Global Economic Governance and Challenges of Multilateralism



ICC Bangladesh
The world business organisation

10th *Year of ICC's Presence in Bangladesh*





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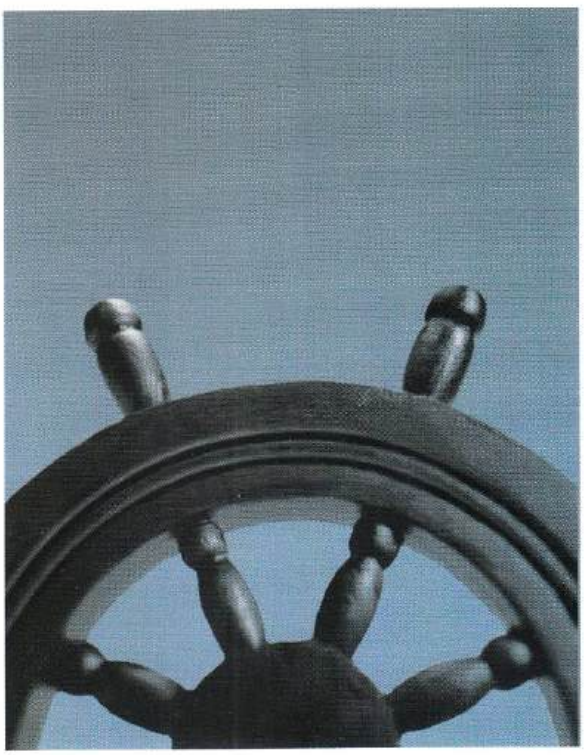
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ICC Bangladesh

International Chamber of Commerce - Bangladesh

Global Economic Governance and Challenges of Multilateralism



ICC Bangladesh

International Chamber of Commerce - Bangladesh

The world business organisation

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Foreword



With the signing of the historic Marrakesh Agreement in 1994, we established the rule-based multilateral trading system and the WTO. All Members, rich and poor, pinned high hopes in the new approach. Nine years have passed. This has been a period of unprecedented expansion of world trade.

The current development paradigm relies on trade-based growth. Many developing countries, including the LDCs, have undertaken major structural changes and have opened up their markets in the hope of reaping benefits from the liberalization of trade. Unfortunately, they face an uneven playing field. They find it difficult to access the markets of developed and relatively affluent developing countries, on account of tariff and non-tariff barriers and domestic support policies pursued by them. The reluctance of the developed nations to adhere to the principles of free and fair trade, coupled with the supply side constraints of the developing nations, have brought about an inequitable apportionment of the benefits of liberalization. The anti-globalization forces find strength in this outcome. Global economic governance must not take a backseat to perceived security concerns and must lead to a fair and balanced result benefiting developing countries, particularly LDCs.

We remain committed to the multilateral approach to trade, despite the temporary setbacks suffered at Seattle and Cancun. Fresh initiatives are necessary to resume meaningful negotiations under the Doha Development Agenda. For the outcome to be acceptable to all stakeholders, the process must be transparent and inclusive and result in greater gains to the most disadvantaged.

The two-day International Business Conference in Dhaka on 17-18 January 2004 is expected to offer opportunities to narrow differences through exchange of ideas among the policy makers and practitioners from around the globe. We, at the ICC Bangladesh, are deeply touched by the response from governments, business leaders and others, both at home and abroad, to our initiative.

We thank the participating Governments, multilateral agencies, the ICC Secretariat, the Government of Bangladesh, and all those who have helped to make the event a success. The ICC-B gratefully acknowledges the support from the business community of Bangladesh, without whose assistance the venture would not have been possible.



MAHBUBUR RAHMAN
President
ICC Bangladesh

Message from the Prime Minister, Bangladesh



I congratulate the International Chamber of Commerce, Bangladesh for organising the international conference on Global Economic Governance and Challenges to Multilateralism to mark the 10th anniversary of its foundation.

Global policies on trade, aid, debt, investment and technology have a profound impact on an individual country's efforts to achieve faster economic growth and alleviate poverty.

I am happy that the ICC Bangladesh has succeeded in bringing together key policy makers from the Governments, Multilateral Agencies as well as Global Business Community. It is through a partnership amongst them that we can achieve our development goals.

I wish ICC Bangladesh 10th anniversary all success.

Allah Hafez, Bangladesh Zindabad

KHALEDA ZIA
Prime Minister
Government of the People's Republic of Bangladesh

Message from the Prime Minister, Thailand



I am delighted that the International Business Conference on Global Economic Governance and Challenges of Multilateralism is being organized in Dhaka on 17-18 January 2004, attended by political leaders, CEOs of business and industrial organisations, academies, and other distinguished personalities.

The conference themes of the Post-Cancun Multilateral Trading Regime, Capacity-Building for Investment Promotion, and Trade Facilitation are all vital issues facing developing countries today. It is therefore important for us to hear the views and suggestions from the broadest spectrum of our civil society in order to formulate the best response to the existing challenges. I believe that to meet these challenges, governments must quickly respond to the needs of the business community while the business community must assist the governments in achieving the broader goals of economic growth and development. I am personally a strong believer in capacity building as it would eventually enable us to thrive under globalisation.

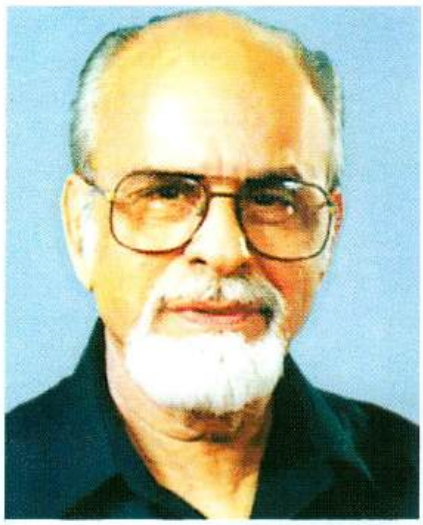
I am confident that the Dhaka International Business Conference will serve as a forum for a lively and stimulating debate on the global challenges of multilateralism. It should also be a gathering for us to learn from each other concerning our success and failure, which could provide a roadmap for all of us to follow.

I would like to take this opportunity to express my sincere good wishes for the success of the conference.

DR THAKSIN SHINAWATRA
Prime Minister
Thailand

Message from the Former Prime Minister, India

सत्यमेव जयते



I am happy that the ICC Bangladesh is convening an International Conference to discuss various challenges and issues confronting the world today.

I wish the Conference all success.

I.K. GUJRAL
Former Prime Minister of India

Message from the Director General, World Trade Organization



I am glad to learn that ICC Bangladesh is celebrating its 10th anniversary of its foundation with a Conference on Global Economic Governance and Challenges of Multilateralism.

The World Trade Organization is committed to creating conditions that foster trade, and thereby the economic development of countries. The Doha Round of multilateral trade negotiations has taken on a very ambitious agenda to further lower trade barriers, and to create an environment conducive to the growth of trade. We hope that this Round, which has development issues at its heart, will help developing countries.

More than ever before, countries now recognize that trade can play a critical role in the development process. After a promising growth through the 1990s, there are signs of an economic slowdown brought about by recessionary tendencies. We must make every effort to bring about conditions that are conducive to the growth of trade.

I am happy that this Conference will bring together both the government and the private sectors, in recognition of their mutually supportive roles. A concerted effort from all stakeholders is required to tackle the economic challenges of a more integrated world.

I wish ICC Bangladesh, and the Conference, all success.

DR SUPACHAI PANITCHPAKDI
Director General
World Trade Organization

Message from the Commissioner of Trade EU



The ICC event comes at a crucial point in time for the global economy: after the collapse of the Cancun Ministerial, this Conference provides a much needed forum for government and business from around the world to discuss how to re-inject momentum into the Doha Development Agenda. I am looking forward to a stimulating debate.

PASCAL LAMY
Commissioner of Trade
European Union (EU)

Message from the Minister for Industry & Trade, Indonesia



It is a great pleasure to have been invited to take part in the International Business Conference on Global Economic Governance and Challenges of Multilateralism in Dhaka, Bangladesh.

This theme is well chosen. The breakdown of trade talks at Cancun in Mexico in September last year made it clear that many challenges continue to confront the international community in its endeavors to develop good economic governance.

Indonesia is committed to pursuing solutions that provide a better deal for developing countries. Nevertheless it is clear that there will be little chance for such solutions to be accepted by the developed countries unless they take into account the needs of specific population groups in those countries that are currently resistant to change. In short, win-win solutions are required.

It is my hope that the conference in Dhaka will be able to make a positive contribution to this debate by identifying potential directions that offer the opportunity for further constructive dialogue aimed at achieving the goal of good global economic governance.

RINI M. SUMARNO SOEWANDI
Minister for Industry and Trade
Republic of Indonesia

Message from the Minister for Commerce & Consumer Affairs, Sri Lanka



It is with much pleasure that I accept this opportunity to be associated with an important business conference on Global Economic Governance and Challenges of Multilateralism, organized in conjunction with the 10th Anniversary of the presence of the International Chamber of Commerce in Bangladesh.

I congratulate the Bangladesh National Committee of International Chamber of Commerce (ICC) - The World Business Organization for organizing this timely event set within the context of the challenges faced by the world business community after the setback in Cancun - WTO Ministerial meeting in September 2003. In the face of rigid ideological and doctrinaire positions in world trade and economic governance, there is a crucial need to develop a greater understanding of how nations should move towards the goal of reaching an integrated global market place and obtain a balance of benefits in terms of improved market access for goods and services.

Indeed this conference is also an affirmation of the fact that despite the temporary stalemate at Cancun, we the trading nations of the world remain staunchly committed to a rule based and fair multilateral trading system and will strive towards the full and early implementation of Doha Declarations and Decisions of the WTO.

I wish the International Business Conference all success and a most fruitful outcome to its deliberations.

RAVI KARUNANAYAKE
Minister for Commerce and Consumer Affairs
Sri Lanka

Message from the Minister for Development Cooperation, Sweden

REGERINGSKANSLIET



It gives me great pleasure to congratulate ICC to its ten years presence in Bangladesh. I very much look forward to participate in this Anniversary Conference.

Sweden has always been a promoter of free trade. Our aim of a freer world trade builds on the conviction that world trade has a positive impact on economic development, growth and employment. Openness to trade and foreign investment has become an increasingly important element of a sound economic policy.

Three quarters of the World Trade Organisation's 148 members are developing countries. Through globalisation, world poverty can be alleviated. By eradicating both internal and external trade obstacles for developing countries and creating a level playing field, poor countries can be integrated into the global economy. It is therefore important to focus on the interests of developing countries and to ensure the interaction of trade policy with other areas in order to achieve the so-called development targets of the millennium. We must integrate free trade initiatives into a broader development strategy that takes into account also e g gender, labour-standards and environment.

Sweden has recently adopted a development policy in which all policy areas share the same objective. Development assistance is only one aspect of this policy. There should also be a development perspective in such areas as international trade, security and environment policy. Against this background it is a great privilege for me to be able to participate in this important conference on "Global Economic Governance and Challenges of Multilateralism".

CARIN JÄMTIN
Minister for Development Cooperation
Government of Sweden

Message from the Minister for Industry and Trade, Turkey



On the auspicious occasion of 10th Anniversary of the ICC's Presence in Bangladesh and the International Business Conference on Global Economic Governance and Challenges of Multilateralism to be held in Dhaka on 17-18 January, 2004, on behalf of the Government of Turkey, I wish to extend the warmest felicitations.

As you know, 21st century is an astonishing period, which has been considered as age of opportunities by many countries. A significant political and economic transformation which wasn't even imagined in the past has being realized. Globalization process, which creates very important opportunities particularly for world trade and international capital, is in the middle of this transformation. During this process in which the world has been restructured, customs barriers are being abolished, economic obstacles are being removed, particularly economic-technological and regional force oriented balances are being reshaped accordingly and consequently, competition sticks out. But, on the other hand, globalization of economies also poses challenges both for the developed and developing world besides increased opportunities. So, globalization process should be very well understood in a truly multilateral perspective. In this context, I hope that this Conference will yield fruitful results on the issues of global economic governance and challenges ahead.

I wish the conference a grand success.

ALI COSKUN
Minister for Industry and Trade
Republic of Turkey

Message from the Minister for Commerce, Bangladesh



I am delighted to know that the Bangladesh National Committee of International Chamber of Commerce (ICC) is going to organize the "International Business Conference on Global Economic Governance and Challenges of Multilateralism" in Dhaka from January 17-18, 2004 in conjunction with the celebration of the 10th year of ICC's presence in Bangladesh.

This Conference is being organized at a time when the international trade regime is passing through a critical juncture, for which the organizers of this Conference deserve thanks and appreciation. It is undoubtedly a right action towards right direction.

Since the establishment of the World Trade Organization (WTO) in 1995 following the successful conclusion of the Uruguay Round of trade negotiations, eight years have passed. But the post-Uruguay Round period has witnessed an almost inexorable process of marginalization of LDCs from the mainstream of global prosperity. Consistent with their declining share in world trade, GDP growth in many LDCs bad slackened in the post-Uruguay Round period, and indeed several of these countries had experienced economic regression. However, the rather gloomy and disheartening picture should not be misconstrued to imply that the multilateral trading system is inherently un-equalizing; it has also opened a window of opportunities for all WTO members.

This Conference, I am sure, will take stock of progress in international trade following the last round of multilateral trade negotiations. A concerted effort from all stakeholders, both public and private sectors, is the need of the hour to face the challenges of multilateralism in the days to come.

I wish this Conference a great success.

AMIR KHOSRU MAHMUD CHOWDHURY, MP
Minister of Commerce
Government of the People's Republic of Bangladesh

Message from the Minister for Foreign Affairs, Bangladesh



I am delighted to learn that the ICC Bangladesh is organizing an International Business Conference on Global Economic Governance and Challenges of Multilateralism coinciding with the celebration of its 10th anniversary.

The theme of the Conference is most appropriate, at a time when the world is experiencing an unprecedented spurt of growth driven by forces of globalization and technological change. The challenge to the international community is to ensure that the fruits from this process are equitably shared. Only if we can ensure that the underprivileged are able to participate in and benefit from the immense potential offered to mankind can we derive satisfaction that our actions have helped humanity.

This conference is bringing together government and business leaders from across the globe to discuss issues of economic governance and their challenges especially in the context of recent debacles in Cancun. The conference would also create opportunity for consultation that may ease ways to add pace to the ongoing negotiation process under the Doha Development Agenda.

I congratulate ICC Bangladesh for organizing such an important event and wish its 10th anniversary celebration and the conference a grand success.

M. MORSHED KHAN
Minister for Foreign Affairs
Government of the People's Republic of Bangladesh

Message from the Governor, JBIC

JBIC



It gives me great pleasure to offer my congratulations and best wishes on the auspicious occasion of the 10th anniversary of the foundation of International Chamber of Commerce (ICC) - Bangladesh.

Japan Bank for International Cooperation (JBIC), through provision of ODA loans, assists developing countries in efforts towards sustainable development, including poverty reduction and environmental preservation. Also, JBIC supports foreign trade and investment from Japanese private companies through export credits and other instruments. In this way, JBIC contributes to improving the investment climate of Asia and other developing regions. For the development of Bangladesh, JBIC has supported infrastructure projects, including power plants, bridges, roads and strategic industries such as fertilizer. "Kafco Fertilizer Plant", which JBIC supported through export credit and equity participation under its Private-Sector Investments Finance Facility, produces ammonia and urea as exported goods and has contributed to acquisition of foreign currency by Bangladesh.

The international economy is constantly expanding and becoming further integrated, in conjunction with technological innovation and economic liberalization. Many people benefit from integration and expansion of the global economy while the traditional economy, culture and natural environment are conversely faced with difficulty. It is in such circumstances that the ICC International Business Conference is being held to coincide with the 10th anniversary of International Chamber of Commerce Bangladesh, under the theme of "Global Economic Governance and Challenges of Multilateralism." This is an important and timely theme and one which the international community should endeavor together. JBIC will strive to meet these challenges that are a part of this theme through developing even closer partnership with ICC and other various groups.

The partnership between JBIC and ICC continues to strengthen. An "Investment Forum" was held in conjunction with UNCTAD in Tokyo last November and a Memorandum of Understandings (MOU) was signed concerning cooperation in promoting investment for New ASEAN countries. Allow me to close by offering my sincere wishes for the future progress of International Chamber of Commerce (ICC) - Bangladesh.

Kyosuke Shinozawa

KYOSUKE SHINOZAWA
Governor
Japan Bank for International Cooperation

10th Year of ICC's Presence in Bangladesh

Message from the Chairman, ICC



ICC Bangladesh has good cause to celebrate as it marks its 10th anniversary, a national committee that is truly representative of business in its own country and succeeds in making its voice heard, both domestically and internationally through ICC.

One of the outstanding characteristics of ICC Bangladesh is its track record of solid achievement as an advocate of trade liberalization and open markets. After the failure of the World Trade Organization in Cancun, it is more than ever important that business in all member countries of ICC assume this communications task.

For ICC to maintain its credentials as the world business organization, the active participation of business in developing countries is essential. ICC Bangladesh's contribution is a model that should be an inspiration to others.

At a time when the multilateral trading system is striving to recover from the Cancun setback, it is especially appropriate that ICC Bangladesh should choose global economic governance and the challenges of multilateralism as the theme of its anniversary conference.

JEAN-RENÉ FOURTOU
Chairman
International Chamber of Commerce
and
Chairman and Chief Executive Officer
Vivendi Universal

Message from the Vice-Chairman, ICC



I am extremely delighted to have this opportunity to extend my best wishes on the auspicious occasion of the International Business Conference on Global Economic Governance and Challenges of Multilateralism to be held in Dhaka, Bangladesh on January 17-18, 2004 in conjunction with the celebration of 10th year of ICC's presence in Bangladesh.

I am very happy to know that to mark the occasion, ICC Bangladesh is going to publish a special souvenir. I would like to congratulate the Bangladesh National Committee of ICC for organising this very important conference in Dhaka to discuss the emerging challenges of the world and I am sure this conference will help to exchange ideas and build relations amongst participants coming from all over the world.

While extending my warm greetings and heartiest felicitations to The President and The Executive Board of ICC Bangladesh, I must say, Bangladesh National Committee is one of the most dynamic organisation which has not only made a commendable contribution to ICC's work but also set an example to others by its high public profile under the leadership of its President, Mahbubur Rahman.

I sincerely wish the conference to be a most productive and memorable event.

YONG SUNG PARK
Vice-Chairman, ICC
Chairman, Korea Chamber of Commerce & Industry

Message from the Secretary General, ICC



The record of ICC Bangladesh in projecting business support for more open markets for trade and investment to government authorities and in your national media is second to none in the ICC global constituency. ICC Bangladesh has become a force to be reckoned with, both domestically and in the counsels of world business.

It is therefore especially fitting that your national committee is celebrating its 10th anniversary with a conference on Global Economic Governance and Challenges of Multilateralism.

The choice of theme and the dynamism of ICC Bangladesh under its President, Mahbubur Rahman testify to the determination of the business community in your country to be outward-looking and derive the full benefits of a more closely integrated global economy.

MARIA LIVANOS CATTAUI
Secretary General
International Chamber of Commerce

Speaking for ICC Bangladesh

ICC Bangladesh



Bangladesh National Committee was established in 1994 with a view to bring world expertise to the local business and take priority issues on national concern to the global forum for expansion of trade and investment.

ICC Bangladesh is comprised of major Chambers of Commerce, Business Associations, Stock Exchange, Banks, Insurance Companies, Transnational Companies, Law and Accounting Firms and large business groups having significant interest in international business.

ICC Bangladesh activities, therefore, include trade policy reviews, harmonization of trade law and rules, legal reforms, updating businesses with the ICC rules and standards for cross-border business transactions.

It holds policy reviews, business dialogues, seminars and workshops on issues related to foreign trade & investment, market access as well as concerns of Bangladesh business at the international conferences, debates and dialogues including forums through ICC sponsored meeting of multilateral agencies.

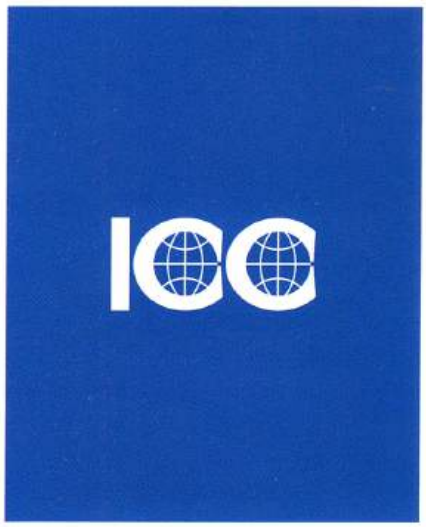
It works closely with the national government, since it's inception, in reforming laws and rules that govern business and liberalizing trade, to integrate Bangladesh with the global market place. ICC Bangladesh, among others, has been actively engaged in the following legal and policy reforms including : Information Technology [IT] Act, modernization of Arbitration Act, modernization of Tax Laws & Custom Act, introduction of ATA Carnet System in Bangladesh, development of Bangladesh Foreign Trade Institute (BFTI) and establishment of Bangladesh International Arbitration Centre.

ICC Bangladesh organized ICC Asia conference in Dhaka in the year 2000, participated by 24 countries and in continuation of its program, ICC Bangladesh has organized this prestigious International Business Conference on Global Economic Governance and Challenges of Multilateralism in celebration of its 10th anniversary in Bangladesh. This is yet another milestone in the road map of its programs & action plan. Needless to mention that organization of a conference of this magnitude became possible by the endeavors and whole-heardted support of ICCB member organization, the Goverment of Bangladesh and all our well wishers.

MAHBUBUR RAHMAN
President
ICC Bangladesh

10th Year of ICC's Presence in Bangladesh

Speaking for World Business



The International Chamber of Commerce speaks for world business whenever governments make decisions that crucially affect corporate strategies and the bottom line.

ICC is the largest, most representative business organisation in the world. Its thousands of member companies in over 140 countries have interests spanning every sector of private enterprise.

A world network of national committees keeps the ICC International Secretariat in Paris informed about national and regional business priorities. More than 2000 experts drawn from ICC's member companies feed their knowledge and experience into crafting the ICC stance on specific business issues.

The United Nations, the World Trade Organisation, and intergovernmental bodies, both international and regional, are kept in touch with the views of international business through ICC.

ICC's advocacy has never been more relevant to the interests of companies everywhere. Equally vital is ICC's role in forging internationally agreed rules and standards that companies adopt voluntarily and that can be incorporated in binding contracts.

Foremost of the ICC services that are essential to international business is the ICC International Court of Arbitration, the world's leading arbitral institution. Another vital service for business is ICC Commercial Crime Services, engaged in the fight against all types of crime affecting business.

ICC has direct access to national governments all over the world through its national committees. The organisation's Paris-based international secretariat feeds business views into intergovernmental organisations on issues that directly affect business operations.

Globalization vis-à-vis the Developing Countries

The rhetoric of global trade is filled with promise.

We are told that free trade brings opportunity for all people, not just a fortunate few.

We are told that it can provide a ladder to a better life, and deliverance from poverty and despair.

