tariffs to protect infant industries from foreign competition. But trade agreements no longer just deal with trade in goods. A cornerstone of the expansion of the corporate globalization agenda also encompasses services. The liberalization of services involves allowing foreign investors the right to own and operate services within other WTO signatory countries' territories – including essential services like education, health care, electricity provision and water distribution – for profit. It also involves de-regulating service industries such as telecommunications, insurance, transportation – even banking, such as Argentina did before its IMF-induced economic collapse in 2001.

Little-known negotiations in the current Doha Round would also strictly limit national, state and local authority to set service sector professional licensing, technical standards and qualification requirements. The United States has even offered to commit higher education to WTO

disciplines. But privatization and de-regulation of essential services worldwide have decreased access for the poor and have eroded hard-won democratic consumer protections.

Meanwhile, the WTO's agriculture trade rules have been a disaster all around. According to the UN Food and Agriculture Organization<sup>21</sup>, "progress [toward reducing hunger] has slowed significantly in Asia and stalled completely worldwide" in the last 15 years. It was the goal of the world's handful of multinational grain trading giants, including a former Cargill executive who as a U.S. trade official drafted the WTO farm rules which forced the world to treat food like any other commodity.\* This system has failed with horrific results and must be replaced.

The livelihoods of billions of subsistence farmers have been pitted against the profits of corporate agribusiness and grain trading companies with success measured as greater volume of food moving around in trade, not in decreasing hunger. The Indian government has confirmed that at least 100,000 farmers who have lost their livelihoods to this scandalous system have committed suicide in the WTO decade.

Another pillar of the WTO model is the massive expansion of corporate patent monopolies. The WTO's Trade Related Aspects of Intellectual Property Rights agreement (TRIPS), which sets 20-year worldwide monopoly marketing rights on drugs and seed varieties, is the single greatest protectionism agreement in the world. Forcing governments worldwide to provide monopoly protection for every seed variety or medicine that Big Pharma and Agri-business patent has meant vastly increasing prices for consumers in rich and poor countries alike – and many cut off of these life sustaining goods.

Instead of having to adhere to new restrictions on trade that protect corporate profits, countries must be free to prioritize other values and goals, particularly regarding the saving of millions of lives by getting access to low-cost life-saving drugs. For example, African nations facing the HIV-AIDS epidemic must be free to decide that access to essential medicines takes priority over U.S. pharmaceutical profits, even if those corporations are one of the largest lobbies on trade in the United States.

### **The Way Forward: Saving Global Trade from the WTO**

Taken together, the evidence points conclusively to a global shift

away from the neo-liberal corporate globalization model embodied by the WTO based on people's experience of the model's failure.

With the Doha Round's<sup>22</sup> collapse, the story to be written is about viable alternatives to the WTO - as well as to the bilateral or regional trade agreements based on the same failed model.

Instead of pinning blame on specific countries, the focus of energy should be on how the world's governments can develop a multilateral trade system that preserves the benefits of trade for growth and development, while pruning away the many anti-democratic constraints on domestic policy making contained in the existing WTO rules. These rules are designed to create a world that operates as one single homogenized global market rather than setting terms of trade between separate nations with distinct priorities.

The critics of corporate globalization<sup>23</sup> are for international trade between different, unique countries or regions when it is mutually beneficial. To strike this balance between promoting trade while respecting the laws and values of different countries, some existing international rules and institutions need to be cut back, while others need to be bolstered.

Currently, the WTO trumps all other international agreements. The WTO must be scaled back so that the human rights, environmental, labor and other multilaterally agreed public interest standards already enshrined in various international treaties can serve as a floor of conduct for corporations seeking the benefits of global trade rules. For instance, the International Labor Organization provides core labor standards; there are more than 200 multilateral environmental treaties covering toxics, air pollution, biodiversity and waste dumping; and the World Health Organization and the U.N. Charter on Human Rights provide many standards on access to medicine and food security.

Two hundred and six civil society organizations, including social movements representing millions of people in poor and rich countries alike, support a WTO transformation program dubbed "Stop Corporate Globalization: Another World is Possible." The International Forum on Globalization has published the book *Alternatives to Economic Globalization: A Better World is Possible\**, which reports on proposals for alternatives gathered through years of conversations with civil society leaders, scholars and government officials in poor and rich countries.

