
TOURISM AT THE CROSSROADS: CHALLENGES TO DEVELOPING COUNTRIES BY THE NEW WORLD TRADE ORDER (SHORT VERSION)

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INTRODUCTION

Freedom in international trade and freedom of travel is the idea of the moment. Yet sometimes the freedom of people in the tourism destinations is trampled underfoot. That is because costs and benefits from tourism are often unequally distributed in developing countries. While tourism arouses great business expectations the ensuing benefit is in reality generally far smaller. It is also often linked with negative socio-cultural and ecological repercussions. For years groups critical of tourism have been confronting the consequences of a misled tourism policy with their vision of another, acceptable kind of tourism. As many local people as possible are to share in the economic benefit of this tourism and participate democratically in its planning and implementation. This would be a tourism that respects the culture of the host country, does not damage natural resources and offers a stimulating experience to both hosts and guests.

The new world trade order under the World Trade Organization (WTO-OMC) is a special challenge to tourism-critical groups and organizations. For the first time, trade in services – and so particularly tourism – and the protection of intellectual property rights have been subjected to the free trade doctrine, alongside internationally traded goods. Tourism Watch and EQUATIONS have therefore initiated a study project depicting the consequences of this change for tourism in developing countries. Options for a world trade order are to be identified and a course charted for a sustainable and self-determined development, in tourism too.

The present study sheds light on the legal bases of the new world trade order, documents the progress of liberalisation in this sector, names its risks and makes proposals for reform. It takes account of sectoral problems in developing countries in general and the Indian experience with tourism in particular.

Three problems play a prominent role here. On the one hand, the General Agreement on Trade in Services (GATS) intervenes deeply into areas of national and confederal autonomy; on the other structures enabling the participation of all concerned are also lacking. Secondly, human rights violations in the field of tourism pose a fundamental question to the new world trade order. Thirdly, the agreement has serious gaps regarding the process of implementation of the WTO-OMC's commitment to sustainable development and a sparing use of natural resources. Reform proposals have been drawn up for all three areas. In our view their implementation is an important precondition for the development of an acceptable form of tourism.

We thank the authors of the study, D. Samuel Jesupatham (Indian Social Institute, Bangalore) and Jörg Seifert-Granzin (werkstatt ökonomie, Heidelberg) for this important work. The complete documentation of their work will be available in April at Tourism Watch. The present summary contains the project findings, which we hope will facilitate a constructive international debate.

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1. TOURISM IN A GLOBAL ECONOMY: STRATEGIES AND CONTRADICTIONS

1.1 THE SCOPE OF TOURISM SERVICES AND THEIR KEY PLAYERS

Hardly any other industrial sector is currently under such a strong and yet covert pressure to engage in backward and forward integration than the tourism industry. The degree of concentration and the resulting market dominance in the individual sending and receiving countries is concealed through the host of tour operators and on-site service suppliers operating under their own labels but actually being part of highly diversified and globalized enterprises. The expansion of transnational hotel chains is the visible sign of globalisation of tourism services. However, what is particularly disturbing is the formation of oligopolistic structures and the mesh of interests between financial service suppliers, airlines, tour operators and travel agencies. The extent of the actual influence of these integrated or diversified groups in the individual service segments and beyond hitherto only becomes obvious in individual areas of conflict. For example, in the early nineties the WestLB, a major German bank, attempted to dominate the leading German tour operator TUI and merge it with the LTU group. This illustrates the efforts which are being made by big financial service companies to form highly integrated and diversified conglomerates, the strategic business units of which have to follow the holding's unified business policy.

1.2 TOURISM AND DEVELOPMENT: COMMON EXPECTATIONS

According to expectations of national and multilateral development agencies, tourism planners and even business representatives, the tourism industry should play an important role in the economic development of destinations. But the fulfilment of these expectations, centred around the hope that tourism will generate a significant share of the national income, depends above all on the range of services which are actually being supplied locally, under the guidance and to the benefit of the destination countries. Against this background, the following expectations have to be reviewed:

1. Tourism is to make a significant contribution to the domestic value added. Given the close inter-relation between tourism and other industries such as food, building and transportation, tourism can stimulate growth in other sectors as well.
2. Through a high level of attractiveness of the destinations international tourism is to be intensified and thereby foreign exchange earnings are expected to increase.
3. It is also hoped that tourism will create additional employment and that the qualification of local staff will be improved through technology transfer between domestic and foreign companies.
4. Furthermore, tourism is expected to be a pull factor to building and expanding the local infrastructure to the benefit of communities.
5. Regional customs and traditions are considered crucial factors when it comes to realising tourism projects. Investors therefore like to point out that the planned projects could contribute to the preservation of regional cultural goods. On the other hand, following ideas of modernisation theory, there are hopes that the expansion of this sector can foster social change in the societies concerned and break down traditional social structures that are felt to be obstacles to development.

