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Government-Led Export Promotion in Light of Distributional Fairness in the Global Trading System

Jai S. Mah

Abstract: Since developing countries were relatively free from the trade regulations relating to export promotion policies until 1994, the northeast Asian dynamic economies could pursue export promotion policies aggressively during the period of rapid economic growth. Under the current World Trade Organization (WTO) system, there are restrictions or even prohibitions on the developing countries' use of export promotion policies. One may doubt the fairness of the current WTO system, which regulates the use of export promotion policies regardless of different economic development levels. The current paper suggests various ways of allowing developing countries to develop their production capacities and exports of manufactured products. It also provides suggestions on modifying the current WTO regulations in favor of the export promotion policies of developing countries. Such special treatment of developing countries could be justified from the viewpoint of distributional fairness applied to international trade relations.

Keywords: distributional fairness, export promotion, international trade

JEL Classification Codes: F13, F53, O25

Several developing economies including the East Asian tigers and China have achieved very rapid economic growth over the past decades. The outward oriented economic development strategy of those countries may have contributed to rapid economic growth due to an enlarged market, improvement of productivity, and vent for surplus, among other factors. Meanwhile, Sarkar (2008), using a sample of 51 developing countries (DCs), shows that there is no significant relationship between trade openness per se and economic growth. Reviewing the works of the early development economists such as Prebisch, Myrdal, and Singer, Ho (2008, 512-513) notices that they emphasized promotion of manufactured exports from the viewpoint

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of economic development of DCs. The rapidly growing economies, with only a few exceptions of city states, show that they pursued government-led export promotion during the period of rapid economic growth, which has benefits such as subsidization of infant exporters newly entering the market and strategic trade policy.¹

Since DCs were relatively free from the trade regulations relating to export promotion policies until 1994, the northeast Asian dynamic economies such as South Korea and Taiwan pursued export promotion policies aggressively during the period of rapid economic growth (Wade 2004; Mah 2007a).² For China, Lichtenstein (2000) shows that the economic development strategy managed by the government, not left solely to the market, contributed to rapid economic growth since 1979 by avoiding the instability of the market mechanism.³ Under the current World Trade Organization (WTO) system, there are strict restrictions or even prohibition on the DCs' use of export promotion policies. Although more than 15 years have passed since the settlement of the Uruguay Round (UR), the huge gap between the economic development level of developed countries and that of DCs continues and appears to have become even wider.

A few works compared the regulations on industrial policies between the previous General Agreement on Tariffs and Trade (GATT) and the current WTO system. Amsden (2000) points out the fact that from the viewpoint of late industrializers the prohibition by the WTO of subsidies to exports is the major difference between GATT and WTO rules. Meanwhile, she does not elaborate further on that issue, but focuses on the aspect of science and technology. Chang (2005) talks of the shrinking policy space with respect to tariff policy from a historical perspective, but he does not cover export promotion policies. DiCaprio and Gallagher (2006) examine the industrial policies implemented by the newly industrializing countries during the GATT regime and explain the provisions in the GATT and WTO relating to industrial policies in general, while the current paper focuses on export promotion policies.⁴

Despite special treatment of developing countries in the current WTO regulations, many developing countries feel that they codify existing rules or practices created in developed countries (Wolfe 2004). In fact, according to Weiss (2005), developed countries actively utilize export promotion measures not prohibited in the WTO system that comprise research and development policy measures not targeting certain firms, education programs, and export credit schemes. Therefore, one may doubt the "fairness" of the current WTO system that regulates the use of export promotion policies regardless of different economic development levels, although there can be different definitions of fairness in international trade relations (Suranovic 2000).

This paper begins by explaining the export promotion measures prohibited and permitted to DCs in the WTO regulations, aiming at the export-led economic development of DCs. Then, it suggests ways of promoting manufactured exports of DCs under the current WTO system. Finally, it suggests how the current WTO regulations should be modified for the purpose of promoting manufactured exports of DCs in light of "distributional fairness" in international trade relations.

***Regulations on Export Promotion Policies and
Fairness in International Trade***

Regulations on Export Promotion

If export subsidies were provided by the government of an exporting country for predatory purposes, it would be appropriate for an importing country to prohibit such export subsidies. Therefore, the global trading system has regulated export subsidies (Barcelo 1977). Without providing the definition of subsidies, Article VI of the GATT has allowed the imposition of countervailing duties (CVDs) as a trade remedy measure to offset the adverse effect of subsidized imports on producers in importing countries on the condition that such subsidized imports cause material injury to the domestic producers.

CVDs have been imposed from time to time. For instance, as shown in Table 1, for 14 years during 1995 through 2008, some 236 CVD investigations were initiated by WTO members. Developed countries shared 83% of CVD initiations, while DCs shared only 17%. During 2006-2008, in particular, the former shared as high as 89%. DCs have been the main target of CVDs. For instance, they shared 74% of CVD initiations as the target and, furthermore, during 2006-2008 they shared 82% of those. India was the leading target during 1995-2006, while China shared nearly half of CVD initiations as the target in 2007 and 2008.