These are but a few of the rich alternatives being discussed everywhere but at the WTO. The WTO experiment has failed. Replacing the overreaching WTO agenda with fair rules aimed at facilitating trade between willing countries is the only way forward. This can only happen through citizen activism.

WTO rules are a specific international legal system that codifies and enshrines the results of a series of national concessions on market access. The economic power of each country and its relative negotiating clout has determined the balance between countries' demands and concessions. By definition such lengthy negotiated agreements are a compromise and thus not able to respond to all economic needs. In such an arena of political struggle, the outcomes could not be fully consistent with human development goals, unless negotiations were guided by a strong commitment for solidarity among countries.

Inconsistencies are identifiable between a trade rules system based on the present legal framework and one motivated by solidarity. First, the present agreements contain limits and exceptions to free trade that are often not supportive of developing countries. Secondly, even if trade were completely free, there is no guarantee that free trade would be the best trade policy for all poor countries. Finally, compliance with WTO rules, harmful in themselves, in some cases, can stifle a more complete development agenda.

There exist WTO agreements that rule trade indirectly by establishing domestic economic specifications. Many developing countries have accepted such agreements, which are part of a "single undertaking" type, in the hope of net benefits expected through the inclusion of textiles and agriculture in the multilateral trade regime and so as to avoid the implied risk of being marginalized. The "single undertaking" obliges poor countries to commit to policies with human development implications being uncertain at best.

The challenge is to create a legal framework for trade which gives developing countries both the economic surplus and the political autonomy to achieve human development goals, while respecting legitimate concerns regarding labor, social and environmental standards. Countries need to be enabled to design policies that improve human development outcomes.

**Free Trade**

The process of pursuing more free trade—often negotiated among countries in the context of reciprocal market access and non discrimination—involves such activities as the harmonization of trading rules and the reduction of barriers to trade such as tariffs and quotas. In its simplest sense, the pursuit of free trade belongs to the blanket process of “levelling the playing field.” If one takes this analogy to its logical conclusion, more free trade would result from the application of the same policies, rules, mechanisms, and institutions to each participant in the trade regime, regardless of origin or capacity.

Where it is feasible, there is clearly a justification for policies to enable the players to become more equal. For instance, there is a need to enable developing countries to enhance their producers’ ability to compete in world markets. The last point is especially compelling when one considers that even primary exports from developing countries still face numerous barriers in developed countries’ markets. Even more troubling, some means of protection actually create a bias against the processing of primary products by applying higher tariff rates for higher levels of value-added processing. For instance, developing-country exports of chocolate to the developed countries often face tariff barriers that are up to eight times higher than those that apply to unprocessed cocoa.\* Such elements in the multilateral trade regime contribute to the factors that lock in the developing countries’ comparative advantage in low value-added products, seriously impeding development efforts.

An additional yet equally important concern is the adjustment cost related to trade liberalization. Free trade dictates that the forces of competition bring about the efficient market outcome, but among unequal competitors, the relative costs of adjustment differ significantly<sup>24</sup>. Potentially displaced workers in the United States, for instance, face more opportunities to move out of uncompetitive sectors, compared to displaced farmers in Africa. Adjustment is typically more protracted and costly in the developing world for the obvious reason that there are fewer resources to help facilitate such adjustment. Another facet of these adjustment costs deals with the implementation of trade-related regulations and reforms (i.e., import-licensing procedures, customs valuation, sanitary and phytosanitary standards, trade-related legal reforms). With many

compliance measures emanating from the industrialized countries that already have these regulations in place, a larger burden on the countries with meager resources is implied. This situation further justifies the argument to place more consideration on the inherent inequality in capacity across countries<sup>25</sup>.

### **Is There a Balance?**

If one follows the policy statements in international organizations, including the WTO, one would expect that the international community has selected a balance that proactively generates development and “fosters an enabling environment for growth”.\*In fact, trade liberalization has constantly been sold to developing countries as one of the lynchpins of successful development policy, and is part of an approach more commonly known as the “Washington Consensus. “ However, upon closer examination, a disconnect between rhetoric and actual policy on these issues becomes evident. Michel Camdessus writes: “In the Bretton Woods framework, governments reduced significantly the debt of thirty-five or forty heavily indebted poor countries. Yet these same governments have failed—in the framework of the World Trade Organization (WTO)—to launch a trade round to eliminate trade barriers for heavily indebted countries. Unless reversed, this failure will mock the decision The question of balance between free trade and fair trade is therefore a pressing one. In what follows, we analyze imbalances in the regime in two ways<sup>26</sup>. In one, we examine three key agreements (i.e., those on intellectual property, textiles, and agriculture) negotiated in the Uruguay Round, to ascertain any imbalances in the way they were constructed. In the other, we examine the expected quantitative impact of the regime. Both methods indicate that the multilateral trade regime is imbalanced in terms of benefits and costs.