And we are led to hope that the current round of trade negotiations will deliver on this promise.

Sadly, the reality of the international trading system today does not match the rhetoric.

Instead of open markets, there are too many barriers that stunt, stifle and starve.

Instead of fair competition, there are subsidies by rich countries that tilt the playing field against the poor.

And instead of global rules negotiated by all, in the interest of all, and adhered to by all, there is too much closed-door decision-making, too much protection of special interests, and too many broken promises.

The issues are often technical, and do not usually lend themselves to dramatic television coverage, like war or extreme weather. But let there be no doubt: the damage is profound, and the victims can be counted in the billions.

They include poor farmers who, instead of being able to trade their way out of poverty, are driven out of business by trade barriers, or penalized with new barriers when, against considerable odds, they become successful.

They include the sick and the dying, whose suffering has been needlessly prolonged by lack of access to affordable, life-saving medicines.

And let us not forget the enormous opportunity cost: millions of jobs, and hundreds of billions of dollars in income, could be created with just a few reasonable steps that governments have so far been unwilling to take.

The answer is not to turn our backs on the potential of open markets. That would be disastrous.

After all, the World Trade Organization, and its predecessor, the General Agreement on Tariffs and Trade, have helped to bring the world a remarkable half-century of economic progress.

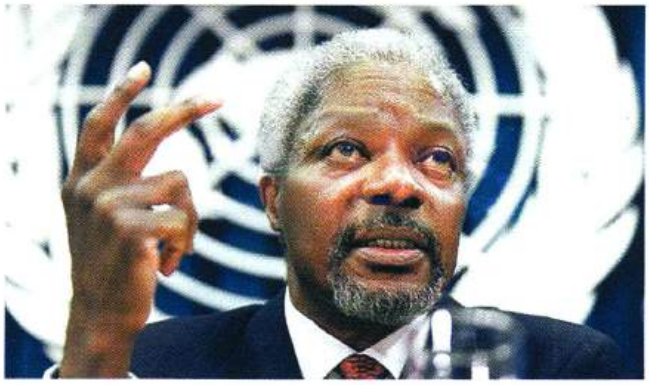
But too many countries have been left on the margins. A system that was meant to be mutually beneficial sometimes seems more like a zero-sum game.

Far from being empowered, the fisherman in Vietnam, the cotton-grower in Burkina Faso, and the indigenous cultivator of medicinal herbs in Brazil are being held down.

The answer is to unleash their potential. Just as we need to improve the multilateral security framework, so we must rebuild faith in the multilateral trade framework. Without progress now, today's bitterness may well become tomorrow's backlash.

We cannot solve all these problems here at Cancun. But we must make a start.

An important step has already been taken on the issue of intellectual property and public health. I welcome the recent agreement on a mechanism to give developing countries which cannot produce cheap generic drugs the right to import them from other countries which can. We must now make sure that the agreed system is flexibly implemented, so that developing countries can gain access to medicines. This is a moral imperative. I urge all concerned to support developing countries - including



with technical and legal assistance - so that they can make maximum use of the agreed mechanism to address their public health concerns.

But if the result here at Cancun is to be considered credible, we must tackle the broader issue of trade in agricultural products - an issue that can be economically decisive for many countries. We must eliminate the subsidies that push prices down and make it impossible for poor farmers in developing countries to compete.

Those who press poor countries to open their markets may indeed have those countries' best interests at heart. But can we be surprised that poor countries are reluctant to take them seriously, when they find the markets of rich countries still closed to their products, and when they have to compete at home, and in the world market, against subsidized products from those same rich countries?

These barriers and subsidies in developed countries must be phased out, as fast as possible, for the sake of humanity.

To do so is in the interests of rich and poor alike. Trade barriers and distortions can hurt a country's health whether it is developed or developing. Developed countries spend vast sums on subsidies, often propping up relatively small and unproductive portions of their economies. In the process, they hurt their own citizens twice - as taxpayers and as consumers.

There are surely better ways to help those farmers in rich countries who genuinely need help, than by subsidizing big exporters so that much poorer farmers in poor countries cannot feed their families. It is not hard to imagine a system under which just about everyone would be better off.

Agriculture is a crucial issue. But it is not the only area where the existing world trade order is imbalanced. Opportunities for developing countries must also be opened by effective liberalization of trade in textiles, by specific agreements that allow them to participate actively in the growing trade in services, and by faster transfer of technology.

Of course, developing countries also have a responsibility to help themselves.

As a group they have taken important steps -- often unsung and unrequited -- to liberalize trade in the last fifteen years. But some of them could do still more to seize export opportunities. For example, they could improve efficiency and competitiveness by reducing barriers to imports - particularly from other developing countries.

But trade liberalization is no panacea for developing countries. For many of them, it involves considerable adjustment and social costs. There is a need for synergy and proper sequencing -- between the capacities of the developing countries, the level of obligations they are to take on, the cost of implementation, and the adequacy of financial and technical resources available to them. Developing countries need aid for trade, and such aid must not come at the expense of aid for development.

Indeed, trade liberalization must be carefully managed as part of comprehensive development strategies that encompass health, education, the empowerment of women, the rule of law and much else besides. Developing countries need help in building the institutions and infrastructure, acquiring the technology and skills, and putting in place the legal regimes, that will enable them to make the journey. The least developed countries in particular often need genuinely special and differential treatment - not simply more time to comply with new rules.

Trade is the most visible manifestation of globalization. It has proved its ability to deliver jobs and wealth for some. Yet there is widespread unease, and even distrust, about the new economic and technological spaces we inhabit. So many people have yet to benefit, and in the developing world there has been great dislocation without a safety net.

You, the world's trade ministers, must show those people that you have heard their cries for fairness. You must give them confidence that, from now on, your negotiations and decisions will really meet their needs and reflect their aspirations.

You have an awesome responsibility, and a great opportunity. Your decisions can make the difference between poverty and prosperity, and even between life and death, for millions upon millions of people.

Here in Cancun, I implore you to say: "no!" to trade policies that aggravate poverty, and "no!" to trade practices that undermine aid.

And I urge you to say "yes" to bold but sensible steps that will revive the global economy and set a new course for development.

You must, at long last, match deeds to the fine words that are in danger of losing their meaning.

Let Cancun send the world a message of hope - hope that trade will make good on its promise for all.

Thank you very much

Statement of the UN Secretary General ***Kofi Annan*** *read on his behalf at the Inaugural of the 5th WTO Ministerial at Cancun.*

Economic Governance and Multilateralism

Globalization: Threat or Opportunity?

Economic globalization is a historical process - the result of human innovation and technological progress. It is now a reality that, for better or worse, globalization touches our lives in ways most of us never pause to think about. The term globalization was first coined in the 1980s, but the concept stretches over centuries, if the trading empires built by Spain, Portugal, Britain, and Holland are counted.

Some would say that the world was a globalized one 100 years ago as it is today, with international trade and migration. But the depression of the 1930s deepened and strengthened the process. The resolve of West to build and strengthen international ties in the aftermath of the Second World War laid the groundwork for today's globalization.

According to a recent report of Organization for Economic Cooperation and Development (OECD), the term was first used in 1985 by Theodre Levitt in his write-up - 'The Globalization of Markets'. Levitt used the expression to characterize the vast changes that have taken place over the past two decades in the international economy - the rapid and pervasive diffusion in production, consumption and investment in goods, services, capital and technology.

Within the realm of world economic developments, or the new economic order, 'globalization' is acquiring a wide variety of uses: the emergence of a new asymmetric international division of labor along with greater dispersion of economic activity directed by corporate strategic planning that has replaced governmental or state efforts in various countries. It also seems to coin a new dimension with the erosion of the post-War US dominance of the world economy by the rising competitiveness of Western Europe and Japan and the rise of regional spheres of influence.

It is quite evident that globalization of the world economy - driven by forces to open national borders to trade, capital and information -has benefited some, but marginalised many more and has increased inequalities within and among nations. Today's globalization is driven by new markets, new tools like internet, new actors like the World Trade Organization with authority over national governments and transnational corporations, and new multilateral rules on trade, services and intellectual property rights more binding for governments and reducing the scope for national policy.

In the context of the collapse of centrally-planned economies and the capitalist system dominating most of the world, even countries like China, there are increasing shifts from the command economy towards market economy and the term globalization is also used to describe this worldwide spread of capitalism.

Now the question emerged whether globalization is a threat or an opportunity. UN Secretary-General Kofi Annan once warned at a gathering of world economic and political leaders at the World Economic Forum that unrestricted and unregulated globalization can lead to unmitigated disaster worldwide. In his view, if globalization cannot make work for all, in the end it will work for none.

According to him, the unequal distribution of benefits and the imbalances in global rule-making which characterize globalization today will inevitably produce a backlash and growing protectionism.

Globalization and its discontents

It is quite evident that globalization of the world economy - driven by forces to open national borders to trade, capital and information - has benefitted some, but marginalized many more and has increased inequalities within and among nations. Today's globalization is driven by new markets, new tools like Internet, new actors like the World Trade Organization with authority over national governments and transnational corporations, and new multilateral rules on trade, services and intellectual property rights more binding for governments and reducing the scope for national policy.

Global opportunities are today unevenly distributed between countries and people. And it can be said that if the opportunities are not shared better, the failed growth of the last decade will

continue. The per capita income of more than 80 countries have declined in recent years comparing to the level they achieved decades ago. And while 40 countries have sustained average per capita income growth of more than three percent a year, 55 countries, mostly in sub-Saharan Africa and Eastern Europe and the Commonwealth of Independent States (CIS), have had declining per capita incomes.

Inequality between and within countries has increased. The income gap between one-fifth of the worlds population living in the richest countries and another one-fifth in the poorest was 74 to 1 in 1997 - up from 60 to 1 in 1990, and 30 to 1 in 1960. Inequality grew rapidly in the 19th century during the last three decades of globalization when the gap between the top and bottom countries increased from 3 to 1 in 1820 to 7 to 1 in 1870 and 11 to 1 in 1913.

By late 1990s, the one-fifth population of the world living in the highest income countries had 86% of world GDP, 82% of world export markets and 68% of foreign direct investment, while the bottom one-fifth of the world had just one percent of each.

Some have predicted convergence through free trade and free markets. Yet, the past decade has shown increasing concentration of income, resources and wealth among people, corporations and countries.

The world's 200 richest people almost doubled their net worth in the four years to 1998, to more than $1 trillion. The assets of the world's top three billionaires are more than the combined GDP of all least developed countries and their 600 million people.

And the recent wave of mergers and acquisitions is concentrating industrial power with mega-corporations at



the risk of eroding competition. For example, in 1998 the top 10 companies in pesticides controlled 85% of a $31 billion global market and the top 10 in telecommunications 82% of a $262 billion market.

According to a UNDP report "in the globalizing world of shrinking time, shrinking space and disappearing borders, people are confronting new threats to human security - sudden and hurtful disruptions in the pattern of daily life."

Globalization has increased job and income insecurity in



Looking forward to a better world?

all countries, has spread diseases globally, and is creating cultural insecurity. While global good has gone down, the global bad has risen. Illicit trade - in drugs, women, weapons and laundered money - is contributing to violence and crime that threaten neighborhoods around the world. The traffic in women and girls for sexual exploitation - 500,000 a year in western Europe alone - is one of the most heinous violations of human rights, and is estimated to be a $7 billion business. Internet is an easy vehicle for trafficking in drugs, arms and women - through nearly untraceable networks.

In 1995, illegal drug was estimated at 8% of world trade - more than trade in motor vehicles or iron and steel. Money laundering, estimated by the IMF to be 2 to 5 percent of world GDP - hides the traces of crime in split seconds. And at the root of all this is the growing influence of organized crime, estimated to about $1.5 trillion a year - rivaling TNCs as an economic power.

Globalization needs human face, global governance

The gap between the rich and poor nations of the world is increasing. The figures used most frequently are those from the UNDP Report which find that over the past ten years, the number of people earning $1 a day or less has remained static at 1.2 billion while the number earning less than $2 a day has increased from 2.55 billion to 2.8 billion. The gap in incomes between the 20% of the richest and the poorest countries has grown from 30 to 1 in 1960 to 82 to 1 in 1995.

Critics of globalization say that rising inequality is the inevitable result of market forces. Given free reign, market forces give the rich the power to add further to their wealth. Hence, large corporations invest in poor countries only because they can make greater profits from low wage levels or because they can get access to their natural resources.

The free market does nothing to address re-distribution



WTO headquarters in Geneva - where it all happens.

of wealth. It assumes that wealth will trickle down to the poor.

It is clear that globalization has failed to rid the world of poverty. Rather than being an unstoppable force for development, globalization now seems more like an economic temptress, promising riches to everyone but only delivering to the few. Although global average per capita income rose strongly throughout the 20th century, the income gap between the rich and poor countries has been widening for many decades. Globalization has not worked. That is why globalization needs a human face.

Globalization: does it also work for the world's poor?

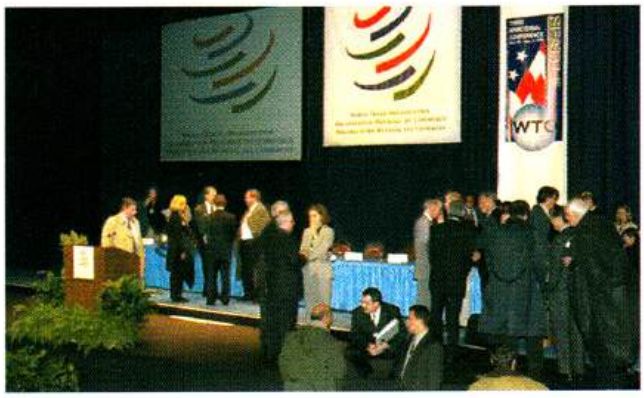
The story of the 20th century was of remarkable average income growth, but it is also quite obvious that the progress was not evenly dispersed. The gaps between the rich and the poor countries, and rich and poor people within countries, have grown. The richest quarter of the worlds population saw its per capita GDP increase nearly six-fold during the century, while the poorest quarter experienced less than a three-fold increase. Income inequality has clearly increased. Globalization has brought little but good news to those with the products, skills, and resources to market worldwide. But does it also work for the world's poor?

This is the central question around which the debate over globalization in essence, free trade and free flows of capital revolves. Anti-globalization protesters may have had only limited success in blocking world trade negotiations or disrupting the meetings of the International Monetary Fund (IMF), but they have irrevocably altered the terms of the debate. Poverty is now the defining issue for both sides. The captains of the world economy have conceded that progress in international trade and finance has to be measured against the yardsticks of poverty alleviation and sustainable development.

For most of the world's developing countries, the 1990s were a decade of frustration and disappointment. The economies of sub-Saharan Africa, with few exceptions, stubbornly refused to respond to the medicine meted out by the World Bank and the IMF. Latin American countries were buffeted by a never-ending series of boom-and-bust cycles in capital markets and experienced growth rates significantly below their historical averages. Most of the former socialist economies ended the decade at lower levels of per-capita income than they started it and even in the rare successes, such as Poland, poverty rates remained higher than under communism. East Asian economies such as South Korea, Thailand, and Malaysia, which had been hailed previously as "miracles," suffered a humiliating blow in the financial crisis of 1997.

Global Economic Governance and Challenges of Multilateralism

Now the question is who are the key globalization players? They are the IMF, World Bank, WTO, the OECD and the G8. They are dominated by the large and rich countries.



Delegates at the Seattle Ministerial.

Caught between WTO agreements, World Bank strictures, IMF conditions, and the need to maintain the confidence of financial markets, developing countries are increasingly deprived of the room they need to devise their own paths out of poverty. They are

being asked to implement an agenda of institutional reform that took today's advanced countries generations to accomplish.

The regulations that developing nations confront in those markets are highly asymmetric. Import barriers tend to be highest for manufactured products of greatest interest to poor countries, such as garments. The global intellectual-property-rights regime tends to raise prices of essential medicines in poor countries.

But the discontent between trade rules and development needs is nowhere greater than in the area of international labor mobility. The barriers to trade in goods, financial services, and investment flows have now been brought down to historic lows. But the one market where poor nations have something in abundance to sell, the market for labor services, has remained untouched by this liberalizing trend.

The WTO: Do as we Say, Not as we Did

During the Uruguay Round GATT negotiations, developing countries raised concerns about the expansive set of 17 new international commercial agreements to be enforced by a global commerce agency, the WTO. Rich countries and the GATT Secretariat staff promised developing countries that they would experience major gains as industrialized countries lowered and eventually eliminated tariffs on such items as textiles and apparels and cut agricultural subsidies that had enabled large agribusinesses to dominate world commodity markets. Think tanks, public opinion-makers and newspaper editorials have continued to relentlessly promote this notion of developing countries being the primary beneficiaries of WTO and globalization despite a paucity of evidence to support such contentions and a growing record proving the opposite.

'The barbaric attacks of September 11, 2001, have brought home with great force that we all share a single planet. We are a global community, and like all communities have to follow some rules so that we can live together. These rules must be and must be seen to be fair and just, must pay due attention to the poor as well as the powerful, must reflect a basic sense of decency and social justice. In today's world, those rules have to be arrived at through democratic processes; the rules under which the governing bodies and authorities work must ensure that they will heed and respond to the desires and needs of all those affected by policies and decisions made in distant places.'

-Joseph E. Stiglitz

After nearly 10 years, the promised economic benefits for developing countries have not materialized, and for many, poverty has worsened. The developing worlds



Stock market bears the brunt of war and economic instability.

share of world trade has not increased under the WTO as promised and in some instances notably among least developed countries it has declined. The 1998 Least Developed Countries Report of UNCTAD found that the share of world exports and imports had fallen sharply in the LDCs since the Uruguay Round. The 2002 UNCTAD report found that one in three LDCs saw their exports contract between 1997-2000, even as the global economy was expanding. Instead of generating income convergence between rich and poor countries, as WTO proponents predicted, the corporate globalization era of the 1990s actually exacerbated the income inequality between industrial and developing countries as well as between rich and poor within countries worldwide. According to UNCTAD, "in almost all developing countries that have undertaken rapid trade liberalization, wage inequality has increased, most often in the context of declining industrial employment of unskilled workers and large absolute falls in their real wages, on the order of 20-30% in Latin American countries."

The economic impact of trade liberalization in developing WTO member nations are as follows:

- WTO agreements have effectively pulled up the ladder behind the now-rich countries by banning developing countries from using the same policies that they did to develop.
- Poverty has increased in the era of the WTO.
- Least developed countries' share of world trade has declined since the launch of the WTO.
- Falling commodity prices under the WTO have destroyed developing economies and increased poverty.
- Corporate globalization has increased income inequality within and between countries.

9/11 and After: New World Order

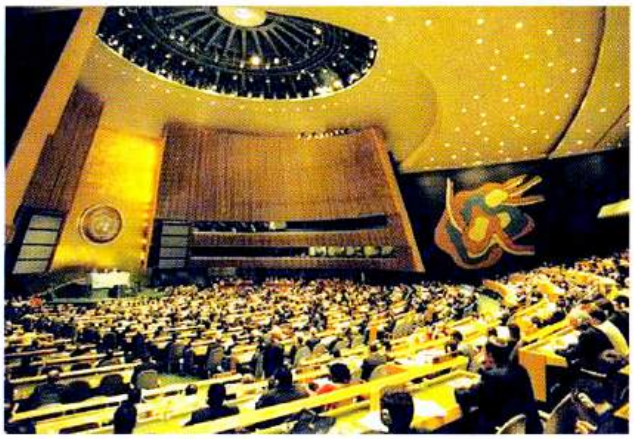
The emerging architecture of global governance by the events following the 9/11 attacks on targets in the USA has changed. There was a spontaneous outpouring of sympathy from the entire world. However, the conservative forces in the USA utilized the public outrage in the USA and the rest of the world against the perceived attackers to advance its narrow security and economic interests. It engaged in unilateral actions in total disregard of the UN and international public opinion. Its economic and military might pursuaded several countries, notably UK and Australia, to abet in its aggressive acts. However, instead of containing terrorism, these have deflected and spread this essentially US-Israeli-Arab conflict to far-flung countries entirely unconnected to the conflict. The unilateral use of brute force against sovereign members of the UN contrary to international norms and conventions, has severely dented the confidence of the rest of the world in the global governance system, and in particular, in the wisdom of trusting the only super power and its allies to uphold and strengthen the legitimate interests of all countries. This may lead many developing countries to be suspicious of the trustworthiness of the rich countries in WTO negotiations, and consequently adopt more rigid positions. This can only make reaching consensus more difficult. This was amply demonstrated by the stalemate in the Cancun conference.

'In our world of 6 billion people, one billion own 80 percent of global GDP, while another billion struggle to survive on less than a dollar a day. This is a world out of balance. Over the next 25 years, 50 million people will be added to the population of the rich countries. About one and a half billion people will be added to the poor countries. Many will experience poverty, unemployment, and disillusion with what they will see as an inequitable global system. A growing number will leave their home countries to find work. Migration will become a critical issue. There is further imbalance between what rich countries spend on development assistance-- $56 billion a year compared with the $300 billion they spend on agricultural subsidies and $600 billion for defense. The poor countries themselves spend $200 billion on defense- more than what they spend on education. Another major imbalance.

Developing countries are projected to grow at twice the rate of developed countries. But many will need help to bridge the gap between rich and poor.'
-Joseph E. Stiglitz

Trading Costs in a New Era of Security

There is another dimension of 9/11. In the wake of September 11 and worldwide worries about terrorism, governments everywhere have enacted security measures that could, if not managed properly, drive up trade costs and shut out exports from developing countries. The cost of moving goods between destinations and across international borders is often as important as formal trade barriers in determining the cost of landed goods and ultimately of market share. The costs of transport among many points are as significant as tariffs. Other delays are equally costly. One study estimates that every day spent in customs adds nearly 1 percent to the cost of goods. In developing countries, transit costs are routinely two to four times higher than in rich countries. A study of the trade effects of September 11 estimated that world welfare declined by $75 billion per year for each 1 percent increase in costs to trade from programs to tighten border security. Developing countries are particularly vulnerable to cost increases related to security threats. Limited budget resources, dependence on foreign trade and investment, and outdated infrastructure and technology present serious challenges for these countries.



A study of the effects of September 11 on international trade indicates that even countries not directly involved in a terrorist events may expect their income to decline by $75 billion per year as a result of an 1 percent ad valorem increase in frictional costs to trade. While Western Europe and North America suffer the greatest loss in absolute terms, other regions, such as South Asia, North Africa, and the Middle East, are the main losers. When income losses are related to the size of t

he economies one-percentage-point increase in trade costs would cost South Asia $6 billion, more than one-half of one percentage point when expressed as a percentage of GDP.

The threat of terrorism is not the only source of frictional costs. War and epidemic disease, too, call for extraordinary measures that often disrupt trade. The 2003 war in Iraq imposed significant costs on manufacturers, shippers, wholesalers, and retailers stemming from supply-chain disruptions, blockages of vital sea routes, and delays in shipments. This was especially true for manufactures linking factories in Asia with markets in North America and Europe.



