ISSN 1341-3732

国際開発研究フォーラム 21

2002.3

〈目　次〉

論　　文

ASEANの地域投資協定における投資の保護－現地子会社の取扱いを中心に－
……岩　瀬　真央美　（ 1）
PUBLIC ENTREPRENEURSHIP AS A LOCAL GOVERNANCE
STRATEGY IN DECENTRALIZING POLITY
－EXEMPLARY INITIATIVES FROM THE PHILIPPINES－
……Aser B. JAVIER　（ 17）
Philippine Electoral Distortion and Perpetuation of Corruption
in the Government
……Luisito B. Villanueva Jr.　（ 43）
Measuring the Economic Impact of Tourism in China ……Guo Songhong　（ 67）
The People's Bank of Nigeria and Poverty Alleviation in the
Midwestern Zone of Nigeria ……Unufegan Joseph Imoukhuede　（ 95）
Judicialization of the World Trading System
－Implications for Regulation of Regional Integration under GATT/WTO－
……Kuong Teilee　（123）
難民保護の方法論転換
－国連難民高等弁務官事務所の難民流出予防活動－ ……山　本　哲　史　（149）
GATT/WTOと環境保護に基づく貿易措置
－PPM（生産工程方法）に基づく貿易措置のGATT適合性を中心に－
……宮　川　公　平　（167）
Trade Reforms in Vietnam A Computable General Equilibrium Analysis …Nguyen Tien Dung　（189）

Key Title :
Kokusai Kaihatsu
Kenkyū Fōramu

FORUM OF INTERNATIONAL DEVELOPMENT STUDIES

21

2002.3

〈CONTENTS〉

Articles

Protection of foreign investment under the regional investment treaties in ASEAN: The treatment of the Local Subsidiary ……Maomi IWASE (1)

PUBLIC ENTREPRENEURSHIP AS A LOCAL GOVERNANCE STRATEGY IN DECENTRALIZING POLITY —EXEMPLARY INITIATIVES FROM THE PHILIPPINES— ……Aser B. JAVIER (17)

Philippine Electoral Distortion and Perpetuation of Corruption in the Government ……Luisito B. Villanueva Jr. (43)

Measuring the Economic Impact of Tourism in China ……Guo Songhong (67)

The People's Bank of Nigeria and Poverty Alleviation in the Midwestern Zone of Nigeria ……Unufegan Joseph Imoukhuede (95)

Judicialization of the World Trading System —Implications for Regulation of Regional Integration under GATT/WTO— ……Kuong Teilee (123)

The Changing Jurisdiction of the United Nations High Commissioner for Refugees -Preventive Actions by the UNHCR- …Satoshi YAMAMOTO (149)

GATT/WTO and Trade Measures based on Environmental Protection - Applicability of trade measures based on Processes and Production Methods to GATT-……Miyagawa Kohei (167)

Trade Reforms in Vietnam A Computable General Equilibrium Analysis ……Nguyen Tien Dung (189)

『国際開発研究フォーラム』21（2002. 3）
Forum of International Development Studies, 21 (Mar. 2002)

ASEANの地域投資協定における投資の保護

―現地子会社の取扱いを中心に―

岩　瀬　真央美*

Protection of foreign investment under the regional investment treaties in ASEAN: The treatment of the Local Subsidiary

Maomi IWASE*

Abstract

The treatment of their investment is an important issue for investors. In ASEAN countries, there are investment instruments agreed upon among the member countries. The main instruments are "The 1987 ASEAN Agreement for the Promotion and Protection of Investments", "The 1996 Protocol to Amend the 1987 ASEAN Agreement for the Promotion and Protection of Investments", and "The 1998 Framework Agreement on the ASEAN Investment Area". If the investment takes the form of the establishment of a local subsidiary, the treatment of subsidiaries by those agreements is an important matter. According to those agreements, only companies incorporated in one ASEAN country that invest in another ASEAN country are protected as "investors". In those cases, "the local subsidiary" is protected as an "investment" by the investor. However in those agreements, the subsidiary is distinguished from "other local companies". This shows that protecting "the local subsidiary" that is incorporated in an ASEAN country by those who are protected as "investors" in those agreements and engage in business activities there is important in order to protect investment by those investors. Therefore, it is appropriate to specify protection of "the local subsidiary" in investment instruments.

Ⅰ　はじめに

ASEAN加盟国の多くは、従来の投資受入国や投資国の区分を超え二国間投資協定を積極的に締結している（櫻井1997：401）。しかし同時に、ASEAN加盟国間の経済協力を推進するための地域的な協定が数多く締結され[1)]、幾つかの地域投資協定も締結されている[2)]。ASEANレベルの地域投資協定は、拘束力を有する文書（binding instruments）であり、投資保護に関連するものと投資促進・自由化を強化するものの２つの範疇に分けることができる（ASEAN Secretariat 1998: ２）。投資保護に関連する協定は、収用や海外送金等を規定するものであり、1987年ASEAN投資促進保護協定[3)]と1996年ASEAN投資促進保護協定改定議定書[4)]、そして1996年の紛争解決制度に関する議定書[5)]

＊名城大学大学院法学研究科社会経済紛争研究所研究員
名古屋大学大学院国際開発研究科博士後期課程修了（2001年3月）

等が締結されている。また、投資の促進・自由化を強化する協定としては、AICO（ASEAN Industrial Complementation）基本協定やAFTA（ASEAN Free Trade Area）計画、そして1996年のASEAN投資地域（ASEAN Investment Area）枠組み協定[6]（以下、「AIA枠組み協定」という）等が締結されている。このAIA枠組み協定は、計画（scheme）ではなく取決め（arrangement）であり、ASEAN地域における直接投資の流れを管理・促進する主要な文書となっている（ASEAN Secretariat 1998: 2-3）。このように、ASEAN地域における投資活動は、投資受入国の国内法だけでなく、種々の投資協定によっても、その保護が図られているといえる。

外国投資家が行う「投資」の場合、その投資形態として、投資受入国での「現地子会社[7]」の設立が考えられる。そして、投資紛争の解決を目的とする「国家と他の国家の国民との間の投資紛争の解決に関する条約[8]（以下、「投資紛争解決条約」という）」の下で設立された投資紛争解決国際センター（“International Centre for Settlement of Investment Disputes”、以下「ICSID」という）の仲裁手続においても、「外国人が支配しているために紛争当事者が投資受入国以外の締約国の国籍を有する法人として取扱うことに合意した投資受入国の国籍を有する法人」すなわち「現地子会社」自体が紛争当事者として取扱われている（第25条第2項（b））。この投資紛争解決条約には、ASEAN加盟国のうちインドネシア、マレーシア、フィリピン、シンガポールが締約国となっている[9]。また、後にIIで述べるように、1987年ASEAN投資促進保護協定では、紛争解決手段の一つとしてICSID仲裁が規定されている。

ICSIDへの紛争付託では、現地子会社に対するICSIDの管轄が認められると、次に仲裁判断に適用される法規（仲裁判断の基準）の決定が問題となる。仲裁判断の基準に関して、投資紛争解決条約では、紛争当事者が合意する法規が適用され、当該合意が存在しない場合には、紛争当事者である締約国の法及び該当する国際法の規則が適用されると規定されている（第42条）。紛争当事者間に仲裁判断の基準に関する合意が存在しない場合で、投資協定に規定された紛争解決条項に基づいて紛争がICSIDに付託された多くの事例では、投資協定が適用される外国投資家の実質的な待遇に関して、当該投資協定に明記された国際法の規則に従う判断が、仲裁裁判所に対して求められている（Shihata & Parra 1999: 336）。すなわち、投資協定に基づいたICSIDへの紛争付託事例では、仲裁判断の基準として、紛争付託の根拠となった投資協定が適用されるといえる。そのため、仲裁判断で示される「投資の保護」の具体的内容は、投資協定に明記された「投資の保護」に関する規定の内容に基づいて決定されるといえる。

このように、投資協定における「投資の保護」は、投資協定の適用・解釈を通じて実現されるものである。言いかえれば、具体的な「投資の保護」は、投資協定の適用・解釈を巡る紛争解決手続の中で明らかになるといえる。そのため、投資協定における「投資の保護」を実現するものとして、投資協定に規定された紛争解決手続が重要になる。ここで、「現地子会社」について考えると、これは「外国投資家の投資」であ

ると同時に、法的には外国投資家から独立した存在である。すなわち、「現地子会社を通じて行われる外国投資家の投資」の場合には、投資協定における「投資の保護」と「現地子会社」の取扱いの関係を明らかにすることが重要であるといえる。そこで本稿では、ASEANの地域投資協定を取り上げ、ICSIDの仲裁判断の基準として適用される「投資の保護」に関する規定では現地子会社がどのように規定されているのか、そして、紛争解決条項では現地子会社がどのように取扱われているのかを検討する。本稿では、この検討を通じて、「現地子会社を通じて行われる外国投資家の投資」を保護するためには、投資協定において「現地子会社」をどのように取扱うことが適切であるのかを提示してみたい。

ここで本稿で検討の対象とするASEANの地域投資協定を明らかにしておく。AIA枠組み協定は、1987年ASEAN投資促進保護協定を補完することを意図するものである[10]。AIA枠組み協定第12条では、1987年ASEAN投資促進保護協定及び1996年 ASEAN投資促進保護協定改定議定書の下で規定された既存の権利義務が認められると明記されている。そして同時に、1987年ASEAN投資促進保護協定・1996年ASEAN投資促進保護協定改定議定書よりもAIA枠組み協定が有利な規定を明記している場合には、AIA枠組み協定の規定が適用されると規定されている。そのため、AIA枠組み協定が規定していない事項には、1987年ASEAN投資促進保護協定・1996年ASEAN投資促進保護協定改定議定書が適用されると考えられる。そこで本稿では、投資保護に関連する協定として1987年ASEAN投資促進保護協定・1996年ASEAN投資促進保護協定改定議定書[11]を、また、投資促進・自由化を強化する協定としてAIA枠組み協定[12]を取り上げる。なお、ASEANにおける紛争解決に関する条約として1996年の紛争解決制度に関する議定書が存在するが、これは、加盟国間の紛争を対象としたものであり、本稿で検討の対象とする現地子会社の取扱いは直接問題にならないといえる。

検討の方法として、まず、「現地子会社」の範囲を明らかにするために、ASEANの地域投資協定において保護の対象となる「会社」の要件を明らかにする（II 1）。その上で、紛争解決条項（外国投資家と投資受入国との間の紛争）における現地子会社の取扱い（紛争当事者として取扱っているのか否か）を明らかにする（II 2）。さらに、紛争解決条項以外において現地子会社をどのように取扱っているのか（現地子会社へ適用される条項）を明らかにする（II 3）。次に、「現地子会社を通じて行われる外国投資家の投資」の場合、現状では協定上「現地子会社」がどのように取扱われることになるのかを検討する（III）。最後に、以上の検討に基づいて、「現地子会社を通じて行われる外国投資家の投資」を保護するためには、投資協定において「現地子会社」をどのように取扱えば適切であるのかを提示し、本稿の結論とする（IV）。

なお、本稿で引用するASEAN投資促進保護協定・1996年ASEAN投資促進保護協定改定議定書及びAIA枠組み協定の関連条文の日本語訳は筆者が行ったものである。

II 「現地子会社」に関するASEANの地域投資協定の規定

1 ASEANの地域投資協定が適用される「会社」

1987年ASEAN投資促進保護協定の対象となる会社は、第１条第２項において規定されている。第１条第２項[13]によれば、1987年ASEAN投資促進保護協定にいうところの締約国の「会社」とは、その形式を問わず締約国の領域内で設立され且つ当該締約国領域内で事実上の経営を行っているものである。

これに対して、AIA枠組み協定では、ASEAN投資家と全ての投資家が保護の対象となっているが（第４条）、ASEAN投資家には他の投資家に比べて有利な待遇が付与されている。AIA枠組み協定第１条[14]によれば、ASEAN投資家にはASEAN加盟国の法人が含まれている。ASEAN投資家は、別の加盟国に投資を行うものであり、当該投資には投資受入国の国内持分要件を満たす「効果的ASEAN持分（effective ASEAN equity）」が必要になる。また、この定義の適用上、ASEAN加盟国の自然人又は法人の持分は、投資受入国の自然人又は法人の持分であると看做されている。ASEAN加盟国の投資家が投資に対して決定的な保有財産を有していることがこの「効果的ASEAN持分」が認められる要件となる。しかし、ASEAN投資家の持分構造のために、決定的な保有財産構造を確立することが困難な場合は、ASEAN加盟国（投資受入国）で用いられている効果的持分に関する規則が適用されることになる。さらに、AIA枠組み協定上、「法人」とは、その設立目的や形式等を問わず、加盟国の適用法規に基づいて設立された法的主体を意味している。

1998年10月８日、マニラで行われたAIA理事会において公布された共同プレス（joint press）[15]では、「寛容な定義（liberal definition）がASEAN投資家について採用され、ASEAN投資家は、各投資受入国の持分要件（equity condition requirement）に従い国内投資家に等しいものとして定義された」と明記されている。

2 外国投資家と投資受入国との間の紛争

2-1 紛争解決手続

「外国投資家と投資受入国との間の紛争」に関して、1987年ASEAN投資促進保護協定では規定されているが、AIA枠組み協定では規定されていない。そのため、Iで述べたように、AIA枠組み協定第12条に従い、外国投資家と投資受入国との間の紛争には、1987年投資促進保護協定の規定が適用されることになる。

1987年ASEAN投資促進保護協定第10条[16]は、投資から直接生じる法律上の紛争について規定している。これによれば、紛争が生じた場合、紛争当事者間の友好的な解決が行われることになる（第１項）。そして、友好的な解決がなされない場合、紛争解決手段の一つとしてICSIDへの紛争付託が規定されている（第２項）。

2-2 紛争解決手続における紛争当事者

1987年ASEAN投資促進保護協定では、一方の紛争当事者として、「投資受入国以外の締約国の国民又は会社」が規定されている。投資紛争の当事者として取扱われる「会社」は、1987年ASEAN投資促進保護協定の定義

（第１条第２項）に基づいて、「ASEAN加盟国（投資国）で設立され、別の加盟国（投資受入国）に投資を行った会社」であると解釈できる。そのため、投資受入国で設立された現地子会社は、「現地法人」であり、1987年ASEAN投資促進保護協定上では紛争当事者として取扱われないといえる。つまり現地子会社を巡る投資紛争が生じた場合、現地子会社を設立した「会社（外国投資家）」のみが紛争当事者として取扱われることになる。

３　「現地子会社」に関する投資協定上の規定

３-１　「投資」としての現地子会社

1987年ASEAN投資促進保護協定第１条第３項[17]は、「投資」には「会社の持分等」が含まれると規定する。また、第２条[18]では、ASEAN加盟国の「会社」による別のASEAN加盟国（投資受入国）への投資であって、投資受入国の認可を受けた投資が、1987年ASEAN投資促進保護協定によって保護されている。そして、1987年ASEAN投資促進保護協定第４条第２項[19]では、ASEAN加盟国の投資家による全ての投資に対して最恵国待遇が付与されている。

これに対して、AIA枠組み協定は、特に「投資」について定義していない。しかし、第２条[20]では、証券投資以外の全ての直接投資に対してAIA枠組み協定が適用されると規定されている。また、AIA枠組み協定では、ASEAN投資家及びその投資に対して内国民待遇（第７条）と最恵国待遇（第８条）が付与されている。AIA枠組み協定では「全ての直接投資」が対象とされるため、1987年ASEAN投資促進保護協定が規定する「会社の持分等」も、当然にAIA枠組み協定が規定する「投資」に含まれると考えられる。

以上のことから、1987年投資促進保護協定では、第２条の規定により投資受入国によって認可された「外国投資家の投資」のみが保護されることになる。そのため、1987年投資促進保護協定は、ASEAN加盟国の投資家による別のASEAN加盟国への全ての投資を対象とするのではないといえる（Davidson 1997: 78）。ASEANの地域投資協定では、投資受入国に利益をもたらす投資のみが、協定によって保護されることになる（Sornarajah 1995: 122）。すなわち、投資受入国によって認可された「外国投資家の投資」（1987年投資促進保護協定）や、効果的ASEAN持分要件を満たした「ASEAN投資家の全ての直接投資」（AIA枠組み協定）のみが保護されることになるといえる。これら２つの協定では、「投資」として「会社（現地子会社）の持分等」が含まれている。このことから、ASEANの地域投資協定では、ASEAN加盟国の投資家（外国投資家）が所有する「会社の持分等」が「投資」として保護されることで、現地子会社が保護されることになると考えられる。

３-２　投資受入国の「現地法人」とは区別して規定される現地子会社

1987年ASEAN投資促進保護協定第６条[21]は、投資の収用と補償について規定している。第６条第１項は、ASEAN加盟国の投資家（外国投資家）の投資に対する収用措置を規定する。そして、第２項は、投資受入国で設立された「現地子会社」の「資産」が収用された場合で、且つ、当該会社の株式を外国投資家が所有している場合に、収用された現地子会社の資産に対して当該外

国投資家が有していた利益の限度において、第１項の規定が適用されると規定する。このように、収用に関しては、特に「現地子会社の資産」についても規定されている。この点で、「現地子会社」は、投資受入国の他の現地法人と区別して取扱われているといえる。

III　ASEANの地域投資協定における「現地子会社」の取扱い

１　協定において保護される主体-外国投資家として取扱われる「会社」-

1987年ASEAN投資促進保護協定では、ASEAN加盟国の領域内で設立され且つ当該加盟国領域内で事実上の経営を行っている「締約国の会社」は、別のASEAN加盟国へ投資をする場合に当該投資が投資受入国によって認可されると、外国投資家として協定上保護されることになる。また、AIA枠組み協定では、ASEAN加盟国の適用法規に基づいて設立された法的主体である「締約国の法人」は、別のASEAN加盟国への投資が「効果的ASEAN持分」の要件を満たす場合に、ASEAN投資家として協定上保護されることになる。

AIA枠組み協定では、1987年ASEAN投資促進保護協定とは異なり、設立準拠法国での「事実上の経営（活動）」が「会社」の要件とされていない。しかし、1987年ASEAN投資促進保護協定においても、AIA枠組み協定においても、ASEAN加盟国で設立されるという設立準拠法を一つの要件として、外国投資家として取扱われる「会社」が判断されている。そのため、ASEANの地域投資協定では、原則として、あるASEAN加盟国において設立された「会社」が、当該「加盟国の会社」となる。そして、当該「加盟国の会社」は、別のASEAN加盟国（投資受入国）への投資が投資受入国によって認可されると、外国投資家として協定上保護されることになる[22)]。すなわち、ASEAN加盟国（投資受入国）で設立された「現地子会社」は、投資受入国の「現地法人」として取扱われると考えられる。その結果、外国投資家に代わって実際に投資活動を行っている現地子会社であっても、協定上外国投資家に認められた優遇措置は、当該現地子会社に対して認められないことになる。

２　投資協定の中の「現地子会社」

ASEANの地域投資協定では、現地子会社は、外国投資家に認められた優遇措置を直接享受することはできないと考えられる。しかし同時に、現地子会社自体を対象とする規定も存在している。

2-1　外国投資家による「投資」

1987年ASEAN投資促進保護協定では、外国投資家が所有する「現地子会社の持分等」が「投資」として保護されることで、「現地子会社」が保護されるといえる。もっとも、当該協定が適用される投資は、投資受入国によって認可されなければならない（第２条）。そのため、現地子会社が「投資」として保護さるか否かの判断は、投資受入国に委ねられているといえる。これに加えて、実際の投資活動を規律している国内法の内容がASEAN加盟国間で異なっているため、ASEAN加盟国間の投資協力に否定的な影響を与えていると指摘されている（Chirathivet, Pachusanond & Wongboonsin 1999: 31）。このことを考えると、投資受入国の判断によっては、「現地子会社」が「投

資」としても保護されないことがあり得るといえる。

AIA枠組み協定でも、「ASEAN投資家」が行う別のASEAN加盟国への投資が保護される。ASEAN投資家が別のASEAN加盟国で現地子会社を設立した場合、当該現地子会社は「投資」として保護されることになる。しかし、当該協定においても、ASEAN投資家の行う「投資」は、「効果的ASEAN持分」の要件を満たさなければならない。そのため、この「効果的ASEAN持分」を満たしていないと判断されると、現地子会社は「投資」としても保護されない場合があると考えられる。実際、ASEAN加盟国間では「効果的ASEAN持分」に必要な投資受入国の国内持分要件を３割、５割、７割のいずれとするかで対立していると指摘されている（金子1999：23[23]）。今後の運用を通じて、現地子会社が「投資」として保護されるための具体的な要件を明らかにすることが必要である。

2-2　投資活動の「主体」として直接保護される現地子会社

1987年ASEAN投資促進保護協定が規定する紛争解決条項では、紛争当事者として取扱われる「会社」には、原則として投資受入国に投資をする「締約国の会社（外国投資家）」のみが該当すると解釈できる。条文上、投資受入国において設立された現地子会社の取扱いについては特に規定されていない。しかしながら、「外国投資家」が「現地子会社」を設立する場合には、投資活動は当該現地子会社を通じて行われることになる。この場合、「現地子会社」が「外国投資家」に代わって実際の投資活動を行うと考えられる。このように考えた場合、投資活動に関連して生じる紛争は、直接的には、外国投資家と投資受入国との間で生じるのではなく、実際に投資活動を行っている現地子会社と投資受入国の間で生じているといえる。

Iで述べたように投資紛争解決条約では、投資受入国の会社であっても、当該会社が外国人に支配されており、且つ、両紛争当事者が当該会社を投資紛争解決条約の適用上、他の締約国の国民として取扱うことに合意した場合、例外的に当該会社に対するICSIDの管轄が認められている（第25条第２項（b））。そして、1987年ASEAN投資促進保護協定第10条第２項では、紛争解決手段の一つとしてICSIDへの紛争付託が規定されている。また、外国投資家が希望する場合には、ICSIDにおける仲裁が義務づけられることになっている（Sornarajah 1995: 122）。そのため、紛争がICSIDに付託された場合には、現地子会社であっても紛争当事者として取扱われる場合があると考えられる。しかしながら、1987年ASEAN投資促進保護協定は、現地子会社に対するICSIDの管轄を認めた第25条第２項（b）に言及していない。1987年ASEAN投資促進保護協定の条文上、現地子会社が紛争当事者として認められるか否かは明らかでない。現地子会社が紛争当事者として1987年ASEAN投資促進保護協定に基づいて実際に紛争をICSIDに付託した場合、当該現地子会社がどのように取扱われるか注目される。しかし、1999年７月の時点においては、1987年ASEAN投資促進保護協定に関連する紛争は生じていない[24]。

これに対して、1987年ASEAN投資促進保護協定第６条第２項は、「現地子会社の資産」の収用について規定することから、「ASEAN加盟国（投資国）の会社（外国投

資家）」の所有する利益の保護を目的とするものといえる。これは、「外国投資家の投資」を広く保護するために、「現地子会社の株主の権利」を認めたものと考えられる。ただし、この規定によっても「現地子会社」自体が直接保護の対象となっているのではないといえる。しかしながら、同条第１項でも「外国投資家の投資」の収用については規定されている。ここで、1987年ASEAN投資促進保護協定における「現地子会社」の取扱いを考えると、「現地子会社」は、「会社」の定義に基づいて投資受入国の「現地法人」として取扱われ、一方では外国投資家の所有する「投資（会社の持分等）」としても保護されている。また、「現地子会社の資産」自体が収用された場合には、外国投資家が所有する「会社の持分等」の価値が減少すると考えられる。しかしこれは、「外国投資家の投資（現地子会社の持分等）」自体が収用されていないため、第１項を適用できない場合であると解釈できる。その結果、外国投資家が投資活動の主体として設立した「現地子会社の資産」が収用されたとしても、協定上は保護されないことになるといえる。この問題を解決するために、第２項で改めて「現地子会社の資産」自体の収用が規定されていると解釈できる。このことを考慮すると、第６条第２項は、「現地子会社の資産」が、「外国投資家の投資」とは異なるものとして取扱われることを示した規定であると解釈できる。1987年ASEAN投資促進保護協定の収用に関する規定では、「外国投資家の投資」を保護するためには「現地子会社の資産」の取扱いについても考慮することが必要である、という点が示されているといえる。このことから、「現地子会社」は、「外国投資家の投資」としてだけでなく、これとは区別された存在として保護される必要があるのではないかと考えることができる。

Ⅳ　おわりに

ICSIDへの紛争付託を規定する投資協定であれば、投資紛争解決条約第25条第２項（b）との関係で、現地子会社に対するICSIDの管轄が問題になるといえる。そのため、「現地子会社」を通じて投資を行う外国投資家が存在する状況では、投資協定上、「現地子会社」の取扱いを明記することが重要になる。「現地子会社」は、「外国投資家の投資」という点で他の現地法人とは異なる性質を有している。1987年ASEAN投資促進保護協定が「収用」に関する規定の中で「現地子会社の資産」について特に規定する趣旨を考えると、「現地子会社を通じて行われる外国投資家の投資」を保護するためには、「現地子会社」自体を直接保護する規定についても考慮することが適切である。

もっとも、1987年ASEAN投資促進保護協定では、最恵国待遇を規定するに留まり、内国民待遇の問題を加盟国間で締結される協定に委ねている。ASEAN加盟国は、国家主権や国内産業の育成等の観点から、多国間の投資協定における内国民待遇の付与に対して消極的であると指摘されている（Chee: 23-24. in Chia & Tan 1997）。また、本稿で検討した２つの地域投資協定とは別に、ASEAN加盟国であるインドネシア・マレーシア・シンガポールの３カ国は、新しい経済協力の形態である「成長の三角地帯（Growth Triangle）[25]」の法的枠組みとして、シンガポール・インドネシア間、及び、シ

ンガポール・マレーシア間の二国間投資協定を締結している[26]。これら２つの協定は、1987年ASEAN投資促進保護協定を前提として作成されている（Foo 1991: 179-181[27]）。しかし、「会社」の定義に関して、1987年ASEAN投資促進保護協定とシンガポール・インドネシア間の投資協定との間には相違があると指摘されている（Foo 1991: 181）。本稿で明らかにしたように、1987年ASEAN投資促進保護協定では、ASEAN加盟国の「会社」は、ASEAN加盟国の領域内において現行法に基づき設立された会社等で、当該ASEAN加盟国で事実上の経営を行っているものである。これに対して、インドネシア・シンガポール間の投資協定では、経営の中心地が第三国に置かれているとしても（notwithstanding their effective seat of management is somewhere else）、シンガポール又はインドネシアにおいて登録された外国会社は、協定上保護されると規定している。この規定に関して、潜在的投資家であるシンガポールに置かれた多くの多国籍企業の存在を意識するものであり、当該規定がインドネシアへの投資に対する刺激になると考えられている。そしてこのことは、インドネシアに置かれた多国籍企業にとっても同様であると考えられている（Foo 1991:181）。この他にも、1987年ASEAN投資促進保護協定第２条第１項では投資受入国の投資認可が必要とされているが、インドネシア・シンガポール間の投資協定の下ではシンガポール企業によって行われる事業（投資）は、インドネシアの外国投資法による認可を得ることなく、自動的に1987年ASEAN投資促進保護協定の保護が与えられることになると指摘されている（Foo 1991: 181；今泉1996：36）。これらのことを考えると、外国投資家が現地子会社を通じてASEAN加盟国で投資活動を行う場合には、ASEANの地域投資協定と同時に、投資受入国（ASEAN加盟国）が締結した二国間投資協定の適用を考慮することも必要になるといえる。そして、個々の協定毎に、協定上保護される「締約国の会社」の要件が異なる場合もあると考えられる。そのため、今後の研究では、ASEAN加盟国における現地子会社を通じて行われる外国投資家の投資に関して、ASEANの地域投資協定における現地子会社の取扱いのみではなく、個々の二国間投資協定における現地子会社の取扱いを同時に検討していきたい。

注

1）ASEAN域内協力全般については以下の文献を参照：安田2000：315-337.； 櫻井2000：210-244.；Sucharitkul 1991: 124-139.; Suthad 1998.

2）ASEAN域内には、地域的な多国間による投資政策は存在していないとし、ASEAN域内における共通投資法典の創設を目指すべきであるとの見解が存在している（Konan 1996: 346）。しかしながらこの見解では、1987年ASEAN投資促進保護協定をどのように捉えているか示されていない。そして他にも、「ASEANは共通の投資政策を持っておらず、投資の促進・保護に関する取決めをしているのみである（ASEAN had no common investment policy, but an agreement on investment promotion and protection.）」とする見解もあるが（Suthiphand, Chumphorn & Patcharawalai 1999: 33）、この見解でも、1987年ASEAN投資促進保護協定をどのように捉えているか不明である。なお、この1987年ASEAN投資促進保護協定それ自体の存在があまり一般に知られていないため、1987年

ASEAN投資促進保護協定やAIA枠組み協定を含めたASEANにおける投資政策に関する広報活動を、ASEAN事務局が積極的に行っている状況にある（ASEAN事務局投資・財政・金融部門上級職員（Senior Officer, Investment, Finance and Banking）Maricel S. Masesar氏からの1999年７月16日付E-Mailでの回答）。

3）Agreement among the Government of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, and the Kingdom of Thailand for Promotion and Protection of Investments.

4）Protocol to Amend the Agreement among the Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, and the Kingdom of Thailand for the Promotion and Protection of Investment.

5）Protocol on Dispute Settlement Mechanism.

6）Framework Agreement on the ASEAN Investment Area.

7）本稿では、投資受入国の「現地法人」であるものを「現地子会社」と呼び、「外国投資家が投資受入国の国内法に基づいて設立した、外国投資家に代わって投資受入国において投資活動を行う現地子会社」と定義する。

8）昭和42年８月25日公布、条約第10号.
投資紛争解決条約及びICSID全般については以下の文献を参照：池田1969.；河野1995：325-353.；河野1998：601-621.

9）なお、カンボジアは、1993年11月５日に署名しているが、2001年８月現在未発効である。また、タイも、1985年12月６日に署名しているが、2001年８月現在未発効である。

10）この見解については、Investment, available at <http://www.aseansec.org/economic/ov_inv.htm>を参照。

11）1987年ASEAN投資促進保護協定は、1987年12月15日に、ASEAN加盟国であるブルネイ、インドネシア、マレーシア、フィリピン、シンガポール、タイの間で締結された協定であり、1996年に改定作業が行われた（U. N. Conference on Trade & Development 1996: 293）。1996年９月12日、ジャカルタにおいて、インドネシア、マレーシア、フィリピン、シンガポール、タイ、ベトナムの各国政府の間で1996年 ASEAN投資促進保護協定改定議定書が締結された。なお、テキストは、ASEAN SECRETARIAT 1998: 3-6, 11-30 を参照。

12）ASEAN投資地域（AIA）計画は、1997年７月にマニラで開かれていたASEAN投資誘致機関代表会議で、その計画の作成が確認されたものである。この時点では、ASEANの経済成長を維持するには、域内の投資交流を一段と拡大する必要があるとされ、計画では、域内の投資規制の緩和や投資手続の透明化、共通化が柱とされていた（『日本経済新聞』1997年７月５日.）。その後、1998年７月にマニラで開かれていたASEAN外相会議において採択された共同声明において、ASEAN自由貿易地域（AFTA）とAIAの実施を加速する決意が表明されている（『日本経済新聞』1998年７月26日.;『朝日新聞』1998年７月26日.）。そして、1998年10月にマニラで開かれたASEAN経済閣僚会議において、直接投資を域内で自由化するAIA枠組み協定が調印された。この協定は、自由な投資活動を保障する環境を整えることで、域内投資の促進と域外からの投資の増加を図ることを目的とし、域内の投資を2010年までに自由化し、域外からの投資は2020年までに自由化することを目標としていた（『日本経済新聞』1998年10月８日.；『朝日新聞』1998年10月８日.）。しかしながら、その後発生したアジア経済危機を克服するため、自

由化を加速し投資意欲を刺激する狙いで、域内投資の自由化について、ベトナム・ラオス・カンボジアを除くASEAN加盟７ヶ国が、自由化の目標年次を７年繰り上げ、2003年とすることで基本合意している（『日本経済新聞』1998年11月５日.；ASEAN研究会「ASEAN広域経済圏への道 域内経済協力㊦」『日本経済新聞』1999年６月３日.)。なお、テキストは、ASEAN Secretariat 1998: 7-9, 49-68. を参照。

13）第１条　定義

この協定の適用上、

第２項 締約国の「会社」（company）とは、社団法人（corporation)、組合（partnership)、又は、その他の事業団体（other business association）であって、締約国の領域内で効力を有する法律に基づいて設立され、且つ、当該締約国の領域内で事実上の経営が行われているものをいう （wherein the place of effective management is situated)。

14）第１条　定義

この協定の適用上、

「ASEAN投資家」とは、

i. 加盟国の自然人（a national）；又は

ii. 加盟国の法人（any juridical person）であり、他方の締約国において投資を行っているものであり、他のASEAN持分で累加的に占められた投資に対する効果的ASEAN持分（effective ASEAN equity of which taken cumulatively with all other ASEAN equities）が、少なくとも、当該投資に関する投資受入国の国内法及び公布された国内政策の国内持分要件（national equity requirement）及び他の持分要件（other equity requirements）を満たす最小割合要件を満たす。

この定義の適用上、加盟国の自然人又は法人の持分（equity）は、投資受入国の自然人又は法人の持分（the equity）であると看做されなければならない（shall be deemed to be)。

ASEAN加盟国での投資に関する「効果的ASEAN持分」とは、当該投資に対するASEAN加盟国の自然人又は法人による決定的な保有財産（ultimate holdings）を意味する。ASEAN投資家の持分構造（the shareholding/equity structure）のために、決定的な保有財産構造（ultimate holding structure）を確立することが困難である場合、ASEAN投資家が投資を行っている加盟国が用いている効果的持分決定のための規則及び手続が適用される。必要な場合、投資協力委員会は、この目的のための指針を準備しなければならない。

「法人（juridical person)」とは、社団法人（corporation)、トラスト（trust)、組合（partnership)、合弁会社（joint venture)、一人会社（sole proprietorship)、団体（association）を含む、利益獲得のためであるか又はその他の目的のためであるかに拘わらず、及び、個人所有であるか又は政府所有であるかに拘わらず、加盟国の適用法規に基づいて合法的に構成され（duly constituted）又はその他の方法で組織された（otherwise organised）全ての法的主体（any legal entity）を意味する。

15）共同プレスについては、Joint Press Release, Inaugural Meeting of the ASEAN Investment Area （AIA） Council on 8 October 1998, Manila Philippines, available at <http://www.aseansec.org/economic/>.を参照。

16）第10条 締約国と他の締約国の投資家との間の紛争

第１項 締約国及び当該締約国以外の締約国の国民又は会社との間で、投資から直接生ずる法律上の紛争は、できる限り、当該紛争当事者間で友好的に解決されなければならない。

第２項 当該紛争が生じたときから６箇月以内に

解決できない場合、いずれか一方の当事者は、当該紛争を調停又は仲裁に付託することを選択でき、当該選択は他方の当事者を拘束する。当該紛争は、投資紛争解決国際センター（ICSID）、国連国際商取引法委員会（UNCITRAL）、クアラルンプール地域仲裁センター（the Regional Centre for Arbitration at Kuala Lumpur）、又は、その他のASEAN域内にある地域仲裁センターに付託することができ、紛争当事者は、当該仲裁の実施のためにいずれかの仲裁機関を指定することに同意する。

17）第１条　定義

この協定の適用上、

第３項「投資」（investment）とは、全ての種類の資産（asset）であって、特に以下のものを含むが、これに限られるものではない（thorough not exclusively）：

b）会社（companies）の持分（shares）、株式（stocks）、社債（debentures）、又は、会社の財産（property）に対する利益（interests）

18）第２条　適用範囲

第１項 この協定は、締約国の国民又は会社によって、それ以外の締約国の領域おいて行われた投資、又は、当該領域への投資に直接関係する投資であって、及び、投資受入国が明確に文書で承認し且つ登録し、並びに、この協定の適用の目的に適切であると看做される条件を満たす（upon such conditions as it deems fit for the purpose of this Agreement）投資に対してのみ適用される。

第２項 この協定は、本条約第１項の規定に基づき、本協定の適用範囲に含まれない投資に関して、締約国の権利義務に影響するのものではない。

第３項 この協定は、本協定の効力発生後、投資受入国が明確に文書で承認し且つ登録し、及び、この協定の適用の目的に適切であると看做される条件を満たす（upon such conditions as it deems fit for the purpose of this Agreement）投資の場合、当該投資が本協定発効前に行われたものであっても適用される。

19）第４条　待遇

第２項 締約国の投資家による全ての投資は、他方の締約国の領域内において、公正で且つ公平な待遇を享受する。この待遇は、最恵国待遇を付与された投資家に対して付与された待遇よりも、不利な待遇であってはならない。

20）第２条　適用範囲

この協定は、次のものを除いた、全ての直接投資（all direct investment）に対して適用される。

証券投資；及び

サービスに関するASEAN枠組み協定のような、他のASEAN協定が適用される投資に関連する事項.

21）第６条

第１項 締約国の国民又は会社の投資は、公共の使用、公共の目的、又は、公共の利益の場合を除いて、及び、法の適正な手続、無差別原則、十分な補償の支払に基づく場合を除いて、収用、国有化、又は、それと類似のいかなる手段（以下、「収用」という）の対象とはならない。以下略。

第２項 締約国が、その領域において効力を有する法律に基づいて設立（incorporated）又は構成された（constituted）会社の資産を収用する場合で、他方の締約国の国民又は会社が当該会社の株式を所有している場合、締約国は、本条第１項で付与された補償を確保するために、収用された資産に占める利益の限度において、当該国民又は会社に対して本条第１項の規定を適用する。

22）なお、1987年ASEAN投資促進保護協定及びAIA枠組み協定では、協定上保護される会社（外国投資家）を設立した「投資家」の要件は規定していない。そのため、会社（外国投資家）の「投資家」が「非締約国」の国民又は会社であった場合にも、当該「会社（外国投資家）」が「締約国」の国民・会社が設立した会社と同等に取扱われるのかは不明である。

23）なお、金子論文は、「アセアン域内からの出資比率」について述べているが、これは本稿でいうところの「ASEAN投資家」が別のASEAN加盟国への投資において必要とされる「効果的ASEAN持分」を意味していると解釈できる。

24）ASEAN事務局投資・財政・金融部門上級事務員（Senior Officer, Investment, Finance and Banking）Maricel S. Masesar氏からの1999年７月16日付E-Mailでの回答。

なお、その後の状況については、調査することができなかった。もっとも、2001年７月現在、ASEAN加盟国が紛争当事者となりICSIDに付託された紛争があるが（Amco Asia Corporation and others v. Republic of Indonesia （Case No.ARB/81/１）.; Philippe Gruslin v. Malaysia（Case No.ARB/94/１） .;Philippe Gruslin v. Malaysia （Case No.ARB/99/３）.)、Amco事件以外、現時点ではその仲裁判断が公表されていない。そのため、これらの事件が1987年ASEAN投資促進保護協定に基づいて紛争付託されたものであるか否かについて、確認することができなかった(ICSID Cases, available at <http://www.worldbank.org/icsid/cases/cases.htm>.)。

25）「成長の三角地帯」構想については以下の文献を参照：Davidson 1997: 79-83.; Lee（Tsao） 1991.; Toh & Low 1993.

26）具体的には、1989年10月にシンガポールとマレーシアとの間で二国間協定が締結され（Vatikiotis 1990a: 15; Davidson 1997: 81)、1990年８月28日には、シンガポールとインドネシアとの間で、「成長の三角地帯」の対象地域を拡大する協定と投資促進協定が署名されている（Vatikiotis 1990b: 13. ; Davidson 1997: 81.)。なお、これらの文献では、締結された協定を二国間投資保証協定（bilateral investment guarantee agreement）としているが、これは、シンガポール司法長官府（Attorney General's Chambers） Foo氏の論文（1991）を考慮すると、投資促進保護協定（Agreement for the Promotion and Protection of Investment）（二国間投資協定）を意味していると解釈できる。

27）なお、この論文では、1987年ASEAN投資促進保護協定以外にも、1974年８月29日のシンガポールとインドネシアとの間の経済・技術協力に関する基本協定（Basic Agreement on Economic and Technical Cooperation between Singapore and Indonesia of 29 August 1974.)、1980年10月31日のBatam開発の枠組みの中での経済協力に関するシンガポールとインドネシアとの間の協定（Agreement between Singapore and Indonesia on Economic Cooperation in the framework of the development of Batam, signed on 31 October 1980.)、1990年８月28日のRiau省開発の枠組みの中での経済協力に関するシンガポールとインドネシアとの間の協定（Agreement between Singapore and Indonesia on Economic Cooperation in the framework of the Development of Riau Province, of 28 August 1990.）も検討されている。

引用文献

ASEAN Secretariat. 1998. Handbook of Investment Agreements in ASEAN. Jakarta Indonesia: ASEAN Secretariat.

Chee, Peng Lim, ASEAN's Policies Towards the European Union, in Chia, Siow Yue, & Tan,

Joseph L. H., eds. 1997. ASEAN & EU: Foreign New Linkages and Strategic Alliances. Singapore: Institute of Southeast Asian Studies.

Davidson, Paul J. 1997. The Legal Framework for International Economic Relations: ASEAN and Canada. Singapore: Institute of Southeast Asian Studies.

Davidson, Paul J., Regional Economic Zones in the Asia-Pacific: An Economic Law Perspective, in Toh, Mun Heng, & Low, Linda, eds. 1993. Regional Cooperation and Growth Triangles in ASEAN. Singapore: Time Academic Press: 193-209.

Foo, Kim Boon. 1991. Investment and Cooperation Agreement in the Framework of the Indonesian-Malaysia-Singapore Growth Triangle. Asian Yearbook of International Law. 1 : 179-182.

池田文雄. 1969.『投資紛争解決法の研究』アジア経済研究所.

今泉慎也「東アジアにおける二国間投資促保護協定の締結状況」矢谷通朗（編）1996. 『経済協力シリーズ（法律）第178号 外国投資の法的保護-その現代的様相と課題』アジア経済研究所：25-58.

金子由芳. 1999.「投資自由化議論の動揺とベトナム外資法の対応」『アジア経済』40（７）：２-26.

河野真理子. 1995.「投資紛争解決国際センター-その制度と活動-」『筑波法政』18：325-353.

河野真理子. 1998.「投資紛争解決国際センターの制度と活動」『国際商事法務』26（６）：601-621.

Konan, Denise Eby. 1996. The Need for Common Investment Measures within ASEAN. ASEAN Economic Bulletin. 12（３）: 339-350.

Lee（Tsao）,Yuan, ed. 1991. Growth Triangle: the Johor-Singapore-Riau experience. Singapore: Institute of Southeast Asian Studies.

櫻井雅夫. 1997.『現代法律学体系　国際経済法［新版］』成文堂.

櫻井雅夫. 2000.『新国際投資法-投資と貿易の相互作用-』有信堂.

Shihata, Ibrahim F. I. & Parra, Antonio R. 1999. The Experience of the Settlement of Investment Disputes. ICSID Review - Foreign Investment Law Journal. 14（２）: 299-361.

Sornarajah, M. 1995. Protection of Foreign Investment in the Asia-Pacific Economic Co-operation Region. Journal of World Trade.29（２）: 105-129.

Sucharitkul, Sompong. 1991. ASEAN Society, A Dynamic Experiment For South-East Asian Regional Co-operation. Asian Yearbook of International. 1 : 113-148.

Suthad Setboonsarng. 1998. アセアン経済協力の枠組みASEAN Economic Cooperation-AFTA and ASEAN Industrial Cooperation（AICO）. in ASEAN Investment Seminar in Tokyo on June 16, 1998, available at <http://www.asean.or.jp/hp_in/ suthad.html>.

Suthiphand Chirathivat, Chumphorn Pachusanond&Patcharawalai Wongboonsin. 1999. ASEAN Prospects for Regional Integration and the Implications for the ASEAN Legislative and Institutional Framework. ASEAN Economic Bulletin. 16（１）: 28-50.

Toh, Mun Heng, & Low, Linda, eds. 1993. Regional Cooperation and Growth Triangles in ASEAN. Singapore: Time Academic Press.

U. N. Conference on Trade & Development. 1996. International Investment Instruments: A Compendium Volume II Regional Instruments. U.N.Doc.UNCTAD/DTDI/30（Vol.II）, U. N. Sales No. E. 96. II. A.

Vatikiotis, Michael. 1990a. Singapore pushes economic ties with neighbors: Triangular vision. Far Eastern Economic Review. 149（30）: 15.

Vatikiotis, Michael. 1990b. Bet on Batam. Far Eastern Economic Review. 149（36）: 13.
安田信之. 2000.『東南アジア法』日本評論社.

『国際開発研究フォーラム』21（2002. 3）
Forum of International Development Studies, 21 (Mar. 2002)

PUBLIC ENTREPRENEURSHIP AS A LOCAL GOVERNANCE STRATEGY IN DECENTRALIZING POLITY

—EXEMPLARY INITIATIVES FROM THE PHILIPPINES—

Aser B. JAVIER*

ABSTRACT

The current wave of enthusiasm given to the new prospects of public management rooted with business principles like public entrepreneurship has led to the transformation and the re-thinking of ways in the processes of the public sector administrative systems. The ambiguity of the concept of public entrepreneurship has given rise to demands for scholarly work in this relatively new field. The paper aims to unravel the conditions of public entrepreneurship becoming a local governance strategy in decentralizing polity in the local government of the Philippines.

The assessment of public entrepreneurship is premised on James Rosenau's（1992：14）three-dimensional theorizing on the analysis of governance—ideational, behavioral and political level. The ideational dynamics refers to the perception of public entrepreneurship; behavioral, the actions that support public entrepreneurship; and, political, the means to enact public entrepreneurship. The study focused on its assessment on three specific units of analysis in the Philippines, as three cases-in-a-case, the Province of Bulacan, the City of Marikina and the Municipality of Irosin.

The local government's perceived public entrepreneurship programs as geared towards community poverty alleviation, administrative reforms and business and industry assistance. The institutional programs assessed and identified in support of public entrepreneurship were organizational development in the province of Bulacan, the practice of managerialism in the city of Marikina and the local government-civil society synergy in the municipality of Irosin. The means to enact public entrepreneurship has been largely through policies and programs initiated by local chief executives, which consequently became a collective effort of the local government and the community.

While public entrepreneurship is found to be an important element of public management necessary for strategic local governance decentralization, public entrepreneurship is not viewed as a deliberate effort to decentralize polity but as vehicles for change in general. The study also highlights that the conditions for the emergence of public entrepreneurship is heavily influenced by local chief executive leadership and vision, continuity of programs and civil society participation. Further, the Philippines Local Government Code of 1991 and

＊Doctoral candidate at the Graduate School of International Development, Nagoya University and currently on-leave as Assistant Professor at the Institute of Development Management and Governance, University of the Philippines Los Banos.

recent developments in governance and management like managerialism, client first orientation and improvements of administrative systems and procedures were also identified as contributory to the emergence of public entrepreneurship as a local governance strategy in the Philippines.

1. Introduction

We are in the midst of a silent revolution—a triumph of the creative and entrepreneurial spirit of human kind throughout the world. I believe its impact on the 21st century will equal or exceed that of the industrial revolution of the 19th and the 20th.

Jeffrey Timmons

As we begin the 21st Century, important changes in the way the public sector is managed and administered are taking place globally. The traditional belief that governance is the domain of government is being examined and re-evaluated. These paradigmatic changes were adopted in the 1999 World Conference on Governance where governance was defined as not just the state but going beyond it by including civil society and the private sector[1]. Alongside this new state - society relations, new possibilities and coping mechanisms for governance are being discovered. Further, the rise of New Public Management (NPM) as a result of the increased utility of private sector strategies into the public sector among others also gave rise to emergence of new models of public management reforms.

One of them is the transformation of governance as postulated by Osborne and Gaebler(1992 : 1 ; Osborne and Plastrik, 1997 : 13-14)through their re-inventing government thesis. They prescribed that government should not be banished but instead should be re-invented. Taking off from this perspective is a call for an entrepreneurial government. Public entrepreneurship provides promising possibilities for a radical reform of the bureaucracy[2], which matches with the people's demand for an efficient, economic and effective government.

Usually it is contended that it is an imperative for public entreprenuership to be defined, to provide a common language and mental frame in its understanding. The paper followed the paraphrased definition of public entrepreneurship of Roberts and King (1991 : 147) as the " process of introducing innovations- the generation, translation and implementation of new ideas- into the public sector. " It is guided by the process of vision building, risk taking, pro-activity, sustainability, participation and innovation on the part of the organization, in this particular case, the local government units of the Philippines.

2. The Need for a Theory of Public Entrepreneurship

Contemporary discourses locate entrepreneurship in organizations and institutions; it also includes

entrepreneurship at the level of the individual. From these perspectives, the discussion of theories of entrepreneurship is made at the, (1) classical boundaries; (2) at the current trend of entrepreneurship at the managerial and administrative boundaries; (3) at the personal attributes boundaries focusing on the individual as an entrepreneur and (4) public entrepreneurship as an NPM model.

The root word of entrepreneurship can be traced as far back as eight hundred years, to the French verb ' entreprende ' which means to do something and also means a ' between-taker ' or ' go-between. ' Richard Cantillon in the 1700s argued the need for direction, supervision, control, and a person that should bear risk. In 1800, the French economist Jean Baptiste Say defined the entrepreneur as someone who shifts economic resources out of an area of lower and into an area of higher productivity and greater yield. John Stuart Mill in the 1800s and David McClelland in the 1960s argued along similar lines. In the 1990s, the focus of research has been on the applications of entrepreneurship, which is predominantly managerial in nature. Further, the entrepreneur or the traits of the individual has also been increasing recently in literature.

From a classical perspective, entrepreneurship is viewed from the level of markets. Following the tradition of entrepreneurship stimulating economic growth, entrepreneurship is defined as the perception of new business opportunity in the market, Israel Kirzner (1979 : 8), a leading student of entrepreneurship once argued. According to him, there are two different aspects of economic activity. One is economic efficiency and the other, the discovery of opportunities. Entrepreneurs are able to identify the opportunities and the gaps in the market and establish the niche by which they can enter the market. In this sense, entrepreneurship derives its being and understanding from the business realm, as an enterprise.

Further, neo-classical economists viewed entrepreneurship as the creative response to inefficiencies inherent in the markets and firms. From this perspective, the entrepreneur thrive on ' others lack of effort ' and uses superior insights to fill gaps that existing firms fail to identify because of their passivity (Llewellyn, et. al. 2000 : 5). This is the opportunity which entrepreneurs seeks and creates to further maximize economic profits for the enterprise. Following this argument, the entrepreneur can be viewed, as someone, who owns and manages the business, is an innovative and visionary individual who exploits a market niche.

In the managerial realm, the 1980s and the 1990s saw the embrace of private sector strategies into the public sector. Certain countries put a premium on customer satisfaction like the National Partnership for Re-inventing Government (NPR) of the United States or a priority on the distinction of policy making and execution as is the experience of the Next Steps Program of the United Kingdom. Entrepreneurship viewed from a market perspective have assimilated to the public sector following Reagan and Thatcher's innovative management move of bringing in business people to improve the bureaucracy. The Grace Commission in the United States, which was comprised, of

business people supported by the industry, assisted federal government in identifying bureaucratic waste in the 1980's. In the United Kingdom, Margaret Thatcher upheld efficiency scrutiny of the public sector, taking off from the business experiences of her core advisers. These major events have led and contributed to the development of the study of entrepreneurship in the public sector from the vantagepoint of managerialism.

The meaning of the word entrepreneurship has evolved according to the development environment from classical to managerial applications. For example, J.B. Say's definition of an entrepreneur, as someone who 'uses resources in new ways to maximize productivity and efficiency' is also coined as public entrepreneurs when we mean people in the public sector who do precisely this. When we talk about an entrepreneurial model, we mean a public sector that habitually acts this way—that constantly uses its 'resources in new ways to heighten both efficiency and effectiveness (Osborne and Gaebler, 1992 : 19). Further, Van Mierlo (1996 : 3-5), implied that public entrepreneurship is an innovative management strategy which is a necessity in the public sector. In this sense, the public entrepreneurship is seeking organizational efficiency and effectiveness through applications of innovative management strategies.

Public entrepreneurship from a managerial perspective, therefore, fundamentally aim for changes in the (a) organizational structure; (b) administrative process that characterize its operations and the general directions it will embrace; (c) the development of a vision of governance; (d) empowering of the workforce, communities or the citizens; and (e) institute mechanisms that will focus on the needs and demands of the people whom they serve. Public entrepreneurship as seen from this perspective is accomplished by essentially removing organizational inefficiencies through entrepreneurial approach. In other words, public entrepreneurship provides the public sector and its leaders a very big managerial avenue and autonomy in implementing reforms.

Much of the effort to understand public entrepreneurship has led also to the study and focus on the individual characteristics of the entrepreneur. One aspect of entrepreneurship research is to describe individual attributes to be a factor to the achievement of the paradigm shift. The early work of McClelland (1961) which focused on the need for achievement as a personality characteristics of entrepreneurs, the field has examined a number of different traits like propensity to take risks, innovativeness, tolerance for ambiguity and their relative affinity towards vision building among others.

Public entrepreneurs are innovative. They break new ground, develop new models and pioneer new approaches. It does not require inventing something wholly new; it can simply involve applying an existing idea in a new way or to a new situation (Doig and Hargrove, 1987 : 8). Public entrepreneurs also build vision for their organization. They create and inspire a clear picture of what the organization want to achieve and an image of the organization that all members can share in and

take pride in. They plan more in depth and focus strategically for the long-term. They see vision as preceding success and serves as the overall concept and compelling force of the organization (Senge in Weller and Hartley; 1994), rather than mere compliance to the plans set. Further, public entrepreneurs are proactive. They take action to influence their environment (Bateman and Crant 1993 : 103-105). It also may suggest going out of the job description to fill in perceived gaps in the work environment. Hartzell (2000) suggests that the key in pro-activity is taking the initiative to change the working environment. Proactive people don't wait for someone else to improve the environment for them.

Some evidence can also be found in the use of NPM that literature stressed in study of entrepreneurship from an integrative assessment perspective. The term NPM expresses the idea that a cumulative flow of policy decisions over the past twenty years has amounted to a substantial shift in the governance and management of the state sector. In giving NPM a shape, Michael Barzelay (2001 : 3-8) proposed two main branches- research and policy and doctrinal argumentation. The second branch deals with a focus on political and bureaucratic roles on one hand and guidance control and evaluation on the other. The operational concept of what administrators should do fall under the second branch of NPM. Rhodes (1998 : 19-31) further identified six key dimensions of NPM that existing literature suggests: privatization, marketization, corporate management, regulation, decentralization and political control. In effect, NPM is given support by public entrepreneurship as it identifies with these key dimensions of reforms espoused by Rhodes and on its operational concept of what administrators should do in the context of Barzelay's NPM branches. Public entrepreneurship, which is largely prescriptive, can utilize NPM in operationalizing innovative administrative and management programs.

In addition, Nagel (1997 : 350) argues that there are similarities in goals of NPM initiatives. Common to the reform movements is the use of economic markets as a model for political and administrative relationships. Similarly, across reform efforts and movements it is possible to observe the use of administrative technologies such as customer service, performance-based contracting and deregulation among others. Knit together as coherent whole, these technologies reinforce one another (Barzelay and Kaboolian, 1990, in Kaboolian 1998 : 190). Public entrepreneurship as a public management reform model is therefore reinforced by the NPM theoretical constructs suggested by Nagel, Rhodes, Barzelay and Kaboolian. Following this discourse, NPM provides the citizens a menu of available reform choices. Viewed from this context, public entrepreneurship can be regarded as one of the relevant reform choices espoused by NPM.

With the increasing global demand and clamor for public sector reforms and changes, entrepreneurship has evolved into a new form in the social, political and management realm that gives added challenge and unique attention to the political and governmental institutions for its use in

public management. Public entrepreneurship is fundamentally transforming public systems and organizations to create dramatic increases in the effectiveness, efficiency, adaptability and capacity to innovate in the community where they operate. This is what Drucker often admonishes will be the most enduring challenge of the 21st century.[3)]

Table 1. Evolution of Entrepreneur and Entrepreneurship Theory

Time Frame	Theorist	Theory/Definition
Middle Ages		Actor (warlike action) and person in charge of large scale production projects
17th Century		Person bearing risks of profit or loss in a fixed price contract
1725	Richard Cantillon	Person bearing risks is different from one supplying capital
1797	Beaudeau	Person bearing risks, planning, supervising, organizing, and owning
1803	Jean Baptiste Say	Separated profits of entrepreneur from profits of capital, intended as a declaration of dissent were the entrepreneur upsets and disorganizes
	John Stuart Mill	The function of the entrepreneur is direction, supervision, control and risk taking
1876	Francis Walker	Distinguished between those who supplied funds and received interest and those who received profit from managerial capabilities
1934	Joseph Schumpeter	Entrepreneur is an innovator and develops untried technology. His task is creative destruction.
1961	David McClelland	Entrepreneur is an energetic, moderate risk taker
1964	Peter Drucker	Entrepreneur maximizes opportunities
1975	Albert Shapiro	Entrepreneur takes initiatives, organizes some social-economic mechanisms and accepts risks of failure
1980	Karl Vesper	Entrepreneur seen differently by economist, psychologists, business persons and politicians
1983	Gifford Pinchot	Intrapreneur is an entrepreneur within an already established organization
	W. Long	Three traits should be included in the definition of entrepreneurship; uncertainty and risk, complementary managerial competence and creative opportunism.
1985	Robert Hisrich	Entrepreneurship is the process of creating something different with value by devoting the necessary time and effort, assuming the accompanying financial, psychological and social risks and receiving the resulting rewards of monetary and personal satisfaction
1990	Allan Gibb	Entrepreneurship is variously used to describe an overall set of attributes of a person, describe a career or refer to a " practice " in large or small organizations
1992	David Osborne and Ted Gaebler	An entrepreneur uses resources in new ways to maximize productivity and efficiency. Public entrepreneurs are people who do precisely this. An entrepreneurial model means a public sector that habitually acts this way - which constantly uses its resources in new ways to heighten both efficiency and effectiveness.
1996	J.G.A. van Mierlo	Public entrepreneurship is an important element of the necessary innovation of strategic management of government bureaucracies.
1997	Isao Nakauchi	An entrepreneur brings innovation to society
2001	Dimitris Christopoulos	An individual that exhibit innovative drive, extreme inquisitiveness, intellectual curiosity and the determination to take the necessary risks. They could hold public office or be senior civil servants.

Source: An adaptation from Hisrich (1986), in Tsao and Low, 1990, Table 4-4, p. 96

3. Philippine Local Government and Public Entrepreneurship

There are two major reasons for the emergence of public entrepreneurship in the local governments of the Philippines : the righteous indignation of the people and the landmark 1991 Local Government Code. These two reasons for the emergence of public entrepreneurship can be posited as political and the other managerial.

3.1 Political Stream

In keeping with the mandate of the 1987 Constitution, Republic Act 7160 otherwise known as the Local Government Code of 1991 (LGC of 1991) was passed overwhelmingly on 10 October 1991. It has become the basis of government for an ambitious decentralization and it laid the foundation upon which local autonomy can be built and harnessed.[4] It is envisaged in the constitution that local governments, as political and territorial subdivisions, " shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals[5]. "

A shift in the roles of local governments has been noted with the adoption of the LGC of 1991 through the granting of powers and authorities never before exercised. Under the law, local governments are corporate entities with defined powers that are not much different from those of private enterprise and corporations. They are endowed with corporate powers to enter into contracts, acquire or convey real or personal property, to have continuous succession in their corporate name, to sue and be sued, among others.

The code has four outstanding features. First it devolves to the local government the responsibility for the delivery of basic services. Second, it grants local governments significant regulatory powers. Third, the code significantly increases the financial resources of the local government units through increased internal revenue allotments (IRA). And finally the code recognizes and encourages the active participation of civil society in the process of governance.[6] These principles, which complements public entrepreneurship, are found in the provisions in the Operational Principles of Decentralization under the LGC of 1991.