### **Imbalances in the Regime**

Negotiations in the Uruguay Round centered on increasing market access for developing countries in protected developed country agriculture and textiles markets in exchange for trade agreements in intellectual property rights, services, and investments, all of which primarily benefited developed countries through increased rents and market access\*. The idea behind this “grand bargain”<sup>27</sup> was that member countries could trade off costs of one agreement with benefits gained on another. However, it was an inherently unequal exchange. Agreements on intellectual property, services,

and investment do not unambiguously promise efficiency gains for the developing countries. In fact, they generate both large wealth transfers and adjustment costs that are asymmetrically distributed.

This outcome raises serious questions about the net benefits for the developing countries in the multilateral trade regime, constituted largely by the agreements in the Uruguay Round. A comprehensive evaluation of its development impact has yet to be made despite its clear necessity. While such an evaluation is beyond the scope of this paper, our contribution lies in examining the three key trade agreements for the developing countries: the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Agreement on Textiles and Clothing (ATC), and the Agreement on Agriculture. We examine each of these agreements to determine whether or not each, individually, is balanced in potential benefits and costs for developed and developing countries and for the international trade relation equality

### **TRIPS Agreement**

The TRIPS agreement was introduced in the Uruguay Round to establish a common standard of intellectual property rights across all WTO member countries. Under TRIPS, they agreed to provide common standards for protection of all intellectual property applying to all technologies in products and processes, with the aim to balance innovation with transfer and dissemination of technology to the mutual advantage of producers and users in a manner conducive to social and economic welfare.

The TRIPS agreement was strongly opposed by developing countries for three reasons. First, the concentration of research and development activities in the developed countries meant that a stronger international patent regime would transfer rents from developing countries to developed countries. Second, stronger patents would increase the end consumer price of their applications, making these products harder to access for consumers with low purchasing power. Third, many developing countries had an established tradition of collective as opposed to individual ownership patterns, especially for indigenous knowledge, which was fundamentally contrary to the TRIPS model.

Furthermore, the content of the agreement was also contentious. The provisions that were beneficial to technology producers (read “developed countries”), like the scope of intellectual property rights (IPRs,

i.e., all products and processes in all technologies), the length of patent protection (twenty years), the scope of exceptions allowed (very limited to specific cases), and the legal compliance required from domestic patent laws in member countries, were all binding provisions. Noncompliance with these provisions was tantamount to a breach of the agreement and could be challenged under the dispute settlement mechanism.

On the other hand, provisions that were beneficial to technology consumers (read “developing countries”) such as technology transfer and technical cooperation were nonbinding provisions. In other words, noncompliance with these provisions invoked no penalty at all. There were also significant short-term costs of compliance for the developing countries that were mainly rule-takers in the process. These costs involved, among others, setting up an appropriate patent office, training personnel, and creating mailbox provisions for exclusive marketing rights. All these expenditures constituted an immediate outflow of their already scarce resources. Therefore, despite the stated objective of balancing the needs of producers and consumers, the TRIPS agreement was biased in favour of the technology-producing developing countries in its design<sup>28</sup>.

Finally, one potential long-term implication of the TRIPS agreement is that by protecting the rights of technology producers at the expense of technology consumers, it can lock developing countries into a state of perpetual catch-up, where it becomes even more difficult for them to develop technological capabilities. This was the main fear of developing countries at the time of the negotiations, and the design of the agreement only reinforced that concern.

### **The Agreement on Textiles and Clothing (ATC)**

The ATC was an important step in making the trading regime consistent with its own stated goals of sharing the gains from access with all members. However, the developed countries succeeded in negotiating a phased liberalization for textiles and clothing. This meant that the gains from market access for developing countries were back-loaded until ten years after signing the agreement. The agreement also focused on overall import shares of textile and clothing products rather than elimination of specific quotas, giving developed countries the freedom to selectively liberalize without violating the agreement. In fact, it was possible to liberalize products in the first three tranches that were not even protected under the

MFA(Multifibre Agreement). By reducing tariffs on these products, developed countries conceded little in terms of market access to developing countries.