Article XVI of the GATT has prohibited granting export subsidies to manufactured products since 1958. With the reduction of tariff rates and the proliferation of non-tariff barriers (NTBs) during the 1970s, the Tokyo Round led to the establishment of six NTB Codes including the Subsidies Code in 1979. The prohibition of export subsidies was, in fact, not applied to DCs until the formation of the WTO system.

Since the original GATT was actually an agreement among developed countries, it did not include DC interests in the original framework (Wolfe 2004, 586). The contracting parties were treated as equals and the basic principle in the GATT has been “non-discrimination.” The most-favored-nation (MFN) treatment provision, which is one of the mainstays of the non-discrimination principle, shows the “procedural fairness” applied to international trade relations. There was no special and differential treatment (SDT) provision designed for DCs.⁵ Due to the pressure of DCs, GATT Article XVIII was modified in the late 1950s to deal with government assistance to economic development and only DCs could derogate from obligations (Pangetsu 2000, 1286).

Part IV on Trade and Development was included in the GATT in 1964 and introduced the basis for DCs to seek flexibility in implementing GATT rules with their development needs under consideration. While much of the expressions of Part IV suggest merely good intentions rather than binding obligations, the addition was important as it introduced the principle of non-reciprocity in favor of DCs. With the inclusion of Part IV of the GATT, for the first time, DCs succeeded in introducing a concept of fairness into the GATT recognizing the importance of equity of outcomes

Table 1. Countervailing Duties: The Number of Initiations

Total	Imposed by				Target			
	Developed Countries	DCs ^a	Developed Countries	DCs	India	China	Korea	
1995	7	5 (1)	2	7	0	0	0	0
1996	9	6 (4)	3	4	5	0	0	0
1997	19	18 (8)	1	5	14	4	0	3
1998	40	32 (16)	8	10	30	8	0	4
1999	20	14 (2)	6	3	17	3	0	3
2000	25	20 (15)	5	7	18	8	0	1
2001	18	16 (11)	2	5	13	5	0	1
2002	13	9 (6)	4	4	9	5	0	2
2003	15	13 (5)	2	5	10	5	2	0
2004	5	5 (0)	0	0	5	1	1	1
2005	4	4 (2)	0	1	3	1	1	0
2006	8	5 (3)	3	3	6	2	1	1
2007	17	15 (10)	2	3	15	1	14	0
2008	36	34 (23)	2	7	29	7	12	5
Total	236	196 (106)	40	62	174	50	31	21

Note: Values within the parentheses denote the number of CVDs initiated by the United States.

a) DCs comprise Argentina, Brazil, Chile, China, Costa Rica, Egypt, Israel, Latvia, Mexico, Peru, South Africa, and Turkey.
Source: WTO website, www.wto.org, accessed January 23, 2010.

rather than legitimacy of process as a general principle (Narlikar 2006, 1016-1017). Part IV of the GATT recognizes that exports can play a crucial role in the economic development of DCs. Furthermore, it stipulates that the rapid economic growth of the latter would be facilitated by a diversification of the economic structure and the avoidance of an extreme dependence on the export of primary products.⁶

SDT was reaffirmed at the Tokyo meeting of GATT in 1973 and DCs took advantage of it fully in the Tokyo Round of tariff reduction in the sense of not cutting their tariffs (Singh 2005, 233). Further institutionalizing the concept of non-reciprocity, the GATT introduced the Generalized System of Preferences (GSP), which was given a legal basis as a result of the Tokyo Round in 1979. Developed countries could withdraw concessions granted under the GSP unilaterally. The benefits of the GSP provided by developed countries are currently not significant in export promotion of DCs. For instance, in 1993, although the United States' GSP provided preferential duty-free entry to imports from beneficiaries, it covered only a few percent of U.S. imports (Devault 2005, 279). In particular, GSP programs do not cover many products in which beneficiaries have the greatest comparative advantage, such as textiles and clothes. Complicated rules of origin requirements relating to the GSP inhibit full use of the preference by DC exporters with limited technical capacity (Ozden and Reinhardt 2005, 4). Except for the GSP, the GATT continued to regard fair trade basically as a matter of process and legitimacy, rather than outcomes and equity (Narlikar 2006, 1017).

Unlike the idea of SDT, the Multi-fiber Arrangement (MFA) placed quantitative restraints on developed countries' import of labor intensive textiles and garment products originating from DCs. The WTO Agreement on Textiles and Clothing (ATC) provided for the elimination of all forms of quantitative restriction applied to trade in textiles and clothes by December 2004. Even after the MFA phase-out, however, tariff protection remains much higher for textiles and clothes than for manufactured products in general. For instance, simple average tariff rates of the former are almost three times higher than those of the latter in the European Union (EU) and the United States, making the effect of the MFA phase-out on textiles and clothing products of exporting DCs insignificant (Audet 2007).