"The world has entered the urban millennium . nearly half of the world's people are now city dwellers, and the rapid increase in urban population is being further propelled by the powerful forces of globalization. The central challenge for the international community is clear : to make both urbanization and globalization work for all people, instead of leaving behind or on the margins"

-Kofi Annan



Multilateral Trade : Post Cancun Scenario

The collapse of the Fifth Ministerial talks at Cancun (September 10-14, 2003) came as one more blow to the image of the World Trade Organisation (WTO) as a facilitator of fair global trade since the fiasco at Seattle in 1999. The failure at Cancun is no doubt a setback to the multilateral trading system that would harm the interests of both developed and developing countries. But it seems, all is not lost. Both the developed and the developing countries are expected to pick up soon the thread of negotiations for their own future benefit.

In Seattle, the US and the EU tried to thrust labour standards and environmental issues, rightly considered to be non-trade issues by developing countries, into the WTO's work programme. At the Cancun meet, the WTO member countries were struggling to arrive at some sort of consensus on the following key areas of difference: agricultural trade reforms; market access improvement for non-agricultural products; including the likes of forestry and fisheries; and whether to launch negotiations on the so-called 'Singapore' issues - investment, competition policy, transparency in government procurement and trade facilitation.

Even on the concluding day, a large number of delegates expected the Cancun Ministerial Conference to continue beyond its scheduled closing time just as the Doha Ministerial did. The wide gap that existed in the position and ambition of the negotiating groups on a number of critical issues made it unlikely that an agreement on the unresolved issues could be achieved within the scheduled time. Hence, when the conference was declared closed prematurely by the conference chair without a final declaration on the afternoon of that day, it caught most delegates by surprise. An instinctive reaction of some developing countries those were disillusioned by the way negotiations were proceeding considered this failure a 'victory' for the developing world. But the more sober minds realised that the poor countries actually lost out in the process. An opportunity of gaining greater access to richer markets was missed. The failure of Cancun will hurt the poorer countries, especially the least developed countries, far more than it will hurt the developed countries. Indeed, it seems likely that the developed countries would not be overly unhappy with the collapse of Cancun since it has permitted them to postpone painful domestic reforms such as the reduction of agricultural subsidy.

A turning point in the history of free trade

For better or worse, the collapse of the world trade talks in Cancun may prove an historic turning point in the history of free trade. For nearly 50 years, the world's trading system moved towards greater trade liberalisation, largely out of the spotlight of the media. Now things are very different - with trade talks deeply enmeshed in domestic political battles.

In Seattle in 1999, the first attempt to launch a new round of global trade talks broke down amid mass demonstrations and fundamental disagreements between



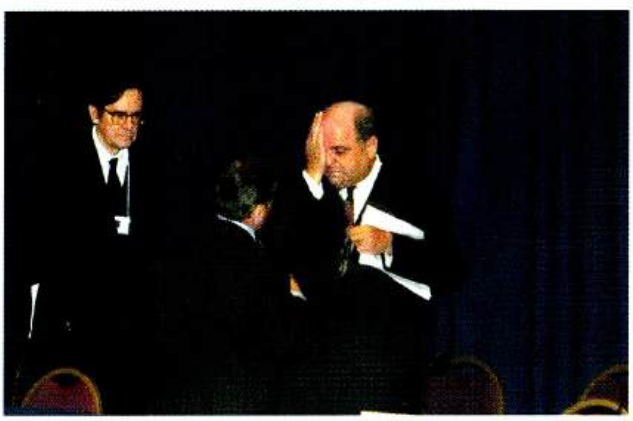
Supachai Panitchpakdi, DG of WTO at the Cancun Ministerial.

the rich and the poor countries. The developing countries resisted the move to include issues relating to the environment, labour standards, and investment in the trade talks. When trade talks restarted two years later - two months after the terrorist attacks of 11 September - Western countries were keen to make concessions to show they wanted to tackle global poverty. So labour and the environment were largely excluded from the talks, and a decision on investment issues was postponed. Now it is clear that even this was too ambitious - and perhaps the idea that some of the most contentious and politically charged issues can be tackled in the context of trade talks may have to be re-examined.

Rich nations' club?

The World Trade Organisation (WTO) has been - rightly or wrongly - accused by campaigners of being run by the rich nations despite the fact that each of its 148 members has an equal vote. In the past, the wealthy nations had generally been able to cajole the poor ones - by offers of trade, aid or political support - into going along with their agenda.

But at Cancun things were very different. Despite an agreement between the EU and the US on a common approach to agriculture, they were unable to impose their will on a new united front of developing countries. The larger developing countries - including China, Brazil and



This is not the last!

India - could not be so easily pursuaded, and it was their unity that brought the conference to a halt. However, that unity may prove to be difficult to maintain in the coming months and years because of a possible clash of economic and political interests.

Brazil, one of the world's largest agricultural exporters, needs a trade deal much more than India, which has a relatively small export sector. And China, despite its solidarity with other developing countries on blocking agreement on foreign investment issues, is the world's largest recipient of such investment, and could even benefit from new rules.

In the hard bargaining ahead, even the large developing countries have less clout than the EU and the US, whose markets they still depend on. And the poorest countries, like the cotton producing states of Mali and Benin in Africa, potentially have the most to gain from a comprehensive trade deal.

Why did the talks fail?

The talks failed because the rich and the poor countries could not reach agreement on two key issues. The first and most contentious of these was agriculture. Rich countries were accused of double standard for urging poor countries to open their markets but not being prepared to open their own ones or reduce the huge subsidies to their farmers.

In the end, the rich countries would not agree to the abolition of all export subsidies which make their agricultural products cheaper on world markets. There was also a great deal of opposition to the European Union proposals for rules to govern investment by multinational companies in the developing world. Many countries felt that they could not agree to this without losing control of their industries, and argued that the WTO was not the appropriate forum for such discussions.

Road to Cancun

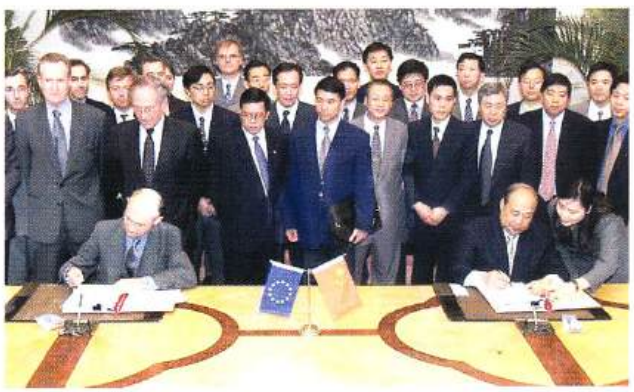
The Doha round of trade negotiations was launched at the conclusion of Doha Ministerial in November 2001 in the capital of Qatar. The developing countries, that had gained some expertise in trade negotiations since the Uruguay Round, were careful about not being overtaken by good intention. They demanded that development must be a principal goal of international trade. As a result the Doha Declaration included a development dimension, a commitment from the leading economic powers to act in a manner that promotes trade and growth of the developing world, and in particular the least developed among them. Doha, thus, acquired the impressive rubric of Development Round. The promises of Doha were many and grand. There were promises to



Are they talking next course of action?

address the implementation related issues and make the special and differential treatment provisions precise, effective and operational. It promised to significantly reduce farm subsidies that seriously distorted the international market and reduced income and trade

opportunities of the developing countries. The agricultural tariffs was supposed to be reduced so as to provide greater access to products of developing countries into the markets of the richer countries and tariff escalation and spikes on non-agricultural products



China's accession to WTO

would be moderated. It also provided for liberalisation of trade in services, particularly those of export interest to developing countries. It also agreed to commence negotiation on the so-called Singapore issues, i.e. competition, investment, government procurement and trade facilitation, subject to an explicit consensus among the members. No wonder that Doha raised the expectations of the poorer countries about achieving a more equitable multilateral trade regime and faster growth that supposedly followed trade liberalisation.

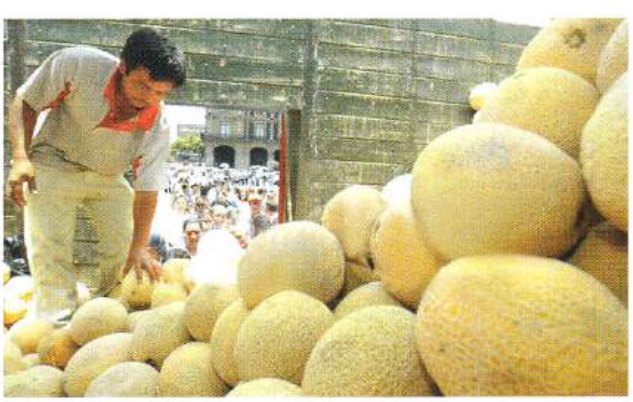
However, nearly two years of negotiations in Geneva did not produce a final settlement of any of these issues. Agriculture and Singapore issues proved to be the most difficult for the Geneva-based negotiators. The rich countries showed that they had no appetite for reforms in their heavily protected agriculture. The chair of the Committee on Agricultural produced a text that appeared to draw broad support from a large number of the members; but some, including the rich countries, had reservations. The European Commission and the USA brought out a proposal for agrarian reforms shortly before the Cancun conference. The developing and Cairns group countries severely criticised the proposal for being cosmetic and offering too little.

On non-agricultural market access, the rich countries were as radical as they were conservative on agriculture. They supported a Swiss-formula for the reduction of tariffs that would require the developing countries to agree on deeper cuts on their tariffs. They proposed the elimination of tariffs on sectors that were the principal export sectors of many developing countries. The USA even proposed total elimination of tariffs on all products by all countries - developed, developing and the least developed; but ironically it remained the only developed country to deny duty-free and quota-free access to the products of the least developed countries.

In service negotiations, the developed countries were keen to liberalise the supply of services through Mode 1 to 3 of GATS. Trade in service products of sectors in which they had a comparative advantage, such as power, telecommunications, banking and finance, required that these modes of supplying services were not obstructed by restrictions. However, they were adamant about not opening up the only mode of supply of services in which the developing countries had a comparative advantage, i.e. the movement of natural persons to provide services (Mode 4). They were willing to consider the movement of highly skilled labour, who in any case were highly mobile, but reluctant to accord the less skilled and semi-skilled workers a similar privilege.

Just about the only substantial success in Geneva negotiations related to the implementation of paragraph 6 of Doha Declaration was on TRIPS. Under great pressure from domestic NGOs as well as the developing countries, particularly those in Africa, the USA finally acquiesced to allowing the poor countries without an industrial capacity to import life-saving drugs from others through compulsory licensing.

The Doha Round of negotiations is scheduled to end at the end of 2004. The Cancun Ministerial conference was meant to be a mid-term review of the Doha Round of trade negotiations and an opportunity for the ministers to give guidance to their negotiators. Since the negotiations at the officials level in Geneva had bogged down on a number of key issues, it was urgently needed that the



Farm subsidy - a hot issue.

ministers meeting at Cancun give political direction on movement in at least some of the areas. As it happened the ministers failed to rise to the occasion and allowed the opportunity to progress pass by.

Disillusioned by the lack of progress on substantive issues in trade negotiations in Geneva, 21 developing countries with a

significant export interest in agricultural commodities forged an alliance, now known as G-21, just before the Cancun conference. Led by Brazil, China, India and South Africa, it represented more than half of the world's



population and two-thirds of its farmers. The group proved to be a very tough negotiator - knowledgeable, competent and professional. They displayed formidable opposition to the rich countries and articulated their own demands. They quickly became a powerful negotiating block that locked horn with the developed countries on crucial agricultural and other issues. They had broad support from the rest of the developing countries. However, their interests were not identical or consistent with those of LDCs on all issues.

During the first ministerial after the establishment of WTO, the European Union succeeded in including several new issues for discussion. These issues, viz. competition, investment, government procurement and trade facilitation, came to be collectively known as Singapore issues after the eponymous venue of the ministerial. There were acrimonious debate among the rich and the developing countries during the negotiations for the launch of the Doha Round about whether these issues should be part of the negotiating agenda. Finally, it was agreed that negotiations for modalities of these issues would commence after the Doha Round on the basis of an explicit consensus among all members.

What Really Happened at Cancun?

There were serious reservations by developing countries to cluttering the agenda with more negotiating items when there was a heavy backlog of unresolved issues and implementation related problems. Furthermore, there was little understanding about these esoteric issues among many countries and the relevance of these to trade or the interests of the developing world were not immediately apparent. They thought that the demanders had not adequately explained why these issues were so essential for trade negotiations. In retrospect, it seems that the developing countries thought that Doha Declaration did not bind them to any negotiation as a consensus would not be reached. On the other hand, the rich countries pursuing these issues thought that they could force a consensus as they had done previously on numerous issues. This perhaps explains why they persisted with Singapore issues right to the penultimate hour of the negotiations at Cancun despite the explicit show of overwhelming opposition from the developing countries. It is only at the fag end of the conference that the European Commission relented and indicated willingness to unbundle the Singapore issues by giving up competition and investment. But it was all too late and by this time other events had overtaken the conference. It remains an intriguing question what might have been the outcome if the offer had come a day earlier.

Another issue that emerged as important in Cancun is cotton. Four small and poor African countries, viz. Benin, Burkina Faso, Chad and Mali, brought it to the attention of the delegates at the Dhaka Ministerial that the cotton farmers in their countries were being ruined by the massive subsidy provided by the USA to its handful of cotton farmers that depressed the price in the international cotton market. The Dhaka Declaration called for an end to this subsidisation and compensation for the farmers being adversely affected. The same demand was raised at Cancun and almost all countries except the USA were sympathetic to this eminently reasonable demand of these countries. However, the paragraph on cotton included in the draft Cancun Declaration defied any logic. It became clear to everyone that it was deliberately put in the declaration by the USA



Holding hands for the future generation.

to snub the poor countries and it was not serious about any equitable negotiations. Protecting the profits of a few very large cotton farmers in the USA who were politically powerful was far more important to the US Congress than the lives of the millions of poor African cotton farmers. The cotton issue gained a symbolic importance; it was

viewed as a litmus test of whether the Doha Development Round was at all about development of the poor countries. The cotton problem had a decisive impact on the negotiations. As soon as the draft was made public, the African countries were absolutely aghast and dismayed by the utter insensitivity of the rich countries toward the miserable plight of the poor. They lost appetite for further negotiations and dug in their heels about Singapore issues. The coalition of the LDC, ACP and AU countries refused to give their representatives in the Green Room a mandate for any concessions on Singapore issues in further negotiations. A stalemate was thus created that eventually wrecked the Cancun conference.

'The major demand of the LDCs related to market access was duty-free and quota-free entry of their agricultural and non-agricultural products into the market of the rich countries with relaxed rules of origin that match their industrial capacity, and free movement of service providers under Mode 4 of GATS. Bangladesh succeeded in including all these in the draft Cancun declaration.'

The role of LDCs

All through the conference, Bangladesh played a quiet and constructive role. It had prepared long and hard for the conference. As the co-ordinator of the LDC group Bangladesh had the responsibility of carrying forward the LDC agenda agreed upon during the Dhaka LDC Ministerial Conference. Bangladesh was also selected as the representative of the Asia region for the Bureau as well as the coveted Vice-Chair of the conference. Thus Bangladesh was at the centre of the drama at Cancun. It utilised this position intelligently and fruitfully. The major demand of the LDCs related to market access was duty-free and quota-free entry of their agricultural and non-agricultural products into the market of the rich countries with relaxed rules of origin that match their industrial capacity, and free movement of service providers under Mode 4 of GATS. Bangladesh succeeded in including all these in the draft Cancun Declaration. The language needed some improvement, but that was advisedly left for the final Green Room deliberations. There was also some indication that the problem of tariff erosion would be given due consideration. It is no wonder that the leader of the Bangladesh delegation was crest-fallen that the fruits of all the hard work could not be harvested. A successful outcome would have given a fillip to economic activities of the LDCs.

Who is to blame?

In Cancun, everybody blamed everyone else. Both sides have blamed each other for the failure of the talks. The US trade representative in Cancun said poor countries would have to be prepared to compromise more if future trade talks were to make progress. But developing countries blamed the EU, for trying to introduce a far too ambitious agenda on issues such as investment and competition.

It is still a mystery why the European Union was so adamant about having their way on all four Singapore issues since there was no serious lobbying by industry groups for some of these issues. If the Cancun conference was not saddled with this very divisive issue, events could have taken a more favourable course. Many WTO insiders believe that other issues were manageable. Although there were disagreements on virtually all areas, these were not irreconcilable. It would not have been very difficult to have an agreement on non-agricultural market access if a compromise could be reached on agriculture. There were signs of some movement in the agricultural negotiations with rich countries indicating willingness to discuss the subsidy problem. Agreements were reached on a number of special and differential treatment issues. Although most of these lacked economic content, it is unlikely that the developing countries would have wanted to walk out of the negotiations on their account. A solution was already found on the difficult TRIPS issue. Other issues such as contingency measures and environment were not of deal-breaking nature. Hence, if the Cancun conference did not have to carry the excess baggage of Singapore issues, an agreed declaration was within reach.

It is not clear how much the events of 9/11 have affected the outcome of Cancun. Some people have noticed a



Whether security concern overtaking economic priorities?

hardening of the positions of USA, and an intolerance of any disagreement with its views or interests. As the largest trading nation of the

world, it was expected to play a leading role in the Cancun negotiations. But it maintained a an indifference to the procedings of the entire conference. It did not use its considerable influence or make any serious attempt to bring the bickering parties together. It flagged its



World leaders at a Crucial meeting.

intention to vigorously pursuing bilateral and regional trade agreements that have the potential to weaken WTO. It pontificated a lot, but did not make any substantive commitment that could assist the negotiations. It did not seem to be particularly surprised or disappointed that the conference ended in a fiasco.

In reality, it was the developing countries' ability to maintain a common bargaining position despite pressure from the rich, and despite differing interests on some issues, that proved decisive. It showed that in the WTO the developing nations have emerged as a power to be reckoned with.

Where do We Go from Here? The Best Case Scenario

The best hope for a successful completion of the Doha Development Agenda (DDA) according to most knowledgeable observers, is if agreement can be reached to continue from where Cancun left off. Shortly after the Cancun fiasco, the leaders of APEC countries made some encouraging noises about the Multilateral Trade Negotiations (MTN) at the end of their October meeting in Bangkok. Their Declaration reaffirmed their commitment to the DDA and agreed to re-energize the negotiation process recognizing that flexibility and political will are urgently needed to move negotiations toward a successful conclusion." They also agreed to "work towards the abolition of agricultural export subsidies, unjustifiable export prohibitions and restrictions." In their view, this Revised Draft Ministerial Text prepared by Mexican Foreign Minister Louis Ernesto Derbez provides the basis for the next stage of negotiations

However, the sailing will not be smooth. Several important developing countries, including members of the G-22, such as India, oppose using the Derbez Text as the basis for talks and contend that there is not enough "common ground" on the Text. Given the uncertain status of the Derbez Text as something rejected at Cancun, it's not surprising that many WTO members are divided on its utility as a basis to "re-energize" negotiations.

Nevertheless, it's useful to consider the Derbez Text. At 12 pages with 21 pages of appendixes, it provides a lot more specifics on modalities than the Doha Declaration. While it is still filled with brackets and doesn't incorporate any numbers and few dates, it represents the culmination of almost two year's hard work to find a common ground in many negotiating committees and is in fact the result of the only concrete effort to find the lowest common denominator among the rounds participants. If we throw it out, we might as well abandon the negotiations as we are going all the way back to square zero.

Would More Trade Liberalization Really Be Helpful?

Now the question is, would more trade liberalization really be helpful? Some might argue that after eight



Would he be able to compete in a globalized world?

rounds of trade negotiations tariffs have already been sharply reduced and that most trade barriers have been eliminated. The main job has basically already been done. According to a study of the WTO released in 2001 called Market Access: Unfinished Business, trade liberalization is far from complete and that many trade distortions remain. Its main findings were:

- the average level of bound tariffs for industrial products ranges from 1.8% to 59% among the 42 developed and developing countries surveyed.
- the share of agricultural tariff lines with bound duties above 100% ranged from zero to 69%.
- the "typical" WTO Member has undertaken liberalization commitments on less than one-sixth of the total 160 service sectors.



The 'drivers' of sustainable development : but often neglected

The World Bank has estimated that the elimination of tariffs on goods would increase world GDP by $830 billion per year, of which two-thirds would go to developing countries. Interestingly, three quarters of the income gains of developing countries would come from reducing the tariffs they levy on each other. And liberalization of trade in services would bring about even further increases in income, which the World Bank estimates at $900 billion for developing countries. More specifically, the World Bank also estimated that a successful Doha Round could bring $520 billion in benefits to developed and developing countries.

WTO members fail to meet deadline to relaunch trade talks

WTO's 146 member states failed to meet a key deadline to revive global trade liberalization talks in the face of disagreements over farming and industrial goods at the Geneva official talks on December 15 last year. But the director general of the global trade body, Supachai Panitchpakdi, said progress had been made since a doomed meeting in Cancun, Mexico in September, which collapsed amid deep divisions between the rich and the poor nations. And he urged countries to move from demonstrating a new willingness to re-engage in the so-called Doha Development Agenda to taking concrete action. "Our collective aim for today, as instructed by ministers in Cancun, was to arrive at a point where the negotiations can resume full momentum," Supachai told a meeting of the general council -- the WTO's executive organ.

The situation is not yet ripe for resumption of the negotiations at its full momentum. Yet the WTO DG requested all not to lose heart. Later, while briefing newsmen, WTO spokesman Keith Rockwell said countries concerned during past three months had shown signs of flexibility regarding their negotiating positions, but progress on subsidies and tarriffs for farm and industrial products had not been to the expected level. The framework for agiculture and NAMA (non-agriculture market access) are the areas where little progress could be made.

The WTO DG reportedly laid particular emphasis on the resolution of problems relating to the two issues in the first quarter of the current year with a view to completing the whole round within the desired time frame.

Supachai believed these issues must be hammered out in "the first quarter or so" of next year, said Rockwell, adding that this was a pre-requisite for completing the whole round within the desired timeframe.

As things stand today at the end of the Geneva talks, the future of multilateral trade regime looks uncertain as the two basic irritants- agriculture subsidy and NAMA remain unchanged. Continued stiff positions of the rich and the poor countries risk further lingering of the talks with more shift towards bilateralism that would not be a happy ending for any of the blocs. The sooner they realise this fact the better.



Dhaka conference : an effort to re-open the stalled talk.

Capacity Building for Investment Promotion in Developing Countries

There has been a dramatic shift in the attitude of developing countries towards FDI in recent years. The change has become particularly visible since mid-1980s. By now, most developing countries have adopted a much more favourable view of FDI. A number of factors lie behind this new orientation. The "debt crisis" of the early 1980s caused a spectre of falling investments, reduced or even negative growth, mounting fiscal deficits and deteriorating balance of payments in many developing countries. As they turned to international institutions both for financial assistance and policy advice, they were increasingly required to open up their markets to FDI which was seen as a means to compensate for reduced access to bank credits. The need for reliance on FDI was also reinforced by the declining trend in official development assistance. Meanwhile, the changing nature of activities of transnational corporations (TNCs) led to a more benign perception of their role. Many TNCs moved into manufacturing activities in developing countries with greater possibilities for forward and backward linkages. Many of them became engaged in export-oriented manufactures, complementing the national development objectives of achieving improved balance of payments and greater industrialization simultaneously. In the context of export promotion, the role of TNCs is assuming greater significance in view of the increasing importance of intra-firm trade in global trade. Transnational corporations were being increasingly looked upon as sources not only of capital, but also of production, management and marketing technologies. Thus many developing countries started liberalizing their FDI policy regimes on the basis of the new perception of commonality of interests. The trend toward liberalization became progressively more widespread as a result of a sort of demonstration effect - as some countries liberalized, others followed suit (Islam and Majumdar, 1990).

