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THE WORLD TRADE ORGANIZATION: IMPLICATIONS ON GLOBAL ECONOMY

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ABSTRACT: *The World Trade Organization (WTO) is the only global body dealing with the rules of trade between nations. Its primary purpose is the regulation of the conduct of trade among member nations in order to ensure adherence to the principles of fair dealing. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. These agreements cover all areas of trade relating to goods and services, including intellectual property, custom tariffs, trade barriers and open markets, the principles of liberalization, their exceptions, and dispute settlement procedures. These agreements are however not static as they are renegotiated from time to time and new agreements added as deemed necessary by member nations. This paper thus examines the structure of the WTO vis-à-vis its origins and development, principles, hierarchies, and existing agreements with a view to determining their future implications on world trade.*

KEYWORDS: Word Trade Organization, Global Economy, Rules of Trade, Market

INTRODUCTION

The increasing trade interdependence between national economies provides opportunities for the growth of countries. Competition is central to the operations of markets, and also fosters innovation and productivity, all of which create wealth and reduce poverty[1]. To be able to do this however, competition must be free and fair. Statistics have shown that there is a clear link between free and fair trade and economic growth.[2]

The WTO, the principal international organization governing world trade was essentially established for the purpose of liberalizing trade. The WTO provides a forum under which the bulk of the world's trading nations negotiate agreements concerning the conduct of trade. These agreements provide the legal ground-rules for international commerce[3] and bind these countries to keep their trade policies within agreed parameters. They cover a broad range of goods and services and apply to virtually all government practices that directly relate to trade, including settlement of trade disputes, regulation of trade barriers, tariffs and subsidies, government procurement, trade-related intellectual property rights, and in some circumstances maintenance of trade barriers (for example to protect consumers, prevent the spread of disease or protect the environment)[4]. Although negotiated, signed and binding on governments, the goal of these agreements is to help producers of goods and services, exporters, and importers conduct their

[1] Ochem C. E. 'The Relevance of investment treaties', being a paper commission for presentation at the training course on international and investor-state arbitration organized by the institute of advanced legal studies 2003.
[2] The European Union and World Trade Organisation, facts sheets on the European Union 2014 p.1 available at www.europarl.europa.eu.ftu.pdf.en/FTU_6.2.2.pdf
[3] Dhar, B. 'The future of the World Trade Organization.' ADBI working paper 444. Tokyo: Asian Development Bank Institute. Available: http://www.adbi.org/working-aper/2013/11/11/5981 .future.world.trade.organization/
[4] Sek, L. the WTO: Background and issues, CRS Report for Congress updated June 2001, published by [http://www.wto.org/] p. 3 last visited on 19th February 2014.

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business, while allowing governments to meet social and environmental objectives. Thus, the system's overriding purpose is to help trade flow as freely as possible (so long as there are no undesirable side-effects), and ensure that trade regulations around the world are transparent and predictable giving individuals, companies and governments the confidence that the regulations are reliable and not subject to sudden changes.

A major achievement of the WTO has been the strengthening of its dispute settlement body with the power to rule on trade disputes and to enforce its decisions. The Trade Dispute Settlement Mechanism is a system of pre-defined rules giving WTO members, regardless of their political weight or economic clout, the possibility to lodge complaints about alleged breaches of WTO rules and to seek reparation[5]. This mechanism reduces the unilateral defence mechanisms that countries previously tended to adopt, many of which provoked retaliatory reactions from target countries and sometimes led to fully-fledged trade wars[6].

The WTO and its predecessor, the General Agreement on Tariffs and Trade (GATT) has been enormously successful over the last 50 years at reducing tariff and other trade barriers among an ever-increasing number of countries[7]. The predecessor to the WTO began in 1947 with only 23 members; today it has 159 members, comprising approximately 97 percent of world trade. The creation of the WTO represented a significant step towards a more integrated and thus more dynamic international trading system. By ensuring that countries keep up the momentum of dismantling barriers to trade in subsequent trade talks, the WTO also secured the continuous promotion of free trade. With two thirds of its members composed of developing countries, the organization also offers transition economies and least developed countries (LDCs) the possibility of employing trade to advance their development efforts.