6. There are also relatively recent but very popular hopes that nature-oriented tourist activities can make a monetary or non-material contribution to the protection of nature and the environment.

There is an Asian proverb saying "Tourism is like a fire; you can use it to cook your soup, but it can also burn down your house." Despite so widely spread optimistic expectations we are facing much more burned houses than well-nourished people:

1.3 TOURISM AND DEVELOPMENT: FACTS, MYTHS AND CONTRADICTIONS

1.3.1 VALUE-ADDING EFFECTS OF TOURISM

According to an ESCAP study on the economic impact of tourism in India, the gross value added in the hotel and restaurant sector in 1992-93 reaches about Rs. 46,990 million (\$1516 million). For tourism as a whole, it is estimated at Rs. 74,476 million (\$2402 million being equivalent to nearly 2 percent of the Gross Domestic Product).

Although every sub-sector in the field of services is linked to the tourism industry, only a small part of their production value can actually be expected to stay within developing countries. In fact, a high percentage of the tourism expenditure is not leaving the countries of origin in the first place. Long-haul air transport is mostly run by carriers based in the North. Furthermore, one could observe that in core areas of the tourism industry, i.e. hotels, catering, travel agencies, tour operators and tourist guide services, as well as in the fields of on-site supporting services (sporting and recreation, facility leasing) "benefits" flow to a large extent into the same direction. This is due to the fact that many services in the destinations are being supplied by companies from the tourist's countries of origin or by their local partners.

The expected growth stimuli of back- and forward linkages have long determined the development discussion. In the case of the tourist industry there are direct connections with other economic areas. Food, building, entertainment and transport can all benefit from the expansion of tourism. These linkages, however, only benefit the local economy if local products and services contribute significantly to the value added. In the case of certain forms of tourism for which there is currently a growing demand, such as all-inclusive tourism ("A package deal – and low-cost!"), club holidays or cruises, this hardly happens.

The high dependence of individual developing countries on the tourism income involves risks. Many countries with similar locational conditions compete with one another on the world market. Internal political tensions, natural disasters or economic fluctuations generally lead to a diversion of tourist flows to countries with comparable supply. A temporal downturn, as in the case of the Indian state of Kashmir where tourism broke down due to political conflicts, could lead to a regional or even national economic crisis.

Looking at India as a whole, international tourism is still concentrated in a few regions, but about to take over several coastal areas, sacred sites and national parks. Especially the states of Bihar, Madhya Pradesh, Punjab and Kerala have seen an increase in the number of visitors. With under 0.4% of the world's tourist arrivals and 1% of tourist spending, the country has barely tapped its so-called 'rich tourism potential'. India attracted about 2.1 million foreigners in 1995, only 500,000 of which can be considered genuine tourists. According to Pradeep Madhavji, Chairman of Thomas Cook, (TOI .22 Aug.96), the major part of international arrivals are businessmen and airline crew. Domestic tourism (which includes traditional forms like pilgrimage journeys as well

as leisure tourism following western patterns) swelled from nearly 60 million in 1992 to over 100 million tourists in 1995. With an expected 110 million travellers, Indian domestic tourism becomes an important market for tourism services.

1.3.2 FOREIGN EXCHANGE EFFECTS

According to the Approach Paper to the Ninth Five Year Plan (1997-2002), prepared by the Planning Commission of the Indian Government, "Tourism is presently the third largest foreign exchange earning sector in India." This is not surprising, since almost all developing countries have a positive balance in terms of net foreign exchange earnings from the tourism sector. This balance, however, gives little information about the actual foreign exchange effects. It only covers payments resulting from the consumption of the travellers at the end of the tourist service chain. In order to properly assess the effects of tourist foreign exchange one would need to consider those foreign exchange receipts and expenditures that were transacted in the course of the import and export of goods that, in their turn, contribute directly or indirectly into the value added by tourism. These include, for example, building materials, foodstuffs, equipment and energy which are essential to maintain the tourism infra- and suprastructure of a country.

1.3.3 TRANSFER OF TECHNOLOGY – A BLACK BOX

Given the fact that tourism is so closely linked with other industries, there are possibilities that liberalization of the tourism sector may intensify the transfer of technology and know-how,. Yet there is hardly evidence of the extent to which tourism has so far actually contributed to this kind of transfer between industrialised and developing countries.

There is no doubt that the tourism sector offers considerable potential for technology transfer. This particularly applies to sales, marketing and distribution in hotel and transport management and to their respective relevant instruments (Computer Reservation Systems (CRS), online marketing etc.). In India, main international CRS-providers are engaged in joint-ventures and other equity forms: Both Galileo International and NDC have tied up with Inter-Globe Travels. Indian Airlines and Air India are the joint distributors for the American owned Sabre system. Amadeus India is the marketing agency for the European based Amadeus System. The Singapore based Abacus co-operates with the Indian Tata Consultancy Services.