Although the code provides these outstanding features, there are noticeable challenges that need to be further addressed. Foremost is the absence of complementary personnel that matches devolution of authority at the local level. Second, is the tempting drive to tinker with management reforms as a substitute for political incompetence, which defeats the purpose of entrepreneurship. Third is the apparent inequitable distribution of revenue allotments by levels of government, and fourth, as corporate entities, financial resources geared towards increasing non-traditional sources of revenues for its stand-alone corporate operationalization is lacking. The bulk of LGU revenues come from grants

(63%) and locally sourced (37%). Provinces are most reliant on grants averaging 75%, followed by municipalities at 65% and cities at 40%. This is because the cities are given wider taxing powers and can impose both the province and municipal taxes. These challenges of what seem like partial decentralization should reflect a new direction and bold decisions toward an alternative strategy to solve these challenges.

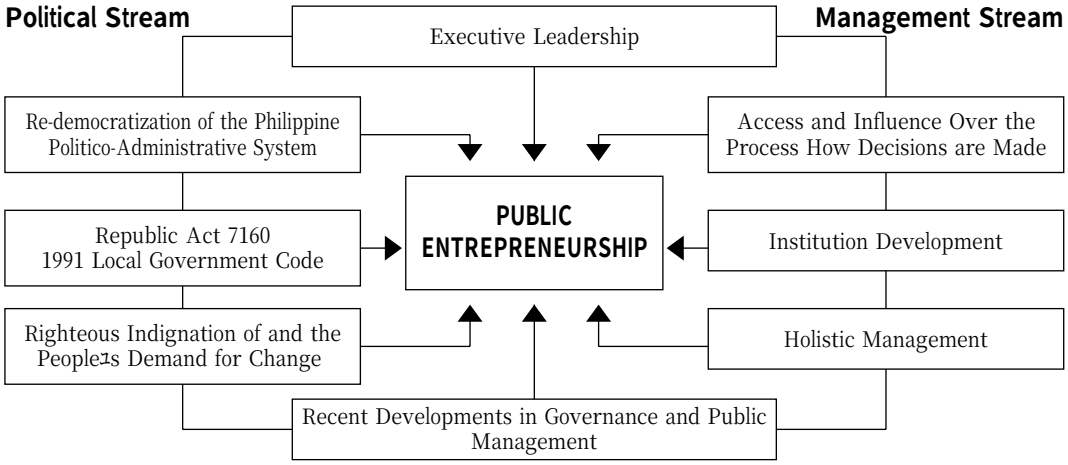
3.2 Management Stream

The global movement for entrepreneurial governments, which the United Kingdom and the United States Government has initiated in the 1980's and 1990's respectively, has led to the use of a whole battery of new and differing alternative solutions to problems besetting government underperformance. In the Philippines, the manifestations of the management stream as a pre-condition for public entrepreneurship structure are mandated under the Philippine Local Government Code. This emanates from Section 18: "Local Government Units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, programs, objectives and priorities; to levy taxes, fees and charges which shall accrue exclusively for their use and disposition and shall be retained by them ... to apply their resources and assets for productive, developmental or welfare purpose, in the exercise or furtherance of their government or propriety powers and functions and thereby ensure their development into self reliant communities and active participants in the attainment of national goals."

The general welfare clause of Section 16 is also seen as a condition in the emergence of public entreprneurship under decentralization: "Every local government unit shall exercise the powers expressly granted, those necessary implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance and those which are essential for the promotion of the general welfare."

These increased managerial powers given by the code have also been vehicles for creativity and innovations in local government units and acceleration of local development. Through the code, creative local officials have made many reforms in recent years[7] and a new breed of local executives and officials has even been spawned, which a decade ago was unthinkable. In this new system, McCourt and Minogue (2001: 5) identified that there is no clear separation of politics and management especially on the roles of administrators and politicians, which are often fused together.

Figure 1. Some Conditions for the Emergence of Public Entrepreneurship



4. Public Entrepreneurship as Strategy for Decentralizing Polity

The choice or selection of the three case sites as the setting for the study is justified. All three local government units (LGUs) have achieved Hall of Fame status in the Innovations and Excellence in Local Governance (Gawad Galing Pook Awards) sponsored by the Ford Foundation, meaning they have been awarded for exemplary local governance for five consecutive years.[8] Only seven LGUs have achieved Hall of Fame status since the establishment of Galing Pook Awards in 1993, with a total of 136 LGUs awarded. The Hall of Famers are two provincial governments (Bulacan and Davao), four city governments (Marikina City, Puerto Princesa City, Naga City and San Carlos City) and one municipality (Irosin). The three LGUs are also ideal for public entrepreneurship research because, as nationally recognized exemplary local governance performers, they have instituted a variety of programs that support public entrepreneurship. They also have a common agenda incorporating and sustaining developmental and political gains for wider avenues of administrative reforms, creativity and innovations in governance and increased peoples ¡participation.

4.1 Energizing the Bureaucracy in the Provincial Government of Bulacan

Bulacan was the site of the drafting and ratification of the famous 1935 Philippines constitution[9]. More than its historical pride, the province of Bulacan became famous in local government circles when it ventured into entreprenurship programs even before the 1991 Local Government Code, under the stewardship of a private sector executive, Roberto Pagdanganan. Pagdanganan was challenged by the prevailing situation in the province where a few elite controlled the state of governance and there were poor investments, inadequate infrastructure and generally negative attitude towards the

bureaucracy. Pagdanganan was given the electorates confidence based on his Five Point Development Agenda—(1)sustainable economic development, cooperatives as the centerpiece program, (2) peace and order, (3) youth, cultural and historical development, (4) effective delivery of health and social services ; and (5) instituting reforms in the bureaucracy.

The Five Point Agenda's major component was reforms in the bureaucracy. Josefina dela Cruz was Pagdanganan's vice-governor and member of the group responsible for the initial attempts at reforming the bureaucracy. The reigns of power were handed-over by the people of Bulacan to dela Cruz as governor from 1998 to present.

The Five Point Agenda continued by dela Cruz pursued the concept of reinventing the bureaucracy of the provincial government. From an outsiders perspective, the idea of a decentralized polity based on energizing the bureaucracy is not strategically new, but such activity is crucial to Bulacan because she believes in putting her ' home ' in order first. Before she can accomplish more, she must be backed-up by an efficient and effective bureaucracy[10].

The Energizing the Bureaucracy program is a re-organization program that aims to increase the level of workforce productivity in the long-term and match the needs and priorities of the provincial government in the short-term. It is the third attempt at reorganization in the province and the only one among the three initiatives that was completed. Governor dela Cruz created a Management Evaluation Group tasked of assessing the employee's performance, duplication of functions and the general organization structure of the province. The output was used by the newly created Reorganization Committee (with a mandate from Executive Order No.7) for a planned two-pronged reorganization program—streamlining and capacity building. It combines the downsizing of personnel and streamlining of administrative processes and at the same time providing the training of personnel for improving job responsibilities.

The streamlining of positions resulted to a relatively lean workforce number of 1,737 as of June 30, 2001 compared to 2,052 as of December 31, 1995. The streamlining has resulted in the abolition of 315 positions since 1995. Consultation with various offices were made by the re-organization team and those whose performance evaluation were below the standards set by their office supervisors were either retired, transferred to another office, or contracts were not renewed or terminated from the service. Those personnel affected were personally met by the governor and consequently downgraded the heated emotions. As a result of this simple managerial initiative of the governor, possible legal cases were avoided. The re-organization also opened up opportunities for competent personnel to rise in the hierarchy through transfer, promotion and direct competition for available positions. Previously, promotion can happen only when there is either death or resignation of employees or through the creation of new positions out of patronage. As Governor dela Cruz puts it, lets bring in good people to the bureaucracy because of their qualifications and merit instead of patronage. Likewise an employee

handbook was conceptualized to inform employees and remind them of their responsibilities. Whereas previously, employees look at their jobs from how they have been structured through their own experiences in the bureaucracy, now, a standard governs their actions on top of the minimum output required of their positions.

Also, as part of the accompanying strategies for the reorganization, management cell groups were organized with five members in each department to discuss cases, values and guidelines. The group discussions center on problem resolution or discussion of management values vital to the organization. This project is part of the long-term vision of changing the culture of government personnel and in making Bulacan a center for the development of a culture of excellence (Bulacan, Pandayan ng Kultura ng Kahusayan).

Also part of the reorganization program is the drive for administrative efficiency, which was done partly through the abandonment of some obsolete systems and procedures through their computerization programs. Full computerization of strategic operations was envisioned as part of energizing the bureaucracy. Government systems/operations such as personnel records, real property tax records, records management and payroll management systems are major processes that are being computerized for ease of storage and of course, efficiency. Personnel information record or Civil Service 201 files are slowly being computerized enabling the Human Resource Office to determine offhand the administrative (e.g. personnel benefits, leave credits, etc.) and technical information needs (e.g. training) of employees. The province of Bulacan was one of the pioneers among the LGUs in the Philippines to computerize its administrative operations.

In terms of revenue generation, delinquent taxpayers are easily identified in the real property tax database. As a result of the information accessibility, new programs to enhance collection of real property taxes were made. An education campaign aimed at increased awareness on the value of taxation is also currently being made in schools, business and the municipalities. These efforts have resulted in the increase in revenue collection in terms of real property tax. In 1998, it has even exceeded targets by 18%.

Governor dela Cruz believes that as part of the decentralization of powers to the local government, part of her authority should also be delegated to the people to empower them. Governor dela Cruz ' idea was to separate her functions as a strategic decision-maker from daily operational management. In this manner, the strategy utilized by the governor is to band together the department heads to form her management core group aside from the outside networks from the academe that provide for the validation of ideas. Since they are now considered leaders with specific functions as management executives, they are also on their toes as they ' hobnob ' with reputable persons from the academe as part of Governor dela Cruz management circle. They do not function as de-facto leaders without accountability, which usually characterize local level politics in the Philippines. The new initiative is a

far cry from the traditional top-down decision-making, centralized hierarchy that characterized the management of the province then.

Further, the creation of a special project office under the Office of the Governor signaled the provincial government's intention to pursue vigorously innovative projects outside the stringent rules of the bureaucracy. As Governor dela Cruz said, "I am not happy with the status quo." The special projects office function as an academy and provides the necessary inputs to the governor and the departments. The inputs are based on citizens polling and feedback mechanisms through surveys that they implement under the tutelage of the Asian Institute of Management (AIM) consultants.

The LGU perspective of public entrepreneurship viewed from the context of energizing the bureaucracy follows the trend of the new management bandwagon in local governance. Concurrently, however, the community perceives public entrepreneurship as assistance to business and industry, poverty alleviation and administrative reforms executed by the LGU. The difference in the perspective of the LGUs and the community lies in the fact that the role of the LGU in the community may not be sufficient enough to completely saturate the community with information or that the LGU has not been able to fulfill all the demands of the public. The strategy of prioritizing reforms in the bureaucracy has dwindled the notion of public entrepreneurship as a concept known only among and within the local government actors.

As a means to enact public entrepreneurship programs, the development agenda played major roles primarily hinging on energizing the bureaucracy program. The creation of the special project office under the office of the governor is a step toward veering away from the restrictive boundaries of bureaucracy. The support of the legislative council through the resolutions and ordinances were main pillars used as legal instrument to back public entrepreneurship programs.

While the province has ventured into reforms, some challenges were also identified. The measures to quantify the results of the reorganization in terms of personnel productivity and an evaluation of the energizing the bureaucracy program are still management challenges. Also, to quell the ' political color that might have been painted ' as a result of the reorganization, a simple evaluation mechanism and program reporting is a logical necessity. In addition, it has been noted that locally-sourced income has decreased from 30.13% share in 1999 to 15.40% in 2000 despite the initiatives of enhancing real property taxation through the computerization efforts. These are political and management challenges that need to be hurdled by the province.

The principles of public entrepreneurship in Bulacan however, have not gone unnoticed. Bulacan has garnered the distinction of excellence in local governance through the many awards they have received, both international and national. They have become a Hall of Famer in the Gawad Galing Pook awards for exemplary governance for winning three consecutive awards. They were also a recipient of the 1999 Konrad Adenauer Local Governance Award, the Gawad Pamana ng Lahi Award

for outstanding local governance for 1996 and 1997 and recently were recognized by the Human Development Network for having the highest HDIs in the Philippines.

4.2 Public Management and Marikina City

The city of Marikina[11] is one of 17 cities and municipalities comprising Metropolitan Manila and is approximately 16 kilometers away from Manila. Several rivers and streams are found in the Marikina watershed, foremost of which is the Marikina River, which is approximately 10 kilometers long. Aside from the Marikina River, the city is known as the shoe capital of the Philippines. The local footwear industry accounts for 70% of the country's supply of shoes[12].

Residents remember that Marikina in the past was a far cry from what it had become in the past. The river of years past was murky, stinking and full of debris that clogged its flow. The riverbanks teemed with shanties. Uncollected garbage littered Marikina's streets. Vendors, hawkers, parked vehicles, garbage cans and other obstructions dominated the sidewalks and forced pedestrians to walk on the streets. The public market was chaotic and offensive smelling garbage littered it. The residents seemed resigned to a tediously slow and often incompetent bureaucracy whom they perceived as inefficient and inadequate in public service delivery. Public infrastructure was in a sorry state[13]. Marikina then, as a third class municipality, could be classified as a laggard compared with other cities and municipalities within the Metropolitan Manila area. If not for its century-old shoe industry, Marikina would have just been one of those unknown urban centers in the Philippines.

A businessman in the construction industry and son of a former mayor launched his political career anchored on his vision for Marikina: An Industry Friendly, Happy, Working Class Community as his program of government. His program comprehensively covered the LGU concerns from governance, livelihood, trade and industry, public works, urban planning and design, finance, sports, entertainment and leisure. In the 1988 local elections, Bayani Fernando placed fourth among seven mayoralty candidates. Believing fervently in his program of government, he again ran under the same campaign platform in 1992. On his second attempt, he won over the incumbent mayor by more than 50,000 votes.

Upon assumption of office, Mayor Bayani Fernando did not terminate or remove anyone from office. He went through the process of understanding the past governance dynamics and busied himself in developing a critical base of support for his program of government. A massive information dissemination campaign at all levels in the LGU and the community was done with effervescence, with the goal of making sure every man had his orders, every government employee, down to every resident of Marikina had to know where she was going and what each person had to do. Simultaneous with the information campaign on selling the vision, Fernando spelled out his objective of running the town as a private corporation to meet the vision of Marikina as the most livable city in

the Philippines by 1999 and beyond.

His vision, anchored heavily in the new managerialist bandwagon stressing the service function of the LGU, both as a knowledge and operative policy enclave, caught the attention of both residents and LGU employees of Marikina. What happened as an individual desire became a collective vision for an improved Marikina.

Risk-taking, pro-activity and innovations were hardly known public entrrepreneurship concepts to the LGU prior to Fernando's ascent to the town hall. The institutionalization of the systems for accountability was prioritized to ensure efficiency and enable the LGU personnel to deliver public services effectively. 'He cajoled the LGU personnel with his idea of governance as being the creation of innovative ideas'. Each employee is motivated to think creatively and be consciously aware of organizational performance. Local officials were motivated to contribute ideas, however novel. In addition, the rank and file, especially the casual personnel were deployed to a flexible implementation of projects by 'administration' from their offices intended to implement or manage a particular program. These new behavioral dynamics and organizational culture contributed to an efficient completion of LGU projects and a responsive LGU, sensitive to the needs of its constituency.

In 1996, in recognition of the transformation of Marikina, then President Fidel V. Ramos signed the bill into law creating Marikina a city "in recognition of the indefatigable efforts of the people of Marikina towards development led by Mayor Bayani F. Fernando."[14] As of 1999, Marikina has garnered a total of 54 national and international awards because of its exemplary performance in local governance.

The perception of public entrepreneurship in Marikina City is parallel to the evolution of bureaucracy from the traditional model that was rigid, narrowly focused and pre-occupied with process and structure to a flexible, innovative and decentralized organization. The old bureaucracy typifies the old Marikina, and the Marikina of the 1990s simply underwent the transformation and change, seemingly jumping on the bandwagon in order to catch-up. Public entrepreneurship is seen from this perspective where revitalizing the bureaucracy and use of new public management models are highlighted. The community in the context in which public entrepreneurship is used by the LGU has echoed similar lines. Evaluated from this perspective, public entrepreneurship has seeped into the consciousness of the constituents.

Marikina stands proudest of its accomplishment of rehabilitating the 220—hectare Marikina River as a result of the resettlement of squatters occupying the riverbanks. A new concept of integrating business, residential, shopping and leisure facilities by the river is the intelligent idea behind the project. The riverbanks have been zoned into a bicycle and jogging lane, a recreational park and for commercial and business establishments. The World Bank recently provided a grant and piloted the bicycle-lane program of the city, the first in the Philippines.

The twin program of relocating the squatters and rehabilitating the river has resulted to the effective development of 106 hectares of privately owned lands made available for the relocation of 10,000 squatter families previously occupying the riverbanks. It has also given security of land tenure to about 13,000 squatter families. The re-settlements of squatter families is a partnership of three organizations initiated by the city government. The squatter families have been organized into peoples organization/community associations that monitor and supervise the program. The Community Home Mortgage Program (CHMP) of the National Housing Authority provides the financing window for the purchase of real estate and construction of houses. The city government through the Marikina Settlements Office (MSO) assists and guides the POs in the organization and management of the program. However, external conditions like the soaring of real estate prices due to the conversion of Marikina into a city vis-a-vis the fixed loanable amount for land purchase from the CHMP has resulted in the slowdown of the resettlement of more squatter families. Also, the re-selling of real estate lots by the beneficiaries were the two major problems identified. While this is only limited to about 5% of the land beneficiaries, due to City Ordinance number 117 which provides a rights forfeiture clause in favor of the LGU in the event of re-selling, it is still a continuing administrative concern for all parties.

The people of Marikina remember most the development of a ' peoples ' mall ', an upgraded type of public market wherein roofing of all peripheral roads leading to the main public market was constructed, effectively increasing the existing 8,500 square meter floor size to 94,000 square meter. The increase in the number of business establishments has also been dramatic from 1,000 to 10,000 as the expansion literally passes through each household along the periphery of the public market[15]. These projects were met by a great public dissent initially, but people were swayed by the increase in employment opportunities and sources of income.

Marikina City also ventured into various excellent projects which were adjudged exemplary practice of local governance, such as the Five Minute Quick Response Time wherein imposition of a standard five-minute response time for all police, fire and ambulance services in the city is the norm. The ' Disiplina sa Bangketa '(Discipline in the Sidewalk) project effectively liberated 85% of the total sidewalk area through a legislative program prohibiting its use for other purposes in order to instill the rule of law in the sidestreets.

Recently, a Center for Excellence Department (CentEx) was created to handle both in-house and external capacity building of staff, officials and clients. CentEx is in charge of designing and implementing interventions, utilizing non-traditional educational and training processes that would mold both the internal and external clients of the city government. The results and impact of the new initiatives of the newly elected mayor, Marides C. Fernando, wife of the former mayor, still has to be determined.

4.3 LGU-Civil Society Synergy in the Municipality of Irosin

Irosin is a thriving fourth-class municipality 643 kilometers south of Manila and is strategically located in the heart of the province of Sorsogon, at the southern tip of the Luzon islands. Seventy eight percent (78%) of 15,880 hectares land area is devoted to agriculture. The local economy depends largely on the agriculture sector of which more than 70% of the families rely mainly on crop production and farm labor for livelihood and subsistence.

The Lingap Para sa Kalusugan ng Sambayanan, LIKAS, (Care for the Health of the People) was a community services center of the Ateneo de Manila University in Quezon City and established its presence in Irosin as early as 1976. Both the Christian Children's Fund (CCF) and LIKAS became responsible for the formation and growth of the biggest peasant organization in the province of Sorsogon, Sandigan ng Magsasaka, SANDIGAN, (Bulwark of Farmers) in the 1970s and 1980s. This alliance became responsible for the formation of multi-sectoral coalitions and working relations for important mobilizations, national and local, such as the 1986 snap elections, agrarian and rural development, the Generic Act of 1998, and the 1998 elections.[16] The alliance plunged itself into mainstream politics by openly supporting a political slate in the congressional and local elections. The 'progressive-leaning' slate was not welcomed by the electorate and lost the elections by a very slim margin.

In 1991, the alliance opposed the geothermal energy exploration project of the Philippine National Oil Company (PNOC) on the grounds of environmental degradation. The adversarial stance of the alliance made the PNOC to abandon the project altogether. Emboldened by the victory and fueled by the dissatisfaction with local leadership even after the EDSA revolution, the alliance went further by directly fielding local candidates in the 1992 elections. They formed a local party with the founder of LIKAS, Eddie Dorotan, a medical doctor, leading the slate as mayor. They campaigned under the Laban para sa Progresibong Irosin, LPI, (Fight for a Progressive Irosin) which also stand for its platform of government, livelihood, people empowerment and improvement of basic services[17].

The people of Irosin emphasized the year 1992 as the start of the development of the LGU as a dynamic politico-administrative institution. At this time occurred the most crucial change in its history: change in the keyholders of power and authority in the LGU as a result of the synchronized national and local elections. The broadbased coalition of local organizations was victorious and swept the elective positions in the municipality.

Upon assumption of office, Mayor Dorotan and the Sannggunian Bayan (Legislative Council) went through the overhaul of the local bureaucracy, simultaneously, putting substance to social transformation, which the civil society expected. He led the coalition into drawing up the blueprint of development of Irosin and into bringing the agenda of the people into the bureaucracy. He embarked

on a collective effort of leading his constituency toward a shared development framework by setting a common vision, mission and strategic goals not only for the local bureaucracy but also for Irosin as whole.

Risk-taking, innovations and pro-activity were hardly known concepts to the LGU prior to the civil society actors claiming the town hall. The putting in place of administrative systems for the efficiency of the bureaucracy was given priority. The previous way of doing things was superseded by consensus decision-making and thus created ripples of awareness concerning the roles of local officials in governance.

The social transformation experience of the local leadership in civil society stressed the need for administrators and educators in overcoming barriers in institution building. Erring local officials were warned and consequently replaced with competent people from civil society. These behavioral dynamics developed strong entrepreneurial inclinations within the LGU.

The core concept of access to economic participation revolves around the communities' perception of what public entrepreneurship is including the desire to effect change in governance, and building capacities for a productive people. These conceptual definitions are also the guiding principles of public management espoused by the LGU. The conceptual framework of Irosin identifies the principles and actors with the community at the center of all the development initiatives. This is congruent with the rhetoric of new public management putting the clients first on the list.

Irosin endeavored into other numerous risk-present and innovative projects. Foremost of the means taken were in environmental management. The Irosin Integrated Environmental Development Program (IIEDP) adopted creative strategies to generate sustained local participation and multi-sectoral cooperation for environmental education, formation, mobilization and management. It is a partnership with barangays and local organizations for the sustainable use and generation of area resources around the foot of Sierra Madre and Mt. Bulusan. Around 576 hectares of deforested areas within the Bulusan Volcano National Park were planted under the reforestation program with the national government (Ubalde, 2000 : 37). Mayor Dorotan adopted a two-pronged approach in the preservation of the environment. He used the Filipino cultural values and traits like ' bayanihan ' (Filipino tradition of community interaction) and ' fiesta ' (a Spanish tradition of feast in honor of a patron saint). The village (barangay) councils, the public school teachers, the youth councils and various religious groups were mobilized as the town's marshals to protect the environment. Beautification, creative indigenous fencing, roadside tree planting, and proper waste disposal characterized the programs during the initial stages. The program was launched during the town fiesta to drum up community participation and to legitimize the peoples' organization involvement in the program. Consequently, the LGU and its partners ventured into reforestation of Mt. Bulusan with the national government. The NGOs and POs participation has been institutionalized through the

Tripartite Partnership for Upland Development (TRIPUD). The LGU initiated TRIPUD is a partnership program between the LGUs, the NGOs and POs and national government agencies to protect the uplands and also as part of the integrated area development approach of the LGU. What the municipality has done was to involve the people in local governance specially, in areas where the LGU has limited capability. The people's participation in reforestation around the watershed consequently gained a broad-based support from the community and the LGU and further contributed to the preservation of Mt. Bulusan.

The Agrarian Reform Community Program is an expanded program of the NGOs, specifically LIKAS and SANDIGAN and adopted by the LGU in 1992. The goal of the program is to provide tenure to farmers and link them with support service providers and consequently become viable landowners. As of December 1999, a total of 2,100 hectares of land transfers were made with 82.6 % agrarian reform coverage with over 1, 693 farmer beneficiaries[18]. On top of the major programs, Irosin ventures also into agricultural diversification, traditional medicine, cooperative organizing and a gender program.

In the realm of policy formulation, the synergy of the community and the LGU reached the legislative bodies through the representation of people's organization and representatives of NGOs in the local special bodies. Mayor Dorotan involved stakeholders to form the extended municipal council. The extended municipal council is composed of government organizations, education sector, social, civic and religious organizations, barangay officials, businesspersons and landowners. The legislative council under the leadership of then vice-mayor Nathaniel Balmes enacted legislation measures that will provide representation of people in the municipal councils. The people's representation was part of the agreed plans developed by the multi-sectoral coalition that drafted the long-term development plan of the municipality. On top of the LGC 1991 mandated local special bodies (LSB), Irosin has created LSBs unique to them. They have established an expanded municipal development council, a municipal agrarian reform council, the management of the environment sits as well in the LSB, through the municipal tripartite partnership for upland development, and they have a traditional medicine council. The other special bodies created were the Office of the Senior Citizens, Local Finance Committee, Municipal Coordinating Team, Local Price Control Team, and the Personnel Selection and Promotion Board. Irosin used the LSBs in creating bodies and committees which otherwise can function as an office. This is due to the scarcity of resources in the LGU and maximizing the credibility established with the participation of the community in local affairs.

The institutionalization of civil society participation is not a deliberate effort toward political perpetuation but toward the building of self-directed communities. The Legislative Council, the Local Special Bodies and the LGU departments and offices have made it a point that civil society are associates in development and should be treated as a matter of administrative duty. The unintended

effect of this partnership with civil society has been the increased credibility for the LGUs in the development circles, national and international, and consequentially strengthened capacities at the local level. The LGU officials have become aware of their accountability as an intended effect.

It was not until these efforts by the LGU officials, supplanted by coordinated energies of like-minded civil society actors throughout Irosin, that attention to local governance and development was addressed. Throughout the 1970s and up until the late 1980s, efforts by local officials aimed at improving governance were disjointed. However, the coalescing efforts of LGUs and civil society started to payoff as a result of the institutional drive and desire to effect changes in the community.

National and international award giving bodies have recognized Irosin's exemplary performance. To date Irosin is a Hall of Famer in the Gawad Galing Pook Awards. On the international scene, Irosin is a Konrad Adenauer Awardee on exemplary local governance. An irony however is that while civil society played a major role in local development in the municipality, and Irosin is recognized as an exemplary LGU performer, the successor-mayor who is part of the coalition lost in his second attempt at the mayoralty in the May 2001 local elections. This casts a shadow of doubt on the ability of civil society to sustain developmental gains into political gains, given the results of the elections. This also downplays whatever significant reforms have been implemented. On the one hand, the downside of the immediate past local executive leadership of Mayor Nathaniel Balmes could have played a role in the apparent backlash of the peoples' confidence vis-a-vis the success at reforms being administered, noting that leadership plays key roles.

Table 2. Public Entrepreneurship (PE) Findings: Exemplary Cases from the Philippines

Levels of Analysis	Public Entrepreneurship Findings		
	Provincial	City	Municipality
1. Perception of PE (Ideational Dynamics)	1. PE is viewed from the context of energizing the bureaucracy from the LGU perspective 2. PE is viewed as assistance to business and industry, poverty alleviation and administrative reforms from the community perspective 3. Follows the trend of the new management bandwagon in local governance	1. Practice of new public management from the LGU perspective 2. Anchors PE around LGU reforms, poverty alleviation and business and industry assistance from the community perspective 3. Based development initiative from physical reconstruction and social reorientation to sustained and sound institutional management	1. Anchors PE in improving local governance, poverty alleviation and administrative reforms 2. Bases development initiative on responsive, equity centered and people-driven programs 3. Develops a conceptual framework hinged on livelihood promotion. Improvement of basic services, people's empowerment and environmental protection and development.
2. Actions that Support PE (Behavioral Dynamics)	1. Lakas ng Kabataan (Power of the Youth) 2. Kaunlaran sa Pagkakaisa (Development through Unity) 3. Alay Paglingap (Care and Welfare) 4. Cultural Development 5. Energizing the Bureaucracy	1. Environmental Promotion, Protection and Management ✓ Squatter Free Marikina ✓ Save the Marikina River 2. Revitalizing the bureaucracy 3. Infrastructure Development 4. Disiplina sa Banketa (Discipline in the Sidewalk) 5. Five Minute Quick Response 6. Barangay Talyer (Community Shop)	1. Integrated Area Development Program 2. Irosin Inter-Barangay Environmental Development Program 3. Irosin Integrated Rural Development Program 4. Sustained Health Development Program
3. Means to Enacting PE (Political Dynamics)	1. Professionalizing the bureaucracy 2. Use of incentives 3. Personal assurance and direct intervention from leadership 4. Creation of a special projects office	1. Developed a vision and critical mass support 2. Revitalized the bureaucracy 3. Analyzed past governance dynamics 4. Developed a roadmap of development 5. Local leadership	1. Prior to plunging into electoral politics, a broad coalition committed itself to alliance building and mobilization 2. Institutionalized participatory planning, with local organizations 3. The LGU has not reneged on a multi-sectoral coalition for issue advocacy 4. Bring peoples agenda to the bureaucracy 5. Nourish culture change from within

5. SUMMARY and CONCLUSIONS

The ambiguity of the term public entrepreneurship may not really be the problem about perceptions but the misconceptions and tendencies that local community equates LGU programs with entrepreneurship in general. The perception of the local communities in the cases indicated the desire for improvement of their socio-economic conditions. Partly this stems from the notion that the objective of government reforms is poverty alleviation, thus when innovative programs in the local governments are emerging, this were equated with public entrepreneurship by the local community. However, in some cases such as in the city of Marikina, the perception of the community matched with that of the LGU indicating the degree of awareness of the community in LGU affairs. The perception of the local community also depends on the benefits they can derive from the outcome of programs. The evaluation of the local community on public entrepreneurship programs on whether the programs have provided them the ' desired goods ' did not only impact perceptions of programs but its sustainability as well.

The cases also show that at the municipal level, more people are aware of government programs. As you go up the ladder of the hierarchy of the LGUs, city to province, fewer people know about the programs of government. In this case, although the respondents are educated, the characteristics of urban-rural differences come into picture. The homogeneity of the population allows them to know one another and relate to one another. This makes it easier for information to be transferred through informal interaction (i.e. during leisure hours or even during work, usually in the farm) in the rural setting, as in the case of Irosin. In contrast, the urban people come from different places and are usually migrants of the place. They usually do not know each other and their means of livelihood are usually in offices, factories and industries that take away most of their time and usually, the programs of the LGUs are of least priority to them. In addition, the kind of entrepreneurship programs implemented like organizational and management reforms, which have limited community participation, contributes also to the differing perceptions. Further, the geographical size can also explain the diffusion of innovative programs to the community; the province of Bulacan having twenty-four (24) municipalities is an example.

In the political systems, radical change is often associated with the emergence of good leaders, the development of new political movements and introduction of new policies.[19] The cases analyzed support the arguments. As the case of Irosin demonstrates, development initiatives were started by people 's organizations as far back as 1976 confirming the evolutionary fashion of the emergence of public entrepreneurship. Marikina City took local governance by storm with the resolve of a competent leader dominating the political scene. Bulacan is in the middleground as it is both evolutionary, in the situation of the continuity of development plans, and radical, in the instance of

what re-organization risks.

Further, the need for innovative actions was realized after existing actors, organizational processes, structures and conditions proved incapable of responding[20]. The local chief executives created the strategic blueprint for the success of the LGU anchored in what they believe will propel their community to greater heights. There appears to be a vision-building consensus among the local leadership in the cases. They created and identified a state of governance in the past and the governance for the future. The vision was at first individually framed but consequentially became a collective and collaborative effort as spillover effect. In the case of Irosin, the vision was a collective endeavor harnessing the synergy of civil society and local governmental bodies. This demonstrates the collaborative process of development. In Marikina City, the vision was the city being the most livable in terms of sustained environment, dynamic business, peace and order, physical reconstruction and social reorientation. In Bulacan, although it was a continuity and consolidation of the previous government vision, it was carefully molded to fit the vision of the current administration for a reformed bureaucracy to become the center for the development of a culture of excellence.

The cases also demonstrated that local chief executive leadership heavily influences public entrepreneurship. The chief executives in the cases used a variety of formal-legal means of establishing its political authority and credibility to the community. Mayor Fernando was a strong leader who emphasized political firmness to implement his vision for the community. Mayor Dorotan and Balmes used participatory approaches to governance to implement a people-centered framework. In Bulacan, there is a collegial governor-form of government. Governor dela Cruz is a political manager harnessing the capacities of other actors. In other words the three leaders in the case studied demonstrated political will within the bounds of the formal structure of authority.

As a consequence, the people evaluated the LGU capacities in terms of the outcome of the display of the chief executives þolitical will to implement projects and the benefits they can derive from it. In addition when we look at capacities from the viewpoint of political leadership as process we take into account the managerial procedures to implement programs. The chief executives in the cases all built the capacities of people as a priority. Also, they were not deterred by the political risks that went with the programs they ventured and overcome whatever opposition that stand against their way. They pursued reforms with enthusiasm even with limited resources as the case of Irosin demonstrated. They also built coalitions not as sign of weak leadership but as a participatory mechanism to assist in the operational tasks. For example, the local community associations in Marikina are directly negotiating with national government in the purchase of lands for resettlement.

The cases also showed the trends toward loosening up political and managerial strategic controls, unconsciously and deliberate, as a matter of responding to and adjusting to the desire for faster, flexible way of managing and delivering services. While both systems require adjustments, the

political strategy requires engaging the community for more participatory approaches and the managerial route points to the reduction of heavy bureaucratic regulation and top-down approaches to governance.

However, the operative orientation of public entrepreneurship initiatives, either in policy making or execution toward institutionalization is not wholly satisfactory yet. It has followed the current trend of institutional reforms being fashionable and with no resolute administrator ignoring the bandwagon. The demand placed on governments and the ability of the government to sustain this demand is of particular importance given that public entrepreneurship was initiated and crafted individually and consequently became a collective effort save for Irosin.

Foremost of the findings in this research is that public entrepreneurship is attributed not as a strategic vehicle for decentralizing polity but for institution of changes in general. With respect to the leaders and the enhanced institutional capacities they have developed, public entrepreneurship is a deep collaborative effort involving the synergy of all actors in the community. These strategic developments in the LGUs, ascribe importance to public entrepreneurship. While it is not a solution to all local government problems, it is considered a phenomenon that cannot be ignored by administrators.

Endnotes

[1] UNDP. World Conference on Governance, Proceedings (1999) Manila Philippines.

[2] Osborne and Gaebler (1992 : 19) and Osborne and Plastrik (1997 : 13-14) postulates that government can govern by tapping the tremendous power of the entrepreneurial process. Similarly, van Mierlo (1996 : 3) argues along similar thoughts that public entrepreneurship is an innovative management strategy that provides promising responsibilities through democratic control and mechanisms of competition.

[3] Drucker, Peter F. 1996. The Executive in Action: Managing for Results, Innovation and Entrepreneurship, The Effective Executive. USA.

[4] Celestino, Alicia B., Malvar, Norberto G., and Romulo R. Zipagan, Jr. (1998). Center for Local and Regional Governance NCPAG, University of the Philippines and Public Administration Promotion Centre, German Foundation for International Development.p.7.

[5] Philippine Constitution. 1987. Section 2, Article X.

[6] Brillantes, Alex B, Jr. 1997. Decentralized Democratic Governance under the Local Government Code: A Governmental Perspective. *Philippine Journal of Public Administration*, XLI(1 and 2). January-April.

[7] Tapales, Proserpina D., Padilla, Perfecto L. and Ma. Ernita Joaquin. 1996. *Modern Management in Philippine Local Government. Local Government Center*, UP-CPA and Public Administration Promotion Centre, German Foundation for International Development. p.13

[8] The Gawad Galing Pook Awards is an annual innovations and excellence in local governance awards that

seeks to recognize the outstanding and innovative programs of local government units that effectively addressed problems in their community and consequentially encourage effective governance. The Gawad Galing Pook is managed by the Asian Institute of Management and the Local Government Academy with funding support from the Philippines Department of Interior and Local Government and the Ford Foundation.

[9] Calalang, Francisco. 1971. The History of Bulacan. Manila.

[10] Personal interview with Governor J. dela Cruz, 11 December 2000.

[11] Marikina became a city when Republic Act 8223 was signed by then President Fidel V. Ramos following an overwhelming vote for cityhood by the residents.

[12] Source: Marikina City 1999 Annual Report

[13] del Rosario Jr., Daniel B. 1998. The Internal Assessment of Marikina City. Unpublished Case material. Asian Institute of Management. Manila. p. 2.

[14] President Ramos speech in Malacanang Palace declaring Marikina a city .

[15] Source: 2000 Annual Report , Marikina City

[16] Ubalde L. 2000. Sustaining Development and Political Gains of a Municipality: Irosin---- Unpublished Management Research Report. Asian Institute of Management. Manila. p. 61.

[17] *Ibid.*

[18] Source: 1999 Municipal Annual Report of Irosin

[19] Schneider, Mark and Paul Teske with Michael Mintrom. 1995. *Public Entrepreneurs*: Agents for Change in American Government. Princeton University Press: p.3.

[20] The earlier research of Blaine, 1992, in the United States found similar institutional reasons like inability of structures and processes before innovative actions were adapted in the local government: p250.

Bibliography

Barzelay, Michael. 2001. " The New Public Management: Improving Research and Policy Dialogue. " University of California Press. Russel Sage Foundation. p.45.

Barzelay, Michael and Linda Kaboolian. 1990. " Structural Metaphors and Public Management Education. " Journal of Policy *Analysis and Management*. Vol. 9(4) : 599-610 . in Kaboolian, Linda. 1998 " The New Public Management: Challenging the Boundaries of the Management vs. Administration Debate. "*Public Administration Review*. Vol. 58(3) : 189-194.

Bateman, T.S. and J.M. Crant. 1993. " The Proactive Component of Organizational Behavior: A Measure and Correlates. "*Journal of Organizational Behavior*. 14 : 103-118.

Batley, Richard. 1999. "The New Public Management in Developing Countries: Implications for Policy and Organizational Reform. "*Journal of International Development*,11, 761-765.

Brillantes, Alex B, Jr. 1997. Decentralized Democratic Governance under the Local Government Code: A Governmental *Perspective. Philippine Journal of Public Administration*, XLI (1 and 2).

Calalang, Francisco. 1971. The History of Bulacan. Manila.

Celestino, Alicia B., Malvar, Norberto G., and Romulo R. Zipagan, Jr. (1998). *Handbook of Local Fiscal Administration in the Philippines*. Center for Local and Regional Governance NCPAG, University of the Philippines and Public Administration Promotion Centre, German Foundation for International Development. p.7.

Doig, J.W. and Hargrove E.C. (Eds.) 1987. Leadership and Innovation: A Biographical Perspective on Entrepreneurs in Government. John Hopkins University Press. Baltimore, USA.p.8.

Drucker, Peter F. 1996.*The Executive in Action: Managing for Results, Innovation and Entrepreneurship, The Effective Executive*. USA.

Hartzell, G. " Being Proactive. " Book Report. Mar/Apr 2000. Vol 18. Issue 5:14-20.

Hisrich, Robert, ed.1986. *Entrepreneurship, Intrapreneurship and Venture Capital*. Lexington Mass: D.C Heath and Co. in Yuan, Lee Tsao and Linda Low. 1990. *Local Entrepreneurship in Singapore:* Private and State. Institute of Policy Studies. Times Academic Press: p72.

Javier, A.B. 2000. New Politics and Governance in an Era of a Decentralized Polity. Lecture Outline at the Indonesian Administrators Policy Training Course. Nagoya, Japan.

Kirzner, Izrael. 1979. *Perception, Opportunity and Profit*. University of Chicago Press: 8.

Kooiman, Jan. 1994. *Modern Governance, New Government-Society Interaction*. Sage Publications. p.254.

Llewellyn, N. et.al. 2000. Entrepreneurship and Public Service Management: Definitions, Competencies, Obstacles and Examples. The Open University Business School. UK.

McCourt, Willy and Martin Minogue. 2001. *The Internationalization of Public* Management:Re-inventing the Thirld World State. Edward Elgar, Northampton MA, USA: p.5.

Metcalfe, Les. 1994. Public Management: from Imitation to Innovation in Kooiman, Jan. 1994. *Modern Governance, New Government-Society Interaction*. Sage Publications. p.174.

Osborne, David and Gaebler, Ted. 1992. *Re-inventing Government : How the Entrepreneurial Spirit is Transforming the Public Sector*. New York: Addison Wesley.p.19.

Osborne, David and Peter Plastrik. 1997. *Banishing Beauraucracy : Five Strategies for Reinventing Government*. Reading, Mass.: Addison Wesley. p.13-14.

Philippine Constitution. 1987. Section 2, Article X.

Rhodes, R.A.W. 1998. " Different Roads to Unfamiliar Places: UK Experience in Comparative Perspective. " *Australian Journal of Public Administration*. Vol.57(4):19-31.

Roberts. N.C. and P.J. King. 1991. " Policy Entrepreneurs: Their Activity structures and Functions in the Policy Process. " *Journal of Public Administration Research and Theory* 1. p.147.

Rosenau, James N. and Ernts-Otto Czempiel. 1992. *Governance Without Government* : Order and Change in World Politics. Cambridge University Press.p.14-15.

Senge, P.M. 1990. The Fifth Discipline: The Art and Practice of the Learning Organization. New York. Double Day/Currency. In Weller Jr, L.D. and Hartley S.H. 1994. " Principals and TQM: Developing Vision. " Clearing

House. May/June. Volume 67 (Issue 5): 298-303.

Schneider, Mark and Paul Teske with Michael Mintrom. 1995. *Public Entrepreneurs : Agents for Change in American Government*. Princeton University Press.

Tapales, Proserpina D., Padilla, Perfecto L. and Ma. Ernita Joaquin. 1996. Modern Management in Philippine Local Government. Local Government Center, UP-CPA and Public Administration Promotion Centre, German Foundation for International Development.

Ubalde L. 2000, Sustaining Development and Political Gains of a Municipality: Irosin---- Unpublished Management Research Report. Asian Institute of Management, Manila: 61.

UNDP. World Conference on Governance, Proceedings (1999) Manila Philippines.

Van Mierlo, J.G.A. 1996. Public Entrepreneurship as Innovative Management Strategy in the Public Sector: A Public Choice Approach. Paper presented at the 65th Annual Conference of the Southern Economic Association. New Orleans, Louisiana USA. p.3.

Watson, Douglas. 1997. Innovative *Governments : Creative* Approaches to Local Problems. Praeger Pub. USA. p. 1.

Wilson, J. 1989. *Bureaucracy: What government agencies do and why they do it*. New York. Basic Books. p.213.

Yuan, Lee Tsao and Linda Low. 1990. Local *Entrepreneurship in Singapore*: Private and State. Institute of Policy Studies. Times Academic Press.

『国際開発研究フォーラム』21（2002. 3）
Forum of International Development Studies, 21 (Mar. 2002)

Measuring the Economic Impact of Tourism in China

Guo Songhong*

Abstract

In the past two decades, both inbound tourism and domestic tourism have achieved sustainable growth in China. Tourism has grown to a significant size, and it contributes substantially to the Chinese economy. However, the analysis of its economic impact is still a neglected issue in China（Xu: 1999）. This paper tries to measure the economic impact of tourism, evaluate the contribution of tourism to the national economy, and find some policy implications. The impact includes direct and indirect increase in production, labor income, employment, imports, indirect tax etc. through the injection of tourist expenditures into the economy. To catch both the direct and indirect impact of tourism, the paper first constructs a 48 sector social accounting matrix（SAM）for tourism analysis. Then the SAM multipliers are calculated. The total direct and indirect impact of tourist expenditures is the product of the multipliers and the primary injection of tourist expenditures.

In order to strengthen the communication between China and the rest of the world and to earn hard currencies to facilitate imports of technology and facilities, after 1978 the Chinese government made inbound tourism a priority, as many developing countries were doing. However, the study finds that domestic tourist expenditure has a larger economic impact on Chinese economy in terms of production, value added, labor income, indirect tax and employment. The implication is that development of domestic tourism is more desirable than that of inbound tourism. Because export ability has been improved and foreign exchange reserves are high, the role of inbound tourism as a foreign exchange earner has declined. Domestic tourism development could stimulate present weak household consumption, and its development would not trigger a serious problem of insufficient supply as occurred in the 1980s due to the substantial improvement of the ability to meet tourism demands. It is time to shift tourism development priority from inbound tourism to domestic tourism.

1. Tourism development in China

The first travel agent, the Amoy Overseas Chinese Travel Agent, was established in October 1949, after the founding of the People's Republic of China, and this lifted the curtain on tourism development in China. In the 1950s and 60s, tens of travel agencies were established to receive overseas Chinese and foreign government guests and other foreign visitors. However, they were

＊ Doctoral student, Graduate School of International Development, Nagoya University

government agencies intended to achieve political purposes such as strengthening friendship and introducing China to the rest of the world rather than firms intended to make profits. Inbound tourism did not have sustained growth until 1978, when a policy of reform and opening to the world was adopted.

Table 1: Inbound visitor arrivals and tourism receipts: 1978-2000

Year	Visitor Arrivals* (Thousand People)	Growth Rates %	Tourism Receipts (Million US dollars)	Growth Rates %
1978	1,809		263	
1979	4,203	132.3	449	70.9
1980	5,703	35.7	617	37.3
1981	7,767	36.2	785	27.3
1982	7,924	2.0	843	7.4
1983	9,477	19.6	941	11.6
1984	12,852	35.6	1,131	20.2
1985	17,833	38.8	1,250	10.5
1986	22,819	28.0	1,531	22.5
1987	26,902	17.9	1,862	21.6
1988	31,695	17.8	2,247	20.7
1989	24,501	−22.7	1,860	−17.2
1990	27,462	12.1	2,218	19.2
1991	33,350	21.4	2,845	28.3
1992	38,115	14.3	3,947	38.7
1993	41,527	9.0	4,683	18.7
1994	43,684	5.2	7,323	**
1995	46,387	6.2	8,733	19.3
1996	51,127	10.2	10,201	16.8
1997	57,588	12.6	12,074	18.4
1998	63,478	10.2	12,602	4.4
1999	72,796	14.7	14,099	11.9
2000	83,444	14.6	16,224	15.1
Average		21.4		20.2
1980-88		25.7		19.9
1990-2000		11.9		19.1

Note: * Visitor arrivals include both overnight stay tourist arrivals and same day visitor arrivals; one entry to the border is counted as one arrival.

Note: ** The method of calculating tourism receipts changed from 1994 when the international standard was adopted. It is not proper to make simple comparisons with the figures of previous years.

Source : The National Tourism Administration (NTA), *The Yearbook of China Tourism Statistics*

Since 1978, a policy of reform and opening the door to the rest of the world has been implemented in China, and Chinese tourism has entered a period of reform and rapid growth. In order to earn hard currencies needed for imports of intermediate inputs in the process of industrialization, China put inbound tourism as a priority of development shortly after the reform. In the early 1980s tourism reception capacity was insufficient; in order to increase tourism reception for more inbound tourists, facilities such as government guesthouses and military airfields were provided for inbound tourist reception. Meanwhile, regulation of tourism investment having been gradually reduced, investment from other sectors and other countries flew into the tourism sector. For example, in the 1980s and the 1990s many hotels were built using capital from abroad and other sectors. Travel agencies and hotels were changed from government agencies to business firms. The market mechanism was gradually introduced in the tourism sector. Inbound tourism was transferred from its previous status as "political activity" to its present status as "economic activity."

The reform and tourism promotion policies have improved tourism infrastructure construction, and tourism supply has been gradually improved to catch up with the strong demand. Competition and government management have upgraded the tourism services of China. In the past two decades inbound tourism has accomplished a rapid growth except for a decline in 1989 because of the incident of Tian'anmen Square (Table 1). In 2000, inbound tourism receipts reached 16.2 billion US dollars, ranking 7th in the world, accounting for 6.5% of total exports of China. The inbound tourism receipts of China in 1978 were only 263.9 million US dollars, ranking 41st in the world. In 2000, inbound visitor arrivals reached 83.44 million, of whom 31.2 million stayed one night or longer, making China the 5th in the world in terms of overnight stay international tourist arrivals. China has become one of the largest destinations and one of the largest international tourism earners. It has had "unprecedented growth in the history of world tourism development."(Tang: 2001)

Domestic tourism grew spontaneously and did not arouse much attention from the government and investors before the middle of the 1980s. From that time on it gradually became popular due to the increase in income and changing of living style brought about by the economic reform; more and more people wanted to travel for pleasure and recreation. Table 2 shows the growth of domestic tourism of China after 1984. Before the incident of Tian'anmen Square in 1989, the annul growth rate of domestic tourism receipts remained over 30%. After the decline that year, domestic tourism recovered quickly and strongly, tourism receipts in 1991 exceeded the level of 1988. The average growth rate of tourism receipts from 1986-2000 was 19.9%, which was higher than the growth of total household consumption. The domestic tourism receipts reached 317.5 billion yuan and visitor arrivals reached 744 million in 2000.

Table 2: Domestic visitor arrivals and tourism receipts: 1984-2000

	Arrivals (100million)	Growth %	Receipts (1billion yuan)	Growth %
1985	2.40	20.0	8	
1986	2.70	12.5	11	32.5
1987	2.90	7.4	14	32.1
1988	3.00	3.4	19	33.6
1989	2.40	−20.0	15	−19.8
1990	2.86	19.2	18	20.7
1991	2.90	1.4	20	10.5
1992	3.30	13.8	25	25.0
1993	4.10	24.2	86	*
1994	5.24	27.8	102	18.4
1995	6.29	20.0	138	34.5
1996	6.39	1.6	164	19.1
1997	6.44	0.8	211	28.9
1998	6.94	7.8	239	13.2
1999	7.19	3.6	283	18.4
2000	7.44	3.5	318	12.1
1986-1988		10.8		32.7
1990-2000		11.2		20.1
Average		9.2		19.9

Note: * After 1993, domestic tourism receipts data was obtained by questionnaire, and it is not appropriate to make simple comparisons with the figures of previous years.

Source : NTA, *The Yearbook of China Tourism Statistics*

Domestic tourism and inbound tourism are two distinctly different tourism activities. With regard to per capita tourist expenditure, domestic tourism data is much lower than that of inbound. Table 3 shows daily expenditures of a tourist in 1999. For example, an overseas Chinese spent 19 times as much as a domestic rural tourist in 1999. Because of the great expenditure difference, domestic tourism is completely different from inbound tourism, in terms of accommodation, ways of accessing tourist destinations, shopping and recreation. The two different levels of demands require investors to provide different tourism facilities, which increases the cost of tourism investors, and reduces the benefit of economy of scale. The low per capita domestic tourist expenditure might lead to a misunderstanding of Chinese domestic tourism. In fact, because of the tremendous number of domestic tourist arrivals, total domestic tourism receipts were twice as large as those of the inbound tourism.

Table 3: Per day per capita tourist expenditure and total visitor arrivals in 1999

	Expenditures (yuan)	Arrivals (million)
Inbound visitors	1,118	72.8
Foreigner	1,197	8.4
Overseas Chinese	1,231	0.1
Hong Kong	905	61.7
Macao	995	
Taiwanese	1,007	2.6
Domestic urban visitors	122	284
Domestic rural visitors	62	435

Note : Domestic per day per capita data is calculated by per capita domestic tourist expenditure divided by the average length of stay

Source : NTA, *The Survey on Domestic Tourists of China 1999* and *The Yearbook of China Tourism Statistics 2000*

2. Social Accounting Matrix for tourism analysis

A social accounting matrix (SAM) is essentially " an accounting record for a whole economy (not just transactions among producers). " (Bulmer-Thomas: 1982). The principle of a SAM is that of double entry bookkeeping in accounting. A SAM is a series of row and column accounts, in which row accounts record incomings and column accounts record outgoings (or income and expenditure in many cases), and the sum of each row account must equal the sum of the corresponding column account. What is " incoming " into one account must be " outgoing " from another account.

Table 4 shows an aggregated SAM for Chinese tourism analysis with 12 accounts: one production account, two factor accounts, five institution accounts, a combined capital account, a rest of the world account, an international tourism account and a total account. The production account is further disaggregated into 37 sectors using the data of the IO table, and a more detailed SAM with 48-accounts is created[1].

One feature of the SAM is that there is an international tourism account and a domestic tourism account, which record tourist expenditures and their sources. A row account of domestic tourism shows the domestic tourist expenditures are from two accounts: the production account and the household account. The incoming revenue from the production account is the expenditure for business travel and tour paid by companies, and revenue from the household account records the total household budget to be used for private tourism consumption. The column account of tourism shows the domestic tourist expenditures including both business and private tourism expenditures. The domestic tourist expenditure data, obtained from the domestic tourist expenditure survey (NTA, 1998b), are matched to the 37 production sectors of the detailed SAM. For the analysis of

international tourism trade, an international tourism account is split from the rest of the world. The row account records the outbound spending and the balance with the inbound expenditure, the column for international tourism account shows the inbound tourist expenditures. The inbound tourist expenditure data, obtained from the inbound tourist expenditure survey (NTA, 1998a), are matched to the 37 production sectors.

Table 4: Aggregated Social Accounting Matrix 1997 for tourism analysis

		1	2	3	4	5	6	7	8	9	10	11	12
		Produc-tion	Factor		Institutions					C-Capital	The rest of the world		
			Capital	Labor	House-Holds	D-tourism	Firms	Govern ment	Social Welfare		Rest of World	Int-tourism	Total
1	Produc-tion	123,744			34,063	2,113		8,725		27,416	15,542	1,001	212,603
2	Capital	23,919									249		24,168
3	Labor	41540									14		41,554
4	H-holds	0	9,100	41,554			87	706	1,312				52,759
5	D-tourism	396	0		1,716								2,113
6	Firms	0	13,338		0								13,338
7	Government	10,245	146		260		1,032		142	1,115			12,940
8	Social Welfare				1,453								1,453
9	C-Capital				15,267		12,219	3,509			-2,464		28,531
10	R-World	11,916	1,583										13,499
11	Int-tourism	843									158		1,001
12	Total	212,603	24,168	41,554	52,759	2,113	13,338	12,940	1,453	28,531	13,499	1,001	189,603

Unit : 100 million yuan

3. SAM model

To move from a SAM to a model structure requires that each account should be designated as endogenous or exogenous. The SAM endogenous accounts consist of the production accounts, the factor accounts and the household accounts. Exogenous accounts consist of the accounts for domestic tourism, the firm, the government, social insurance, combined capital, the rest of the world and international tourism. Although the two sources of the domestic tourism account are designated as endogenous accounts, the domestic tourism account is designated as an exogenous account, because domestic tourism has similar economic impact as inbound tourism.

For the purpose of analysis, the transaction matrix (T) is converted into the corresponding matrix

of average expenditure propensities (A). The matrix of average expenditures propensities consists of two parts: " A_{nn} " and " A_{ln} "" A_{nn} " is an n×n square matrix of average expenditure propensities for the endogenous accounts, and A_{ln} is a l×n square matrix of propensities for leakages.

	Endogenous	Exogenous	Total
Endogenous	$T_{nn}=\{t_{ij}\}$	Injection T_{nm}	$X_n=\{x_i\}$
Exogenous	Leakages $T_{ln}=\{t_{kj}\}$	Balance T_{lm}	X_l
Total	X'_n		

$$A_{nn}=\{a_{ij}\};\ a_{ij}=t_{ij}/x_j\ ;\ (i=1...n,\ j=1...n) \quad (1)$$

$$A_{ln}=\{a_{kj}\};\ a_{ln}=t_{kj}/x_j\ (k=1...k,\ j=1...n) \quad (2)$$

$$X_n=A_{nn}X_n+DT+F+G+SI+CC+E+TI=A_{nn}X_n+Fd \quad (3)$$

Xn is a vector of total income of the endogenous accounts and xn is the sum of the income in the n endogenous account. DT (domestic tourism), F (firms), G (government), SI (social welfare insurance), CC (combined capital), E (the rest of the world), and TI (international tourism) respectively represent vectors of expenditure injections from the exogenous accounts to the endogenous accounts. Fd represents the sum of the exogenous accounts. When equation (3) is rearranged, then

$$X_n=(I-A_{nn})^{-1}(DT+F+G+SI+CC+E+TI)=(I-A_{nn})^{-1}Fd \quad (4)$$

The final change in the endogenous accounts (△X) derived from change in any exogenous accounts (△Fd) can be calculated by equation (5).

$$\triangle X=(I-A_{nn})^{-1}\triangle Fd \quad (5)$$

where, △Fd represents the changes in any of the seven exogenous accounts. Thus, any change in exogenous accounts " △Fd " will have a total impact of " △X " on the endogenous accounts. The " $(I-A_{nn})^{-1}$ " is the multiplier.

$$\triangle L=A_{ln}(I-A_{nn})^{-1}\triangle Fd \quad (6)$$

where, △L is the change of the leakage after the injection of the final demand △Fd.

4. Impact of tourist expenditures

4.1 Schematic illustration of impact of tourist expenditures

Tourist expenditure affects the national economy by increase in output, income of households and firms, government indirect tax, imports and employment. These arecalled direct impact (see Figure 1). The increase of household wage income and intermediate input demand will arouse another round of increase in production, income, tax, imports and employment etc. The process continues

successively. The impact caused by increase of intermediate input and labor income in the successive rounds is defined as indirect impact. Equations (5) and (6) trace the total impact of the change in the exogenous accounts. The indirect impact is calculated by deducting direct impact from the total impact.

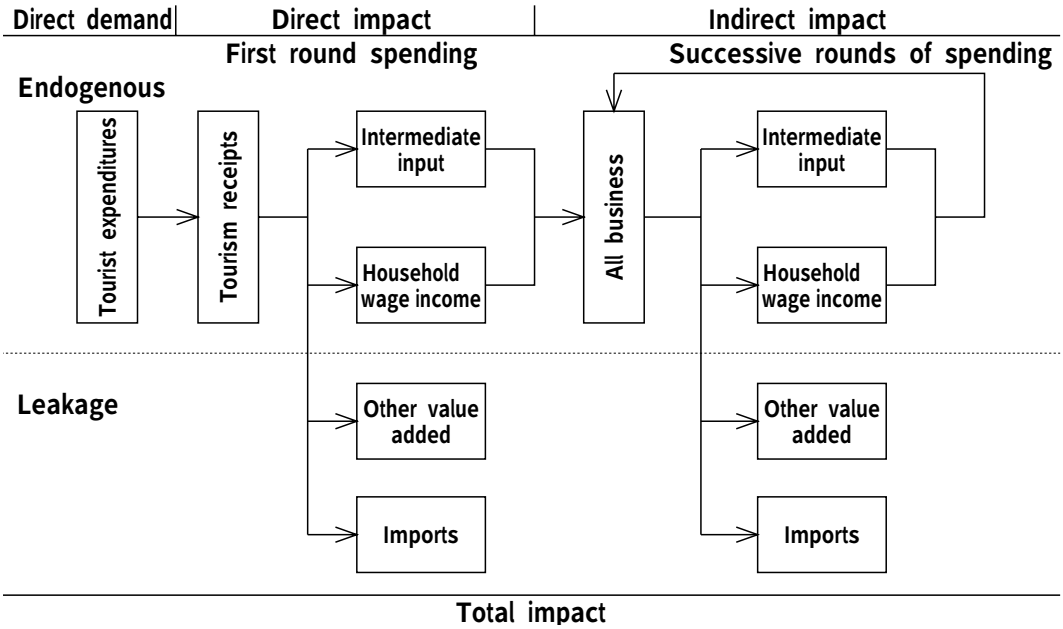


Figure 1: Schematic flow of tourist expending

4.2 Total impact of tourist expenditures

Table 6 shows the calculation results of the direct and indirect impact generated by inbound and domestic tourist expenditures. In 1997, inbound tourist expenditure was 12 billion US dollars, equivalent to 100.1 billion yuan in China; and the domestic tourist expenditure was 211.3 billion yuan. Inbound and domestic tourist expenditures totaled 311.4 billion yuan, accounting for 4.2% of GDP in the same year. However, because tourists buy import goods and services (about 8.1% of the total expenditures), which leak out of the Chinese economy, the direct impact of tourist expenditures on domestic production is estimated to be 286.7 billion yuan (92.1% of total tourist expenditures). The indirect impact on domestic production is 2.47 times as large as the direct impact; total domestic production generated by one yuan tourist expenditure is estimated to reach 3.195 yuan, which means the total tourist expenditure in 1997 is estimated finally have generated the domestic output of 994.9 billion yuan, accounting for 14.5% of the GDP.