The bulk of the WTO's current work comes from the 1986–94 negotiations called the Uruguay Round and earlier negotiations under the GATT. The WTO is currently the host to new negotiations, under the "Doha Development Agenda" launched in 2001.

ORIGINS OF THE WTO

The WTO has its origins the General Agreement on Tariffs and Trade (GATT) of 1947. The World War II, created an urgent need for creation of a new international monetary system to handle postwar reconstruction and foster economic stability and growth. The Brenton Woods Conference was convened and two of the most important international economic institutions of the postwar period - the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development - were established[8]. There were also attempts to establish a third postwar institution, a United Nations specialized agency, the ITO, which would handle trade barriers, employment, investment, restrictive business practices and commodity agreements[9]. However, the ITO treaty was unable to obtain the support of the United States Congress and that of a few other signatories. The United States Congress however gave the

[5] Dhar, op.cit., p.14
[6] The EU and WTO, op. cit. p.2
[7] Crowley, M., 'An introduction to the WTO and GATT' 4Q/2003 Economic Perspectives available at www.chicagofed.org/...ages/publication/economic p.53 last visited on 17th Feb.2014
[8] Ibid., p.6
[9] Ferguson, I. the WTO: background and issues 2007 CRS report for Congress updated May, 2009 available at [http://www.wto.org/] p.3

President the authority to enter into negotiations concerning another institution, the General Agreement on Tariffs and Trade (GATT), which will govern the conduct of trade. The General Agreement on Tariffs and Trade (GATT) came into being in 1947. By the GATT, 23 member countries agreed to a set of rules to govern trade with one another and maintain reduced import tariffs for other members[10].

The General Agreement on Tariffs and Trade (GATT)

The General Agreement on Tariffs and Trade was established in 1947. During the second session of the preparatory committee for the United Nations (UN) Conference on Trade and Employment held in Geneva between April 10th and October 30th 1947, the participating states simultaneously conducted multilateral trade negotiations for the reciprocal reduction of customs tariff between themselves. At the end of the session, they decided to put that part of the draft charter which dealt with the multilateral trade relations, separately and provisionally into operation to serve as treaty basis for the agreed tariff concessions[11].

The articles of that part of the draft Charter together with the so-called "schedules" of the tariff concessions made by each state were put into the form of a separate treaty now called "General Agreement on Tariffs and Trade" and attached to the final Act of the session which was signed by the participating states on October 30,1947. On this same day, 23 signatories of the final Act drew up a protocol of provisional Application of GATT[12] , which was subsequently accepted by the signatories of the final Act and went into effect for those states on January 1st 1948.

The fundamental purpose of GATT was to achieve free and fair trade through reduction of tariff and elimination of other trade barriers. GATT operated on the basis of three principles:

1. Most Favored Nation Principles (MFN), i.e. if a country gives favorable treatment to one country regarding a particular issue, it must treat all Members equally with respect to the same issue[13].
2. Expansion of trade through reduction of trade barriers; and
3. Unconditional reciprocity among all signatories.[14]

The GATT assumed the role of the principal institution concerned with the conduct of world trade. It was also the international agreement by which the signatories entered into binding legal commitments with one another on important aspects of their trade policy. It became an international forum for multilateral consultation and negotiation on trade problems[15]. GATT's

[10] Crowley, M op.cit., p.43

[11] Kayode Olatoke 'The Agreement on Tariffs and Trade Anti- Dumping Law and Developing Countries' , *Readings In Jurisprudence &International Law*, Department of Jurisprudence and International Law, University of Ilorin (2004) Pp1-35 at 1. See Also Popoola, A.O, 'Legal and institutional framework for space communications, trans-frontier broadcasting and telecommunications trade regimes' Vol. 22 *The Advocate* Obafemi Awolowo University, Ile-Ife (2004) Pp53-75 At 68.

[12] ,UNTS Vol. 55 p.308.