Since the development costs of systems are high and since using them requires a reliable technological infrastructure and high-level training, the gap between tourism providers in industrialised and developing countries is probably greatest at this point. As long as there are no institutionalized measures to ensure technology transfer on a different basis than the purely commercial one, the existing dichotomy between a broad less qualified class of (non-)employees working in tourism related industries on the one hand and a few well-paid externally educated staff members on the other hand will be perpetuated.

However, for many developing countries the question also is which technologies will actually benefit tourism and other sectors. There is a danger of complex technologies developing a suction effect, assimilating their environment and leading the countries into a new dependence on costly technology transfer from the North. This fear is substantiated by the development of the airport operation market. Amsterdam Airport Schiphol, for example, wants to capitalize its know-how and expertise gained in airport operation and is already active through joint-ventures and strategic alliances with airport operators in Netherlands Antilles, Indonesia and China. As long the

appropriateness of such technologies is not being questioned, a repeat performance of the mistakes made in development co-operation back in the 70s becomes likely.

1.3.4 INFRASTRUCTURE DEVELOPMENT

At the first sight, tourism in India seems to be strengthened through the presence of McDonalds, Pepsi, and Coca-Cola – brand names that have become synonymous with a high level of tourism development. Leisure and entertainment groups such as 'Thank God Its Friday' and 'Warner International' will soon take up their operations in India. Golf courses, ski resorts and amusement parks are being set up, revived or modernised in the country.

The hopes that tourism industry becomes a catalyser for the development of infrastructure in so-called peripheral areas and helps reduce regional disparities are closely related to those concerning sound technology transfer. They include the use of all kinds of information technology, transport capacity, water and energy supply systems and waste treatment. The dilemma is evident: What might be useful for a just-in-time tourist transport (highways, oversized high-end airports) may be far from needs of local communities who may want to participate in the benefits of tourism.

As Indian experiences are showing, tourism oriented infrastructure development tends to increase the gap between the "haves" and "have nots". The shacks, owners of smaller restaurants and accommodation facilities, originally started with tourism services at Goa. But now the organised tourism industry disengages them from the sites. The taxi drivers in Kovalam were displaced by the organised sector of the operators. In areas marked for tourism development in the southern state of Tamil Nadu, it has become obvious that the Land Acquisition Act is widely used to appropriate land from the poor and marginalised farmers in the name of dubious "public interest". The land thus forcefully taken away from local people at a pittance and sometimes without any compensation are handed over to hotel chains and other tourism service suppliers at a throwaway price.

To cite the Approach Paper of the Indian planning commission again, "the State will have to focus on development of basic infrastructure such as transport facilities and amenities, and to play a facilitating role in the provision of accommodation and other facilities for all classes of tourists, both domestic and international." But obviously, lopsided priorities exist in the promotion of domestic and international tourism. On the one hand, the New Delhi – Jaipur road is being converted into a four lane highway driven by expectations that it will become India's first tourism highway with a string of hotels, motels, country clubs, amusement parks and golf courses along the road. On the other hand, following a recent judgement of the Chandigarh High Court, the Punjab Urban Planning and Development Authority has ordered the removal of all "illegal structures and encroachments on the side of scheduled roads in the state". This euphemistic formulation is aiming at local eating places in between the informal economy which caters for food and shelter of those who travel at low cost, e.g. pilgrims.

1.3.5 SPHERES OF WORK, SPHERES OF PAIN

According to the above mentioned ESCAP study, the total direct employment in the hotel and catering sector in India for 1992-93 is estimated at 4,934 million. For the tourism sector as a whole the total employment is estimated at 14 million. There is little doubt that the tourism industry has positive effects on employment, reducing unemployment in the destinations. However, employment coefficients, e.g. one bed in a hotel creates 1,5 jobs, give no information

about the type of jobs and the working conditions. Unskilled, insecure and poorly paid jobs are typical. The International Labour Organization (ILO) found out that in many parts of the world the wages of hotel and restaurant employees are among the lowest on the income scale. In some countries and regions it may have been possible to compensate for seasonal fluctuations in employment (ibid.). In other regions the climatic conditions during the different seasons mean that jobs in tourism are clearly restricted to certain seasonal periods. Looking only at developing countries, one might neglect differences as compared to employment effects in tourism industry in the northern countries of origin. It is quite remarkable that several studies have been undertaken to measure employment effects in destinations; but up not to evidence is lacking whether these effects are balanced between North and South.