Every yuan of tourist expenditure generates 0.172 yuan labor income, the labor income generating ability of tourist expenditure is slightly higher than the average of the 37 industrial sectors. The

indirect income generated by tourist expenditure is much larger than the direct income. Tourism is a labor-intensive sector, one million yuan tourist expenditure generates 25 jobs directly, 97 jobs indirectly, a total of 122 jobs. Total tourist expenditures generated 7.8 million direct jobs, about 1.2% of the total employment of China. The total number of direct and indirect jobs generated by tourist expenditures is 37.96 million.

Table 6: The impact of the total tourist expenditures 1997

	Direct effects (a)	Multipliers (b)	Indirect effects (c)	Indirect effect multipliers	Ratio (c)/(a)	Total effects (e)	Total effect multipliers	Ratio (e)/(a)
Output	3,114	1	7,520	2.415	2.415	10,634	3.415	3.415
Domestic output	2,867	0.921	7,082	2.275	2.470	9,949	3.195	3.470
Labor income	535	0.172	1,575	0.506	2.941	2,110	0.678	3.941
Import	247	0.079	438	0.141	1.774	685	0.220	2.774
Value Added	1,210	0.389	2,860	0.919	2.364	4,070	1.307	3.364
Indirect Tax	156	0.050	403	0.129	2.592	559	0.179	3.592
Employment	7,878	25	30,084	97	3.819	37,961	122	4.819

Unit : 100 million yuan; fully employed workers/million yuan; thousand jobs

Generally, the indirect effects of tourist expenditures are much larger than direct effects. The 6th column of Table 6 shows the relationship of indirect effects of tourist expenditures to the direct effects. The indirect effects are 1.774～3.819 times as large as the direct effects. The 9th column shows the size of total effects of tourist expenditures compared to the direct effects of tourist expenditures.

Table 7 compares the impact of tourism with that of the three final demands: government consumption, investment and exports. In terms of direct effects, tourism has higher impact than exports in all aspects except imports. Indirect tax generating ability of tourism is the strongest. Employment and value added generating ability is followed by government consumption. However, labor income generating ability is not very strong compared with investment and government consumption; this might because tourism generates more low-income jobs.

Table 7: Multipliers of tourist expenditure, government consumption, investment and exports

	Direct impact				Indirect impact				Total impact			
	Govern. consum.	Invest-ment	Exports	Tourism	Govern. consum.	Invest-ment	Exports	Tourism	Govern. consum.	Invest-ment	Exports	Tourism
Output	1	1	1	1	2.766	2.920	2.623	2.415	3.766	3.920	3.623	3.415
Domestic production	0.996	0.954	0.903	0.921	2.610	2.740	2.447	2.275	3.606	3.694	3.350	3.195
Labor income	0.356	0.181	0.139	0.172	0.570	0.551	0.511	0.506	0.926	0.732	0.650	0.678
Imports	0.004	0.046	0.097	0.079	0.155	0.181	0.176	0.141	0.159	0.227	0.273	0.220
Value added	0.469	0.297	0.292	0.389	1.060	1.050	0.951	0.919	1.528	1.348	1.243	1.307
Indirect-tax	0.009	0.033	0.048	0.050	0.148	0.155	0.138	0.129	0.157	0.188	0.186	0.179
Employment	53	21	19	25	105	96	94	97	158	117	113	122

Unit : Yuan; jobs/million yuan

Multiplier effects of tourism are the weakest compared with the three final demands. Direct effect of tourism on job creation is better than that of investment and exports, but the indirect effect of tourism on employment is not strong. In terms of total effects, tourism performs generally better than exports but worse than investment and government consumption.

4.3 Impact of nine categories of tourist expenditures

Tourist expenditures on different goods and services have different economic effects on the national economy. Tourist expenditure, based on the data obtained by the survey conducted by the NTA, is classified into 9 categories. By using the SAM model, direct and indirect effects of the 9 categories of tourist expenditures are calculated and shown in Table 8.

Table 8: Impact of tourist expenditures in terms of 9 expenditure categories 1997

		Long distance	Accommodation	Food & Beverage	Loc. Trans.	Telcom	Sight-seeing	Recreation	Shopping	Others	Total or average
Direct effects	Tourist expenditure	909.0	412.5	439.0	93.1	50.2	152.1	86.9	676.2	294.8	3,114
	Share	0.29	0.13	0.14	0.03	0.02	0.05	0.03	0.22	0.09	100
	Domestic output	845	364	425	89	50	149	80	645	220	2,867
	Labor income	179	67	77	23	6	46	13	93	31	535
	Import	64	49	14	4	1	3	7	31	75	247
	Value added	425	215	149	35	28	67	22	217	52	1,210
	Indirect tax	54	26	18	2	2	2	4	44	3	156
	Employment	2,321	1,020	1,516	358	54	755	173	1,272	409	7,878
Direct effect ratio	Tourist expenditure	1	1	1	1	1	1	1	1	1	1
	Domestic output	0.930	0.882	0.967	0.960	0.988	0.979	0.917	0.954	0.747	0.921
	Labor income	0.197	0.162	0.175	0.248	0.117	0.305	0.153	0.137	0.106	0.172
	Import	0.070	0.118	0.033	0.040	0.012	0.021	0.083	0.046	0.253	0.079
	Value added	0.468	0.521	0.339	0.373	0.568	0.442	0.248	0.321	0.175	0.389
	Indirect tax	0.060	0.063	0.042	0.023	0.040	0.012	0.041	0.065	0.012	0.050
	Employment	26	25	35	38	11	50	20	19	14	25
Indirect effects	Output	2,058	784	1,255	254	109	416	232	1,856	555	7,520
	Domestic output	1,923	739	1,208	240	102	393	211	1,746	515	7,082
	Labor income	422	170	257	43	20	77	53	399	120	1,575
	Import	135	45	47	14	7	23	22	109	40	438
	Value added	807	313	424	80	37	144	100	712	227	2,860
	Indirect tax	120	44	57	11	5	21	14	99	31	403
	Employment	7,512	3,240	5,497	784	354	1,412	934	7,753	2,177	30,084
Indirect multipliers	Output	2.264	1.901	2.859	2.728	2.178	2.736	2.674	2.745	1.883	2.415
	Domestic output	2.115	1.791	2.752	2.582	2.043	2.582	2.425	2.583	1.748	2.275
	Labor income	0.464	0.413	0.585	0.459	0.398	0.504	0.611	0.590	0.407	0.506
	Import	0.149	0.110	0.107	0.146	0.135	0.154	0.249	0.162	0.136	0.141
	Value added	0.888	0.760	0.966	0.864	0.728	0.945	1.155	1.053	0.770	0.919
	Indirect tax	0.132	0.107	0.129	0.123	0.105	0.137	0.165	0.146	0.104	0.129
	Employment	83	79	125	84	71	93	107	115	74	97
Total effects	Output	2,967	1,197	1,694	347	159	568	319	2,532	850	10,634
	Share	0.279	0.113	0.159	0.033	0.015	0.053	0.030	0.238	0.080	100
	Domestic output	2,768	1,103	1,633	330	152	542	290	2,391	735	9,949
	Labor income	601	237	333	66	26	123	66	492	151	2,110
	Import	199	94	61	17	7	27	29	141	115	685
	Value added	1,232	529	573	115	65	211	122	929	279	4,070
	Indirect tax	174	70	75	14	7	23	18	142	34	559
	Employment	9,833	4,260	7,013	1,142	408	2,166	1,107	9,026	2,586	37961
Total Multipliers	Output	3.264	2.901	3.859	3.728	3.178	3.736	3.674	3.745	2.883	3.415
	Domestic output	3.045	2.674	3.719	3.542	3.031	3.560	3.342	3.537	2.495	3.195
	Labor income	0.661	0.576	0.759	0.707	0.515	0.810	0.764	0.727	0.513	0.678
	Import	0.219	0.227	0.140	0.186	0.147	0.175	0.332	0.208	0.389	0.220
	Value added	1.356	1.281	1.305	1.237	1.296	1.387	1.403	1.374	0.945	1.307
	Indirect tax	0.192	0.170	0.171	0.146	0.145	0.149	0.206	0.211	0.116	0.179
	Employment	108	103	160	123	81	142	127	133	88	122

Unit : 100million yuan; 1000 people

The tourist expenditure on long distance transportation is the largest expenditure, accounting for 29% of the total. Because China has a large territory, tourists have to take long trips to their destinations. The absolute large amount of long distance transportation expenditure makes it contribute most to domestic output, labor income, value added, indirect tax and employment in terms of both direct effects and indirect effects. In view of multipliers, its direct effects are all above average except for import, but indirect effects are mostly below average, except for import and indirect tax.

The accommodation expenditure accounts for 13% of the total tourist expenditure, and it has relatively strong direct effects on value added (0.468) and indirect tax (0.06). The import propensity is also very high (0.118) ; in other words, tourist expenditure on accommodation is easy to leak out of China and its production effect on domestic production is low (0.88). This is because of the high involvement of foreign investment and management in the hotel sector. The total multiplier effects of accommodation expenditure are all below those of the average of 9 categories except the total effect on imports, because the indirect effects generating ability is weaker than that of the other 8 kinds of expenditures.

Food & beverage is the third largest expenditure of tourists accounting for 13.2% of total tourist expenditure. It has a strong employment multiplier effect. Direct tourist expenditure of 43.9 billion yuan on food & beverage directly created 1.5 million direct full employment work positions and indirectly 5.49 billion, that means one million yuan expenditure on food & beverage generates 35 full employment positions directly and 125 indirectly for a total of 160. The output multiplier effect of food & beverage expenditure is also the strongest. One yuan tourist expenditure on food & beverage generates indirect domestic output of 2.75 yuan and a total of 3.719 yuan domestic production.

Local transportation expenditure has a strong ability to generate direct labor income and employment. One yuan tourist expenditure generates 0.248 yuan direct labor income, and one million transportation expenditure generates 38 direct work positions, ranked second in the 9 categories. However, its multiplier effects on labor income and employment are not outstanding compared with its direct effects. Its output multiplier effect is among the strongest, one yuan tourist expenditure on local transportation can generate 2.58 yuan domestic production. However, the small absolute amount of local transportation (3% of the total tourist expenditures) limits its total contribution.

Telecommunication takes a small share among the total expenditure. Telecommunication sector is a high value added earning sector: one yuan tourist expenditure on telecommunication, creates as high as 0.568 yuan value added. The direct employment effect of telecommunication expenditure is the lowest among the 9 categories, one million yuan telecommunication expenditure creates only 11 jobs.

Tourist expenditure on sightseeing has very strong effects on labor income and employment: one yuan sightseeing expenditure creates 0.305 yuan direct labor income, and one million sightseeing expenditure generates 50 direct work positions. The indirect production multiplier effect is also very

strong: one yuan tourist expenditure on sightseeing generates 2.582 yuan domestic production. This is next to the multiplier effect of food & beverage (2.752) and shopping expenditure (2.583).

Indirect multipliers of recreation expenditure on labor income, import, value added, indirect tax, and employment are all very high. However, the share of recreation expenditure on total tourist expenditure is the lowest (2%) ; this limits its general contribution to national economy.

Shopping is the second largest tourist expenditure, accounting for 22% of total tourist expenditures. It has the strongest ability to generate indirect tax in terms of both direct and indirect effects. Its indirect multiplier effects on domestic production (0.590), labor income (2.583), value added (1.053), indirect tax (0.146), and employment (114.7) are all among the high level in the 9 categories. Both direct effect and total effects of shopping expenditure on indirect tax are the highest (0.065 and 0.211).

Tourist expenditures classified as " Others " are expenditures not listed in the above 8 categories, covering expenditures to travel agents, insurance, healthcare etc.

4.4 Impact of expenditures of 6 kinds of tourist groups

As shown in Table 8 in the previous section, different kinds of tourist expenditures have very different effects on domestic production, labor income, imports, value added, indirect tax, and employment. Because the expenditure structures of the 6 tourist groups are different, they also generate different impacts, although the difference is not significant. Table 9 shows the direct and indirect effects of tourist expenditures of 6 different groups of tourists and the multipliers.

Domestic urban and rural tourist expenditures took as large as 49.8% and 18% of the total tourist expenditures in spite of the low per capita tourist expenditure shown in the previous section. Tourist expenditures of overseas Chinese and Taiwan accounted for relatively small percentages of 0.2% and 5.7%. Expenditures of foreigners and expenditures of visitors from Hong Kong & Macao are close in size, accounting for 13.4% and 12.9% of the total tourist expenditures respectively. The absolutely large shares of domestic urban and rural tourist expenditures make them contribute most in all aspects and in both direct and indirect terms. Their absolute sizes suggest the importance of domestic tourism, in comparison to the inbound tourism.

As discussed before, per capita tourist expenditure varies greatly, but the multipliers of the 6 tourist groups do not vary greatly, the similarity of multipliers of the tourist groups are caused by the similarity of their expenditure structures, especially among the 4 inbound tourist groups and the 2 domestic tourist groups. One implication is that no matter the kind of tourist, poor or rich, if expenditures are similar, the effects of per unit of tourist expenditures do not vary very much.

If we look at the multipliers in detail, we find that domestic tourists have low propensity to buy import goods (0.063 and 0.077) in comparison with inbound tourists (all over 0.093). Most inbound

tourist-using hotels are foreign invested, as are most inbound tourist-using transportation vehicles, such as airplanes and buses, and even many foods and beverages are imported. Because the import propensity is calculated from the data of IO table, which is the average data of the sector, the real import propensity of the inbound tourists is assumed to be even higher and that of domestic tourists is even lower. Low consumption propensity of import goods, on the other hand, means high consumption propensity of domestic production, and it further means fewer tourist expenditures are leaked out of the Chinese economy. Compared with the inbound tourist expenditure, every yuan of domestic tourist expenditures generates larger impact on domestic production, labor income, value added, indirect tax and employment, in terms of both direct and indirect terms. One million yuan of domestic tourist expenditure can generate 2-5 more jobs than the same amount of inbound tourist expenditure. One thing that should be mentioned is that behind the data is the fact that these jobs require less skill and are more desirable from the point of view of the employment problem of China. The implication is that one yuan domestic tourist expenditure is more "valuable" to the Chinese economy than one yuan inbound tourist expenditure.

Table 9: Impact of tourist expenditures of 6 tourist groups 1997

		Impact							Multipliers						
		Foreig-ners	Overseas Chinese	HK& Macao	Taiwan	Rural	Urban	Total	Foreig ners	Overseas Chinese	HK& Macao	Taiwan	Rural	Urban	Total
	Share	0.134	0.002	0.129	0.057	0.180	0.498	1							
Direct	Tourist expenditures	417.7	7.1	400.2	176.0	560.9	1551.8	3114	1.0	1.0	1.0	1.0	1.0	1.0	1.0
	Domestic production	377.4	6.4	361.7	158.5	525.7	1432.4	2862	0.904	0.907	0.904	0.901	0.937	0.923	0.919
	Labor income	65.7	1.1	66.2	28.5	96.3	276.1	534	0.157	0.161	0.166	0.162	0.172	0.178	0.172
	Imports	40.2	0.7	38.5	17.5	35.2	119.4	251	0.096	0.093	0.096	0.099	0.063	0.077	0.081
	Value added	153.8	2.6	150.6	63.4	220.3	621.2	1212	0.368	0.365	0.376	0.360	0.393	0.400	0.389
	Indirect tax	20.2	0.3	18.8	8.1	31.2	77.7	156	0.048	0.048	0.047	0.046	0.056	0.050	0.050
	Employment	926	16	933	403	1401	4119	7798	22	23	23	23	25	27	25
Indirect	Production	981.1	16.9	933.7	414.1	1402.4	3736.7	7485	2.349	2.376	2.333	2.353	2.500	2.408	2.404
	Domestic production	922.3	15.9	876.7	388.8	1321.2	3521.8	7047	2.208	2.233	2.191	2.209	2.356	2.269	2.263
	Labor income	202.8	3.5	190.6	85.0	294.3	785.4	1562	0.486	0.491	0.476	0.483	0.525	0.506	0.502
	Imports	58.8	1.0	57.0	25.2	81.1	214.9	438	0.141	0.143	0.142	0.143	0.145	0.138	0.141
	Value added	371.5	6.4	351.8	156.4	532.4	1424.4	2843	0.889	0.899	0.879	0.888	0.949	0.918	0.913
	Indirect tax	52.2	0.9	49.8	22.0	75.1	201.1	401	0.125	0.127	0.124	0.125	0.134	0.130	0.129
	Employment	3826	66	3560	1595	5646	15049	29743	92	93	89	91	101	97	95
Total	Production	1398.8	24.0	1333.9	590.1	1963.2	5288.5	10598	3.349	3.376	3.333	3.353	3.500	3.408	3.404
	Domestic production	1299.7	22.3	1238.4	547.4	1846.9	4954.2	9909	3.112	3.140	3.095	3.110	3.293	3.192	3.182
	Labor income	268.6	4.6	256.8	113.5	390.6	1061.5	2096	0.643	0.652	0.642	0.645	0.696	0.684	0.673
	Imports	99.1	1.7	95.5	42.7	116.3	334.3	690	0.237	0.236	0.239	0.243	0.207	0.215	0.221
	Value added	525.2	9.0	502.4	219.8	752.7	2045.6	4055	1.258	1.265	1.255	1.249	1.342	1.318	1.302
	Indirect tax	72.4	1.2	68.6	30.1	106.3	278.8	558	0.173	0.174	0.171	0.171	0.190	0.180	0.179
	Employment	4753	82	4493	1998	7047	19169	37541	114	116	112	114	126	124	121

Unit : 100 million yuan; 1000 people

5. The outlook for tourism development

China is a country with a long history and abundant tourist attractions. After two decades of rapid growth, Chinese tourism has achieved great progress, but there are large gaps between China and the top tourism developed countries, such as the US, Italy, France etc. Table 10 shows the top ten international tourist destinations and international tourism earners. Inbound tourism receipts of the US were 5.3 times as much as those of China in 1999. Countries like Spain, UK, and Italy are much smaller than China in territory, but they lured more tourists and earned more than China. If China follows the way of these countries, there is development potential for China. The present sustained economic growth and stable political situation provide a good environment for the catch-up of China. Although some international incidents such as an economic crisis or terrorist attack could interrupt the growth, experience tells us that tourism would recover quickly and strongly after these incidents, because tourism has become a lifestyle of the people.

Table 10: Inbound tourist arrivals and tourism receipts of the top ten countries and the shares of the world market 1999

Ranking	Country	Arrivals (million)	Share of the world %	Country	Receipts billion USD	Share of the world %
1	France	73.0	11.0	U.S.	74.4	16.4
2	Spain	51.8	7.8	Spain	32.9	7.2
3	U.S.	48.5	7.3	France	31.7	7.0
4	Italy	36.1	5.4	Italy	28.4	6.2
5	China	27.0	4.1	UK	21.0	4.6
6	UK	25.7	3.9	Germany	16.8	3.7
7	Canada	19.6	2.9	China	14.1	3.1
8	Mexico	19.2	2.9	Austria	11.1	2.4
9	Russia	18.5	2.8	Canada	10.0	2.2
10	Poland	18.0	2.7	Greece	8.8	1.9

Note : Arrivals include overnight tourist arrivals only, and exclude same day visitor arrivals. Tourism receipts exclude international long distance transportation fee.

Source : The World Tourism Organization

According to the World Tourism Organization's (WTO) forecast: *Tourism: 2020 vision*, tourists of the 21st century will be traveling further from home, and China will become the largest destination in the world with 137.1 million international tourist arrivals by the year 2020, an average growth rate of 8% during 1995-2020. The NTA[2] estimated inbound visitor arrivals would grow 1-3% and inbound tourism receipts would grow 9-14% during 2001-2010. Because the average growth of inbound tourism

receipts from 1995-2000 is 11.4%, and the average growth rate since 1978 is 20.2%, it is not over optimistic to believe the forecasts will be realized.

The size of domestic tourism in terms of tourism receipts is small compared with the developed countries. The domestic tourism revenue is about 4-10 times that of inbound tourism in the tourism-developed countries, but in the case of China it is only 2 times. Given that China is a country with a 1.2 billion population, and the economy has been growing at an annual growth rate of at least 7.1% in the past decade, it is easy to assume that domestic tourism will continue to grow; the potential for growth is significant. The NTA estimated domestic tourist arrivals would grow 8% annually and tourism receipts grow 15% annually in the period 2001-2010. The domestic tourist arrivals would be 2 ~2.5 billion and the domestic tourism receipts would be 1000-1050 billion yuan in 2010.

In recent years, with increasing income and holidays, and with increasing business connections with the rest of the world, Chinese tourists are increasingly travelling traveling abroad. Outbound travel is growing rapidly. The WTO has estimated that outbound tourist arrivals of China would grow at an average annual rate of 14% and reach 100 million in 2020, and that China will become the 4th largest tourist origination country in the world. The rapid growth of outbound tourism will reduce net foreign exchange earning of tourism.

6. Conclusions and Policy Implications

The contribution of tourism to the Chinese economy includes direct and indirect effects, which are classified as (a) increase in domestic production. (b) generation of labor income and creation of employment. (c) generation of government tax. (d) foreign exchange earnings from inbound tourist expenditures. and (e) other economic effects on regional development, income distribution. The indirect effect of tourism is much larger than the direct effect. The direct and indirect effects show tourism contributes substantially to the Chinese economy. However, compared with other final demands of government consumption, and investment, the multiplier effects of tourism are not outstanding, but they are generally larger than those of exports.

The analysis finds that domestic tourist expenditures generate higher impact on Chinese economy than inbound tourist expenditures. Domestic tourist expenditure has higher direct and indirect effects on domestic production, labor income, indirect tax, employment etc. than inbound tourist expenditure. Compared with domestic tourists, the inbound tourists have higher propensity to import goods and services; therefore, much tourist expenditure leaks out of China and does not generate domestic impact. Domestic tourism was not encouraged before the middle of the 1980s because transportation supply was a bottleneck of the economy and development would increase the problem. In order to earn badly needed hard currency, inbound tourism was made a priority of the government development strategy. The finding suggests that domestic tourism is more desirable for Chinese

economic development than inbound tourism. In general, because the supply of transportation and accommodation has been gradually improving since the middle of the 1990s, the development of domestic tourism will not increase the problem of short supply. It is time for the government to shift development priority of inbound tourism to domestic tourism.

China is now facing a problem of weak household consumption; the household consumption rate of China is below the world average (Fan: 2000). Electric appliances have entered most urban households, but cars and housing are still too expensive to be bought by most families as electric appliances are. Tourism can provide goods from low prices to high prices fitting consumers' demands at different income levels. Therefore it can be expected to become one of the hot goods to stimulate consumption. The statistics show that in the last decade domestic tourism consumption has grown faster than total consumption. In 1999 the public holidays of Mayday and National day were extended to 3 days respectively; following that, tourism boomed during the two holidays.

However, inbound tourism development is still very important. In the past two decades, inbound tourism has earned desperately needed hard currency. The growth of inbound tourism is faster than the growth of total exports. Because inbound visitor arrivals have reached a large absolute amount, the growth rate has slowed down compared with the period of 1978-1988. Recent rapid growth of outbound tourism is consuming the foreign exchange earnings of inbound tourism. The development of inbound tourism is of great importance for the balance of payment of the international tourism account. Another reason for inbound tourism promotion is that inbound tourism, as an invisible export, generates larger economic impact on national economy than general exports. Compared with tourism-developed countries, there is still a large potential for tourism development in China. At present, two important questions are how to develop new tourism products to meet the market and how to publicize China in the international tourism market in order to compete with other Asian tourism destinations.

After more than two decades of development, tourism has grown to a significant size. In 2000 total tourism receipts reached 4.3% of total GDP. Tourism has been developed into a pillar industry in the provinces of Yunnan, Hubei, Heilongjiang, Hainan, Tibet and the Municipality of Chongqing. The NTA anticipates that tourism will become one of the key industries, and the ratio of tourism receipts to the GDP will reach 8% in the year 2010. In 1992 the State Council designated tourism as a key sector of tertiary industry. Over half of the provinces and municipalities have designated tourism as a pillar industry or future pillar industry in their region. However, in order to achieve the NTA aim by 2010, it is necessary for the government to continue its industrial and financial policy support of inbound tourism development, and strengthen its support of domestic tourism.

Endnotes

1) For the construction of the SAM, please read the appendix

2) NTA, The 9th *Five-year Development Plan of Chinese Tourism and the Outline for the Forecast to 2010*

References

[1] Bulmer-Thomas,V. 1982. *Input-Output Analysis in Developing Countries*. New York: John Wiley.

[2] Department of National Economic Accounting, State Statistical Bureau of P. R. China. 2000. *Input-output Table of China, 1997*. Beijing: China Statistical Publishing House.

[3] Department of Travel Agency and Hotel Administration, the National Tourism Administration of P. R. of China. 1997. *Zhongguo Luxingshe Hangye Fazhan Baogao (Development Report of Travel Agency Sector in China)*. Beijing: the National Tourism Administration of the P. R. China.

[4] Fan Jianping. 2000. Private *Consumption and Economic Development in China*. Beijing: China Planning Press

[5] The National Tourism Administration of the People's Republic of China NTA. 1998a. *1997 Nian Haiwai Luyouzhe Chouyan Diaoca Ziliao (A Survey on Inbound Tourists 1997)*. Beijing: the National Tourism Administration of the P. R China

[6] NTA. 2000a, 1999a, 1998b. *Guonei Luyouzhe Chouyan Diaoca Ziliao 1999, 1998, 1997 (A Survey on Domestic Tourists 1999, 1998, 1997)*. Beijing: National Tourism Administration of the P. R China

[7] NTA. *Zhongguo Luyouye Fazhan "Jiuwu" Jihua he 2010 Nian Yuanjin Mubiao Gangyao (The Master Plan of Tourism Development of China in Period of the Ninth Five-year Plan and Blueprint of 2010)*. Beijing: National Tourism Administration, P. R. China

[8] NTA. 2000b, 1999b. *Yearbook of China Tourism Statistics*. Beijing: the National Tourism Administration of the People 's Republic of China

[9] Tang, Liuxiong. 2001. *Xiandai luyou Chanye Jingjixue (New Tourism Industrial Economics)*. Guangzhou: Guangdong Tourism Press

[10] Wei, Xiao'an, Liu Zhaopin and Zhang Shumin. 1999. *Zhongguo Luyouye Xinshiji Fazhan Daqushi (The Development Trend of Chinese Tourism to the New Century)*. Guangzhou: Guangdong Tourism Press

[11] Xu, Gang. 1999. *Tourism and Economic Development in China*, Richmond Surrey: Curzon Press

[12] World Tourism Organization. 1997. *Tourism : 2020 Vision.* Madrid: World Tourism Organization.

Appendix: Construction of a Social Accounting Matrix for Tourism Analysis

The paper uses a Social Accounting Matrix (SAM) with 48 accounts to analyze the impact of tourism. However, it is difficult construct a SAM with 48 accounts from the beginning, because a SAM requires many pieces of macro economic data, some of which are not consistent and some of which are not available. Therefore, before constructing a more detailed SAM, an aggregated SAM is often constructed to make the data consistent and to estimate those data not available.

The following is an aggregated SAM of 1997 with ten accounts that are one production account; two accounts for factors of production (labor and capital) ; four institution accounts; one combined capital account; one rest of the world account; and one total account.

Table 1: An Aggregated SAM 1997

		1	2	3	4	5	6	7	8	9	10
1	Production	124,140			35,779		8,725		27,416	16,543	212,603
2	Capital	23,919								249	24,168
3	Labor	41,540								14	41,554
4	H-hold		*9,100*	41,554		87	706	1,312			52,759
5	Firms		*13,338*								13,338
6	Government	10,245	146		260	1,032		142	1,115		12,940
7	Social Welfare				1,453						1,453
8	C-Capital				15,267	*12,219*	*3,509*			*−2,464*	28,531
9	R-World	12,759	1,583								14,342
10	Total	212,603	24,168	41,554	52,759	13,338	12,940	1,454	28,531	14,342	401,846

Note : The data in italic font is estimated. Unit: 100 million yuan

All data of the production account are from the input-output table 1997. The production column account records all expenditures during the production process in addition to the imports. The expenditures in detail include intermediate input demands, labor and capital costs, indirect taxes. The cell (1,1) the sum of the intermediate demand data of the IO table. The capital expenditure of production shown in the cell (2,1) is the sum of the gross fixed capital formation and the operating surplus in the IO table. The labor expenditure shown in the cell (3,1) is from the data of compensation of labor in the IO table. The expenditure to the government account shown in the cell (6,1) is from the data of the net taxes on production of the IO table. The import data is in a negative form in the IO table, and is converted into positive data and shown in the cell (9,1) of the aggregated SAM.

The production row account records outgoing of total production and imports for intermediate input supply, investment, household and government consumption, and exports. The data in the cell

(1,4) is the household consumption; in the cell (1,6) is the government consumption; in the cell (1,9) are the exports of the IO table. There is a column of error data and a column of gross capital formation data in the IO table ; these are added up and shown in the cell (1,8). The 21260.3 billion yuan shown in the cell (1,10) is the sum of the row account, which equals the sum of the column.

The capital row account shows that Chinese citizens earn 2391.9 billion yuan (2,1) and 24.9 billion yuan (2,9) from domestic and abroad respectively. The cell (2,10), the sum of the row, records the total capital income, and equals the total expenditures of capital account in the cell (10,2). The 158.3 billion yuan (9,2) is the capital earning of the foreign capital. The 14.6 billion yuan (6,2) is the capital expenditure to the government. The data of capital earnings from aboard and capital expenditures to the government and the rest of the world are from the Flow of Funds Table 1997. The data of 1333.8 billion yuan (5,2), shows the operating surplus of firms, and is estimated by deducting other capital expenditures from the total capital income. The data of 910 billion yuan in the cell (4,2), is also estimated data, and shows the capital earning distributed to households.

The labor row account shows the factor income of labor from domestic production and the rest of the world. The abroad labor earning of 1.4 billion yuan (3,9), which is from the Balance of Payment Statement 1997, and the domestic labor earning of 4154 billion yuan, totaling 4155.4 billion yuan, goes to the household account shown in the cell (4,3).

Expenditures of the households include 3577.9 billion yuan household consumption (1,4) ; 26 billion yuan (6,4) income tax; 145.3 billion yuan (7,4) for social welfare insurance; and 1526.7 billion yuan (8,4) savings, totaling 5275.9 billion yuan. Income tax, household savings and social welfare insurance expenditure are obtained from the Flow of Funds Table 1997. Three pieces of transfer income data of households, the 8.7 billion yuan (4,5) from firms, 70.6 billion yuan (4,6) social subsidies from government and 131.2 billion yuan (4,7) social welfare income, are from the Flow of Funds Table 1997. There is a 910 billion yuan difference between the household expenditure and the sum of labor and transfer income of households. The difference is assumed to be the capital income of households shown in the cell (4,2).

For firm account in the SAM, capital is its only source of income, but there are three expenditures: transfer expenditure to households (4,5), corporation income tax (6,5) ; and saving (8,5). The first two are from the Flow of Funds Table 1997 and the saving data is estimated by deducting transfer expenditure to households and corporation income tax from the total firm income which has been estimated in the previous paragraph.

The government account has 6 sources of income in the aggregated SAM, 4 of them have been explained in the previous paragraphs. The remaining two government incomes are 14.2 billion yuan (6,7) transfer income from social welfare account, and 111.5 billion yuan (6,8) credit income from the combined capital account. The former is the surplus of the government run social welfare agency,

which will be explained in the next paragraph. The 111.5 billion yuan is the sum of the 58.2 billion yuan government budget deficit of 1997 and the 53.3 billion yuan net income of debts the government received in the same year (debt income of government minus payment of principle and interest of the credit). The cell (6,10), the sum of the row, records total government revenue in 1997. The government expenditures include government consumption (1,6), transfer expenditure on households (4,6), and government saving (8,6). The government consumption data is from the IO table; the 70.6 billion yuan transfer to households is from the Flow of Funds Table 1997 and the government saving is estimated by deducting government consumption and transfer expenditure from the total government revenue.

The social welfare account is indeed a sub account of the government, which records the government income and expenditure of health insurance and pension. Households pay 145.3 billion yuan (7,4) and receive 132.2 billion yuan (4,7) benefit to and from the government run health and pension agencies. Because the government takes responsibility for the loss and gain of the management, the 14.2 billion yuan surplus in 1997 is then transferred to the government account.

The combined capital row account records the savings. The total saving of 2853.1 billion yuan recorded in the cell (8,10) equals the total investment recorded in the cell (10,8). A negative data of -246.4 billion yuan in the cell (8,9) is the net saving of the rest of the world. It is estimated by deducting other expenditures of the rest of the world account from the 1434.2 billion yuan total income of that account. The combined capital column account records the total investment and government debt income.

Because China is not a closed economy, a rest of the world account is set up to record the link of China and the rest of the world. The rest of the world row account shows foreign exchange earning of the rest of the world from China, in other words, total foreign exchange expenditures of China. The rest of the world column account, on the contrary, shows expenditures of the rest of the world, or the total foreign exchange earning of China from the rest of the world.

After construction of the aggregated SAM, the production is disaggregated into 37 sub-accounts, and the domestic tourism and international tourism account are separated from the household account and the rest of the world account respectively.

Production accounts

The data source for disaggregation of the production account is the 37-sector IO table 1997 that is aggregated from the 124-sector IO table 1997. The aggregation principle is to select tourism related sectors, such as hotel, transportation, and travel agency etc. to be remained in the IO table, and to select some sectors less important to tourism to be aggregated.

International tourism account

Inbound tourism is a kind of export of service, and the inbound tourism receipt is contained in the export data of the IO table and the aggregated SAM shown in Table 1. As a kind of service import, tourist expenditure is included in the import data. In order to have a clear picture of tourism expenditure and the balance of tourism income and expenditure, an international tourism account is split from the rest of the world account of the aggregated SAM. The inbound tourist expenditures matching 37-production accounts are obtained from the tourist expenditure survey conducted by the NTA. The inbound tourist expenditures are classified into 9 categories: accommodation, long distance transportation, food & beverage, recreation, shopping, telecommunication, sightseeing, local transportation, and others. The shopping expenditure is further classified into 12 categories. The disaggregated inbound tourist expenditures are first allocated to the proper sectors of the 37 production accounts. For example, tourist expenditure on food & beverage is allocated to the sector of restaurants; expenditure on long distance transportation is allocated to the sector of passenger transport. Because the survey data of tourist expenditure are at consumer 's prices, they are then converted into the data at producer 's prices by deducting the trade margin and transportation margin. The trade margin is allocated to the commerce sector ; the transportation margin is allocated to the freight transport sector. The final data of inbound tourist expenditures matched to the 37 production accounts are shown in column 47 the international tourism account in Table 2.

The 37 sector export data of the IO table minus inbound tourist expenditure data matched to 37 sectors is the export data of the rest of the world account in the detailed SAM, which is shown in column 46 in Table 2.

The total outbound tourist expenditure is 84.3 billion yuan, which is from the Balance of Payment 1997. Because there is no detailed data on outbound tourist expenditures available, the row of outbound tourist expenditure data is estimated from the import data of the 37-sector IO table and the structure of inbound tourist expenditures. The import data of hotel, transportation, restaurants, and travel agencies in the 37-sector IO table are assumed to be tourist expenditures of outbound tourists. The outbound tourist expenditures on other sectors are estimated according to the expenditure structure of inbound tourists. Adjustments are done when the estimated tourist expenditure data are larger than the total imports data of the IO table. For the detailed outbound tourist expenditure data matching 37-production sector, please look at row 47 in Table 2.

The row vector data of imports minus the estimated row vector data of outbound tourist expenditures are the row vector imports data of the rest of the world account in the SAM (row 46 in Table 2).

Because the outbound tourist expenditure is only 84.3 billion yuan, and inbound tourist expenditure is 100.1 billion yuan, a deficit of 15.8 billion yuan is needed to balance the international tourism

account. The deficit is received from the rest of the world account in the SAM, this means the rest of the world earns 15.8 billion yuan less than its expenditure on international tourism and it has to use its earnings from other fields to fill in the deficit.

Domestic tourism account

Total domestic tourist expenditure was 211.3 billion yuan in 1997, and this is matched to the 37-production accounts in the same way as the inbound tourist expenditure. The data is shown in column 41 of Table 2.

Domestic tourist expenditures include both private tourist expenditure and corporation tourism expenditure. Unfortunately, the survey conducted by the NTA does not provide specific data on private and business tourist expenditures. However it is clear that private tourist expenditure, as part of household consumption, should be included in the total household consumption data of the IO table. Comparing the 37-sector total consumption data with the tourist consumption data matched to the 37-sector, it is found that tourist expenditures on accommodation and long distance transportation are larger than the total household consumption in the hotel sector and long distance transportation sector. The difference totaled 39.6 billion yuan and is assumed to be business tourist expenditure, and the remaining 171.6 billion yuan is assumed to be private tourism consumption. Then the private tourism consumption is deducted from the total household consumption, and only the other consumption is recorded in the household column account of the SAM.

The 39.6 billion yuan business tourism expenditure on hotel and long distance transportation is evenly deducted from the intermediated input data of the 37-sector IO table. Then the domestic tourism row account has two sources of income: 171.6 billion yuan private tourism expenditure from the household account, and 39.6 billion yuan business tourism expenditure from the 37 production sectors.

Table 2: Social Accounting Matrix for Tourism Analysis 1997

		1	2	3	4	5	6	7	8	9	10	11	12
		Agriculture	Mining	Food mfg	Textiles	Apparel	Furniture	Paper, printing	Petro ref	Chemicals	Medicines	Non-metal	Primary metal
1	Agriculture	3964.1	67.5	5922.8	1158.7	217.9	121.0	198.4	0.0	537.3	169.1	25.8	0.3
2	Mining	51.2	519.0	63.8	34.6	5.8	87.7	42.8	1685.9	713.3	4.7	996.7	1178.6
3	Food mfg	1636.9	1.9	1766.2	1.3	241.1	0.0	0.6	0.0	121.4	71.5	7.1	0.0
4	Textiles	52.8	21.4	18.4	3559.2	1935.3	157.8	220.4	0.8	557.7	13.7	89.6	10.1
5	Apparel	17.9	37.3	13.5	36.9	671.9	56.8	51.6	7.0	41.5	3.2	35.6	19.5
6	Furniture	33.1	18.2	5.6	2.4	1.5	528.3	35.2	1.8	8.8	0.9	25.6	9.3
7	Paper, printing	27.5	8.7	302.3	25.1	39.3	32.4	1047.3	1.4	151.2	68.2	393.2	9.1
8	Petro ref	208.9	152.3	30.4	15.2	9.0	8.6	23.5	139.9	280.2	2.0	242.8	286.6
9	Chemicals	1786.6	331.5	331.7	756.5	420.2	108.5	401.9	66.3	5086.6	163.0	504.8	131.0
10	Medicines	39.2	0.9	16.7	0.1	0.0	0.0	0.6	0.0	6.1	302.0	0.1	0.1
11	Non-metal	62.8	81.3	93.7	13.5	6.9	19.4	26.5	27.8	127.8	23.4	1248.5	209.0
12	Primary metal	3.7	157.6	5.4	1.6	1.3	50.5	31.2	10.8	55.3	1.3	202.8	2246.8
13	Metal prod	73.2	109.1	100.5	17.5	27.7	85.3	69.5	8.7	133.9	9.4	266.5	84.5
14	Machinery	252.0	336.9	52.1	110.6	15.3	18.0	61.0	60.4	182.6	10.1	271.7	260.0
15	Transport eq	71.9	88.9	25.3	7.8	5.1	7.1	23.3	11.8	47.3	3.5	31.7	53.7
16	Electric mach	15.4	96.0	15.2	30.8	5.3	3.9	21.3	20.5	53.8	3.4	44.2	64.6
17	Com Eq	1.9	23.2	4.8	4.8	2.0	1.9	41.6	6.0	13.5	1.8	14.5	15.4
18	Prec instr	1.5	26.2	8.4	4.9	2.5	1.7	7.4	6.6	31.6	3.1	16.8	15.2
19	Mach repair	52.0	26.7	10.5	5.6	2.1	1.8	5.8	12.9	28.0	2.8	13.8	23.5
20	Arts & crafts	30.1	12.3	15.7	10.7	6.2	3.4	6.4	6.1	20.4	2.3	14.3	14.7
21	Other mfg	9.9	57.0	57.4	46.3	47.4	14.1	153.6	8.5	57.7	8.0	95.9	388.6
22	Electr. gas	184.2	342.6	119.2	87.1	18.7	33.9	114.6	68.6	578.4	36.6	398.3	426.9
23	Construction	49.0	15.2	7.4	6.0	3.4	1.2	4.4	3.2	12.0	1.4	6.7	6.6
24	Freight trans	239.5	200.5	149.6	93.9	43.5	37.4	66.6	74.0	266.8	17.8	335.8	217.1
25	Post & com	12.9	87.6	22.3	30.8	30.8	19.1	11.3	11.4	62.2	4.2	33.9	62.2
26	Commerce	434.6	164.5	526.5	407.3	320.2	150.4	236.0	108.2	502.1	80.4	445.4	237.1
27	Restaurants	12.9	44.2	29.2	55.8	14.4	10.2	32.0	5.5	55.9	8.8	57.9	26.4
28	Passenger trans	41.4	5.0	0.3	1.4	0.4	0.2	0.1	0.1	0.7	0.0	0.3	2.9
29	Finance & ins	115.7	83.7	75.6	75.5	31.0	19.6	42.1	31.0	148.1	14.7	115.1	102.1
30	Real estate	5.9	4.1	7.8	5.7	6.6	5.8	5.5	0.5	12.2	2.5	5.8	2.1
31	Utilities	53.5	37.6	17.7	12.6	6.4	3.9	10.9	15.8	42.9	3.1	24.3	44.0
32	Hotels	18.5	7.3	1.6	2.0	0.9	0.3	0.5	0.3	1.9	0.6	7.9	4.9
33	Travel agencies	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1
34	Recreation	30.5	26.7	133.8	33.1	42.0	21.0	18.6	5.8	73.4	43.5	34.5	14.6
35	Sports, health	2.0	8.4	1.5	0.5	0.5	0.3	2.5	0.5	1.7	0.1	1.5	4.7
36	Education, culture	20.9	11.3	3.8	3.4	2.2	1.3	4.3	1.2	8.0	1.1	6.2	5.7
37	Public adm	321.9	42.5	10.0	2.8	4.6	1.8	8.6	5.0	18.6	2.7	7.4	10.5
38	Capital	1329.9	1555.3	1458.0	1061.4	593.5	220.3	484.5	250.0	1305.5	311.1	985.7	448.3
39	Labor	12978.7	1649.9	1060.5	1057.9	1054.1	301.4	725.8	145.2	1358.6	173.9	1324.9	759.9
40	Households	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
41	Dom tourism	0.0	4.6	0.5	1.2	0.4	0.2	0.2	0.1	0.8	0.2	2.0	2.8
42	Firms												
43	Government	433.0	363.5	1307.3	495.0	251.7	104.5	180.4	288.2	786.5	149.9	471.9	375.8
44	Social welfare												
45	C-capital												
46	R-world	400.0	768.5	381.8	848.5	273.2	109.7	421.0	394.5	2066.6	19.4	91.8	821.6
47	Int-tourism	0.0	0.0	88.8	25.5	58.0	8.9	33.7	0.0	17.1	10.0	14.4	0.0
48	Total	25077	7597	14263	10152	6420	2360	4874	3493	15576	1749	8914	8597

Unit : 100 million yuan

	13	14	15	16	17	18	19	20	21	22	23	24	25
	Metal prod	Machinery	Transport eq	Electric mach	Com Eq	Prec instr	Mach repair	Arts & crafts	Other mfg	Electr. gas	Construction	Freight trans	Post & com
Agriculture	4.1	3.5	2.1	0.5	0.0	0.0	2.6	115.7	76.9	0.5	72.1	11.2	0.0
Mining	114.4	102.0	30.8	57.3	7.8	2.0	6.6	10.6	20.3	821.6	455.7	37.2	0.0
Food mfg	0.0	0.0	0.0	0.0	0.0	0.4	0.0	0.0	8.7	0.0	11.1	18.4	0.0
Textiles	16.4	60.9	40.2	9.5	1.9	3.4	15.5	118.8	95.1	3.3	36.0	5.9	0.8
Apparel	11.1	27.4	19.4	12.4	3.9	3.1	2.9	16.2	2.7	14.8	21.2	15.5	16.3
Furniture	52.7	27.2	18.2	29.4	7.7	3.7	2.1	11.5	8.0	4.4	367.5	9.3	8.3
Paper, printing	35.1	39.2	19.2	112.7	55.8	11.1	0.5	87.6	10.8	3.0	12.1	14.8	56.8
Petro ref	35.0	77.8	36.0	38.2	12.8	3.9	8.4	10.1	8.0	220.2	496.1	383.2	12.8
Chemicals	159.6	312.5	316.7	738.7	391.0	74.2	20.3	84.9	150.7	48.9	357.4	83.8	6.1
Medicines	0.0	0.2	0.2	0.0	0.0	0.1	0.0	0.0	0.0	0.3	6.3	2.3	0.3
Non-metal	96.4	77.3	61.4	175.9	190.2	24.5	8.6	3.8	28.9	35.0	4705.6	21.0	4.0
Primary metal	1572.6	1271.7	490.2	1088.5	72.0	52.4	32.3	76.4	31.0	10.1	1080.1	13.9	2.9
Metal prod	649.8	307.2	125.8	270.8	108.9	31.7	40.9	69.9	37.0	29.5	1049.3	12.8	7.1
Machinery	87.2	1590.3	583.8	235.1	31.4	30.9	38.7	5.3	6.1	175.2	446.8	92.2	46.7
Transport eq	22.4	71.9	1522.5	14.0	8.8	1.6	106.6	1.2	3.8	25.9	8.0	203.0	18.5
Electric mach	28.4	348.6	125.2	640.4	378.8	45.9	17.9	2.0	3.6	166.5	781.8	11.9	189.3
Com Eq	10.1	154.1	26.9	196.8	1939.6	120.9	5.6	0.8	3.9	20.4	23.7	9.5	48.8
Prec instr	8.9	27.6	22.1	31.7	8.1	54.1	4.9	0.8	1.5	66.3	104.7	4.8	30.1
Mach repair	6.2	10.2	5.8	7.5	3.1	0.9	36.9	0.4	0.8	30.9	36.9	67.5	75.7
Arts & crafts	10.6	14.9	9.3	10.8	7.8	1.5	1.2	85.4	1.6	7.4	50.8	6.1	3.0
Other mfg	45.6	83.1	29.0	48.1	23.3	16.4	3.5	7.8	92.0	30.1	5.3	6.3	0.3
Electr. gas	178.9	136.0	61.3	59.5	32.4	8.0	10.2	8.6	19.3	262.9	141.6	63.6	54.7
Construction	4.4	13.4	4.9	6.4	2.0	0.9	2.5	1.1	1.0	12.5	10.1	51.3	65.7
Freight trans	110.2	115.1	59.2	70.8	44.2	9.7	8.1	30.8	15.4	126.1	312.5	162.1	18.9
Post & com	91.6	80.9	44.1	33.0	14.7	10.7	3.0	12.5	7.1	15.4	320.5	24.6	1.0
Commerce	155.1	202.2	147.4	196.1	202.8	30.8	15.5	61.8	46.1	210.9	772.7	56.2	30.8
Restaurants	37.8	62.0	15.2	52.1	12.0	4.3	5.1	5.4	6.3	10.8	58.9	25.0	6.4
Passenger trans	1.0	0.9	0.5	0.4	0.2	0.1	0.0	0.1	0.1	0.2	2.7	16.8	0.2
Finance & ins	183.0	113.2	48.1	60.5	33.2	12.4	8.0	10.5	10.2	83.2	107.1	67.7	13.6
Real estate	8.4	6.6	3.5	9.5	10.0	1.8	0.5	1.8	2.4	0.6	2.0	5.7	6.3
Utilities	25.2	21.6	12.3	22.3	7.2	2.1	3.2	0.9	1.6	44.8	9.9	20.8	10.3
Hotels	3.2	6.2	0.9	2.1	0.9	0.3	0.2	0.3	0.5	0.4	4.6	22.3	1.0
Travel agencies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.0
Recreation	34.5	60.2	24.5	71.5	32.7	4.3	4.4	5.2	15.7	8.1	332.8	31.2	75.5
Sports, health	1.0	8.3	1.6	1.2	0.1	0.1	0.1	0.2	1.1	3.3	2.1	3.4	0.1
Education, culture	8.4	9.9	4.1	4.5	2.4	0.9	1.2	0.7	0.6	4.2	27.8	13.4	20.0
Public adm	9.7	15.4	8.0	8.8	6.8	1.5	0.9	0.6	2.2	16.9	151.7	1.9	0.6
Capital	388.0	1152.4	556.0	469.9	564.4	107.7	109.1	152.6	694.3	1069.4	1132.2	931.6	815.4
Labor	578.8	1192.6	574.5	539.7	490.6	123.7	164.7	157.3	175.4	532.2	3457.9	1014.2	232.0
Households	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Dom tourism	1.3	1.9	0.5	0.7	0.3	0.1	0.1	0.2	0.2	0.2	2.6	14.8	0.3
Firms													
Government	196.2	420.2	262.5	232.6	186.7	28.3	26.6	50.7	40.5	314.9	407.4	153.4	78.4
Social welfare													
C-capital													
R-world	335.0	1758.7	476.9	482.9	1665.4	319.7	0.0	0.0	51.0	0.2	50.1	0.0	14.7
Int-tourism	0.0	0.0	0.0	32.3	31.9	25.4		63.2	0.0				9.4
Total	5318	9985	5791	6075	6594	1175	719	1274	1682	4431	17436	3711	1983

Unit : 100 million yuan

	26	27	28	29	30	31	32	33	34	35	36	37	38
	Commerce	Restaurants	Passenger trans	Finance & ins	Real estate	Utilities	Hotels	Travel agencies	Recreation	Sports, health	Education, culture	Public adm	Capital
Agriculture	77.1	506.5	0.0	0.0	0.6	9.2	20.5	0.1	16.2	8.9	9.3	91.3	0.0
Mining	11.8	6.8	6.2	1.9	12.8	19.8	5.4	0.0	9.4	12.2	39.9	32.3	0.0
Food mfg	316.0	652.4	22.3	0.6	0.6	63.8	49.9	0.6	69.7	13.7	25.1	25.3	0.0
Textiles	74.3	2.6	3.4	0.8	1.1	105.3	11.0	0.1	8.9	12.1	6.1	30.3	0.0
Apparel	107.7	6.0	4.1	8.0	2.9	15.2	6.4	0.2	12.8	5.3	7.0	69.9	0.0
Furniture	91.4	14.5	2.5	18.2	2.9	56.6	3.1	0.0	28.7	7.1	22.6	36.5	0.0
Paper, printing	345.9	6.0	6.4	90.4	12.8	44.6	9.5	0.5	163.9	20.4	246.6	264.0	0.0
Petro ref	165.6	5.2	161.2	12.1	4.6	133.3	5.5	0.1	16.0	4.1	10.2	78.0	0.0
Chemicals	186.1	11.0	15.0	8.2	3.0	166.3	15.9	0.1	39.4	46.3	29.4	44.9	0.0
Medicines	46.4	0.9	0.6	0.7	0.2	5.1	0.7	0.0	1.3	666.2	23.3	21.7	0.0
Non-metal	100.0	7.0	4.4	5.2	72.2	30.2	4.6	0.1	18.8	7.7	29.6	86.7	0.0
Primary metal	4.9	0.8	4.0	0.0	2.9	3.3	0.0	0.0	2.6	0.1	1.5	7.8	0.0
Metal prod	53.1	5.3	2.0	6.2	5.7	10.2	2.1	0.0	41.9	6.6	13.8	93.4	0.0
Machinery	186.3	2.5	34.1	34.5	8.9	56.0	5.3	0.2	37.8	88.1	23.3	147.8	0.0
Transport eq	293.1	0.7	119.8	8.4	4.0	53.3	1.0	0.3	45.0	2.8	9.4	90.4	0.0
Electric mach	340.0	3.2	4.3	16.0	16.7	15.2	9.6	0.1	83.3	6.4	20.2	44.2	0.0
Com Eq	203.5	1.8	2.9	60.7	3.9	6.7	4.3	0.1	350.0	4.7	45.6	99.5	0.0
Prec instr	30.0	0.1	0.7	34.2	2.3	24.5	2.6	0.1	30.2	2.2	11.9	23.6	0.0
Mach repair	43.1	0.3	43.5	21.2	6.0	36.6	3.6	0.2	20.2	10.7	11.6	71.3	0.0
Arts & crafts	50.7	4.4	4.3	17.9	2.8	11.9	7.3	0.6	16.4	2.9	7.6	17.6	0.0
Other mfg	19.6	1.8	0.9	12.6	12.0	20.3	3.3	0.1	4.5	9.9	7.2	7.0	0.0
Electr. gas	117.8	26.0	12.6	24.4	10.7	47.4	23.9	1.1	18.2	33.5	110.3	103.2	0.0
Construction	56.3	1.5	19.3	66.5	72.3	63.8	21.8	0.6	38.0	44.3	163.8	188.0	0.0
Freight trans	121.2	11.0	61.0	9.7	6.8	19.1	2.9	1.0	14.7	11.1	20.2	50.0	0.0
Post & com	84.7	4.3	5.4	59.6	5.1	14.4	11.1	3.8	25.2	16.8	78.6	217.3	0.0
Commerce	906.3	100.2	18.8	35.7	16.1	63.5	15.0	6.2	84.3	110.5	73.7	128.1	0.0
Restaurants	182.2	2.6	10.1	42.8	12.5	17.3	3.8	31.2	30.7	10.2	29.9	162.8	0.0
Passenger trans	67.7	0.0	7.3	39.6	3.5	10.2	2.1	86.0	27.0	5.9	51.8	162.1	0.0
Finance & ins	419.6	7.0	29.3	312.1	85.5	17.3	13.8	7.9	23.2	4.1	17.8	151.5	0.0
Real estate	144.6	7.5	2.6	135.8	11.1	22.6	3.2	2.1	37.8	5.6	9.3	55.1	0.0
Utilities	125.5	1.4	5.1	30.5	7.9	71.3	7.0	32.5	29.2	9.8	47.0	83.6	0.0
Hotels	32.5	1.6	7.8	48.8	3.6	8.2	10.0	22.9	22.4	5.3	36.5	197.6	0.0
Travel agencies	0.0	0.0	0.1	1.0	0.4	1.1	1.6	48.8	1.1	0.3	2.1	5.8	0.0
Recreation	308.7	42.4	20.5	180.9	26.4	25.7	8.8	6.8	56.3	2.9	34.8	65.9	0.0
Sports, health	0.3	2.0	3.1	1.0	0.2	1.6	0.2	0.2	0.6	3.4	6.1	11.6	0.0
Education, culture	26.5	1.3	4.9	17.7	1.9	9.7	2.1	2.0	22.6	7.0	88.3	63.6	0.0
Public adm	26.1	0.0	0.2	2.9	1.3	2.1	0.6	0.1	27.6	1.4	12.5	64.7	0.0
Capital	1576.9	289.1	316.2	706.5	1103.2	318.9	275.7	31.4	117.8	76.7	198.5	761.5	0.0
Labor	2807.5	412.0	292.3	656.9	223.4	752.2	147.5	50.3	354.7	538.5	1370.7	2110.0	0.0
Households	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	9100.2
Dom tourism	47.0	0.4	6.0	34.1	2.8	7.8	3.5	55.6	20.8	4.6	38.5	139.1	
Firms													13337.9
Government	1250.5	100.2	90.0	831.1	81.7	30.4	59.1	6.5	98.1	6.0	24.1	61.2	146.3
Social welfare													
C-capital													
R-world	0.0	0.0	0.0	44.1	0.0	0.0	0.0	0.0	83.3	9.4	7.8	20.2	1583.1
Int-tourism		43.1	85.3			7.3	93.8	143.1	39.8	2.2	9.9		
Total	11049	2293	1441	3639	1855	2399	879	544	2190	1848	3034	6186	24168

Unit : 100 million yuan

	39 Labor	40 Households	41 Dom tourism	42 Firms	43 Government	44 Social welfare	45 C-capital	46 R-world	47 Int-tourism	48 Total
Agriculture	0.0	10361	0.0	0.0	0.0		896	408.3	0.0	25077
Mining	0.0	91	0.0	0.0	0.0		−93	389.8	0.0	7597
Food mfg	0.0	7510	85.5	0.0	0.0		807	696.7	36.4	14263
Textiles	0.0	654	24.5	0.0	0.0		461	1701.1	10.5	10152
Apparel	0.0	2350	31.1	0.0	0.0		478	2142.8	13.2	6420
Furniture	0.0	395	8.5	0.0	0.0		157	290.8	3.6	2360
Paper, printing	0.0	242	32.5	0.0	0.0		145	665.2	13.8	4874
Petro ref	0.0	50	0.0	0.0	0.0		−74	177.9	0.0	3493
Chemicals	0.0	569	16.4	0.0	0.0		180	1405.4	7.0	15576
Medicines	0.0	413	34.4	0.0	0.0		57	87.3	14.6	1749
Non-metal	0.0	515	13.9	0.0	0.0		346	293.6	5.9	8914
Primary metal	0.0	13	0.0	0.0	0.0		−492	485.0	0.0	8597
Metal prod	0.0	284	0.0	0.0	0.0		418	650.4	0.0	5318
Machinery	0.0	48	0.0	0.0	0.0		3830	482.9	0.0	9985
Transport eq	0.0	567	0.0	0.0	0.0		1899	310.8	0.0	5791
Electric mach	0.0	942	6.6	0.0	0.0		565	884.5	2.8	6075
Com Eq	0.0	675	6.2	0.0	0.0		654	1779.7	2.6	6594
Prec instr	0.0	46	0.0	0.0	0.0		63	412.8	0.0	1175
Mach repair	0.0	0	0.0	0.0	0.0		−17	0.0	0.0	719
Arts & crafts	0.0	247	134.2	0.0	0.0		122	216.2	57.2	1274
Other mfg	0.0	65	0.0	0.0	0.0		51	132.7	0.0	1682
Electr. gas	0.0	585	0.0	0.0	0.0		−167	38.2	0.0	4431
Construction	0.0	0	0.0	0.0	0.0		16383	24.5	0.0	17436
Freight trans	0.0	174	8.0	0.0	0.0		79	292.9	3.4	3711
Post & com	0.0	323	10.9	0.0	0.0		−36	71.6	39.3	1983
Commerce	0.0	1906	72.3	0.0	0.0		594	1146.2	30.8	11049
Restaurants	0.0	677	307.4	0.0	0.0		6	6.0	106.3	2293
Passenger trans	0.0	72	657.8	0.0	0.0		−7	0.0	178.3	1441
Finance & ins	0.0	924	0.0	0.0	0.0		4	16.9	0.0	3639
Real estate	0.0	1076	0.0	0.0	0.0		218	0.0	0.0	1855
Utilities	0.0	527	147.4	0.0	627.1		−2	122.5	71.9	2399
Hotels	0.0	20	260.2	0.0	0.0		−14	2.5	123.1	879
Travel agencies	0.0	3	220.9	0.0	0.0		12	27.0	218.4	544
Recreation	0.0	24	28.5	0.0	0.0		−10	142.6	47.2	2190
Sports, health	0.0	864	0.0	0.0	913.8		−12	2.6	2.6	1848
Education, culture	0.0	850	5.5	0.0	1734.3		−13	29.6	11.8	3034
Public adm	0.0	0	0.0	0.0	5449.6		−69	5.4		6186
Capital	0.0	0		0.0	0.0		0	249	0.0	24168
Labor	0.0	0		0.0	0.0		0	14	0.0	41554
Households	41554.1	0	0.0	87.3	705.6	1312	0	0.0	0.0	52759.0
Dom tourism		1716								2113
Firms		0								13338
Government	0.0	260	0.0	1032	0.0	141.6	1115	0.0	0.0	12940
Social welfare		1453								1453
C-capital		15267		12219	3509			−2463.6		28531
R-world	0.0	0	0.0	0.0	0.0		0	0.0	0.0	13499
Int-tourism		0		0.0	0.0		0	158	0.0	1001
Total	41554	52759	2113	13338	12940	1453	28531	13499	1001	403959

Unit : 100 million yuan

『国際開発研究フォーラム』21（2002. 3）
Forum of International Development Studies, 21 (Mar. 2002)

The People's Bank of Nigeria and Poverty Alleviation in the Midwestern Zone of Nigeria

Unufegan Joseph Imoukhuede*

Abstract

Micro-finance has gained wide recognition as an effective tool for improving the quality of life and living standards of very poor people. Taking a cue from the successes recorded by the world's leading micro-finance institutions such as the Grameen Bank of Bangladesh and Bank Rakyat Indonesia among others, this paper investigates whether or not the activities of the People's Bank of Nigeria (PBN), a micro finance institution set up by the Federal Republic of Nigeria has been effective in reducing poverty in the Mid Western zone of Nigeria. The bank was set up as a tool to help the poor who are engaged in income generating activities but have not been able to avail themselves of the credit facilities offered by the conventional banks. The paper argues that limited outreach of loans, irregular loan disbursement and the exclusion of the majority of the core poor from the credit facilities of the bank impinge on its poverty reduction objectives. It further argues that the PBN is neither a lending institution for the poor like the Grameen Bank nor a purely self-sufficient financial institution like the Bank Rakyat Indonesia. Based on its performance so far, the author concludes that the establishment of the PBN has not altered in any significant way the poverty situation of even its beneficiaries, many of whom continue to use other informal financial services. It recommends that the bank should redesign its products to meet the needs of both its current beneficiaries and the hard core poor if it is to have a relevant role in the fight against poverty.