[13] Ministry of Economy, Trade and Industry, Part II Chapter 1 Most-Favored-Nation Treatment Principle http://www.meti.go.jp/english/report/downloadfiles/gCT0212e.pdf

[14] GATT's goal was to establish a world trade regime or universal rules for the conduct of commercial policy

[15] Popoola, A.O, 'Legal and institutional framework for space communications, trans-frontier broadcasting and telecommunications trade regimes' Vol. 22 *The Advocate* Obafemi Awolowo University, Ile-Ife (2004) Pp53-75 At 68.

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goal was to establish a world trade regime or universal rules for the conduct of commercial policy in line with the charter drafted for the International Trade Organization Conference (*Havana Charter).*

Nine sessions of negotiations (called Rounds) have been held in respect of the GATT. The *Geneva Round, 1947,* brought tariff concessions (between founder members) involving some US$10 billion in trade. The *Annecy Round* of *1949* introduced further tariff concessions as did the *Torquay Round* of 1950-51 and a second *Geneva Round of 1956*. In 1960-61, a *Dillon Round* recognized the European Economic Community as a single trading body, while the follow-up *Kennedy Round 1964-67* cut for the first time tariff by whole sectors instead of product-by-product.

In 1973-79, a *Tokyo Round* included newly independent developing countries who agreed to reduce tariffs on tropical exports. Participants also signed agreements on subsidies, technical barriers to trade, government procurement, meat and dairy products and civil aircraft. The Tokyo Round however had mixed results in other issues. For example, it failed to come to grips with the fundamental problems affecting farm trade and also stopped short of providing a modified agreement on "safeguards" (emergency import measures)[16].

Defects in GATT Machinery

Several other defects were also evident in the GATT apparatus. For example:

1. Many countries with longstanding disputes were unable to reach any sort of resolution on a number of issues, ranging from government subsidies for exports to regulations regarding foreign direct investment.

2. A number of commodities which were considered to be important, for example agricultural products and textiles, were exempt from GATT disciplines.

3. It was also believed by some of the WTO member countries that certain forms of trade protection administered by WTO—antidumping duties, voluntary export restraints, and countervailing duties—were restricting trade and distorting trade patterns in many important sectors.

4. Another defect was that trade in services was expanding rapidly and GATT had no provisions for trade in services

5. Countries that produced intellectual property—movies, computer programs, patented pharmaceuticals—were becoming increasingly frustrated by the lack of intellectual property protection in many developing nations.

6. Lastly, the rules regarding trade-related investment measures—for example, domestic purchase requirements for plants built from foreign direct investment—were hotly disputed[17].

To address these problems, a new round of trade negotiations—the Uruguay Round—was launched in 1986. The Uruguay Round sought to introduce major reforms into how the world trading system would function. It also expanded GATT's authority to new areas, e.g.

[16] WTO, Understanding the WTO, External Relations Division 2011 available at http://www.wto.org, p. 7

[17] Crowley, op. cit., p.43

agreements regarding trade in textiles, agriculture, services, and intellectual property. This round of negotiation ended on December 14, 1993 in Geneva, Switzerland, following a last minute comprise between the world's two largest trading blocs, the United States of America and the European Union (E.U.). A comprehensive accord which would wholly or partially eliminate tariffs, subsidies, quotas and other forms of trade barriers was reached.[18] Finally, with new sets of rules regarding administered protection, the WTO was created in 1995 under the Marrakesh Agreement.

THE WORLD TRADE ORGANISATION (WTO)

In 1995 WTO replaced GATT. With more power to settle international trade disputes, it was expected to ensure growth and liberalization of world trade, observance of *Uruguay Round* rules and settlement of trade disputes. Unlike GATT the new body has the authority to enforce rulings, penalizing unfair trade practices and was to serve as an instrument through which trade rules would be extended into such controversial areas as the environment and labor standards.

Periodically, member countries continue to hold negotiations or Rounds to revise existing rules or establish new ones. The multilateral negotiations are especially important to developing countries, which might otherwise be left out of the more selective agreements. It must be remembered however, that trade liberalization also results in job losses and other economic dislocations as well. The Uruguay round treaty otherwise known as the final act embodying the results of the Uruguay round of multilateral trade negotiations extend GATT to services and intellectual property[19] under the WTO.