As a result of the UR, the WTO system has regulated export subsidies with the Agreement on Agriculture, the Agreement on Subsidies and Countervailing Measures (ASCM), and the General Agreement on Trade in Services (GATS). Of those, subsidies provided to manufactured goods are governed by the ASCM, i.e., the UR Subsidies Code hereafter, in the WTO system.⁷ The UR Subsidies Code began to comprise the definition of subsidy, the clarification of the prohibition on export subsidies and its extension to DCs, and the creation of a non-actionable category of subsidies (Collins-Williams and Salembier 1996). Due to the "single undertaking" principle in the UR, all members, regardless of their economic development levels, were obliged to accept all agreements in the WTO.

Subsidy is explicitly defined as a financial contribution by a government or any public body and a benefit to be thereby conferred. Although value-added tax (VAT) exemption and duty drawback can be regarded as financial benefits conferred, they

are not regarded as subsidies. Other types of incentives provided by the government to exporters, but not regarded as subsidies, include the provision of general infrastructure such as highways, ports, and railways (Adamantopoulos 2008, 436). The concept of specific subsidy is important in understanding the UR Subsidies Code. It defines a specific subsidy as one benefitting certain companies, industries, or regions as opposed to being available to any company in the domestic territory. It is regulated by the WTO in the sense that it may distort international trade by giving the domestic producers a competitive advantage over their foreign companies. Since specific subsidies are regulated by the WTO, there are restrictions on the use of industrial policies to promote certain industries.

The UR Subsidies Code provides the Illustrative List of export subsidies prohibited. The export subsidies appearing in the Illustrative List comprises, among others, the provision by governments of direct subsidies to a firm or an industry contingent upon export performance. The Illustrative List shows two types of export promotion measures that are not prohibited, i.e., duty drawback and export insurance/credit scheme. First, the amount of duty drawback⁸ not exceeding the threshold amount would not be regarded as export subsidies. Second, the provision by governments or special institutions controlled by governments of export insurance programs wherein premium rates cannot cover the long-term operating costs and losses of the programs is regarded as a prohibited export subsidy. The Organization for Economic Cooperation and Development (OECD) has its own Arrangement on Official Export Credits, the OECD Arrangement hereafter. If a WTO member abides by the conditions in it, then such provision of export insurances/credits is not regarded as an export subsidy.

If provision of duty drawback and/or export insurance to exporters does not exceed the threshold level, they would not be regarded as export subsidies which are prohibited in the WTO system. Therefore, the WTO members may utilize such export incentives even in the current WTO system, although it is true that the rules on export promotion were strengthened by its establishment. The problem is that such provisions may not provide significant benefits to DCs and some countries argue that they are evenly biased toward developed countries.

Article 8 of the UR Subsidies Code is related to the non-actionable subsidy,⁹ which includes research and development (R&D), regional development, and environmental protection. It reflects the externality or equity aspect. Meanwhile, it has no longer been non-actionable since 2000. As subsidies relating to the R&D area and environmental protection are provided due to externality, if left to the market mechanism, a sub-optimal amount of R&D and environmental protection would be produced. Therefore, the governmental subsidization of R&D and environmental protection activities can be suggested for the improvement of national welfare (Benitah 2001, 265-266). During the Doha Development Agenda (DDA) negotiations, most developed countries and some advanced DCs supported the extension of Article 8 of the Subsidies Code. The problem is that Article 8-related subsidies were mostly dominated by developed countries. Therefore, during the DDA negotiations, most DCs and a small number of developed countries opposed the extension of Article 8 (Rios Herran and Poretti 2008, 551-552).¹⁰

Special and Differential Treatment of Developing Countries

Whalley (1999) and Singh (2005, 237-238) distinguish SDT provisions adopted before the UR and those codified in the UR Agreements. According to Whalley and Singh, the former were designed to provide more favorable market access opportunities for DCs in developed countries' markets on a non-reciprocal basis, while the main concern of the latter appears to be to assist DCs in implementing the WTO disciplines; for instance, offering extra time and technical assistance to facilitate their adjustment into the WTO system. Although they provide a bird's-eye view of the SDT provisions in general, it is necessary to focus on and elaborate further on the subsidies issue relating to export promotion.

The current UR Subsidies Code recognizes that subsidies may play an important role in the economic development programs of DCs. Therefore, although it basically prohibits export subsidies,¹¹ such a prohibition is not applied to least developed countries (LDCs).¹² An LDC which has reached export competitiveness in any given product should phase out its export subsidies over a period of eight years where export competitiveness in a product is considered to exist if a DC's exports of that product reaches a share of at least 3.25% in world trade of that product for two consecutive years.¹³ Inclusion of such an export competitiveness criterion can be considered as reflecting the developed countries' concerns about the rapid economic growth of a few large DCs and its adverse effect on their own economies.