1. Introduction

Micro-finance has been widely acclaimed as an effective tool for improving the quality of life and living standards of very poor people. Consequently, the People's Bank of Nigeria (PBN), a micro-finance institution was set up by the Federal Republic of Nigeria as a tool to help the poor who are engaged in income generating activities but have not been able to avail themselves of the credit facilities offered by the conventional banks.

The objective of this paper is to look at the impact of the People's Bank of Nigeria as a poverty alleviation institution in the Mid-Western region of Nigeria taking a cue from the successes recorded by the Grameen Bank of Bangladesh and others. Emphasis is placed on the number of people reached, the sectors in which clients are engaged, the size, quality, ownership of houses and the

* Doctoral student, Graduate School of International Development, Nagoya University

quality of services offered. Based on the questionnaire administered, the paper tries to investigate the extent to which the bank has moved its beneficiaries permanently out of poverty and/or built their capacity to continue increasing assets and income. It also shows the extent to which the savings facilities provided by the bank have impacted on the use of other informal financial services by the bank's customers[1]. The paper argues that limited outreach of loans, irregular loan disbursement and the exclusion of the majority of the core poor from the credit facilities of the bank impinge on its poverty reduction objectives. It further argues that the PBN is neither a lending institution for the poor like the Grameen Bank nor a purely self-sufficient financial institution like the Bank Rakyat Indonesia.

Scholars have defined poverty in different ways. As a result of this varied definitions of poverty it is generally believed that there is no standard or universally accepted definition of the concept. FAO (1986 ; 1993) and Field (1980) stated that the way poverty is defined differs from author to author, from discipline to discipline and it also varies from country to country and across time. Most definitions focus on the absolute economic well being of the poor, in isolation from the welfare distribution of the entire society (Fields 1980, World Bank, 1993). However, Chambers (1983, 1995) listed vulnerability, sudden decrease in consumption levels, ill health and humiliation as among other forms of deprivation that the poor had identified themselves but which are usually not incorporated in income poverty measures. Amartya Sen (1999) views poverty as the deprivation of certain basic freedoms. He argued further that threats to these basic freedoms are interrelated with the deprivation of other types of freedoms, such as the lack of civil and political liberties, threats to our environment, or the lack of employment and market access. In Sen's view, poverty is not only the result of inadequate income but also deprivation of freedoms that are intrinsically good.

The fact that no single indicator can capture the concept of poverty makes its measurement difficult. This study views poverty from the physiological deprivation model which focuses on non-fulfilment of basic materials or biological needs including inadequate nutrition, health, education and shelter. Consequently, the poor are classified into three categories based on the dimension of the respondents' house and the level of educational attainment. The houses are graded based on their size, physical condition or building materials used and the material of the roof.

The first category of poor live in houses constructed from mud bricks with poor quality thatch roofing, small windows, in a general state of disrepair and without education in the rural and semi-urban areas. Some of them do not even owe any land or their own houses. This group sells their labour and when they farm, it is only for subsistence. Included in this group are female-headed households, the destitute and the disabled people.

The second category live in houses with corrugated roofing sheets and plastered walls and have at least primary education and have an income-generating activity like farms or some form of trade. This

group are considered better-off poor. Their economic condition suffers from many fluctuating fortunes. More often than not, they slip into condition of subsistence living. Some of the people in this category are poor by virtue of their lack of access to basic infrastructure like electricity or pipe borne water in the villages they reside in. They have to use a large portion of their resources to acquire these basic needs. People in this group have at least a television set, bicycle, sewing machine, refrigerator and their educational level is above primary school. This group is made up of local elite-elementary school teachers, big farmers and traders.

The third category of poor live in the slums and outskirts of the urban cities without electricity, water and are often crowded in a one-room apartment. They are also without education. When respondents were asked to rank themselves according to their own perception of poverty, they all considered themselves poor without any distinction. The subjectivity in individual perception of poverty therefore made it necessary to draw up a general categorisation by which the poor are ranked for this study.

Based on the above categorization of poor, this study examines how the introduction of People's Bank has impacted on their living condition. To do that, the paper is organized into five sections. The next section discusses the growing debate of the role of micro-finance institutions in poverty alleviation. The third section focuses on the methodology used in this study. Rather than comparing the beneficiaries with non-beneficiaries, the study shows what improvement has occurred in the living standard of loan beneficiaries due to their relationship with the bank. This methodology is adopted because of the difficulties encountered in trying to carve out a well-defined control group for comparative purposes. Even though poverty cannot be viewed from the perspective of material needs alone, the paper concentrates on the material needs measurement of poverty leaving the impact of the bank on non-material poverty to further investigation. The fourth section analyzes the performance of PBN financial services (savings and loans) on its beneficiaries. This section ends with a review of the savings mobilisation of the bank and the customers' use of other informal financial services. It tries to show the existing relationship between the bank's clients and informal financial operators and give reasons based on oral interviews why the clientele of People's Bank still patronise the Rotating Savings Associations and moneylenders in spite of the network of the bank branches in the area studied. The final section is a recapitulation of the findings made in the study and recommendations for a better service if the bank is to meet its poverty alleviation goals.

2 Existing debate on the role micro finance in poverty alleviation

The task of poverty alleviation requires many tools which include the following; providing food, shelter, employment, health and family planning services, financial services, education, infrastructure, markets and communication among others. Micro-finance is just one of the many tools

available for poverty alleviation. It is generally assumed that the poor have good entrepreneurial spirit and that providing them with small-scale loans and savings facilities would introduce them to the small-enterprise sector. However, development practitioners worldwide have been engaged in a strong scholarly debate over the methodological approaches and the efficacy of micro finance in poverty alleviation.

On the one hand are those calling for financial sustainability and self-sufficiency of the institutions providing financial services to the poor who are actively engaged in income generating activities. They emphasize wide outreach of financial services. According to the proponents of this school of thought only a large outreach can result in profitability for the institutions. They consider wide outreach as a means to attaining the end of sustainability. They also reason that the large demand for micro finance services world-wide makes it necessary to ensure institutional self-sufficiency if any meaningful result could be achieved. This school of thought has been referred to as the institutionists. The institutionist viewpoint is represented among others by the works of Otero (1994) and Rhyne (1998) ; Johnson and Rogaly (1996) Robinson (2001) the World Bank and the Consultative Group to Assist the Poor (CGAP).

The writings of (Hossain, 1988 ; Remenyi, 1991 ; Schuler, Hashemi & Riley, 1996) have attested to the economic and social benefits of micro-finance. Robinson (1994) has demonstrated the potential of micro-finance to enfranchise a major part of the poor population in Indonesia. She asserted that providing micro-entrepreneurs with financial services is an important way to mainstream them into the economy and help decrease the existing division between rich and poor entrepreneurs. The question not answered by this assumption is about the impact of credit on the poor who are destitute and disabled. Further investigation is needed concerning the percentage of destitute and disabled users of the service whom they think micro-finance have enfranchised. According to these scholars, evaluation of micro-enterprise should shift from the present impact on beneficiaries to focus on the quality of financial services and the capacity of institutions to achieve scale and self-sufficiency. We believe that even though the health of the micro-finance institutions is important it should not take precedence over the health of the beneficiaries.

The argument of Woller and others (1999) on the other hand aptly summarizes the welfarist view of micro-finance. They are basically interested in reducing poverty by providing credit with complementary services such as skills training and the teaching of literacy and numeracy, health, nutrition, family planning and the like. Their main emphasis is on the depth of outreach rather than its breadth. They believe that too much focus on profitability of micro-finance would undermine its poverty alleviation goals.

The works of scholars from the popular Ohio State University Rural Finance Program represented by the writings of Dale Adams, J.D.von Pischke, Gordon Donald and Claudio Gonzalez-Vega

criticised the supply-led subsidized credit program especially in the agricultural sector embarked upon by most governments of the developing countries after World War II. Using the Development Financial Institutions (DFIs), credit unions and co-operatives created in Africa Asia and Latin America in the 1930s and 1950s as examples, Adam and Von Pischke (1992) argued that providing subsidised-credit to the poor may not necessarily bail them out of their difficult economic conditions. The DFIs approach was top-down. This school of thought criticised subsidized credit and the government intervention in the interest rate because they felt such intervention distorts resource allocation thereby encouraging political patronage and corruption in the system. Subsidized interest rates also discourage savings and engender poor repayment habits (Robinson 2001). Von Pischke, Adams and Donald (1983) further observed that in the past, the richer farmers appropriated concessionary loans directed or targeted at the poor primarily for productive agriculture to the detriment of the poor ones. According to them, even in the few cases where the credit got to the poor there was the problem of sustainability. However, Woller and others, (1999) have argued that it is not fair to compare recent micro-credit programs with the subsidized credits of the 50s and the 60s that failed miserably. This is because the features and circumstances of these programs are quite different.

Expressing support for some form of subsidized credit, Morduch (1998) observed that contrary to the common assertions about cheap credit, moderately subsidized credit, when well targeted and delivered efficiently can be compatible with savings mobilization in reducing poverty. He argued that while some poor households can pay real interest rates of 30% per year (or even 50% and higher), most can not. According to him, those that can pay high interest rates are mostly petty traders and a few others with high-margin, quick turnaround businesses. He argued that most poor people borrow for consumption needs.

The work of David Hulme and Paul Mosley (1996) represents a middle ground between the two extreme positions of the institutionists and the welfarist. They examined the contributions that micro-credit and micro-finance can make to the alleviation and removal of poverty, using examples based on the comparative materials from their study of 13 financial institutions in seven countries. They opposed the approach adopted by the Ohio school which believed strongly that informal financial institutions should be encouraged to service the financial needs of the very poor people in developing countries. Among the key questions addressed by Hulme and Mosley are the following; can micro finance institutions (MFIs) achieve financial sustainability and reach the poorest of the poor? Hulme and Mosley (1996) just like Murdoch (1998) argued that the majority of the poor do not borrow for income generating activities alone but they also do for consumption. Using credit to smooth consumption after the planting season, for instance, would help the farmers cope with the ensuing food shortages of that season. While criticizing the non-subsidy stance of the Ohio school they are

mindful of the fact that for micro-finance to attain its overriding goal it must strike a balance between sustainability and achieving wide outreach.

The ability of micro-finance programmes to help the poor is based on a set of propositions. First, if targeting is the goal, the programme must reach the poor. The poor must demand loans at the program interest rate, and so have projects with expected returns that exceed the cost of participation, and which cannot be financed more cheaply from existing formal and informal credit sources. Second, programmes must achieve high rates of repayment by establishing key micro-finance principles such as group liability. Third, loans must bring net benefits to the poor.

The above propositions are used in this paper to examine the performance of the PBN operations in Nigeria. However, it must be stated that the poor people in Nigeria are mainly concentrated in the rural areas where financial services required to embark on income-generating activities are in short supply. There is, therefore, the constant need for credit and savings scheme. Unlike many other micro-finance institutions that are focused on profit maximization or poverty oriented, the PBN is a government-sponsored institution that wants to address poverty reduction while maximizing profits at the same time. How much the bank has succeeded in meeting its poverty goals in Mid-Western zone of Nigeria is the focus of this paper.

3 Research methodology

The paper is focused on the performances of some branches of People's Bank of Nigeria in the Mid-Western zone of Nigeria in alleviating poverty. This zone consists of Edo, Ondo, Anambra, Rivers and Delta states. From these states Benin branch was chosen to represent the urban centers, Sabo and Irrua branches represented the semi-urban areas while Uokha branch was chosen to represent rural areas. The selection of these branches was based on proximity to each other. Added to this, lack of finance prevented the administration of questionnaires in a far-flung area.

The zone is largely characterized by an agrarian economy with most people specializing in farming and petty trading; food crops and a few cash crops are produced. However, in order of importance, farming accounts for 50 percent, trading 23 percent, services 15 percent, cottage industries about 5 percent, followed by crafts with about 4 percent and others, 3 percent. Some people combine different occupations. The major resources of the zone in terms of ranking are food crops (43 percent), cash crops (27 percent), mineral resources (7 percent), forest resources (7 percent) and then tourism and others, 12 percent.

Questionnaires were administered to three categories of respondents; namely, some bank managers of PBN offices in the Mid-Western zone of Nigeria, women's groups and trade associations, some selected beneficiaries and non-beneficiaries of PBN loans. In addition, We conducted some focus group discussions with some women's group and associations.

A purposive sampling method was used to select six managers in People's Bank for the study. They consisted of two male respondents and four female respondents. We used a simple random sampling method in selecting select five women's groups and/or trade associations from each branch making a total of twenty-five women's groups and/or trade associations. Each of these groups has at least seven members making a total of 35 loan beneficiaries from five women's groups selected from a branch[2].The selected number of loan beneficiaries from each branch is 55 while the total number of loan beneficiaries used in this study is two hundred and seventy-five beneficiaries. Ten non-beneficiaries from each of the branches were also randomly selected. The population sample consists of all the loan beneficiaries in the branches under study as at December 1999, which summed up to 1, 903.

Survey method was adopted because it yields a broader range of information needed in a research of this kind and it is good in producing reasonable information on attitudes, opinions, motives and behaviour of the respondents[3].The training in the use of questionnaire lasted for a week and the actual survey was carried out for a period of five weeks. During the survey, respondents answered questions on loan use, living conditions and changes experienced in their enterprises as a result of PBN's financial intervention. In addition, We organized focus discussion group in order to learn about the activities undertaken by group members, their experiences and to observe the poverty and money management conditions of the borrowers. From the survey work and the qualitative assessment, the author gathered information on the impact of credit and savings on borrowers living standards, businesses and households. Some secondary data from the bank zonal office were analyzed and used to draw conclusions reached in this study.

4. Performance of People's Bank of Nigeria in poverty alleviation

Taking a cue from the Grameen Bank of Bangladesh experiment in poverty alleviation, the Nigerian government established its own version of a micro-finance institution called The People's Bank of Nigeria in 1989. The People's Bank of Nigeria (PBN) is a specialised development bank

Table 1: Updates of the bank's operation as of 31st December 1999.

Number of Local Government Areas covered	300
Number of Villages covered	1,560
Area Offices	1
Head Office	Abuja
Cumulative number of customers	505, 261
Businesses affected to date	172, 000
CumulativeSavings Mobilization	5.7 billion Naira
Net Savings Deposits	300 million Naira
Cumulative credit delivery	350 million Naira
Current Repayment rate	60%
Total number of beneficiaries	192, 379

Source: People's Bank Consolidated Monthly Returns 31st May 1999.

targeted at the poor[4]. It provides small loans for micro entrepreneurs for the promotion of income-generating activities. As stated in Decree 22, one of the objectives of the PBN is the provision of credit and savings facilities to economically active underprivileged Nigerians who cannot normally benefit from services provided by the conventional commercial and merchant banks due to their inability to provide collateral security. Table 1 shows that as of December 12th 1999, PBN had established a branch network of over two hundred and seventy-eight branches in Nigeria, and disbursed over N 350 million (US $4.3 million) as loans to about over 650,000 people. It covered about 1, 560 villages and spread across about 300 local government areas. In the country as a whole, it has a cumulative net savings deposit of 300 million Naira (US $3.7 million).

To qualify for PBN loans, borrowers are organized into groups of 7 to 10 members. A group engaged in collective projects can obtain group loans of up to 250 thousand Naira (US $3,125). Individuals can borrow up to 20 thousand Naira (US $250). The bank is structured in such a way that it can cater for needs of individuals who want to deal with the bank directly for reasons of privacy called for by socio-cultural norms peculiar to many communities in Nigeria. Experience has shown that the individuals in this category would rather forgo loans than join a credit group where others would know their businesses and financial working structures.

4.1 Impact Assessment

There are no generally accepted criteria for defining a successful micro-finance institution. Some of the criteria used in this study in assessing the impact of People's Bank intervention on the poor are in the area of its coverage. In addition, the bank's performance was measured by considering how much it had intervened in the lives of the poorest of the poor : to what extent it had improved their quality of living and to what extent it helped them cope with their vulnerability and lack of income and skills.

Impact assessment in this study is further looked at from the point of view of the type of clientele served and the variety of financial services offered (Yaron 1994). This includes the value and number of loans extended; the value and number of savings accounts; the type of financial services; the participation of women as clients; the number of branches and village sub branches among others.

For the bank to have any real impact on the situation of a significant number of poor, it must be well funded and it must serve a significant number of hard core poor who constitute a large segment of the Nigerian rural population. Given the complexity and the enormity of the funding required to finance micro enterprise in order to alleviate poverty in Nigeria, composite-financing sources are required. Seventy-five percent of loan beneficiaries of the bank are people whose monthly income ranges between 3,000-8,000 Naira (US $35-95) monthly (Table 2).

Table 2 : Monthly income status of loan beneficiaries by occupations as at the time of loan disbursement.

Monthly income	Below 3,000 (Naira)	3,000-6,000 (Naira)	6,000-8,000 (Naira)	8,000-10,000 (Naira)	10,000 and above (Naira)
Traders (n=75)	8	20	36	7	4
Agriculture (n=72)	13	25	28	5	1
Artisans (n=50)	8	14	28	0	0
Transporters (n=48)	8	22	18	0	0
Others* (n=30)	10	14	2	2	2
Total	47	95	112	14	7
Percentage	17	34	41	5	3

Notes : As at the time of loan disbursement U.S $1.00=85 Naira

Others* : include small income-generating activities like frying bean cakes, hawking of goods etc.

Sources : Data from the author's questionnaire survey

4.1.1 Type of poor targeted

Only about 17 percent of those whose monthly income are below 3,000 Naira (U.S $35) received loans (Table 2). Loans are targeted at those who are already engaged in one form of business enterprise or the other, thereby excluding the destitute poor. The need to achieve a high repayment rate made it incumbent on the banks management to be rigid in considering the economic situation of the loan applicants before loans were approved. The majority of the loan beneficiaries belong to the second 20% and third 20% in the general income distribution ladder. In terms of the improvement in the living conditions of the poor, almost 80% of loan beneficiaries interviewed could not attest to a change in condition that could possibly be associated with PBN loans. Most of the loan beneficiaries agreed that loan from the bank were useful so long as they helped them address a particular problem at some point in time. In terms of alleviating their poverty situation they were not positive in their responses. This clearly shows the type of poor targeted by the bank in loan disbursement. The loan beneficiaries also stated that since they could not receive additional loans on completion of the earlier one, they drifted back to a situation that was a replica of their conditions before the loan.

Table 3 : House condition of loan beneficiaries

Occupation	Type A	Type B	Type C	Type D
Traders (n=75)	38	32	3	2
Agriculture (n=72)	30	35	7	0
Artisans (n=50)	11	29	8	2
Transporters (n=48)	24	18	6	0
Others (n=30)	8	9	8	5
Total (n=275)	111	123	32	9

Notes : Houses are graded based on size, physical conditions, building material e.g. blocks and roof sheets.

Type A : House built with cement blocks, painted, plastered walls and has up to 4 bed rooms

Type B : House built with mud blocks, corrugated iron roofing sheet, plastered but not painted with 2-3 bed rooms.

Type C : House built with thatch roof, small windows and mud blocks, not plastered and not painted.

Type D : No house at all

Source : From questionnaire survey.

Table 3 shows the state of the houses of the respondents used in this study. It could be seen that most of the respondents (85 percent) who benefited from the PBN loans had Type A and B houses. Only about 11 percent of the respondents had Type C houses and 8 percent had no houses. The poorest are defined as those who live in houses that are in a state of disrepair, have no education,

and have to sell their labour, live in slums and outskirts of the city, with no electricity; It was hard for them to avail themselves of the credit and savings schemes of the bank. Generally, houses and land ownership can serve as collateral for credit in addition to its primary function of providing shelter. It is therefore necessary for the bank to use this indicator in measuring the economic status of loan beneficiaries if they really want to reach the poorest of the poor.

In terms of reducing vulnerability and providing assistance in difficult times, such as bad harvest, natural disasters, and shocks of various descriptions, the bank was not able to provide relief loans to the poor. This is partially because its timing for loan disbursement is fixed, with little or no flexibility (Table 4). Not all the loan applicants needed loans for investment purposes. Some of the prospective loan applicants on the waiting list of PBN record books indicated that they applied for loans to buy food to redress acute shortage that usually follows their annual planting season.

Table 4： Loan Disbursement Schedule

Type of loan	Timing (Yearly)	
	North	South
Crop farming	April	February
Livestock farming	Any time	Any time
Produce marketing	October	July
Festive period trading Christmas	October	October
Ramadan	January	January
Sallah	April	April

Source：People 's Bank Records 1999

4.1.2 Impact of loans on household living standard

The average number of people who had wage employment in the household before the loan was two and it remained the same after the loan. This means that the loans did not lead to expansion of business that would in turn lead to job creation for household members. The number of dependants stood at six people, and most of them are of school age. At least 46 percent of the respondents did not pay their nuclear family members. The respondents themselves spent more time with the enterprise during the first year after the loan instead of employing the services of extra hands. Many could not get a repeat loan even after the completion of their first loan due to shortage of loan funds and the long queue of loan applicants on the waiting list.

From the survey, it was discovered that the average values of the major household assets of the respondents, four or five years after the loan were as follows：house 150,000 Naira (US $1,700), land 60,000 Naira (US $705) agricultural products 10,000 Naira (US $110) Before the loan, the house was about 70,000 Naira (US $820) land 30,000 Naira (US $350) and agricultural goods 4000 Naira (US $45). However, it is difficult to attribute this increase in household assets to the intervention of

PBN loans. This is because 70 percent of the respondents interviewed agreed they have only received the PBN loan once in three years, 15 percent received a repeat loan after three years of operating with the bank, only about 10 percent got loans from the bank three times in a period of five years. This irregular disbursement of loans had serious negative consequences on sustainability of the progress made by loan beneficiaries. From the foregoing it can be argued that the increase in the value of assets recorded by the loan beneficiaries may not be entirely as a result of the loan received from the PBN but may derive from other sources of livelihood as most loan beneficiaries were often engaged in different activities.

Some of the household assets acquired were coloured televisions, refrigerator, deep freezer, new furniture, new kitchen utensils, sewing machines, and bicycles, motor cycles (used) and cars (used). At least 24 percent invested money in these assets, while 46 percent gave no answer, 30 percent said they acquired nothing. Conclusions reached here are open to further investigation, as most respondents are very careful in disclosing their asset especially those things that are not very visible to the interviewer. It is difficult to draw a correlation between asset acquisition and PBN financial intervention because most respondents had no repeat loans and those who use the savings facilities of the bank have very small balances in their accounts. One clear fact that emerges from the kind of asset acquired by the respondents is that the very poor whose main concern is on meeting their basic needs are not fairly represented among the loan beneficiaries. Those on the waiting list also acquired some assets while waiting for the PBN loan. Given this situation, it may be difficult to establish a link between the acquisition of a PBN loan and asset acquisition. Other factors not related to loans from the bank may have contributed to the acquisition of these new assets. The majority of the loan applicants on the waiting list attested to the fact that they acquired their assets from remittances from their siblings living abroad and in other parts of the country.

4.2.1 PBN loan administration 1989-1999

Table 5 shows the demand and delivery of loans during the period under study. The total number of loan applications received during the period was 3.2 million. The total value of the applications amounted to 8.3 billion Naira.

TABLE 5 : DEMAND AND DELIVERY OF LOAN

	No. of Applications (in Thousand)	No of Actual Applications Approved (In Thousand)	(%) Share	Value of applications (in million Naira)	Value of Approved Applications (in million Naira)	(%) Share
1989	43	26	60.1%	25	15	60.0%
1990	133	40	30.0%	216	65	30.0%
1991	257	34	13.1%	340	100	29.4%
1992	265	26	9.8%	130	50	38.5%
1993	369	26	7.1%	173	50	28.8%
1994	286	23	8.1%	431	40	9.3%
1995	440	2	0.5%	200	22	11.3%
1996	137	0.5	0.4%	259	6	2.3%
1997	470	0.8	0.2%	2,350	10	0.5%
1998	410	4	1.1%	2,051	164	8.0%
1999	420	4	1.0%	2,100	282	13.5%
TOTAL	3,232	186.3	6.0%	8,276	806	9.7%

Source : (I) People ' s Bank Records (1999)

The total number of actual applications approved was 186.3 thousand (about 5.95 percent) and the value of approved application was 806 million Naira (U.S $8 million), which is about 9.75 percent of the total value of applications received. Based on the volume of transactions the PBN could meet only about 6% percent of its loan demand during the period under study (See Table 5) . This 6% did not include those poor who self selected themselves out of the program or who were refused admission by other members of the group for fear of inability to pay back loan.

The PBN cannot be said to have adopted a financial system approach to micro-finance judging from its limited outreach and lack of self-sufficiency as it relies mainly on government subsidy for all its operation. On the other hand, it is not strictly speaking a poverty lending institution that emphasizes credit with complementary services such as skill training, literacy program, family planning and the like. Loan beneficiaries were not trained in any skills before and after they got their loans. What was important to the bank 's staff was good repayment irrespective of how the loan disbursed was expended. Being wholly funded by the government, the PBN could not achieve self-sustainability as it was always under the whims and caprices of government officials who manipulated loans for elective purposes. The bank suffers from the lack of a well-defined role.

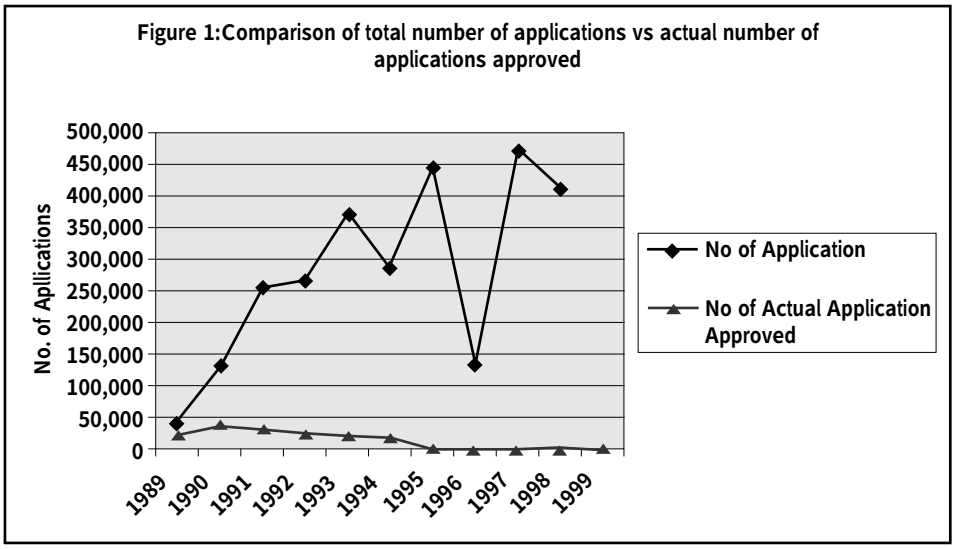


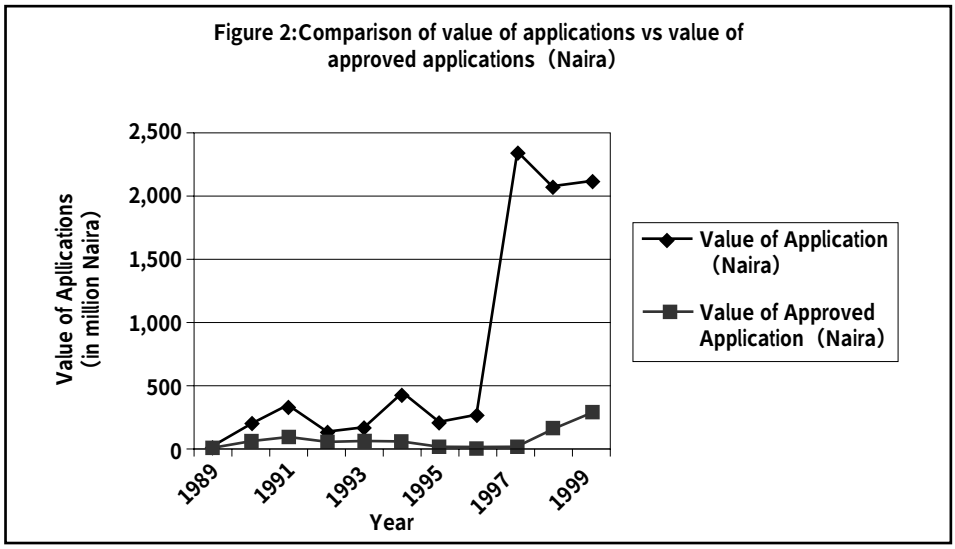
Figure 1 shows that the demand for People's Bank of Nigeria loans far outstripped the delivery of loans. It can be seen that the demand for loans rose from 1989 to 1995 and fell suddenly in 1996. It took an upward trend in 1997 and started to decline by 1998. It was again set for an upward trend in 1999. A possible explanation for the fluctuating levels of demand for loans hinges on the fact that from the supply side there was a decrease in the number of approved applications, a phenomenon that can easily be explained by the precarious economic situation of the country at this time. People's confidence in their ability to get loans from the bank was shaken by the number of loan applications approved by the bank between 1995 and 1997.

4.2.2 Value of loan applications

The value of application was on the increase between 1988-1994 with the exception of decreases in 1992 and 1993. This was a period of political turmoil in Nigeria over the June 12 election annulment. The value rose from 1993 to 1994, fell in 1995 and in 1996 the value rose dramatically (See Figure 2). The reason for this astronomical rise could be traced to the involvement of the first lady in the Family Economic Advancement Program (FEAP), which was launched in 1996. The value dropped in 1998 when the civilian administration took over the government. It can be observed that the value of approved loans (the supply side) was lower than the demand. Between 1989 and 1991, the demand for loans exceeded supply. While demand stood at less than 500 million Naira (US $ 5 million) at this period, supply was barely 100 million Naira (US $ 1 million). Between 1991 and 1998, the demand peaked at 2.5 billion while the supply only peaked at below 300 million Naira (US $ 3 million) by 1999. The number of applications rose sharply because of the high and galloping inflation rate prevalent in the country at this time. In 1995 while inflation rose to 73% the real interest rate

recorded a negative (-60.5 %)[5].

The inflation rate had dramatic impact on the number of loan applications; unfortunately, at this time, the bank had to reduce the number of approved loans.



4.2.3 Sex and occupational distribution of loans

Table 6 typifies the gender distribution of loans in Ondo, one of the selected branches used in this study. From Table 6, the amount disbursed to men stood at 468 thousand Naira (U.S $ 5,500) while the loans disbursed to women amounted to 503 thousand Naira (U.S $ 6,000). Women received about 52 percent of the loans in this branch. The total number of loan recipients is 826. This is made up of 445 women and 381 men. Each loan recipients received an average of 2,000 Naira (US $23) - 20,000 Naira (US $ 250). The actual repayment was 65 percent for both men and women.

This trend can be seen in general loans and People's Target Savings Scheme (PTSS) loans. I have deliberately chosen four dates of disbursement in Ondo branch to show that the target of PBN loans in some branches in the Midwestern zone is not gender biased at any given time. This is in sharp contrast with other known micro finance institutions in the world that focus mainly on rural women (Hashemi and Morshed 1997 p.217). Some branches have a special bias for women, not all do. The targeting of women depends largely on the discretionary powers of the branch manager in collaboration with the committee responsible for loan recommendations and approval. Although, in principle, women are considered the special target group of the bank, the head office guidelines do not give special consideration to female loan applicants. The number of female clients varies from branch to branch.

Table 6：People's Bank of Nigeria，Ondo Branch

Sex Distribution of Loan Repayment as at August 2000							
Sex	No of Beneficiaries (No)	Amount Disbursed (in thousand Naira)	Service Charge (in Thousand Naira)	Total loan (in Thousand Naira)	Expected Repayment (in Thousand Naira)	Actual Repayment Thousand Naira)	Balance (outstanding) In Thousand Naira)
Men	381	468	64	553	553	305	227
Women	445	503	69	573	573	328	244
Total	826	971	134	1,126	1,126	634	471
26th October，1998 General Loan							
Men	39	1,436	287	1,723	1,723	1,505	277
Women	55	1,270	254	1,524	1,524	1,174	348
Total	94	2,706	541	3,247	3,247	2,680	566
General Loan of 13th May，1999							
Men	10	1,234	246	1,480	1,480	565	915
Women	6	340	68	408	408	301	106
Total	16	1,574	314	1,888	1,888	866	1,021
PTSS Loan of 13th May，1999							
Men	27	2,377	475	2,852	2,852	2,120	731
Women	23	1,662	332	1,094	1,094	1,259	734
Total	50	4,039	807	4,846	4,846	3,380	1,466
PTSS Petroleum Trust Fund loans to the Bank							

Source：People's Banks Records (1999)

Table 7 shows the occupational and sex distribution of loans disbursed in Uokha branch. Here there are 595 women recipients, which constituted 85 percent of loan recipients. In this branch, the target borrower seems to be women, unlike the situation in the Ondo branch. The loans are supposed to be for the economically active poor people. However, some educated women took advantage of the loans an obvious case of leakage. It is therefore not surprising to see that loans disbursed to women were valued at 529 thousand Naira (U.S $ 6,200) as at August 2000. Their actual loan repayment rate was 64 percent while men has stood at 71 percent. Most of the male loan beneficiaries in this branch had only primary education, whereas their female counterparts were more literate and belonged to the Better Life for Rural Women program. This organization was set up to address the poverty situation of rural women. Most of its members were local elite women. The sophistication of the women in this group partially explains the not too impressive loan repayment rate when compared to other rural women. They were not easily cowed by the so-called sanctions threat from bank officials. It was easier to threaten rural women and force repayment than these local women elite. Hossain (1988) has extensively documented higher level of repayment by female groups compared with male groups in Bangladesh. Women's repayment record of 64 percent in this branch appears low by all standards when compared with the men's rate of 71 percent. There is a cause for concern because men are

often touted as being more difficult to deal with in terms honoring their loan obligations than women.

TABLE 7 : PEOPLE ' S BANK OF NIGERIA, UOKHA

SECTORAL DISTRIBUTION OF LOANS AS OF 31ST AUGUST, 2000

S/N	Sector	No. of beneficiaries	Amount disbursed+S/C (in thousand Naira)	Expected Repayment (in thousand Naira)	Actual Repayment (in thousand Naira)	Current Balance (in thousand Naira)	Repayment Rate (%)
1	Traders		454	454	266	187	58
2	Farmers		324	324	242	82	75
3	Artisans		57	57	35	22	61
4	Better life		120	120	88	31	73
5	NCWS		35	35	30	4	86
		Total	990	990	661	326	67
		Men (102)	387	387	275	112	71
		Women (595)	603	603	386	214	64
		Total beneficiary (697)	990	990	661	326	67

Source : People 's Bank of Nigeria Record (1999)

In Uokha branch, traders had more loans disbursed to them than farmers did. Traders had 454 thousand Naira (US $ 5,300) while farmers received 324 thousand Naira (US $ 3,800). Trader repayment rate stood at 58 percent, while repayment rates of farmers and artisans were 75 and 61 percent respectively.

The responses received from the survey conducted showed that the major reasons for rejection of loan applications were wrong procedures, lack of project viability and the refusal by members of the group to accept prospective loan applicant into their fold. Loan applications were not rejected because of lack of collateral. The fact that only the government funds the PBN made disbursement of loans less frequent. The majority of the loan recipients interviewed reported that the main reasons for poor loan repayment are business failure, poor weather conditions (which invariably affect agricultural productivity) and use of loan for unproductive ventures.

4.3 Savings mobilization

The Bank places a lot of emphasis on savings mobilization. For this reason, it operates different categories of savings schemes for customers. The first is the regular savings scheme common to all banks. The features of the Regular Savings Deposit Scheme are that the minimum amount to open an account must be 100 Naira (US $ 1.00). Interest paid on savings depends on the prevailing Central Bank rules. It ranges between 5-8 percent. Customers can withdraw their savings, or part of them at any time and according to the normal practice in the banking industry.

The second is a special savings scheme designed by the bank specifically for its clients who are the

poorest of the poor. This is known as the People's Target Savings Scheme (PTSS). The purpose of the PTSS is to enable the poor to save money that they can use later for unexpected or urgent financial needs or to finance an important matter or thing that requires a bulk sum; for example, hospital bills, school fees, purchase of goods in bulk, purchase of equipment or machines for business. This system derives from the need of the poor for bulk sums of money. As Soyibo (1994) observed, this is one reason why the poor use informal money collectors. However, this system, though similar in design to those of informal money collectors, is not as flexible and hence most of the poor still have to use money collectors who exercise more flexibility in their operations. For instance, the Bank's PTSS system requires a minimum amount of 250 Naira (US $ 3.00) for opening an account. For some poor people who want to be part of this scheme, this is a major constraint. Withdrawal from the PTSS accounts is discouraged to allow the money saved to remain in the account for some time. As a result of these constraints, coupled with cumbersome paper work, many of the poor interviewed prefer to keep their monies with the informal collector where they withdraw as it suits them.

Even though the People's Bank is often regarded as the bank for the poor, it also has a special product for relatively better off workers in the organized sector. This scheme is known as the Workers Save as You Earn Scheme (WSAYES). This is a savings account aimed at enabling workers to save for future use and to absorb shocks from lack of funds to meet financially related emergencies. Minimum amount required to open an account is 250 Naira. It was almost similar to PTSS except that it was strictly for workers in the organised sector.

Table 8 shows the savings mobilization patterns in the month of January 2000 for some of the branches studied in this paper. It may not give an exact picture of savings mobilization for the whole year but it gives a clear indication of how customers of the bank use its services during festive period like Christmas and New Year celebrations. During this period, customers withdrawal rate is always high because of their high expenditure. According to some customers interviewed, they prefer to withdraw money from the bank during this period and deposit it with the informal money collectors because their services are more flexible. In Ahoada and Nimo, two areas well known for the established operations of rotating savings and credit associations (ROSCAs) and informal financial services like Alajo[6], and Esusu and Umana-umana[7], both recorded the highest rates of withdrawal during this period[8].

Table 8 Savings Mobilization for the month of January 2000

Branch	Amount Mobilized (' 000 Naira)	Amount Withdrawn (' 000 Naira)	Savings Balance (' 000 Naira)	No. of Accounts		Remarks
				Opened	Closed	
Benin	2,429	2,589	120	na	na	Deficit bal.
Ichida	2,519	1,717	802	5	2	
Ahoada	754	449	305	15	28	
Uokha	138	82	56	0	1	
Nimo	1,503	751	752	11	316	
Ondo	3,372	3,204	197	31	15	
Akwa	2,136	2,339	202	94	0	Deficit bal.

Note : na Not available

Source : People 's Bank of Nigeria, Benin Zonal Office consolidated monthly returns. 2000

ROSCAs are closed membership groups where all members pay set amount at regular intervals (monthly, weekly, and daily) to a common pool, which is handed over to each member in turn (randomly or by bidding). All recipients but the last receive the pooled sum sooner than if they had saved the same amount alone.

The managers interviewed[9] in Benin and Akwa branches believed that the deficit net savings balances in their accounts were the result of the panic withdrawal which came about as a result of a widely circulated newspaper report that the People 's Bank was about to be merged with the Nigeria Agricultural Development Bank (NADB). People were scared about their savings and lost confidence in the bank. Adding to this loss of confidence was the government closure of some banks at that time as well as fake financial outfits that had sprung up in the country not long before[10]. The two branches which recorded deficit balances are located in urban centers and as a result the information flow is quite smooth and alternative banking services exist unlike branches in the rural areas that have no alternative source of banking apart from the informal financial operators.

Most savings customers of the People 's Bank especially in the semi-urban and urban areas opened up compulsory savings accounts as a means of acquiring loans and after that they hardly used the bank for long-term banking or other transactions. Some of the managers interviewed reported the majority of the accounts opened by loan beneficiaries are dormant. According to the managers, the better-off poor returned to conventional banks for savings because of the confidence they had in them, and the poorer clients fell back on the local money collectors for convenience and ease of operation. Only branches in the remote rural areas where the People 's Bank enjoys a monopoly over banking operations maintained a long banking relationship with customers. Overall, it is plausible to argue that extending banking services to rural areas that were hitherto neglected by formal financial institutions is the major achievement of the PBN. The PBN tried to inculcate banking habits in the people but due to the flexibility and low cost of operations in the informal financial sector, the poor

still had to patronise the local money collectors and lenders. Added to this, the informal financial sector proved to be irresistible to the very poor and it consequently held on to a considerable portion of the market. Soyibo (1994) reported that in Nigeria the average number of clients per Esusu collector rose from an average 250 in 1991 to 438 in 1993. This steady rise in number of clients, despite the PTSS of the bank, shows that the PBN program does not meet the needs of the poorest of the poor.

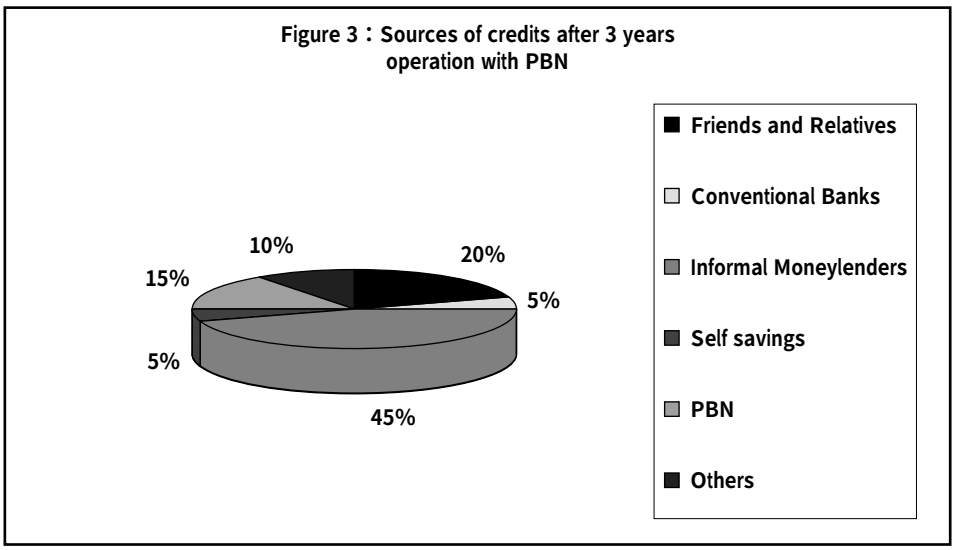
4.4 People's Bank and informal financial services

While loans from moneylenders may be more expensive than other formal and informal loans, they remain the only source open to the general public and do not require that borrowers satisfy any criteria, such as membership of a group. For borrowers who need money to meet social and economic emergencies, moneylenders are still more attractive than formal financial services; however, for those seeking working capital and fixed investment loans, they are unattractive. Figure 3 shows the sources of credit of beneficiaries of PBN loans three years after taking their first loan. About 45 per cent of the respondents still use the moneylenders, while 20 percent rely on their friends and relatives as source of credit. It is interesting to observe that three years after receiving their first loans from PBN, only 15 percent of the respondents depend on the bank as their source of credit. Just like the observation made in Bangladesh by Sinha and Matin (1998), poor borrowers in the Mid Western zone of Nigeria are much more comfortable dealing with their local money lenders and daily money collectors because of the low cost of transactions, quick access and convenient schedule of repayment than the People's Bank which has a regulated service schedule. The majority of those who receive loans and operate savings account with the PBN also agreed that they have other financial obligations with the informal moneylenders, commodity buyers, landlord and their employers because of the insufficiency of the services offered by the bank. Overall, about 65 percent of those sampled are members of ROSCAs because ROSCA's loans are delivered quickly and conveniently with minimal procedure.

One of the managers interviewed reiterated the fact that lack of funds and the long list of loan applicants made speedy disbursement of loans impossible. Given this trend, the poor, the better off and non-poor have no choice other than to patronise the services of the informal financial services despite their obvious shortcomings. In his studies of the interaction of informal sectors and formal institutions in India, Bell (1990) observed that the setting up in many countries in the last three decades of formal lending institutions for agriculture development was intended to provide greater competition to suppress monopolistic informal lenders. The policy, that was intended to force moneylenders out of business in India, never achieved that goal.

The majority of the PBN customers (both loan beneficiaries and depositors) agreed that their

business relationship with the moneylenders was as strong now as before receiving their first loans. Only a small fraction feel that PBN took over what was a booming business for the moneylenders and deposit collectors. This position is understandable when viewed against the backdrop that each lending agency, whether formal or informal, caters for an aspect of the borrowing requirements of potential customers. Soyibo (1994) posited that so long as formal banks do not have information about small borrowers, and continue to regard them as high-risk operators, expanding lending services to these groups would continue to face difficulties. The qualitative investigations of the managers and the borrowers of the PBN shows that the clients of the bank are not high-risk operators as painted by conventional banks. On the contrary, The local elite who are relatively better off constituted more problems in meeting their loan repayment obligations.



5. Conclusions and recommendations

As revealed from the interviews with respondents and the questionnaire survey conducted in this study, the PBN created banking awareness in the rural areas not served by conventional banks and succeeded to a certain extent in inculcating banking habits. However, in the areas of poverty alleviation especially in terms of improving the standard of living of its beneficiaries not much difference could be observed.

The current levels of poverty of the beneficiaries of PBN loans and savings facilities attest to the fact that this program is deficient in a number of ways. Most of the loans were targeted at the poor who had existing means of livelihood as farmers, artisans, traders, vulcanizers, and transporters or engaged in other income-generating activities. The loans excluded the vulnerable poor who the bank think may not be in a position to effect prompt repayment. By this targeting mechanism, a

considerable number of the poor people were left out of the operations of the bank in the first place.

In addition, some of the bank products are in conflict with the already existing traditional savings and loans schemes operated by local communities for the benefit of their members. Stuart Rutherford (2000) clearly stated that to design a successful micro-finance product, the first step entails understanding the financial needs of clients (and potential clients) and how the financial service fits into their money management strategies. According to him, such understanding requires an awareness of the economic goals of poor households, how people manage resources and activities, and how they deal with risk in their day-to-day lives. In the People's Bank case, its loan components are designed for people who are already engaged in some form of business and they are not designed as a start up fund for business. The poor need financial services for a variety of reasons. Those that needed loans to smooth consumption were not given serious consideration in the programs of the bank.

The amount of a loan to a prospective applicant, which ranges from 2,000 Naira to 20,000 Naira (20 — 200 US dollars)[11], is too small considering the inflationary trend in the country. Added to this, the waiting period between disbursements even when a customer has successfully completed repayments is too long. The effect of this is that, more often than not, most customers drift back to their pre-loan state because of lack of sustainability. In this respect, the People's Bank is completely different from other successful micro-credit schemes like the Badan Kredit Kecamatan (BKK) of Indonesia. In the BKK system the process of loan approval is very rapid. On completion of the application procedure, disbursement of funds usually takes less than a week. According to Mosley (1996, p.45), once a loan is repaid, clients stand the good chance to receive larger repeat loans so long as the repayment performance of the previous loan is considered good enough[12]. The People's Bank has no repayment performance consideration for granting of fresh loans. Even when a customer's record is good, She is not guaranteed a new loan immediately because of the usual shortage of loanable funds. Given this lack of incentive for repayment, there are many cases of non-repayment of loan.

Most of the recipients of People's Bank loans are petty traders who also use other informal financial services due to their flexibility. They find it extremely difficult to maintain savings, as they have to take money from one source to service the other. Given this practice of borrowing from different source to repay loans, repayment rate should not be used as the yardstick for measuring performance of the bank. Stuart Rutherford (2000) has suggested that the criteria should be how people use micro-finance services to build physical, financial, human and social assets, mitigate risk and reduce vulnerability.

The nature of the type of asset acquired by loan beneficiaries suggests that they do not belong to the category of the vulnerable poor that finds it difficult to make ends meet. Among the respondents,

over 50 percent have coloured televisions, 40 percent have refrigerators, 25 percent deep freezers, 20 percent acquired new furniture, 10 percent have new kitchen utensils, sewing machines, bicycles, second-hand motor cycles, and 3 percent have second hand cars. The implication of this is that the beneficiaries of the PBN loans are, strictly speaking, not the hardcore poor who find it difficult to command resources to satisfy a socially acceptable minimum standard of living.

The study revealed that, in some branches, the loans are hijacked by the educated few to the detriment of the masses who are supposed to be the beneficiaries of the loans. This situation is sustained because the bank tries to meet the needs of the local political elite. Many beneficiaries in this category will continue to see the loans as part of their share of the national cake as long as the government bank lacks enough sanctions to enforce repayment.

The operations of the bank are not sharply different from the failed government subsidized credit programs that were heavily criticized by the Ohio agricultural economists in the late 1970s and the 1980s. It is difficult to blame government intervention as an inhibiting factor in the success of the scheme in Nigeria especially as similar efforts have succeeded elsewhere like Indonesia. However, for any meaningful success to be achieved by the bank in its drive to alleviate poverty, the government needs to reconsider its role in the overall operations of the bank. Perhaps, the government should concentrate on other poverty alleviation tools allowing the bank to operate in a sustainable way without any interference. It may be better for the government to restrict itself to those poor that may be left behind by the operations of the bank.

It is recommended that a comprehensive package of public work programs be put in place to cater for the needs of the very hard core poor that are presently not benefiting from the services of the PBN. Through these public works, which should be targeted at local infrastructure, many destitute poor can draw some wages to meet their daily survival needs until when they can qualify to benefit from the micro credit scheme.

Added to the above, it is recommended that micro-grants or some form of relief should be targeted to those that micro-credit cannot serve. The beneficiaries of these grants should include the vulnerable poor, destitute poor, disabled people, people recovering from natural disasters and those who want to smooth out consumption. The provision of this micro-grant or relief could serve as a stopgap while they wait for the effect of changes in the overall economy to reach them. When these micro grants are intended for productive purposes, relevant training and guidance should accompany them. During the training period participants must learn to save for future investment and protection. They could thereafter progress as borrowers to income generating activities and the mainstream micro-finance program. This progression of support services-- from grants to training to savings to self --employment-appears to be sufficient to break down the barriers of extreme poverty.

Hege Gulli（1998）argued that the benefits of micro-finance are not necessarily poverty related but

only a partial tool for poverty reduction. However, I share the views expressed by Hulme and Mosley (1996) that, if well managed micro-finance institutions can be a useful strategy for poverty alleviation even though they cannot satisfy all categories of the poor.

Finally, the bank needs to exchange information on formal and informal financial systems available to the poor in Nigeria in order to redesign its product correctly. Having said this, the point remains that no matter how carefully designed a micro-finance program may seem, it is just one among many legitimate options required for poverty alleviation. It cannot adequately answer the poverty alleviation goals judging from its pervasiveness. Policy makers must adopt a multi-dimensional approach to poverty alleviation. Micro-finance can and should be complemented with other interventions in other to meet the needs of a large segment of poor population.

Notes

[1] Information was collected using questionnaires administered in Benin zone (otherwise known as Mid-Western region) from September to early November 2000 and secondary data were collected from the zonal office of People's Bank of Nigeria, Benin City.

[2] Twenty loan beneficiaries were chosen from the list of all loan beneficiaries in each particular branch by writing numbers from 1 to 20 ; all the numbers were wrapped and tossed from which the lots were chosen. The same style was used to draw out the list of the non-beneficiaries used for the study.

[3] Interviews with the respondents were conducted personally with the assistance of some undergraduate economic students recruited from the University of Benin, Nigeria.

[4] The poor here refer to petty traders, artisans, farmers, local transport operators and people who engage in different forms of activities to generate income to earn a living.

[5] Central Bank of Nigeria and Federal of Statistics Annual Report 1999

[6] See Ernest Aryeetey (1995) : Filling the Niche. Informal Finance in Africa. African Economic Research Consortium for details of the various informal finance transactions available in different African countries.

[7] Umana-Umana is an informal savings scheme in the eastern part of Nigeria that mobilizes savings deposit from customers and allows up to 100 percent interest after only a couple of months in either cash or kind.

[8] Some of the customers interviewed confirmed that they find it more convenient to work with their daily savings collectors than go to the bank where they have to spend a lot of time waiting on queues and have the bother of looking for assistance in order to fill the withdrawal vouchers.

[9] Interview held with a manager of one of the five branches on the 18th of October 2000.

[10] See Central Bank of Nigeria Report of July 1999 on withdrawal of licences from twenty commercial banks as a result of their poor performances.

[11] Alexander Kebang, Executive Director, Finance and Administration, PBN in a paper delivered at the 1st National Workshop on Micro-credit as a Basis for Economic Empowerment organised by PBN in collaboration with United Nations Development Program June 10th -12th 1997.

[12] This is an excerpt from Mosley (1996 p.89) on the BRI unit desa system the linkage between loan repayment and subsequent loan eligibility is as follows :

Ratings	Criteria	Subsequent loan ceiling
A	All payments made on time	Increase of 100% over previous loan amount
B	Final payment on time, one or two late payments	Increase of 50% over pervious loan amount
C	Final payment on time, two or more late instalments	Loan amount as for previous loan
D	Final payment late, but paid within the month of due date	Reduction of 50% over previous loan amount
E	Final payment more than two months late	No new loan

References

Adams, D and J.D.Von Pischke, 1992. ' Microenterprise Credit Programs ' : deja vu *World Development*, 20 (10) : 1463-1470.

Aryeetey, Ernest. (1995). *Informal Finance in Africa*, *Filling the Niche African* Economic Research Consortium, AERC Nairobi

Bell, Clive. 1990. Interactions between institutional and informal credit agencies in rural India. *World Bank Economic Review*, 4 (September), 297-329.

Chambers, R. 1983. *Rural Development* : *Putting the Last First London* : Longmans.

Chambers, R. 1995. Poverty and Livelihoods : whose reality counts? *IDS Discussion Paper* no. 347, Brighton : Institute of Development Studies.

FAO.1986. *The Dynamic of Rural Poverty* S.I., Rome : FAO

FAO 1993. *Rural Poverty Alleviation* : Policies and Trends. Rome : FAO

Fields, G. S.1980. *Poverty Inequality and Development* : Cambridge : Cambridge University Press.

Gulli, Hege. 1998. *Microfinance and Poverty* : *Questioning the Conventional Wisdom*. Washington D.C. : Inter-American Development Bank.

Hashemi, Syed M., S.R. Schuler and A.P. Riley. 1996. Rural Credit Programs and Women 's Empowerment in Bangladesh. *World Development*, Vol.24 No.4

Hashemi, Syed M and Lamiya Morshed 1997. ' Grameen Bank : A Case Study ' in Wood, Geoffrey D.and Iffath A. Sharif. (eds.) *Who Needs Credit? Poverty and Finance in Bangladesh*. The University Press Limit-

ed, Dhaka.

Hossain, Mahabub. 1998. *Credit for the alleviation of poverty*: The Grameen Bank in Bangladesh, Washington, D.C.; IFPRI.

Hulme, D and P. Mosley. 1996. *Finance Against Poverty*, 2 volumes London: Routledge.

Johnson, Susan and Ben Rogaly. 1997. *Microfinance and Poverty Reduction*. An Oxfam Publication (UK and Ireland 1997).

Morduch, Jonathan. 1998. 'The Microfinance Schism *Development Discussion Paper* No.626 February 1998. Harvard Institute for International Development, Harvard University

Mosley, Paul. 1996. Indonesia BKK, KURK and the BRI unit desa institutions In D.Hulme and P. Mosley, eds. *Finance Against Poverty*. Vol.2. London: Routledge.

Otero, M and E. Rhyne. (eds.) 1994. *The New World of Microenterprise Finance*, London: Intermediate Technology Publications.

Remenyi, J. 1991. *Where Credit is Due: Income-Generating Programmes for the Poor in Developing Countries*, London: Intermediate Technology.

Rhyne, Elisabeth. 1998. 'The Yin and Yang of Microfinance: Reaching the Poor and Sustainability' *MicroBanking Bulletin* 2: 6-8.

Robinson, M. 1994. Savings mobilization and microenterprise finance: the Indonesian experience. in Otero and Rhyne (eds) op.cit

Robinson, M. 2001. *The Microfinance Revolution*: *Sustainable Finance for the Poor*. The World Bank, Open Society Institute, New York

Rogaly, B 1996. 'Microfinance evangelism,' destitute women' and the hard selling of a new anti-poverty formula' *Development in Practice*, 6 May, 100-112.

Rutherford, Stuart. 2000. The Poor and Their Money. New Delhi: Oxford University Press

Sinha Saurabh and Imran Matin. 1998. Informal Credit Transactions of Micro-credit Borrowers in Rural Bangladesh. *IDS Bulletin* Vol.29 No 4 1998.

Sen, Amartya K. 1999 *Development as Freedom*, New York: Knopf.

Soyibo, A 1994. 'Financial Linkage and Development in Sub-Saharan Africa: A Study of Informal Finance in Nigeria', Report of a study prepared for the Overseas Development Institute, London.

Von Pischke, J.D. 1995. 'Managing the Trade-Off between Outreach and Sustainability by Measuring the Financial Performance of Microenterprise lenders', Paper prepared for conference on *Finance Against Poverty: Challenges and Advances in Banking with the Poor*, University of Reading U.K. March 27-28, 1995.

Von Pischke, J.D, D.W. Adams and G. Donald. (eds.) 1983. *Rural Financial Markets in Developing Countries*: Their Use and Abuse. Baltimore, Md.: The Johns Hopkins University Press.