Some new key WTO principles

In the preamble to the Marrakesh Agreement establishing the WTO, the parties to the Agreement recognized certain objectives they wished to attain through the multilateral trading system:

- raise living standards;
- ensure full employment;
- ensure a large and steadily growing volume of real income and effective demand; and
- expand the production of and trade in, goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development.

The Agreement also recognizes the need for "positive efforts to ensure that developing countries, and especially the least-developed among them, secure a share in the growth in international trade commensurate with their economic development"[20]. However, it is important to note that apart from recognizing the principles of trade liberalization by

[18] However, it is necessary to mention that Nigeria became a member of this body in 1960-1963 before it metamorphosed into the *World Trade Organization (WTO*) in 1995.

[19] Popoola, op.cit., p.69. It should be noted that 1994 was a transition period from the old GATT to WTO. GATT and WTO continued to co-exist in 1994 and by 31st December 1994, the old GATT technically ceased to exist though most of its principles and apparatus are still in existence under WTO.

[20] GATTS Module 1, available at http://www.wto.org. p. 4

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considering "substantial reduction of tariffs and other barriers to trade and the elimination of discriminatory treatment in international trade relations" as important steps to achieving the WTO's objectives, the WTO adds new dimensions to the objectives that was in the preamble of the GATT 1947. They include: the expansion of "the production of and trade in goods and services" to take into consideration the extension of the coverage of the WTO subject matters. That is, while the GATT covered trade in goods, under the WTO, coverage was expanded to another subject area – trade in services. [21]

Organizational Structure of the WTO[22]

The structure of the WTO is dominated by its highest authority, the Ministerial Conference, composed of representatives of all WTO members, which is required to meet at least every two years and which can take decisions on all matters under any of the multilateral trade agreements. The day-to The day-to-day work of the WTO, however, falls to a number of subsidiary bodies; principally the General Council also composed of all WTO members, which is required to report to the Ministerial Conference. As well as conducting its regular work on behalf of the Ministerial Conference, the General Council convenes in two particular forms - as the Dispute Settlement Body, to oversee the dispute settlement procedures and the Trade Policy Review Body to conduct regular reviews of the trade policies of individual WTO members. The General Council delegates responsibility to three other major bodies - namely the Councils for Trade in Goods, Trade in Services and Trade-Related Aspects of Intellectual Property. The Council for Trade in Goods oversees the implementation and functioning of all the agreements (Annex 1A of the WTO Agreement) covering trade in goods, although many such agreements have their own specific overseeing bodies. The latter two Councils also have responsibility for their respective WTO agreements (Annexes 1B and 1C) and may establish their own subsidiary bodies as and when necessary. Three other bodies are established by the Ministerial Conference and report to the General Council. The Committee on Trade and Development is concerned with issues relating to the developing countries and, especially, to the "least-developed" among them. The Committee on Balance of Payments is responsible for consultations between WTO members and countries which take trade-restrictive measures, under Articles XII and XVIII of GATT, in order to cope with balance of- payments difficulties. Finally, issues relating to WTO's financing and budget are dealt with by a Committee on Budget. Each of the four plurilateral agreements of the WTO - those on civil aircraft, government procurement, dairy products and bovine meat - establish their own management bodies which are required to report to the General Council.

What are the agreements that the WTO administers?

Agreements covering three areas - goods, services, and intellectual property - are the heart of the WTO. The complete set consists of about 60 separate agreements, decisions and declarations, and a listing of the commitments - known as schedules - made by each member country. The schedules list the agreed upon custom duty rates and the commitments made by countries concerning the access allowed to their service industries. The agreements mirror parts of the WTO organization. The principal ones concern:

[21] GATTS Module 1, op. cit., p.5
[22] WTO, the objectives and organisation of the WTO available at http://www.wto.org, p. 2

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The General Agreement on Tariffs and Trade (GATT),

The major task of this agreement is to eliminate all remaining tariff and non-tariff barriers to the movement of capital and goods across nation state borders.

The General Agreement on Trade in Services(GATS)

This is the first multilateral, legally enforceable agreement on trade in services. Negotiations are now underway to expand the scope of the GATS to potentially cover all services, including key public services which could be opened to competition with transnational corporations and privatization.