DCs may also benefit from the provision on *de minimis* values of subsidy. That is, the CVD investigation of a product imported from a DC should be terminated if the level of subsidies provided to the concerned product does not exceed 2% of its value; or the subsidized imports share less than 4% of the total imports of the product concerned in the importing country. Since the *de minimis* level for a developed country is 1%, this provision on *de minimis* subsidy can be regarded as an SDT provision. The SDT nature is diluted by the so-called cumulation provision in the UR Subsidies Code. That is, even if the imports from a DC share less than 4% of the total imports of the concerned product in the importing country, if such imports collectively account for more than 9% of the total imports of the concerned product in the importing member, then the government of the importing country can investigate the CVD. In addition, just a 1% addition to the *de minimis* level may not be appropriate as a meaningful subsidy helpful for price competitiveness.

Subsidies granted by a DC to privatize the state-owned-enterprises are exempt from the imposition of CVDs. Such subsidies can include the direct forgiveness of debts and subsidies that cover social costs including the relinquishing of government revenue, although the meaning of social costs is not so clear. Even if such subsidies are to be granted only for a limited period, such generous treatment of subsidization relating to privatization reflects the UR Agreements drafters' and negotiators' obsession with the market mechanism.

The existence of a few SDT provisions in the UR Subsidies Code would be dominated by the basic principle of the UR, i.e., the single undertaking principle obliging all members to abide by all agreements in the WTO regardless of the

economic development level. That is, up until the settlement of the UR, the contracting parties to the GATT 1947 could choose not to sign the NTB Codes and, therefore, had a choice to opt-in and out of these. As a result, most DCs did not sign the Tokyo Round NTB Codes. The single undertaking principle in the UR changed the previous different treatment of developed and developing countries introducing the same obligations for all countries (Senona 2008, 1045).¹⁴

Furthermore, as Wolfe (2004, 588) says, many DCs feel that the international trade regulations established as a result of the UR codify existing rules or practices created in developed countries. Singh (2005, 238-239) interprets the UR Subsidies Code in particular as one favoring industrial policy requirements of developed countries and many of the subsidies such as export subsidies of interest from the perspective of industrial policy in DCs being ruled out. Some DCs say that they are merely importers of industrial policy requirements of developed countries, which do not necessarily reflect their needs. Therefore, it may be difficult to justify the current regulations of the WTO system from the viewpoint of fairness in international trade relations.

Distributional Fairness in International Trade Relations

Regarding fairness in international trade, one may compare “non-discrimination fairness” with “distributional fairness.” According to the former, if one of a set of groups deemed to be equal is to be allowed to take some action, then all other groups should also be allowed to take the same action (Suranovic 2000, 288). The basic principles of the WTO, i.e., national treatment and MFN treatment, can be regarded as following the “non-discrimination fairness” applied to international trade relations.

As another type of fairness in international trade, Suranovic (2000, 290) defines “distributional fairness” as equality fairness applied to final outcomes. “Distributional fairness” applied to international trade relations in an extreme sense can be called the global egalitarianism. Its philosophical foundation can be explained in the following manner: (1) inequalities between individuals from different countries stem from the fact that some people live in resource-rich countries whereas others live in resource-poor countries, or from the fact that some people are nationals from a rich country while others are nationals from a poor country; and (2) people are not responsible for being unfavorably located regarding resources, or for being of a certain nationality. Therefore, such inequalities across countries are unjust and rich people from rich countries should distribute part of their wealth to poor people in poor countries (Fabre 2005, 142).

A less stringent application of the global egalitarianism would be that more attention should be paid to the global needy who subsist below the international poverty line and a more equal distribution of income and/or wealth is preferred to a less equal distribution (Suranovic 2000, 290). Pursuing the SDT of DCs can be understood as accepting “distributional fairness” in international trade relations as a weak form of the global egalitarianism.¹⁵

Ways of Export Promotion

The experiences of East Asia, South Korea and Taiwan in particular, can be regarded as the most typical cases of export-led growth. Since they were relatively free from the regulations restricting export subsidies until the early 1990s, they were fortunate in pursuing export promotion policies aggressively (Haggard 1990; Mah 2007a; Wade 2004).¹⁶ Regarding the question on how reproducible their success stories are, Evans (1990, 48) admits that a glance at the conditions which make for the success of the East Asian case warns that these may not be easily reproducible in DCs in general. That is, where there is no basis for a relatively autonomous state, where administrative capacities are weak, where there is little capacity for long run strategic decision-making, and where there are no strong institutions to facilitate governmental intervention through local governmental or parastatal organizations, the imperfect market may be better than the imperfect government.

In addition, due to the current regulations in the current WTO system prohibiting export subsidies and allowing imposition of CVDs against subsidized imports, it would be even more difficult to replicate the export promotion experiences of East Asia. Meanwhile, looking at their experiences, one may draw conditions of successful export promotion even under the current WTO system. They would include both domestic economic policies reform and change in the WTO regulations in favor of DCs.