Woller, G. M. Christopher Dunford and Warner Woodword. 1999. "Where to Microfinance *International Jour-*

nal of Economic Development 1 (1), 1999 pp.29-64.

World Bank. 1990. World development Report 1990 Oxford : OUP, New York, UNDP

Yaron, Jacob. 1994. What makes Rural Financial Institutions Successful? *The World Bank : Research Observer*, Vol. 9, No 1

『国際開発研究フォーラム』21（2002. 3）
Forum of International Development Studies, 21 (Mar. 2002)

Judicialization of the World Trading System
—Implications for Regulation of Regional Integration under GATT/WTO—

Kuong Teilee*

Introduction

With the creation of the World Trade Organization（WTO）in 1995, the world trading system organized in 1947 was infused with new life. Rules regulating world trade have developed both in the scope of coverage and in the depth of intervention. Much have been learnt of the legalization and judicialization process of change in the history of world trade rules[1]. The process culminated in the finalization of the Uruguay Round negotiations. This outcome at the Uruguay Round negotiations has been described in comparative terms as the triumph of lawyers over diplomats[2]. However, the outcome means more than a mere institutional and procedural development. Legalization and judicialization may be characterized with the multiplication of legal norms and the strengthening of the binding nature of these norms and the procedures for enforcing them[3]. Built on this general conception of the present international trade law, this paper is going to examine the impact which the process of legalization and judicialization of the world trading system has on one particular aspect of the international economic relation, namely multilateral regulation and control over establishment of regional economic arrangements.

Long before the development of a trade legal system at the multilateral level, attempts among a number of mostly nations of vicinity to enter into some sort of customs unions[4] took place mainly in Europe or under European auspices. In this sense, GATT 1947 could be viewed as one of the original efforts taken multilaterally to liberalize international trade amidst a long history of economic bloc cultures[5]. For pragmatic political reasons, liberalization under GATT and the defunct International Trade Organization（ITO）had to proceed hand in hand with certain accepted categories of regional arrangements[6]. Therefore, the issue of regional arrangements, regulated under Art.XXIV of GATT, as an exception to the fundamental principle of the most-favoured-nation（MFN）in the international trading system, originally took place in a particular historical and political context[7].

The regulatory mechanism established under Art.XXIV of GATT 1947 left examination of the compatibility of concrete regional integration agreements with GATT provisions to the GATT diplomats[8]. However, mainly since the 1990s discussions related to rules on regional arrangements have also taken place in the WTO dispute settlement organs. Is this

* Doctoral student, Graduate School of International Development, Nagoya University

another proof of the judicialization development? To what extent has the WTO judicialization process brought the "diplomats' jurisprudence"[9] under legal control? These questions will be dealt with in this paper, based on an examination of the multilateral rules on regional arrangements by focusing on the legal analysis and interpretation conducted on different occasions by the WTO panels and the appellate bodies.

This study will lead to a further understanding of the nature of judicialization at work in the field of international economic law regulating regional agreements. Given the current increasing interest in the issue of "multilateralism vs. regionalism"[10], a review and re-evaluation of the issue of implementing Art.XXIV to keep regional agreements compatible with the multilateral rules under the GATT/WTO is an indispensable step to keep the present world trading system from the risk of melting down into hostile economic blocs[11].

Structure of the paper

The first section will examine the relationship between Art.XXIV and other articles of GATT, especially those related to the principle of MFN, as discussed recently at the WTO Committee on Regional Trade Agreements and interpreted by the WTO panels and appellate bodies. In the second section, the function of Art.XXIV under GATT 1947 to regulate ex ante regional arrangements and the evolution of this function on a pragmatic basis until the end of the Uruguay Round negotiations will be closed up for review. The third section will analyze the ex post corrective function in implementing Art.XXIV, made available thanks to the judicializaton process of the WTO. Section four will compare the different natures and effects of these two functions. Finally, this paper will conclude with an assessment of the impact of this judicialization process on the future implementation of GATT Art.XXIV provisions in the framework of the present world trading system.

I. Relationship between Article XXIV and other articles of GATT

Before discussing how regional arrangement proposals have been regulated in the area of trade in goods under the GATT/WTO rules, it is essential that the status, roles and functions of Art.XXIV in the GATT/WTO legal system need be identified. In a general term, this article has been referred to as an explicit exception to the principle of the most-favoured-nation treatment. Some claimed that it enables different countries to exercise their right in entering into some sort of trade arrangements with adjacent countries. Others seeing it as no more than a mere clause of exception maintained that it can only be referred to in defending some trade measures which would otherwise be illegal or prohibited under the GATT rules. Understanding the relationship between Art.XXIV with other provisions of the GATT is important to set up a clear image of the relationship between regional arrangement attempts and the multilateral trading order. For this reason, the first section of this

chapter will focus on the relationship between Art.XXIV of GATT and other GATT provisions, in particular those related to the principle of most-favoured-nation treatment in international trade of goods.

In general, Art.XXIV has been considered both by scholars and practitioners as a provision of exception[12], even though no such reference is explicitly made in the GATT.

The contention is then to what Art.XXIV stands as an exception - Article I or all provisions related to the most-favoured-nation principle. In a note, dated 2 March 2000, prepared by the WTO Secretariat to make a comprehensive review of all issues that have been identified as having a systemic significance in the course of Committee on Regional Trade Agreements discussions to date, two distinct lines of thinking concerning the overall relationship between Art.XXIV and other WTO provisions have been identified in the discussions of the Committee:

> " (a) Art.XXIV should be considered as a derogation only from Art.1 of the GATT 1994; parties to the RTAs must abide by all other WTO provisions;
>
> (b) Art.XXIV should be considered as a derogation from all the provisions of the GATT 1994, and not merely from the MFN principle. "[13]

Korea, Hong Kong China, India and Japan advocated the first position, while the second one was mainly argued by the EC[14]. According to the first view, Art.XXIV provides for exceptional right to derogate from the MFN principle under GATT Art. I to WTO members that enter into a regional arrangement, without offering any additional rights for them to adopt GATT-inconsistent measures or trade policies. The second view, on the contrary, emphasizes the reference to the " provisions of the Agreement " in the opening sentence of Art.XXIV:5[15], claiming that Art.XXIV is a derogation from all provisions of the GATT, not just Art. I. In other words, so long as measures taken in the context of an RTA do not diminish the rights of third parties, their mere differences from the relevant WTO provisions do not matter.

In the case of Turkey—Restrictions on Imports of Textile and Clothing Products, the Appellate Body considered that Art. XXIV could be invoked to justify a measure which is inconsistent with certain GATT provisions. However this is not free of any strict conditions. The Appellate Body ruled that,

> " ..... Art.XXIV can, in our view, only be invoked as a defense to a finding that a measure is inconsistent with certain GATT provisions to the extent that the measure is introduced upon the formation of a customs union which meets the requirement in sub-paragraph 5(a)of Art.XXIV relating to the ' duties and other regulations of commerce ' applied by the constituent members of the customs union to trade with third countries. "[16]

After further reviewing the text and the context of the chapeau of paragraph 5 of Art.XXIV, the Appellate Body added the following views:

" ..... we are of the view that Art.XXIV may justify a measure which is inconsistent with certain other GATT provisions. However, in a case involving the formation of a customs union, this ' defense ' must demonstrate that the measure at issue is introduced upon the formation of a customs union that fully meets the requirements of sub-paragraph 8 (a)and 5 (a) of ArtXXIV. And, second, that party must demonstrate that the formation of that customs union would be prevented if it were not allowed to introduce the measure at issue. Again, both these conditions must be met to have the benefit of the defence under Art. XXIV. "[17]

However, if one reads the reasoning advanced by the Appellate Body before coming to the above conclusion, one can find some confusing details. The Appellate Body first interpreted the provision of Art.XXIV:4[18] to mean that:

" the purpose of a customs union is to ' facilitate trade ' between the constituent members and ' not to raise barriers to the trade ' with third countries "[19].

It then proceeded to stating that:

" Paragraph 4 contains purposive, and not operative, language. It does not set forth a separate obligation itself but, rather, set forth the overriding and pervasive purpose for Article XXIV which is manifested in operative language in the specific obligations that are found elsewhere in Article XXIV."[20]

Following the flow of this reasoning, the simple fact that any measure taken to form a regional trade agreement is found raising barriers to the trade with third countries should be enough to disqualify the measure and have it removed right away. Far from making this reasoning, the Appellate Body stated that establishment of a customs union may result in taking measures which are otherwise inconsistent with certain other GATT provisions, provided the two conditions mentioned above are met. How are we going to understanding this line of reasoning? It seems that there is something more important than the only requirement of " not to raise barriers to the trade with third countries " concerning the implementation of Art.XXIV. Given the appreciation that the purpose of a customs union is to ' facilitate trade ' between the constituent members and ' not to raise barriers to the trade ' with third countries, should a customs union, the establishment of which is preconditioned on a breach of certain WTO rules be permitted pursuant to the provisions of Art.XXIV? The second condition identified by the Appellate Body seems to give an affirmative answer to this question. The Appellate Body considered that " Art. XXIV may justify a measure which is inconsistent with certain other GATT provisions ", without qualifying this statement with the provision of Art. XXIV:4 that the inconsistent measure should " facilitate trade between the constituent members and not to raise barriers to the trade with third countries ". Rather, the Appellate Body continued to state that " in a case involving the formation of a customs union, this ' defense ' (by invoking Art.XXIV) is available only when two conditions are fulfilled. First, ...And, second, that party must demonstrate that the formation of that customs union would be prevented if it were not allowed to introduce the measure

at issue "[21].

It was exactly on the basis of this second condition that the Appellate Body found that "Art.XXIV does not justify the adoption by Turkey of these quantitative restrictions" simply because "Turkey has not demonstrated that the formation of a customs union between Turkey and the European Communities would be prevented if it were not allowed to adopt these quantitative restrictions"[22]. In other words, according to the Appellate Body, so long as the establishment of a customs union under Art.XXIV meets the requirements of Arts.XXIV:5(a) and XXIV:8(a), it is presumed to work in accordance with the provisions of Art.XXIV:4. If the constituent members of the customs union has to choose between a strict observation of WTO rules and establishment of the union, it may prioritize the latter if it can demonstrate that the formation of that customs union would be prevented otherwise. Obviously, the Appellate Body was in favor of the view that Art.XXIV was not merely a derogation of Art.I of GATT.

The Appellate Body in the case of Argentina — Safeguard Measures on Imports of Footwear maintained this position, when it noted that the Panel erred in conducting an examination of Art.XXIV:8 of the GATT 1994 within the context of that particular case.

It stated:

> "... In our Report in Turkey — Restrictions on Imports of Textile and Clothing Products, we stated that under certain conditions, 'Article 24 may justify a measure which is inconsistent with certain other GATT provisions.' We indicated, however, that this defence is available only when it is demonstrated by the Member imposing the measure that 'the measure at issue is introduced upon the formation of a customs union that fully meets the requirements of sub-paragraph 8(a) and 5(a) of Article 24' and 'that the formation of that customs union would be prevented if it were not allowed to introduce the measure at issue.'[23]

II. Ex ante regulatory function of Art. XXIV

Having seen how Art. XXIV relates to the other articles of GATT, in particular provisions concerning the most-favoured nation treatment, this section will look into the preventive mechanism which is built in the Article itself in order to keep off potential abuse. As discussed in the first section of this Chapter, the practice of GATT/WTO as reflected in the position taken by the appellate bodies on the Turkey case and the Argentina case points to the stronger conviction that establishment of regional arrangements is desirable so long as this meets the criteria determined under the multilateral trading order. The panel of the Turkey case refers to the "conditional right" to form a regional trade agreement and notes that this conditional right has to be understood and interpreted within the parameters set out in paragraph 4 of Art.XXIV[24]. Paragraph 4 defines the purpose of a regional trade agreement as that to facilitate trade between constituent territories and not to raise barriers to

the trade of other Members[25]. Even though under Art.XXIV of GATT, the CONTRACTING PARTIES do not deny the right of Contracting Parties to form such regional trade agreements[26], they reserve a chance to have a look at the proposals leading to the formation of such agreements , and of course must give their approval if they are convinced that the proposals are genuinely directed towards a customs union in a reasonable period of time[27]. It is therefore obvious that Art.XXIV incorporates a preventive function under the provisions of paragraph 7 against any possible attempt to abuse the right incurred therein.

If the CONTRACTING PARTIES, by virtue of its power to review the plan "included in an interim agreement referred to in paragraph 5", finds that the agreement "is not likely to result in the formation of a customs union or a free-trade area" as defined in paragraph 8(a) and (b), they "shall make recommendations to the parties to the agreement"[28]. The binding force of these recommendations by the CONTRACTING PARTIES is also clear. The parties to a regional arrangement "shall not maintain or put into force such agreement if they are not prepared to modify it in accordance with these recommendations"[29]. If one still agrees that establishment of a customs union which is not considered appropriate under the multilateral trade order may result in disadvantage or injury to third parties by virtue of a violation of the principle of MFN treatment, and that a regional arrangement which constitutes neither a customs union or a free-trade area, nor an interim agreement necessary for the formation of either of the two, may result in impairment or nullification to the interest of third parties, then it is obvious under paragraph 7 that the CONTRACTING PARTIES do have a task of preventing damages which may be inflicted on third parties due to abuse of Art.XXIV[30].

This preventive function of the mechanism established under paragraph 7 was designed in a way so as to preempt any regional arrangement which would work against the multilateral trend. Together with the CONTRACTING PARTIES' inherent power to issue binding recommendations, the paragraph 7 mechanism automatically activates an ex ante regulatory function of the multilateral trading system over establishment of regional arrangements. Idealistically speaking and taking for granted the GATT economic and political philosophy on the relationship between the most favoured nation principle and the conditional right to form regional trade agreements[31], regional arrangements would not have a chance of creating significant disruptions to the process of multilateral trade liberalization so long as the mechanism under paragraph 7 functions properly and effectively to keep these regional arrangements in check. A regional arrangement found to be inconsistent with the provisions of Art.XXIV would have to be altered or put out of existence at the first place.

However, in practice, technical barriers and perhaps political realities gradually changed the whole picture. The most remarkable turning point might have been the incident of establishing the European Economic Community (EEC). Contrary to some previous cases, the working parties that

was composed of all contracting parties to review the Treaty Establishing the European Economic Community failed to reach a unanimous conclusion on the proposed arrangement. One of the reasons raised by the CONTRACTING PARTIES to justify this failure was that:

" as many contracting parties considered that because of the nature of the Rome Treaty there were a number of important matters on which there was not at this time sufficient information to enable the CONTRACTING PARTIES to complete the examination of the Rome Treaty pursuant to paragraph 7 of Article XXIV, this examination and the discussion of the legal questions involved in it could not usefully be pursued at the present time "[32].

Therefore, the CONTRACTING PARTIES " welcomed the readiness of the members of the EEC to furnish further information pursuant to paragraph 7 (a) of Art. XXIV as the evolution of the Community proceeded "[33]. Without a conclusion to the contrary, the EEC was allowed to proceed with its plan and schedule while making itself ready to furnish the CONTRACTING PARTIES with more relevant information. This went beyond the controversy of whether a lack of conclusion or recommendation by the CONTRACTING PARTIES amounted to an approval or disapproval of the regional arrangement[34]. It was simply that something that had been started could not be terminated without consensus among the CONTRACTING PARTIES for it to be so[35].

After the case of the EEC, several subsequent working parties also sought to employ the same strategy to produce a temporary conclusion for their work[36]. This gradually added to the originally designed ex ante regulatory function of Art.XXIV a more updated and pragmatic approach of engaging in an ex post monitoring and regulatory function. This functional shift practically contributed to the declining effectiveness of the paragraph 7 mechanism. The representative of Korea commented on this problem during the examination of the enlargement of the European Union with the accession of Austria, Finland and Sweden, conducted by the WTO Committee on Regional Trade Agreements, 40 years later in 1997 that:

> " ...Article XXIV:7 (a) seemed to oblige Members entering into RTAs to notify their agreements well in advance, prior to their entry into force, so as to give the WTO the opportunity to examine the Agreement and make recommendations as appropriate… past practices of delayed notifications and subsequent ex post examinations of RTAs could not be used as an excuse. "[37]

The problem of late notification of RTAs, referred to in the comments made by the Korean representative above, could be attributed to both the fact that timing of notifications is neither precisely formulated nor homogeneously expressed in the rules[38], and the customary flexibility allowed to Members in presenting their notifications and in maintaining, without hindrance, the status quo of a regional arrangement plan.

So far, the mechanism to review conformity with Art.XXIV of interim agreements leading to a

customs union or a free-trade area has been analyzed. The next question is what happens after a customs union or a free-trade area has completed its preparatory phase and developed into a full-fledged commercial unit under Art.XXIV? Could it be said that the power of the CONTRACTING PARTIES to review and make recommendations to the plan and schedule of a proposed regional arrangement covers also the case of a completed customs union or a free-trade area? Practice under GATT 1947 left it inconclusive as to whether or not once a customs union or free-trade area had completed its establishment in accordance with the criteria laid down in Article XXIV, it had to submit periodic development reports[39]. However, it was clear that this was without prejudice to the legal rights of all Contracting Parties under Art.XXIV[40].

Specific matters of concern could be raised by the Contracting Parties concerned to the attention of the Council or of the CONTRACTING PARTIES[41]. The CONTRACTING PARTIES attempted to clarify this situation in its 27th Session in 1971 by issuing an instruction to the Council to establish a calendar fixing dates for the examination, every two years, of reports on regional preferential agreements. However, the process did not develop consistently[42]. Finally, the process was revived and strengthened after the adoption of the Understanding on the Interpretation of Art. XXIV of the GATT 1994[43]. Paragraph 11 of the Understanding provides that:

> " Customs union and constituents of free-trade areas shall report periodically to the Council for Trade in Goods, as envisaged by the CONTRACTING PARTIES to GATT 1947 in their instruction to the GATT 1947 Council concerning reports on regional agreements (BISD 18s/38) , on the operation of the relevant agreement. Any significant changes and/or developments in the agreements should be reported as they occur. "

Again, this is part of the exercise of the ex post monitoring and regulatory function which was developed on a pragmatic basis throughout the years of GATT 's experience dealing with increasing proliferation of regional arrangements. Of course, this ex post monitoring and regulatory function did not produce any better result than endless statement of positions and inconclusive efforts to seek an appropriate interpretation for the provisions of Art.XXIV which could be accepted by all Contracting Parties[44]. The discussions might have been more sophisticated and complex, but the success was not any more promising than what it used to be at the first place[45]. Finally, together with the Uruguay Round breakthrough another new outlet was found. That is the increasing resort to the dispute settlement mechanism to settle issues related to regional arrangements. We will examine this new development in the following section.

III. Ex post corrective measures in the implementation of Art. XXIV

After having examined legal provisions related to establishment of regional arrangements and briefly illustrated their historical development, we are going to consider how development of these

legal provisions contributed to the silent shift in emphasis of the GATT/WTO practice, from that of taking a preventive approach to that of resorting to a corrective one. Despite the fact that conciliation and dispute settlement have occasionally been resorted to since the early years of the GATT 1947 to deal with disputes involving measures taken pursuant to establishment of regional arrangements under Art. XXIV[46], there was no explicit legal provision on the relationship between implementing provisions of Art. XXIV and taking actions according to dispute settlement procedures. Seeking to justify its refusal to an overall examination of the bilateral agreements between the European Communities (EC) and certain countries in the Mediterranean Region, the Panel on "EC Tariff Treatment on Imports of Citrus Products from Certain Countries in the Meditarranean Region" opined as follows:

> "In the absence of a decision by the CONTRACTING PARTIES and without prejudice to any decision CONTRACTING PARTIES might take in the future on such a matter, the Panel was of the view that it would not be appropriate to determine the conformity of an agreement with the requirements of Article XXIV on the basis of a complaint by a contracting party under Article XXIII:1 (a) .....The Panel considered that the practice, so far followed by the CONTRACTING PARTIES, never to use the procedures of Article XXIII:2 to make recommendations or rulings on the GATT-conformity of measures subject to special review procedures was sound. It felt that the purposes these procedures served and the balance of interests underlying them would be lost if contracting parties could invoke the general procedures of Article XXIII:2 for the purpose of requesting decisions by the CONTRACTING PARTIES, on measures to be reviewed under the special procedures. The Panel therefore concluded that it should, in the absence of a specific mandate by the Council to the contrary, follow this practice also in the case before it and therefore abstain from an overall examination of the bilateral agreements."[47]

The Panel then referred to the conclusions made by the CONTRACTING PARTIES' following their examination, under Art.XXIV:7, of the Rome Treaty, the European Free Trade Association (EFTA), the Latin American Free Trade Association (LAFTA), and Finish Association with EFTA, and noted that:

> "the CONTRACTING PARTIES had recalled that procedures for consultation under Art. XXII had been accepted and had then noted that 'the other normal procedures of the General Agreement would also be available to contracting parties to call into question any measures taken' under the interim agreements…. The reference to 'the other normal procedures of the General Agreement', after the mention of Article XXII, can only be understood to mean the procedures of Article XXIII. The CONTRACTING PARTIES have established in the above conclusions that this procedure could be used to call into question 'any measure'

taken by the parties to the agreements; they did not mention the possibility of calling into question the agreements as a whole, under the procedures of Article XXIII. "[48]

The Panel report was not adopted due to the EC's blockage on the ground that implementation of the Panel 's conclusions, which was in favour of the complainant against EC's tariff treatment of citrus products from certain Mediterranean countries, could disrupt the balance and basis of the agreements concluded with the Mediterranean countries and was therefore not politically viable[49]. However, the Panel's observation seemed to have been reflected in the Understanding on the Interpretation of Article XXIV of the GATT 1994, paragraph 12 of which provides that:

" The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding may be invoked with respect to any matters arising from the application of those provisions of Article XXIV relating to customs unions, free-trade areas or interim agreements leading to the formation of a customs union or free-trade area. "

The Panel on the Turkey — Restrictions on Imports of Textile and Clothing Products analyzed the meaning of this paragraph as follows:

" We understand from the wording of paragraph 12 of the WTO Understanding on Article XXIV, that panels have jurisdiction to examine ' any matters " arising from " the application of those provisions of Article XXIV '. For us, this confirms that a panel can examine the WTO compatibility of one or several measures ' arising from ' Article XXIV types of agreement, as also argued by the United States in its third-party submission. This indicates that, although the right of WTO Members to form regional trade arrangements is ' an integral part ' of the set of multilateral disciplines of GATT and now WTO, the DSU procedures can be used to obtain a ruling by a panel on the WTO compatibility of any matters arising from such regional trade arrangements. For us the term ' any matters ' clearly includes specific measures adopted on the occasion of the formation of a customs union or in the ambit of a customs union. "[50]

What has been the situation of GATT Contracting Parties or WTO Members having recourse to the dispute settlement mechanism to deal with a controversial issue arising from the establishment of a regional arrangement ? A brief statistical data shows that in the period of 1948 to 1994, right before the WTO came into effect, there were 124 cases of regional arrangements being notified to the CONTRACTING PARTIES for consideration[51]. During the same period, the panels handled only 3 cases of dispute related to establishment of regional arrangements[52]. After adoption of the Understanding on the Interpretation of Art.XXIV of the GATT 1994, the situation of the panels and the appellate bodies dealing with issues arising from establishment of regional arrangements changed dramatically not only from the quantitative but also from the qualitative point of view[53]. As a result of the strengthened dispute settlement procedures, the panels and the appellate bodies can now settle

disputes related to provisions on establishment of regional arrangements decisively. The defending party has lost its privilege of blocking the establishment of the panel[54]. Nor is it possible to block the adoption of the panel report if it is not found in its favour[55]. The only recourse it may have after the finding of the panel has been completed in the report is to seek for review of the report, relying on the appellate procedure[56]. Appeal against the ruling of a panel shall be sent to the standing Appellate Body. The Dispute Settlement Body (DSB)[57] shall adopt the ruling of the Appellate Body unless it decides by consensus not to adopt the Appellate Body report[58]. In case of a non-compliance with the rulings and recommendations of the panel and the Appellate Body reports, the complaining party may ultimately have the right to take retaliatory measures[59].

As a consequence, the WTO legal system helps to ensure that what could not be settled at the discussions and negotiations taken place inside the political bodies, such as the Committee on Regional Arrangements and the previous working parties, might be brought to the attention of the panel and the Appellate Body, in seeking for an ex post solution to the disputes arising from the misuse or abuse of the legal provisions of Art.XXIV. This can be seen as a process of shifting part of the check over regionalization away from the ex ante regulatory process towards the ex post corrective process. Establishment of regional arrangements is a right under the WTO law, but abuse of this right will be confronted by complaints of the parties who believe or claim that their benefits have been impaired or nullified as a result of the regionalization by the defending party, or that a certain measures taken and implemented by the defending party on the ground of the regionalization needs are not compatible with Art.XXIV.

Concerning the panel's explanation of the application of paragraph 12 of the 1994 Understanding made by the Panel on Turkey Textile case, one can see that recourse to this paragraph 12 procedure is limited to a certain situations. Theoretically, as confirmed by the same Panel, the issue regarding the GATT/WTO compatibility of a customs union is " generally a matter for the Committee on Regional Trade Agreements " since " it involves a broad multilateral assessment of any such customs union, i. e. a matter which concerns the WTO membership as a whole "[60]. Ideally, a properly functioning ex ante regulatory plus ex post monitoring mechanism would have made this ex post corrective process unnecessary. If the CONTRACTING PARTIES or the Committee on Regional Trade Agreements reaches a positive conclusion on a regional integration agreement, it is unlikely that a complaint under the DSU mechanism would take place. Even on the presumption that the complaints were made, any disputes related to the establishment of regional arrangements as such would normally go to the attention of the Committee first. On the contrary, if establishment of a regional arrangement, or a certain measure thereof, is found to be inconsistent with the WTO provisions, a recommendation or compensatory adjustment under Art.XXIV would be submitted under paragraph 7.Again as reasoned by the Panel on EC ? Tariff Treatment on Imports of Citrus

Products:

> " .... a decision of the CONTRACTING PARTIES on the agreements would inevitably have amounted to a judgment on their conformity with Article XXIV. Had it been recognized that an agreement was in conformity with the requirements of Article XXIV, the implementation of this agreement could no longer be considered as nullifying or impairing benefits accruing under the General Agreement. On the other hand, had the agreement been considered by the CONTRACTING PARTIES as not being in conformity with the said requirements, its implementation would amount to a clear infringement of the provisions of the General Agreement which would constitute prima facie a clear case of nullification or impairment in the sense of Article XXIII: 1 (a). "[61]

Obviously, a prima facie case of nullification or impairment could be dealt with at the Committee on Regional Trade Agreements by means of a consultation process. Its reference to the DSB would only be the last option, had the Committee itself worked effectively. However, in the present reality, with the least exceptions, no regional arrangements have been examined with a clear-cut conclusion from the legal point of view[62]. A frustrated WTO Member may feel easier to resort to the strengthened and judicialized WTO dispute settlement mechanism than to keep on arguing inconclusively on particular measures taken by another Members, which caused tangible negative effects to its economic or other interests eventuated by the GATT/WTO legal provisions. What does this shift of forum mean for the future of the world trading system? The following Section will examine the nature of this shift, and a general observation of its significance in the process of controlling the force of regionalization under the current WTO legal system will be discussed in the conclusion.

IV. Relationship between the ex ante and the ex post proceedings

① Monitoring and dispute settlement

Customs territories attempting to initiate economic arrangements are bound to comply with explicit conditions and qualifications[63]. They are permitted to enter into either a customs union agreement or a FTA agreement[64]. Other categories of regionalism were provided for as limited preferential exceptions of GATT Art. I.1[65] Since only regional arrangements pursuant to Art.XXIV are taken into consideration in this paper, colonial preferential treatments are not discussed herein. To reign in regional initiatives under the spirit of the GATT legal system and to exclude protectionism under the disguise of regional arrangements, Art.XXIV was equipped with implementation provisions which enables the GATT CONTRACTING PARTIES to approve and to monitor the fulfillment of a legitimate process of regionalization. Any arrangements found to be incompatible with conditions and requirements of those legal provisions were to be corrected and even denied existence[66]. In other

words, the approach was to pre-empt any illegitimate[67] attempts and to make sure that regionalization per se would not hinder trade liberalization at the global level.

However, in practice this ex ante review of the compatibility of regional arrangements with GATT provisions was handicapped by defects in interpretation of some key conditions. The extent to which customs territories have to liberalize " substantially all trades " was subjected to long and indecisive debates and disagreements among Contracting Parties[68]. The Parties could not even agree on the exact contents of the phrase " other regulations of commerce " as provided in Art.XXIV[69].

With the introduction of the 1994 Understanding some ambiguous issues pertaining to interpretation of Art.XXIV were clarified to a certain extent. It was also explicitly provided that disputes arising from establishment of regional integration may be settled through the WTO dispute settlement proceeding[70]. Even though Art.XXIV had been referred to by some parties to justify and defend certain restrictive measures during the pre-WTO dispute settlement proceedings, the present WTO dispute settlement procedures have been such that the nature and the quality of juridical review over individual measures has been substantially improved. Measures taken for whatever reasons related to the provisions of Art.XXIV but found by the DSB to be incompatible with the GATT and other WTO agreements have to be withdrawn or renegotiated. Obviously, two factors can be identified here as the primary means of enforcing the withdrawal or re-negotiation of a trade measure. First, the dramatic change in the process of adopting panel or appellate body reports makes it possible to bring the report into effect against the will of the defeating party. Any parties losing in the process have no choice but to modify their trade measures or enter into renegotiation with the winning parties in order to duck a legitimate retaliation in the form of countervailing or other adjustment measures taken against their interests. Second, as a result of more rulings and recommendations being successfully adopted, there is an increasing number of authoritative reference to facilitate future interpretation and application of Art.XXIV, which subsequent panels and appellate bodies may make use of in dealing with disputes arising from the establishment of regional arrangements. Despite that precedents are not explicitly accepted in the WTO dispute settlement rules, GATT/WTO dispute settlement practices have made it customary that rulings and reasoning of previous cases may be referred to in developing solutions to later disputes[71]. In this way, what has not been agreed to in the history of more than 50 years of experiences of the working parties and the committee in interpreting and applying ArtXXIV may now be gradually settled by the dispute settlement organs, based on established rules of interpretation and application that practically shed lights to future handling of disputes related to establishment of regional arrangements under the GATT/WTO legal system.What could not be satisfactorily addressed by the original efforts to approve and to monitor can now be dealt with more efficiently by means of dispute settlement. Two recent WTO dispute settlement cases may prove the point of this observation. When the Working

Party was established to review the formation of the Canada-US Free Trade Agreement (CUSFTA), a number of members of the Working Party questioned the compatibility of the provisions of Article 1102 of CUSFTA with GATT provisions. Provisions of Art.1102 allowed a party of the CUSFTA to exclude the other party from safeguard actions taken under Art.XIX[72] of GATT. Some members viewed that Art.XIX of GATT did not permit parties to a free-trade agreement to take such selective application of safeguard measures. One member considered such selective measures as diluting the principle of most-favoured-nation application of emergency measures, particularly when imports from the other party to the regional arrangement also contributed to the serious injury. Taking note of those concerns, the Working Party concluded that "(a) s it was unable to reach agreed conclusions as to the consistency of the provisions of the Agreement with the GATT, it considered that it should limit itself to reporting to the Council the views expressed by its members during its discussions"[73]. Since then, this issue of selective application of safeguard measures aimed at excluding regional arrangement partners has become a repeating issue of concern raised at the WTO Committee on Regional Trade Agreement meetings. However, no agreement has been reached[74]. A similar point of disagreement was brought to the attention of the dispute settlement panel on Argentina Safeguard Measures on Imports of Footwear, by the EC against Argentina's application of safeguard measure selectively only against imports from non-MERCOSUR third countries[75]. Even though the Panel confined its ruling on this particular case to the application of safeguard measures by Argentina, it nonetheless conducted detailed analysis, in general terms, of the issue of imposition of safeguard measures in the case of a customs union, by interpreting the provisions of GATT Art.XIX and Art.2[77] and the footnote to Art.2.1[78] of the Safeguard Agreement[76] and also analyzing the relationship of the provisions of Art.2and footnote to Art.2.1with Art. XXIV of GATT on establishment of customs unions. In particular, it gave its own interpretation of the provisions of Art.XXIV:8 (a) (i) and (b)[79] focusing on the question of whether the fact that Art.XIX of GATT was not included in the list of exceptions from the requirement to abolish "all duties and other restrictive regulations of commerce" on "substantially all trade" between the constituent territories of a customs union amounts to Argentina's assertion that Art.XXIV:8 prohibits the imposition of safeguard measures between the constituent territories of a customs union or free-trade area during their formation or after their completion. The Appellate Body reversed the findings of the Panel on these provisions, but only on the ground that "the Panel erred in assuming that footnote 1 applied (in this case)"[80]. The reversal was not due to the Panel making any mis-interpretation of the provisions.

The second case is the case of Turkey introducing new restrictions on imports of textile and clothing products as a result of launching the final stage of its arrangement of a customs union with the EC. According to Turkey, this introduction of new restrictions was necessary because it had to align its commercial policy in textiles and clothing to that of the EC. India brought complained against

these new restrictions and requested the establishment of the Panel, after failing to make progress in bilateral consultation with Turkey. The Panel conducted a comprehensive overview and analysis of the provisions of Art.XXIV:5(a), Art. XXIV:8(a) and the relationship of these provisions with other articles and provisions of GATT and WTO agreements. The reasoning was revised by the Appellate Body to the extent that the Panel "erred in its legal reasoning by focusing on sub-paragraph 8(a) and 5(a) and by failing to recognize the crucial role of the chapeau of paragraph 5 in the interpretation of Art.XXIV of the GATT 1994".

Logically, those analyses and interpretative details in general terms developed by the panels and/or the appellate bodies and then adopted by the Dispute Settlement Body may become directly relevant to the future debate on the contents and application of some ambiguous provisions of Art.XXIV. They may serve as references with legal authority for the future work of the Committee on Regional Trade Agreements in examining regional integration plans. However, due to the fact that rulings made by the panels and the appellate bodies only bind parties to the particular dispute, it is not clear yet as to how contributive the findings of the panels and appellate bodies are to the actual work of the Committee. It depends on how far the Members of the Committee are ready to absorb these technical inputs. After all, to appreciate and make use of these inputs, political will seems to be more relevant than a technical necessity.

② Political and legal considerations

Another remarkable issue to be raised with regard to the differences between the ex ante monitoring plus regulatory approach and the ex post corrective approach towards the treatment of the question of regional arrangements concerns the fact that in practice the ex ante monitoring and regulatory procedure leaves more room for negotiations and political considerations. With members of the working groups or committees being government representatives, the discussions at the meetings normally end up with a summary report of different assertions and stances. The reports were not due to be adopted on a majority basis. Consensus was the only rule. Harmonization of interests rather than compensation for damages was the main consideration of the whole process. Customs territories wishing to enter into a regional arrangement agreement are required to present their plan and schedule for consideration and approval at the working groups or the committee. In principle, members of the working groups or the committee consider the application for establishment of either a customs union or a free trade area on the basis of the GATT legal provisions. However, in reality political considerations often dominated the discussions and, except for cases involving issues of substantial interests, those considerations often worked in favour of the parties to the arrangement[81]. This is because that, since there is almost no WTO Member who is not party to at least one regional arrangement, few Members could be expected to push far enough on the issue of compliance with and

strict implementation of legal provisions on the establishment of regional arrangements, unless the establishment itself causes actual injury or threat of a serious injury. No Member may want to provoke complaints or counter-complaints against its own regional arrangement with other customs territories. A neutral and political-interest-free body was not there to pass a final judgement over the different assertions either. Therefore, with extremely few exceptions, the reports issued by the working parties or the WTO Committee on Regional Trade Agreements could not but merely summarized the divergent stances and arguments[82]. No finally admitted legal interpretation could be made available in the conclusion. Despite that the working parties examined the issue of consistency with Art.XXIV of GATT primarily from a legal point of view, the members of the working parties often did this in the spirit of taking into account the "major political and economic significance" of the free trade agreement[83].

A second factor that makes ex ante examination different from the ex post correction is that until damages or at least unexpected change of ordinary conditions of competition actually take place, it is very difficult to justify either from a legal or an economic point of view the requirement that measures taken as a result of the arrangement be revised or withdrawn due to its effect to increase the overall level of restriction, and therefore the ex ante review cannot be efficient enough in preventing a regional arrangement that might develop into a safe haven for protectionists. A review of the reasons for which working parties failed to conclude on the consistency of regional arrangements with GATT legal provisions shows that this second factor was explicitly mentioned in many occasions as the cause of inconclusive discussions on the establishment of customs unions or free-trade areas. At the seventeenth session, the CONTRACTING PARTIES felt that there remained some "legal and practical issues which would not be fruitfully discussed further at this stage" of examining the Stockholm Convention establishing the European Free Trade Association[84]. A similar conclusion was also made by the CONTRACTING PARTIES at about the same time, concerning the Montevideo Treaty to set up the Latin American Free Trade Association, that "there remained some questions of a legal and practical nature which it would be difficult to settle solely on the basis of the text of the Treaty and that these questions could more fruitfully be discussed in the light of the application of the Treaty"[85]. Though in a less explicit term, the Working Party established thirty years later to examine the case of CUSFTA considered that it should limit itself to reporting to the Council the view expressed by its members and it agreed to forward the report to the Council and recommended that the CONTRACTING PARTIES invite the parties to the Agreement to furnish reports on the operation of the CUSFTA, in accordance with the decision of the CONTRACTING PARTIES[86].

Conclusion: Towards a patchwork regulation

As proclaimed by the Panel on Turkey — Restrictions on Imports of Textile and Clothing Products, the work of the Panel is not to review the general compatibility of a regional arrangement plan with the global trade liberalization system[87]. Rather, they are established at the request of parties to settle disputes arising from the implementation of the WTO agreements[88]. For this reason, it is difficult to envisage that the dispute settlement panels would be asked to pass a ruling on the general compatibility of a regional arrangement with the WTO agreements. This is particularly so, as long as the ex ante examination process remains active. What have been brought to the dispute settlement panels are particular measures taken by territories as a result of their entering into a regional trade agreement. To defend their trade measures, the parties against whom a complaint was brought about referred to the provisions of Art.XXIV in what is called an affirmative defense[89]. The panel and for obvious reason the Appellate Body have to look into the interpretation and application of those provisions while seeking to settle the disputes involving particular measures complained against. Through this process, the trade measure that is in fact a part of a larger scheme to integrate some customs territories into a regional trade unit could be singled out for legal examination. As seen in the Turkey Textile case, the bigger question of whether establishment of the regional arrangement per se is compatible with WTO agreements, in particular Art.XXIV of GATT and other equivalent provisions, was explicitly evaded. This is due to the express mandate of the panels to deal with concrete and "specific measures at issue" and the "legal basis of the complaint" only[90]. Together with the strengthened dispute settlement function of the WTO and the more confident resort to this WTO function to address issues in connection with establishment of regional arrangements, a patchwork-like process of regulating inappropriate attempts to establish regional arrangements seems to be taking shape. A measure taken in connection with a regional arrangement scheme whose compatibility with WTO legal provisions on regional arrangements has not been cleared or cannot be definitely cleared may now be brought to the arena of the dispute settlement mechanism, subjecting it to exclusive legal consideration by professionals[91]. The WTO dispute settlement procedures are such that compliance to them is almost automatically enforced. Therefore, in addition to addressing controversies inconclusively at the negotiation forums within the larger context of regional arrangement, the same controversies can now be dealt with legally in its own right by virtue of the dispute settlement function of the WTO. In a way, this is like a patchwork regulation process at least to temporarily correct some loopholes in the legal provisions on establishment of regional arrangements. Amidst increasing recourse to the affirmative defense based on Art.XXIV and in light of more confidence in relying on the dispute settlement mechanism to settle disputes of this sort, a patchwork regulatory process aimed at curbing controversies involving regional arrangement

attempts has been in the making. However, one cannot but ask whether this trend contributes to the future progress of the WTO monitoring and regulation of the move towards more regionalization. To address this question, the readiness of the international trade community to subdue political considerations to the rule of law may be required. However that subject is beyond the scope of examination of this paper.

NOTES

[1] In simple terms, " legalization " as used in the context of the development of the world trading system means the increasing trend of codifying rules and procedures to cover the deficits in practice and to create a more predictable dispute settlement process. " Judicialization " on the other hand is used in this context to refer to the increasing trend of resorting to dispute settlement mechanism to settle differences, in place of or in addition to relying on political powers and diplomatic negotiations. See Ernst Ulrich Petersmann, " The GATT/WTO Dispute Settlement System — International Law, International Organizations and Dispute Settlement " , Kluwer, 1997, chapters 2, 5, and 6. " Juridicization process " is also used by some authors to refer to the " growing demand by States to regulate their trade relations by using norms and enforcement procedures that are LEGAL in character, create significant limitations on the sovereignty of the States, and, in extreme cases, even exclude the State 's power to determine policy in certain socio-economic fields. See Arie Reich, " From Diplomacy to Law: the Juridicization of International Trade Relations ", in *Northwestern Journal of International Law and Business*, vol.17, 1996-1997, pp.776-777, and J. H. H. Weiler, " Reflections on the Internal and External Legitimacy of WTO Dispute Settlement " , in *Journal of World Trade*, vol.35, no.2, 2001, pp.191-207.

[2] Michael K. Young, " Dispute Resolution in the Uruguay Round: Lawyers Triumph over Diplomats ", *International Lawyers*, vol.29, 1995; Arie Reich, ibid.

[3] Ibid., Arie Reich, p.775.

[4] " Customs union " in this context does not necessarily share the same definition as the later idea of " customs union " or " free-trade area " incorporated into the provisions of Art. XXIV of the GATT.

[5] For a list of conventions, decrees, etc., concerning customs unions, established from early 19th century up to 1940s, see Jacob Viner, " The Customs Union Issue " , Carnegie Endowment for International Peace, London, 1945, pp.141-169.

[6] On the difficulties of the discussion on elimination of bloc discrimination in favour of a multilateral MFN treatment during the drafting of the ITO Charter and the GATT of 1947, see John H. Jackson, " World Trade and the Law of GATT — A Legal Analysis of the General Agreement of Tariffs and Trade " , 1969, chapter 24; and Richard N. Gardner, " Sterling-Dollar Diplomacy in Current Perspective " , new expanded edition, Columbia, 1980, chapter XVII.

[7] John H. Jackson, " World Trade and the Law of GATT — A Legal Analysis of the General Agreement of

Tariffs and Trade ", 1969, Chapter 24.

[8] The working parties established by the GATT CONTRACTING PARTIES to examine regional agreements were all government representatives.

[9] Robert E. Hudec viewed the early GATT 1947 legal system as a system in which the GATT diplomats who, " working with the tools peculiar to their own profession, .. have developed an approach toward law which attempts to reconcile, on their own terms, the regulatory objectives of a conventional legal system with the turbulent realities of international trade affairs ". Hudec, " The GATT Legal System: A Diplomat 's Jurisprudence ", Journal of World Trade Law, vol.4, 1970, reprinted in Hudec, " Essays on the Nature of International Trade Law ", Cameron May, 1999.

[10] Till Geiger and Dennis Kenedy (eds.), " Regional Trade Blocs, Multilateralism and the GATT ", Cassell Imprint, USA, 1996; Jagdish Bhagwati, Pravin Krishna, and Arvind Panagariya, (eds.), " Trade Blocs ? Alternative Approaches to Analyzing Preferential Trade Agreements ", MIT, 1999; Sungjoon Cho, " Breaking the Barrier Between Regionalism and Multilateralism: A New Perspective on Trade Regionalism ", Harvard International Law Journal, vol.42, Summer 2001.After long and inconclusive debates about regional arrangements in Europe and America, attention has been shifted towards latest attempts in East Asia to establish regional arrangements. See for example, Yorizumi Watanabe, " Perspectives of Free Trade Agreement (FTA) in the WTO System "(in Japanese), 『日本国際経済法学会年報』、第10号、2001, pp.102-125.

[11] A large number of studies in the legal aspect of the implementation of GATT Art.XXIV have been conducted since the early years of GATT. Some of them focused on the issue of interpretation of some key provisions that were ambiguously drafted and central to inconclusive discussions, others drew attention to the institutional weakness of the implementation mechanism under the Art.XXIV provisions. Some of these studies could be found in Kenneth W. Dam, " Regional Economic Arrangements and the GATT: the Legacy of a Misconception ", University of Chicago Law Review, vol.30, no.4, Summer 1963; Jurgen Huber, " The Practice of GATT in Examining Regional Arrangements under Article XXIV ", Journal of Common Market Studies, vol. XIX, no.3, March, 1981; Youri Devuyst, " GATT Customs Union Provisions and the Uruguay Round: the European Community Experience ", Journal of World Trade, vol.26, no.1, February, 1992; F. A. Haight, " Customs Unions and Free-Trade Areas under GATT ? A Reappraisal ", Journal of World Trade Law, vol6, 1972, pp.391-404; Frederick M. Abbott, " Law and Policy of Regional Integration ? the NAFTA and Western Hemispheric Integration in the World Trade Organization System ", Kluwer, 1995, Chapter 3; Jaime Serra Puche, " Regionalism and the WTO ", in From GATT to the WTO — *The Multilateral Trading System in the New Millennium* " , the WTO Secretariat, Kluwer, 2000.

[12] Kenneth W. Dam, " Regional Economic Arrangements and the GATT: The Legacy of a Misconception ", *The University of Chicago Review*, Vol.3, No.4, Summer 1963; F. A. Haight, " Customs Union and Free-Trade Areas under GATT, a Reappraisal " , *Journal of World Trade Law*, vol.6, 1972; John H. Jackson and William J. Davey, " Legal Problems of International Economic Relations — Cases, Materials and Text ", second edition,

American Casebook Series, West Publishing Co., 1986, pp.454-464; Youri Devuyst, " GATT Customs Union Provisions and the Uruguay Round: the European Community Experience ", *Journal of World Trade*, vol.26, no.1, February 1992; Yoshi Kodama, " Asia-Pacific Economic Integration and the GATT-WTO Regime ", International Economic Development Law series, Kluwer Law International, 2000, Chapter 1, Section 3; .

[13] Note by the Secretariat, " Synopsis of ' systemic ' issues related to regional trade agreements ", WT/REG/W/37, 2 March 2000, para.27.

[14] Ibid., footnote 56, 57.

[15] GATT Art.XXIV:5

" Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; *Provided* that…….

(a) with respect to a customs union, or an iterim agreement leading to the formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be; " ....

[16] Appellate Body Report, *Turkey — Restrictions on Imports of Textile and Clothing Products*, WT/DS34/AB/R, dated 22 October 1999, para.52.

[17] ibid., para.58.

Sub-paragraph 8(a) of Art.XXIV: " A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that

(i) duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and,

(ii) subject to the provisions of paragraph 9, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union;

(b) A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Article XI, XII, XIII, XIV, XV and XX) are eliminated on substantially all the trade between the constituent territories in products originating in such territories ".

" For the text of sub-paragraph 5(a), see supra footnote 12.

[18] Art.XXIV:4 " The contracting parties recognize the desirability of increasing freedom of trade by the devel-

opment through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories. "

[19] Appellate Body report, WT/DS34/AB/R, ibid. op. cit, para.57

[20] Ibid.

[21] Ibid., para.58, emphasis added.

[22] Ibid., para.63.

[23] Argentina — Safeguard Measures on Imports of Footwear, WT/DS121/AB/R, dated 14 December 1999, para.109.

[24] Report of the Panel, *Turkey — Restrictions on Imports of Textile and Clothing Products*, WT/DS34/R, dated 31 May 1999.

[25] See supra note 18.

[26] GATT Art. XXIV: 7 (a). See infra for further analysis.

[27] Otherwise, they shall make recommendations to the parties to the agreement to make appropriate modifications. GATT Art. XXIV: 7 (b).

[28] Art. XXIV: 7 (b).

[29] Ibid.

[30] Art.3: 8 of the 1994 Understanding on Rules and Procedures Governing the Settlement of Disputes provides that " (I) n cases where there is an infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment. This means that there is normally a presumption that a breach of the rules has an adverse impact on other Members parties to that covered agreement, and in such cases, it shall be up to the Member against whom the complaint has been brought to rebut the charge. "

[31] This is to refer to the political and economic rationales behind the formation of the rules on regional arrangements as embodied in the law of GATT in promoting a multilateral framework for regulating international economic legal relations, based on practical political compromises and economic presumptions. It is not to deny the fact that GATT economic and political philosophy in this regard has been subject to criticisms from different aspects and remains a dynamic subject of research, but merely in order to make the following analyses those criticisms and debates are temporarily set aside. For a general discussion on these political and economic rationales, see for example, John H. Jackson, " World Trade and the Law of GATT ", 1969, Ch.24; Kenneth W. Dam, " Regional Economic Arrangements and the GATT ", *The University of Chicago Law Review*, number 4, Summer 1963; Pierre Lortie, " Economic Integration and the Law of GATT ", Praeger Publishers, 1975; Warren F. Schwartz and Alan O. Sykes, " The Economics of the Most Favored Nation Clause " in Jagdeep S. Bhandari and Alan O. Syke,(eds), " *Economic Dimensions in International Law* —

Comparative and Empirical Perspectives", Cambridge University Press, 1997.

[32] Report on" the Treaty Establishing the European Economic Community", BISD, 7th Supplement, 1959, p.71, conclusion, para.(a).

[33] Ibid., para.(c).

[34] See "GATT, Analytical Index: Guide to GATT Law and Practice", ibid. op. cit., pp.818-819.

[35] Art.XXIV:7 (b)" If, after having studied the plan and schedule included in an interim agreement referred to in paragraph 5 in consultation with the parties to that agreement and taking due account of the information made available in accordance with the provisions of sub-paragraph (a), the CONTRACTING PARTIES find that such agreement is not likely to result in the formation of a customs union or of a free-trade area within the period contemplated by the parties to the agreement or that such period is not a reasonable one, the CONTRACTING PARTIES shall make recommendations to the parties to the agreement. *The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations.*"(emphasis added). However, the decision of the CONTRACTING PARTIES is made on a consensus basis.

[36] "Regionalism and the World Trading System", World Trade Organization, Geneva, April 1995, p.11.

[37] This position was also shared by Canada, Hong Kong, Japan and the US, see "Examination of the Enlargement of the European Union: Accession of Austria, Finland and Sweden", note on the meeting of 29 July, 1996, WT/REG3/M/1, 23 April, 1997, paras.44, 9, 41 and 42.

[38] "Synopsis of 'Systemic' Issues Related to Regional Trade Agreements", ibid., op. cit., para.12.

[39] "GATT, Analytical Index: Guide to GATT Law and Practice", ibid. op. cit., p.815-816.

[40] This includes the right to request a consultation for any damage caused by the continued operation of the regional arrangement.

[41] "GATT, Analytical Index", ibid. op. cit., p.816.

[42] Ibid., pp.815-816.

[43] Understanding on Rules and Procedures Governing the Settlement of Disputes (hereafter referred to as DSU), annex 2 to the Agreement Establishing the World Trade Organization, adopted on 15 April, 1994.

[44] See remarks made by the Chairman of the Working Party on the Canada-US Free Trade Agreement, introduced the report to the GATT Council in 1991, as cited in "Regionalism and the World Trading System", ibid., op. cit., p.11.

[45] The only six agreements cited by a WTO study to be agreements whose conformity with Art. XXIV has been explicitly acknowledged by the working party in 1949 (South Africa-Southern Rhodesia CU Agreement), 1951 (El Salvador-Nicaragua FT Area), 1956 (Participation of Nicaragua in the Central American FT Area), 1971 Carribean FT Agreement), 1977 (Caribbean Community and Common Market) and 1994 (Czech Republic-Slovak Republic CU Agreement). See ibid., p.16 and appendix table 1.

[46] See infra footnote 52.

[47] Panel Report on "EC — Tariff Treatment on Imports of Citrus Products from Certain Countries in the Mediterranean Region", L/5776, unadopted, dated 7 February 1985, paras.4.15-4.16, cited from "GATT, Analytical Index: Guide to GATT Law and Practice", ibid. op. cit., p.841.

[48] Ibid., para.4.18.

[49] "GATT Activities in 1984", Geneva, GATT, 1985, pp.43-44.

[50] Panel report, "*Turkey — Restrictions on Imports of Textile and Clothing Products*", WT/DS34/R, ibid. op. cit., para.9.50.

[51] "Regionalism: Facts and Figures", WTO, http://www. wto. org/english/tratye/.... Visited on 29 January, 2001.

[52] The first case was "*EEC — Tariff Treatment of Citrus Products from Certain Mediterranean Countries*", the report of which was put before the Council on 12 March 1985. The second case was "*EEC — Member States' Import Regimes for Bananas*", the report being issued on 3 June 1993.The third case was "*EEC — Import Regime for Bananas*" also complaint by the same Latin American countries against the EEC's banana regime, the report being issued on 18 January 1994. However, none of these reports were adopted. Before that there were a few cases in which the procedural and institutional issues of Art. XXIV:6 and Art. XXIV:12 respectively were addressed. But they were dealt with rather briefly and did not involve the substantial issues related to establishment of a regional arrangement. For example, the "*Canada — Withdrawal of Tariff Concessions*", L/4636, adopted on 17 May 1978; the Panel on "*Newsprint*", L/5680, adopted on 20 November 1984, and the case of "*Canada — Import, Distribution and Sale of Alcoholic Drinks by Canadian Provincial Marketing Agencies*", L/6304, adopted on 22 March 1988.

[53] For the period of 1994-2000, arguments on the provisions of Art.XXIV have been made in at least four cases, they are: The EC Banana case (panel report dated 22 May 1997); Argentina Safeguard Measures (panel report dated 25 June 1999); Turkey — Restrictions on imports of textile (panel report dated 31 May 1999); and Canada — Measures Affecting Auto Industry (panel report dated 11 Feb. 2000).

[54] DSU, Art.6.1.

[55] Ibid., Art.16.4.

[56] Ibid.

[57] The DSB is established by the 1994 Understanding to administer the rules and procedures governing the settlement of disputes. See Art.2.1 of the DSU.

[58] Ibid., Art.17.14.This is generally referred to as the "negative consensus"..

[58] Ibid., Arts.21 and 22.

[59] Ibid., para.9.52.

[60] Panel report, "*EC — Tariff Treatment on Imports of Citrus Products from Certain Countries in the Mediterranean Region*", ibid. op. cit., para.4.19.

[62] See supra texts accompanying footnotes 45 and 39.

[63] See GATT Art.XXIV:4-9.

[64] Ibid., Art.XXIV:5.

[65] Ibid., Art.I.2 and I.3.

[66] Ibid., Art.XXIV:7.

[67] To avoid confusion, the terms " legitimate " or " illegitimate " used throughout this paper refer to the lawfulness or the lack thereof under the multilaterally agreed rules.

[68] See " *Committee on Regional Trade Agreements — Systemic Issues Related to 'Substantially All the Trade'* ", WT/REG/W/21/Add.1, dated 2 December 1997.

[69] See " Committee on Regional Trade Agreements - Note on the Meetings of 27 November and 4-5 December 1997 ", WT/REG/M/15, dated 13 January, 1998; and background information in " Committee on Regional Trade Agreements? Systemic Issues Related to' Other Regulations of Commerce ' ", WT/REG/W/17, dated 31 October 1997.

[70] " Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994 ", para.12.

[71] See Panel report on " *EEC — Restrictions on Imports of Dessert Apples* ", complained by Chile, L/6491, adopted on 22 June 1989, para.12.1; Panel report on " Japan — Taxes on Alcoholic Beverages ", WT/DS8 (DS10, DS11) /R, adopted on 11 July 1996, para.6.10 and the modification by the Appellate Body, WT/DS8 (DS10, DS11) /AB/R, adopted on 4 October 1996, Section E.

[72] GATT Art.XIX (Emergency Action on Imports of Particular Products), also referred to as the safeguard provisions.

[73] Report of the Working Party on the Free Trade Agreement between Canada and the United States, para.98, adopted on 12 November 1991, L/6927, in BSID, Suppl. No.38, Geneva, July 1992.

[74] See " Committee on Regional Trade Agreements — Examination of the North American Free Trade Agreement ", note on the meeting of 30 July 1996, Chapter 8; " Committee on Regional Trade Agreements — Examination of the Customs Union between the European Communities and Turkey ", note on the meeting of 23 October 1996, paras.39-48; " Committee on Regional Trade Agreements — Annotated Checklist of Systemic Issues ", note by the Secretariat, WT/REG/W/16, dated 26 May 1997, Section N; " Committee on Regional Trade Agreements - Note on the meetings of 6-7 and 10 July 1998 ", WT/REG/M/18, dated 22 July 1998, paras.39-43.

[75] Panel report on *Argentina — Safeguard Measures on Imports of Footwear* WT/DS121/R, ibid. op. cit., para.8.72.

[76] Agreement on Safeguards, annex 1 A to the WTO Agreement.

[77] Art.2:

" 1. A Member may apply a safeguard measure to a product only if that Member has determined, pursuant to the provisions set out below, that such product is being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to

cause serious injury to the domestic industry that produces like of directly competitive products.

2. Safeguard measures shall be applied to a product being imported irrespective of its source. "

[78] Footnote 1 " A customs union may apply a safeguard measure as a single unit or on behalf of a member State. When a customs union applies a safeguard measure as a single unit, all the requirements for the determination of serious injury or threat thereof under this Agreement shall be based on the conditions existing in the customs union as a whole. When a safeguard measure in applied on behalf of a member State, all the requirements for the determination of serious injury or threat thereof shall be based on the conditions existing in that member State and the measure shall be limited to that member State. Nothing in this Agreement prejudges the interpretation of the relationship between Article XIX and paragraph 8 of Article XXIV of GATT 1994 ".

[79] See supra, at footnote 17.

[80] Appellate Body report, WT/DS121/AB/R, ibid. op. cit., para.108.

[81] See *Supra* Section II.

[82] All reports of the Working Party, except those listed *supra* at footnote 45.

[83] See for example Report of the Working Party on the Free Trade Agreement between Canada and the United States, para.78, ibid. op. cit.

[84] " Customs Union and Free-Trade Areas — EFTA ", conclusion adopted on 18 November, 1960, para. (c), GATT/BISD, 9th Supplement, 1960.

[85] " Latin American Free Trade Area ", conclusions adopted on 18 November 1960, para. (c), GATT/GISD, ibid.

[86] Report of the Working Party on the Free Trade Agreement between Canada and the United States, para.98, ibid. op. cit.

[87] The Panel reasoned that " (I) t appears to us that the issue regarding the GATT/WTO compatibility of a customs union, as such, is generally a matter for the Committee on Regional Trade Agreements ..... " ibid., para.9.52.

[88] The Panel made the following reasoning:

" we consider that a Panel can assess the WTO compatibility of any specific measure adopted by WTO Members at any time and we cannot find anything in the DSU, Article XXIV or the 1994 Understanding on Article XXIV that would suspend or condition the right of Members to challenge measures adopted on the occasion of the formation of a customs union. "(para.9.51)

[89] In deciding on the burden of proof, the Panel of the Turkey Textile case decided that " it is.... For India to demonstrate *prima facie* that Turkey 's measures violate the provisions of Articles XI and XIII of GATT and Article 2.4 of the ATC. Turkey does not deny the existence of quantitative restrictions but submits an affirmative defense based on the application of Article XXIV of GATT ", ibid., op. cit., para.9.58.

[90] In the Guatemala antidumping investigation case, the Appellate Body read Art.7 and Art.6.2 of the WTO

Understanding on Rules and Procedures Governing the Settlement of Disputes together and said that "the 'matter referred to the DSB (Dispute Settlement Body)', therefore, consists of two elements: the specific measures at issue and the legal basis of the complaint (or the claims)" and it thus concluded that "(T)aken together, the 'measure' and the 'claims' made concerning that measure constitute the 'matter referred to the DSB', which forms the basis for a panel's terms of reference". See Appellate Body report *Guatemala — Antidumping Investigation Regarding Portland Cement from Mexico*, WT/DS60/AB/R, adopted on 2 November 1998, paras.72 & 74 respectively.