Going beyond the considerations of job creation in the formal and informal sector, one has to look at the even more serious boom of the sex industry and bonded labour, particularly as regards child prostitution, which is also growing due to increased tourism. As recent studies have shown, 15% of the prostitutes in India are under the age of 15 and 24,5% between the ages of 16 and 18. As the case of the dhaba boys illustrates, there is a close connection between poverty in rural areas, the breakdown of family relations there, migration to the cities and child labour in tourism: Juvenile males, aged between 8 and 12, who are recruited from rural areas, are working in cheap hotels and eating houses. As an ILO report states, some are "... employed in condition of great deprivation equivalent to bondage." Employment of children is not limited to low standard accommodation. On the contrary, most of it takes place in hotels of the grade II and III category, or in ungraded establishments.

1.3.6 TOURISM AND CULTURE – AN AMBIGIOUS RELATION

The effects of tourism on the social structure, value systems and cultural identity of the host population are most controversial in the tourism discussion. Concerning India, some negative impacts are quite obvious: At most of the Indian sacred sites leisure tourism has become a serious threat to traditional pilgrimages (Tirthayatra). People's own festivals and rituals now have been taken over and managed by tourism promotion. As the cases of Brahadeeswarar temple of Raja Raja Chola and traditional elephant marches (Gajamela) show, the intrinsic value of cultural symbols for the community is overlooked and denigrated to the level of showpieces. First declared as World Heritage Monument by UNESCO, Tamil Nadu tourism planers decided to install a sound and light show at the temple. In places like Thrissur, local people who originally celebrated Gajamela by their own, are now forced to pay in order to catch a glance on their own feast, as the elephant march is held for a few foreign tourists exclusively in the Municipality Stadium. The shift from ritual arts to modern theatricality does not assign peoples participation in their own culture anymore.

1.3.7 ECOLOGICAL MIRAGES?

Tourist centres and the high number of travellers threaten the fragile ecosystems in developing countries, overusing resources such as water or energy and hardly ever employing suitable systems of waste management. Rural areas are being developed, used intensively for tourism and, finally, "worn out". During recent years efforts are being made towards a cautious tourist use of nature protection areas in Africa, Asia and Latin America, to benefit local communities.

Practical experiments in this direction testify to the difficulty of balancing ecological socio-political goals at the level of the individual protection project. Beyond the eco-labels that tour

operators attach to themselves, the implementation of socially, ecologically and economically sustainable tourism schemes has only just begun. The bulk of (mass) tourism in developing countries has so far remained untouched by these efforts and the over-use of ecosystems and their resources proceeds apace.

Nagarahole National Park, located between Kodagu and Mysore in the south of India, can serve as an example of possible contradictions in eco-tourism efforts. Having declared the area a national park in 1972, the government shifted the local communities of Adivasis away from their native places, as no human habitat is allowed to be situated inside the park. Despite this regulation, the government built jungle lodges inside the park area to increase wildlife tourism and leased them out to the Taj Group of Hotels which announced an eco-friendly use of the resorts. The result is that communities who had cared for the forest for hundreds of years have been displaced to open the stage for tourism supposed to generate income in order to save a fragile ecosystem which is being threatened by the tourists' habitat itself.

2. TOURISM IN DEVELOPING COUNTRIES UNDER THE REGIME OF GATS

2.1 FUNCTIONING OF THE GATS SYSTEM

The General Agreement on Trade in Services (GATS) is one of the three pillars of the new world trade order under the aegis of the World Trade Organization (WTO-OMC). These pillars differ considerably in their functioning and scope. While the dismantling of tariffs and non-tariff measures in the field of trade in goods is already advanced, no agreement was reached on a multilateral investment agreement (MIA). Investment-related arrangements are, however, included in GATS. The functioning of GATS is based on the interplay of fundamental principles of liberalization, procedural regulations for their implementation and specific commitments in which member states document sector-specific limitations or concessions.

GATS is intended to liberalise all internationally traded services, independently of how they are performed and where they are consumed (total coverage principle). The agreement therefore establishes four modes of supply (cross-border-supply, consumption abroad, commercial presence and presence of natural persons), to which refer the principles of liberalisation of market access and national treatment.

Like binding of tariff and non-tariff barriers in GATT, the GATS signatories are binding their trade-restricting measures. For this purpose they are offering specific commitments which, for all four modes of every type of service, define the trade-related measures that either contradict the principles of free market access and national treatment or secure their respect in a certain field. Additionally, the commitments set out measures opposing the principle of the most favoured nation treatment. All trade-related regulations and laws have to be documented and any change reported to member countries (GATS Art. III.1).

All measures covered by schedules of specific commitments are subject to the principle of progressive liberalisation. At the latest five years after the WTO-OMC agreement's entering into force, i.e. at the latest in the year 2000, new negotiations for the gradual dismantling of trade-restricting measures have to be called and conducted regularly (GATS Art. XIX.1).