Export Promotion Under the Current WTO Regulations

One can think of several reform measures that the governments of DCs should pursue to promote exports. First, it would be necessary for the policymakers to recognize the importance of export-led growth strategy. In the case of South Korea, for instance, during the 1960s and 1970s, the government took the slogan, "Export Number One," and rewarded exporters by various means even including forgiveness of their tax evasion to a certain extent. The President presided over the monthly Export Promotion Meeting (Mah 2007a). In many DCs under authoritarian regimes in particular, showing the government's strong will may be effective in reallocating resources and promoting exports.

Second, one condition for the governmental pursuit of export promotion policies would be the enhancement of the administrative capacity. The policymakers' ability to understand the current economic situation and the prospects for the future industrial structure of the concerned economy would be important. In the absence of the policymakers' insight, it would be difficult to plan and implement export promotion schemes and industrial policy, which would be the basis of the promotion of manufactured exports. For them to have such capacities, it would be necessary for DCs to allow elite government officials to get the appropriate graduate education necessary for policy-making.

For DCs, even if they have appropriate export promoting organizations and export promotion schemes, if there are not many able and honest government

officials, we may not be able to expect to effectively implement the provision of export incentives.¹⁷ For instance, export incentives allowed even under the current WTO system require expertise on those. Therefore, it would be necessary for the government officials to be trained in export finance, export insurance, electronic customs clearance, or duty drawback. Strengthening the administrative capacity of DCs may be related to Official Development Assistance (ODA). The governments of developed countries and/or international organizations such as the World Bank, WTO, or the International Trade Center (ITC) may increase the abilities of training programs and seminars to train the government officials or administrative staffs in DCs.¹⁸

Third, it is necessary to enhance the education level of the public in order to improve the capacity of producing non-traditional manufactured products. Literacy would be important in the early stage of production and the export of labor intensive products. As an economy enters the next stage of economic development, it tends to lose its comparative advantage in labor intensive products whose production relies on abundant low wage workers, and instead, the economy would be able to have a comparative advantage in capital intensive, and then technology intensive products. For instance, although South Korea and Taiwan had a comparative advantage in labor intensive products such as clothes and shoes in the early stage of economic development, both began to develop technology-intensive industries during the 1980s (Amsden 2003; Mah 2007a). Nowadays, the majority of the commodities exported by these economies are technology-intensive products. The development and production of such products require an ample base of workers with an educational background in colleges or graduate schools.

Fourth, the current WTO system allows export incentives such as duty drawback and export insurance/credit not exceeding the threshold levels.¹⁹ Therefore, even now, countries with such schemes can utilize these incentives as a measure of export promotion. Meanwhile, many DCs do not have such schemes. Therefore, to pursue export promotion policies actively, it would be essential to establish and maintain such institutions.²⁰

Fifth, it is necessary for DCs pursuing export promotion policies to utilize the current WTO regulations relating to SDT. Some scholars, such as Held et al. (1999, 187-188), argue that virtually all policy options except for human capital policies such as education and training, have been prohibited by the trade regulations of the WTO. Weiss (2005, 724) argues that the measures permitted in the WTO system are developed country friendly and as such allowed measures to enable developed countries to align their national economic development goals with support for industry, technology, and exports. Meanwhile, such an argument can be regarded as an exaggeration of the current WTO regulations, as is evidenced in the existence of SDT provisions.

It would be beneficial for the current WTO Members to utilize the currently existing SDT provisions in the WTO in favor of DCs. For developing economies, they may provide a small amount of export subsidies up to the stipulated *de minimis* level. Even large DCs can provide such *de minimis* amounts of subsidies that are not

actionable, although such a small amount of subsidy may not be effective in promoting exports.

It is true that the current WTO system prohibits export subsidies and strictly regulates the provision of subsidies by allowing the imposition of CVDs; meanwhile, the DCs can provide export subsidies to promote exports of non-traditional products as long as their share falls short of the export competitiveness threshold level. Although they may be subject to an imposition of CVDs, the share of imports from small DCs in particular would most likely be insignificant and it would be generally difficult for the investigating authorities to prove the existence of material injury to their domestic producers.

Sixth, it would be necessary to attract foreign-invested enterprises (FIEs), most of whose products are exported and which have linkage effects to the domestic companies. Various incentives may be provided to attract foreign direct investment (FDI), which does not violate the national treatment principle in the WTO. As China did by establishing the Special Economic Zones (SEZs) such as Shenzhen SEZ since the early 1980s (Mah 2008), DCs lacking infrastructure in the entire nation may benefit from preparing SEZs and providing incentives to invest in such zones to attract FDI. The ODA providing the social overhead capital such as seaports, railway systems, paved roads, and electricity generation would contribute to strengthening such infrastructure in the SEZs of low income DCs.