The above factors have been complemented by other supportive changes in the global economic scene. These changes involving greater "componentization" of production, convergence of demand patterns and reduced cost of cross-border transport and communication have created favourable conditions for a greater number of developing countries to attract FDI (ESCAP, 1997; 5-6).

Against the above background, this paper is organized as follows. Section II briefly indicates why FDI needs to be "promoted" in developing countries,. Sections III through VIII deal with the selected areas where capacity needs to be built/expanded to be able to promote FDI. Specifically, the article deals with policy formulation, institutions for implementation of policies, dissemination of information, targeting, aftercare services and contracts. These are considered as some of the most important areas without any claim to being exhaustive. The paper focusses on capacity building within government machinery, but does not address the issue of building the capacity of domestic private investors, though this is of no mean significance, particularly to attract FDI through joint ventures. Furthermore, the paper does not deal with capacity building in the area of international dimensions of FDI and related policies. Section IX offers some concluding observations.



Kuala Lumpur skyline : a symbol of public - private partnership.

Why Promotion?

Developing countries are generally characterized by the scarcity of capital. This implies relatively high rates of return to capital. The theory of international capital movement would thus predict that FDI should flow more to developing countries than to developed ones. Yet, data in table 1 clearly show that the reality is very different. The share of developing countries in global FDI flows rose to a peak of 40 percent in 1997, fell during the subsequent three years with a minimum of 18 percent in 2000 and then in the last two years remained rather stable at around 25 percent. Thus developing countries, which constitute an overwhelming majority of countries in the world receive a small share of FDI.

The above disparity is made even more glaring by the fact that only a handful of developing countries attract a disproportionately large share of FDI. Thus, five largest recipient countries received about 50 percent of total FDI flows to all developing countries in 1990 and their share rose to 60 percent in 2001. The corresponding shares of the ten largest recipient countries were 70 percent and 75 percent respectively. The share of 49 least developed countries as a group has consistently remained below one percent.

Table 1. FDI inflows by host groups of countries 1991-2002 (Millions of dollars)

	World	Developed economies	Developing economies	Least developed countries
1991-1996 (Annual average)	254,326	154,641 (60.8)	91,502 (36.0)	1,713 (0.7)
1997	481,911	269,654 (56.0)	193,224 (40.1)	3,401 (0.7)
1998	686,028	472,265 (68.9)	191,284 (27.9)	4,573 (0.7)
1999	1,079,083	824,642 (76.4)	229,295 (21.2)	5,974 (0.6)
2000	1,392,957	1,120,528 (80.4)	246,057 (17.7)	3,427 (0.2)
2001	823,825	589,379 (71.5)	209,431 (25.1)	5,629 (0.7)
2002	651,188	460,334 (70.7)	162,145 (24.9)	5,232 (0.8)

Source: UNCTAD, 2003
Note: The figures in parenthesis are the percentage shares of the respective groups of countries in world total.

It is thus abundantly clear that a large majority of developing countries attract little FDI. This fact provides the very basic rationale of FDI promotion in developing countries (See Table 1).

Policy Formulation

It is widely acknowledged that a conducive policy framework is an essential prerequisite for FDI. This, in turn, requires a clear understanding of the determinants of FDI. The literature on the determinants of FDI and the considerations which dictate the choice of a particular country as the location by transnational corporations identifies four main motives for FDI:

- To acquire natural resources;
- To service foreign markets, both in the country in which investment is made and in others;
- To restructure value-added activities so as to improve overall efficiency and enhance competitiveness.
- To acquire assets which might be complementary to existing assets, or competitive to them, so as to reduce risk, capture the economies of scale or synergy, or generally strengthen the acquiring firms' competitive position in national or world markets.

Foreign direct investment is essentially an effort on the part of a transnational corporation (TNC) to internalize control over production. Many of the motivations noted above can well be served through means other than FDI. For example, a foreign market can be serviced through export from home base. A TNC could also service a foreign market through patent, trademark, or licensing arrangement with a domestic producer in the local market. Therefore, for FDI to take place there must be some consideration for a TNC to internalize control over production through such means as wholly-owned enterprise or a joint venture. Some variables which prompt a TNC to consider internalization as an advantageous option relate to costs of quality control and supervision, transport and marketing costs, restrictions on intra-firm transactions, etc.

Once a firm decides upon internalization as an advantageous option, it has to be sure that it can compete effectively in the foreign market with either existing or potential domestic as well as other foreign firms. This implies that a TNC wishing to undertake FDI , must have certain ownership-specific advantages. These advantages are usually conferred by a firm's control over technology, marketing networks, product quality or other attributes of a proprietary nature.

To some extent, the determinants of ownership and internalization advantages overlap. For example, the command over latest technology would give a firm ownership advantage. It is also likely to encourage a firm to adopt Intel-nationalization strategy to minimize the risk of loss of technological advantage to competitors.

The considerations of ownership and internalization advantages impinge on a TNC's decision as to whether or not to undertake FDI. The next step in the process is for the TNC to choose a particular location from among alternative choices. This choice is contingent on the advantages offered by one location relative to others.



These advantages relate to, *interalia*, availability of natural resources and raw materials, cost and quality of labour, adequacy of infrastructure, size and growth prospect of the host country, and policies pursued by the host country.

It should be stressed that the different elements of locational advantage or disadvantage are of differing degrees of importance to different TNCs. For example, the availability of natural resources would be a crucial determinant for a TNC whose primary motivation in undertaking FDI is to secure the supply of a particular natural resource. For a TNC which seeks to capture domestic market, size and growth prospects of the host economy are likely to be the primary considerations in preferring one location over another. For TNCs seeking to enhance competitiveness, the availability and cost of labour with required skills would be important elements in locational choice.

The above considerations have been elegantly summed up by Dunning (1977, 1981) in the form of what has come to be known as OLI approach towards explaining FDI and its location - a schematic presentation of different determinants of OLI are given in table II. It is obvious that host countries have very little scope to influence the ownership and internalization advantages of a TNC. These are acquired by a TNC over its life time through its own decisions. In certain respects, of course, home country policies may be helpful. For example, subsidized access-to finance capital in a country may confer an ownership advantage on the enterprises of that country.

In many instances, the decision to relocate production abroad is prompted by developments within the home countries of TNCs. These fall in the category of what can be termed as "push" factors. An illustration is the explosion of Japanese FDI in the East and South-east Asia in the late 1980s that was significantly caused by 1985 Plaza Accord leading to a major appreciation of yen.

Finally, it should be noted that purely fortuitous elements may also pay a role in a TNC's decision to choose a particular location. To some extent, there exists a "herd instinct" among TNCs. If some TNCs are already operating in a country, others tend to follow suit. One could also mention ethnic connection as an element in the fortuitous category. For example, the presence of large numbers of the people of Chinese descent in several East/South-East Asian countries has been cited as an explanatory factor for intra-regional FDI among these countries.

The scope of national policies in attracting FDI is, therefore, largely limited to its influence on locational advantage. Here again, some limitations should be acknowledged. To illustrate, if a country happens to be geographically disadvantaged due to landlockedness or remote location from major economic centers, that cannot be changed through policies. There are areas



4.8 km long bridge over the river Jamuna, Bangladesh.

where policies can be effective only in somewhat longer term. For instance, development of human capital involves a considerable gestation period even if adequate resources are devoted to it. Similarly, the development of infrastructure requires both a considerable period of time and large amount of resources which a country may not be able to mobilize readily. Policy makers therefore need to recognize that the adoption of liberal FDI policies is not a sufficient condition to attract FDI in desired volumes, though it is a necessary condition. The latter

Table II. Determinants of OLI* a/

Ownership	Internalization	Location Factors	Comments
• Management experience	• Proprietary technology	• Political stability	• Prerequisite for all FDI
• Quality of management	• Transaction cost both inter and intra-firm	• Macroeconomic stability	• Ditto
• Product quality	• Strategic Partnering	• Availability of natural resources	• Crucial for resource seeking TNCs
• Economies of scope	• Cultural differences affecting organizational forms	• Fiscal incentives	• Of marginal significance
• Coordinating ability	• Transaction costs with respect to:	• Equity restriction	• Discourages FDI in technology-intensive industries
• Organizational resources	a) entry modes	• Exchange control	• Discourages all FDI
• Complementary assets	b) agency costs	• Availability of cheap and disciplined labor	• Particularly important for export-oriented output where host country may not be able to produce quality input
• Product characteristics	c) supplier relationships	• Export requirement	• Discourages domestic market-oriented FDI
• Segmented markets	• Market failure in capital/exchange markets	• Local content requirement	• Helpful for joint ventures
• Goodwill / brand names	• Negotiation/bargaining ability	• Foreign exchange balancing requirement	• Specially important for domestic market oriented FDI
• Control of distribution & network advantages	• Spatial costs of organizing hierarchies	• Availability of strong local entrepreneurs	• May encourage domestic market-oriented FDI
• Access to finance capital on favorable terms	• Efficiency of contract law (in protecting property rights)	• Size and growth potential of markets	• Encourages import competing FDI
• Experience in Portfolio diversification across national boundaries	• Economies of common governance	• Spatial distance and transport cost	• Desired by all TNCs
• Exposure to different economic systems	• Quality control	• Tariff and other protective barriers	• Important for investments requiring prior approval
• Lobbying ability / bargaining power	• Cost of enforcing contracts	• Access to domestic credit	• Desired by all investors
• Multiplant economies		• Efficient bureaucracy	• Ditto
• Ability to improve or reduce cost of transport information		• Impartial contract enforcement	• May be helpful, but
• Communications		• Well-developed and inexpensive infrastructure	
		• Cultural similarity with potential home countries	

Source: Prepared by the author drawing upon Dunning (1993)

a/ The list of determinants presented here is by no means exhaustive

** O indicates ownership advantages, L indicates locational advantages, and I indicates internalization advantages.*

consideration dictates the need for capacity building to formulate a range of policies that make the locational factors more attractive to FDI.



The Karnaphuli Fertilizer Factory (KAFCO) is one of the biggest foreign investment in Bangladesh.

Institutions For Implementation

The policy framework is only as good as its implementation. The existence of appropriate government institutions for policy administration, coordination and problem resolution is an important ingredient of a country's investment climate (UNCTAD, 1999).

Foreign investors in any country have to come in contact with a large number of government institutions for various purposes. These may include approval to set up business, acquisition of land for factory or office buildings, access to infrastructural facilities such as energy and telecommunications, permission for import of raw materials or equipment that fall in restricted category, clearance for employment of expatriate nationals, certifications of entitlement to fiscal or other incentives, repatriation of profits, dividends or capital, etc. The locational attraction of a country is, therefore, partly determined by the efficiency of the functioning of the relevant institutions. It should also be noted that many developing countries typically put in place one or two key institutions which play a central role in promoting FDI inflow. Thus the primary responsibility for attracting FDI in Bangladesh rests with the Board of Investment and the Export Processing Zones Authority. In China, a similar role is performed by the Ministry of Foreign Trade and Economic Relation. In India, some key institutions are the Foreign Investment Promotion Board, Secretariat for Industrial Approvals, Reserve Bank of India and the Development Commissioners of free trade/export processing zones. In Malaysia, the Malaysian Industrial Development Authority is the principal arm of the Government to attract and assist foreign investors. The Authority is assisted by an Advisory Services Centre. In the Republic of Korea, the two key institutions are Foreign Investment Service Centre and Korea Trade-Investment Promotion Agency. The important institutions in Singapore are Economic Development Board and Trade and Development Board.

Simultaneously, with greater liberalization of FDI policy regimes noted above, most countries have attempted to bring about improvements in the operational efficiency of various institutions dealing with FDI. The measures taken in this regard include the establishment of some kind of one-stop service centre, simplification of approval procedures, greater delegation of authority to the relevant institutions and personnel improvements.

The present author recently reviewed six country studies (Bangladesh, China, India, Malayasia, Republic of Korea and Singapore) and concluded that these institutions operate with varying degrees of effectiveness (Islam, 1998). Some of the problems that can be identified in respect of institutional arrangements for attracting foreign investors and facilitating their operations are the following:

- The authority given to an institution may not be commensurate with the functions that it is expected to carry out;
- Despite efforts in all countries to simplify approval procedures there still occurs considerable delay in some countries. In one case for instance, many line ministries are often involved in the process of approval of FDI and it is difficult to have a fast decision due to the involvement of many actors with different interests; The process of administering incentives may be complex. In one country, there were some 40 official documents dealing with preferential policies and measures applied to foreign investment in different geographical areas;
- The decision making process is not always transparent.



Communication : developing countries need support to improve it.

- In one country, the proposal of one TNC to set up a 100 per cent subsidiary was approved, while that of another in the same line of business was rejected without assigning any reason;
- There is sometimes a lack of definitional clarity of the criteria for approval and entitlement to incentives. For example, in one country there does not appear to exist any clear definition of R&D.
- In some instances, there is also lack or inadequacy of in-house technical capability in the institutions responsible for approving FDI proposals or certifying entitlement to incentives. In consequence, the concerned institutions are required to rely on *ad hoc* teams drawn from other organizations to undertake necessary investigation and evaluation functions causing delayed decisions.

In the light of the above findings, each country needs to develop the capacity to diagnose the institutional problems and to adopt appropriate remedial measures to secure the flow of FDI.

Dissemination Of Information

The fact that FDI remains heavily concentrated in a few developing countries does not necessarily mean that the profitability of investment is low in all the other countries. Many of these countries need to improve their image so as to appear on the "radar screen" of foreign investors. The cultivation of favourable image requires dissemination of information. Some of the pertinent information relate to :

- Macroeconomic situation
- Industry profiles
- Lists and descriptions of potential joint venture partners
- Privatization programmes
- Laws and regulations governing FDI and private investment generally
- Investment incentives and related obligations, if any
- Administrative structures and procedures relevant to FDI

The above are but an illustrative list. The point is that all information that is relevant to the locational attractiveness of a country needs to be effectively disseminated, ensuring that the information provided is grounded in reality. If potential investors discover that information provided is inaccurate or misleading, that may further worsen the country's image. Thus a country aspiring to attract larger FDI needs to develop the capacity to determine the appropriate content of information as well as to adopt effective means of disseminating them through, for example, print media, websites, dialogues with potential investors etc.

Targeting

Targeting involves efforts to attract a subset of FDI flows, rather than FDI in general (UNCTAD, 2002). Successful targeting equires several steps. First, it is important to identify the strengths and weaknesses of the country with a view to narrowing down the areas where the country can be particularly attracttive for foreign investors. This, in turn, involves an analysis of the revailing trade and industry patterns, an analysis of factors that have contributed to FDI flows to competing locations, and an identification of special factors such as membership of free trade areas and regional cooperation arrangements, preferential trade schemes and availability of export processing zones or industrial parks.

Once an assessment has been made, the next step is to identify the potential sources of FDI. This can be done by following some criteria such as economic, geographic and demographic.

The application of economic criterion would imply focusing on firms that operate in a particular industry which matches with the country's locational



attractiveness. Another example of economic targeting is to target investors willing to avail of special trade preferences. The geographic targeting involves focusing promotional resources on key home countries, based on inter alia, geographical proximity or the presence of sunset industries in more advanced countries. Demographic criterion generally involves targeting a country's diaspora.

In the end, targeting has to go beyond the identification of industries and countries and identify individual companies and their management. In this respect, dialogues with existing foreign affiliates and their competitors well as domestic private investors may be helpful.



Kamalapur Rail station in Dhaka.

Aftercare Services

The importance of providing aftercare services to existing foreign investors is being increasingly recognized as a means to encourage them to expand their operations, to attract new investors and to generally improve a country's image. One way of handling the provision of aftercare services is put in place a tracking system which involves establishment of frequent contact with investors, assessment of their problems and identification as well as implementation of measures to solve the problems. A new approach in this context involves the appointment of an investment "Ombudsperson" entrusted with the task of immediately remedying any problem that an investor brings to his/her attention.

Contracts

In addition to general laws and regulations, FDI is often conditioned by specific contracts to which a government agency is often a party. This is of particular significance in natural resources sector and large infrastructure projects such as power generation and construction of pipelines. Transnational corporations involved in such projects are typically equipped with long experience, access to in-house lawyers and financial resources to engage specialized outside expertise to safeguard their interests. The same does not hold for government agencies in many countries. In consequence, an atmosphere of anxiety and even mistrust often bedevils contract negotiations and delays investment and sometimes problems occur in the course of implementation, giving rise to acrimony and legal hassles. Ultimately, these adversely affect the attractiveness of a country for future investment as potential new investors are likely to be more sympathetic to the views of the existing investors than of the government agencies.

Concluding Observations

The key conclusions emerging from the analysis are summarized below:

There are many determinants of FDI inflows. These include the ownership and internalization advantages on the part of TNCs and locational advantages offered by a particular host country relative to others. The scope of national policies is largely limited to influencing certain aspects of locational advantages.

National policies to attract FDI encompass FDI-related policies as well as a much broader set of economic policies that generally promote growth and create an environment conducive to private investment, both domestic and foreign.

Simultaneously with policy liberalization, developing countries need to effect improvements in the operational efficiency of the institutions responsible for promoting FDI. Among the problems that require attention are delays in decisions, complexity in administration of incentives, inadequate transparency in decisions, lack of authority commensurate with responsibility, and insufficient in-house technical capacity to undertake mandated investigation and evaluation functions.

In addition to policy-making and implementation, the other areas where capacity needs to be considerably strengthened relate to dissemination of information, targeting, aftercare services and contact negotiations.

In conclusion, it should be emphasized that strengthened capacity in the areas identified above may help, but does not guarantee, increased FDI flows to developing countries. Foreign investment decisions are subject to many influences that have nothing to do with host country actions. However, this is not an excuse for ignoring the imperatives of capacity building for investment promotion.

ICC Bangladesh acknowledges contribution of Dr Mirza Azizul Islam, Former Director, ESCAP

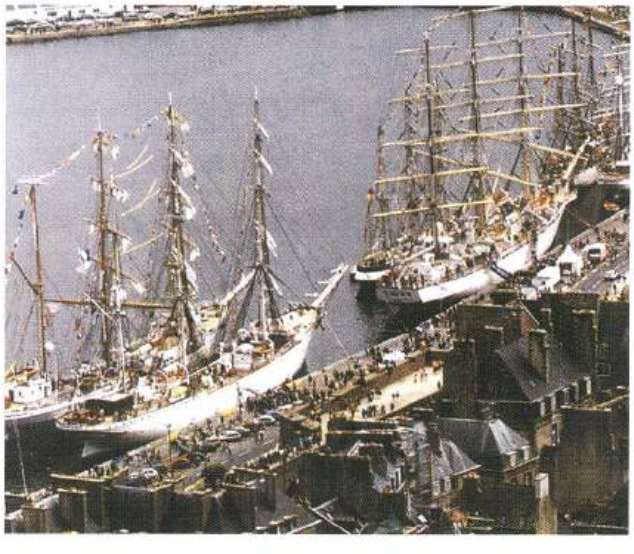
Trade Facilitation Through Dispute Resolution: Emergence of 'Interest-Based' Dispute Management

Trade and other economic disputes have negative impacts on the facilitation of trade and global economic governance. One of the fundamental impacts of such disputes is the impairment of trade relationship between private parties, private party and state and inter-state trade relationships. The inevitability of disputes within a commercial relationship demands stronger and effective measures taken at reducing their occurrences and foster the economic growth of the parties. Most disputes occur as a result of the inability or unwillingness of a party to honour the contractual terms, thus violating the notion of "sanctity of contract". This concept is fundamental in all legal systems and its application in trans-national contracts has been rigorously asserted through many arbitral awards as well as in the decisions of various domestic courts.[1] However, though this concept underpins strict compliance with the terms of the contract (assertion of rights and duties), but there are situations where the nature of business and commerce would dictate renegotiation of the terms of the business relationships which the parties already agreed to. The presence of a renegotiation clause in a contract may fail to achieve a renewed agreement, which may eventually result in a dispute between the parties.

It is not a surprise that the terms of understanding in long-term contracts are prone to changes throughout its life. Differences would occur and a fully blown dispute may lead to arbitration or other adversarial process of alternative dispute resolution. The obligation to negotiate "in good faith" found in many long-term contracts are not enforceable through arbitration. This, without a further dispute screening mechanism, entices or compels the parties to resort to expert determination or arbitration, which is costly and litigious in nature.

The early advocates of arbitration saw this method as a "consensual" process, where the parties would resort to an amicable settlement of their disputes. The practice and jurisprudence of arbitration have grown to avoid, *inter alia*, the confrontational stance of litigation. An account of what arbitration involves procedurally has been given in these terms, "There are no users, wigs or gowns – simply a group of people seated around a row of tables, in a room hired for the occasion. To an outsider, it would look as if a conference or business meeting was in progress: it is not very like a legal proceeding at all."[2]

These considerations including the myth that arbitration



is less costly have thinned and arbitration is becoming even more costly, lengthy, cumbersome, and difficult to enforce. In many instances, it has been noted that a large proportion of disputes gets settled by the parties after initiation of the arbitration process. This indicates that arbitration should be a last resort remedy in international commercial ADR.

International business and commerce relies on the efficacy in designing a dispute resolution mechanism, which offers an effective choice to the parties to a contract to resolve their disputes in a manner which would encourage the promotion of good business relationship and "partnering" in commercial activities. The notion of *lex mercatoria*, which many argue has shaped international commercial law, has also been argued to be looked through the eyes of "practicability".[3] In this new era of business transaction, practicability demands introduction of a more participatory method in dealing with international commercial disputes.

This paper looks at the International Chamber of Commerce's (ICC) recent initiatives in incorporating the management-based approach in dealing with disputes.[4] In particular, the recently discussed Draft Rules for Dispute Boards will be highlighted here,[5] after a brief look into the conceptual issues of conflict management. It also briefly explores the lack of adoption of the interest-based approach within the WTO Dispute Settlement Understanding (DSU).

Approaches in dispute resolution

RIGHTS-BASED APPROACH

Most legal systems have used this form of dispute resolution, where the parties take positions as to who is right and who is wrong, e.g., in litigation and arbitration. This process relies heavily on a strict assertion of legal obligation. The parties would be engaged in a 'zero-sum' (win-lose) game, a competitive form, rather than a cooperative one in that they would blame others to win. This approach is purely positional, despite that concessions could be made during the process through a very hard-earned bargaining. Moreover, the parties are more likely to fall apart as to the ambit and conditions of renegotiation and the relationship would be much strained. This approach does not have conflict management characteristics.