The agreement also included safeguard provisions (article 6)\* that sanctioned the use of “transitional safeguard” measures to restrict imports if domestic industry faces “serious damage or actual threat thereof.” Therefore, despite the objective of providing market access to developing countries, ATC retained clauses that protected domestic industries in developed countries, and could potentially restrict market access for at least nine years. Benefits from the ATC were therefore watered down.

### **The Agreement on Agriculture**

The Agreement on Agriculture was the first international attempt to reform agricultural trade policies. High protection of the agricultural sector in the pre-WTO decades led to depressed prices in the world economy, owing to artificially depressed demand. Hence, farmers in developing countries in particular stood to gain significantly from agricultural liberalization. Under the agreement, tariffs on agricultural products were to be reduced (36 percent for developed countries over six years and 24 percent for developing countries over ten years) to improve market access, and protection in the form of export subsidies as well as domestic producer subsidies or Aggregated Measure of Support (AMS) was to be reduced (20 percent for developed countries and 13.3 percent for developing countries)<sup>29</sup> .

The subsidies exempted were those that constituted direct payment under production-limiting programs and those that did not ostensibly affect production (or that could be justified by environmental and public good rationales).\*(14) Also, government assistance programs that encouraged agricultural and rural development in poor countries, and subsidies that were a small proportion of total output (5 percent or less in the case of developed countries and 10 percent or less for developing countries), were also exempt from reductions. While the agreement laid down a specific and substantial agenda for increasing market access and correcting for distortions, the built-in exemptions weakened the agreement considerably. Specifically, the exemptions gave member nations the flexibility to reduce the mandated subsidies and, at the same time, to increase the exempted

subsidies, thus undermining the aim of reducing overall domestic support.

### **Special and Differential Treatment**

Countries at low levels of per capita income were given, depending on the specific agreement, more time for transition, less demanding terms of compliance, and in some cases special assistance. However, the Special and Differential (S&D) treatment clause has not been very effective, due mainly to the vague nature of this concession<sup>30</sup>. Unlike in the GATT, where the S&D status of countries was recognized as a basic feature of the agreement—enabling developing countries the freedom to self-select into or out of agreements that were inconsistent with their development goals—in the WTO, equality of participation is assumed. As a consequence of the single undertaking in the Uruguay Round, all member countries are expected to be capable of adherence to the WTO commitments. The S&D treatment clause is invoked for technical assistance and extended transition periods, rather than being built into the agreement design. Consequently, the S&D treatment principle has been extremely weak and ineffective in the WTO context\*. To fill the gap in this case, one clear reform area would be a serious re-evaluation of this principle in a bid to make it more relevant to the developing countries. Making this principle intrinsic to each of the existing and any future agreements could enable developing countries to make policy decisions more appropriate to their requirements.

However, the earlier analysis of the imbalances reveals that countries have only just begun to understand the full extent of the impact of trade liberalization and integration, as well as the central role that the multilateral trade regime has evolved into. For instance, few countries had realistically anticipated how TRIPS might hinder government actions in dealing with public health epidemics like HIV/AIDS. Certainly, few anticipated the severity and persistence of adverse terms-of-trade shocks to the commodity-exporting African countries, many of whose gains from trade have been greatly diminished. A more basic reform in decision-making is required for the trade regime to emerge as a public good.

To summarize, these agreements—TRIPS, ATC, and the Agreement on Agriculture—provide clear examples of the imbalances in the key components of the trade regime that were negotiated in the Uruguay Round. Individually, these agreements have either been emasculated (so that developed countries minimize their concessions) or been inherently

structured with a developed-country bias. They are projected to translate into heavily imbalanced outcomes.

### **Jordan and the World Trade Organization**

In January 1994, Jordan applied for accession to the General Agreement on Tariffs and Trade (GATT 1947), which became an application for membership in the World Trade Organization (WTO) after the establishment of the WTO in January 1995 in the Uruguay Round. Jordan submitted to the WTO its Memorandum on Foreign Trade Regime and thereafter received several rounds of questions from WTO Members on Jordan's economic policies and foreign trade regime, and engaged in three working party meetings during the two years to follow. Realizing the importance of joining the WTO before Seattle Ministerial Conference in December 1999, Jordan made a political commitment to conclude accession before then. To achieve such a goal in a record time, major economic and legislative reforms were made to bring the Jordanian foreign trade regime into conformity with WTO requirements. Amendments were made to existing laws and several new laws were drafted especially in the field of intellectual property rights; amendments were made to the Trademarks and Copyrights laws, and new laws on Patents, Models and Industrial Design, Integrated Circuits, Trade Secrets and Unfair Competition, Geographical Indications, and Plant Variety Protection were enacted. In other areas, new laws were also enacted to replace existing laws that were not in conformity with WTO requirements such as the Law on Standards and Metrology; amendments were made to the Customs Law, General Sales Tax Law, and the Law on Unifying Fees and Taxes. New regulations on Safeguard of National Production, Non-Jordanian Investments, and Consular Fees were also enacted. The Parliament held two special sessions to pass quite a large number of amended and newly drafted laws.