Seventh, it would be necessary for DCs to think of ways to improve their abilities, reflecting their trade interests in the WTO negotiation forum. Many meetings are held daily at the WTO Secretariat building. Most small DCs do not have the resources to analyze all the WTO issues in real time, yet they are expected to understand and sign all the results (Wolfe 2004, 582, 590).²¹ As Blackhurst, Lyakurwa and Oyejide (2000) suggested, coordination regarding, for instance, information gathering and analysis among neighboring small DCs may be helpful in overcoming such difficulties in the global trading system.

Finally, one interesting aspect relating to the prohibition of export subsidy is that exchange rate manipulation by the government benefiting exporters, i.e., devaluation or depreciation of domestic currency, is not prohibited in the current WTO regulations, although it has a positive effect on export promotion like tax or financial incentives. Furthermore, it is not subject to the imposition of CVDs by the governments of importing countries. Therefore, in the WTO system, the members can use exchange rate management relating to export promotion, although there would be a limit on using it in the sense that devaluation or depreciation of domestic currency would tend to increase the inflation rate.

Modification of the UR Subsidies Code

Even if developing countries wish to pursue export promotion policies, many instruments that the rapidly growing economies such as the East Asian economies utilized in their export-led economic growth process are not allowed in the current WTO system. Therefore, it is necessary for DCs to think of ideas and put pressures

on modifying the WTO regulations in favor of promoting their exports. Regarding the interpretation or modification of the current WTO regulations, Wade (2003, 623) compares two opposite moralities. One is the jungle morality of reciprocity, which reflects the “non-discrimination fairness” explained in Suranovic (2000). Then, the WTO Agreements would reflect relative bargaining strengths and, therefore, the strongest perform best. The second is the “all-men-are-brothers” morality of non-reciprocity between developed and developing countries, which says that the strong have a duty to restrain themselves to help the weaker. As Wade (2004, xlvii-l) argues, non-reciprocity between developed countries and DCs needs to be strengthened in modifying the current WTO regulations, due to *the extremely different levels of economic development between those two groups of countries*. Such an emphasis on non-reciprocity may be justified, using Suranovic’s (2000) definition, in terms of “distributional fairness” in international trade relations.

Compared with the previous GATT, the current trade regulations in the WTO system generally limit the government intervention in international trade. Meanwhile, according to Weiss (2005, 744), for developed countries, the disciplinary effect of the WTO regulations has been state augmenting, offering generous room to maneuver. It would be opposite to the “distributional fairness” in international trade relations.

DCs may promote exports if more market access opportunities are given from their trade partners – most of whom are developed countries²² – and if their supply capacities are expanded. That is, DCs will usually gain from reductions in tariff peaks on sensitive products like textiles and reductions in tariff escalation, in which higher tariffs are applied on semi-processed products rather than on raw materials, and higher tariffs on finished products (Wolfe 2004, 584). Explaining the case of sub-Saharan African (SSA) countries, however, Blackhurst, Lyakurwa and Oyejide (2000) say that now, most, if not all, SSA governments, especially technocrats and the private sectors in these countries, accept that the crucial problem at this point in time after the UR is not a lack of market access opportunities, but rather the inadequate domestic supply in response to existing market access opportunities. Therefore, it would be more appropriate for the WTO members to think of ways to promote the export capacities of DCs and alleviate the threat of trade remedies such as CVDs against the products exported from DCs.

The UR Subsidies Code stipulates the “development needs” of DCs.²³ Interpretation of “development needs” would be arbitrarily made and there would be no objective criterion on it. Whether or not a trade measure takes the development needs into consideration would depend on the decision of the government concerned. It would be necessary for the future WTO system to incorporate the phrase “development needs” of DCs in each relevant agreement. Despite the official acknowledgement of “development needs” in the UR Subsidies Code, regarding the area on subsidies and CVDs, DCs are not likely to have the resources to investigate foreign subsidies negatively affecting their economies (Horlick and Shoop 2008, 694). To benefit the export promotion of DCs, the global trading system may consider several ways of modifying the current UR Subsidies Code.

Among others, a further SDT of LDCs can be considered. According to the current SDT provision in the UR Subsidies Code, they are not prohibited from providing export subsidies.²⁴ Meanwhile, since developed countries can offset the effect of the provision of export subsidies by CVDs, such SDT of LDCs may become meaningless. Therefore, it would be necessary for developed countries not to impose CVDs against the products that were provided export subsidies by LDCs.²⁵ Even in the case where CVDs are not imposed against imports from LDCs, these countries, of course, should be aware of the accompanying problems such as budgetary implications, the possibility of rent-seeking behavior, and so on.