INTEREST-BASED APPROACH

On the other hand, if the parties follow the interest based techniques, the end result is mutual gain, as they would work together to meet as many interests as possible. Here the focus is on interests of both parties rather than predominantly one party. Interest based approach towards resolving a dispute can be distinguished from the traditional rights-based approach in the following ways[6]:

Rights-based	Interests-based
Independent	Interdependent
Objective is 'win-lose'	Objective is mutual gains – 'win-win'
Adopts adversarial method	Adopts collaborative method
Result is compromise	Result is consensus
Characterized by combativeness	Characterized by mutual problem solving
Debate issues	Discuss problems and solve them
Cautious in offers	Innovative ideas
Frequent use of threat	Explores interests and needs
Proposes limited or single solutions	Always keeps options open to discuss
Engages in conflict	Manages conflict
Participants are considered adversaries	Focuses on partnering
Highly positional	High focus on interest
Information retracting is seen as a weapon to win and defeat other	Information disclosure is seen as a basis for mutual gain
Results in strained relationship	Bolsters relationship

The following diagram assists us in understanding the role of the 'interest based' approach in various ADR methods.



Conflict and its management

CAUSES OF CONFLICT

"What it is to 'manage conflict' would seem to depend upon what meaning is assigned to the term 'conflict'."[7] Conflicts arise out of a 'right and duty' situation or out of a feeling that interest and values of a particular party to a deal are challenged or that the needs and expectations are not met. For example, pre-contractual expectations of parties, if not fulfilled during the negotiation stage, have the potential to generate conflicts later on. In post-contractual relationships, 'rights and duties' come into play because of the legal validation the agreement receives, and one party may allege that his right has been

breached and would claim that the other party should remedy it. Therefore, respective claims of rights by the parties become stronger in a post-contractual conflict and the parties start to position themselves around their rights, simulating what is called "positional bargaining".[8] Pre-contractual positional bargaining is also endemic, as exemplified by Fisher and Ury.[9] This strong assertion of rights and duties put the parties on each side of a dividing line and the outcome is not always congenial and not truly conducive to building a long-term relationship.

Such conflicts may aggravate depending on the way the parties perceive the importance of the conflict in relation to their interest. Their psychological connotation to a conflict would also influence their conduct in settling the dispute.

CONFLICT MANAGEMENT AND ITS OBJECTIVES [10]

Conflicts under a long-term contract may have two different characteristics; they may either concern the interpretation and enforcement of the respective rights and obligations of the parties under the contract, i.e., relating to contractual terms and conditions, or may relate to continued suitability of the terms themselves. The parties may deal with such disputes by way of negotiation, failing which they may go to arbitration or deploy other methods of ADR.

Conflict management seeks to involve the parties in a consensual process and empower them to resolve the incompatibility in their approach to a dispute, understand the respective rights and interests of each other and settle the dispute themselves and not solving it for them by way of an imposed decision. It is an approach based on finding the interests of the parties and accommodating legitimate needs without vindicating legal or contractual rights. Thus, the theory of conflict management is greatly aligned to the concepts of cooperation and participation, rather than engaging in adversarial process of resolution of a dispute.

The 'need' of one-another is an important feature in any investment contracts and should justify the facilitation of coordination in resolving dispute. This facilitation of a coordinated approach is the key to conflict management.[11]

Conflict management as a two-way or joint coordinated process seeks to strengthen a relationship and find out where the problems in attaining the respective objectives lie. As the management strategy involves both parties equally, they will be expected to analyse a conflict without having to resort to positional bargaining. Instead, the parties would bargain for how to mitigate *conflicting interest* to achieve a win-win result.

This is vital for any investment. Most international investments are long-term in nature and the unknown eventualities would require different types of concessions at different times. Apart from the changing circumstances, divergence in culture and business systems inhibit the truce in a relationship and equality in relationship suffers from lack of common understanding. Some of these circumstances would be difficult to redress by way of contractual arrangements or by way of arbitration,[12] and conflict management should be the preferred option.

ADR METHODS AND CONFLICT MANAGEMENT

The following discussion is intended to reflect the conflict management characteristics of the selected ADR methods to demonstrate how the interest-based approach plays its role.

NEGOTIATION

A long-term contract cannot predict all possible future dispute and circumstances and it is typical that they are continuously negotiated in the event of a dispute. They would normally stipulate that in the event of a dispute, the parties 'should make their best efforts to settle amicably,'[13] 'by negotiation between the parties'.[14] The purpose is to restore 'the economic equilibrium of the parties'.[15] For example, the Production Sharing Contract of Qatar provides that,

> "....both parties shall enter into negotiations, in good faith, in order to reach an equitable solution that maintains the economic equilibrium of this Agreement."[16]

Negotiation has been described as a 'fundamental tool for managing'[17] the disputes in a contract and also to manage the contract. There has been recent insistence on the availability of renegotiation in resources contracts and all other investment contracts.[18] Though the introduction of 'good faith' in a negotiation introduces an element of participatory conflict management, but this potential benefit may be offset by the approach the parties take in such renegotiation.

The parties may be engaged in a 'zero-sum' (win-lose) game - a competitive, rights-based form of negotiation, rather than a cooperative one and may resort to the inevitable positional bargaining. Moreover, the parties would more likely fall apart as to the ambit and conditions of renegotiation and the relationship would be much strained. Arbitration may be the preferred option, but an arbitrator does not normally rewrite the contract for the parties.[19]

Mediation

Mediation is a more *need and interest* based approach and, therefore, is placed on the other side of the conflict management spectrum comparing to arbitration, expert determination and

conciliation. It is a voluntary process where an independent, impartial and neutral mediator facilitates negotiation by the parties to settle a conflict by way of helping them to find the issues in a conflict, what approach may be taken to resolve it, what options may be there and where the interests of the parties lie. In mediation, the parties become more participatory in managing the conflict between them and the mediator acts as a middleman to make the parties aware and understand their respective perspectives, interests and rights.[20]

Despite the considerable advantages of mediation as a conflict management process, it is ironical that most of the long-term contracts concluded do not normally provide for a mediated settlement.

Arbitration

Arbitration is an adjudicative process of dispute resolution. Its advantages of speed and less cost have gradually been questioned and arbitration as the best method of dispute resolution has been undermined. Moreover, the developing countries have been very sceptical to invoke or rely on arbitration as an effective tool to build their relationship with the foreign corporations.

A provision as to arbitration in a contract may work as a 'threat'[21] and, therefore, can result in dispute avoidance. It is however, doubtful, if resorting to arbitration could be described as a dispute management strategy.[22]

The reasons can be manifold, such as:

- its adjudicative nature mainly focuses on 'appraisal of rights of each party';[23]
- the parties depart from participatory ideology and become isolated;
- they position themselves firmly against each other in a non-cooperative way;
- respective interests of each party are sacrificed;
- resolving a dispute may be delayed by enforcement avoidance actions in the court;
- outcome is dictated rather than 'agreed';
- there cannot be a 'win-win' situation, as the 'winner takes all';
- options for co-operation become less creative and, therefore, rigid; and
- some disputes may not be arbitrable and arbitrators do not have unlimited power, such as, to rewrite or revise the contract for the parties.

The *Wintershall* arbitration[24] is one of the many examples why arbitration may not be a suitable method to manage conflict. The dispute concerned the utilization or commerciality of non-associated gas. After discovery of non-associated gas, Wintershall asked the government of Qatar to agree that the discovery is commercial and utilization of the gas is economical. Failing to reach an agreement on economic utilisation after prolonged negotiation, Wintershall commenced arbitration. The arbitrators found that they could not oblige the government of Qatar to agree to the Wintershall's proposals as to economic utilization of the gas. One commentator argued that,

"As illustrated by this case, arbitration is a poor and costly substitute for...*informed* [emphasis added] negotiation between the parties."[25]



ICC's most recent initiative in this field is the work of the Task Force on Dispute Boards and the discussions of the Arbitration Commission on the adoption of a Dispute Board Rules.

Internalisation of conflict management

Internalisation could be defined as an internal and in-built mechanism of conflict management in the contract - a separate body to deal with and troubleshoot conflicts, which aim to realize much of the benefits of conflict management. In other words, the parties agrees to include a provision in the contract so that any conflicts arising out of or in connection with the contract or through the operation of the contract would be first referred to the agreed process, which will seek to analyse the conflict, find the causes and interests of each party, develop options for settlement, set the legal rights as a means to attain the win-win situation of the parties and facilitate to settle disputes without any adjudicative process.

In contrast to, for example, the resources industry, the construction industry[26] uses 'Dispute Review Board' (DRB) comprised usually of representatives of both parties and an independent person to act as the facilitator

of managing the disputes. It is common in large construction projects that any dispute should go to the board before going to arbitration or other forms of dispute resolution. DRB may be formed at the beginning of the project, before any conflict arises. The independent member of the board acts as a dispute resolution adviser. Such boards have been used in the Channel Tunnel project, in the Hong Kong airport construction projects, has now been written into Australia's new electricity industry Code and the World Bank envisaged the importance of this board and now requires the presence of it in capital intensive construction projects.[27]

The DRB's functions are usually set down in the contract, a highly internalised approach. It can be termed as an *internalised mediation board* though it has been described as more advantageous than general mediation. Even though the DRB approach can be cost-effective and minimise conflicts even before they occur, it has not been extensively introduced in the other investment contracts.



ICC draft rules for dispute boards – a new agenda for the millennium

The role of ICC in designing dispute resolution mechanisms and providing a platform towards the growth of ADR, is highlighted by the volume of international commercial disputes it deals with every year. ICC is at a crucial juncture to devise dispute resolution mechanisms which would facilitate the conduct of international business. It is noticeable that the ICC embarked on promoting other ADR techniques than arbitration in recent years. ICC is mainly perceived as an arbitration institution, as far as dispute resolution is concerned. While the interest based approach, such as, mediation, established its presence in the US and other non-European countries, Europe and Asia have been very slow in accommodating the concepts of Mediation in commercial transaction. ICC had the Optional Rules for Conciliation for many years, but it was rarely used. This has now been replaced since 2001 with the ICC ADR Rules. "Their purpose is to offer business partners a means of resolving disputes amicably, in the way best suited to their needs. A distinctive feature of the Rules is the freedom the parties are given to choose the technique they consider most conducive to settlement."[28]

ICC's most recent initiative in this field is the work of the Task Force on Dispute Boards and the discussions of the Arbitration Commission on the adoption of a Dispute Board Rules. The Task Force is currently working on this and the Rules have not been finalised yet. Dispute Boards have widely been used in many large-scale international infrastructure projects and the World Bank and FIDIC standard form contracts have been using dispute boards as the prominent dispute resolution mechanism. The Task Force commented that "As a permanent body established at the outset of the contract, a DB assists the parties to perform their contract in the most efficient and cost-effective manner."[29]

The notion of conflict management through the use of Dispute Boards can be found in the following statement of the Task Force:

> "DBs offer two types of assistance. First, they provide the parties with an efficient tool to identify, and prevent, potential disputes early. Second, if a dispute does arise, a DB provides the parties with a mechanism to resolve it with as little disturbance as possible to the overall contractual relationship."

The role, formation and functions of the Dispute Boards (DB) are currently under a consultation process, but the main features are highlighted here.

Dispute Board and effect of its determination

The draft Rules rather than defining DBs in general terms, categorises it either as a Dispute Review Board (DRB), or a Dispute Adjudication Board (DAB) or a Combined Dispute Board (CDB). This categorisation has been made at introducing flexible and the most appropriate alternative for the contractual need of the parties.

The powers of the various DBs as well as the mandate to the individual categories of the Dispute Boards are different. The Task Force states that the DRB gives the parties a large amount of flexibility, as its Recommendation does not become binding automatically. Any of the parties may contest the Recommendation of the DRB and the draft Rules states that if a party does not contest the

Recommendation within the agreed time, it shall become a term of the contract between the parties.[30] If it is contested, however, arbitration would be the fall-back option.[31]

The DAB has power, comparable to the determination by an expert, to bind the parties through its Decision. The Decision is an executable and binding outcome of the dispute. The draft Rules state that the Decision shall be complied with immediately by the parties.[32] The parties can contest the Decision, but it does not absolve the parties from carrying out the Decision of the DAB.[33] The Decision may be reviewed by arbitration or by other means.

The CDB option allows greater flexibility in that it can either function as a DRB or as a DAB or both. The parties, therefore, can structure the strength of the outcome of their dispute by agreeing to have their dispute settled by CDB. This is very encouraging, as it leaves the option to the parties to coin the effect of their desired result, which is different from arbitration. In the event of a disagreement between the parties as to whether the CDB would be issuing a Recommendation or a Decision, the draft Rules prompted certainty as to the type of the determination to be rendered by CDB. The CDB would resolve this disagreement.[34]

Impartiality and independence

Article 7 of the draft Rules deals with these issues and puts in unequivocal term that the members of the DB must be and remain independent of the parties. Disclosure obligation as to independence matches the disclosure obligations of the ICC arbitrators. Article 7 does not mention specifically about the level of impartiality to be exercised by the DB members. However, it is understood that a DB member (DBM) cannot be less impartial than an arbitrator.

Confidentiality

The members of the DB would be appointed at the beginning of the contract and the Model Dispute Board Member Agreement, annexed to the draft Rules, indicates that the members would generally hold the position for the duration of the contract. This allows the members to be involved in great detail as to the terms of the contract and also their method of implementation. In practice, they would oversee the performance of the contract and would act more or less as contract managers and at the same time as internal mediators.[35] This extensive involvement outstrips the depth of the information obtainable by an arbitrator or by an expert, and the arbitrator and the expert do not monitor a contract continuously. Article 8 deals with the confidentiality issues and prohibits unilateral and unauthorised disclosure of any such information. However, it is not clear whether any sanction can be imposed under these draft Rules against unauthorised disclosure. It is expected that clear guidance would ensue with the adoption of the Rules sometimes in future.

Other provisions

Like any other consensual process, the DBs can perform effectively and efficiently if the parties cooperate with each other and also with the DB itself. The draft Rules impose an obligation on the parties to cooperate with the DB in order for the DBMs to be informed of the progress of the performance of the contract, by way of progress reports from the parties, site visits and periodic meetings.[36] The purpose is not only to facilitate the understanding of the performance of the contractual obligations, but also to be able "to give advice and guidance on any matter relevant to the contract without a dispute being formally referred to it."[37] It is hoped that the "ability to examine potential disputes with the DB before they become full disputes is intended to assist the Parties in avoiding actual disputes."[38] It is encouraging to see that a difference is introduced here between "potential disputes" or disagreements and "full disputes"; yet more importance is given on the necessity to screen out potential disputes. It is clear that what UNCITRAL Model Law avoided concerning the requirement of a "dispute" during its drafting stage[39], has sensibly and timely been resurrected by the Dispute Board Rules.

Interest –based approach and the WTO DSU

The WTO Dispute Settlement Understanding (DSU), which came into effect in January 1995, sets out a dispute settlement system that is widely used by both developed and developing Members, even though the developing countries are not very enthusiastic in using this process. It has been stated that the dispute settlement system of the WTO is a central element in providing security and predictability to the multilateral trading system.

The settlement process under the DSU is primarily adversarial although there are provisions for adopting a conciliatory or mediatory approach. Annex 2 of the WTO Agreement which incorporates the Understanding on rules and procedures governing the settlement of disputes states that:

> "Members affirm their adherence to the principles for the *management of disputes* [emphasis added] heretofore applied under Articles XXII and XXIII of GATT 1947, and the rules and procedures as further elaborated and modified herein."[40]

However, the management-based approach, as discussed above, does not find much place within the DSU. Article3. 2 of the Understanding advocates for a "rights and obligations" based approach. It states that "The Members recognize that it serves to preserve the rights and obligations of Members under the covered agreements,...." Moreover, it is apparent that the Dispute Settlement Body (DSB) also proceeds on determining the pure rights and obligations of the parties.[41]

It is, however, interesting to observe that the DSU speaks of maintaining a "proper balance" between the rights and obligation of the parties.[42] It is not clear what is



understood by the desire to have a balance reached and what are the considerations in creating the "balance" through the DSU process. It has been argued earlier that as the economic equilibrium of the parties changes, adjustment on the terms of an agreement is made to restore the contractual balance or redesign a new balance to preserve the continuity of the performance of an agreement. It is very much doubtful if the current WTO dispute settlement process makes any room for such balance, which would have binding effect. It is important to consider Article 3.7 here:

> "...The aim of the dispute settlement mechanism is to secure a positive solution to a dispute. A solution *mutually acceptable* [emphasis added] to the parties to a dispute and consistent with the covered agreements is clearly to be preferred."

As considered earlier, the mutuality of acceptance of a solution may, in many cases, require an understanding of and a proper reflection on the interests of the parties. The DSU does not promote this aspect of mutuality. It is understood that the WTO operates by consensus, but the DSU is not primarily a mediation process. Consultation[43] and Mediation[44] have been encouraged. Article 5 states that good offices, conciliation and mediation can commence at any time by the parties. But these are not DSU mandatory obligations, i.e., the parties are not bound to resolve their disputes through a mediated settlement before triggering the WTO Panel proceedings. Therefore, the screening and reduction of disputes through binding mediation are not unfortunately the highest agenda of the DSU. It is suggested that the WTO DSU needs a drastic reform to acknowledge the importance of mandatory mediation as a part of the dispute settlement process.

Conclusion

It is evident that the approaches to dispute resolution play an important role in the way a dispute is resolved and the manner in which the relationship of the parties is built. 'Partnering' depends on understanding the need of the parties at different stages of the performance of the contract. In this era of competitive business environment, the more the parties become participatory in managing their disputes, the less it clogs the development of a longstanding business relationship. Dispute screening mechanisms are going to be employed more in the years to come, alongside with arbitration. This is a must for the growth and facilitation of congenial international business relations. Many parties to the international business, especially from the developing countries, cannot afford adequate representations in adversarial dispute resolution methods. Moreover, it is well accepted that many of the disputes where arbitration has been invoked could have been avoided if the parties applied an interest based approach. The 'internalised' approach introduced by the draft Dispute Board Rules is a premier in reshaping the way international business community would deal with their disputes in the coming years. Its impact may be minimum on the day-to-day commercial transactions, but transnational investment contracts, extractive industry contracts and other medium to long-term investment contracts would be greatly benefited from this internalised and binding process of dispute management. The WTO and its DSU as tools for global economic governance are lacking in applying the interest based dispute management approach; it is noted that there are much posturing of dispute management than its stricter adoption within the WTO dispute settlement system.

1- See, e.g., Texaco v Libya Award 53 ILR (1987) at p. 389; Sapphire Award, 35 ILR at p. 181. See also Atiyah, P.S., The Rise and Fall of Freedom of Contract (Oxford: Clarendon Press, 1979).

2 Redfern, A. and M. Hunter, Law and Practice of International Commercial Arbitration, at p. 1(3rd edn. London: Sweet & Maxwell, 1999).

3 Fortier, Arbitration International 2001, at 121, 124.

4 ICC draft Rules for Dispute Boards.

5 ICC also adopted the Rules of Optional Conciliation in and the purpose of adopting it has been defined in their preamble that "settlement is a desirable solution for business disputes of an international character". It is argued that the Optional Conciliation Rules have essentially incorporated the concept of dispute management in an international commercial transaction context and more or less resembles the wider notion of mediation. The Optional Rules have been replaced with the new ICC ADR Rules with effect from July 1, 2001. Mediation is not a modern trend, but a rebirth of the age-old and tested method of dispute settlement. Mediation gained extensive acceptance in domestic conflict management context since the last decade and US, UK, Australia and other jurisdictions have incorporated mediated settlement as part of the civil justice system. The Swiss Cantonal Court recently held that pre-trial mediation clauses are binding under Swiss law: Obergericht des Kantons Thurgau, SJZ [2003], reprinted in 21 ASA Bulletin 418 (June 2003).

6 Adapted from: U.S. Department of Interior, Bureau of Reclamation, Conflict Management Guidebook, Chapter 2, p.13 (August 1998) < > (last visited on March 29, 2003).

7 Nardin, T., Theories of Conflict Management 9 (Ontario, Canada: Canadian Peace Research Institute, 1971).

8 Fisher, R., Ury, W. and Patton, B., Getting to Yes: Negotiating an Agreement Without Giving In (2nd ed.) (London: Random House Business Books, 1991).

9 Ibid.

10Conflict management relies on the dispute settlement process of preventing and managing disputes and designing a "system for coordinating, tracking, troubleshooting and estimating the ... impact of any issues ...currently in dispute." See Stickley, D.C., Project Management and Dispute Resolution in the International Petroleum Industry, CEPMLP, University of Dundee, Summer 2002.

11 In conflict management, "each party must... perceive that the continued existence of the other is both necessary and desirable from the point of view of his own self-interest. Where common interest of this kind exists, coordination will occur and be reinforced, and conflict-managing [norm] will evolve.": Supra n. 8 at p.72.

12 Salacuse, W.J., Direct Negotiation and Mediation in International Financial and Business Conflicts in Non-Judicial Dispute Settlement in International Financial Transactions 53, 58 (Horn, N. and J. Norton, ed., London: Kluwer Law International, 2000).

13 Bangladesh Model PSC, Article 29.1.

14 Mozambique Model PSC, (undated), Article 34.2.

15 Kazakhastan, 1997 Model Contract for Oil & Gas (Decree 108 of January 17, 1997), Article 28.16.

16 Model Exploration and Production Sharing Agreement, 1994, Article 34.12.

17 Supra n. 12 at p. 55.

18 Bernardini, P., The Renegotiation of Investment Contract, 13 ICSID Rev. – FILJ 411 (1996).

19 Mann, F.D., The Aminoil Arbitration, 14 Brit. Y.B. Int'l L. 213, 218 (1984), cited ibid at p. 421.

20 See generally, Christopher, M., The Mediation Process: Practical Strategies for Resolving Conflict (Francisco, CA: Jossey Bass, San, 1996).

21 Walde, T., Law, Contract and Reputation in International Business: What Works?, Vol 3-16 Article, Online Journal CEPMLP, (1998) <> (last visited March 29, 2003).

22 One commentator has mentioned that: "It usually results in dissolution of the business relationship, not in its reconstruction.", see Supra n. 12 at p. 66.

23 Macfarlane, J., The Mediation Alternative, in Rethinking Disputes: The Mediation Alternative 2 (Macfarlane, J., ed., London: Cavendish Publishing Limited, 1997).

24 Wintershall AG et al v.Qatar, 28 ILM 795 (1989).

25 Sheppard, A.W., Types of Gas Contracts: Avoidance and Settlement of their Disputes, Cairo Regional Centre for International Commercial Arbitration Energy Petroleum and Gas Conference, Cairo, 18 – 19 November 1995.

26 Fenn, P., M. O'Shea and E. Davies (eds.) Dispute Resolution and Conflict Management in Construction, An International Review (London and New York: E & FN Spon, 1998).