In addition to enactment of the foregoing legislation and revision of its economic policies, made commitments to provide liberal access to foreign suppliers and investors on a wide range of services sectors.

Tariff lines were lowered and bound to rates ranging from 0% to 30%, by the year 2010, the maximum bound rate for certain tariff lines will be 20%.

Jordan participated in three working party meetings on its accession during the year 1999 and engaged in intensive bilateral negotiations with 16 WTO member countries as well. The concentrated effort by both the government and Parliament played a critical role in expediting the accession process. On December 17 of the same year, The WTO General Council approved Jordan's Protocol of Accession, and the Jordanian Parliament ratified the Law on Jordan's Accession to the WTO on February 24, 2000 became officially the 136 WTO Member on April 11, 2000.

### **Jordanian Amendments after Membership in World Trade Organization**

Within the context of its accession to the World Trade Organization (WTO) which came into effect on April 11<sup>th</sup>, 2000, Jordan undertook several reforms to bring its economic policies and trade regime into compliance with the WTO agreements. Special legislations of intellectual property rights were amended and drafted. Laws of Standards and Metrology, Agriculture, National Production Protection, General Sales Tax, Customs, and Import and Export were amended, as well as non-Jordanians' Investments Regulations. (*Annex 3 lists all legislations that have been either amended or enacted to meet Jordan's commitment towards the WTO and Free Trade Agreements*)

Accession to WTO provides Jordan's goods and services with market access to more than 150 countries within clear and transparent trade procedures and laws and regulations in accordance with WTO rules and agreements. On the other hand, national economic reform procedures and new legislations that were enacted in preparation to joining WTO, contributed to creating a conducive business environment attracting investments. In addition, joining WTO provides new market access opportunities for Jordan's goods and services that would result from the Doha Development Agenda (Multilateral trade negotiations round that was launched in WTO Fourth Ministerial Conference in Doha in 2001).

On the other hand, and as a result of joining WTO, Jordan liberalized its services sectors providing market access to foreign investors and service providers of WTO Members in accordance with Jordanian laws and regulations. Whereas in goods' trade, Jordan committed to reduce customs tariffs to reach 30% as a maximum in 2000, to be reduced to 25% in 2005, and to reach 20% in 2010 with the exclusion of a limited

number of goods. Customs tariffs on vehicles, some electrical appliances and some agricultural products such as tomatoes, cucumbers and olive oil are bound at 30%, while the maximum tariff on certain agricultural products such as citrus products, grapes, garlic and figs, would not exceed 50% in specific calendar months

Regarding subsidies in the agricultural sector, Jordan is to reduce total domestic subsidies offered by the government to local agricultural producers by 13.3% out of JDs (1,539,199) over a period of seven years as of date of joining WTO. The ceiling of agriculture exports subsidies has been fixed at 0%. While for export subsidies in the industrial sector which are considered prohibited under WTO agreements, a special program by the Central Bank of Jordan to subsidize exports loans' interests was cancelled by December 31st, 2002. Also, under Jordan's commitments under the WTO, the exemption of profits resulting from exports from income tax is to end by the end of the year 2007. (This program was extended to the end of 2007 as a result to the exemption given to Jordan and other developing countries during the 4th ministerial meeting of WTO in 2001

### **Conclusion**

The WTO, which took over from GATT in 1995, is now an institution with supranational powers, subject to none of the checks and balances of parliamentary democracy. If a case is referred to it, it has the power to declare national legislation on employment, public health or environmental matters "contrary to the interests of free trade" and insist that it be repealed.

Financial globalisation is a law unto itself and it has established a separate supranational state with its own administrative apparatus, its own spheres of influence, its own means of action. That is to say the International Monetary Fund (IMF), the World Bank, the Organization for Economic Cooperation and Development (OECD) and the World Trade Organization (WTO). These four powerful institutions are unanimous in singing the praises of "market values"<sup>31</sup>.