The chronic balance of payments difficulties of many DCs can also be considered. Export promotion measures may be needed if they should earn foreign exchange to import the products essential for industrial development. This appears to be plausible in the sense that most DCs have suffered from continuing current account deficits. The problem with such an argument would be the fact that some DCs such as China and Taiwan have continued to record a huge amount of current account surpluses.²⁶ Regarding import protection, Singh (2005, 252) suggests allowing DCs to have a balance of payments let-out clause as in GATT, which would permit them to control the level and growth rate of their imports directly. Similarly, it would be necessary to design a provision in the WTO Subsidies Code allowing export subsidies to DCs undergoing chronic current account deficits.

The R&D subsidy provided in DCs deserves attention as well. Although it was categorized as a non-actionable subsidy up to the end of 1999, it is currently actionable. R&D is regarded as having positive externality. Compared with resource allocation without government intervention, from a national welfare viewpoint, it would be better for the government to provide an R&D subsidy. Without it, there would be under-production of R&D and, therefore, leaving R&D activities to markets cannot be supported theoretically. Thus, it may be necessary to treat the R&D subsidy provided by DCs as non-actionable.²⁷

For the technical aspects of SDT provisions, even if the WTO system does not introduce a big change in its Subsidies Code, increasing the *de minimis* level of the 2% subsidy applied to DCs may significantly contribute to export promotion. India's proposal on its modification is worthy of receiving attention from the WTO members. That is, India considered that the *de minimis* level of subsidization and negligible level of volume of subsidized imports²⁸ have been inadequate in ensuring that DCs secure a share of international trade and, therefore, proposed that DCs' export subsidies should be made non-actionable unless they exceed 5% *ad valorem*.²⁹ There is room for modifying the so-called cumulation provision in the UR Subsidies Code, which allows the government of the importing country to assess import volume cumulatively in investigating material injury.³⁰ Consequently, cumulation has become common practice in investigating the CVD cases (Durling 2008, 607). To control the abuse of CVDs against DCs, it would be necessary to eliminate the cumulation provision appearing in it.

During the DDA negotiations process, the WTO members' views with respect to the export promotion of DCs have been split substantially. An extreme view regarding

subsidy in favor of DCs is suggested by Venezuela. It proposes that all subsidies bestowed by DCs should be treated as non-actionable subsidies.³¹ India has led the DCs' opinion and suggested concrete ways of modifying the current regulations in favor of DCs' export promotion.³² India's position is based on the interpretation that various export incentive schemes in developing countries are more for the purpose of creating a level playing field, since developed countries do not suffer from these disadvantages.³³ Meanwhile, the United States has been adamant in not considering further SDT provision.³⁴ Among developed countries, Canada appears to sympathize with the position of DCs, although it has not proposed technically detailed SDT in favor of export promotion of DCs.³⁵

Conclusion

Under the WTO system, economic development strategy is more complex than in previous times (Wade 2003, 635-636). This is basically due to the single undertaking principle that all members of the WTO should abide by all agreements of the WTO regardless of their economic development levels. It is based on the idea of reciprocity, or the application of "non-discrimination fairness." Meanwhile, if one thinks of the extreme difference between the economic development level of developed countries and that of DCs and in particular LDCs, one may doubt the appropriateness of "non-discrimination fairness" applied to international trade relations.

According to Wolfe (2004, 578), the WTO is experiencing a tension between two fundamental objectives: keeping up with a rapidly evolving global economy; and becoming more inclusive of both DCs and civil society. More precisely, the WTO system can be said to be facing a conflict between pursuing further globalization and protecting the DCs' interests. Limiting full participation of DCs and the consequent dissatisfaction on the part of DCs has been regarded as one of the main causes of the debacle at the Seattle Ministerial Conference. Without greater balance between developed countries and DCs, the future of the global trading system will be imperilled (Wolfe 2004, 580). Therefore, maintaining and improving the WTO system would not be possible without special consideration of DCs.

For appropriate application of non-reciprocity in international rule making, it would be necessary to make room for DCs to move with respect to the promotion of exports of manufactured products of DCs. For that purpose, the current paper suggests various ways of allowing DCs to develop their production capacities and exports of manufactured products. Furthermore, it also provides suggestions on modifying the current UR Subsidies Code in favor of the export promotion policies of DCs. Such special treatment of DCs could be justified from the viewpoint of "distributional fairness" applied to international trade relations.