27 Supra n. 12 at p. 65.

28 See the Foreword to the ICC ADR Rules.

29 See the Foreword to the ICC draft Rules for Dispute Boards.

30 Article 3.2 of the draft Rules.

31 Article 3.4.

32 Article 4.2.

33 Article 4.3.

34 Article 5.3.

35 See Article 11, which deals with the meetings and site visits by the DB members.

36 See Article 10.3.

37 Article 15.1.

38 Article 15.4.

39 During the drafting of the UNCITRAL Model Law, it was suggested that "certain differences" rather than a full dispute may be arbitrable. But it was not adopted at the final stage of the drafting. See UN Doc.A/CN.9/WG.II/WP.37 of 15 July 1982, Para.II.1.3, Article 2, reprinted in Holtzmann, H. M. and J. E. Neuhaus, A Guide to the UNCITRAL Model Law on International Commercial Arbitration: Legislative History and Commentary 278 (Kluwer Law International, 1990).

40 Article 3.1 Annex 2 of the WTO Agreement.

41 "Recommendations or rulings made by the DSB shall be aimed at achieving a satisfactory settlement of the matter in accordance with the rights and obligations under this Understanding and under the covered agreements.", see Article 3.4.

42 "The prompt settlement of situations in which a Member considers that any benefits accruing to it directly or indirectly under the covered agreements are being impaired by measures taken by another Member is essential to the effective functioning of the WTO and the maintenance of a proper balance between the rights and obligations of Members.", see Article 3.3.

43 Article 4.

44 Article 5.

ICC Bangladesh acknowledges contribution of ***Naser Alam****, Barrister at Law, National Commissioner of ICCB.*



Bangladesh Faces the Challenge of Globalization

Reliance on exports and remittances exposes vulnerability

DHAKA: Bangladesh faces the challenge of achieving accelerated economic growth and alleviating the massive poverty that afflicts nearly two-fifths of its 135 million people. To meet this challenge, market-oriented liberalizing policy reforms were initiated in the mid-1980s and were pursued much more vigorously in the 1990s. These reforms were particularly aimed at moving towards an open economic regime and integrating with the global economy.

During the 1990s, notable progress was made in economic performance. Along with maintaining economic stabilization with a significantly reduced and declining dependence on foreign aid, the economy appeared to begin a transition from stabilization to growth. The average annual growth in per capita income had steadily accelerated from about 1.6 per cent per annum in the first half of the 1980s to 3.6 percent by the latter half of the 1990s. This improved performance owed itself both to a slowdown in population growth and a sustained increase in the rate of GDP growth, which averaged 5.2 percent annually during the second half of the 1990s. During this time, progress in the human development indicators was even more impressive. Bangladesh was in fact among the top performing countries in the 1990s, when measured by its improvement in the Human Development Index (HDI) as estimated by the United Nations Development Project (UNDP). In terms of the increase in the value of HDI between 1990 and 2001, Bangladesh is surpassed only by China and Cape Verde.

Bangladesh's economy grew rapidly during the 1990s as the country liberalized its markets and became increasingly integrated into the world economy. Until the 2001 global recession, Bangladesh ranked third for improvement of human development - behind only Cape Verde and China - thanks in large part to exports from its blossoming garment industry. ***Wahiduddin Mahmud****, economist and former Adviser to the care-taker goverment of Bangladesh, explains that despite these positive trends, the recession hit Bangladesh's economy hard, and it seems unlikely that the country will soon regain the momentum it had in the 1990s. The increasing competitiveness of the global garment industry, in particular, threatens to undermine Bangladesh's growth. In addition, the inflow of migrant worker remittances - one of the few saving graces during the economic slowdown - may also be in peril. These remittances rely strongly on the economic fortunes and hospitality of host countries, some of which are now changing their policies and attitudes towards guest workers. "If Bangladesh is to become less vulnerable to the economic fortunes of others," Mahmud concludes, "it will need to strengthen its domestic economy, creating jobs and markets at home."*

While most low-income countries depend largely on the export of primary commodities, Bangladesh has made the transition from being primarily a jute-exporting country to a garment-exporting one. This transition has been dictated by the country's resource endowment, characterized by extreme land scarcity and a very high population density, making economic growth dependent on the export of labor-intensive manufactures.

Although Bangladesh still does not rank among the most globally integrated developing economies, the pace of integration has been quite rapid. Until hit by the global recession in 2001, there had been robust and sustained growth of export earnings, averaging about 15 percent per year in the 1990s. As a result, the ratio of export earnings to GDP had nearly doubled to about 14 percent by the end of the decade. In 2001-02, however, export earnings declined in US dollar terms for the first time in nearly 15 years. Although there was a recovery in the following year, the medium term outlook indicates that it will be difficult to regain the export momentum of the 1990s.

A greater integration with the global economy seems to fit well with the kind of pro-poor growth envisaged by Bangladesh's development efforts. The export-oriented garment industry presently employs around 1.8 million workers - mostly women from low-income, rural backgrounds. The second dominant export-oriented activity, shrimp farming, is also very labor intensive, presently

employing nearly half a million rural poor. More generally, import liberalization is likely to have contributed to the creation of productive employment for the poor through the strengthening of many small-scale and informal sector activities that have benefited from improved access to imported inputs.



Export growth demands more port capacity.

The relatively strong growth of the Bangladeshi economy in the 1990s was underpinned by the even stronger export growth. Unfortunately, the removal of the Multi-Fiber Arrangements (MFA) quotas now threatens to increase competition in the global garment industry and thus limit Bangladesh's growth. The strength of the industry depends on the export quotas dictated by the MFA and preferential access in the major Western markets. Moreover, other export industries are unlikely to take its place if the garment industry shrinks; excluding the garment industry, the growth of the large-scale manufacturing industries was a meager 4 percent annually in the 1990s. That may partly reflect the overall poor investment climate, but also partly the effect of increased competition from imports on industries catering to the domestic market. In such a situation, the desirability of further import liberalization may be put to question. Since the country depends heavily on imported raw materials, machinery and components, cutting back on imports would hurt prospects for creating jobs by adversely affecting production and investment activities.

It is not easy for a Least Developed Country (LDC) like Bangladesh to specialize in manufactured exports. Having low wage costs can hardly compensate for its lack of marketing skills and infrastructure and poor overall investment climate. Moreover, the high degree of dependence of domestic industries on imported raw materials and industrial inputs makes it difficult for Bangladesh to satisfy the so-called "rules of origin" in getting preferential access for its exports in the markets of the developed countries. Thus, most of Bangladesh's garment exports are not eligible for the tariff concessions given under the Generalized System of Preferences (GSP) in the EU market. This problem has not received adequate attention, since the other major players in textile trade among developing countries are hardly affected by it.

Bangladesh can hopefully benefit from the European Union's decision to allow duty-free import of "everything but arms" from the LDCs, and it would like to see the replication of such trade concessions in other industrialized countries. Unfortunately, the same rules of origin as under GSP apply here as well. The GSP rules were devised decades ago to help developing countries promote export-oriented industrialization. But, in effect, the rules proved discriminatory against LDCs like Bangladesh that count on low value-addition processing activities. On top of these rules, Bangladesh also has to worry about non-tariff barriers such as those relating to environmental or labor standards. Anti-dumping actions are already under way against exports from Bangladesh, and they are an important latent threat when the MFA is dismantled. The tough sanitary and phytosanitary regulations of the developed countries are also an impediment for diversifying into agro-processed export items for Bangladesh and other countries that lack product standards and certification facilities.

Another issue of great importance to Bangladesh is that the free movement of temporary workers across borders be expanded, for workers' remittances play an important role in its economy. Indeed, a redeeming feature in the face of the export slowdown in Bangladesh is the continued increase in the inflow of migrant workers' remittances, which grew from about 2.5 percent of GDP in the beginning of the 1990s to above 5 percent in 2001-02 (amounting to about US$2.5 billion). Migrant workers



The export-oriented garment industry presently employs around 1.8 million workers - mostly women from low-income rural backgrounds.

are mostly unskilled or semi-skilled, and most of them come from poor rural families, making their remitted savings an important means for their families to escape poverty. There is, however, considerable uncertainty about the continuation of these remittance inflows, which depend on the economic fortunes of the host countries and their changing policies and attitudes towards guest workers. Most of Bangladesh's temporary migrant workers are in the Middle East, but increasingly they are going to more diverse destinations in East Asia and Europe, though often illegally.

In the wake of the 2001 global recession, Bangladesh's reliance on foreign countries as a market for exports and as a source of remittances has become obvious. If Bangladesh is to become less vulnerable to the economic fortunes of others, it will need to strengthen its domestic economy, creating jobs and markets at home. A strong domestic sector and an improved overall investment environment will provide a more stable source of income - like what the garment industry has provided so far - and will rekindle and sustain Bangladesh's economic growth.



Tea is one of the major export of Bangladesh.

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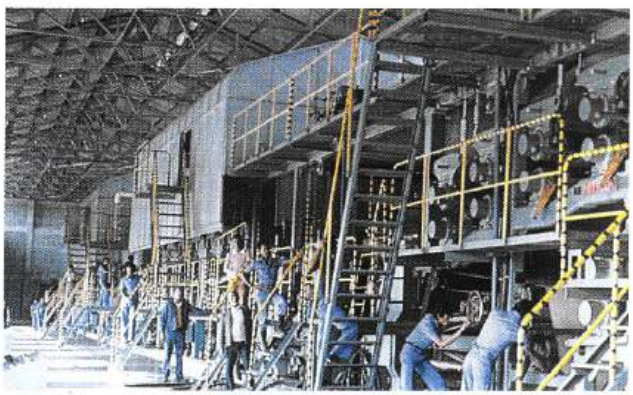
'The high degree of dependence of domestic industries on imported raw materials and industrial inputs makes it difficult for Bangladesh to satisfy the "rules of origin" in getting preferential access for its exports in the markets of the developed countries.'

While most low-income countries depend largely on the export of primary commodities, Bangladesh has made the transition from being primarily a jute-exporting country to a garment exporting one.

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Investment Prospect in Bangladesh

Investment is an important factor for economic growth. To propel sustained economic development, there has to be generation and efficient allocation of capital and labour. With these come the application of technology and creation of skills and institutions. These factors determine how well each economy would run and its development is steered.



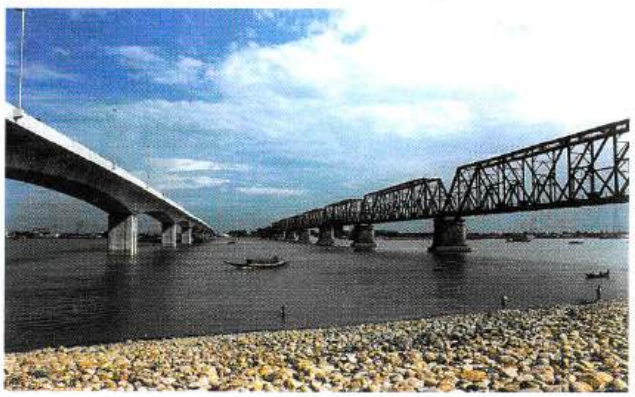
Inadequate infrastructure provides greater opportunity for investment (FDI).

Though development relies upon resources for investment to increase production and income, the context has changed much over the years particularly in the wake of globalisation. As an immediate effect, the role of FDI became increasingly important side by side with domestic resource mobilisation. During the past three decades, FDI turned out to be the major factor for stimulating international resource flows from the developed countries to the developing and under-developed ones.

Like most other developing and least developed countries, Bangladesh considers FDI as an important resource for development. In order to attract more and more FDI, the country undertook massive liberalisation of its investment regime. The rapid liberalisation of its trade and economy, put in to effect since the early 80s, was also intended to boost FDI inflows. However, the flow of FDI into Bangladesh has remained small compared to other countries of the region. though China, Thailand and the Philippines remained the most favoured destinations for foreign investors, FDI flows even into Cambodia, Vietnam, Pakistan and Sri Lanka have outstripped that in Bangladesh.

Bangladesh, like many other countries, experimented with a socialistic system of economic management soon after its birth in 1971. In the early '70s, inward - looking import-substitution industries essentially dominated the country's productive sectors mostly under state-ownership. However, in the late '70s private sector was allowed to play a limited role side by side with the state-owned enterprises in the industrial and financial operations. Howevr, since mid-80's, successive governments in Bangladesh keeping in pace with the global trend, put increased emphasis on private sector-led growth of the economy. In the early part of 1990s, Bangladesh decided to embrace free market economy and introduced various reforms for liberalising its trade and investment policies. It opened most of the sectors of its economy to the foreign investors with one of the most attractive incentive packages offered in the region.

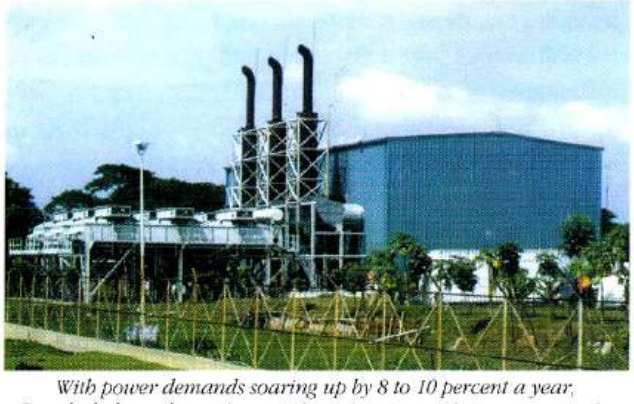
Ever since the economic liberalisation, Bangladesh exports have been growing, at an average rate of 20% and GDP at about 5%. A vibrant, particularly export-oriented industrial base and a new generation of entrepreneurs has been making investments in manufacturing sector on their own as well as under joint venture projects with foreign investors. There are also a good number of



Opportunities for highway development, bridges, expressway and tunnels under BOO and BOT.

projects set up with 100% foreign investment both inside and outside export processing zones (EPZ) in Bangladesh. in recent years, foreign investments in the energy and telecommunication have increased manifold. In addition to these, there are many other potential sectors for foreign investment.

It is true that the GDP of bangladesh has been growing at a faster rate than the population growth generating marginal surplus for investment. However, in order to improve the quality of life and reduce poverty, our GDP has to grow at a faster rate to generate enough investable



With power demands soaring up by 8 to 10 percent a year, Bangladesh needs continuos private investment in power sector in the coming years

surplus to ensure investment of at least 20-22% of GDP annually. The current national saving rate, at about 12-14% of GDP leaves a gap of around 8%, which has to be bridged by foreign investment. Since official development assistance (ODA) is on the decline, we have no choice but to reply upon FDI to meet out investment needs.

Successive governments in Bangladesh have been pursuing clear and well-defined economic policies with the basic objective of ensuring socio-economic emancipation of the people through increased productive activities. The government has introduced a number of policy measures to attract indigenous and foreign private investment. Private investment is welcome in all areas of the economy except five reserved sectors. These are : i) arms, ammunitions and other defence machinery,

New Investments

	2000-01	2000-02	2002-3(P)
Investment Projects			
Registered by Board of Investment	2691.00	1835.00	1512.00
Made by BSCIC	4. 10	5.42	18.25
In EPZs	48.41	55.71	85.00

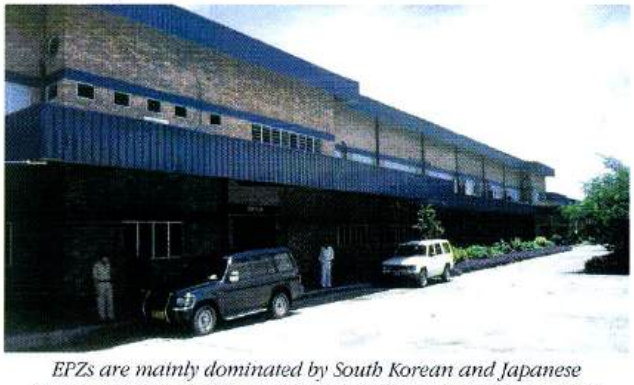
ii) production of nuclear energy, iii) extraction from reserved forests, iv) security printing and minting, v) international air transportation and railways.

Bangladesh has 130 million people in a small geographical space of 144000 sq. km. Given the large population and lack of employment opportunities, Bangladesh offers one of the cheapest work force in the world; particularly for labour intensive industries. Bangladeshi workers are hard working, easily trainable and highly adaptable to new technology. Labour wage rates varies between US$ 45-75 per month.

Our capital market is small, yet growing with potentials for Portfolio investment from abroad. Unrestricted investment in the capital market is allowed. 100% foreign investment and joint venture with local partners or public sector, are welcome.

Bangladesh offers a unique package of incentives for FDI, which include:

- Tax holiday upto year 2005 for agro-processing industry, roads and riverine transport, computer software development.
- Facilities for full repatriation of invested capital, profit & dividend
- Exemption of tax on interest on foreign loan
- Tax exemption on royalties, technical know-how fees
- Avoidance of double taxation on the basis of bi-lateral agreements
- Multiple entry visas for the investors
- Re-investment of profit or dividend treated as new investment
- Working capital loans as well as term loan from local banks are allowed
- Foreigners can buy SOEs being privatized
- No import duty for capital machinery of export oriented industry



EPZs are mainly dominated by South Korean and Japanese investment. Bangladesh has opened up four more EPZs in recent times.

- Investors can wind up their business and repatriate the sale proceeds
- Tax exemption on capital gains from the sale of shares
- Special facilities to the export-oriented industries under "Thrust Sectors"

Incentives to Export-Oriented and Export-Linkage Industries:

Export-oriented industrialisation is the guiding principle of our Industrial Policy. Export industries are given priority and policy support with special privileges. An industry exporting at least 80% of its manufactured goods



Projected demand for fabrics in RMG for 2004 is around 2000 million meters.

or contributing at least 80% of its products as an input to other export oriented industries, and similarly, a business entity exporting at least 80% of services including information technology related products will be considered as an export-oriented industry.

To make 100 percent export industries attractive, the following incentives are provided:

i) Duty free import of capital machinery including spare parts up to 10 percent of the value of such capital machinery

ii) Facilities for Bonded Warehouse and back-to-back Letters of Credit

iii) Duty drawback on exported goods

iv) Bank loan up to 90 percent against L/C or Sales Contract

v) Exported handicrafts and cottage industry products are exempted from income tax

vi) For all other industries 50 percent income tax rebate on export earnings

vii) Concessional duty on raw materials

viii) Duty-free import of samples

ix) Use of local raw materials by export-industries are treated as indirect exports and entitled to various export benefits

x) Export Credit Guarantee Scheme

xi) 100% percent export-oriented industry outside EPZ are allowed to sell 20% of their products in the domestic market, subject to payment of duties

xii) Export industries, earmarket as "Thrust Sector" are provided special facilities and venture capital support.

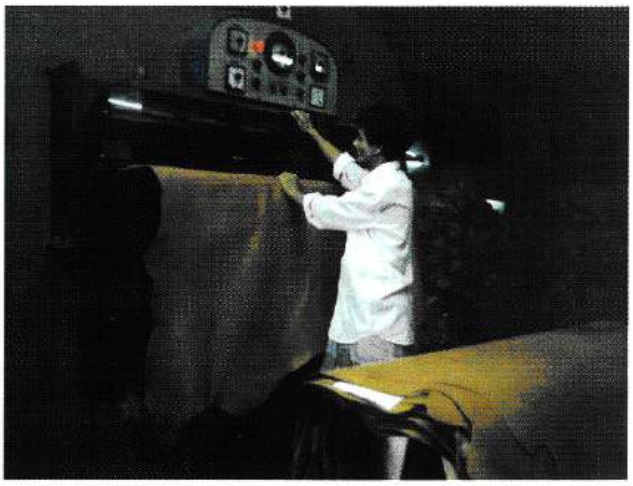
Besides, government permission is not required to set up new industries by both local and foreign investors irrespective of investment ceiling. The investors only need to register with the Board of Investment (BOI) to avail of the various facilities and institutional support provided by the government.

Any person investing US$ 100,000 may get permanent resident status and any person investing US$ 0.5 million or transferring US$ 1.00 million to any bank may obtain citizenship. However, all such investments are not repatriable.

In terms of GDP Bangladesh ranks perhaps within 20 biggest economies of the world. Besides, it has immense human and natural resources such as fertile land, huge water bodies, abundant natural gas, coal and stones; awaiting proper harnessing and extraction. The following sectors and sub-sectors of the economy are very promising for lucrative private investment, more particularly FDI.

Composite Textiles and Linkage Industries:

Bangladesh experienced a phenomenal growth of ready-made garment industries (RMG) in the last two decades



that now accounts for around 70% of total exports. Bangladesh is the best place in South Asia for garments because of its highly competitive prices, good quality products and adherence of code of conduct desired by

the buyers in the EU, USA, Canada, Japan and various other countries. Incentives for the spinning and weaving industries include a 7% cash subsidy. There exists a vast market for textile products in Bangladesh to meet the fabric requirement of the RMG industries. Projected



There are about twenty Gas fields, discovered over the past four decades including offshore field, Sangu developed by a consortium of foreign firms.

demand for the fabrics in RMG for 2004 is around 2000 million meters. Currently 2500 RMG units employing 1.5 million workers mostly women spend approximately 60% of their export earnings on import of fabrics. During 2002 export earnings by RMG was about US$ 5.2 billion. In order to meet the demand gap of fabrics by the beginning of 2005 additional investment in spinning, weaving, dyeing, printing and finishing is required on a top priority basis.

Telecommunication:

To meet the ever-increasing demand, the government has been developing and expanding the systems and services of BTTB. Private operations in the rural telecommunication, paging, cellular telephones and riverine radio trunking have already been allowed. At present seven private operators are providing services to about 1.5 million subscribers. Bangladesh is poised to be one of the largest cell-phone market in South Asia. Government recently announced plans to increase the number of fixed telephone lines by 1.6 million allowing private sector investment in this sector as well. In accordance with overall national policy, liberalisation of the telecommunication will continue.

Information and Communication Technology:

Availability of substantial number of qualified young people in various branches of engineering, science and technology have opened up the scope of profitable investment in ICT. Bangladeshi IT firms are interested to join in with overseas investors. The government has declared ICT as a "Thrust Sector". This means that IT whould be given the highest level of support from the government.

Other important areas for Investment in Bangladesh :

Electronics, Energy (oil, gas and power), Frozen Food, Leather and Leather goods, Ceramics, Light Engineering and Agro-based Industry are some of other sectors that promise good investment opportunities.

Private EPZ:

Bangladesh in 1994 allowed foreign investors to set-up private EPZ, that offer facilities similar to the public EPZs. A Korean EPZ has already been established in Chittagong and a Japanese one is in the process of being set up.

Apart from the above, new investments in the following areas are considered to be very lucrative:

i) Diversified Jute Goods, Jute-based Pulp and Paper
ii) Food Processing, Fruit Caning and Allied Products
iii) Chemicals and Petrochemicals especially based on hydrocarbon
iv) Harbour, Deep Sea Port, Air Cargo
v) Computer Software and Electronics
vi) Gems Cutting and Polishing



Bangladesh is poised to be one of the largest cell- phone market in South Asia.