2.2 BRAVE NEW WORLD? – FORESEEABLE EFFECTS OF PROGRESSIVE LIBERALIZATION

Although GATS as well as other WTO-OMC-agreements include some exceptions concerning Most Favoured Nation and National Treatment, as well as market access guaranteeing a certain level of preference for developing countries, the existing outcome of liberalization in Tourism and Travel-Related Services fixed in specific commitments

threatens a sustainable development. and and undermines participation of people in it. The desire of GATS' member countries "to facilitate increasing participation of developing countries in trade in services and the expansion of their service exports including, inter alia., through the strengthening of their domestic services capacity and its efficiency and competitiveness;" as mentioned in the Preamble, is a dream at best. It is rather reasonable to assume that the GATS framework in connection with countries commitments will lead to the following effects:

1. Providers of travel and tourism-related services (TTRS) will expand their business in destination countries and increasingly compete with local providers. If the latter do not succeed in closing the technology gap between them and the big, integrated tour operators, particularly in the field of information technology, the share of local services in this sector will continue to decline.
2. The reduction of the few local equity requirements will promote further concentration and integration. The anticipated growth stimulus and positive effects on foreign exchange balances will be slight and tourist numbers will grow.
3. Treating domestic and foreign suppliers equally (national treatment) means that developing countries will lose the instruments of selective promotion of domestic industries (subsidies, tax relief) since foreign suppliers will be granted the same claim to investment incentives.
4. Through the reduction of existing restrictions regarding cross-border payments countries will probably completely lose control over concealed profit transfers. This also drains hopes that tourism could trigger major development processes via increased tax revenues.
5. Commitments so far indicate that the free movement of qualified technical personnel and members of middle and top management will increase in all areas of travel and tourism-related services. This is linked with the expectation that these groups can make a crucial contribution to technology transfer in the destinations. So long as this transfer is not institutionally safeguarded by further measures there are few incentives for companies to bear the cost of it and to contribute to the formation of human capital.

PRINCIPLES OF LIBERALIZATION IN GATS

Article II.1: Most-Favoured-Nation Treatment

With respect to any measure covered by this Agreement, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member, treatment no less favourable than that it accords to like services and service suppliers of any other country.

Article XVI.1: Market Access

With respect to market access through the modes of supply identified in Article I, each Member shall accord services and service suppliers of any other Member treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its schedule.

Article XVI.1: National Treatment

In the sectors inscribed in its schedule, and subject to any conditions and qualifications set out therein, each Member shall accord to services and service suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.

WTO-OMC 1994

On December 14, 1993, the Department-Related Parliamentary Standing Committee on Commerce of the Rajya Sabha, chaired by Mr. I.K.Gujral issued its "Third Report on the Draft Dunkel proposals". The Gujral committee based its findings on oral and written evidence submitted by a cross-section of individuals and organisations, including several Ministers in the course of 24 sessions. The Committee expressed concern over the discriminatory form of liberalisation under GATS in that while capital movements would become unrestrained; labour would not:

"The Committee views with concern the unbalanced nature of GATS which, while allowing for unrestrained flow of capital-related services, said little about the labour-related services. The Committee is of the opinion that a balanced Agreement on Trade in Services is necessary before the liberalisation of the services sector in developing countries could take place".

This estimation is supported by the fact, that European countries reached the highest level of protection concerning commercial presence and movement of natural persons in the field of tourist guides service commitments.

2.3 SUSTAINABLE TOURISM OPTIONS IN THE FIELD OF GATS

2.3.1 IMPLEMENTING REFORMED MEASUREMENT AND FLEXIBLE PROCEDURES

As long as there is uncertainty in this sector about the socioeconomic, ecological and cultural effects of progressive liberalisation, the convening of a new liberalisation round will have to be postponed. Keeping in mind the difficulties and opposition to implement reformed welfare measurement and resource assessment five years will hardly suffice to put new approaches into practice. Only on the basis of appropriate multidimensional evaluation instruments and a reformed environmental and natural resource accounting can we judge whether further steps towards freer trade will really lead to "sustainable growth and development for the common good" as declared in the Draft Singapore Ministerial Declaration. So far this has not been shown to be the case.

2.3.2 CHANGING PERSPECTIVES TOWARDS PARTICIPATION

GATS is geared exclusively towards service suppliers and national governments. The tourism industry illustrates, however, that there are population groups in the countries involved who are not themselves actors but are all the more affected by the repercussions of expanding international trade. One example is the forced relocation of local communities to allow tourism development. The interests of such communities are frequently ignored by national governments and only taken up by NGOs. As several NGOs have already been accepted as participants in negotiations in the framework of the UN-System the WTO-OMC should establish mechanisms guaranteeing that the representatives of the interests of such communities are at least given a hearing.