[91] Arts.8 and 17 of the DSU.

『国際開発研究フォーラム』21（2002. 3）
Forum of International Development Studies, 21 (Mar.2002)

難民保護の方法論転換
―国連難民高等弁務官事務所の難民流出予防活動―

山　本　哲　史*

The Changing Jurisdiction of the United Nations High Commissioner for Refugees
-Preventive Actions by the UNHCR-

Satoshi YAMAMOTO*

Abstract

Since the establishment of the United Nations High Commissioner for Refugees (UNHCR), it has been changing its jurisdiction, for example through the expansion of the "Good Offices" actions. It is one of the special features of UNHCR to change its work and responsibilities along with relevant resolutions of the General Assembly of the United Nations (GA) in comparison with another international organizations. The changing problems of refugees need to be tackled with flexible strategy.

But in the history of its changing jurisdiction, substantive change of UNHCR has occurred in the 1990s. Its protective work for refugees has become more "preventive" than ever. Why it was occurred? What were the grounds for the change? How it was explained? In this article, the substantive changing process in the 1990s is analyzed through the discussion in the Executive Committee (EXCOM), GA, and reports of UNHCR.

はじめに

国際社会に古くからある問題で、今日においてもなお深刻なものとして数えられるものの一つに難民問題がある。単に難民問題と言っても様々な側面を有した複雑な構造になっており、それを捉えるには国際法学の立場からも種々の視角がありうるが、まず、国際社会が伝統的に難民保護手法として採用してきた領域的庇護（territorial asylum）がどのようにその様相を変化させてきたのかをみる必要があろう。そのような観点からは、各国による領域的保護を支える機関としての国連難民高等弁務官事務所（UNHCR）が注目される。

これまでの議論においては、冷戦構造の確立及び崩壊の影響が、本来人道的活動であるべきとされたUNHCRによる難民保護及びその権限に大きく政治性を含ませてきたことが批判されている。しかしこの問題が論じられる時、その権限の再定式化を関係する各種文書の中から明らかにするという作業は必ずしも十分に行われてこなかった。

そこで本稿では、UNHCRが難民問題解決

＊名古屋大学大学院国際開発研究科博士後期課程

に果たす役割が規模の上で年々大きくなってきているのみならず、特に1990年代に入ってからは従来の難民保護方法論及び庇護に関する考え方をも転換させていることを、関係する各種文書の中から読み取りつつ、その権限の変化の方向性に関する考察を行うことを試みたい。

I. 80年代までの概観

1. 国連難民高等弁務官事務所の法的基礎

1950年12月14日、国連総会の補助機関として国連難民高等弁務官事務所（the office of the United Nations High Commissioner for Refugees, 以下UNHCRと略称）は設立された[1)]。ＵＮＨＣＲの職務の人的範囲はUNHCR規程によれば、「人種、宗教、国籍若しくは特定の社会的集団の構成員であることまたは政治的意見を理由に迫害を受けるおそれがあるという十分に理由のある恐怖を有するために、国籍国の外にいるものであって、その国籍国の保護を受けることができない者、またはそのような恐怖を有するためにその国籍国の保護を受けることを望まないもの及びこれらの事件の結果として常居所を有していた国の外にいる無国籍者であって、当該常居所を有していた国に帰ることができないものまたはそのような恐怖を有するために当該常居所を有していた国に帰ることを望まないもの」（傍点:筆者）とされている。

リー（Lee, T. Luke, 1996）によれば、UNHCR規程及び難民条約以前は、その個人が国境線を越えていることは難民の定義の要素の中に必ずしも含まれていなかった[2)]。UNHCR規程（及び1951年難民条約）において難民と国内避難民との区別が生まれ、難民のみに保護を与えることになったのである。両者の区別は、冷戦構造を背景とした当時の状況のためであったといわれるが、後述するように冷戦構造の崩壊とともにその必然性が問われ始めるようになっている。

ここでは、このような状況の変化に対応するUNHCR規程の権限拡大のための構造がどのようになっているかを簡潔にであれ明確にしておく必要がある。つまり、UNHCRの活動の根拠となるUNHCR規程における活動対象及び、UNHCRの権限拡大を可能とする根拠である。

UNHCRの権限はUNHCR規程第６条に示されている。これは基本的に1951年難民条約と類似の者を「難民」と定義し、原則として「難民」に対して「難民問題の恒久的解決」及び「難民の国際的保護」を模索することをその職務としている。それとは別に、同第３条は「UNHCRは総会または経済社会理事会の政策指示に従うものとする」と規定している。また、同第１条では「…UNHCRはその職務遂行において、例えば難民の地位の認定などに関して特に問題が生じた場合に諮問委員会（advisory committee）に意見を要請するものとする」として、諮問委員会の設立を予定している。そしてそのような委員会は経済社会理事会によって選ばれる各国代表により構成されることになっている。

その諮問委員会がどのような権限を有するのかに関してはUNHCR規程には具体的に示されていないが、例えば現在のUNHCR計画執行委員会（UNHCR Executive Committee, 以下EXCOMと略称）はUNHCRの活動に関する結論（Conclusions）を毎年採択している。この結論には一般に拘束力はない

が、国連総会決議1166（XII）（1957年）や1783（XVII）（1962年）は、「UNHCRは、難民に関する状況についてEXCOMが与える指示に従う（abide by directions）よう」求めている。

実際には、その結論を受けて国連総会において類似の総会決議が採択されUNHCRの活動権限の拡大が認められるというパターンが成立しているのである。

2. 80年代までの権限拡大[3)]

UNHCRの権限拡大の中でも、斡旋概念（good offices concept）が、大きくその活動範囲を拡大してきている。この斡旋概念は、UNHCRを新難民問題[4)]に柔軟に対応させるためのものであった。

すなわち、1957年に中国から香港に逃れた人々がいたが、彼らを難民と認定するのが困難であったため、UNHCR規程に照らすと本来の活動対象とは認められないものの、人道的考慮から彼らのために寄付金を募ってこれを分配するという活動（斡旋活動）を行う権限をUNHCRに認めるという総会決議が出された。その後、1959年には斡旋対象の資格決定権をUNHCR及びEXCOMに付与し、難民であろうことが想定できるものの、その認定作業が不可能であると考えられるアンゴラ人難民に対しても斡旋機能は拡大され、1961年には斡旋機能の内容が寄付金分配以外にも拡大された。1972年にはスーダンにおいて50万人の国内避難民に緊急援助を与える権限が認められている。

このように、UNHCRは規程に当初予定されていなかった活動を行う権限を次々と与えられてきたのであるが、ここで簡単にまとめてみると、ある特徴が確認される。

それは、UNHCRの権限が拡大されたとはいえ、その活動の中心はやはり受入国中心型であったという点である。その活動は主に難民の受入国において行われ、あるいは難民の本国への帰還を援助する活動にしても、難民が少なくとも一度は出身国以外の国へと流出したことに対処するものであった。例えばスーダンにおいては国内避難民に対しても活動を行っているが、そこでも「難民及び国内避難民」に対して活動を行ったのであって、問題の中心から受入国ははずされてはいない。

実はこの点は、UNHCRの活動の根本的な理念に関する論点であり、本稿における議論の核心的部分である。UNHCRは1980年代までは、非政治中立の立場を少なくとも形式的に保ち、難民保護の手段としては領域的庇護が最も望ましいという理念を維持してきたと考えられる。1980年代までの活動の変化というのは、この理念に沿ってなされた、いわば枝葉的な変化であって、UNHCRの活動を根本から見直すようなものではなかったと言える。このことは、後述するように1990年代における議論との比較によって確認が可能である。

II. 受入国中心型からの変化

1. 庇護権の限界と難民保護の論理転換

1-1. 国家の権利としての庇護の限界

国際法上、庇護の付与は国家による権利の行使であるとみなされる。個人はその本国以外の国に対して庇護の付与を求める権利及び、庇護を享受する権利を有するとしても、国家は個人に対して庇護を付与する義務を何等負うものではないというのが有力な見解である。このような制度になって

いることは決して偶然ではないが、現行国際法システムに必然の帰結というわけでもない。国際法上の庇護に関してはこれまで幾度か議論を行う場が設けられてきたが、その度に国家は自らの権利を手放し、あるいは制限することを嫌ったのである[5)]。これは国家にとって出入国管理政策が如何に重要であるかを表現しているとも言えるが[6)]、例えば1967年に国連総会で採択された「領域的庇護に関する宣言（United Nations Declarations on Territorial Asylum）[7)]」の第１条第３項においても、このような各国の姿勢を象徴するような宣言が為されている。すなわち、庇護を付与する基準は、庇護付与国によって判断される[8)]ことになっているのである。そしてこのような庇護に対する理解は、庇護を求めこれを享受する[9)]という個人の権利まで時には侵害してしまう。国家が庇護権を自らの権利として維持し続けてきたことからして、それが難民の側から見た場合に自ずと限界を抱えていることは、容易に想像のつくところであるが、実際、難民の受入れに関しては政治的考慮が大きく働いてきたとされ、政治的背景が変化すれば難民受入に対する各国の態度も変化するということはこれまでの国際社会の実行からも確認できる。

第二次大戦以降、先進諸国は発展途上国からの安い労働力を積極的に受入れてきたが、1970年代初頭に欧州は不景気へと突入し、その結果欧州においては労働者の流入を抑えるような厳しい移民政策がとられるようになった。難民の受入れに関してはそれでも寛容であったが、厳しい移住政策に直面した移住希望者達が欧州に滞在するために庇護手続を利用するようになり、1980年代半ばには問題は深刻化するのである[10)]。そして先進諸国はついには庇護に関しても制限的な政策をとることになるのであるが、この点に関して、国連の第50会期に提出されたUNHCRの覚書における記述が象徴的にこのような状況を説明している。「UNHCRは世界の各地において庇護を求め享受する権利及びノン・ルフールマン原則が侵害されている状況を懸念する。大部分の国は、その国内状況の苦境にもかかわらず庇護希望者を受入れているが、庇護希望者は法的及び実行的に大きな障害にぶつかっている。これらの障害の内で顕著なものとしては、難民を輸送した旅客輸送会社に対する制裁（carrier sanctions）やビザ取得の義務づけ（visa requirements）、あるいは難民認定の厳格化、排外的態度及び行動（xenophobic attitudes and actions）、難民に対する安全の確保が為される前における帰還の催促等がある[11)]」というのである[12)]。

いずれにせよ、このような状況に対応するようにUNHCRはその活動を変化させるのであるが、そこではそれまでの権限の変遷にはない論理展開が為されている。そこでは80年代までとは異なり、活動の内容のみならず、国際機関としての根本的理念にまで踏み込んだ実質的変化が生まれていると考えられるのである。その点につき、以下に詳しく見てゆくことにする。

１-2. 難民保護の論理における変化

UNHCRは毎年一回、EXCOMに対して国際的保護に関する覚書（Note on International Protection, 以下「覚書」という）を提出することになっている。これらを調べてみると、UNHCRの活動がどのように捉えられているのかということが見えてくるの

であるが、1991年以降の覚書にはそれまでにはなかった論点が含まれていることが分かる。しかもそれは、UNHCRの国際機関としての根本的理念に関する興味深い論点を含んでいるものであった。

1980年代に国連総会の特別政治委員会（Special Political Committee）において難民の大量流出を防ぐための国際協力の構想が西ドイツの先導によって「新たな難民流出を防止するための国際協力」として検討されたが、UNHCRとの関係では80年代においてはこれといった発展は見られなかった[13]。しかし、1991年の覚書[14]において「保護の新たな方向（New directions for protection）」と題する章が設けられ、その中に「予防（Prevention）」という従来にはなかった節が登場した[15]。この「予防」とは、難民流出を未然に防ぐような活動を意味しているが、このような概念について、同覚書は次のように論じている。「まず始めに、予防的活動が求められる状況が存在する。ここにいう予防的活動とは、人々が難民として流出することのないよう、難民の流出原因を排除することであり、ただ単に人々が難民として流出することを防止することを意味しない。予防的活動は、人々の安全と福利とを脅かすような難民流出が起きる状況を早期に改善し、人道的及び政治的観点から対処可能な状況にとどめることも意味する[16]。」ここでは、予防的活動が求められる状況が存在するとしながらも、それが具体的にどのような状況であるか、また、なぜ突然このような概念が持ち出されたのかについては説明がないが、予防的活動の必要性に関してはその前年の1990年のEXCOMにおいて、当時難民高等弁務官であったストルテンベルグが以下のような発言を行っている。「前回のEXCOM以来、多くの劇的な発展が見られた。中東における危機は1990年が国際関係における新時代の到来をもたらすことを予感させた。その状況は深刻ではあったものの、冷戦の終結、多くの権威的体制の急進的変革、及び国連の新たなる中心的役割が、多数国間協力に予期することのできなかった機会をもたらしたのだ。UNHCRはこのような機会を活かし、平和を構築するような貢献を行った。中東における危機は、国境を越えて移動する貧しい人々の新たな波を一気に加速させた。彼等の大部分は祖国へと帰ろうとする外国人労働者たちであった。多くの人々は、彼等を難民として認識していた。行政上、その様な状況はジレンマを引き起こした。実際、彼等の多くは帰国することが可能であり、あるいは帰国することを望む移民労働者であって、国際的保護を必要とする難民ではなかった。しかしながら、私の認識としては、その様な（極限的な）状況においては、誰によってその様な状況が引き起こされているのかを問うことはできないので、ジレンマは存在しえないし、被害者をただ救済することを選ぶことになるだろう。それ故、中東危機においてはかなり早い段階から私は当該地域の諸政府代表と個人的に接触し、UNHCRの援助と専門知識を提供してきた。またUNHCRは、誰によって何が為されるべきかを明確にする為に関係諸機関との非公式の会合も行った。このような動き全体を通して、私は国連事務総長と緊密な連絡をとってきた。国連の政治機関がその本来の機能を全うする一方で、それと協働する人道的機関が不適当な行為を行わないように

注意するというのは不安を伴う。我々は今日の人道的緊急事態に俊敏に対応する国連及び国際社会の能力を見直すべき必要に迫られている。UNHCRはその様な努力の中心的役割を期待されている。リベリアでの紛争に関して、UNHCRはかなり早い段階から関係諸政府及びOAUとコンタクトをとり、危機を未然に防ぐような努力を行ってきた。残念ながらそのような努力は実を結ばず、状況は悪化してしまったが…」[17]。つまりここでは冷戦の終結に伴う状況の変化から、従来のような難民であるかないかといった定義にこだわった援助を行うのではなく、必要に応じた援助が為されるべきであって、予防的活動もその文脈から導かれることが示されている。予防的活動は、一般的に庇護国の負担を軽減するという目的からも求められるのであるが[18]、同覚書の文脈及びストルテンベルグの主張からすると、どうやらそのような理解ではなく、「人々が避難せざるをえない状況に陥らない為の」活動であるという部分が強調されており、庇護国の負担の議論とは切り離されている。つまりここでは庇護国の問題とは無関係に予防的活動を説明しうることになっているのである。従って「保護の新たな方向」とは、庇護のみによる難民保護からの脱却を意味していたと考えられる[19]。80年代においてはUNHCRはこのような役割を担うことに対して積極的ではなかったのに対して[20]、そのような姿勢を逆転させるような状況の変化が生まれていることが示されている点にも注目しておく必要がある。

さらに同覚書は次のように続ける。「予防的活動には、人権保護と開発との効果的な実行も求められる。市民的及び政治的権利のみならず、経済的、社会的及び文化的権利のより確かな遵守は、難民流出原因に取り組むにあたって基本的なものである。[21]」ここでは、同文中の「難民」という表現に注意する必要がある。UNHCRは従来、「難民（refugee）」という語の使用に敏感で、UNHCR規程もしくは1951年難民条約にいう「難民」と、その他の避難民との区別にこだわってきていたのであるが、1990年頃からこの区別を曖昧にし、ついにはその両者を「難民」という語で一括りにするようになってきている[22]。同覚書中の「難民」という表現もこのような用法で用いられており、そこではむしろ「避難民」の流出原因が強調される形になっている。従来の「難民」であれば、その流出原因には政治的考慮から基本的に触れるべき余地がなかったものが、「難民」という用語に「避難民」を取り込み、「避難民」問題の側面を強調する形で、いわば実質的に「難民」を「避難民」とすりかえてしまっているといえる[23]。この点に関しても、従来のような庇護による難民の保護からの脱却が図られていることが分かる。つまり難民ならともかく、避難民であればその保護は何も庇護という形態にこだわるべき必然性はない、という論理展開であると考えられる[24]。

そして決定的なのは、同覚書中の難民の本国における活動に関する次のような記述であろう。「従来、難民の本国におけるUNHCRによる活動は、自発的帰還（voluntary repatriation）及び社会復帰（durable reintegration）に関係するものであった。特に近年、UNHCRは帰還民に関係する職務を通じて、帰還民と国内避難民（Internally Displaced Persons, 以下IDPsと略称）とがそ

れぞれ直面する問題には実質的共通点があることを認識している。さらには、UNHCRは、難民が国内避難の起きている状況へと帰還するという実情を多く見てきた。このような経験からUNHCRは、特にIDPsに対する十分な保護が、難民流出を未然に防ぎ、難民の本国帰還及び社会復帰の達成の重要な鍵となることを確認する。[25]」ここにおいて、庇護とは完全に無関係にIDPsに対して活動を行うことの意味が確認され、難民の発生を防ぐという意味におけるIDPsに対する活動の意義が示された。

このような論理展開に疑問がないわけではない。そこでは、IDPsに対する活動が難民の保護へと繋がるという論理が展開されているのであるが、このような論理は難民とIDPsが混在している場合には妥当するとしても、IDPsのみに対して、彼らが難民とならない為に行う活動においてはその妥当性は疑わしい。UNHCRは、難民問題自体の解決に最高の価値を置いていたのではなく、迫害された個人を難民として保護するという活動を行ってきたのではなかったか。国連総会も、少なくとも1974年以来、UNHCRの職務のうちで最重要なものとして難民の国際的保護を挙げてきていたはずである[26]。

いずれにしても、これは、UNHCRの受入国中心型活動に、根本的変化を与えるものであると言える。難民の保護の論理における変化のうちでも、すでに発生している難民問題を解決するプロセスにおいてIDPsに対して行う活動は従来の受入国中心型の枠内での権限拡大であり、いわば枝葉の変化とでも表現できるが、難民をそもそも発生させないためにIDPsに対して行う活動というのは、本来のUNHCRの職務に関わってくる重要な変化であり、いわば根幹に関わる変化と言えよう。

さらに同覚書の同章の中には「国家責任［概念］[27]の容認（Acceptance of State responsibilities）」という節[28]が設けられており、そこでは国家責任の他に、「解決志向的保護（a solutions-oriented approach to international protection）」という概念も新たに持ち出されている[29]。「国家が、その国家領域に関して責任を全うすることが、解決志向的保護においては求められる。そして解決志向的保護には、難民の自発的帰還及び社会復帰の達成の他に、（難民流出の）根本的原因の排除を促進する（facilitate）ような実行的手段を用いることもまた、UNHCRに求められる。このような保護が正常に機能する為には、国家責任概念の更なる発展とその容認が求められるのである[30]。」このように、ここではこれまでのUNHCRの恒久的解決策の模索という職務の枠内にはなかった「根本的原因の排除」という活動の採用と、その達成のための国家責任概念の導入が為されている。そしてこれらの概念の説明を以下のように続ける。「難民及びその他の集団（other groups）の避難若しくは強制移動の原因に関する責任には、（難民問題の）予防と改善という両側面がある。この責任は、人命と個人の尊厳及び市民の権利を保護（safeguard and protect）すべき国家の基本的義務であることから、難民の本国の責任であると同時に、国際社会の一員に固有の義務であることから、国際社会全体の責任でもある。今日における課題としては、このような責任をより具体化させ、すなわち、国家に対してはその領域における人権侵害の排除を要求し、人の移動原因

（push factors）を減少させるよう国際的に協力し、難民の本国及び（第一次）庇護付与国によって責任が受入れられるよう負担を分配（share burdens）することが挙げられるであろう[31]。」この文脈からは、解決志向的保護及び国家責任という両概念が新たに持ち出された理由が、難民発生による国家の負担という現実的問題にあるということがうかがえる[32]。

このように、従来は受入国中心に活動を行ってきたUNHCRは、解決志向的保護及び国家責任という両概念の創造によって、権限の根本的変化に踏み込んだことがわかる。

2. 受入国中心型からの脱却

2-1. 出身国中心型活動の付加

上述のようなUNHCRからの革新的提言を受けて、その年のEXCOMにおいて結論［No.65］[33]が採択され、上記の内容がほぼ確認された形となって[34]、同年末の国連総会においてその内容が次のように確認された。「国連総会は…今日の難民問題に取り組むにあたって、解決志向的アプローチに取り組むことの必要性を認識する。難民の置かれる状況を改善すべき諸国家の責任のうちでも、特に難民流出の原因を排除すべき難民の本国の責任に注意を払いつつ、今日における難民の規模、複雑化は、従来の保護原則の発展を必要とすると同時に、保護の新たな方向性に関する開かれた議論とこの分野における更なる法の発展をも必要とすることを認識する[35]。…難民問題に対する恒久的解決の達成の重要性を、特に難民発生の根本的原因に関して重要視し、UNHCRに対してその保護職務に沿った形での（難民流出）予防戦略という新たな手段の模索を求め、また同時にその中で国家責任及び負担分配（burden-sharing）システムが強化されるべきことを強調する[36]。」ここにおいて、UNHCRの権限の中に、抽象的にではあるが、予防的活動（preventive actions）が含まれることが確定し、それと同時に、UNHCRは受入国中心型活動の枠を打ち破ったといえる。

翌1992年の覚書[37]においては、UNHCRの活動原則の確認を行った上で、難民の本国におけるUNHCRの活動に関して、より具体的な議論が為されている。まずUNHCRの活動原則に関して以下のように記述する。「作業部会[38]は、武力紛争若しくは一般化した深刻な混乱や暴力によって自国から避難せざるをえなかった人々が、たとえ1951年難民条約及び1967年議定書にいう難民としての定義に当てはまらずとも、UNHCRの活動対象となるという一般的認識を確認する。UNHCRの権限下にある様々な集団に共通するニーズの分析を通じて、UNHCRの職務の中心となる保護に関して、（強いられた）移動と、保護に対するニーズがこれらの集団に対するUNHCRの権限の基礎をなすことは明確である。（強いられた）移動の性格は、保護に対するニーズと共にUNHCRの関与の内容を決定すべきものである[39]。作業部会は、このような理由づけ（reasoning）が難民類似の状況にあるIDPsに関しても妥当すると考えている。UNHCRはIDPsに対する一般的活動権限を有しないが、（IDPsの）保護及び援助に対するニーズに応じて、一定の責任を負わなければならないであろう。このように、国連事務総長若しくは国連総会からの要請がある場合には、UNHCRは状況に応じて、その人道的活動分野における専門性

を活かしたIDPsに対する活動を行う旨の意思表示をすべきである[40]。」このような作業部会による認識は、UNHCRがもはや移動を強いられた人々の問題に関して一般的に活動を行うものであるということを確認し、IDPsに関しても、原則としてその活動範囲に入れることを認めるものであった。ここではむしろ、移動を強いられた個人の置かれる状況や、人権に着目した人道的活動原則が述べられているが、前述のように1991年において予防的活動等が、国家間の負担分配のようないわゆる国家の論理から導かれた後では、少し説得力に欠ける感は否めない。さらに覚書は次のように続ける。「作業部会は、UNHCRの職務及び権限の検討を、基本的人権及び難民保護原則の中に位置付ける。UNHCRの活動の枠組は、あくまでもノン・ルフールマン原則を中心とする保護原則を基礎とするものでなければならない。しかも、この基本的保護（原則）は疑いなく確立している。[41]」ここでは作業部会がUNHCRを人権保護の側面から分析しているということと、その結果として難民保護の中心があくまでも庇護であるべきことが強調されている。これはUNHCRが受入国中心の従来型の活動から変化してゆく上での、注意喚起とも受け取れる[42]。

同覚書の中には庇護が依然として難民保護の中核にあるべきものであるという点が強調される部分が他にもあるが[43]、近年の新難民状況、すなわち大量流出難民（mass-influx）に関しては1951年難民条約におけるような個人的判別主義が実情にそぐわないことを認識した上で、旧ユーゴスラヴィアからの難民問題において有用であった一時的保護[44]（temporary protection）に言及し、最低でもこの一時的保護の付与を国家に求めると同時に、難民認定における集団的判別主義の採用に関しても検討が求められることを指摘している[45]。そのように庇護に関する議論を展開した上で、庇護以外の手法としての、難民の本国におけるUNHCRの活動に関して、①間接的予防、②直接的予防という２つに分けて、前年にはなかった詳細な記述を行っている。

まず、①間接的予防 に関して、「…UNHCRは、難民流出に関する適当な早期警告システム（early-warning mechanism）を、国連の中で発展させてゆかなければならない[46]。作業部会は、UNHCRが人道的行動を推進することを先導し、平和維持及び国連事務総長の平和維持活動を支持することで、予防外交（preventive diplomacy）における大きな役割を媒介的にかつ補完的に果たすことを継続すべきであると考えている。UNHCRは特に、難民及び避難民に対する国際的保護及び援助の効果を有効にする為に、並びに彼等の苦境を和らげる解決策を模索する為に、このような役割を演じるべきである。この事と関係して、紛争の早い段階における国連事務局の政治、安全保障、及び人道部局（arms）との緊密な関係が構築されるべきである。同時に作業部会は、UNHCRが自ら難民流出予防を先導し、又は、難民問題の解決策を模索する権利を有するとしても、その活動はやはり（難民の）保護と解決策の模索に重点を置き、人道的かつ非政治的な性格のものでなければならないと考えている[47]」とし、間接的予防活動が、UNHCR独自のものではなく、特に国連との関係の中に位置付けられることが示されている[48]。そして間接的予防活動に関わりつつ

も、政治的に中立を保つ必要性を述べている。そしてさらにその具体的内容について、「従来UNHCRが難民の本国において行ってきた人権促進分野においても、予防的活動が多く見られるという見解で一致している。これらは…人権監視（human rights monitoring）、諮問サービスの提供（providing advisory services）、社会的弱者集団の権利を保護する地域的構造の促進（promoting regional structures for protecting the rights of vulnerable groups）、多様性の許容と人権尊重の促進（encouraging tolerance for diversity and respect for human rights）等である[49]」として、以上のような内容を、国連の他の機関と協同して確保してゆくことを述べ[50]、さらに経済的及び社会的分野における活動に関しては以下のように述べる。「経済的及び社会的開発の分野においても、国際的及び地域的開発機関及び主要な機構の問題意識の中に難民問題が置かれることをUNHCRが積極的に確保してゆくような活動を行うべきであると作業部会は考えている。加えて、現在継続中である移民、難民流出、並びに開発及び環境問題の相互関係の理解を進める作業も活発化してゆくべきである[51]。」これらは、難民問題というよりも、むしろUNHCRの人道的専門分野における経験を活かした国連一機関としての活動というべきであって、IDPsが発生する以前においても行いうる活動であることから、UNHCRに固有の活動であるとは必ずしも言えないが、難民の流出原因がある程度具体的に考慮され、その問題の裾野が広範であるという認識が定着した事実は大きく、その意味では難民保護の手段として庇護を中心的に考えてきた機関としての性格からは導くことのできなかった活動が提案されている。

次に、②直接的予防については、「『直接的予防』、すなわち人々がその本国において保護を求めて国境を越えざるをえないような状況に陥らないようにする特定の活動も、作業部会によって検討されている。このような国内的保護（in-country protection）とは、適当なフォロー・アップ（with follow-up action as appropriate）を伴うIDPsの基本的人権及び身体的安全の国際的監視等のことである。（IDPsの）本国内における安全地帯の設定は慎重に行われなければならないのみならず、人権及び難民保護の原則及び国家主権に関する更なる研究や、安全保障及び多数国間セーフティー・ネット（multilateral safety net）、更にはそのような枠組の中における持続可能な解決策の推進をも同時に求められなければならない[52]」として、前述の間接的予防と直接的予防の明確に異なる点、すなわち前者が強制的措置を含まないものであるのに対して、後者は場合によっては安全地帯の確保のような強制措置をも含む、あるいは含まざるをえないという点が示されているのであるが、直接的予防は、予防的活動の中でも従来の庇護支援機関としてのUNHCRの活動には全くなかった新たな分野である。もちろん、UNHCRのIDPsに対する活動権限が無制限のものではないことは確認されている。つまり、「UNHCRによる国内避難問題への関与は、UNHCRの最低基準（baseline criteria）にかなうか否かによってのみ検討されなければならない。（国内避難問題への）関与の申し出又は要請に先立ち、UNHCRは、①庇護が選択肢として残されているか、②UNHCRに

よる関与は、アクセス（access）、安全性（security）、及びその他の条件を考慮して現実的であるか、③UNHCRの専門性が真に必要とされているのか、④UNHCRが関与することに対して関係各国の了解が取り付けられているか、また、国際社会からの政治的支援が得られるか、という点を確認する必要がある。また、十分な特別基金も必要となる。更には、多数国間協力を行う他の国連諸機関の参加も、重要な考慮要素である。最後に、UNHCRによる関与は解決志向的かつ、UNHCRの人道的及び非政治的性格に完全に合致しなければならず、その結果、いつでも活動を中止し、（この点に関して）妥協があってはならず、強制移動やその他人権を侵害するような実行を伴ってはならない。そして要請があり、状況が許せば、UNHCRはIDPsの帰還に関しても指導的役割を果たすべきである[53]。」しかし、その活動条件の指針はおおまかであって、UNHCRは他の機関からの拘束を受けることなく、自らの判断によってIDPs救済への関与を決定すべきことが提案されている。

また、ここで示された諸基準の中で「①庇護が選択肢として残されているか」という基準には問題がある。論理的に言えば、庇護が選択肢として残されているか否かという問題はIDPsに固有のものではなく、その受入れを行うか否かを判定する庇護国の問題であろう。もちろん、ここでのこの基準の主旨は、あくまでも難民をその本国に封じ込めるような意味でのIDPsに対する活動を行わない、ということであろうが、これは他の諸基準とは異なりかなり厄介な、検討を要する問題であると言える[54]。つまり従来のUNHCRの枠組みからすれば、まずもって庇護を与えるよう、他の国に働きかけを行うことが優先されるはずである。このような措置に言及せずに「庇護が選択肢として残されているか」ということを抽象的に問うのは、多くの場合、庇護という選択肢を追求しない、ということを意味していると言わざるをえない。

いずれにしても、UNHCRは難民保護の原則を維持しつつも、移動を強いられた人々一般に対する活動権限を有するべきであるという提案となっているのであるが、このことは以下の記述からも明らかである。「UNHCRは、人一般に対する人権監視を行うものではなく、すなわち人の（強制）移動に関係する保護活動の範囲にない活動を行うべきではない[55]。」

以上のようなUNHCRからの提案を受けて、同年のEXCOMは結論［No.68］を採択し、その中で上記の内容をほぼ容認した[56]。そしてそれを受けた同年末の国連総会決議47/105（1992）[57]は、次のように述べた。「国連総会は、…UNHCRが、その職務と責任を認識しつつ、緊急事態に具え、対応能力及び計画的な自発的帰還を推進するのと同様、難民流出を生じさせるような状況を予防する為の活動を行うことを歓迎する[58]。…基本的保護原則及びその職務を認識しつつ、難民を発生させるような状況を予防し、難民流出の原因を排除するような保護及び援助を発展させるようなUNHCRの努力を…支持する[59]」という決議を採択し、ここにおいてUNHCRは、その基本的職務として庇護活動を念頭に置きつつも、前年の内容よりもより具体的に、上記のような内容での予防活動を行う権限を付与されたのである。前年の1991年のEXCOMにおいて緒方弁務官

は1990年代の難民問題解決に必要な三つの基本的戦略[60]を述べているが、上記のような権限拡大はこれに沿ったものでもあった。

以上のように、この1991年及び1992年を通じて、UNHCRは受入国中心アプローチから脱却したことが確認された。そしてこの方向性は、1993年以降も基本的に上記のようにUNHCRの覚書、EXCOM、そして国連総会へと議論の場を移しつつ、確保されている。例えば1996年においては、「保護を中核とする包括的アプローチ[61]」と銘打って、議論が展開されている。冷戦終結がUNHCRのみならず、難民保護の実質的変化の引き金となったのではないかという想像はつくが、この点は稿を改めて検討する必要があろう。

国連での議論を見ると、国家の論理からUNHCRが難民の本国における活動を行うようになったという側面が伺えるが、その結果として移動を強いられた個人の人権が確保されるべきという認識が強まったのもまた事実である。国家責任概念は難民受入国の負担問題から出てきたのであるが、難民流出によって難民の本国に国家責任が生ずるという議論は、国家が難民を発生させるような行為を行わない、すなわち結果的に人権を著しく侵害するような行為を行わないことを確保させる方向性を持っているということは言えるであろう。

III. 結論

UNHCRの職務は基本的に非政治中立的であって人道的考慮によってのみ難民に対する活動を行うというものであった。特にその設立当初からしばらくの間は、難民発生国の内政にはなるべく関与しないように考慮する一方で、難民を受け入れることでその発生国の内政を事実上批判するという図式が成立していた。

ところが冷戦構造崩壊後は、そのような難民の政治的有用性が失われ、逆に難民受け入れの負担が急速に注目されるようになってきた。そして難民問題の最大の「不思議」であった「難民問題の責任を負うのは誰か」という問題が再考されることになったのである。

「難民問題の責任を負うのは誰か」という問題を考えるとき、難民条約に批准していない国家との関係では庇護国としての義務を受け入れることについて相互主義も成立しないし、また、難民問題は国際社会全体の関心事項であるとされる一方で、その関心事項の負担を庇護国のみが負わなければならないことについて論理的な説明は不可能である。その意味では、近年の「人権アプローチ」への志向というのはある意味で国際社会が難民問題対処において必然的にたどり着いた答えなのだろう。しかし「人権アプローチ」というのは、むしろ「人権」を掲げて領域国の責任を直接追及しようとするアプローチであり、もっと言えば、経済的には相対的に受け入れの余裕のある先進国の負担を軽減しようとするアプローチである。そして「人権」という観点からみても、今日の難民現象を生み出す責任を領域国のみに課すのは、必然的ではない。

ただし本稿の中でも触れたとおり、従来UNHCRは「迫害された個人を難民として保護する」ことをその職務としていたはずであり、「難民問題それ自体の消滅」を終局的な目的に置いていたわけではなかったはずである。迫害が禁止されることと、迫害が

行われないこととの間には直接的な連関はない。迫害が禁止され、あるいは個人が迫害されない権利を有しているとしても、迫害された場合に必要とされる活動がある。UNHCRが「個人が迫害されないようにする活動」に重点を置きすぎて、逆に「迫害された場合の活動」が鈍くなってしまうのではないかという懸念がないとはいえない。その意味では、このような性質の異なる２つの種類の活動を一つの機関に担わせることの利点とは別に、弊害も考慮されねばならないであろう[62)]。

いずれにしても、難民問題が新たな段階に突入していることは明らかである。

＜文末註＞

１）A/RES/428（V）（1950）ANNEX（Statute of the Office of the United Nations High Commissioner for Refugees, 以下UNHCR規程と表記）, Chap. I, para.1「国連総会の権威の下に活動を行う国連難民高等弁務官は、国連の活動範囲内において、関係諸政府の合意を得て、諸政府を支援し、自発的帰還を促進する私的団体を支援し、若しくは新たな国家への難民の同化を支援することで、現行の規程の範囲内における難民に対して国際的保護を提供し（providing international protection)、難民問題に対する恒久的解決を模索（seeking permanent solutions）するものである。」

２）Lee, Luke T.,（1996）‘ Internally DisplacedPersons and Refugees:Toward a Legal Synthesis? ’（*Journal of Refugee Studies* Vol.9,No.1), pp.30-32

３）80年代までの権限拡大については、本稿においてはその趣旨に関係する程度での略述にとどめ、いずれ別稿において詳述する予定である。

４）この「新難民」という表現は、旧来の難民とは性質が大きく異なる難民を表現した語で、国連総会決議の中にもみられる。これに対して、旧来の難民のことを「旧難民」と表現した国連総会決議もある。A/RES/1959（XVIII）（1963）, para.1「高等弁務官に対して、特に新たな難民の集団（new refugee groups）に対する注意を払いつつ、関係する国連総会決議及びEXCOMの支持に沿った形での、難民に対する国際的保護の付与、並びに彼の職務の範囲内にある難民及び斡旋行為の対象者の為の努力を継続することを継続することを要請する。」 また、A/RES/1673（XVI）（1961）「近い将来において、欧州における「旧難民（"old" refugees)」に対する主要な援助計画の完結が見込まれる高等弁務官による努力に対して、賞賛の意を表明する」 さらに、旧難民と同義の用語として「古典的難民（classic refugees)」という語を用いる論者もある。See, Stain, Barry N.（1987)‘ The Nature of the Refugee Problem ’(*Human Rights and the Protection of Refugees under International Law* （Proceedings of a conference held in Montreal November 29-December 2, 1987), ed. by Alan E. Nash, Canadian Human Rights Foundation), pp.52-54

５）斎藤恵彦,（1977）「庇護権の理論と現実 国連の第一回領域的庇護全権会議よりみて」(『国際法外交雑誌』76巻４号), p.61「…庇護の付与義務について、少しでもこれを軽くしたいとする各国の意図のあったことは、否定されない。」

６）ただし、難民に関しては通常の出入国管理とは別枠で捉えるべきであるという議論もある。

７）A/RES/2312（XXII）（1967）

８）Ibid., Article 1, 3.「国家は庇護の付与の条件を決定することができる。」

９）1948年世界人権宣言第14条［迫害からの避難］「1. すべて人は、迫害を免れるため、他国に避難することを求め、かつ、避難する権利を有する。」この条文からは個人が庇護を与えられる権利を有す

る、つまり国家が個人に対して庇護を行う義務を有するということが出てこない。また、この点に関して 本間浩,（1982）「最近の政治亡命をめぐる諸問題 -駐日ポーランド大使亡命事件などを中心にしてー」,『月刊法学教室』 No.19, p.86「政治亡命者の領域内庇護が国際法上、またほとんどの国において国内法上も国の権利の域におしとどめられているという状況は、今日においてもほとんどかわっていない。確かに第二次大戦後、人権の国際的規範化は目覚ましい進展をとげた。とりわけ、1948年の世界人権宣言と1966年の国際人権規約はきわめて重要な国際立法であった。しかし、世界人権宣言では、政治亡命者庇護原則が規定されたものの（第14条１項)、この規定はその法律的粉飾にもかかわらず庇護を『求める』個人の権利を否定している、と多数説は解釈している。また国際人権規約では、政治亡命者庇護そのものに関する原則は何ら規定されなかった。さらに、政治亡命者庇護原則に直接関係ある国際的事業として特筆される1967年国連総会採択『領域内庇護宣言』および1977年領域内庇護全権会議においても、庇護付与が主権の行使によるものであることが確認された。」

10）See, Lambert, Helene,（1995）‘ Seeking Asylum -Comparative Law and Practice in Selected European Countries- ’(*International Studies in Human Rights,* Vol.37 Martinus Nijhoff Publishers), pp.5-６

11）See, A/50/12（1995), United Nations Report of the United Nations High Commissioner for Refugees, para.27

12）その他にも国境の封鎖という措置もある。例えば、国連難民高等弁務官事務所編著,（1997）『世界難民白書1997/98--人道行動の課題--』,読売新聞社, p.64 「国連難民高等弁務官によれば、各国政府が難民の庇護に消極的になっている傾向は、国際人道援助の課題のなかでももっとも深刻な問題のひとつである。…なかには、国内の不安定要因となりうる難民が、近隣諸国から大量に流入してくることを恐れて、避難民の入国を禁止している国もある。たとえば、タジキスタンやウズベキスタン、パキスタンは、1996年広範にイスラム原理主義勢力・タリバンの進撃から逃れてきたアフガン難民の入国を拒否した。やはり1996年、すでにルワンダから大量の難民を受入れていたタンザニアとザイールは、ブルンジを追い立てられてきたフツ系の人々に国境を閉ざした。同じような事件は、他の地域でも起きている。1997年初め、タイ政府が、ミャンマー東部から避難してきた子どもと老人をのぞく男性の庇護を拒否すると決定したとき、UNHCRは強い懸念を表明した。」これらの行為がノン・ルフールマン原則とどのように関わってくるかに関しては意見の別れるところであり、統一的な見解は存在していない。

13）UNHCRはその活動の非政治性を考慮し、このような活動のイニシアティブを取ることを拒否している。See, A/36/582. この1980年代における議論に関しては、別稿において詳しく検討する予定である。

14）See, A/AC. 96/777

15）この「予防」概念に関しては、1990年の覚書においても論じられているが、一つの節を設けて論じられたのは1991年の覚書が最初である。See, A/AC.96/750（1990）para.25

16）See, A/AC. 96/777, para.43

17）See, A/AC. 96/SR. 453, paras.34, 35, and 36

18）例えば1990年のEXCOMにおいて、タンザニア代表は難民受入の負担に関して述べている。A/AC. 96/SR. 454 para.62 and 63「タンザニアは長い間難民の受入国としての役割を果たしてきた。それは犠牲を伴うものであった。タンザニアの経済基盤はそれ自身ではどうしようもない原因によ

って打撃を受けたが、難民を見捨てるようなことはしなかった。しかしながら、難民を受入れるという決定を下したが故の廃退した状況に対して、国際社会はこれといった援助を行いはしなかったのである。…難民の自発的帰還が最も望ましい解決策であるのは確かであるが、大規模な帰還の達成は最も困難である。故にタンザニア政府は、難民を流出させている国が状況を最も改善させることができるのだということを決定するような一致団結した努力が必要であると考えている。」

19）1990年代に入ってからの難民保護に関する議論においては、難民問題の性格の変化を受けて、より包括的に難民問題に取り組む姿勢が求められるようになってきている。例えば1990年のEXCOMの第41会期において、中国代表は以下のような発言を行っている。A/AC. 96/SR. 454, paras 57-59「1980年代には世界の難民の状況が大きく変化していることが明らかになった。中でも難民の大量流出という性格は顕著であり、国際社会に深刻な政治的経済的問題を提示している。人種差別的状況、外国からの侵略、及び占領はこれらの状況の主要なものである。このような難民問題に取り組むために、国際社会は難民問題の根源的原因の排除にむけた努力を行い、一致団結した行動によって多くを達成してきた。1990年代に入って、国際社会は難民問題に対してより一層の注意を払わなければならなくなっている。目の前にある問題に取り組み、難民の安全な帰還を援助、保障し、そして新たな難民の発生を防止するような効果的な手段を用いることを継続すべきである。新たな難民の流出を防ぐために、国際社会は、人種差別、アパルトヘイト、侵略及び占領に反対し、南北の経済格差を縮小し、発展途上国の経済的苦境をやわらげることで、世界平和と安全保障を促進する努力を継続すべきである。」

20）See, A/36/582

21）See, A/AC. 96/777, para.45

22）See, A/AC. 96/830, para.32「1951年難民条約及びUNHCR規程の難民の定義に当てはまらない難民を指して用いられてきた用語は、一貫性がなく不明確なものであった。『移動を強いられた人々("displaced persons")』という用語は、その本国及び本国外にある移動を強いられた人々を指して曖昧に用いられてきた。また、『その関与する人々("persons of concern")』という用語は、難民としての苦境に着目したものではなく、帰還民、庇護希望者一般、並びに本国内に居留しUNHCRが保護及び援助を提供することを要請された者を指している。このような曖昧さを正し、その本国からの移動を避難を強いられた人々の現実に応えるために、弁務官事務所は近年になってOAU条約及びカルタゴ宣言のような地域的法文書における用法を採用し、『難民』という語をより広範な意味で、迫害若しくは武力紛争、あるいは深刻な治安の混乱の故にその本国において生命、自由、若しくは身体の安全の危機に対する深刻な恐怖を感じているために国際的保護を必要とする、本国外にある人々を指すものとして用いるようになった。」

23）UNHCRの活動の重点の、（従来の）難民から避難民への変化に関しては、A/AC. 96/SR. 463 (1991), para.25［Statement by the Chairman（スイス代表）］「UNHCRは徐々に難民を含む割合の小さい、自然若しくは人的災害から避難する人々に対する活動を要請されるようになっている。」

24）この点、従来の難民保護制度が有していた政治的役割が失われた結果、難民を自国へと受入れて庇護を行うという形態の難民保護に消極的になった先進諸国の姿勢を批判する論者もある。B. S. Chimni, (1993) 'The Meaning of Words and the Role of UNHCR in Voluntary Repatriation' (*International Journal of Refugee Law* Vol.5 No.3), p.443「冷戦終結後、特に発展途上国からの

難民に関しては、難民がもたらす利益の基礎が失われた。難民はもはやイデオロギー若しくは地政学的価値を失ったのである。」

25）See, A/AC. 96/777, para.46

26）See, A/RES/2372 etc.

27）この「国家責任」とは、国際法上の国家責任（state responsibility）のことである。ただし、難民を発生させたことで国際法上の国家責任が生じるかに関しては議論が生じており、少なくとも現時点においては難民の発生によって国際法上の責任が生じるという確立された認識は存在しない。この点に関しては、Walter Kalin,（1992）' Safe Return for Refugees of Violence: A Blueprint for Action '（*Problems and Prospects of Refugee Law,* Ed. by Vera Gowlland and Klaus Samson, The Graduate Institute of International Studies, Geneva）, p.129「難民の本国の責任に関する議論が、国連総会の幾つかの決議（総会決議35/124, 41/70）や特定の難民問題に関する国際会議において採択された宣言及び計画（例えば1988年の南アフリカにおける難民、帰還民、及び避難民の苦境に関する国際会議や、1989年のインドシナ難民に関する国際会議において採択された包括的行動計画）に見られるように、国際レベルにおいて最近になって重要性を増してきている。EXCOMの最近の決議（resolutions）は『特に難民の本国の責任に関して、国家責任概念に関するより詳細な議論』を明確に要求している（EXCOM Res. 41/62）。このような責任をどのように確立することができるであろうか。この問に答えるためには、例えば国際法委員会によって条文化された国家責任に関する法の一般原則に目を向けることが必要だろう。」として、議論を展開している者もある。また、国連難民高等弁務官事務所編著,（1997）『世界難民白書1997/98 --人道行動の課題 -』,読売新聞社, p.270は、「国家責任は、難民援助組織や研究者が使う用語のなかでも、きわめて確立された概念となっている。」として、国際法上の概念としては確立してはいないにしても、実務上及び学術上は確立しているとする。そして同書は国家責任の原則が難民の本国のみならず、「より包括的に国内問題や国際問題で重大な役割をはたすあらゆる行動主体に適用されるべきである」とする。

28）See, A/AC. 96/777, paras. 48 and 49

29）See, Ibid., para.48

30）See, Ibid., para.48

31）See, Ibid., para.48

32）この点に関しては、より批判的にこのような難民保護の論理転換を分析する論者もある。例えば、Aleinikoff, T. Alexander（1992）' State-Centred Refugee Law: From Resettlement to Containment '（*Michigan Journal of International Law,* Vol.14:120）, p.134「理論的枠組の変化というよりも、我々は国家を中心に据えた制度の再強化を覆い隠すための人道主義の悪用を目の当たりにするかもしれない。それはつまり、難民の帰還及び根本的原因を強調することが、先進諸国がその庇護の『危機（" crises "）』を『解決（" solve "）』するために採用した新戦略を正当化するのに役立ち、確立した不介入原則が難民の本国における人権状況を改善する重要な手段を妨害するであろうということである。もしこの分析が正しいとすれば、難民法が人権法と融合するという変化の物語ではなくなる。それはむしろ、亡命偏重（exilic bias）から、庇護希望者の阻止、ビザ取得の義務づけ、再定住の機会の剥奪、追い立て（push-backs）、及び送還（return）等を内容とする封じ込め（containment）政策への変化である。」

33）See, EXCOM Conclusions No.66（XLII）1991, General Conclusion on International Protection

34）See, Ibid., paras.（h）and（i）

35）See, A/RES/46/106（1991）, paras. 2 and 3

36）See, Ibid. para.9

37）A/AC. 96/799（1992）, Note on International Protection（submitted by the High Commissioner）

38）国際的保護に関するUNHCR内部作業部会（UNHCR Working Group on International Protection）。UNHCRが直面する保護に関する問題やUNHCRの活動の法的基礎に関して分析すること等を任務として設立されたもの。See, Ibid., para.6

39）See, A/AC. 96/799（1992）, para.15

40）See, Ibid., para.16

41）See, Ibid., para.18

42）庇護の重要性を述べたものには、例えば以下のようなものがある。国連難民高等弁務官事務所編著,（1997）『世界難民白書 1997/98-人道行動の課題-』, 読売新聞社, p. 271 「…地域紛争で人道援助事業がもたらす予想外のマイナスの影響を考えると、人間の安全を守る手段として、庇護の重要性をもう一度強く訴える必要がある。現在、難民の保護は過去のものであり、冷戦の終結とともに国家に無関係な現象になったという考えが、不安なほど広まっている。そこには真実の部分もあるかもしれないが、生命と自由が脅かされ、避難場所を国外に求めるしか身の安全を守る方法がない人々にとって、庇護が依然としてきわめて重要である事実を忘れてはならない。ある難民問題の専門家は次のように述べた。『出身国内での人道援助は、身の安全を保障するものではない。不都合があるし、庇護の条件が万全でない場合も多いが、私達は難民保護の原則に立ち返るべきである。恒久的な解決策が見つかるまでは、危険にさらされている人々に国境を開き続ける方法が生命を救うだろう。』」

43）See, A/AC. 96/799 (1992), paras from 19 to 25

44）この一時的保護（temporary protection）という語と類似のもので、一時的庇護（temporary asylum）というものがある。両者の間には明確な差異は確認できない。See, Schuck, Peter H.(1997) ‘ Refugee Burden - Sharing: A Modest Proposal ’ （*The Yale Journal of International Law* Vol.22:243）/一時的庇護の説明に関してはSee, e. g.,Tuitt, Patricia(1996), *False Images -Law's Construction of the Refugee-*, Pauto Press

45）See, A/AC. 96/799(1992), para.25

46）See, Ibid., para.28

47）See, Ibid., para.29

48）このようなUNHCRの性格に関して、例えば、二宮正人,（1995）「難民問題解決への国連のアプローチに関する一考察」（『外交時報』1315）p.30「またUNHCRの活動に関しては、次のような特徴も指摘できる。すなわち、UNHCRの活動には、自立的補助機関として独自に活動を行っている場合と、国連システム内の一つの内部機関として、国連の政策に組み込まれる形で活動を行っている場合の二種類があるという点である。」

49）See, A/AC. 96/799(1992), para.30

50）See, Ibid., para.30

51）See, Ibid., para.32

52）See, Ibid., para.32

53）See, Ibid., para.33

54）この点に関しては実際、庇護希望者の入国が拒否されるという事例が存在している。国連難民高等弁務官事務所編著,『世界難民白書 1997/98 -人道行動の課題 -』, 読売新聞社, 1997, p.80「たとえば1991年、トルコがイラク北部から避難してきた難民の受入れに難色を示したため、UNHCRは、クルド人を出身国内で保護・援助するという、アメリカ主導の活動に参加するか否か決断を迫られた。1992年には旧ユーゴスラビアで、間接的に民族浄化に手を貸すことになっても、人々が危険な状態から脱出する支援をすべきかどうか、という難しい問題を解決しなくてはならなかった。」

55）See, A/AC. 96/799(1992), para.34

56）See, EXCOM Conclusions No.68（XLIII）, 1992, General Conclusion on International Protection, paras.（n）,（o）,（p）, and（q）

57）A/RES/47/105（1992）, Office of the United Nations High Commissioner for Refugees

58 See, Ibid.

59）See, Ibid., para. 13

60）三つの基本的戦略とは、（１）緊急事態に対する準備体制と対応のメカニズムを改善すること,（２）自発的帰還のためのあらゆる可能性を追求すること,（３）問題の原因に目を向けた予防的措置を通して解決を促進することである。See, A/46/12/Add. 1, paras. 25-28

61）See, A/AC. 96/863（1996）, Note on International Protection １/（１）, paras. ５-18, 19-31

62）この点に関する指摘に、例えば難民発生国における安全地帯（safe havens）の状況報告の役割を現状のUNHCRに担わせることの弊害を論じるものもある。See, Arulanantham, Ahilan T.（2000）“Restructured Safe Havens: A Proposal for Reform of the Refugee Protection System”（22 *Human Rights Quarterly*）, pp.1-56

『国際開発研究フォーラム』21（2002. 3）
Forum of International Development Studies, 21 (Mar.2002)

GATT/WTOと環境保護に基づく貿易措置
－PPM（生産工程方法）に基づく貿易措置のGATT適合性を中心に－

宮　川　公　平*

GATT/WTO and Trade Measures based on Environmental Protection
－Applicability of trade measures based on Processes and Production Methods to GATT－

Kohei MIYAGAWA*

Abstract

The measures based on Processes and Production Methods（PPMs）themselves are playing important role in international society for preserving the environment. However there are controversies about whether they can be compatible with the rules of GATT/WTO. So far in the cases of GATT/WTO the findings of Panel and Appellate Body have not allowed their compatibility with GATT/WTO rules, especially GATT article 3.

We can seek the one of problems for the fact that the explicit words of GATT/WTO rules only deal with trade measures related to product standards and do not allow trade measures based on PPM standards. Furthermore in the WTO Committee on Trade and Environment not small number of countries has expressed negative opinions for the applicability of PPM measures to GATT/WTO rules, because the measures tend to have unilateral characteristic.

However, is it appropriate to treat all measures based on PPMs a like? How about the case that measures based on PPMs aim to protect endangered species? Through the latest cases in WTO, this paper aims to make clear the boarder line of how WTO Panels and Appellate Bodies deal with the measures on PPMs.