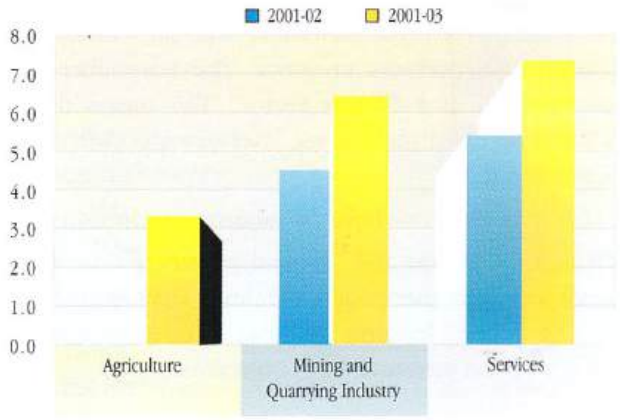
vii) Sports Goods

viii) LP Gas, Environment friendly Insecticides

ix) Toys

x) Imitation Jewellery

xi) Tourism



The government has taken a number of policy initiative to encourage private participation in developing infrastructure facilities and services under Build Operate and Own (BOO) and Build Operate and Transfer (BOT) basis in the following areas:

i) Power generation

ii) Exploration and exploitation of oil, gas and other mineral resources

iii) Highway development including bridges, expressway and tunnels

iv) Port infrastructure facilities

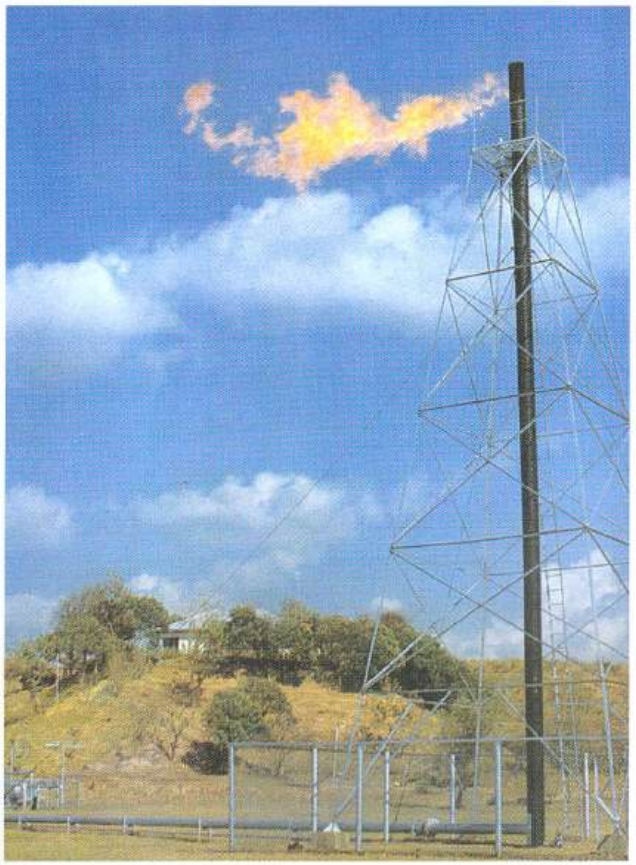
v) Industrial Parks / Private Export Processing Zones

In Bangladesh local and foreign investors are now operating telecommunication network, specially cellular phones. Energy giants are now exploring and producing oil, gas and mineral resources. Many foreign companies are now engaged in power generation. Distribution network will also be allowed in the private sector very soon.

The above mentioned policies and programmes are expected to produce positive results. As many as 89 projects of foreign investment involving US$ 302 million have been registered with BOI; besides 2875 projects of local investment involving US$ 1.5 billion during the period from July 2001 to June 2002 were permitted. In 2000-2001 fiscal year foreign and local investment was $1.27 billion and $ 1.42 billion respectively.

A number of multinationals are operating in Bangladesh for decades. As a result of liberal investment policy, entrepreneurs from countries like China, Japan, Malaysia, United Kingdom, USA, Singapore, Hong Kong, Korea, Germany, Canada, Italy and Saudi Arabia have in the recent years invested in Bangladesh.

In the outside world, there may be some negative image of Bangladesh such as natural calamities, political unrest, bureaucratic complexities, underdeveloped infrastructures and so on. However, these features are generally common in most of the least developed countries. Since the introduction of democratic rule in the earlly 90's, successive governments in Bangladesh have been trying hard to make investment climate congenial to the investors and their efforts have yielded positive results.









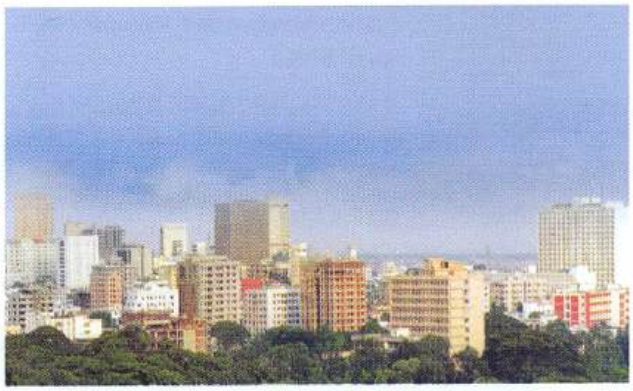


Bangladesh

Official Name	The People's Republic of Bangladesh
Capital City	Dhaka
Location	South Asia, between 20°34′ and 26°38′ north latitude and between 88°01′ and 92°41′ east longitude; consists of flat fertile alluvial land.
Boundaries	North-India (West Bengal and Meghalaya), West-India (West Bengal), East-India (Tripura and Assam) and Myanmar, South-Bay of Bengal.
Area	1,47,570 sq. km. (Territorial water 12 nautical miles in the high seas measured from the base line.)
Standard Time	GMT + 6 Hours
Climate	Sub-tropical monsoon. Winter (Nov-February) temperature - average max. 29°C, average min. 11°C; Summer (Mar-June) temperature - average max. 32°C, average minimum 21°C; Monsoon (July-Oct.)
Rainfall	1194 mm to 3454 mm (average during monsoon, June-August)
Humidity	Highest : 99 per cent (July), Lowest : 36 per cent (December and January)
Vegetation	Grassland, mixed evergreen and evergreen
Population	130 Million
Density	760 persons per sq. km
Growth Rate	1.67%
Mortality Rate	72.8 per 1000 (under 1 year)
Literacy Rate	64%
Ethnic Groups	Predominantly mixed group of Proto Austroloids/Dravidians, Mongoloids and Aryans
Language	95 percent Bangla and 5 percent other dialects. English is widely spoken.

10th Year of ICC's Presence in Bangladesh







Religion	Muslim (88.3%), Hindu (10.5%), Buddhist (0.6%), Christian (0.3%) and others (0.3%)
Food	Rice, Vegetables, Pulse, Fish and Meat
Principal crops	Rice, Wheat, Jute, Tea, Tobacco, Sugarcane, Pulses, Oilseeds, Spices, Potatoes, Vegetables, Banana, Mango, Coconut and Jackfruit.
Principal Rivers	Padma, Buriganga, Brahmaputra, Jamuna, Meghna, Karnaphuli, Shetalakha, Teesta, etc. Total 230 rivers including tributaries.
Mineral Resources	Natural gas, Lime stone, hard rock, coal, lignite, silica sand, white clay, radio active sand, etc. (There is immense possibility of oil deposit)
Human Resources	A substantial manpower reserve, trained and skilled, engineers, technicians, physicians, economists, accountants, administrative and managerial personnel, abundance of low cost, easily trainable and adaptable, hard working, intelligent and youthful labour force.
Form of Government	The country has a Parliamentary Form of Government headed by the Prime Minister. The President is the constitutional head of the Country.
Principal Industries	Jute, tea, textiles, garments, paper, newsprint, fertilizer, leather and leather goods, sugar, cement, fish processing, pharmaceuticals, chemical industries, Raw jute, jute manufactures (hesssian sacking, carpet backing, carpets), jute products, tea, leather, leather products, Garments, frozen shrimps, other fish products, newsprint, paper, naphtha, furnace oil, urea, ceramic products etc.
Principal Exports	Readymade garments, frozen food and shrimp, tea, raw jute, jute products, leather and leather products, chemical fertilizer, ceramic tableware, etc.
Principal Imports	Wheat, oil, seeds, crude petroleum, raw cotton, edible oil, petroleum products, fertilizer, cement, staple fibers, yarn, iron & steel, capital goods, etc.
Households	1,47,85,048
Divisions	6



Districts	64
Thana	495
Unions/Wards	4,472
Villages	85,650
Intl. airports	Zia International Airport, Dhaka, Chittagong Shah Amanat International Airport, Chittagong and Osmani International Airport, Sylhet.
Domestic airports	Dhaka, Chittagong, Sylhet, Cox's Bazar, Thakurgaon, Syedpur, Rajshahi, Jessore and Barisal.
Sea ports	Chittagong and Mongla.
Inland river ports	Dhaka, Chandpur, Barisal, Khulna, Bhairab, Narayanganj, Sirajganj.
Television Stations	Dhaka, Chittagong
TV Sub-Stations	Sylhet, Khulna, Natore, Mymensingh, Rangpur, Noakhali, Brahmanbaria and Saidpur.
Radio Stations	Dhaka, Chittagong, Rajshahi, Khulna, Rangpur, Sylhet, Rangamati, Comilla and Thakurgaon

Summary Tables

Major Economic Indicators

National accounts	1999-00	2000-01	2001-02	2002-03(P)	2003-04(E)
GDP(million US$)	47126.0	46989.0	47571.0	51898.0	54740.0
GDP Growth (%)	5.9	5.3	4.4	5.3	5.5
Per Capita GDP(US$)	368.0	362.0	361.0	389.0	426.0
Domestic Demand(in million US$)	49548.0	49380.0	49945.0	54488.0	58000.0
Agriculture					
Share to GDP(%)	25.6	25.0	24.0	23.5	22.7
Growth Rate (%)	7.4	3.1	0.0	3.3	3.0
Industry					
Share to GDP(%)	25.4	25.9	26.5	25.9	27.1
Growth Rate (%)	6.2	7.4	6.6	7.3	8.0
Manufacturing					
Share to GDP(%)	15.4	15.6	15.8	15.9	16.2
Growth Rate (%)	4.8	6.7	5.5	6.6	8.0
Construtions					
Share to GDP(%)	7.8	8.1	8.4	8.6	8.3
Growth Rate (%)	8.5	8.6	8.6	8.3	8.0
Power, Gas & Water					
Share to GDP(%)	1.4	1.5	1.5	1.6	1.6
Growth Rate (%)	6.8	7.4	7.6	8.9	9.0
Services					
Share to GDP(%)	48.7	48.3	48.7	48.8	49.0
Growth Rate (%)	5.5	5.5	5.4	5.8	6.5
Wholesale and Retail trade					
Share to GDP(%)	13.4	13.5	13.8	13.9	14.0
Growth Rate (%)	7.3	6.4	6.6	6.7	7.0
Transport, Storage & Communication					
Share to GDP(%)	9.2	9.4	9.6	9.8	10.0
Growth Rate (%)	6.1	7.9	6.6	7.3	8.5
Real estate, renting & Business Activities					
Share to GDP(%)	8.9	8.7	8.6	8.5	8.3
Growth Rate (%)	3.8	3.4	3.4	3.5	4.0
Health and Social Works					
Share to GDP(%)	2.2	2.2	2.2	2.2	2.2
Growth Rate (%)	4.8	4.9	5.3	5.8	6.0
Education					
Share to GDP(%)	2.2	2.2	2.3	2.4	2.4
Growth Rate (%)	7.7	7.1	7.6	7.9	8.4

Summary Tables

Balance of Payments (million US$)					
Export	5752.0	6467.0	5986.0	6400.0	7000.0
Import	8374.0	9335.0	8540.0	9098.0	10900.0
Workers' Remittances	1949.0	1882.0	2501.0	3000.0	3500.0
Current Account					
Balance	-337.0	-1018.0	240.0	490.0	-200.0
Overall Balance	164.0	-226.0	365.0	500.0	800.0
Foreign Exchange Reserves	1602.0	1307.0	1583.0	2491.0	3000.0
Public Finance(million US$)					
Current Revenue	3989.0	4355.0	4857.0	5380.0	6029.0
Tax Revenue	3196.0	3664.0	3714.0	4309.0	4845.0
Current Expenditure	3618.0	3807.0	3953.0	4371.0	4828.0
Annual Development Programme	3025.0	2947.0	2621.0	2953.0	3383.0
Overall Deficit	2860.0	2576.0	2329.0	2208.0	2635.0
Savings & Investment As % of GDP					
Total Investment	23.0	23.1	23.1	23.2	24.0
Public Investment	7.4	7.2	6.4	6.7	7.0
Private Investment	15.6	15.8	16.8	16.5	17.0
Natinal Savings	23.1	22.4	23.4	23.7	24.0
Domestic Savings	17.9	18.0	18.2	18.2	18.5
Rate of Inflation (CPI)	3.4	1.6	2.4	5.2	4.5
GDP deflator % change	1.9	1.6	3.2	4.4	4.0
Wage price index % change	5.8	4.1	6.0	10.9	7.0
Average Exchange Rate (Taka/US$)	50.31	53.96	57.42	57.90	60.00
Money and Credit (billion Tk.)					
Total liquidity	747.62	871.74	986.16	1124.00	1250.00
Foreign Assets (net)	85.74	74.85	95.94	134.00	156.00
Domestic Assets (net)	661.88	796.89	890.22	990.00	1094.00
Domestic Credit	714.89	841.08	949.78	1051.00	1180.00
Govt. Sector (net)	147.73	176.77	201.64	212.00	238.00
Other Public Sector	61.72	73.60	72.43	76.00	83.00
Private Sector	505.44	590.71	675.71	763.00	859.00
Financial deepending M2/GDP %	31.50	34.40	36.10	35.00	38.00

Summary Tables

Exports (Volume and Value)

(million US$)

Items	2001-02		2002-03(P)	
	Volume of Exports	*Value of Exports*	*Volume of Exports*	*Value of Exports*
Ready-Made Garments	77.05 doz	3124.56	78.06	3106.94
Knitwear & Hosiery	63.39 doz	14.59	73.01	18.24
Jute Goods	0.42 ton	243.53	0.43 ton	245.96
Frozen Food	88.36 ibs	276.11	84.05 ibs	331.57
Leather	184.12 sft	207.33	171.46 sft	190.63
Raw Jute	1.28 bale	61.13	1.83 bale	75.99
Terry Towel	5.25 doz	50.43	4.76 doz	62.10
Chemical Fertilizer	0.46 ton	47.93	0.68 ton	95.50
Tea	13.56 kg	17.38	9.51 kg	14.21
Vegetables	—	15.31	—	14.33
Engineering Products	—	1.37	—	6.88
Ceramic Tablewear	—	17.50	—	18.56
Handicrafts	—	6.12	—	6.06
Footware	—	48.49	—	48.30
Naptha	—	5.96	—	1084.00
Miscellaneous	—	5986.06	—	6400.00

* P= Provisional

Major Trading Partners

(million US$)

Country	2001-02		2002-03	
	Exports	*Imports*	*Exports*	*Imports*
USA	2212.0	261.0	2230.0	225.0
India	50.0	1019.0	82.0	1250.0
UK	648.0	194.0	739.0	250.0
Germany	682.0	169.0	789.0	160.0
China	19.0	878.0	16.0	900.0
Japan	96.0	655.0	106.0	106.0
France	414.0	83.0	420.0	80.0
Singapore	25.0	872.0	44.0	900.0
Italy	262.0	75.0	272.0	85.0
Netherlands	283.0	65.0	292.0	70.0
Belgium	213.0	34.0	355.0	22.0
Pakistan	29.0	67.0	32.0	55.0
Iran	38.0	10.0	50.0	12.0

*P= Provisional

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Chairman, Nestle Bangladesh Limited



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Newage Group is manufacturer and exporter of readymade garments, accessories & knit textiles. The group has five production units with over 3,500 employees and an annual turnover of 20 million US Dollars.
Former President of Dhaka Chamber of Commerce and Industry (DCCI), Bangladesh Employers' Federation.

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Mohammed Zafar Hamid, Secretary
Joined in 2003



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Waliur Rahman Bhuiyan
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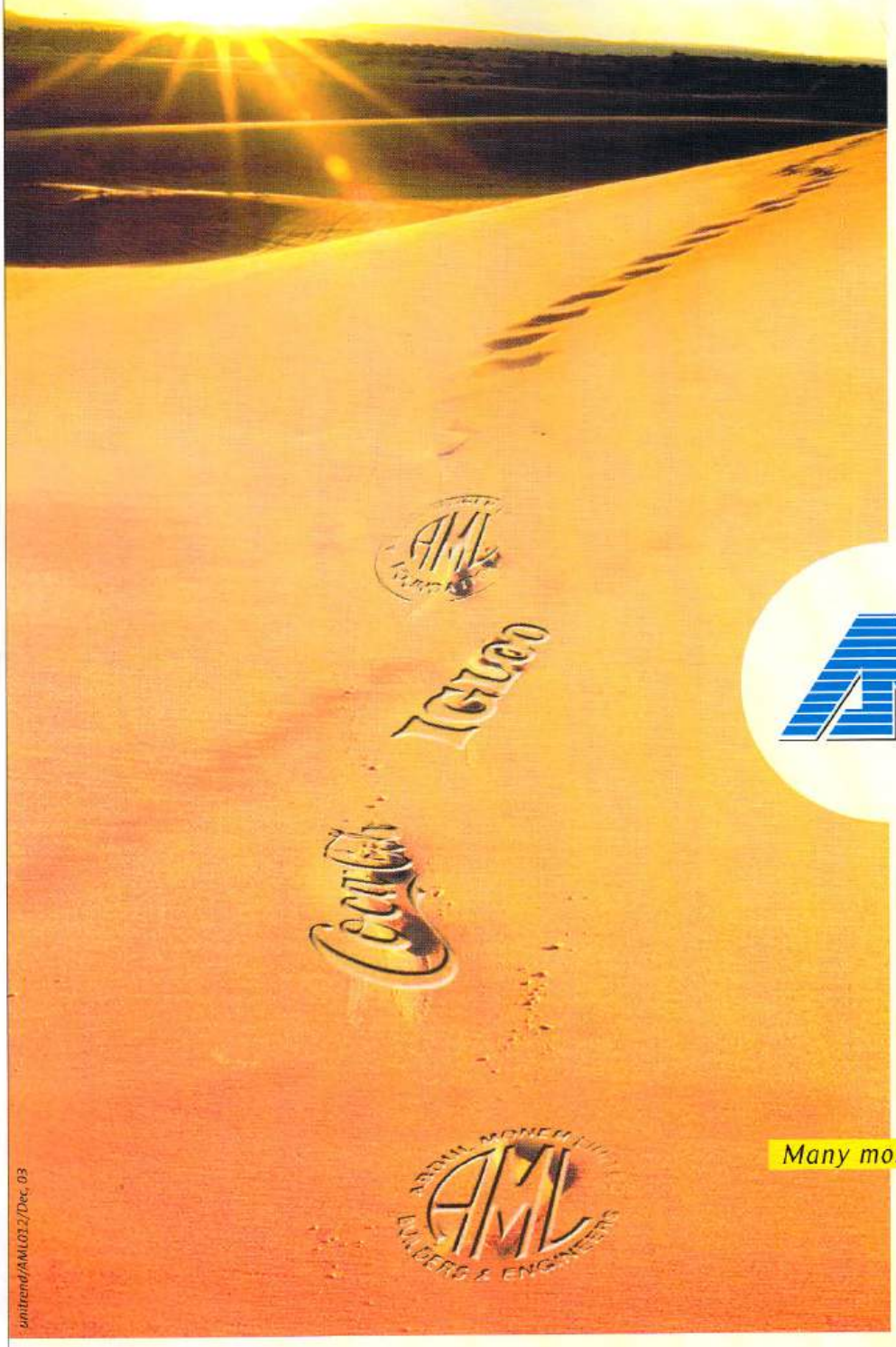
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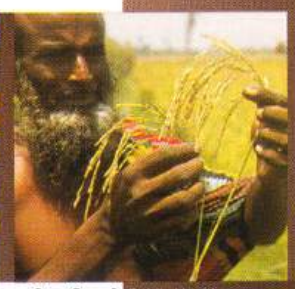
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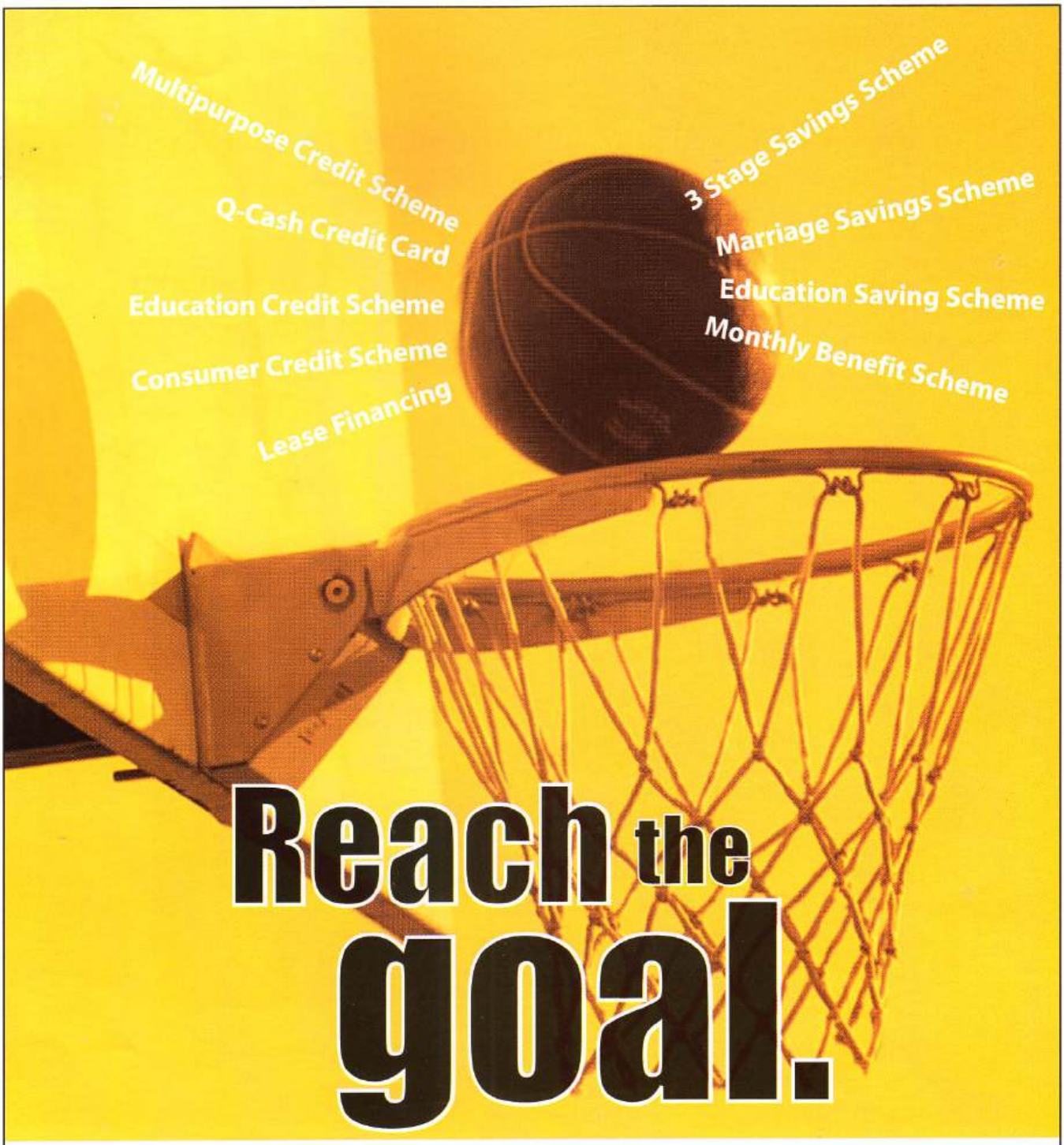
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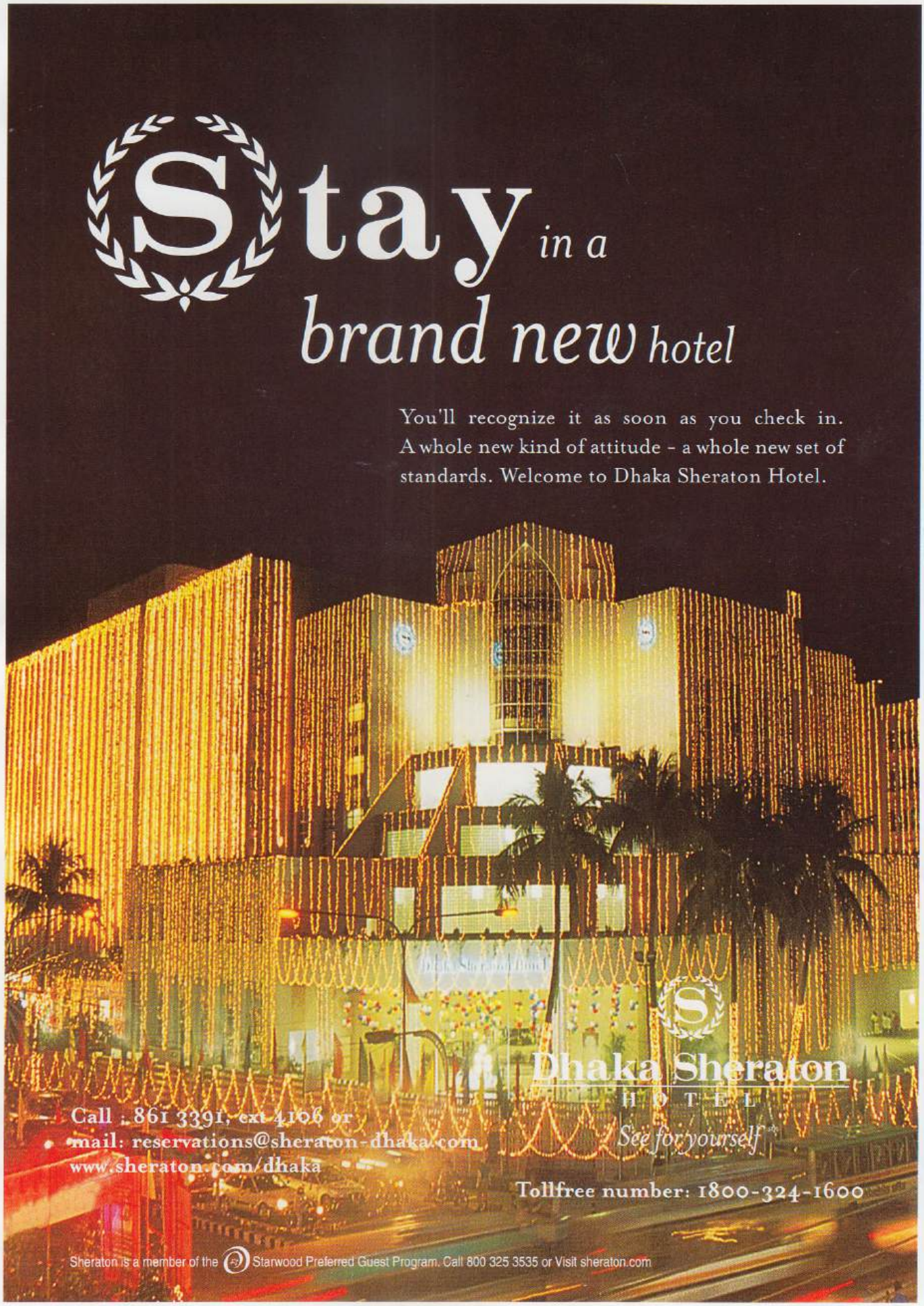
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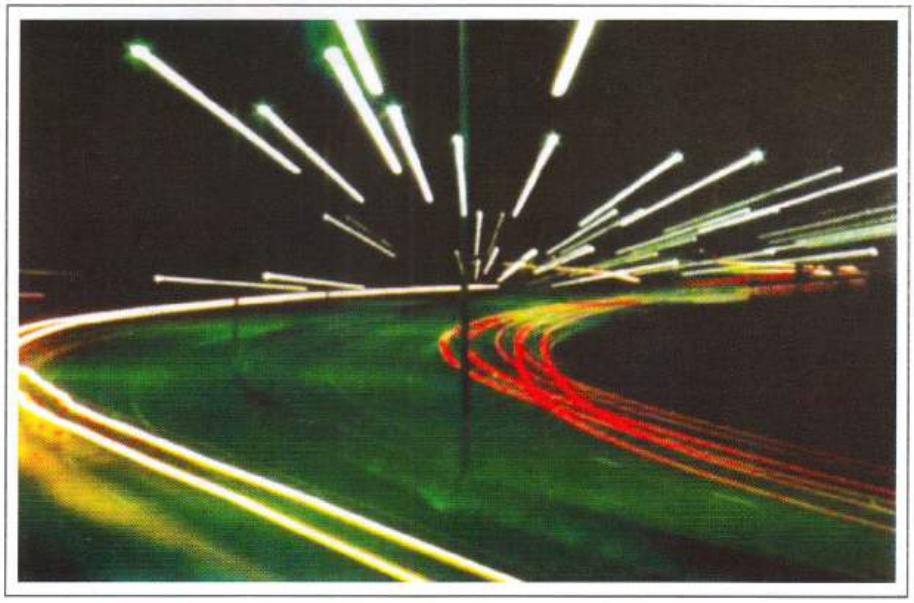
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Authorised Capital	:	1,000 million
Paid up Capital	:	313.87 million
Reserve	:	298.39 million
Chairman of the Board of Directors	:	Md. Nazrul Islam Mazumder
Managing Director	:	Mohammed Lakiotullah
Business Position	:	(As on August 31, 2003)
		Deposit : Tk. 12400 million
		Advance : Tk. 10190.00 million
		Export : Tk. 9315.066 million
		Import : Tk. 11248.45 million
Number of Branches	:	18 (eighteen)