Art. XIX.2 GATS concedes, that the "... process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. There shall be appropriate flexibility for individual developing countries for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation." The decision, how and to which extent these concessions should be used, only belongs to national governments. As GATS itself refers to "measures of central, regional or local governments and authorities, as well as

measures of non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities" (Art I.3), the result is quite unbalanced: On the one hand trade-related measures of all administrative levels are placed under GATS, on the other most corporate bodies have no chance to participate or rights to intervene in negotiations at all.

Therefore Art. XIX.2 should accordingly be amended to take account of the general and special needs of local communities and regions in the liberalisation process as well as the national political goals and level of development of the individual members states. Only in fulfillment of these terms the broad reach of GATS may be acceptable, if at all.

2.3.3 TOWARDS A NEW FAIRNESS IN COMPETITION

Experience in the field of information technology to date gives cause for concern that extensively integrated service providers could assume a dominant market position by using information systems in an environment with a low level of technological development. It will be hard to strengthen domestic service capacities in the economically disadvantaged countries if access to technology remains only on a commercial basis. This applies all the more as the bulk of research and development in industrialised nations is done by state-run facilities and parts of the technical infrastructure of new communication systems enjoy government subsidies. Under these conditions, a onesided orientation to technology transfer on a commercial basis is like a promise to reach or even overtake a train on a single track. Contrary to the intentions of GATS, it may be necessary from a development policy angle to temporarily close markets in order to leave room for appropriate technological development following specific country requirements.

In order to avert the possible expansion of a strategic trade policy broadening the technology gap, competition regulation must be introduced multilaterally, guaranteeing transparency of government policy on competition and industry, and allowing fairer conditions for competition between industrialised and developing countries. Originally, the principle of reciprocity demanded that the result of negotiations should be solely equivalent and balanced concessions. With the demand for an "overall balance of rights and obligations" in the GATS Preamble contracting parties pursue a strategy of "aggressive reciprocity" that is patterned on "super 301", Article 301 of the American Trade Acts. In the past this led to arbitrary trade measures on the part of the United States. The trend towards aggressive reciprocity in the field of commitments must therefore yield to a more selective handling of trade-expansive and trade-restrictive measures.

2.3.4 BALANCING PRINCIPLES AND PRACTICE

In its charter the WTO-OMC is pledged to the goal of sustainable development in harmony with growth and employment. In the ongoing negotiating process itself these goals have no corrective function. Solely the overriding idea of progressive trade liberalisation is linked with operative procedures like Most favoured Nation and National Treatment. Since the functioning and liberalisation thrust of the WTO-OMC are based on legal standards, new procedural standards have to be developed to guarantee that the stated goals are met.

3. DISREGARD FOR HUMAN RIGHTS IN TOURISM – CHALLENGES TO THE WORLD TRADE ORDER

3.1 UGLY BACKYARDS OF TOURISM

There are various fields in tourism where disregard for fundamental human rights can be observed. It occurs

- in violation of elementary labour rights as a consequence of working conditions in travel and tourism-related industries, e.g. with respect to working hours, workplace conditions, or deprivation of employees' rights;
- by levelling down of the rights of local communities to cultural self-determination in a self-chosen environment, e.g. when people are being displaced from their homes to make room for tourist development projects;
- where women are being discriminated against and sexually exploited;
- in child sexual exploitation, ranging from sexual harassment to forced prostitution;
- in child labour and child bonded labour in tourism, catering and entertainment industries as in related service areas.

It is clear that these problems do not accompany tourism development in developing countries alone. They are also to be found in the North, albeit to a lesser extent and maybe with another focus.

3.2 "BLIND DATES" IN TRADE REGULATION

The causes of human rights violations in tourism are complex and cannot generally be attributed to a single sector or to a misled trade policy. Nor can we expect to solve these problems by trade regulation alone. Under certain conditions, however, such measures may play a supportive part in the enforcement of social standards and human rights.

The topic of minimum social standards is not entirely foreign to the WTO-OMC agreement either. Taking up the Art. XX of the former General Agreement on Tariffs and Trade (GATT), GATS and WTO-OMC foresee exceptions to the principle of most favoured nation treatment (MFN) in order to protect public morality and order, and also human life and health. Beyond this, GATT Art. XX also includes the very concrete possibility of rejecting goods produced by prison labour and of protection of national treasures of artistic, historic or archeological value. Although the importance of such exceptions especially for the tourism sector is evident trade-law practice has not been taken up this possibilities more or less passing them over in the drafting of the new world trade order: While Art. XIV GATS, like Art. XX GATT, speaks of exceptions to the principle of MFN

ART. XX GATT 1947: GENERAL EXCEPTIONS

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures: ...