Ⅰ.問題の所在-PPM（生産工程方法）の特質とGATT上の問題点

1. 背景

1972年に国連人間環境会議が開催されて以来、にわかに環境への関心が高まり、1992年ブラジルのリオデジャネイロで国連環境発展会議が開催された。近年、こうした地球環境保護の問題に取り組む会議が開催されることから分かるように、地球環境保護の重要性と緊急性が強く認識されつつあるといっていい。これまでの環境保全をめぐる状況は、商業的な資源を保全することからはじまり、次第に国境を越える汚染の広がりとともに、現在では環境保全は一国レベルでは対応できないものとなってきた。環境と開発に関するリオ宣言の原則２に見られるように、「各国は、国際連合憲章

＊名古屋大学大学院国際開発研究科博士後期課程

及び国際法の諸原則にしたがって、・・・自国の管轄権内又は管理下の活動が他国の環境又は自国の管理の範囲外の地域の環境に損害を与えないように確保する責任を負う」とする原則が確立されている。また、少なくない数の多数国間環境条約が履行確保手段の一つとして貿易措置を有している。とくに、モントリオール議定書[1]はその４条４項において、フロンを生産工程で使用した製品の貿易制限規定を設けている。貿易措置を伴うこれまでの環境条約は、貿易制限の対象となるものが絶滅の危機に瀕していたり、対象それ自体が有害なもので貿易による取引が有害物質の拡散につながるというものであったりするなど、貿易対象それ自体が環境上の影響を持つものであるという点で、上記のモントリオール議定書とは異なると考えられる。ところで、貿易対象それ自体に関連してではなく、その生産工程方法（Processes and Production Methods：以後PPM）に基づいて規制を行うこと自体は、現在の地球環境保護において非常に重要な意味がある。この点、上記のようにモントリオール議定書が批准されるということから、現在国際社会の認識として、少なくとも一定の範囲で環境保護を目的としてPPMに基づく貿易制限を課すことを許容してきていることが考えられる。

ところで、GATT/WTOにおけるPPMの扱いはどうであっただろうか。GATTはその設立当初、PPMについてはおろか環境保護に対する言及はなかった。GATTの目的は、その前文で示されるように「生活水準を高め、完全雇用並びに高度のかつ着実に増加する実質所得及び有効需要を確保し、世界の資源の完全な利用を発展させ、並びに貨物の生産及び交換を拡大する方向に向けられるべきである」にあった。その後、環境への関心の高まりとともに、1971年「環境措置と国際貿易に関する作業部会」（the Group on Environmental Measures and International Trade）が設立されるなど、環境への考慮も次第に行われるようになってきた。しかし、PPMに基づく措置に関して、1979年の東京ラウンドにおける「貿易の技術的障害に関する協定」（the Agreement on Technical Barriers to Trade）[2]においてもPPMそれ自体について規定が含まれることはなかった[3]。1995年WTOが設立された際、その設立協定においてGATTと同様の目標が据えられつつ、「他方において、経済開発の水準が異なるそれぞれの締約国のニーズ及び関心に沿って環境を保護し及び保全し並びにそのための手段を拡充することに努めつつ、持続可能な開発の目的にしたがって世界の資源をもっとも適当な形で利用することを考慮する」ということが定められた。同時に「貿易と環境に関する委員会[4]」（the Committee on Trade and Environment：以後 CTE）が設立された。これにより、WTOは「貿易」と「環境」問題へ明確に取り組むことになった。また、1979年のTBT協定もウルグアイラウンドにおいて改訂され、新しい1994年TBT協定はすべての加盟国に義務的となったのである。このTBT協定において、最終的に産品の特性に影響を及ぼすPPMがその範囲に規定されることになった[5]。このように、WTOは環境保護と持続可能な開発に対して明確な意思を持つとともに、PPMに基づく措置の適用可能性についても道を開いたのである。

2. PPM（生産工程方法）とは

PPMは、一般的に産品が生産されるその工程と方法、さらに天然資源などが抽出されたり、動植物の飼育、屠殺する方法等を指して使われる[6]。産品を生産する生産工程において、大量の汚染物質、危険物質を排出し続けている現代社会において、国家がPPMに基づいてさまざまな規制をすることには大きな意味がある[7]。

PPMについては、90年代に入りOECDにより検討がなされた。それによると、PPMはそれによりもたらされる環境上の影響の仕方によって、二つに分類が可能である。第一は、輸入産品に規制物質又は有害物質が含まれ、産品の移動に伴いそうした物質が移動する場合である。この場合、有害物質を含む産品を輸入した国において、当該産品が消費、廃棄又は再利用される時点で環境上の影響を生ずることになる。ここで問題とされるのは産品に規制物質又は有害物質が使われ、産品それ自体にそうした物質を含めてしまうようなPPMである。第二は、ある特定のPPMが自国や他国、又は地球環境上の影響を与える場合である。ここで問題となるのは、PPMそれ自体が環境上の影響をもたらすことにある。前者は「産品の特性に関連するPPM」（product-related PPM）、後者は「産品の特性に関連しないPPM」（non-product-related PPM）と呼ばれる[8]。

こうしたPPMの規制方法には二種類の方法が挙げられる。一つは、ある特定の技術によって産品が生産されなければならないという特定のPPMを条件とするもので、もう一つは、ある特定のPPMを禁止または規制することで他のPPMの選択に自由を与えるものである[9]。どちらを選択するかで、措置をとる相手国への影響が異なるが、いずれにせよPPMに基づく貿易措置は、以下に示すようにその性質上措置をとった相手国の生産者や政策に対し影響を与えることになる。どれほどの影響を与えるかは、措置をとった国とその相手国の環境上の政策がどの程度異なるかによると考えられる。それは、以下本章３と次章にて取り上げるGATT/WTOの諸事件でも示されるように、PPMに基づく貿易措置をとった国と同様のPPM規制を採用しない国にとって、その生産者も含め技術上及び財政上の大きな影響を受けることになる。逆に、同様の規制を採用している国にはそれほど大きな影響はないからである。本来ならば、国境を越えるような環境問題については国際協力やそうした問題に取り組むことを目的とした条約や国際機関により取り組まれるべきであるが、そうした協力が困難である場合や、そうした条約や機関が存在しない場合には、自国の政策や規則に相手国を従わせることを前提として措置がとられる可能性が高くなる。そのため、こうした措置は一方的性質を有するものとしてGATT/WTO上重要な問題の一つとして取り上げられている[10]。本稿では、このような場合にとられるPPM措置を特に問題とする。以下で検討するが、これまでいわゆる「貿易と環境」の問題として扱われてきたGATT/WTOの事件の多くが、PPMに関連してとられた貿易措置を問題としてきているのである。

3. PPMに基づく措置とGATT/WTO体制における実行

「貿易と環境」問題が注目を集めるようになり、PPMに基づく貿易措置が問題となったのは1991年のTuna Ⅰ事件[11]がその契機となる。そして、その後のGATT/WTOにおける「貿易と環境」関連の事件も含め、主要な争点となったのは、GATT第３条（以下第３条）とGATT第20条（以下第20条）での正当化であった。その議論の流れは、当初第３条での正当化と同様、第20条での正当化も試みられていた[12]が、WTOの時代に入ってから、Gasoline事件後、争点の中心はもっぱら第20条での正当化に移っていくこととなった。

（１）第３条（内国の関税及び規則に関する内国民待遇）

第３条は、もともと産品が輸入国国内に入ったことを前提とし、内国の課税と規則に関して同種の外国産品と国内産品との間で差別を設けてはならない、いわゆる内国民待遇を規定するものである。PPMに基づく措置が同条で問題となるのは、まさに産品の「同種性」をいかに判断するかにある。これまでの判断は以下のようになっている。

まずGATT時代であるが、TunaⅠ事件及びTunaⅡ事件[13]の両小委員会とも同条の解釈に関しては同様の見解を示しており、すなわち同条が産品それ自体に適用される措置のみを適用の対象としていることから、産品自体に影響しない政策又は慣行に関連した法令又は要件が第３条の要件に合致しないとともに、産品それ自体に基づかず輸入国の国内政策に合致しない方法でとられた産品に対する差別的待遇についても第３条に適合しないとした[14]。WTO時代になってからも、Gasoline事件[15]では、ガソリン自体の特性ではなく、ガソリンの精製業者等の特性やそれら業者の保有するデータの性格によって適用される基準が異なるのは第３条に反するとされた。

既に上述したが、WTOにおいてはTBT協定で最終的に産品の特性に影響を与えるPPMについては許容される旨明文化されたが、産品の特性に影響を与えないPPMに基づく措置の第３条での正当化については、これまでの判断から否定的に解されている[16]。

（２）第20条（一般的例外）

GATT第１条、第３条、第11条等に違反すると認定された場合でも、第20条の一般的例外による正当化の可能性が検討されることになる。問題となる第20条の主要な部分は以下のとおりである。

「この協定の規定は、締約国が次のいずれかの措置を採用すること又は実施することを妨げるものと解してはならない。ただし、それらの措置を、同様の条件の下にある諸国の間において恣意的な[17]若しくは正当と認められない差別待遇の手段となるような方法で、又は国際貿易の偽装された制限となるような方法で、適用しないことを条件とする。

（b）人、動物又は植物の生命又は健康の保護のために必要な措置

（g）有限天然資源の保存に関する措置ただし、この措置が国内の生産又は消費に対する制限と関連して実施される場合に限る。」

第20条は、例外条項としての性格を有し、GATTの他の禁止規定に違反することを前提とし、その違反の効果を解除するものである[18]。以下、同上の解釈の変遷を見ていく。

Tuna Ⅰ事件では、GATTの起草過程から、輸入国の管轄の範囲内にある人及び動植物の生命・健康を保護するための衛生措置の使用に同条の焦点があったことが確認され、域外の対象を保護するような解釈が許容されるとすれば、各締約国は他の締約国の生命又は健康を保護する政策を一方的に決定することになり、一般協定上の他の締約国の権利を害さずには済まされなくなることを指摘し、第20条b項での正当化はできないとした[19]。g項についても基本的には同様の解釈をとって、域外の有限天然資源の保存を目的として措置をとることは許されないとして、その適合性を否定した[20]。

1994年のTuna Ⅱ事件[21]においては域外管轄にある有限天然資源についての解釈に変更が加えられ、第20条g項の文言には保護されるべき有限天然資源の所在について何らの限定も書き記していないこと[22]、そして第20条g項が当該規定を引用した締約国の領域内にある有限天然資源の保護に関する政策にのみ適用されるとする結論を支持する合理的理由がないとして、米国の措置が第20条g項の含む政策の範囲内であるとされた[23]。つぎに「関する」及び「関連して」という文言の検討に移り、それぞれが「主たる目的として」（primarily aimed at）と解されるべきであるとした。そして小委員会は、「関する」「関連する」措置に他国の政策を変えさせることを目的とした貿易措置が含まれるかどうかを検討して、米国の中継国からの輸入禁止措置は、有限天然資源の保存を主たる目的とした措置でも国内の生産又は消費に対する制限を効果的にすることを主たる目的とした措置でもないとした[24]。つぎに、小委員会はb項の検討に移り、同項の「必要な」という文言が「他に代替手段が存在しない」と解釈し、締約国は他に合理的に用いることができるGATTに適合的な又は抵触しない措置が存在しないことが明白でない場合、GATTに違反する措置をb項における「必要な」措置として正当化することはできないとした。そして「必要な」措置に米国の措置のような他国の政策を変えさせることを目的とした貿易措置が含まれるかどうかにつき、g項の解釈と同様含まれないとしてb項での正当化を否定した。

このように、GATT時代の小委員会の解釈は他国の政策を変更することを目的として貿易措置をとること、すなわち一方的措置の適用を認めない立場をはっきりと打ち出していた。

WTO時代に入って、より環境保護を考慮するような解釈が生まれだした。Gasoline事件[25]では上級委員会においてこれまでのGATT時代の解釈を覆す報告が出された。米国の基準値設定規則がg項の有限天然資源の保存に関する措置の範囲内であるとした。上級委員会は、次に当該規則が第20条の柱書の要件に合致しているかどうかの検討に入り、柱書に「恣意的な又は正当と認められない差別待遇」と「国際貿易の偽装された制限」の二つの要件があることを示し、それらがお互いに意味を付与しあうことがあるとし、柱書解釈の趣旨目的が濫用又は悪用を避けることにあるということを確認した。こうした解釈を前提として、上級委員会は大気清浄化法（Clean Air Act）を実施する規制を普及させるにあたり米国に利用可能な手段が一つ以上あったことを示した。その点に関して、上級委員会は、米国が行政上の困難を挙げて個別基準をすべて

の業者に適用しなかったことについて、同国が外国の産品の貿易に関する確立された検査、評価、認証といった技術事項に疑いがあることを証明しなかったことを指摘した。さらに、これらの技術的及び手続き的問題に対して、外国業者及び問題となる外国政府の協力が必要かつ適当であるにもかかわらず、ベネズエラおよびブラジルとの協力の可能性を模索しなかったとし、米国が代替手段を模索することを怠ったことを指摘した。次に、上級委員会は米国が法定基準を国内業者に適用しなかった理由につき検討して、米国が法定基準に関して国内精製業者の費用を考慮に入れる一方で、外国の業者に対してはこれを考慮しなかったと指摘した。上級委員会は、結局こうした不作為から結果として生じた差別的待遇は予見可能であったとし、単に偶然的であるとか避けられないものであるとはいえないとして、基準値設定規則はその適用において正当化されない差別であり、国際貿易の偽装された制限を構成するとした[26]。

このように、結果としてPPMに基づく貿易措置はごく最近までのWTOの判例上でも認められてこなかった。しかし、PPMに基づく貿易措置の適用の可能性につき、第20条各号での適合性を認めており、その可能性を見せていることが注目できる。ただ、以下でShrimp/Turtle事件[27]を検討するが、同事件でもPPMに基づく米国の措置は認められなかった。

また、結論を一部先取りすることになるが、DSU[28]第21条５項に基づいて設置された小委員会[29]及び上級委員会報告では、原報告（1998年Shrimp/Turtle事件の小委員会報告及び上級委員会報告）を踏まえたその後の米国の実行、とくに1996年ガイドラインの改正と他の締約国、とくに東南アジア諸国との交渉の実態から、米国の措置が第20条に適合的であると判断されたのである。

4.問題の所在

上述のように、第３条での正当化の可能性が概ね否定されるなか、第20条での正当化の可能性を示してきている。特にGasoline事件上級委員会の内容が、第20条各号での適合性を認めている以上、第20条柱書の言う「この協定の規定は、次のいずれかの措置（a号からj号の措置）を採用すること又は実施することを妨げるものと解してはならない」の部分が、PPMに基づく貿易措置の適用可能性に一定の道を開いていると解することができる。問題は、条件部分つまり「恣意的な又は正当と認められない差別待遇」と「国際貿易の偽装された制限」をいかに解するかであるが、この点、上述のGasoline事件上級委員会は、国際協力の模索、国内外企業への平等待遇、措置に柔軟性を持たせることなど一定の要件を示している。これらは、PPMに基づく貿易措置の一方的性質を緩和させるような性質を示していると考えられる。

ところでPPMに話を戻すと、PPMには大きく分けて二つあり、一つは「産品の特性に関連するPPM」であり、もう一つは「産品の特性に関連しないPPM」である。そして、そうしたPPMの規制方法としてその選択に自由を与えるやり方と、そうでない場合が存在することも上述した。しかし、これまでのところ、PPMに基づく貿易措置のGATT適合性については否定的な見解が中心的である。とくに、前者の「産品の特性に関連するPPM」がTBT協定とGATT第３

条の「同種の産品」の議論で語られることはあっても、「産品の特性に関連しないPPM」については、TBT協定の解釈においても、CTEにおける議論でも否定的な見解ばかりである[30]。

しかし、こうしたPPMに基づく貿易措置は本質的にGATT/WTOと相容れないものなのだろうか。先に検討したように、PPMが環境に与える影響、特に越境汚染、越境性共有生物資源への影響、そして地球環境への影響を鑑みると、それにより保護しようとする法益がある程度各国の間でコンセンサスがある場合はどうなのであろうか（例えば本稿で取り上げるShrimp/Turtle事件の海亀は絶滅危機種に指定されている）。また、GATT/WTOが基本的には自国の環境政策を各国が自由に決定できるのを認めていることを鑑みると、PPMの規制方法が各国に選択自由な方式を採用している場合においてまで、ＰＰＭに基づく措置がGATT/WTOと大きく矛盾するといえるだろうか。こう考えてみると、PPMに基づく貿易措置を十把一絡げにして取り扱うことには疑問がある。こうした疑問に、上述のGasoline事件上級委員会報告が正当化の可能性を提供し、DSU第21条５項に基づく小委員会報告が正当化のためのさらに具体的な要件を示しているように思われる。したがって、本稿ではこのような問題意識をもちつつ以下でPPMに基づく貿易措置のGATT適合性の問題をShrimp/Turtle事件を中心に見ていき、WTOの紛争解決手続きにおいて以上の点がどのように捉えられているかを明らかにしていきたい。

Ⅱ.ＰＰＭに基づく措置とＧＡＴＴ２０条-Shrimp/Turtle事件小委員会及び上級委員会報告

第Ⅰ章で見たように、GATT時代の小委員会は、環境関連貿易措置に関し、各号の解釈を厳格にしていたため、柱書での検討は行わなかった[31]。特に、GATTの姿勢がそもそも「他国の政策を変更することを目的とした措置の禁止」であったことから、「産品に関連しないPPM」に基づく貿易措置については、その性質上認められるものではなかった。

しかし、WTOに入ってからGasoline事件の小委員会が第20条各号の解釈を厳格にとったものの、上級委員会は各号の適合性を認める裁定を下している[32]。そのため、措置それ自体の正当性は各号適合性により判断されるようになった。そうした解釈から、「産品の特性に関連しないPPM」に基づく措置を含め、環境保護措置に対する第20条の門戸が拡大されたと見るべきであろう。そして、現在問題となるのはその適用の仕方のみとなったといえる。しかし、第20条柱書の解釈では、具体的には「恣意的な又は正当化されない差別待遇」と「国際貿易の偽装された制限」の基準を示していなかった。以下、Shrimp/Turtle事件をおいながら、解釈の変遷を見ていく。

まず、事実は以下のようである。現在のところ七種の海亀の存在が確認されており、それらのうちのほとんどが世界中の亜熱帯及び熱帯地域に分布している。そして、海で一生を過ごし、繁殖場所と食料の捕獲場所の間を定期的に移動する。これまで海亀は、人間の活動により、食肉、殻、卵の利

用のために直接的に、また、漁業による混獲、生息地の破壊、海洋汚染といった間接的理由により悪影響を受けてきている。そして、現在全種類の海亀がCITES（1973年絶滅の恐れのある野生動植物の国際取引に関するワシントン条約）の付属書１に記載されている。1973年米国絶滅危機種法（Endangered Species Act: ESA）は、米国水域に現れる五種の海亀を絶滅の危機或いはその恐れがあるとしてリストに載せ、米国内、米国領海内及び公海での捕獲を禁止した。1987年、米国はESAに基づいて、特定地域においてエビトロール漁業者に対しTEDs[33]の使用を強制した。その後、米国は米国法101-162号Section609（Section 609 of U．S．Public Law 101-162）を制定し、国務長官に対して、海亀に悪影響を与える可能性のある商業的漁業を行っている外国政府との間で、海亀保護のための二国間又は多数国間協定の発展に向けた交渉を開始することを義務付けた。1996年にはSection609の地理的限定をはずし、海亀に悪影響を与える恐れのある商業的漁業で捕獲された天然エビは場所を限定せずその輸入禁止が決定された。さらに、エビの輸入に際して、ガイドラインを設定して、要件[34]を満たさない国からのエビの輸入を禁止した。これに対し、1996年インド、マレーシア、パキスタン及びタイが共同で、当該輸入禁止措置はGATTに違反するとして申し立てを行ったのである。

1.小委員会報告

小委員会は、第20条が環境の保護及び保全を目的とした措置に関して広い範囲に適応することができることをしめし[35]、同条の解釈に関して、柱書に含まれる要件が同条の段落のいずれにも適用するように、最初に同条の柱書を検討することは同様に適当であるように思われるとした[36]。さらに、Gasoline事件上級委員会報告を援用し、柱書が措置の適用方法を扱い、その趣旨及び目的が一般的に第20条の例外規定の濫用を防止することにあることを確認し、当該柱書がその大部分において第20条の段落に含まれる例外規定の内容を決定すること、それゆえ問題となる措置が柱書の要件を満たすかどうかを最初に決定するのであるとした[37]。

小委員会は、最初に輸出締約国による特定の保護政策の採用を市場アクセスの条件にするような措置の使用に対して第20条が制限を加えているかどうかの問題を、同条柱書の用語が取り扱うかどうかについて検討をした。まず、「同様の条件の下にある諸国」につき検討し、問題となる米国の措置は海亀とエビが同時に存在する海域からトロールを使って捕獲された天然エビを米国に輸出しようとするすべての国に適用されることから、それらの国々が第20条の意味における「同様の条件の下にある諸国」とみなされるとした。そして、これらのうち認証を受け米国に輸出できる国と認証を受けておらず輸入禁止の対象となっている国があること指摘した。そうして、第20条柱書に照らして措置が差別的待遇をしているとしながらも、「恣意的な又は正当と認められない」方法ではないとした[38]。

次に、そうした米国の措置が「正当と認められない」差別として見なされうるかどうかの検討に移った。小委員会は、「正当と認められない」の通常の意味からして第20条が何らかの限界内で適用されることは確かであるが、それが輸出国による保護政策

採用を市場アクセスの条件とするような措置の適用に対して制限を加えていると解釈されるべきかどうかの問題に対して明示的に対応していないとした[39]。

小委員会は、解釈に際してウィーン条約法条約が援用できるとして、WTO協定がGATTも含めた総合システムであるので、GATTの他の関連規定及びその前文と付属書だけでなく、WTO協定も柱書及び第20条全体の文脈と見なすべきであるとした。その上で小委員会は前文を検討し、WTO前文は環境上の考慮がWTO協定の解釈に当たって重要であることを確認する一方で、当該協定の中心となる部分が貿易を通じた経済発展の促進にあることを示した[40]。さらに、WTO協定はその本来的意味において貿易問題に対して多角的アプローチを優先すると述べ[41]、締約国により適用される措置でそれ自身は多角的貿易体制に比較的小さな影響しかもたらさないように見えるような措置も、もし同様の措置が同じか又は他の締約国により適用されるならば当該体制に深刻な脅威を引き起こしうるとした[42]。

そして第20条のもとで措置を検討するさいには、当該措置それ自体がWTO多角的貿易体制を害するかどうかだけでなく、その種の措置が他の締約国により適用された場合に、多角的貿易体制の安全性及び予見可能性を脅かすかどうかを決定しなければならないとした。また小委員会は、輸出国による保護政策を含む一定の政策採用を市場アクセスの条件とする措置を適用することを認めるように第20条柱書を解釈すると、GATT及びWTO協定は多角的貿易枠組たり得なくなるとした[43]。そして、小委員会はWTO規定及び国際法により、一定の一方的措置はそれが多角的貿易体制を危うくする限り、第20条によって包含され得ないこと、一般国際法及び国際環境法も一方的措置よりも交渉手段の使用を優先すること、米国は多角的貿易体制を脅かし、事前に交渉を経た解決方法を得る努力をせず、問題の措置を適用したことを指摘し、それゆえ米国の措置は第20条柱書によって認められる措置の範囲外であるとした[44]。

2.上級委員会報告

上級委員会はまず、第20条柱書は正当化を求められている措置が「適用」される方法かどうかを問題にしているという事実を小委員会が無視し、Section609の適用がどのようにして柱書の要件たる「恣意的又は正当と認められない差別」を構成するのかを綿密に検討しなかったことを指摘した。さらに、小委員会が第20条柱書の趣旨及び目的を検討せず、1994年GATT及びWTO協定の趣旨及び目的を検討し、WTO多角的貿易体制を害する措置が第20条柱書において認められる措置の範囲外であるとの結論に至ったことに対して、上級委員会は、WTO多角的貿易体制の保持は基本的前提であるが、それは権利義務でもなく解釈ルールでもないとした。そして、第20条柱書の趣旨・目的が「第20条例外規定の濫用」の防止にあることを確認した[45]。そして、第20条の要件は検討される措置の種類が変われば、要件の基準の輪郭も文脈も変わるものであるとした[46]。

上級委員会はこのようにして小委員会の認定及び解釈上の分析が法的瑕疵を構成するとし[47]、Section 609をあらためて各号に照らして検討するとした。

（1）「第20条g項」

―「有限天然資源」

上級委員会は、g項の文言からして有限天然資源を鉱物又は非生物天然資源に限定していないことを挙げ、海亀が有限であるかどうかについて、上級委員会は紛争当事国及び第三国において有限との共通の意識があり、CITESの付属書においても記載されていること、さらに、海亀が高度回遊性の動物であり、問題となる種類の海亀はいずれも米国海域内を回遊することから、海亀は第20条g項に定める「有限天然資源」を構成することを認定した[48]。

―「保存に関する」

上級委員会は、Section 609が海亀に影響を与えるような方法でとられたエビの輸入を禁止している一方で、海亀に深刻な悪影響を与えないような状況でとられたエビ及び認証を受けた国の管轄の対象となる海域においてとられたエビ、これら二つの場合に輸入禁止からの逸脱を認めていることを指摘し、結局米国にエビを輸出しようとする国は、米国のプログラムと比較可能な規制プログラムを適用するか、米国船舶による海亀混獲率と比較可能な混獲率を有することを求められるとし、こうした要求は海亀の保存に関する政策に直接的に関係しているとした。この点に関して、上級委員会は当事国の間で争いが無く、小委員会により助言を求められた専門家によって認識されているとした[49]。そして、問題となる措置のデザインに焦点を合わせ、ガイドラインの実施をするSection 609がその範囲において海亀という種の保護と保存という政策目的に関連して不均衡に広いものではないとし、原則としてそれらの措置が目的に合理的に関連しているとした[50]。したがってSection 609は1994年GATTの第20条g項の意味における有限天然資源の保存に「関する」措置であるとした。

―「国内生産又は消費に対する制限に関連して実施される」

上級委員会は、米国が絶滅危機種法に基づいて米国漁船に対してTEDsの使用を義務づけ、違反に対しては民事及び刑事上の制裁が課されることを確認し、Section 609が第20条g項により要求される国内のエビ捕獲に対する制限と「関連して」実施されている措置であるとした[51]。

このように各号（本件ではg号）適合性が認められ、次に柱書での正当化について検討が進む。

（2）「柱書」

上級委員会は、最初に柱書の要件についての検討を行っている。まず柱書の文言から、ある措置が「同様の条件の下にある諸国の間において恣意的な又は正当と認められない差別待遇の」手段又は「国際貿易の偽装された制限」を構成するような方法で適用されるべきでないことが要請されているとして、この柱書に以下の三つの基準が含まれていることを指摘した。

①同様の条件の下にある諸国の間における恣意的な差別待遇

②同様の条件の下にある諸国の間における正当と認められない差別待遇

③国際貿易の偽装された制限

さらに、上記の①及び②にあたる「同様の条件の下にある諸国の間において恣意的な又は正当と認められない差別待遇」を構成する方法で措置が適用されていると認定されるためには、以下の三つの要素が満た

される必要があるとした。第一に、当該措置の適用が結果的に「差別」とならなければならない。第二に、当該差別は性質上「恣意的な又は正当と認められない」ものでなければならない。第三に、当該差別は「同様の条件の下にある諸国の間」でおこらなければならないとした[52]。したがって、柱書における基準はg項の要件とも異なるし、Section 609が第11条に違反するとされた基準とも異なるとした。

次に上級委員会は、WTO協定前文とGATT第20条との関係について触れ、まず1947年GATTの前文にある「世界の資源の完全利用」という目的が1990年代の世界貿易体制においてもはや適合しないことを指摘し、世界の資源の最適な利用が、持続可能な発展の目的にしたがってなされるべきことに、WTOの交渉人の認識があるとした。その上で、前文の用語がWTO協定に付属する協定、ここでは1994年GATTの解釈においても考慮に入れられるべきことを述べた[53]。

上級委員会はこうしたことを念頭において、問題となる措置の適用が第20条g項の各号による正当化に関する濫用又は悪用であるかどうかを検討するとした。それに先立ち、当該措置に関する詳細な運用規定が恣意的な又は正当と認められない活動を規定している場合だけでなく、一見公平かつ正当と見える措置が実際には恣意的な若しくは正当と認められない方法で適用されている場合にも措置の適用が濫用又は悪用と認定されるとした[54]。以下、最初に「正当と認められない差別待遇」についての検討に入る。

「正当と認められない差別待遇」基準

―柔軟性の問題

上級委員会は、Section 609がその適用において、実質的にすべての他の輸出締約国に、もしそれらの国がGATTの権利を行使したいと思う場合、米国内のエビトロール船に適用され、行使される政策と「本質的に同じ」（essentially the same）政策を採用することを求めるような経済上の取引禁止措置であるとした。しかし、Section 609（b）（２）（A）及び（B）の規定それ自体はWTO締約国が米国と本質的に同じ政策を取るべきことを求めてはいないし、それだけを見ればむしろある程度の裁量若しくは柔軟性を認めているように思われるとした[55]。

しかし、この柔軟性は1996年のガイドラインのもとで失われているとした。まずTEDsの使用に対するいかなる例外も米国のプログラムの例外と比較可能でなければならないとしていること。さらに捕獲国は適当な「信頼されうる実行努力」（credible enforcement efforts）をしなければならないとしている。また、1996年のガイドラインによると適合性の決定において「国務省（Department of States）は捕獲国が海亀を保護するのを引き受けるその他の手段もまた考慮に入れるものとする」とあるにもかかわらず、実際には柔軟性への配慮が失われているとした[56]。

―他国領域内の環境条件への考慮

上級委員会は、国際貿易関係においては、他の締約国の領域内での異なった環境上の条件を考慮せずに、あるWTO締約国がある特定の政策目的を達成するために、その国の領域内で実施されるものと本質的に同一の包括的規制プログラムを他の締約国が採

用するよう要求するために、米国のように貿易禁止措置を使用することは受け入れられないことを明示した[57]。

―国際協力による問題の交渉

つぎに、上級委員会は、米国が他の締約国のエビの輸出に対して輸入制限を課す前に、米国に対してエビの輸出をしている他の締約国と同様申立国に、海亀の保護及び保存のための二国間若しくは多国間協定を締結することを目標とするような交渉を保証することを怠ったとした[58]。この点に関して、IAC[59]に関する米国の努力を認めるものの、当該条約による海亀保護措置は一部諸国間だけのものであり、結局小委員会に示されたいかなる記録においても、米国が禁輸措置を行う前に海亀の保護及び保存のための協力努力を達成するために存在する国際的仕組みに頼る努力をしたとは認められなかった。米国は確かに米国にエビを輸出しているいくつかの国とは真剣に交渉を行ったが、他の締約国とは行わなかった。こうした理由から、米国の行為は明確に差別的であり、正当と認められないものであるとした[60]。

―段階的導入期間の問題

上級委員会は、段階的導入期間につき米国がカリブ海及び西大西洋のエビ輸出諸国にTEDsの使用に３年の段階的導入期間を与えながら、被上訴国には４ヶ月しか与えていないことを指摘した。

―TEDs技術の移転問題

さらに上級委員会は、米国がカリブ海及び西大西洋輸出諸国にTEDsの使用への技術移転に対して多大な努力をしていながら、被上訴国に対してはそれほど努力をしていないことを指摘した[61]。

そして、上級委員会はSection 609に関するこれらの待遇における相違が「正当と認められない差別待遇」を構成するとした[62]。

「恣意的な差別待遇」基準

次に上級委員会は、Section 609が「同様の条件の下にある諸国の間において恣意的な差別待遇」を構成するような方法で適用されているかどうかの検討に移った。まず、「正当と認められない差別待遇」においても認められた「措置の柔軟性の欠如」が同様に恣意的な差別を構成するとした。そして、次に認定手続きでは、認証決定前に申請国に聴聞、反論の機会を与えないこと、見直し、上訴の手続きのないことを指摘し、こうしたことにより手続きが不透明になりかつ予測不可能になり、申請を拒絶された輸出国は基本的な公正性と適正手続きを否定され、認証を受けた国と比べて差別されることを指摘した。そして、上級委員会はこれらのことがGATT第10条３項の精神に完全に反するとし、第20条において正当化されないとした[63]。

3. 小括

以上、Shrimp/Turtle事件に関し、小委員会及び上級委員会の報告を紹介してきた。Gasoline事件からの経緯も含めて考えると、第20条での各号適合性、特にg項についてはその適合性の範囲が広げられた。柱書の要件については、これらが本件を離れて一般的に通用する要件であるかはその後の事例を待たねばならないが、さしあたり本件についてのみ言えば、「正当と認められない差別待遇」に関しては、国際協力若しくは代替手段模索の努力、さらに措置の柔軟性の要求、段階的導入期間の平等、技術移転の機会の平等が挙げられる。「恣意的な差別」

については、措置の柔軟性と適正手続きの要求とが、柱書の要件を満たすのに必要となるであろう。この時点で、PPMに基づく貿易措置の適合性について、正当化の可能性が示され、且つ一方的性質を緩和するための具体的な要件の主要なものが示されたのは注目に値する。しかし、上級委員会は「国際貿易の偽装された制限」については結局検討しなかったため、上記二つの要件を満たしても第20条で最終的に正当化ができるかどうかは明確ではなかった。この点に関し、次に検討するDSU第21条５項に基づく小委員会報告では、最後の要件である「偽装された制限」についての判断もだされたのである。

III. PPMに基づく措置とGATT20条-DSU第21条５項に基づく小委員会報告

本章では、DSU第21条５項に基づく小委員会報告を検討する。まず事実関係については以下の通りである。1998年11月６日、DSB[64]は「米国-特定のエビ及びエビ製品の輸入禁止」に関する上級委員会報告と上級委員会により改められたものとしての小委員会報告を採択した。その後、1999年１月21日に合衆国とその他の紛争当事国は、合衆国がDSBの勧告と裁定に自国の措置を適合させるため13ヶ月の合理的期間（reasonable period of time）を設けることに合意した。翌年2000年１月にマレーシア及び合衆国は、原報告の履行状況に関してDSU第21条及び22条にしたがって手続きをとる可能性に関して両国の了解をDSBに通告した。それは、マレーシアが希望する場合、DSU第22条の手続きに先立って第21条５項の手続きをとることについての了解であった。そして、マレーシアは、合衆国が輸入禁止措置を解き、非制限的な方法でエビ及びエビ製品の輸入を認めるための必要な措置をとらず、1998年11月６日付DSBの勧告及び裁定に従っていないという理由で、2000年10月12日DSBにDSU第21条５項に基づく小委員会の設置を要請した。小委員会は、米国の履行状況を検討する上で上級委員会報告で示されたいくつかの要件について一つ一つ確認をしていったのである。以下は、小委員会が第20条のそれぞれの要件について判断した内容である。

1.正当と認められない差別待遇

（１）国際的な交渉

小委員会は、上級委員会報告が米国による措置の実施に際して国際協力が必要であったとすることを想起し、米国が交渉に従事しなければならないと決定しただけでは、米国がDSBの勧告及び裁定を実施してきているかどうかを決定するには十分ではないとした。そして求められる努力の範囲（the extent of the efforts）を評価する必要もあるとして、その際、特に第20条の下での権利の濫用又は悪用に関する概念が明確なガイダンスを提供するとした。そして、そうした権利の濫用又は悪用の存在は、第20条の下での例外を援用する締約国の権利と様々な実体規定の下での他の締約国の権利との間の「衡平性の境界線」に依存するとした。その上で、海がめの保護と保全の分野における衡平性の境界線が国際合意か又は単に交渉する努力のいずれを求めているかどうかの検討に進むとした。

小委員会は、結局米国が現在問題となっている一方的措置に頼る前に合意に至るような真剣かつ誠実な努力をする義務を有す

るとともに、そうした努力は「一回限り」（one-off）であってはならないとした。ただ、合意締結までの責任は負わないとした。そして、本件での米国の実行、特に1998年以降の実行とマレーシアのクアンタン会合への貢献は真剣かつ誠実なものであったと認められるとした[65]。

（2）柔軟性の欠如の問題

小委員会は、柔軟性を判断する上で上級委員会報告を想起し、まず現在改正ガイドラインのもとで単に「米国と本質的に同じ」ということが規定されなくなったことだけでは不十分であり、米国当局の実行も考慮されなければならないとした。そして、NPF（Northern Prawn Fishery）においてオーストラリアが実施するTEDベースのプログラムの米国による審査を検討した。オーストラリアのTEDベースの方法と米国のTEDsには技術的な差があるものの、米国のものとその有効性において比較可能であると米国の審査で判断されたことを想起し、小委員会はこうした改正ガイドラインに規定される「比較可能な有効性」テストの実際の適用から柔軟性が認められると判断した。つぎに、輸出国に一般的な条件に対しプログラムが適応しているかどうかの調査（inquiry）をすると規定するSection609の実施を改正ガイドラインが許容しているかどうかを判断する必要があるとした。調査については、米国がイニシアティブをとることころまでは要求されていないが、認証を求める国による申し立てを調査する準備はしているべきであるとした。そして改正ガイドラインが締約国に一般的な条件について利用可能なあらゆる情報を考慮するとしていることを認め、実際にオーストラリアのスペンサー湾での海亀混獲率が極端に少ないということがオーストラリアにより立証されたことで、米国が輸入禁止措置から除外した例を想起し、米国の措置が柔軟性を有していると認定した。

（3）段階的導入期間の差別

米国の主張によると、段階的導入期間の違いは、時の経過により修正されており、さらにマレーシアは、当初の米国裁判所の判決とTEDsを使用したプログラム等を採用するための合理的期間の終了との間に４年以上有していたとのことである。これに対し、マレーシアは、米国は海亀の保護と保全のための交渉中は輸入禁止措置を撤回すべきであると一般的に主張した。小委員会は、カリブ諸国等に認めたようにマレーシアにも同じ段階的導入期間を認めるために、時間を遡ることはできないとする合衆国の主張に理解を示し、むしろ米国が「行政上及び財政上のコスト」等に関し、あらゆる努力を行ったことを指摘した。そして、マレーシアに関して、同国がまだ認証を受けようとしたことがないことを確認し、もしマレーシアが認証を受けようとした場合、それを妨げるような要素はないとする米国の主張を想起し、そうであるならばマレーシアが何らかの負担を負うとする証拠はないとして、段階的導入期間の問題については、米国の措置はDSBの勧告及び裁定に従っていると認定した[66]。

（4）技術移転

小委員会は、合衆国が1999年７月には様々な方法で技術移転を進め、バーレーン及びパキスタンに支援を提供し、またオーストラリアではトレーニングを行ったこと、そしてそれらの国々が以来認証されるか又

はそれらの国々の産品の一部が輸出を許可されていることを指摘した。また、マレーシアは技術移転を求めなかったため同国に対する差別は存在しなかったとして、この点米国の措置はその実行からDSBの勧告及び裁定に従っていると認定した[67]。

2.恣意的な差別待遇

（1）柔軟性の欠如

小委員会は、米国が認証を与える諸国に対し米国と本質的に同じプログラムを採用することを条件付け、輸出国の条件を考慮しなかった点が柔軟性を欠くとして、Section609の適用は恣意的な差別待遇を構成するとした上級委員会報告を想起した。そして現在米国がそのような条件付けをしておらず、認証を求める締約国は自国が採用するプログラムが米国のそれと比較可能であることを証明できるようになったことを確認し、米国の実施措置がDSBの勧告及び裁定に従っているとした[68]。

（2）適正手続き

小委員会は、改正ガイドラインによると、認証を否定された国が再審査を求めることができ、また米国政府が行政手続法を利用できる旨確認したことを指摘し、今までのところ適正手続きが尊重されているとした[69]。

3. 国際貿易の偽装された制限

小委員会はまず、米国の措置が国際貿易の偽装された制限であるという認定を上級委員会がする必要がなかったことがすなわち、DSBの勧告及び裁定を実施するためにとられる措置が国際貿易の偽装された制限でないことを意味するものではないとし、第20条を援用する当事国として、実施する措置が柱書の全ての要件に適合することを証明する挙証責任を米国が負うとした。加えて、「偽装された」という用語については「貿易制限的な目的の追求を覆い隠すための偽装」であると解している[70]。

小委員会は、1996年ガイドラインと比べて改正ガイドラインの下では、米国へのエビの輸出が容易になったため米国の漁業者が輸入禁止措置により商業的な利益を得ることは殆どないとした。実際米国は認証に際して、特定の状況でのTEDsの義務付けを止めて各国のプログラムの適用を認め、TEDs使用を発展させるため技術移転を申し出たりするなど、Section609が国際貿易の偽装された制限のために適用されないことを米国が示してきたことを指摘し、米国の実施措置が第20条柱書の意味における国際貿易の偽装された制限を構成しないとした[71]。

4. 小括

このように、小委員会は申し立てがあった時点までにおいて、勧告及び裁定を実施するために取られた米国の措置が第20条に適合するとしたのである。本件小委員会報告で注目されるべき点の一つとして、「国際貿易の偽装された制限」についての解釈がなされたことが挙げられるであろう。正確には、「偽装された」＝「貿易制限的な目的の追求を覆い隠すための偽装」という図式で述べられているわけではないが、小委員会による米国の実行の検討を見る限り、「米国の漁業者が輸入禁止措置により商業的な利益を得る」という「自国の産業に有利な待遇の許与」が本件の場合「貿易制限的な目的の追求」の範囲に含まれると解されるため、小委員会が「偽装された」を「貿易制限的な目的の追求を覆い隠すための偽装」と解しているのは間違いないと思われる。

さらに、最終所見（concluding remarks）

において、両国（米国とマレーシア）に「共通だが差異ある責任」（common but differentiated responsibility）の原則を考慮しつつ、できるだけ早く海がめ保存のための合意を締結するために十分な協力をするように述べていることは大変興味深い[72]。ただ、最終所見に述べられているため、認定（findings）においてなされるような、協定解釈上何らかの法的意味を持つとは考えられない。このことは、WTO設立協定前文に記載のある「持続可能な開発」という文言との比較でも明らかであろう。本稿で取り上げたShrimp/Turtle事件においては、認定（findings）に際して「持続可能な開発」への言及がなされている。しかし、それは具体的権利義務を生じさせる実体規定としてではなく、あくまでも協定解釈において考慮されるべきものとされているにすぎないのである[73]。

ただ、リオ宣言第７原則で確認されているように、国際社会特に先進国と途上国との関係（本件では米国とマレーシア）において再度確認される必要がある原則として言及しているように思われる。

IV. おわりに

以上、Shrimp/Turtle事件を中心にPPMに基づく措置に対する解釈の変遷を見てきた。そのなかでは、一定の範囲で、一方的性質を有するようなPPMに基づく貿易措置の適用につき、その許容可能性が示されてきていることが分かる。そして小委員会報告の後、最近DSU21.5条に基づく上級委員会報告が出されたが、その内容は結論的には小委員会報告を追認するものであった。これで、同条に基づく手続が終わりをむかえたことになる。ここで、PPMに基づく措置の性質についてもう一度振り返りつつ、そのGATT/WTO規定との適合可能性につき検討を試みる。

PPMに基づく措置は、それにより保護しようとする法益をどのように設定するか、そして規制方法を特定の方法によるのか又は各国に選択の自由を委ねる方式によるのかでずいぶん措置の性格が異なってくる。つまり、まず保護しようとする法益を多国間条約で保護又は保全しようとする対象（本件のような絶滅の危機に瀕している動植物、気候変動、オゾン層など地球環境保護に関連するもの）の保護に設定するのであれば他の締約国の了解を得やすい。次に、規制方法について上記のいずれを選ぶかであるが、これは措置の柔軟性ともかかわるため各国に選択の自由を委ねる方式のほうが理解を得やすい。そして、PPMという技術的側面が規制の対象となる以上、技術的に遅れをとっている国との関係では特に技術移転の問題、そしてそうした国を含めた他の締約国との関係では特定のPPMの導入期間を設定することが現実問題として浮上してくる。

では、本稿で検討してきたShrimp/Turtle事件における米国のSection609と米国の措置の性格はどのようなものであっただろうか。まず、Section609についてであるが、第一に、保護しようとする法益は、Section609ではCITESの付属書Ⅰに掲載される絶滅危機種の海亀の保護である。第二に、Section609それ自体は強制的性格を有していない[74]。第三に、米国政府に対して他の諸国との協力のための交渉を義務付けていた[75]。次に技術的側面に関する米国の措置であるが、米国は

TEDsの使用について技術移転の促進に協力し段階的導入期間を設けた[76]。このようにSection609と米国の措置はさきに抽象的にではあるが内容を限定したPPM措置とはその性格が一致するのである。第三の国際協力のための交渉義務については、法益が地球環境保護に関連するものである以上、そうした法益を設定したPPMに基づく貿易措置には内在的に予定されていると見るべきであろう[77]。

ここで、これまでに上級委員会報告で明らかになった柱書の具体的な要件を振り返ってみると、「正当と認められない差別待遇」に関しては、国際協力若しくは代替手段模索の努力の欠如、さらに措置の柔軟性の欠如、段階的導入期間の不平等、技術移転の機会の不平等が挙げられる。「恣意的な差別」については、措置の柔軟性欠如と適正手続きの欠如、そして「偽装された」は「貿易制限的な目的の追求を覆い隠すための偽装」で、具体的には「米国の漁業者が輸入禁止措置により商業的な利益を得る」という「自国の産業に有利な待遇の許与」であった。第二章及び第三章での検討でも触れたように、これらの要件は事件ごとに個別具体的に検討されるべきであって、これらが一般的に通用するものとは限らない。しかし、本件で検討されたこれらの要件は、PPMという特定の事例に対して関連する主要なものを含んでいると考えられる。

PPMに基づく貿易措置は、全てひとまとめでGATT/WTOに適合的であるとは決していえないが、上記のように、抽象的に設定したPPMに基づく貿易措置は、一方的性質を有する場合においても、GATT/WTOに即座に適合しないとはいえないであろう。ただし、DSU第21条５項に基づく小委員会が示すように、こうした措置は恒久的措置をとる最終的な「権利」というよりはむしろ緊急性を理由として許される「暫定的」性格としてのみ認められる点[78]に留意すべきであろう。

1）オゾン層を破壊する物質に関するモントリオール議定書：the Montreal Protocol on Substances that Deplete the Ozone Layer

2）別名、スタンダード・コード（Standards Code）として知られる。GATT. 1980. GATT Activities in 1979 and Conclusion of the Tokyo Round Multilateral Trade Negotiations（1973-1979）. Geneva: 22. 1979年に交渉が妥結した東京ラウンドの成果の一つであり、各国の規格及び適合性評価手続が、国際貿易に対して不必要な障害をもたらす場合があることを念頭に作成された。外務省経済局国際機関第一課編.1996.『解説　WTO協定』日本国際問題研究所：214.

3）同上、外務省経済局国際機関第一課編（1996）：216.

4）当該委員会は、1995年１月に設立された。その任務は、1994年４月の貿易と環境に関するマラケシュ閣僚決定（Marrakesh Ministerial Decision on Trade and Environment：MTN/TNC/45（MIN））に挙げられている。シンガポール閣僚会議に関しては、早川修.1997.「WTO貿易と環境委員会（CTE）の作業過程とシンガポール後の展望」『貿易と関税』10.；World Trade Organization , Report (1996) of the Committee on Trade and Environment, WT/CTE/1, 12 November 1996、を参照。

5）TBT協定付属書１は、1.強制規格で「産品の特性又はその関連の生産工程若しくは生産方法について…」とし、2.任意規格の第２文において「産品又は生産工程若しくは生産方法…」としている。

２において「その関連の」という用語が含まれないことから、PPMの範囲については争いがある。参照、Report of the Committee on Trade and Environment（1996）, WT/CTE/1, 1996, paras.55-81.産品の特性に関連するPPMは消費による外部不経済の原因になり、主に産品基準で規制されるが、一般的にはGATTの枠内で認められうるとの見解が多い。参照、Cole, Mathew A. 1999. Examining the Environmental Case Against Free Trade. Journal of World Trade . 33（５）: 192. この点の検討は、紙面の都合上本稿では詳しく扱わない。

6）OECD. 1997. Processes and Production Methods（PPMs）: Conceptual Framework and Considerations on Use of PPM － Based Trade Measures . OCDE/GD（97）137 : 7.

7）Brack, Duncan. 1998 Trade and Environment : Conflict or Compatibility?. London : The Royal Institute of International Affairs : 9.

8）OCDE/GD（97）137, 1997, op. cit., supra footnote ６: 11. 一般的には、前者の規制に際して「産品基準」が適用され、後者に対しては「生産」基準が適用される。

9）OCDE/GD（97）137, 1997, Ibid. : 7.

10）江藤（1997）は、ガットの事例における一方的措置について、「他国の政策・措置を自国の主張する規則に従わせるために、第三者機関の承認を得ずに国家の単独の判断でとられる貿易上の措置」と定義している。江藤淳一.1997.「WTO/ガットと一般国際法―WTO/ガット対象外の事項に対する『一方的措置』―」『日本国際経済法学会年報』（６）：116. その他、「WTO協定等国際ルールに基づくマルチラテラル（多角的）な紛争解決手続によらず、自国のみの判断で、制裁措置（retaliatory measures）として関税引上げ等の貿易措置を発動すること」として、主に米国の通商法301条を念頭とした考え方もある。通商産業省通商政策局編.2000.『2000　不公正貿易報告書』：311.同様の定義をしているものとして、松下満雄.1997.『国際経済法　国際通商・投資の規制［改訂版］』有斐閣：200. また、植木（2000）は国際経済紛争における一方的措置を評価する上で、主に対抗措置を念頭においているようである。ただ、米国による一方的措置の評価においては、同国の言う一方的措置には対抗措置と報復が含まれるとし、また問題設定のところでは一方的行為と一方的措置が交換可能なように使われている。植木俊哉.2000.「国際経済紛争における一般国際法上の『対抗措置』―一般国際法の下でのWTO法の普遍性と自律性―」『法学（東北大学）』64（３）. このように、一方的措置については、その内容は論者により少しずつ異なり一般的な定義が存在するわけではない。

本稿で問題とするPPMに基づく貿易措置については「自国の環境政策に他国の政策を従わせようとしている」こと、「MEAなどの多国間の合意や国際機関などの承認なしに自国の判断でとられている」ことが特徴として挙げられるため、江藤（1997）のする一方的措置の定義を採用する。実際GATT小委員会報告でも同様の指摘がある。参照、GATT. United States―Restrictions on Imports of Tuna. Report of the Panel. 30 I. L. M. 1594. 1991: para. 5. 27.また、この問題はCTEの検討事項に含まれるとともに、1996年シンガポール閣僚会議においても、PPMに基づく一方的な貿易措置を懸念する見解が示された。このときの報告で、多くの国は環境基準が各国により異なるため、その異なる基準の違いを調和又は補正するため貿易関連措置が使用されるべきでないことを確認し、産品が生産される国家の地域的な環境条件に適合しないようなPPMを適用するように求められることで、経済的及び環境上悪影響がもたらされうるとの懸念を表明した。参照、Report of the Committee on Trade and Environment（1996）, WT/CTE/1,

1996, para.24 and para.103. 同様の指摘をしているものとして、Schlangenhof, Markus. 1995. Trade Measures Based on Environmental Processes and Production Methods. Journal of World Trade. 29（6）.

11）GATT. United States － Restrictions on Imports of Tuna . Report of the Panel. 30 I. L. M. 1594. 1991（以後 Tuna I 事件）.事件の概要は以下のようである。1972年の「海洋哺乳動物保護法」（Marine Mammal Protection Act: MMPA）は、米国政府に対し一定の許可された例外を除いて、海洋哺乳類を混獲するような方法でとられたマグロ及びマグロ製品を米国への輸入を禁止するように命じていた。さらに同法は、まず東部熱帯太平洋（ETP）でのイルカの混獲を減少させるために、米国が設定する一定の混獲率を超える漁法により水揚げされた他国産のキハダマグロ及びキハダマグロ製品の輸入禁止と、そうしたものを「中継国」から輸入することも禁止していた。これに対して、メキシコは米国に対し協議を開始したが、満足のゆく解決が得られなかったため、DSBに対し小委員会の設置を要請した。メキシコは、米国の措置が第11条１項（数量制限の一般的廃止）及び第３条（内国民待遇）にも違反すると主張した。小委員会はその報告で、米国の措置が第11条（数量制限の一般的廃止）及び第３条（内国民待遇）違反を認定し、第20条（一般的例外）での正当化ができるかどうかの検討に入った。以下、本文参照。

12）第11条（数量制限の一般的廃止）についても問題にされるが、その場合大きく争われることはなかった。結局、第11条が環境保護を目的とする数量制限を許容していないことについての争いは無いようである。

13）GATT. United States － Restrictions on Imports of Tuna . Report of the Panel. 33 I. L. M. 839. 1994（以後TunaⅡ事件）.事件の概要は次の通りである。1991年キハダマグロ事件において「中継国」とされ、メキシコ産キハダマグロについて米国から間接的な輸入禁止措置を課されていた諸国のうち、EC及びオランダ（オランダ領アンチル諸国に代わって）が米国の当該措置は第３条、第11条違反を構成し、第20条においても正当化できないとの申し立てを行ったものである。1994年６月に小委員会報告が提出された。米国の主張によると、問題となる措置は有限且つ天然資源であるイルカの保全に関連する措置としてg項において正当化でき、イルカの生命及び健康を保護するのに必要な措置としてb項においても正当化できる。そしてb項及びg項とも、保護する対象が措置を取る国家の領域管轄権内でなければならないことを求めてはいないということであった。これに対して小委員会はまず、米国の措置が第３条で正当化されえないとし、また同措置が第11条１項の数量制限に当たるとして第20条での正当化ができるかどうかの判断に入った。以下は本文参照。

14）Ibid, paras. 5. 8－5. 9.

15）World Trade Organization. United States -Standards for Reformulated and Conventional Gasoline. Report of the Panel . WT/DS２/R. 29 January 1996; Report of the Appellate Body. WT/DS２/AB/R. 29 April 1996.

16）PPMが第１条及び第３条において問題となるのは、PPMに基づいて産品の同種性を判断することを許容することが、各国に対して自国と異なる環境政策をとる国からの産品に対する無制限の差別待遇を与えることにつながり、GATT/WTO体制の根本概念である最恵国待遇及び内国民待遇の原則を損なうという懸念が生まれてくるからである。そのため、同種性の判断にPPMを含むかどうかについては議論の余地がある。参照、World Trade Organization. Report of the Committee on Trade and Environment（1996）. WT/CTE/1. 1996.

17）公定訳ではarbitraryを「任意の」としているが、本稿では「恣意的な」を採用する。この点、サービスの貿易に関する一般協定（GATS）の公定訳では、同じ文言で「恣意的な」となっている。松下は、松下満雄「非貿易的関心事項への取り組みとWTOの今後-原論的考察-」日本国際経済法年報、第９号、2000年、151頁にて明らかな誤訳と指摘している。

18）松下満雄.1998.「ガット20条（例外条項）の解釈に関する事例研究」『成蹊法学』48：37.

19）Op. cit., supra footnote 11, paras.5.25-5.27.

20）Ibid., paras. 5. 27 - 5. 29.

21）Op. cit., supra footnote 13.

22）Ibid., para. 5. 15.

23）Ibid., para. 5. 22.

24）Ibid., paras. 5. 23 - 5. 27

25）Op. cit., supra footnote 15. 事件の概要は次の通りである。米国は自動車排気ガス規制を目的として大気清浄化法（Clean Air Act）を制定した。1990年の改正に伴い、環境保護庁（Environmental Protection Agency）は、大気汚染の減少を目的としてガソリンの配合と排気の影響に関してガソリン規則（Gasoline Rule）を定めた。そして、当該規則により1995年から米国の最も汚染のひどい地域において、成分再調整済みガソリン（reformulated gasoline）のみが販売を許可された。その他の地域では、1990年に販売された普通ガソリン（conventional gasoline）の水準よりも低くないガソリンのみが販売を許可された。当該規則は、米国の全ての精製業者、配合業者、輸入業者に適用された。本件で問題となったのは、1990年の品質水準を確定する基準値設定規則（Baseline Establishment Rule）と呼ばれる方法であった。この基準値設定規則は、個別基準（individual baseline）と法定基準（statutory baseline）がある。前者はさらに三つに分けられる。①90年に販売されたガソリンの品質を表す水準　②ブレンドストックと呼ばれるガソリンの半製品の品質及び生産記録③90年以降のブレンドストック或いはガソリンの品質に90年当時のガソリン成分を算出するための様々な精製上の変化を加味して作成されたデータ、以上である。後者は、90年当時の米国の石油品質の平均値を算出して設定したものである。これらの基準に対して、国内の精製業者（90年において少なくとも６ヶ月以上操業していたもの）および海外精製業者たる輸入業者で、その生産量の75%以上を米国に輸出している者は、個別基準のいずれかを用いることができ、法定基準は適用されない。しかし、それ以外の業者は個別基準の①は利用できるものの、それが困難な場合は法定基準が適用されることとなった。

これに対して、ベネズエラおよびブラジルは小委員会に対して、ガソリン規則のGATT整合性を審理するように申し立てた。申し立て内容は、第一に75%ルールが米国へ輸出される量及び外国精製業者及び輸入業者の間の所有関係（owner relationship）という二つの基準を用いていることは中立的（neutral）なものではなく、ある特定のカテゴリーの諸国に適合することを目的として選ばれていたものであり、第一条違反である。第二に、ガソリンの輸入及び配合業者が個別基準を採用できない場合、その品質が法定基準を下回る輸入ガソリンは販売を制限されるのに対して、まったく同質の国内原産のガソリンは、その精製をした業者の個別基準が法定基準より低ければ、その水準を満たすかぎり規制を受けない。そのため第３条４項に違反するとした。小委員会は、第20条の解釈についてGATT時代と基本的には同様のアプローチをとって、米国の措置が第20条では正当化できないことを述べた。

26）Ibid., pp. 24 - 28.

27）World Trade Organization. United States -

Import Prohibition of Certain Shrimp and Shrimp Products. Report of the Panel. 15 May 1998. WT/DS 58/R; Report of the Appellate Body . 12 October 1998. WT/DS58/AB/R.

28）The Understanding on Rules and Procedures Governing the Settlement of Disputes（DSU)、紛争解決に係る規則及び手続きに関する了解（紛争解決了解）を指し、WTO協定付属書二に当たる。

29）World Trade Organization. United States-Import Prohibition of Certain Shrimp and Shrimp Products. Recourse to Article 21.5 by Malaysia . Report of the Panel. WT/DS58/RW . 15 June 2001.

30）注10及び注16参照。

31）第20条の解釈手順については、1991年Tuna I 事件では明確には述べられていなかったが、1994年TunaII事件では、para.5.12及びpara.5.29にてそれぞれg項及びb項の適合性判断の次に、柱書の要件（恣意的若しくは不当な差別：国際貿易の偽装された制限）を満たすかどうかが検討されるとした。

32）この点、川瀬（1998）がGasoline Case に対して「まず上級委員会は、…環境保護措置への一定の配慮を示した。とりわけGATT20条柱書における『措置』の概念および同gにおけるいくつかの要件の緩やかな解釈によって環境規制が同条項の下で十分に審理されるよう、いわゆる『門前払い』を廃止した点は注目に値する。このことにより、環境保護措置は一応『措置』それ自体としての正当性が各号レベルで一度認定された上で柱書の審理に進む可能性が高まり、かかる事実がGATT/WTOが環境規制に対する理解を示すポリティカルサインとなる。」と述べている。参照、川瀬剛志. 1998.「ガソリンケース再考-その『貿易と環境』問題における意義」『貿易と関税』（1）.

33）Turtle Excluder Devices（海亀除去装置）のこと。

34）Section609による認証国のことで、認証されないかぎり輸入が禁止される。認証の内容は以下のとおりである。第一に海亀に影響を与えない状況で捕獲されたエビ或いはエビ製品；①水産養殖によるもの ②米国で求められるTEDsの有効性と比較可能なTEDsを使用している商業用エビトロール漁船でとられたエビ ③装置によって漁業網回収を行わない方法でとられるか或いは米国のプログラムにしたがってTEDsを使用する装置を使用している漁船によってとられたエビ ④海亀が現れない海域で捕獲されたもの； 認証国は次のもの：①自国の水域に現れる海亀に関連しないエビの捕獲をおこなう国 ②海亀に悪影響を与えない方法でエビを捕獲する国 ③海亀が現れない自国の水域でエビを捕獲するか又は米国と比較可能な、自国のエビトロール船によって行われる海亀の混獲率に関する規制を適用することを証明した国。

35）Op. cit., Panel Report supra footnote 27, para . 7.26.

36）Ibid., para. 7. 28.

37）Ibid., para. 7. 29.

38）Ibid., para. 7. 33.

39）Ibid., para. 7. 34.

40）Ibid., para. 7. 42.

41）Ibid., para. 7. 43.

42）Ibid., para. 7. 44.

43）Ibid., para. 7. 45.

44）Ibid., paras. 7. 60 - 7. 61.

45）World Trade Organization. United States - Import Prohibition of Certain Shrimp and Shrimp Products. Report of the Appellate Body. 12 October 1998. WT/DS58/AB/R: paras. 115-117. 同様の指摘をしているものとして、Calster, Geert Van. 1998. The WTO Shrimp/Turtle Report: Marine Conservation v GATT Conservation―. European Environmental Law Review. 7 : 312.

46）Ibid., para. 120.

47）Ibid., para. 122.

48）Ibid., paras. 128-134.

49）Ibid., paras. 139-140.

50）Ibid., para. 141.

51）Ibid., para. 144.

52）第一の「差別」については、上級委員会は「この差別の性格と性質は1994年GATTの第一条、三条及び十一条といった実体的義務規定の一つに反するとされた産品の待遇における差別とは異なるものである」としている。Ibid., para . 150.

53）Ibid., paras. 152-155.

54）Ibid., para. 160.

55）Ibid., para. 161.

56）Ibid., para. 162.

57）Ibid., para. 164; そしてこの後に上級委員会は次のように述べている。「言い換えれば、合衆国内で使用されているのと同一の方法を使用して取られるエビが、単に合衆国によって認証されていない諸国の水域で取られているというだけで合衆国の市場から締め出されているのである。その結果の状況は、ウミガメを保護し保全するという宣言された政策目的と一致させるのは困難となっているのである。このことは、われわれに他の締約国の多くがそれぞれの状況に置かれていても、この措置（米国の措置）がその適用において、合衆国によってその国内のエビトロール船に適用されるのと本質的に同じ包括的な規制レジームを適用することをWTO締約国に効果的に影響させることにより関心があることを示している。」Ibid., para. 165.

58）Ibid., para. 166.

59）Inter-American Convention for the Protection and Conservation of Sea Turtles（the Inter-American Convention）, See Ibid., para. 168.

60）Ibid., paras. 166 -172.

61）Ibid., para. 175.

62）Ibid., par. 176.

63）Ibid., paras. 177-186.

64）DSBはDispute Settlement Body（紛争解決機関）を指し、紛争解決了解（DSU：WTO協定付属書二）に定める規則及び手続き並びに対象協定の協議及び紛争解決に関する規定を運用するために設置される。紛争解決手続きについては、岩沢雄司.1996.『WTOの紛争処理』三省堂. を参照。

65）Op. cit., supra footnote 29, paras. 5. 48 - 5. 88.

66）Ibid., paras.5.112 - 5. 115.

67）Ibid., paras.5. 118 - 5. 119.

68）Ibid., paras. 5. 123 - 5. 124. 小委員会は、段落5.124にて「恣意的な」（arbitrary）の意味について "capricious, unpredictable, inconsistent"を挙げている。それぞれ前から、「当てにならない、不規則な」「予測できない、当てにできない」「一貫性のない」というように不安定性を問題とするような用語として小委員会は捉えているようである。

69）Ibid., paras. 5. 133 - 5.135.

70）Ibid., paras. 5. 138 - 5. 142.

71）Ibid., para. 5. 143.

72）Ibid., para. 7. 2.

73）Op. cit., supra footnote 45, paras. 152 - 153.

74）Op. cit., supra footnote 45, para. 161.

75）Ibid., para. 167, in Section 609（a）.

76）Ibid., paras. 175 - 176.

77）環境と開発に関するリオ宣言の原則12では、「輸入国の管轄権外の環境問題に対処する一方的な行動は避けるべきである。国境を超える、あるいは地球規模の環境問題に対処する環境政策は、可能な限り、国際的な合意に基づくべきである」としている。

78）Op. cit., supra footnote 29, para. 5. 88.

『国際開発研究フォーラム』21（2002. 3）
Forum of International Development Studies, 21 (Mar.2002)

Trade Reforms in Vietnam

A Computable General Equilibrium Analysis

Nguyen Tien Dung*

Abstract

Vietnam's integration with the global economy has accelerated in recent years. Vietnam became a member of ASEAN in 1995, joined APEC in 1998, and has applied for membership in the WTO. Various commitments to trade liberalization have been made under bilateral and multilateral trade agreements and will be carried out in coming years. The ongoing trade reforms will significantly change Vietnam's highly protective trade regimes and bring about profound implications on the economy. In this paper, we have used a computable general equilibrium (CGE) model to assess the impacts of unilateral trade liberalization at both macro and sectoral levels and examine the role of complementary policies. The simulation results have indicated that tariff reductions cause a decline in GDP, but the overall output loss is small. Capital producing industries and public services suffer considerable losses, while export-oriented industries experience a significant expansion. Sustaining the fiscal revenue mitigate the negative effects of tariff cuts on public services and reduce the output loss. Currency devaluation appears to have a strong impact on exports, imports and the trade balance.

Acknowledgements

I am gratefully indebted to professor Mitsuo Ezaki, who has provided me with guidance and valuable suggestions. I would like to thank Ms. Susan Tennant for correcting the draft of the paper, and two anonymous referees for their comments and suggestions.