Notes

1. See Brander and Spencer (1985) and Meyer (1984) for details.
2. There are certain differences between those two economies. According to Scitovsky (1990, 136), South Korea's development weakened the market forces while, compared to South Korea, Taiwan's strengthened it.
3. Lichtenstein (2000) derives such a conclusion by comparing the orthodox with the heterodox, in particular, the post-Keynesian approach in explaining the causes of the rapid economic growth of China. The former emphasizes the superiority of free trade over protectionism, while the latter supports protectionist policies.
4. For instance, in DiCaprio and Gallagher (2006), export subsidies are covered in less than one page.
5. The notion of special and differential treatment (SDT) was normally associated with Raul Prebich (Singh 2005, 233).
6. For the relationship between export diversification and economic growth, see James (1980).
7. See Collins-Williams and Salembier (1996) and Hoda and Ahuja (2005, 1009-1030) for a general overview of the UR Subsidies Code.
8. Duty drawback denotes remission of import duties to the exporters with respect to imported raw materials and intermediate goods that are used in the production of the exported product (Mah 2007b).
9. If a subsidy is regarded as a non-actionable subsidy, then even if an imported product is subsidized by the government of an exporting country, the importing country cannot impose CVDs.
10. Refer to GATT, "Communication from Switzerland," MTN.GNG/NG10/W/17, February 1, 1988 and paragraphs 20-53 of WTO, G/SCM/M/24, April 26, 2000.
11. In the UR Subsidies Code, export subsidies are defined as the subsidies provided contingent upon export performance.
12. They include countries categorized by the United Nations as the LDCs and DCs with a GNP per capita of less than US\$1,000 per annum. For the list of the LDCs designated by the United Nations and the criteria, see www.un.org/special-rep/ohrlls/ldc/default.htm, accessed May 14, 2009. There are three criteria for the identification of the LDCs: a low income criterion (under US\$750 for inclusion and above US\$900 for graduation); a human resource weakness criterion (including nutrition, health, education, and adult literacy); and an economic vulnerability criterion (including instability of exports, importance of non-traditional economic activities, and concentration of exports, among others). As of May 14, 2009, there are about 50 LDCs according to the UN criterion.
13. According to Hoda and Ahuja (2005, 1028), in selecting the figure of 3.25%, some of the developed countries considered the fact that India's share in world trade of textiles and clothing at the time of UR negotiations was in the range of 2-2.5%. They felt that India's share in the world market could reach that figure in the not-too-distant future.
14. According to Senona (2008, 1045), the acceptance of the single undertaking principle saw the WTO agreements providing SDT focusing on three categories: (a) extended transition period or other limits regarding the implementation of agreements to give time to adapt the national legislation and institutions; (b) some exceptions, exemption, or flexibilities in favor of LDCs; and (c) provisions for technical assistance and capacity building.
15. Critics of the SDT measures such as Wolf (1984) doubt the positive effect of SDT provisions on DCs. He even argues that "developing countries are permitted to pursue policies damaging to themselves."
16. Although Chang (2006, Chapter 1), for instance, emphasizes export promotion accompanied by import protection as the source of economic development, the effect of the latter on economic development is quite controversial.
17. Certain export incentives provided by the government are revealed to be ineffective; for instance, Mah (2007b).
18. The World Bank Institute and the WTO Secretariat have maintained such workshop programs.
19. Developed countries actively utilize export promotion measures such as export insurance which are not prohibited in the UR Subsidies Code (Weiss 2005, 739).
20. The Berne Union is the association for export credit and insurance worldwide. As of July 2009, only about 20 developing economies maintain export insurance schemes and are its Members. They

- include China, South Korea and Taiwan. Source: www.berneunion.org.uk. Accessed July 25, 2009.
21. See Narlikar (2004) for an interesting explanation of the actual procedure of WTO negotiations.
 22. Evans (1990, 56) suggested that a major part of trade policy reform in DCs should be the search for new opportunities for South-South trade. However, it would be unrealistic if we consider the very limited amount of national income and the consequent lack of enough import capability of most DCs.
 23. Article 27.2 of the UR Subsidies Code.
 24. Article 27.2(a) of the UR Subsidies Code.
 25. Leading proponents of free trade such as Jagdish Bhagwati have urged the U.S. government not to take discriminatory protectionist measures (such as CVDs) against the rest of the world even if they are technically WTO-consistent for the U.S.' interests (Bhagwati 2009).
 26. Wade (2009) similarly points out the importance of distinguishing countries with very limited foreign exchange reserves from those with either abundant reserves or the ability to issue the international reserve currency.
 27. During the Doha Development Agenda (DDA) negotiations, Cuba and Venezuela actually proposed it (source: WTO, TN/RL/W/131, "Communication from Cuba and Venezuela," July 11, 2003, 1).
 28. Articles 27.10 and 27.11 of the UR Subsidies Code, respectively.
 29. WTO, TN/RL/W/4, "Submission by India," April 25, 2002, 1-2.
 30. Article 15.3 of the UR Subsidies Code.
 31. WTO, TN/RL/W/41, "Proposal by Venezuela," December 17, 2002, 2.
 32. Hoda and Ahuja (2005, 1031-1058) evaluate the UR Subsidies Code from India's perspective and explain the experience of India with its implementation. Some of the Indian government's proposals in the DDA talks on export promotion policies appear to be consistent with Hoda and Ahuja (2005).
 33. WTO, TN/RL/W/68, "Communication from India," March 11, 2003, 2.
 34. WTO, TN/RL/W/27, "Communication from the United States," October 22, 2002, 4.
 35. WTO, TN/RL/W/1, "Communication from Canada," April 15, 2002.

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