Trade Related Intellectual Property Rights(TRIPS),

This agreement sets enforceable global rules on patents, copyrights, and trademarks which restricts access to life-saving medicines, and permits the patenting of many plant and animal forms, as well as seeds, opening the door to bio-piracy and the commodification of bio-diversity.

Trade Related Investment Measures (TRIMS),

It dictates what governments can and cannot do in regulating foreign investment.

The Agreement on the Application of Sanitary and Phytosanitary Standards (SPS)

This agreement sets constraints on government policies relating to food safety and animal and plant health, ranging from those governing pesticide use and biological contaminants to policies on food inspection, product labeling, and genetically engineered foods.

The Financial Services Agreement (FSA),

This was established to remove obstacles to the free movement of corporations that deal with financial services for example banks and insurance companies. The agreement opens the door to mega-mergers in the financial sector and the loss of local economic control.

The Agreement on Agriculture (AoA)

The AoA sets rules on the international food trade and restricts domestic agriculture policy. It contains provisions regarding protection against dumping, protection for small scale farmers producing for their domestic market, government support for farmers and sustainable agricultural practices, maintaining emergency food stocks, and ensuring that citizens have an adequate food supply.

The Agreement on Subsidies and Countervailing Measures (ASCM),

This sets limits on what governments may and may not subsidize. However, it contains many loopholes favouring wealthy countries and agribusiness.

The Agreement on Technical Barriers to Trade (TBT),

It was set up to limit national regulations (nontariff barriers) that interfere with trade, such as eco-labelling regulations.

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The Agreement on Government Procurement (AGP),

It sets limits on government purchasing, including "domestic content" or community development requirements[23].

How do countries join the WTO?

Most of the countries who are presently WTO members were previously GATT members who signed the Final Act of the Uruguay Round and concluded their market access negotiations on goods and services by the Marrakesh meeting in 1994. A few of the countries which joined the GATT later in 1994 signed the Final Act and concluded negotiations on their goods and services schedules also became early WTO members. Other countries that had participated in the Uruguay Round negotiations concluded their domestic ratification procedures only during the course of 1995, and became members thereafter. Aside from these arrangements which relate to "original" WTO membership, any other state or customs territory having full autonomy in the conduct of its trade policies may accede to the WTO on terms agreed with WTO members. In the first stage of the accession procedures, the applicant government is required to provide the WTO with a memorandum covering all aspects of its trade and economic policies having a bearing on WTO agreements. This memorandum becomes the basis for a detailed examination of the accession request in a working party. Alongside the working party's efforts, the applicant government engages in bilateral negotiations with interested member governments to establish its concessions and commitments on goods and its commitments on services. This bilateral process, among other things, determines the specific benefits for WTO members in permitting the applicant to accede. Once both the examination of the applicant's trade regime and market access negotiations are complete, the working party draws up basic terms of accession. Finally, the results of the working party's deliberations contained in its report, a draft protocol of accession, and the agreed schedules resulting from the bilateral negotiations are presented to the General Council or the Ministerial Conference for adoption. If a two thirds majority of WTO members vote in favor, the applicant is free to sign the protocol and to accede to the Organization; when necessary, after ratification in its national parliament or legislature[24].

RECENT DEVELOPMENTS

The Doha Round of Negotiations

The *Doha Round of 2001* is the latest Round of the WTO's trade negotiations and it aims to achieve major reforms of the international trading system through the introduction of lower trade barriers and revised trade rules. Also known as the **Doha Development Agenda,** it covers about 20 areas of trade, its fundamental objective being the improvement of the trading prospects of developing countries.

Before the Doha Ministerial, negotiations had already been underway on trade in agriculture and trade in services. These on-going negotiations had been required under the last round of multilateral trade negotiations (WTO) rules. In Doha, ministers approved decisions on how to address the problems developing countries face in implementing the current WTO agreements.

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[23] WTO, the objectives, op. cit. p.3
[24] WTO, the objective. op. cit., p.4

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Projections by financial analysts suggest that a comprehensive DOHA deal will bring world income gains in excess of $280 billion, with notable gains for Asian countries[25]. In 2007, talks 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[26].