I. Introduction

In the late 1980s, Vietnam began profound social and economic reforms, which have significantly transformed Vietnam from a centrally planned economy to a market economy. Over the last decade, trade reforms and the open door policy have constituted an important part of the comprehensive reforms. Restrictions and limitations on trade activities have been progressively relaxed, and the country has successfully expanded trade and investment relations with nations in Asia, Europe and North America. The growth of trade has been high and contributed significantly to the overall economic growth.

The integration with the global economy has accelerated in recent years. Vietnam became a

* Doctoral student, Graduate School of International Development, Nagoya University

member of ASEAN in 1995, joined APEC in 1998, and has applied for membership in the WTO. However integration with the world economy brings about both benefits and costs, and the issue has been debated among Vietnamese policy makers and economists. On the one hand, the integration will expand Vietnam's exports markets and bring about greater opportunities for technological transfers as well as greater inflows of foreign investment and economic assistance. On the other hand, Vietnam will be obligated to requirements of international trade agreements concerning the removal of tariff and non-tariff barriers and the opening of investment regimes to foreign firms. Domestic firms, lacking of business skills and poorly equipped, may fail to compete with foreign firms. Trade liberalization may lead to a loss in output and increased unemployment, or it may worsen the trade balance and fiscal balance.

Although there have been numerous studies on economic and trade reforms in Vietnam, limited attention has been paid to quantitative studies. In this paper we attempt to analyze Vietnam's trade reforms, and to quantify impacts of the reforms on the economy using a computable general equilibrium (CGE) model. The paper is organized as follows. Section 2 examines the recent economic development in Vietnam, current trade regimes and the reform agenda in coming years. The structure of the model, data sources and the calibration procedure are discussed in section 3. Simulation scenarios are performed in section 4, and conclusions are drawn in the last section.

II. Reforms and Open Door Policy

II.1. Reforms and Growth: an Overview

In late 1980s Vietnam began profound social and economic reforms, commonly known as doimoi, which aimed to develop a market economy to replace the centrally planned economy and to open up the economy to the world economy. Over the last decade, the economic reforms have brought about significant changes in both social and economic aspects. Price controls have been abolished for most commodities, and prices are determined by the market demand and supply. The private sector has been officially accepted and encouraged, and the state sector has been restructured.

After the hard transition period characterized by hyperinflation in the late 1980s, Vietnam successfully stabilized the macroeconomic situation and resumed growth in the early 1990s. The country achieved an impressive economic performance, with the growth of GDP averaging the annual rate of 8.8 per cent during the period 1992-1997. The high growth was achieved in a stable macroeconomic environment. Inflation and fiscal deficits were kept within a controllable range.

The economic and political crisis in the former Soviet Union interrupted traditional trading and economic relations with countries in the Soviet bloc and badly affected the economy in the late 1980s. Vietnam liberalized trade regimes to promote trading and economic relations with the countries in the convertible currency area. The growth of exports averaged the annual rate of over 30 per cent, and

was led by light manufacturing exports. The lifting of the US embargo in 1993 removed political obstacles to foreign investment and development assistance. The inflows of foreign capital increased dramatically, particularly between 1995 and 1997. Stimulated by the surge in the capital inflows, imports grew rapidly and worsened the trade balance, which reached nearly 16 per cent of GDP in 1996.

The country was not able to sustain the initial performance. The rapid growth brought about over-optimism and reduced pressure for further reforms. There was little progress in the restructuring of the state sector and banking system, and the economy suffered from serious weaknesses as reflected in inefficient and heavily indebted state-owned enterprises (SOEs), the large build-up of non-performing loans and the high and increasing trade deficit.

The Asian economic crisis adversely affected the economy and further exacerbated domestic economic problems. The economic recession in Japan and East Asian countries, which are Vietnam's major trading and investment partners, led to a sharp contraction of Vietnam's export markets and a decline in the inflows of foreign investment. The growth rate of exports dropped to 1.9 per cent in 1998, and exports to East Asia declined by 8.5 per cent. The recent resumption of export growth has been attributed to the surge in oil prices and the successful efforts in redirecting Vietnam's exports toward new markets in North America and Europe.

In order to reduce trade deficits, the government imposed quantitative restrictions and temporary prohibitions on the import of several consumer goods. Currency controls were adopted to prevent the outflows of foreign currency and to limit imports. Imports grew only few percents in 1997 and declined slightly in 1998 and 1999. As a result, the trade balance has improved significantly, and the country had a current account surplus in 1999.

The decline in exports, along together with stagnating domestic demand, has caused a slowdown in economic growth in recent years. The growth of GDP declined to 5.8 per cent in 1998 and 4.8 per cent in 1999[1]. Despite inflation being kept under control, the macroeconomic situation has been deteriorating in many aspects. Fiscal revenue fell from over 25 per cent of GDP in 1993 to around 18 per cent of GDP in 1999, resulting in lower public spending on social services and increased deficits. The inflows of foreign direct investments dropped sharply and put pressure on domestic currency to depreciate.

The slowdown in economic growth has amplified social and economic problems. According to official statistics, the unemployment rate increased from 6 per cent of the labor force in 1997 to 7.4 in 1999, while underemployment has remained high in both rural and urban areas. The poverty incidence, which declined sharply in the mid of 1990s thanks to the high growth, may have increased. In order to resume economic growth, economic reforms have been accelerated with the emphasis on the restructuring of SOEs and banking sector and trade reforms.

Table 1 : Selected Macroeconomic Indicators 1987-1999

	Unit	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Population	Mill. pers.	62.5	63.7	64.8	65.8	66.9	68.0	69.2	70.3	71.5	72.8	74.1	75.4	76.6
GDP at current prices	Bill. Dong	2870	15420	28093	41955	76707	110532	140258	178534	228892	272036	313623	361016	399942
GDP at const. prices 1994	Bill. Dong	113154	119960	125571	131968	139634	151782	164043	178534	195567	213833	231264	244596	256269
GDP per capita														
- current prices	1000 Dong	46.0	242.0	433.7	637.2	1146.0	1624.5	2027.8	2539.1	3202.4	3736.8	4232.4	4788.0	5221.2
- constant prices	1000 Dong	1811.9	1882.3	1938.7	2004.2	2086.1	2230.7	2371.7	2539.1	2736.1	2937.3	3121.0	3244.0	3345.5
Fiscal revenue	Bill. Dong	379	1740	3899	6153	10353	21023	30696	42125	53370	62387	66252	68600	69500
as percentage of GDP	%	13.2	11.3	13.9	14.7	13.5	19.0	21.9	23.6	23.3	22.9	21.1	19.0	17.4
Public expenditure	Bill. Dong	513	2814	5964	8280	10863	21902	35226	42836	51694	60189	68833	69323	71498
as percentage of GDP	%	17.9	18.2	21.2	19.7	14.2	19.8	25.1	24.0	22.6	22.1	21.9	19.2	17.9
Fiscal deficits	Bill. Dong	−136	−1100	−2113	−2437	−1160	−1879	−6240	−1805	−1219	−502	−4497	−2727	−4481
as percentage of GDP	%	−4.7	−7.1	−7.5	−5.8	−1.5	−1.7	−4.4	−1.0	−0.5	−0.2	−1.4	−0.8	−1.1
Inflation rate	%	223.1	393.5	34.5	67.1	67.5	17.5	5.2	14.4	12.7	4.5	3.6	9.2	1.1
Nominal exchange rate	Dong/US$	—	—	—	6800	11180	10640	10980	11040	11030	11200	12790.4	13941.5	14050
Exports	US$ mill.	854	1038	1946	2404	2087	2581	2985	4054	5449	7256	9185	9360	11540
as percentage of GDP	%				39.0	30.4	24.8	23.4	25.1	26.3	29.9	37.5	36.1	40.5
Imports	US$ mill.	2455	2757	2566	2752	2338	2541	3924	5826	8155	11144	11592	11500	11622
as percentage of GDP	%				44.6	34.1	24.5	30.7	36.0	39.3	45.9	47.3	44.4	40.8
Trade balance	US$ mill.	−1601	−1718	−620	−348	−251	40	−939	−1772	−2707	−3888	−2407	−2139	−82
Current account balance	US$ mill.	−624	−751	−586	−259	−132	−8	−767	−1185	−1928	−2449	−1642	−1073	1252
Net capital inflows	US$ mill.	378	405	300	122	60	271	−78	897	1762	2105	1688	216	−334
Overall balance of payment	US$ mill.	−315	−297	−320	−142	50	268	−1056	−409	−199	−278	-4	−527	168

Sources: GSO (1996), GSO (1998), IMF (2000)

II.2. Current Trade Regimes

The reform of trade regimes has constituted a major component of the overall economic reforms in Vietnam. Until the late 1980s, foreign trade activities in Vietnam were subject to central decisions by the planning authorities, and could be carried out by only a small number of state trading enterprises. Over the last decade, entry to trade activities has been significantly liberalized through removing the trade monopoly of state trading enterprises and allowing producers in the state sector and private sector to engage in trade. All enterprises are now allowed to export or import any commodities in accordance with their field of business. In 1989, the parallel exchange rate system was unified, and the domestic currency was devaluated to promote exports. A managed floating exchange rate regime has been adopted and gradually liberalized.

Export duties are imposed on a small range of agricultural products and crude materials, and only a few exports are subject to quantitative restrictions and regulation mainly for security and environmental concerns. Only exports of garment and textiles to Norway, Canada and the European Union are subject to quantitative restrictions determined in bilateral agreements with these countries.

The import regimes have been gradually liberalized, but remain highly restrictive as reflected in high tariffs and pervasive non-tariff barriers (NTBs). The maximum tariff rate was reduced from 200 per cent in 1992 to 60 per cent in 1999, and the average tariff rate fell from nearly 20 per cent in the mid 1990s to around 15 per cent[2]. Many domestic industries have been protected through NTBs, which are numerous and strong in Vietnam (McCarthy 1999: p.13). Among these NTBs, quantitative restrictions and currency controls have been extensively employed. Quantitative restrictions are being imposed on 11 groups of commodities, most of which are consumer commodities. It was estimated that approximately 40 per cent of imports are subject to explicit quantitative restrictions, and nearly one-fourth of domestic production of goods is subject to protection from quantitative restrictions (Centre for International Economics (CIE) 1999: p.23).

Currency controls have been adopted to prevent capital out-flight and limit imports. The surrender requirement introduced in 1997 requires firms to sell up to 50 per cent of their foreign exchange earnings to designated banks, and the use of foreign exchange is subject to the allocation procedures designed by the state bank to limit imports of consumer goods. The restriction on imported consumer goods is also implemented through the cash margin requirement or the balancing requirement.

Imports of certain commodities are subject to minimum price valuation, which is designed to counter under-invoicing problems and can raise the prices of imports. The different tax treatments between domestic producers and imported goods have provided further protection for certain industries. Custom surcharges imposed on some imports can be regarded as additional tariffs. Anti-dumping and counter-veiling measures were introduced in 1988 to protect domestic producers from

unfair trade in both domestic and foreign markets.

Generally, high tariffs and non-tariff barriers are imposed on consumer goods, while low tariffs are generally imposed on capital goods and intermediate inputs. However several intermediate inputs, which are being produced domestically such as cement, steel, glass, fertilizers and papers, are also highly protected. Since the mid of 1990s, protection through tariff and non-tariff barriers has been extended to absorb foreign investments into so-called infant industries, such as automobile, cement or steal. As a result, a large portion of foreign direct investment has flowed into highly protected industries. Around 65 per cent of investment occurred in the sectors with the effective rate of protection of above 60 per cent (CIE 1998: p.131).

Table 2 presents the estimated effective protection rates (EPRs) by industries, based on the 1996 input-output table and nominal tariff rates estimated by CIE (1998: p.122). The effective protection rates are computed separately for import substitution industries, which benefit from higher domestic prices caused by protection, and for export-oriented industries, which sell products in foreign markets and face world prices[3]. With respect to the effective protection provided to import substitution industries, most industries enjoy higher effective rates of protection as compared to nominal rates of protection. Some industries, such as sugar or wearing apparel, receive very high effective rates of protection[4]. Mining, excluding oil exploitation, fertilizers and transportation means that receive low nominal protection face negative effective protection. Export-oriented industries face negative effective protection since they pay higher prices for imported inputs.

II.3. Commitments to Trade Liberalization

The process of opening up to the world economy has been accelerated since the mid of 1990s. Vietnam became a member of ASEAN in 1995, joined APEC in 1998, and has applied for membership in the WTO. In July 2000, Vietnam and the United States agreed on a bilateral agreement. Various commitments to trade liberalization have been made under bilateral and multilateral trade agreements and will be carried out in coming years

Table 2 : Effective Protection Rates (EPRs) by industries (%)

Industries	Nominal Tariffs	EPRs for Import Substituting Industries	EPRs for Export-Oriented industries
1. Paddy	4.6	6.3	−0.7
2. Other crops	5.7	6.7	−0.6
3. Livestock	3.4	1.7	−4.0
4. Forestry	1.1	0.5	−0.9
5. Fishery	17.4	21.5	−5.6
6. Coal	3.1	1.0	−6.0
7. Petroleum	7.6	8.8	−0.2
8. Other mining	1.0	−13.4	−19.0
9. Processed meats	17.3	108.3	−34.4
10. Vegetable oils and fats	11.3	18.2	−18.0
11. Milk and diary products	13.3	25.5	−33.1
12. Sugar	27.6	650.8	−313.2
13. Seafood	18.5	29.4	−40.0
14. Beverage	27.8	49.6	−9.6
15. Tobacco	46.0	128.2	−25.1
16. Other food processing	18.5	−2472.2	844.9
17. Glass	21.3	38.9	−10.8
18. Ceramics	33.8	143.0	−13.9
19. Paper	16.1	107.8	−79.1
20. Wood	10.9	38.3	−37.3
21. Cement	14.9	34.9	−8.4
22. Construction Materials	6.4	9.2	−18.4
23. Basic Chemicals	5.0	1.2	−14.5
24. Rubber	17.7	33.4	−22.0
25. Plastics	15.5	60.2	−131.7
26. Other chemicals	8.6	16.4	−22.6
27. Motor-vehicle and motorbike	27.5	70.5	−133.9
28. Transport means	0.2	−16.3	−17.5
29. Electrical equipment	12.0	33.4	−24.3
30. Other machinery and equipment.	9.6	14.9	−21.6
31. Non-ferrous metals	4.9	6.3	−9.9
32. Ferrous metals	2.2	1.5	−5.6
33. Textiles	27.0	67.9	−46.9
34. Wearing apparel	43.9	2077.3	−1419.3
35. Leather	6.3	−0.3	−14.8
36. Printing	12.8	19.2	−24.9
37. Other manufactures	11.1	17.5	−19.0
38. Gas & gasoline	13.9	16.2	−7.1

As a member of the ASEAN Free Trade Area (AFTA), Vietnam is obligated to cut tariffs and remove its NTBs. According to the Common Effective Preferential Tariff (CEPT) agreement, the AFTA members are obligated to reduce tariffs on intra-ASEAN trade to less than 5 per cent by the year 2002. Later members of ASEAN, including Vietnam, are allowed to complete tariff reductions over a longer period, by the year 2006. Under the CEPT scheme, tariff reductions are carried out with different schedules, namely Inclusion List (IL), Temporary Exclusion List (TEL), Unprocessed Agricultural Products (UAP) and Exclusion List (EL)[5].

The implementation of the CEPT began in 1996, but progressed slowly until 1999. Most products that were initially introduced in the Inclusion List were subject to very few non-tariff barriers and low tariffs. In 2000, tariff reductions began for the highly protected products in the TEL, and around two-thirds of the total tariff lines were already included the IL (IMF 2000, p. 38). When the tariff reductions are completed by 2006, over 97 per cent of Vietnam's tariff lines will have their tariffs reduced to under 5 per cent. In addition to tariff reductions, Vietnam is obligated to remove quantitative restrictions and non-tariff barriers. The removal of NTBs will begin as soon as products are phased in the IL and have to be completed within a period of five years.

Since ASEAN countries account for only one fifth of Vietnam's imports, the impacts of AFTA appear limited. Moreover, Singapore, the largest ASEAN trading partner of Vietnam, alone accounts for over 50 per cent of the total imports from ASEAN. A significant share of imports from Singapore does not meet with the principle of origin that requires a product to have at least 40 per cent of its content produced in the AFTA area to be qualified for preferential tariff treatments, and thereby these imports are not subject to tariff reductions.

The APEC requires its member countries to carry out unilateral trade liberalization, including free trade, liberalization of investment regimes and the opening of service sectors to foreign providers. Vietnam is committed to fulfill APEC objective of free trade and investment by the year 2020, but has not made any specific commitment on tariff reductions and NTBs. Vietnam's bid for WTO membership began in 1995, and the country expects to join this organization by 2005 (VET September 5, 2001). To acquire WTO membership, Vietnam has to lower tariffs significantly and remove non-tariff barriers.

Unilateral trade liberalization is also a major component of structural adjustment programs. According to a recent agreement with the World Bank and the IMF on short-term economic reforms (SRV, 2001), Vietnam will remove import quotas for six commodities by the year 2003[6]. The surrender requirement will be phased out, and regulations and restrictions in the foreign exchange market will be relaxed to allow a greater role for market forces.

III. Model Specification and Calibration

III.1. Model specification

This section discusses the structure of the model used in this paper to analyze the trade reforms in Vietnam. Our model follows closely the neoclassical CGE model for an open economy developed by K. Dervis, J. de Melo and S. Robinson in the early 1980s[7]. Our model uses constant elasticity of substitution (CES) functions in production and imports. Export supply is also determined by constant elasticity of transformation (CET) functions. The model assumes factor mobility, but takes into account distortions in factor markets. The structure of the model is discussed in detail below[8].

The model identifies several kinds of prices, consisting of export prices, import prices, domestic prices, producer prices, wages and capital rents. The world prices of imports are treated exogenously in accordance with the small country assumption, which states that a country is a price taker and cannot affect international prices. Assuming that the country sells differentiated products in the world market, the small country assumption is no longer applied to exports. Exporters face a downward sloping world demand curve, and any increase in the volume of exports results in a decline in the dollar price received by exporters. Export and import prices in dollars are translated into domestic currency by using the exchange rate with tariffs added (in the case of imports) or export duties subtracted (in the case of exports).

Composite prices are computed from domestic prices of domestically produced goods and import prices. Producer prices are the composite prices of export prices and domestic prices. Value added prices are producer prices minus production taxes and intermediate costs. Since CGE models determine only relative prices, the choice of a numeraire is required to determine the absolute price level. In this model, the exchange rate, or the GDP deflator in some cases, is defined as the numeraire.

Domestic output in each sector is a CES function between capital and labor. Factor demand is derived from the profit maximization condition, which requires that factor prices equal their marginal revenue products. Our model is medium-term in the sense that labor and capital are mobile among industries but takes into consideration distortions in factor markets. Sectoral factor prices are equal to the average factor price level times fixed coefficients, which reflect the differences in sectoral marginal products of labor and capital.

Imports and domestically produced products are imperfect substitutes. The composite product in each sector is a CES function of domestically produced products and imports. Demand for domestic and imported products is derived from the cost minimization condition. Domestic producers seeking to maximize revenue decide how much to sell in domestic markets and in foreign markets. The treatment of exports is based on CET functions. Assuming producers maximize revenue given a level of output, the amounts of export and domestic supply are derived from the revenue maximization

condition. The sectoral export demand is the function of the world export price.

The model identifies two economic agents, that is government and households, which get income, consume and save a part of their income. Household income is equal to the sum of factor income minus the direct tax payment. Government revenue consists of revenues from direct taxes, indirect taxes, tariffs and export duties. Government and households are assumed to save fixed shares of their income or revenue. The household consumption demand is based on a Cobb-Douglas utility function, with fixed expenditure shares. The governmental final demand is defined using fixed expenditure shares of real spending. Total nominal fixed investment is converted into real fixed investment by using an investment deflator. Sectoral demand for capital goods is then computed through fixed coefficients. Since the model is static, investment simply represents a demand component with no effect on the supply side.

Equilibrium conditions identified in the model consist of equilibrium conditions in product and factor markets, and three macro equilibrium conditions in the foreign exchange market, fiscal balance and investment-savings balance. Equilibrium conditions in factor markets are implied in the treatments of factor markets, with factor prices serving as equilibrating variables. Equilibrium in product markets equates the supply of the domestic product to its demand in each sector, with domestic prices serving as equilibrating variables.

The fiscal balance is also implied in the treatment of the government sector, in which government consumption is determined as the difference between government revenue and government savings. Equilibrium in foreign exchange markets requires that the difference between exports and imports equals the inflow of foreign capital or foreign savings. Foreign savings is typically treated as exogenous, and the exchange rate will adjust to achieve equilibrium through its effects on import and export prices. In some simulations, the exchange rate is exogenous, and in these cases, foreign savings will serve as an equilibrating variable.

The savings-investment balance requires that total nominal investment, which consists of fixed investment and inventory investment, is equal to total savings. Total savings is the sum of private savings, government saving and foreign savings in the term of domestic currency. The model adopts the neoclassical closure, under which investment is determined by total saving[9]. Since the model satisfies Walras's law, the saving-investment balance is considered as redundant and is dropped.

III.2. Data and Calibration of the Model

The model makes use of the 1996 input-output table developed by Vietnam's General Statistical Office (GSO, 1999). It differentiates 24 sectors aggregated from 97 sectors in the input-output table. Among these 24 sectors, there are 2 agricultural sectors, 2 mining sectors, 13 manufacturing sectors, 5 service sectors and electricity, gas and water, construction. The input-output table is valued at

producer prices.

Parameters and exogenous variables are computed using information contained in the input-output table and other data sources. Sectoral wage rates are estimated using income-to-labor data in the input-output table and employment data from official statistics. Although data on capital stock is available in some business surveys, such data provides only fixed price value that do not reflect the actual value of capital. Our approach, adapted from Ezaki and Son (1997: p.17), is to estimate total capital stock and then allocate it to each sector using the income-to-capital data in the I-O table and the relative profit rates obtained from GSO (1997).

Total revenue from import tariffs is allocated among sectors by using average weighted tariff rates estimated by CIE (1998). Government revenue consists of revenue from taxes. Total savings is equal to total capital accumulation in the input-output table. Private savings is calculated from total savings after subtracting government savings and foreign savings. Household income or private income is the sum of factor income minus the direct tax payment to government. Subtracting private savings from private income, we get household or private consumption. Other parameters relating to demand for inputs (I-O coefficients), composition of consumption and demand for capital goods by sectors of origin are computed using data in the input-output table.

Scale and share parameters in production and trade functions are computed using the calibration procedure proposed by Mansur and Whalley (1984). Given the type of functions and elasticities of substitution, these parameters can be estimated based on the benchmark data set. Since time-series data is not available to apply econometric techniques, elasticities of substitution and elasticities of transformation are assigned with reference to previous CGE models developed for Vietnam and actual conditions of the economy.

Table 3 : Elasticities in Trade and Production Functions

Sectors	Elasticities of substitution in production functions	Elasticities of substitution import demand functions	Elasticities of transformation in CET export functions	Price elasticities in export demand functions
Agriculture	1.2	1.2	0.8	1.0
Light industries	0.8	0.8	0.8	1.0
Heavy industries	0.5	0.5	0.8	1.0
Services	0.8	0.8	0.8	1.0

With respect to the elasticities of substitution between domestic and imported products, low elasticities are assumed for heavy industries, relatively low elasticities for light industries and services, and a relatively high elasticity for agriculture. Similarly elasticities of substitution between labor and capital are assumed low in heavy industries, relatively low in light industries and services and high in

agriculture. An elasticity of 0.8 is used in CET functions, and a price elasticity of 1 is assumed in the export demand functions[10] .

IV. Simulation Results

Seven simulations have been performed and are explained briefly in table 4. Since the lack of data makes it difficult to quantify the impacts of removing NTBs, we focus on analyzing impacts of tariff reduction and complementary macro policies. Generally we assume a uniform tariff reduction of 50 per cent across industries. In section IV.1, we discuss the effects of tariff reductions, then examining exchange rate and fiscal policies in sections IV.2 and IV.3.

Table 4 : Simulation Scenarios

Scenarios	Contents
Simulation 1	Partial liberalization : 50 % cut in tariff rates, flexible exchange rate
Simulation 2	Full liberalization : remove all tariffs, flexible exchange rate
Simulation 3	Partial liberalization, fixed exchange rate,
Simulation 4	Partial liberalization, 10 % devaluation
Simulation 5	Partial liberalization, exogenous real fixed investment, endogenous foreign savings, flexible exchange rate
Simulation 6	Partial liberalization : compensating revenue loss through direct tax
Simulation 7	Partial liberalization : compensating revenue loss through indirect taxes

IV.1.Trade Liberalization, Output and Employment

The effects of trade liberalization are analyzed in the two first simulations S 1 and S2. With respect to prices, the consumer price index falls by 4.3 per cent in the case of partial liberalization and by 8.9 per cent in the case of full liberalization. The GDP deflator declines by 5.8 per cent and 12.1 per cent respectively. Tariff reductions also have a considerable impact on the exchange rate, which depreciates from 5 to 12 per cent in real terms. Factor prices also fall, but to a lesser extent compared to the decline in commodity prices, resulting in an increase in factor income. Private consumption and the welfare index both increase by 0.9 per cent in the partial liberalization scenario, and by 2 per cent and 1.9 per cent in the full liberalization scenario.

The tariff reduction causes a sharp decline in government revenue. Imports increase only slightly and do not offset the effect of reducing tariffs. The prices of the products, which are being levied with high tariffs, also fall more sharply and further increase the revenue loss. Government revenue falls by 15 per cent or 2 per cent of GDP in the scenario of partial liberalization. The revenue loss increases to 31 per cent or 4.5 per cent of GDP in the case of full liberalization. Due to the treatment of the government sector, the revenue loss causes proportionate decreases in government savings and

consumption. The decrease in government savings also leads to a decrease in total savings and investment. Real fixed investment falls by 4.3 per cent in the case of partial liberalization and 9.5 per cent in the case of full liberalization.

The decline in domestic prices stimulates exports, and a significant growth of exports can be seen in many industries. Imports increase significantly in some sectors, which are being levied with high tariff rates such as in tobacco and beverages and textiles. Export-oriented and light industries benefit from trade liberalization. Output in textile industries increases by 5.9 per cent in the case of partial liberalization and by 13 per cent when tariffs are completely removed. The decline in investment leads to a contraction of output in construction and other industries producing capital goods. It is, however, public services that suffer the greatest loss as a result of the sharp reduction in government revenue and expenditure.

The output gain in export-oriented industries does not fully offset the loss incurred by capital producing industries and public services. Real GDP falls by 0.1 per cent in the partial liberalization scenario, but increases to 0.3 per cent in the case of full liberalization. Employment in non-agricultural sectors falls by 0.9 per cent in the partial liberalization simulation and by 2 per cent in the case of full liberalization. Since the model adopts the full-employment assumption, redundant workers in non-agricultural sectors are absorbed into agriculture, resulting in a small increase in this sector.

The pattern of changes in employment among sectors follows closely the shift in the production sectors. Labor moves toward expanding industries, such as textile, clothing and food processing. Employment in textiles and clothing and leather increases by 5.6 per cent and 4.7 per cent in the partial liberalization scenario, and by 12.3 per cent and 10.1 per cent in the full liberalization scenario. Employment falls in machinery and equipment, construction, construction materials and public services.

IV.2.Exchange Rate and Foreign Savings

When foreign savings is treated exogenously and the exchange rate is flexible, the decline in the domestic prices of imports causes an increase in imported goods, which then requires a real depreciation to maintain the initial trade balance. To examine the effect of liberalization on the external balance, we use an alternative external closure in simulations S3 and S4, in which foreign savings is treated endogenously and the exchange rate is fixed. In these simulations, the GDP deflator serves as the numeraire in place of the exchange rate.

In simulation S3, the exchange rate is fixed at the benchmark level, and simulation S4 assumes a devaluation of domestic currency. With the assumption of flexible foreign savings, imports increase significantly, by more than 5 per cent as compared to the base run level. Significant increases in imports are seen in certain sectors, such as fisheries (15.4 per cent), tobacco and beverage (26.1 per

cent) and construction materials (10.4 per cent). Exports decline by 0.1 per cent and, as a result, the trade deficit increases by 27.4 per cent.

The increase in foreign savings more than offsets the decline in government savings and results in increases in total savings and investment. Real GDP increases by 0.5 per cent, and the expansion of production are seen in most manufacturing sectors. In export-oriented industries such as textile and leather, however, the increase in output is not as high when compared to the case of the flexible exchange rate. Employment in non-agricultural sectors increases by 0.4 per cent and causes a small decline in agricultural employment and output.

In simulation S4, a currency devaluation of 10 per cent reduces the trade deficit by 16 per cent. This is achieved by a 2.6 per cent decline in imports and a 4.7 per cent increase in exports. The currency devaluation raises the consumer price index by 2 per cent, resulting in slight declines in private consumption and the welfare index. Due to the treatment of foreign savings, the decline in trade deficits causes a sharp fall in total saving and investment. As a result, real GDP declines by 1 per cent. It is likely, however, that there will be an increase in foreign capital inflows and domestic investment following trade liberalization and devaluation.

In the simulations discussed above, the decline in investment caused by decreased government or foreign savings partly leads to the decline in GDP. In the simulation S5, we treat the real fixed investment as exogenous and foreign savings is adjusted to obtain the level of investment. The results show that an increase of 11.3 per cent in foreign savings is required to sustain investment. Sustaining real investment maintains output in capital producing industries, and real GDP increases slightly.

IV.3.Trade Liberalization and Complementary Tax Policies

The last two simulations presented in this section are both revenue neutral, but they differ in the way government revenue is sustained. Government revenue is a fixed share of nominal GDP, and either the direct tax or production taxes are allowed to adjust to achieve the targeted revenue. In the simulation S6, government compensates for the revenue loss by raising the profit tax or direct tax, or by increasing production taxes by a uniform rate in the simulation S7.

The computation results show that an increase of 20 per cent in all production taxes is required to compensate for the revenue loss caused by the 50 per cent cut in tariffs. Due to the relatively small tax base, an increase of 40 per cent in the direct tax rate is required if government wants to maintain revenue through the profit tax. In both simulations, the increase in tax rates causes a decline in private income, which in turn leads to a proportionate decline in private savings and consumption. Total private consumption falls by nearly 1.3 per cent in both simulations, and the welfare index also declines to a similar extent.

Sustaining revenue mitigates the adverse impacts of tariff cuts and almost eliminates the output

Table 5 : Impact of Trade Liberalization, Selected Macroeconomic Indicators

Indicators	Base run level Bill. Dong	% change as compared to the base-run						
		S1	S2	S3	S4	S5	S6	S7
Wage of agricultural. labor	2.9302	−2.85	−6.00	3.48	2.95	−0.28	−4.46	−6.03
Wage of non-agricultural labor	9.2916	−3.51	−7.37	2.81	2.22	−0.94	−4.71	−6.11
Average capital rents	0.1166	−3.26	−6.86	3.77	2.06	−0.43	−3.34	−6.26
Domestic prices	1.0000	−4.09	−8.47	1.22	2.16	−1.92	−5.09	−4.60
Consumer's price index	1.0000	−4.34	−8.98	0.23	2.34	−2.47	−5.30	−4.91
GDP deflator	1.0000	−5.81	−12.09	0.00	0.00	−3.45	−6.85	−6.10
Nominal exchange rate	1.0000	0.00	0.00	0.00	10.00	0.00	0.00	0.00
Real exchange rate	1.0000	4.54	9.87	−0.23	7.48	2.53	5.60	5.17
Nominal GDP	277521	−5.93	−12.34	0.52	−0.53	−3.31	−6.54	−6.14
Real GDP	277521	−0.13	−0.28	0.52	−0.53	0.14	0.34	−0.04
Total imports	150337	0.26	0.62	5.16	−2.61	2.28	0.24	0.23
Total exports	111177	2.89	6.26	−0.09	4.72	1.64	3.29	2.31
Private consumption	203809	0.90	1.95	3.21	−0.42	1.85	−1.27	−1.25
Welfare index	17177	0.89	1.86	3.17	−0.43	1.82	−1.29	−1.27
Agricultural labor	24775	0.41	0.88	−0.15	0.76	0.17	−0.24	0.02
Non-agricultural labor	11017	−0.92	−1.99	0.35	−1.70	−0.39	0.54	−0.04
Government revenue	58168	−15.07	−31.05	−10.20	−9.64	−13.09	−6.54	−6.14
As % of GDP	21.0	18.9	16.5	18.8	18.7	19.0	21.0	21.0
Government saving	36746	−15.07	−31.05	−10.20	−9.64	−13.09	−6.54	−6.14
Private income	219353	−3.51	−7.37	3.36	1.88	−0.72	−6.54	−6.14
Private savings	15544	−3.51	−7.37	3.36	1.88	−0.72	−6.54	−6.14
Foreign saving	24160	0.00	0.00	27.42	−16.09	11.29	0.00	0.00
Nominal investment	76450	−7.96	−16.42	4.45	−6.68	−2.87	−4.47	−4.20
Real investment	76450	−3.74	−8.16	5.40	−9.37	0.09	0.41	0.13
Real fixed investment	66602	-4.34	−9.48	6.01	−10.72	0.00	0.36	0.13

Table 6 : Impacts of Trade Liberalization, Production and Employment by Industries

Indicators	Production by industries								Employment by industries							
	Base run	% change as compared to the base-run							Base run 1000 persons	% change as compared to the base-run						
	Bill.Dong	S1	S2	S3	S4	S5	S6	S7		S1	S2	S3	S4	S5	S6	S7
1. Agriculture	101273	0.46	1.00	−0.15	0.84	0.20	−0.28	0.01	24153	0.40	0.87	−0.17	0.75	0.16	−0.24	0.02
2. Fishing	16624	0.85	1.78	0.60	1.03	0.74	−0.21	0.19	623	0.74	1.54	0.56	0.87	0.66	−0.14	0.19
3. Petroleum	15002	3.86	8.43	−2.69	7.97	1.10	4.20	−0.30	104	3.41	7.43	−2.83	7.31	0.78	4.50	−0.29
4. Other mining	11661	−2.07	−4.53	3.44	−5.50	0.25	0.86	0.36	108	−2.23	−4.85	3.38	−5.72	0.13	0.97	0.36
5. Food processing	70000	0.90	1.90	0.45	1.22	0.70	0.01	0.12	892	0.65	1.36	0.37	0.86	0.52	0.17	0.13
6. Beverage & Tobacco	12595	0.55	1.08	1.95	−0.27	1.12	−1.47	−6.21	251	0.12	0.17	1.80	−0.88	0.81	−1.19	−6.19
7. Wood & paper	16803	0.15	0.38	0.36	0.01	0.24	0.96	0.50	233	−0.13	−0.22	0.27	−0.39	0.04	1.15	0.51
8. Construction Materials	16287	−3.63	−7.81	3.11	−7.86	−0.78	−0.14	−0.79	241	−4.10	−8.76	2.94	−8.50	−1.13	0.19	−0.77
9. Fertilizers	2431	2.09	4.44	0.04	3.34	1.23	1.72	1.48	43	1.94	4.11	−0.01	3.12	1.13	1.82	1.49
10. Chemicals	11534	0.64	1.35	1.40	0.17	0.95	0.88	0.03	183	0.46	0.97	1.34	−0.08	0.83	0.99	0.04
11. Motorbike and transport means	5700	0.86	1.74	2.93	−0.39	1.72	0.91	0.51	86	0.76	1.54	2.90	−0.52	1.65	0.98	0.51
12. Electrical equipment	1679	−2.68	−5.66	0.37	−4.62	−1.38	−1.07	−1.93	30	−2.83	−5.97	0.32	−4.82	−1.49	−0.97	−1.92
13. Other machinery and equipment.	6248	−1.44	−3.19	3.40	−4.42	0.59	−0.22	−0.48	151	−1.58	−3.49	3.35	-4.62	0.48	−0.12	−0.47
14. Metals	5368	−1.33	−2.93	2.41	−3.73	0.26	0.91	0.34	141	−1.50	−3.28	2.35	−3.97	0.14	1.02	0.34
15. Textile & clothing	20767	5.89	12.98	3.44	7.41	4.86	6.01	5.64	402	5.59	12.30	3.34	6.97	4.65	6.21	5.65
16. Leather	6367	4.85	10.48	1.26	7.04	3.35	5.44	4.74	263	4.69	10.14	1.21	6.81	3.24	5.54	4.75
17. Other manufactures	14351	0.08	0.12	0.91	−0.41	0.42	−0.15	−0.46	373	−0.08	−0.22	0.86	−0.64	0.31	−0.05	−0.45
18. Electricity, water & gas	13856	−1.76	−3.65	−1.79	−1.82	−1.75	−0.92	−1.42	154	−1.87	−3.89	−1.82	−1.99	−1.83	−0.85	−1.41
19. Constructions	53710	−4.23	−9.24	5.78	−10.41	−0.03	0.35	0.12	975	−4.39	−9.56	5.72	−10.62	−0.15	0.46	0.13
20. Trade, hotel & restaurant	50151	0.64	1.36	0.66	0.65	0.65	0.44	−0.12	2677	0.36	0.76	0.57	0.25	0.45	0.62	−0.11
21. Transports & telecommunications	22294	1.33	2.79	1.09	1.45	1.24	1.98	−0.08	856	0.99	2.05	0.97	0.96	0.99	2.21	−0.07
22. Banking	6356	1.56	3.36	−1.11	3.19	0.44	2.18	2.92	125	1.26	2.71	−1.21	2.76	0.23	2.38	2.93
23. Public services	40718	−5.51	−11.81	−5.05	−5.79	−5.32	−1.54	−0.65	1637	−5.56	−11.89	−5.06	−5.86	−5.35	−1.51	−0.64
24. Other services	28640	−0.75	−1.65	−0.15	−1.10	−0.50	−1.13	−1.15	1092	−1.19	−2.58	−0.30	−1.74	−0.82	−0.83	−1.14

Table 7 : Impacts of Trade Liberalization, Exports and Imports by Industries

Indicators	Exports by industries								Imports by industries							
	Base run	% change as compared to the base-run							Base run	% change as compared to the base-run						
	Bill.Dong	S1	S2	S3	S4	S5	S6	S7	Bill.Dong	S1	S2	S3	S4	S5	S6	S7
1. Agriculture	14783	1.53	3.29	−1.15	3.15	0.41	1.69	2.02	11224	−0.09	−0.53	6.69	−3.90	2.66	−2.72	−2.87
2. Fishing	2792	2.09	4.48	−0.51	3.69	1.00	2.07	2.42	14	7.03	15.17	15.43	2.36	10.43	3.75	3.85
3. Petroleum	14917	3.87	8.44	−2.68	7.98	1.11	4.20	−0.29	221	0.59	1.34	−0.91	1.47	−0.03	1.28	−0.24
4. Other mining	2127	0.77	1.51	2.04	−0.14	1.34	2.71	2.00	304	−7.34	−15.31	5.24	−14.56	−2.20	−4.64	−3.93
5. Food processing	20186	2.03	4.34	−0.59	3.65	0.93	2.09	2.11	6353	3.80	7.93	9.71	0.44	6.21	1.05	1.34
6. Beverage & Tobacco	637	2.05	4.35	0.53	2.96	1.42	1.28	−3.89	939	19.07	51.20	26.14	15.05	21.95	15.75	15.30
7. Wood & paper	4628	2.21	4.74	0.40	3.30	1.46	3.01	2.50	4009	0.92	1.77	6.31	−2.24	3.14	1.15	1.16
8. Construction Materials	1109	−0.04	−0.27	1.66	−1.29	0.72	2.19	1.14	4001	−1.38	−3.43	10.35	−8.28	3.46	1.98	2.62
9. Fertilizers	259	2.86	6.08	0.29	4.42	1.79	2.85	2.22	10484	0.05	0.11	−0.32	0.27	−0.11	−0.60	−0.22
10. Chemicals	1701	2.36	5.00	1.34	2.95	1.94	2.73	1.75	16767	0.43	0.81	3.34	−1.27	1.63	0.37	0.13
11. Motorbike and transport means	1622	2.59	5.42	2.77	2.46	2.67	2.79	2.42	10831	0.72	1.34	5.19	−1.91	2.56	0.49	0.22
12. Electrical equipment	5	0.17	0.24	0.78	−0.31	0.45	1.27	0.19	4776	−1.52	−3.35	2.85	−4.18	0.31	−0.09	−0.30
13. Other machinery and equipment.	672	0.99	1.93	2.43	0.00	1.61	1.89	1.55	25669	−1.49	−3.42	5.51	−5.67	1.41	−0.43	−0.46
14. Metals	54	0.72	1.41	1.36	0.18	1.02	2.20	1.77	12995	−1.93	−4.23	3.49	−5.25	0.33	0.07	−0.38
15. Textile & clothing	12254	7.17	15.91	4.12	9.03	5.90	7.56	7.17	8943	10.03	23.62	12.40	8.71	10.99	8.70	8.68
16. Leather	5575	4.98	10.78	1.15	7.32	3.38	5.69	4.98	1994	1.44	2.89	4.62	−0.33	2.73	−0.24	−0.23
17. Other manufactures	1511	1.96	4.15	0.58	2.79	1.39	2.17	1.60	1947	0.45	0.77	3.84	−1.51	1.84	−0.24	−0.05
18. Electricity, water & gas	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13543	1.55	3.10	6.28	−1.21	3.50	1.54	1.43
19. Constructions	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00
20. Trade, hotel & restaurant	12561	2.02	4.33	−0.46	3.53	0.98	2.33	1.53	3501	−3.19	−6.72	2.93	−6.69	−0.69	-4.44	−4.01
21. Transports & telecommunications	7772	2.62	5.60	0.41	3.94	1.71	3.29	0.59	5280	−3.35	−7.05	2.16	−6.57	−1.09	−3.24	−1.93
22. Banking	3075	2.36	5.10	−1.67	4.84	0.67	3.12	3.92	3342	−2.57	−5.45	1.88	−5.17	−0.74	−2.90	−3.00
23. Public services	1436	−1.57	−3.59	−3.63	−0.34	−2.43	1.25	2.08	1536	−8.43	−17.53	−3.75	−11.10	−6.52	−5.40	−5.07
24. Other services	1502	1.28	2.71	−0.97	2.65	0.35	1.37	1.31	1665	−3.95	−8.28	1.55	−7.09	−1.71	−4.87	−4.83

loss in the case of endogenous production taxes. Moreover there is a small gain of 0.3 per cent of GDP in the case of the endogenous direct tax. The increase in government savings more than offsets the decline in private savings and, as a result, total real investment increases. Sectors producing capital goods, such as construction, construction materials, machinery and metals, expand or have their output decline to a lesser extent compared to the case of partial liberalization, largely due to the recovery in investment and the increased demand for capital goods. Similarly the contraction in public services falls sharply as government revenue is sustained.

The effects of the complementary tax policies differ among sectors. In the case of endogenous production taxes, many sectors producing consumer goods, which are being levied with high rates such as the beverage and tobacco, trade, transport, and petroleum undergo a considerable contraction as compared to the partial liberalization scenario. Raising production taxes seems work against exports, with the growth of exports falling to 2.3 per cent in the scenario S 7 as compared to 3.9 per cent in the scenario S6. Exports decline in highly taxed industries, such as petroleum, beverage, and some heavy industries.

Sustaining government revenue through direct taxes appears to have more positive impacts as compared to the case of increasing production taxes. However given the small direct tax base, increasing the share of direct taxes in total tax revenue should be a long-term policy objective. In the short-term, it has been suggested to expand the special sale tax, which is being imposed on several luxury consumer goods, to compensate for the decrease in tariff revenue.

V. Conclusions

In this paper, we have used a CGE model to assess the impacts of unilateral trade liberalization at both macro and sectoral levels and to examine the role of complementary policies. At the aggregate level, the tariff reduction causes a decline in GDP, but the overall output loss is small. Capital producing industries and public services suffer considerable losses, while export-oriented industries experience a significant expansion. It should be noted that, as a single country model, the model is not able to capture the benefit of a greater export market access resulting from liberalization in its trading partners, thereby not capturing the overall effect of a multilateral liberalization.

The simulation results have also indicated the need for the introduction of complementary macro policies. Without currency depreciation, tariff reduction may critically worsen trade deficits. With a flexible exchange rate in place, there is a strong depreciation of domestic currency that offset the adverse impacts of tariff reductions. Currency devaluation appears to have a strong impact on exports, imports and the trade balance. Government revenue may fall sharply as tariffs are cut, raising the need for complementary tax policies. Sustaining government revenue through complementary tax policies not only sustains public expenditure, but mitigates the adverse impacts of

trade liberalization.

Endnotes

1) According to estimates by the IMF staff, the growth rate of GDP was 3.5 per cent in 1998 and 4.2 per cent in 1999. See IMF (2000), p. 6.

2) In 2000, the tariff system was revised as government removed some of the quantitative restrictions. For some products, the tariff rate of 100 per cent is employed in place of NTBs (IMF 2000: p. 35)

3) See, for example, Fukase and Martin (1998) for a discussion on the difference between the effective protection provided to import substitution and export-oriented industries. See also Fukase and Martin (1998, p 15) or CIE (1998, p.124) for other estimates of EPRs

4) High EPRs observed in these industries are due to their inefficiency. The sugar and wearing apparel industries have very low value added at world prices, while other food processing has negative value added.

5) Products phased in IL are subject to immediate tariff reduction following fast track (tariffs are to be reduced to less than 4% by the year 2000) or normal track (products with current tariff rates under 20% will have tariff reduced to 0-5% by the year 2003). For products with tariffs above 20%, rates are to be reduced to 0-5% by the year 2006. Products in the TEL are phased into the IL from the year 2000 in equal installments over the period of five years. Certain products in the UAP are transferred to the IL or the TEL, and. the remaining is referred as the Sensitive List and has tariffs reduced to 0-5% by the year 2013. Products in the EL are not subject to tariff reduction due to security or health reasons.

6) The six products are cement and clinker, steel, paper, construction glass, vegetable oil, granite and ceramic. Quotas remain on motorcar, motorcycles, sugar, alcohol and petroleum.

7) See Dervis K. et al. (1982), chapter 7. See also Robinson et al. (1999).

8) For an algebraic expression of the model, see Nguyen (2001)

9) The neoclassical closure assumes that investment is brought into equilibrium with savings through certain mechanisms such as the interest rate. An alternative closure is to assume savings to be determined by an exogenous level of investment. For a review of different closure rules and their impacts on simulation results, see Rattso (1982).

10) For further discussion about trade and production elasticities, see Dixon et al. (1992) or Sadoulet and Janvry (1995, p. 354). See also Dao et al (1998, p.31) for elasticity parameters used in a CGE model for Vietnam.

References

Anh, Vu Tuan. 1997. Economic Policy Reforms: an Introductory Overview. In Norlund Irene et al. eds. Vietnam in a Changing World. Richmond: Curzon Press.

Centre for International Economics (CIE). 1998. Trade Policies in Vietnam, 1998. Canberra and

Sydney: Centre for International Economics.

Centre for International Economics (CIE). 1999. Non-tariff Barriers in Vietnam: a framework for developing a phase out strategy. Canberra and Sydney: Centre for International Economics.

Dervis, Kemal, Jaime de Melo and Sherman Robinson. 1982. General Equilibrium Models for Development Policies. Cambridge: Cambridge University Press.

Devarajan, Shantayanan, Jeffrey D. Lewis and Sherman Robinson. 1990. Policy Lessons from Trade-Focused, Two-Sector Models. Journal of Policy Modeling. 12 (4) : 625-657.

Ezaki, Mitsuo and Le Anh Son. 1997. Prospect of the Vietnamese Economy in the Medium and Long Run: a Dynamic CGE Analysis. APEC Discussion Paper, No. 10. APEC Study Center, GSID, Nagoya University.

Ezaki, Mitsuo and Sun Lin. 2000. Trade Liberalization and the Economy of China: A Dynamic CGE Analysis (1997-2010). APEC Discussion Paper, No. 29. APEC Study Center, GSID, Nagoya University.

Fukase, Emiko and Will Martin. 1998. A Quantitative Evaluation of Vietnam's Accession to the ASEAN Free Trade Area (AFTA). Development Research Group, World Bank, Washington DC.

Fukase, Emiko and Will Martin. 1999. The effect of the United States Granting Most Favored Nation Status to Vietnam. Development Research Group, World Bank, Washington DC.

General Statistical Office (GSO). 1996. Dong thai va Thuc trang Kinh te Xa hoi Viet nam Sau Muoi Nam Doi moi "(Impetus and present situation of Vietnam society and economy after ten years of Doi moi). Hanoi: Statistical Publishing House.

General Statistical Office (GSO). 1997. Mot so Chi tieu Chu yeu ve Quy mo va Hieu Qua cua 1.9 trieu Co so San xuat Kinh doanh tren Lanh tho Viet nam. (The main facts and figures on the extent and effectiveness of 1.9 million businesses and enterprises in Vietnam's territory). Hanoi: Statistical Publishing House.

General Statistical Office (GSO). 1998. Statistical Yearbook 1997. Hanoi: Statistical Publishing House.

General Statistical Office (GSO). 1999. Intersectoral Table on Production and Use of Products in Vietnam 1996. Hanoi: Statistical Publishing House.

International Monetary Fund (IMF). 1999. Vietnam: Selected Issues. IMF Staff Country Report No. 99/55, Washington DC.

International Monetary Fund (IMF). 2000. Vietnam: Statistical Appendix and Background Notes. IMF Staff Country Report No. 00/116. Washington DC.

Mansur, Ahsan and John Whalley. 1984. Numerical Specification: of Applied General Equilibrium Models: Estimation, Calibration and Data. In Scarf H. E. and Shoven J.B., Applied General Equilibrium Analysis. Cambridge: Cambridge University Press.

McCarty, Adam. 1999. Vietnam's Integration with ASEAN: Survey of Non-Tariff Measures Affecting

Trade. A report prepared for the Office of the Government of Vietnam. United Nations Development Program, Project VIE 95/015, Hanoi.

Nguyen, Tien Dung. 2001. Trade Reforms in Vietnam and its Integration with the World economy. Unpublished master thesis. Nagoya: Graduate School of International Development (GSID), Nagoya University.

Rattso, Jorn. 1982. Different Macro Closures of the Original Johansen Model and Their Impact on Policy Evaluation. Journal of Policy Modeling, 4 (2), p. 65-76.

Robinson, Sherman, A. Yunez Naude, R. Hinojosa Ojeda, J. Lewis and S. Devarajan. 1999. From Stylized to Applied Models. North American of Economics and Finance. 10 (1) p5-38.

Sadoulet, Elisabeth & Alain de Janvry. 1995. Quantitative Development Policy Analysis. Baltimore and London: Johns Hopkins University Press.

Socialist Republic of Vietnam (SRV). 1999. Individual Action Plan, 1999. The document submitted to the APEC Secretariats. APEC homepage: http://www.apecsec.org.

Socialist Republic of Vietnam (SRV). 2001. Memorandum on Economic and Financial Policies of the Government of Vietnam for 2001. The IMF homepage: http;//www.imf.org.

Vietnam Economic Times (VET). 2001. Vietnam is expected to join the WTO by 2005. Vietnam Economic Times, September 5, 2001.

『国際開発研究フォーラム』執筆・投稿・審査規程

2002年3月1日改訂
『国際開発研究フォーラム』23号より適用

I. 執筆

(1) 本誌は、国際開発、国際協力、国際コミュニケーションの分野における学術的研究に寄与することを目的とし、掲載の種類は、研究論文および書評論文とする。

(2) 論文の長さは、和文原稿の場合400字詰め原稿用紙50枚以内を原則とし、英文原稿の場合は約8000語を目安とする（いずれの場合も図表、注記、文献表示を含み、図表は1枚400字相当と換算する)。和文・英文いずれの場合も、英文にて200語程度の要約を付けるものとする。書評論文については和文10000字、英文4000語以内を原則とする。ただし、上記字数制限を大幅に超過する場合は、紀要編集委員会に事前に申し出、委員会がその理由を正当であると見なした場合に限り、字数の上限を引き上げることを認めることもある。投稿者は事前に委員会に相談されたい。

(3) 使用言語は、原則として日本語もしくは英語とする。それ以外の言語、特殊な文字・記号の使用に関しては、紀要編集委員会に相談されたい。

(4) 本文中の章題番号はローマ数字（ゴシック）I, II, III, IV…を使用し、節題番号はアラビア数字1、2、3…を使用すること。

(5) 図表の提示の仕方は以下の通りとする。

和文原稿の場合　図１　ベトナムにおける直接投資の推移

（注）
（出所）

表１　世界の主要な地域統合

（注）
（出所）

英文原稿の場合

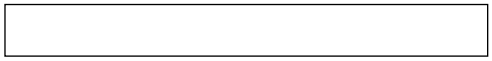
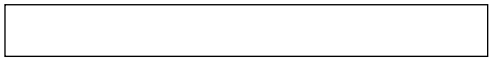


Figure 1 FDI to Vietnam

Note:

Source:

Table 1 Regional Integration



Note:

Source:

(6) 本文または注記における文献の引用は、次のとおりとする。

主語の場合：

松下（1997）は、…大野・藤野（1990）によれば、…

Kuznets（1953a）によれば、… Krueger とBhagwati（1973）は、……

文末表示の場合：

…である（緒方: 1984)。…と言える（鶴見・川田: 1989)。

…と言えよう（Drèze and Sen: 1990)。

ページを特定する場合：

…という指摘がある（青木 1999: 25-27)。

…と考えられる（Taylor and Wilson 1989: 145-150)。

(7) 注記について

注記のつけ方は、(…..と考えられる[1]。）とする。注記は論文末に一括掲載する。

(8) 引用文献の表示方法

・日本語文献と外国語文献とを一つにまとめて、各文献を筆頭著者の姓のアルファベット順にする。

・同一発行年に同一著者による著作が複数ある場合には、(1999a)（1999b）のようにし区別する。

日本語単行本：著者. 発行年.『書名』出版社名.

＜例＞　鶴見和子・川田侃（編）. 1989.『内発的発展論』東京大学出版会.

日本語雑誌論文：著者. 発行年.「題名」『雑誌名』巻(号):頁 - 頁.

＜例＞　岡部達味. 1997.「国際政治と中国外交」『国際政治』114: 42 - 56.

（２行にわたる場合は２行目以降を全角１文字（英数２文字）落しで記述する。）

安田信之. 1999.「知的協力としての法制度の移転：制度知としての法の移植」『国際開発研究』8(2): 5 - 18.

外国語単行本：著者. 発行年. *書名*. 出版地: 出版社名.

＜例＞ Fawsett, L. and Andrew Hurrell eds. 1995. *Regionalism in World Politics*. New York: Oxford University Press.

外国語雑誌論文：著者. 発行年. 論文名. *雑誌名* 巻数(号数): 頁 - 頁.

＜例＞ Rosenau, James N. 1995. Governance in the Twenty-first Century. *Global Governance*.1（1）: 13-43.

II. 投稿

（1）本研究科の学生が投稿する場合、投稿者は投稿申込書に必要事項を記入するとともに、指導教官の許諾を得ることを条件とする。投稿申込書に記載してある事項に基づき、校正等の連絡を行う。

（2）投稿原稿は無記名とし、論文のタイトルのみを表紙につけるものとする。これにより投稿者の匿名性は保持される。

（3）原稿はA４用紙にワープロ印刷し２部提出する。フロッピー・ディスクについてはレフェリー審査の結果、掲載可となった後に修正稿と共に提出する。

（4）投稿は年間を通して随時受け付けるものとするが、修正の程度によっては希望する号への掲載が不可能となる事がある。

（5）初校のみを著者校正とし、その時点での加筆・修正は原則として認められない。

（6）稿料の支払い、掲載料の徴収は行わない。ただし抜き刷り30部を贈呈する。なお、それ以上の部数を希望する場合は、あらかじめ注文の上、実費にてこれに応じる。

III. 審査

（1）紀要編集委員会は、投稿の内容・テーマなどを考慮し、2名の審査者を選任する。

（2）２名の審査者は、投稿論文の採択の可否、修正箇所、コメント等を所定の審査結果用紙に記入し、審査から原則として１ヶ月以内に紀要編集委員会に提出する。

（3）審査者の匿名性は完全に保持される。

（4）審査基準はA～Dの４段階とし、２名の審査者による評価がどちらもB以上とならなければ掲載可とはならない。

（5）仮に審査結果がCまたはDであったとしても、修正後の再投稿を拒むものではない。

（6）紀要編集委員および出版物編集担当助手からの投稿があった場合でも、査読者の匿名性は保持される。その際、査読者選定段階において投稿者がその選定に関わることはなく、査読結果の通知に関しても他の委員を経由した後、本人に通知される。

Rules Regarding the Writing, Contribution and Examination for
Forum of International Development Studies

Revised on March 1, 2002

I. Writing

(1) The purpose of this journal is to contribute to academic research in the field of international development, cooperation and communication. The types of manuscripts are theses and book reviews.

(2) The length of a manuscript should, as a rule, not exceed 20,000 letters in Japanese and about 8,000 words in English, both including tables, figures, notes and references. A table or a figure is counted as 400 letters. A manuscript must include about 200 word-abstract in English. The length of a book review should not exceed 10,000 letters in Japanese and 4,000 words in English. However, if the length of an article or a book review will greatly exceed the above limitation, contributors must consult the Editorial Committee. The Editorial Committee may approve it but only if there exists sufficient reason.

(3) Articles may be written either in Japanese or in English. Contributors should consult the editorial committee on the use of other languages, special letters and special symbols.

(4) Roman gothic numbers (I, II, III, IV, …⋯) must be used for the chapter numbering, and Arabian numbers (1,2,3…) for the section numbering.

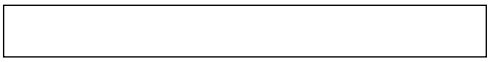
(5) Tables and Figures must be shown as follows.

Figure 1 FDI to Vietnam

Note:

Source:

Table 1 Regional Integration



Note:

Source:

(6) References must be written by the following style:

Wilson (1997) asserts that…⋯.According to Krueger and Bhagwati (1973), … .⋯(see Smith: 1990).…

(Kuznets 1953a: 25-34).

(7) As for annotations, the numbers should be put at the upper-right (e.g. ...in the regime theory[1]…) . Annotations must be listed at the end of the thesis.

(8) References should be listed by alphabetical order of authors ' surnames. If there are more than two articles of the same author in the same year, the articles should be distinguished by the small alphabet letters (e.g. 1999a, 1999b···).

Books: Author. Year. *Title*. Place of publishing: Publisher.

(e.g.) Fawsett, L. and Andrew Hurrell eds. 1995. *Regionalism in World Politics*. New York: Oxford University Press.

Articles: Author. Year. Title. *Title of the journal*. Vol.(No): ##-##.

(e.g.) Rosenau, James N. 1995. Governance in the Twenty-first Century. *Global Governance*. 1(1): 13-43.

II. Contribution

(1) If a contributor is GSID student, he/she must fill in the application form and receive an approval of the primary supervisor. After submitting the application form, the research associate will contact the contributor.

(2) The contributor should not write his/her name on the manuscript. Only the title of the article should be written on the front page.

(3) The contributor should submit two copies of the article printed out on A4 paper. The floppy diskette should be submitted after the article has passed the examination.

(4) Contributions are accepted at any time, but we cannot guarantee that the article will be published on the volume requested.

(5) The author should check the first proof, but modifying or adding something that will change the idea must be refrained at this stage.

(6) The editorial committee will not pay any fee for the manuscript and not charge any fee for publishing. Contributors will receive 30 copies of offprints. If the contributor needs more offprints, the editorial committee will respond to the request.

III. Examination

(1) The Editorial Committee will select two referees, considering the theme and concept of the contribution.

(2) The referees will fill in the answer form with the result of the examination and their comments,

and will submit it to the committee within one month, as a rule.

(3) The referees remain anonymous completely.

(4) A contribution is ranked from A to D. Contributions will not to be adopted unless two referees ' results should be more than B.

(5) The editorial committee will not reject the revised version of the manuscript even if it is ranked as C or D at the first examination.

(6) Even in the case of submissions of articles from members of the Editorial Committee, the referees remain anonymous. The member who submits the article must not be involved in selecting the referees, and will only be informed of the results of the review via other members of the Editorial Committee.