The dominant development model of our time is economic globalization, a system fuelled by the belief that a single global economy with universal rules set by global corporations and financial markets is

inevitable .Global WTO regime has not delivered the goods but in fact perpetuated the covert and overt interests of transnational corporations. In this context, the balance of trade-flows remain tilted in the favour of the rich countries. The developing and poor countries cannot get the fair share of the so-called free trade. In the prevailing situation WTO- induced international trade, which is very much influenced by vested- interest-groups, will, in all the possibility, as has been evidenced, lead to global economic in equilibrium, resulting into deep marginalisation of developing economies.

### Notes and References

1. For example, WTO Doha agenda has remained contentious and far from being made certain in the areas like agriculture. Uncertainty also continues over TRIPS agreement etc.
2. R. Hudec, *Fair Trade and Harmonization: Prerequisites for Free Trade?*, MIT Press(2006) p. 22.
3. *Ibid.*, p. 25.
4. Irwin, Douglas A., *WTO-Myths & Realities*, Washington Publishers(2006) p12.
5. The eight Millennium Development Goals (MDGs) – which range from halving extreme poverty to halting the spread of HIV/AIDS and providing universal primary education, all by the target date of 2015 – form a blueprint agreed to by all the world’s countries and all the world’s leading development institutions. They have galvanized unprecedented efforts to meet the needs of the world’s poorest.
6. Supra note 4, pp. 21-22.
7. B.Davies, Inherent Inequalities in the Multilateral Trading Systems-An Analysis, *AJIL*, Vol.xix(2005)p110.
8. Evenett, Simon J., Globalising Inequality and the Developing World, *Harvard Law Review*, Vol. 16 (2003), p. 9.
9. *Ibid.*, p. 13.
10. *Ibid.*, p. 15
11. The Ministerial Conference is the highest decision-making body in WTO, meeting at least once every two years and providing political direction for the organization.
12. Supra note 8, pp. 24-25.

13. Claude Barfield, *Free Trade, Sovereignty, Democracy: The Future of the World Trade Organization*, Oxford University Press(2006)p123.
14. Steve Charnovitz, Rethinking WTO Trade Sanctions, *95 AJIL* 792 (2001).
15. Daniel Drache, Deadlock in the Doha Round: The Long Decline of Trade Multilateralism, *16 Yale Law Review* 326 (2004).
16. Supra note 14.
17. *Ibid.*
18. Supra note 4. p132.
19. John H.Jackson, The Jurisprudence of the GATT and the WTO: Insights on Treaty Law and Economic Relations, *Journal of International Economic Law*, Vol 12(2007) p224
20. *IBID*, P. 225.
21. The Food and Agriculture Organization of the United Nations leads international efforts to defeat hunger. Serving both developed and developing countries, FAO acts as a neutral forum where all nations meet as equals to negotiate agreements and debate policy. FAO is also a source of knowledge and information. It helps developing countries and countries in transition modernize and improve agriculture, forestry and fisheries practices and ensure good nutrition for all. Since its founding in 1945, it has focused special attention on developing rural areas, home to 70 percent of the world's poor and hungry people.
22. The World Trade Organization conducts negotiations through what is called *rounds*. The Doha Development Round commenced at Doha, Qatar in November 2001 and is still continuing. Its objective is to lower trade barriers around the world, permitting free trade between countries of varying prosperity. As of 2008, talks have stalled over a divide between the developed nations led by the European Union, the United States and Japan and the major developing countries (represented by the G20 developing nations), led and represented mainly by India, Brazil, China and South Africa. The Doha Round began with a ministerial-level meeting in Doha, Qatar in 2001. Subsequent ministerial meetings took place in Cancún, Mexico (2003), and Hong Kong, China (2005). Related negotiations took place in Geneva, Switzerland; Paris, France; and again in Geneva.
23. Supra note 13, p. 156.
24. Supra note 7, p. 114.

25. *Ibid.*, p. 115.
26. *Supra* note 4, p. 119
27. *Supra* note 7, p. 229
28. Jade William, WTO-TRIPS Agreement-An Analysis inot its Working,12 Harvard Law Review 119 (2004) p. 356.
29. *Supra* note 4, p. 134.
30. *Ibid.*, p. 135.
31. *Supra* note 19, p. 325.