(e) relating to the products of prison labour;

(f) imposed for the protection of national treasures of artistic, historic or archeological value;

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

treatment, it does not – interestingly enough -take up the concrete cases referred to in Art. XX GATT.

The "blind date" between early attempts to bind free trade to certain minimum standards and actual problems of human rights violation should lead to sound regulations guaranteeing the protection of these rights in the sphere of trade.

3.3 RECOMMENDATIONS

3.3.1 TAKING DIFFERENCES SERIOUSLY

It may seem unoriginal to demand that differing positions of NGOs and Northern and Southern governments be recognized. This bears repeating, however, in view of the coverage of the WTO-OMC conference in Singapore in late 1996. Otherwise the voices of NGOs critical of social clauses will be instrumentalised by governments with little interest in improving the situation of those who have to work under inhumane conditions.

Social clauses are not the one and only way to enforce minimum social standards. In the best case they support the efforts of social groups to create humane working conditions. The different views on priorities and different approaches concerning suitable instruments to fight against child labour should be taken seriously. In current controversies about the introduction of social standards, NGOs critical of tourism are called upon to reach a consensus on the problems where the use of trade policy instruments may improve the situation for ordinary people.

3.3.2 ABOLISHING CHILD PROSTITUTION AND BONDED LABOUR BY REGULATING TRADE

To be realistic, there will probably be no consensus for a social clause covering all basic ILO standards in the foreseeable future (cf. Core ILO Conventions concerning Minimum Labour Standards). Moreover, a broadly defined standard could place undue strain

CORE ILO CONVENTIONS CONCERNING MINIMUM LABOUR STANDARDS

No. 29 and 105: CONVENTION CONCERNING FORCED LABOUR and ABOLITION OF FORCED LABOUR

Each Member undertakes to suppress and not to make use of any form of forced or compulsory labour and secures the immediate and complete abolition of forced or compulsory labour.

No. 138: CONVENTION CONCERNING MINIMUM AGE

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons (Art. 1).

No. 111: CONVENTION CONCERNING DISCRIMINATION

All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity. Each Member declares to pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination, distinction, exclusion or preference made on the basis of race, colour sex, religion, political opinion, national extraction or social origin discrimination in respect thereof.

No. 98: CONVENTION CONCERNING THE APPLICATION OF THE PRINCIPLES OF THE RIGHT TO ORGANIZE AND TO BARGAIN COLLECTIVELY

Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment (Art. 1).

No. 87: CONVENTION CONCERNING FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANIZE

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization (Art. 2).

No. 100: CONVENTION CONCERNING EQUAL REMUNERATION

... secures the principle of equal ordinary, basic or minimum wage or salary and any additional emoluments for men and women workers for work of equal value.

on the ability of some developing countries to observe adaptation deadlines. This is why we propose to begin by focussing demands on the narrow field in which the worst human rights violations occur and which seems best suited to gaining the critical support of sceptics. Once NGOs have reached sufficient agreement on this proposal, the first step would be to introduce a sectoral negative clause imposing suitable sanctions on child bonded labour in connection with child prostitution. Such a voluntary arrangement would initially undermine objections that the introduction of a case-specific social clause meant the levelling down of comparative cost advantages of developing countries by industrialised nations. This objection would be nonsense for the very reason that in the case of sexual exploitation of children and bonded labour, economic thought has reached its limits. To go beyond of them would mean to accept, that human beings have become a tradable good. Therefore, economic theory and politics are not only challenged to recognize limits to growth, but certain limits to the application of trade theory as well.

Since child prostitution in many countries is substantially stimulated by the development of tourism it would be good to extend GATS Art. XIV along the lines of original GATT Art. XX. Yet this cannot be a matter of a product-related social clause, since there is rarely a direct connection between international tourism service suppliers and the operators of child prostitution networks. A sector-specific clause would require governments to oppose the violation of children's rights and to provide sufficient legislation and law enforcement capacities.

Besides a sector-specific social clause, appropriate interlinked reporting systems should be set up both by WTO-OMC and ILO to ensure the participation of the children affected by sexual exploitation and forced labour, along with representatives of their interests and other actors. Consideration should be given to introducing country-specific adaptation deadlines as well as assistance and to the demand for customs preferences as positive incentives for change. Such a "soft" system is preferable to an automatic sanctioning procedure; it would institutionalise cooperation between ILO and WTO-OMC, also guaranteeing their independent operations. In addition, it enables country-specific support in implementing the new trade standard.

Such a voluntary arrangement might be criticised for initially ignoring the broader scope of minimum social standards. Experience based on this narrower approach could thus advance the discussion of trade-relevant issues from the other areas of minimum social standards. These spread effects should be used in development policy in order to achieve a breakthrough in other areas of human rights' violation.