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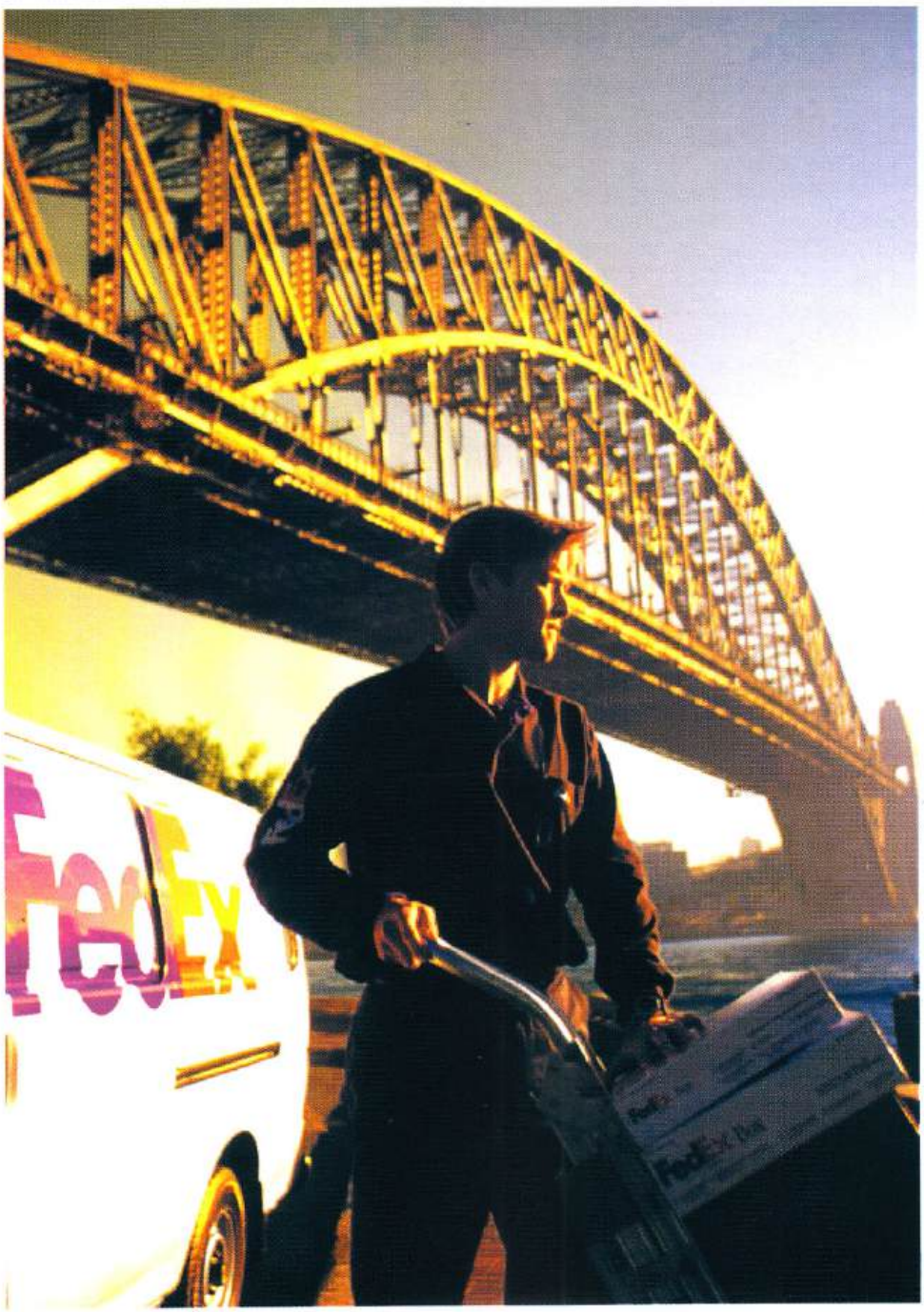
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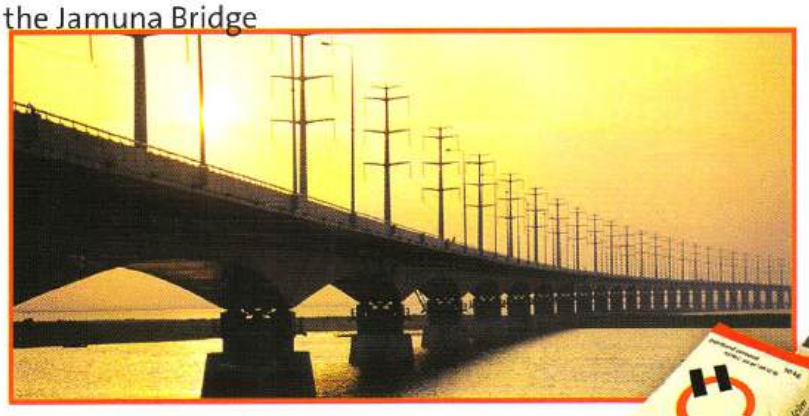


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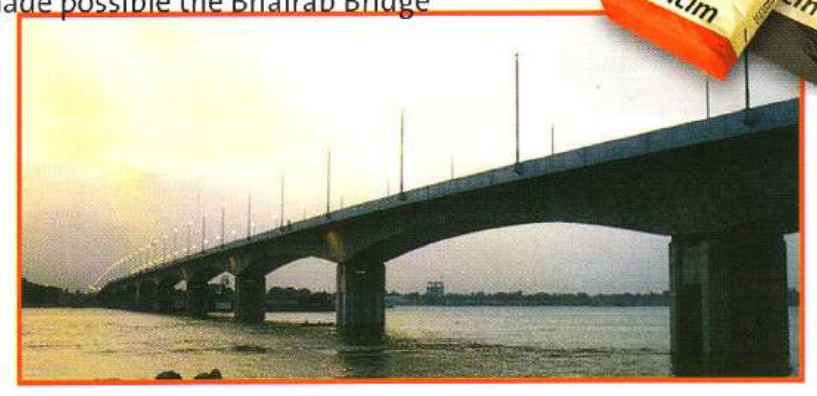
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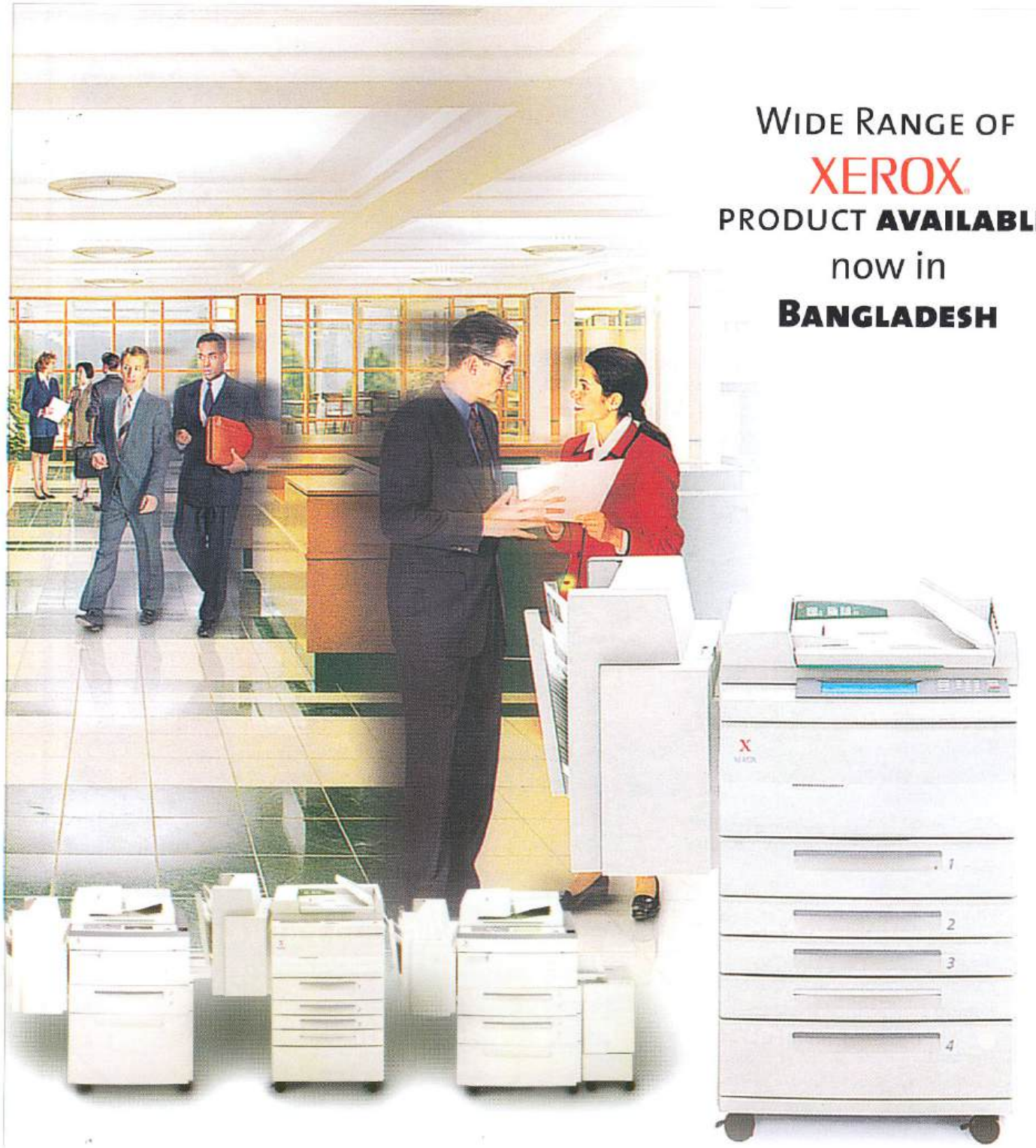
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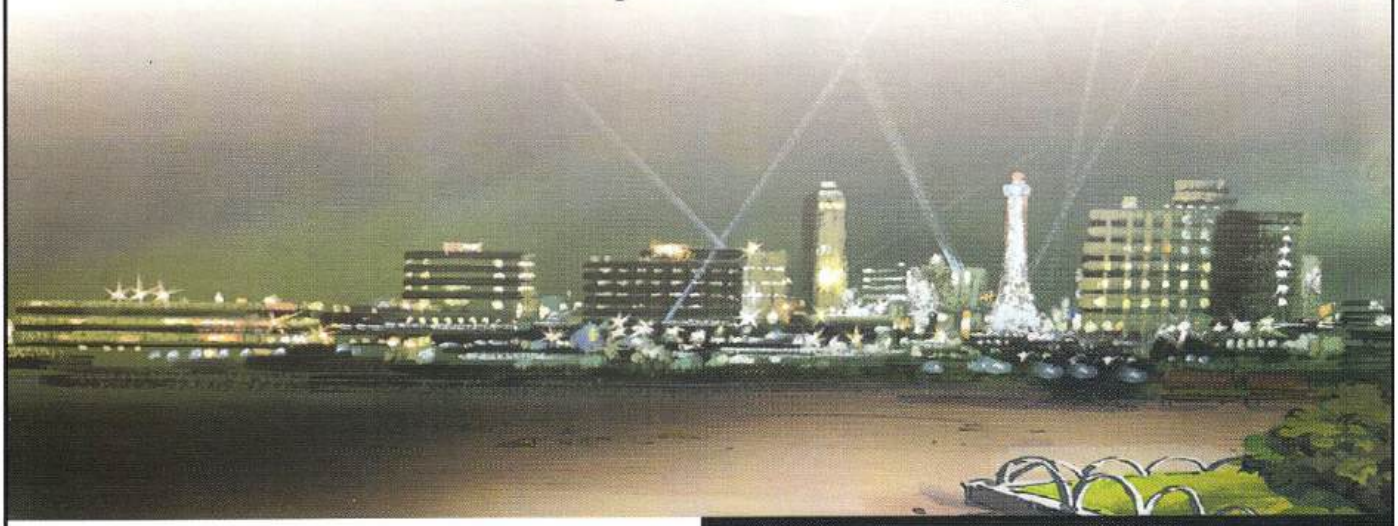
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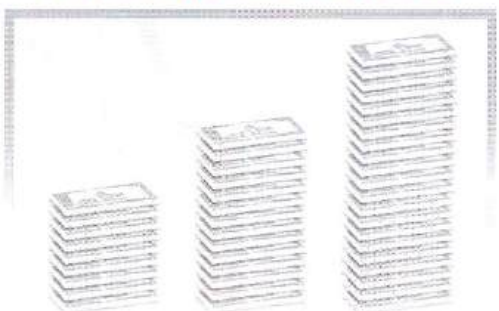
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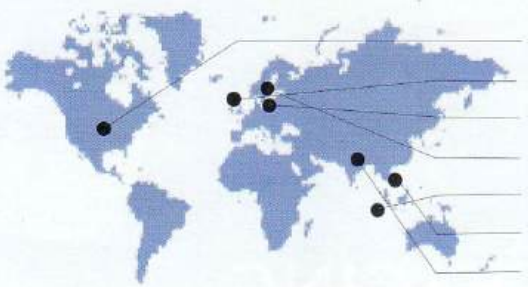
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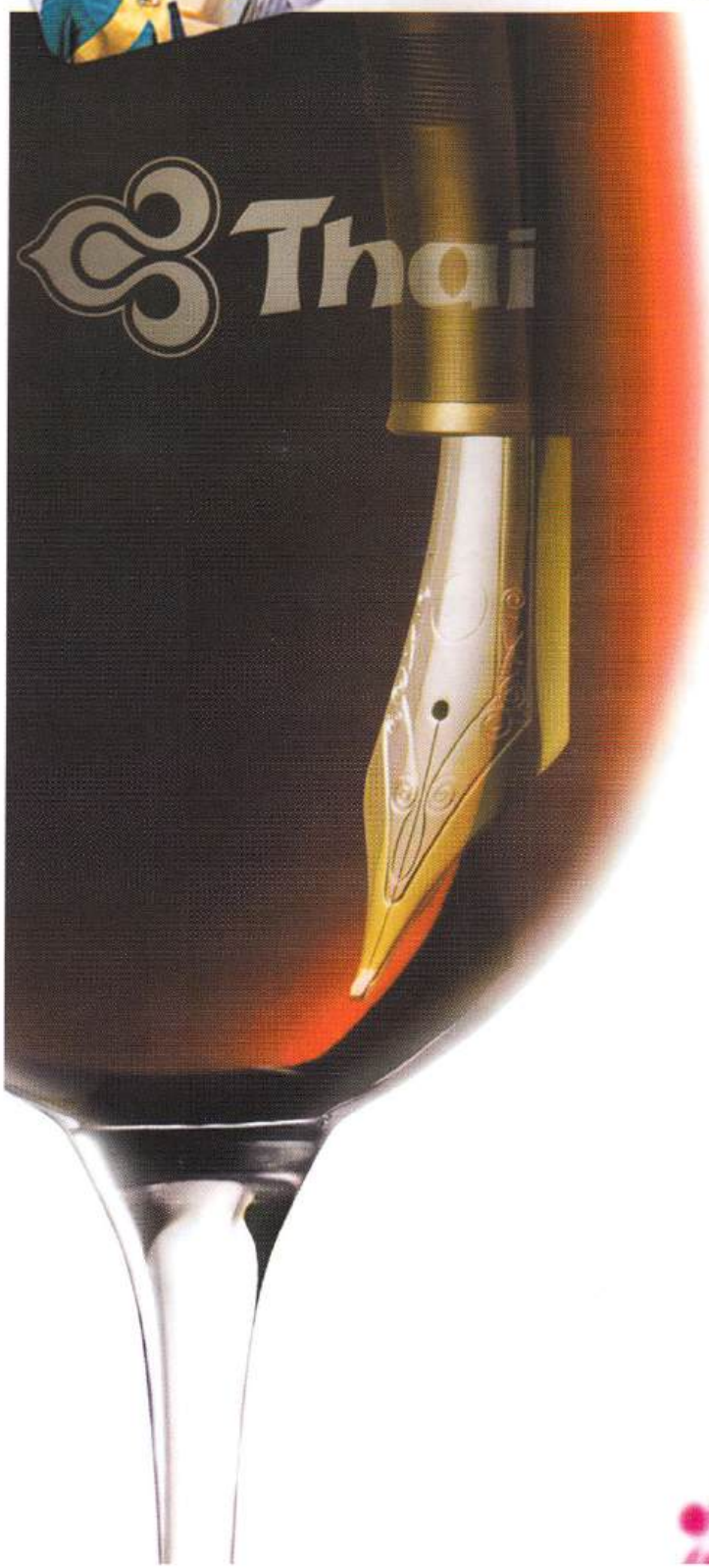
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