The WTO is still in the process of completing negotiations on the Doha development round, with the intention of focusing on the needs of the developing countries. As at June 2012, there were still 21 unresolved subjects in the negotiations and the round is still incomplete[27]. The conflict between free trade on industrial goods and services and retention of protectionism on farm subsidies to domestic agricultural sector as requested by developed countries, and the substantiation of the international liberalization of fair trade on agricultural products as requested by developing countries remain the major obstacles. These have hindered progress to launch new WTO negotiations beyond the DOHA round. Since then, interest among members in multilateral trade routes for trade liberalization has waned. As a result, there has been an increase of bilateral free trade agreements between WTO member countries.

However, in December 2013, the most comprehensive agreement reached by WTO, *the Bali Package*, was negotiated as a result of the 9th Ministerial Conference of the WTO in Bali, Indonesia. This was after several unsuccessful attempts to re-launch negotiations at the WTO Ministerial conferences of 2009 and 2011. The agreement, aimed at lowering trade barriers, is the first agreement reached through the WTO that is approved by all its members. It also forms part of the DOHA round. It consists of 10 separate decisions in the four areas of Trade Facilitation, Agriculture, Cotton and LDC[28] and development issues. It also includes provisions for lowering import tariffs and agricultural subsidies with the intention of making it easier for developing countries to trade with the developed ones in the global market.

Future Implications for World Trade

The main outcome of the Bali package is the Trade Facilitation Agreement (TFA) reached by members. The agreement is expected to reduce the cost of trading, ease customs procedures, reduce red tape and facilitate efficiency and transparency. The Peterson Institute for International Economics estimates the possible creation of US$1 trillion worth of global economic activity if the agreement is properly implemented.[29] It is also anticipated that such a comprehensive trade facilitation reform would reduce total trade costs by almost 14.5 per cent for low income countries, 15.5 per cent for lower-middle income countries, and 13.2 per cent for upper-middle income countries.[30]

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[25] Hufbauer, Schott and Wong, (2010) "Figuring out the Doha Round", policy analyses in international economics 91, Peterson institute for International Economics, p.10

[26] See Sola Adesola, ''Access to global trade: challenges and opportunities for Africa' in Deji Adekunle *et al* (ed) *Development in business law* Series 1 , NBA Session On Business Law 2010 Pp37-46 at 41.

[27] Hufbauer, Schott and Wong, op. cit. p.12

[28] Hereinafter referred to as least developed countries.

[29] Ibid

[30] Moïsé, E. and S. Sorescu (2013), *Trade facilitation indicators: the potential impact of trade facilitation on developing countries' trade*, Trade Policy Papers, No. 144 (Paris: OECD). Christophe Bellmann, « The Bali Agreement: implications for development and the WTO », *International Development Policy | Revue internationale de politique de développement* [Online], 5.2 | 2014, Online since 20 May 2014, connection on 21 November 2015. URL : http://poldev.revues.org/1744 ; DOI : 10.4000/poldev.1744

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However, although the least developed countries are expected to gain the biggest immediate benefits from the agreement, several are reluctant to undertake binding agreements with the WTO in the absence of financial assistance from their development partners.[31] They fear that the efforts required to implement the agreements may prove too much, especially the cost of acquiring the necessary hardware, software and human skills. Thus the TFA may have no immediate effect on international trade. The extent of the gains to the LDC will depend on the level of implementation of the provisions of the agreement by the countries. Gains in the medium and long-run will only occur if capacity is built and effective implementation carried out.[32]

[31] **C**hristophe Bellmann, « The Bali Agreement: implications for development and the WTO », *International Development Policy | Revue internationale de politique de développement* [Online], 5.2 | 2014, Online since 20 May 2014, connection on 21 November 2015. URL : http://poldev.revues.org/1744 ; DOI : 10.4000/poldev.1744

[32] Mathias Helble and Ganeshan Wignaraja: Back on track? the importance of the Bali Package for the WTO global trade available at http://www.asiapathways-adbi.org/2014/01/back-on-track-the-importance-of-the-bali-package-for-the-wto-and-global-trade/

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