4. ECOLOGICAL IMPACTS OF TOURISM AS A TRADE ISSUE

4.1 SHORTCOMINGS IN THE NEW WORLD TRADE ORDER

Examples are legion, that environmental damage has become a tourist's companion. Tourism industry actually is in a dilemma to overuse these resources which are one of its decisive locational factors. Efforts being made to reach more sustainable appearance by ecotourism concepts are only just at the beginning and haven't left their niche existence behind.

Although the WTO is committed to the goal of sustainable development and use of resources (cf. Agreement Establishing the World Trade Organization), and GATS allows exceptions to the principle of most favoured nation treatment, the world trade order has three serious shortfalls in this field:

AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

The Parties to this Agreement,

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of multilateral trade negotiations,

Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system,

Agree as follows: ...

The World Trade Organization (hereinafter referred to as "the WTO") is hereby established.

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- Although at UN level the connection between trade and environmental damage costs have long been considered when reforming environmental and natural resource accounting, it does not play any particular role in the assessment of welfare benefits through liberalisation under guidance of the WTO-OMC and the reform of calculating a cross-sectoral tourist value added. Were it to be consistently taken into account the postivist equation of free trade with welfare benefit would no longer be tenable.
- Individual WTO agreements have so far merely considered the protection of territorial environmental goods. It is not yet clear what such protection might be like, what trade-relevant measures would cause lasting violations and how the observance of this standard could be monitored. Important extraterritorial goods, like the atmosphere and seas, that are permanently damaged by high tourism flows, are left out of account.
- In the case of violation of standards, other international environmental agreements provide for trade-restrictive measures that conflict with, or are not covered by WTO agreements. Future conflicts might occur especially in relation to the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES 1973), the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989) and the Montreal Protocol on Substances that Deplete the Ozon Layer (1990/92).

4.2 THE AGENDA OF SUSTAINABLE TRADE IN TOURISM SERVICES

4.2.1 RECOGNISING USER'S RIGHTS

The restriction of further development of countryside for tourism may, in borderline cases, violate free market access and national treatment. The authorities could allow local communities, e.g. indigenous groups, a limited exploitation for tourism and refuse it to others. In terms of trade law such exclusive (also non-tourist) usage rights ought to be considered to be not in conformity with GATS, and abolished. This conflict could be solved by reference to GATT Art. XX. which foresees the protection of national cultural goods. Any effective protection naturally requires appropriate process standards and monitoring instruments.

4.2.2 INDICATING ECOLOGICAL COSTS

As long as the prices of tourist services do not properly reflect environmental user and damage costs, there will be no reliable basis at all for optimism regarding the economic effects of continuing liberalisation. Establishing suitable accounting systems takes precedence over further negotiations on dismantling existing trade barriers in this sector. The Standard International Classification of Tourism (SICTA) proposed by the WTO-OMT and the UN covers the value added of almost all back- and forward linkages of the tourism industry, but not their environmental and resource use, not to mention their harmful effects. SICTA must therefore be connected with accounting and assessment schemes, as already foreseen by the UN System of Environmental and Economic Accounting (SEEA).

4.2.3 RECOGNISING MULTILATERAL PROTECTIVE STANDARDS

Existing international environmental standards, e.g. the biodiversity agreement, should not be undermined by the WTO agreement. The commitment of the WTO to environmental and resource protection should be supplemented by process standards with the same status as market access and National Treatment. By analogy with Art.130r (2) of the Maastricht Treaty this can happen through adding another trade standard in connection with a further exception to the MFN principle in accordance with Art. XX GATT. It should be guaranteed that these changes take effect in all three areas of negotiation (goods, services, intellectual property rights).

MAASTRICHT Treaty Article 130r (2)

2. Community policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It shall be based on the precautionary principle and on the principles that preventative action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

Environmental protection requirements must be integrated into the definition and implementation of other Community policies. In this context, harmonization measures answering these requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non-economic environmental reasons, subject to a Community inspection procedure.

Additionally, standards have to be developed guarding extraterritorial goods affected adversely by cross border trade. Experiences with recent conflicts between trade and environment managed by the dispute settlement mechanism show, that the implementation of trade related environmental standards may fail for that reason alone, because proof could not be furnished, that these standards will work in a non-discriminative manner. To secure efficient environmental protection in the sphere of trade the burden of proof therefore has to be turned around.

4.2.4 WIDENING PARTICIPATION

Environmental and resource protection particularly affect the needs, rights and interests of people in the destination areas. As called for in connection with minimum social standards, participatory structures also need to be set up in this field, guaranteeing the transfer of information and a say for these groups if their interests are directly or indirectly affected.