The WTO as a Solution for Implementing "Right Institutions" in Developing Countries

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Statement of Topic

The Washington Consensus policies (i.e., policies that focus primarily on privatization and liberalization) failed to work as promised. In the developing countries that followed the Washington Consensus policies, economic growth was limited at best. Many scholars agree that this is because developing countries failed to establish "right institutions" (i.e., institutions that that reflect the local market conditions and culture) that are crucial for the Washington Consensus policies to perform well.

The Washington Consensus and the WTO were working together because they both call for openness to trade, so there was never a conflict between the two. However, the WTO has never come to grips with the fact that its openness agenda is no longer accepted as a sufficient or even a necessary part of development policy. The WTO has not shown sufficient efforts to help developing countries implement right institutions, even though the WTO has a power to implement various institutions through the dispute settlement system. The goal is not to use free trade as a means for growth but to use growth as a means for free trade. That is, once a country has developed, we can expect it to accept the free trade regime, but we should not necessarily expect it to grow through free trade.

This paper argues that the WTO must shift from a "market access" mind-set to a "development" mind-set in order to enable developing countries to experiment with institutional arrangements and leave room for them to devise their own right institutions. The paper introduces four methods: (1) modification of the accession process, (2) modification of safeguards, (3) cooperation with the IMF, and (4) interpretation of the WTO text in accordance with the consistently while considering the spirit of right institutions.

Contents

I. Introduction

The point of departure for this paper is the Washington Consensus—a set of policies about effective development strategies adopted by Washington-based institutions: the IMF, the World Bank, and the U.S. Treasury.[1] The Washington Consensus is based on three underlying principles: a market economy, openness to the world market, and macroeconomic discipline.[2] Generally, the Washington Consensus favors "market fundamentalism," the view that one looks to the market as the best solution to most of the economic problems.[3] However, for the countries that followed the Washington Consensus policies, economic growth was not higher than expected, and the policies aggravated income polarization.[4] In Latin America, for example, growth under the Washington Consensus was half of what it had been from the fifties through the seventies, when the region followed non–Washington Consensus policies, such as import substitution.[5] Even in countries where the Washington Consensus policies did appear to promote economic growth, such growth failed to reduce income inequality and poverty.[6]

On the other hand, East Asian countries pursued a different set of policies and achieved economic growth.[7] For example, governments played a crucial role in certain areas. Government enterprises (e.g., Korea's national steel company) became leaders in a global market.[8] Government slowed down trade liberalization, and some countries, such as China, are still not

[1] Narcis Serra & Joseph E. Stiglitz, The Washington Consensus Reconsidered 3 (Oxford University Press, 2008)
[2] *Id.*
[3] *Id.*
[4] *Id.* at 4; *See also* Joseph E. Stiglitz, Globalization And Its Discontents 52 (Norton, 2002); Jagdish Bhagwati In Defense of Globalization (Oxford, 2004)
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*

fully liberalized capitalist trade markets. Thus, evidence in East Asian countries proved that non–Washington Consensus policies could lead to further economic growth.[9]

The differences in performance between Latin American and East Asian countries led many scholars to study the next steps for further economic growth in developing countries. Dani Rodrik suggested that growth policies in developing countries must be context-specific.[10] In other words, policy makers in developing countries must consider the "environmental setting," including culture, religion, or politics of their countries, in order for policies to be effective.[11] Without careful consideration of the "environmental setting" or "right institutions" (i.e., an appropriate and adequate institutions that reflect the local condition and culture), directly importing the Washington Consensus policies from developed countries would have a negative effect on developing countries.[12] In sum, there is no quick or standard "menu" of reform for high growth, and implementing right institutions is the critical element for growth in developing countries.[13]

Based upon these findings, Rodrik argued that the world-trading regime has to shift from a "market access" mind-set to a "development" mind-set.[14] Essentially, the shift means that we stop evaluating the trade regime from the perspective of whether it maximizes the flow of trade in goods and services and ask instead whether the trading arrangement maximizes the possibilities of development at the national level.[15] For example, South Korea's outward orientation during the 1960s was achieved not by import liberalization (of which there was little),

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[9] Serra & Stiglitz, *supra* note 1, at 4.
[10] Dani Rodrik, One Economics Many Recipes: Globalization, Institutions, and Economic Growth 229 Princeton Press, 2008)(Arguing that "Right institution" is critical for developing countries to achieve further economic growth); Dani Rodrik, The Globalization Paradox, 171 (Norton, 2011).
[11] *Id.* at 4.
[12] *Id.* at 7.
[13] *Id.*
[14] *Id.* at 215.
[15] *Id.* at 92.

but by export subsidization (of which there was a lot). This type of reform is now prohibited under existing WTO rules on subsidies. Similarly, China's two-track reform strategy in agriculture, industry, and trade—which maintained nonmarket institutional forms while aligning incentives correctly at the margin—has been wildly successful.[16] These are cases where imaginative experimentation with institutional reform has had, in all likelihood, greater payoffs than the wholesale transplantation of institutions from advanced industrial countries.[17]

In sum, establishing right institutions is critical for further economic growth in developing countries, and the world trade regime must shift toward a "development-friendly regime."

The primary goal of this paper is to explain how the WTO can achieve this goal—the shift from a market access mind-set to a development-friendly mind-set. This paper proposes ways in which the WTO can promote its free trade goals by being sensitive to the development needs of its members. Before discussing the WTO, this paper reviews how other Washington-based institutions such as the IMF and the World Bank managed the right institution issue. The IMF and the World Bank initiated "ownership programs" , which is to allow developing countries or loan recipient countries to draft their policy conditionality because those countries presumably know best their local environment and culture to implement their own right institutions. However, the result was unsatisfactory. The IMF and the World Bank have been criticized for their continuous and unnecessary interventions into the conditionality drafting process. Based upon these failures of the IMF and the World Bank, this paper introduces three methods for the WTO to help developing countries establish right institutions: (1) modification of the accession process, (2) modification of safeguards, and (3) cooperation with the IMF.

The first method is to modify the accession process (i.e. the process to become a

[16] Rodrik, *supra* note10, at 92.
[17] *Id.*

participating member of the WTO). Implementing right institutions requires prioritizing institutional reforms based on accurate diagnoses of economic features. The working partymust take advantage of the resources from the IMF and the World Bank to analyze the institutional capacity of the acceding country since the acceding country does not tend to fully disclose its domestic institution capacities and policies. Moreover, the working parties must prioritize their commitment via trade-offs between specific and detailed commitments and reduce commitment elsewhere based on the institutional capacity of the acceding country.

Second, the WTO can modify the safeguards measure. The WTO can permit developing countries to apply an extended safeguards, a so-called developmental and social safeguards, to allow countries to implement right institutions for their labor market to reduce the side effects of imports, such as income inequality. Here, the extended safeguard must only be permitted when the developing countries utilize general TAA (Trade Adjustment Assistance), which fundamentally renovates labor market institutions.

Lastly, the WTO can re-initiate cooperation with the IMF in terms of data exchange and research cooperation. For example, the IMF can take advantage of trade policy reviews (TPRs) for drafting conditionality for emergency loans since the TPR has more comprehensive and the most up-to-date trade-related information compared with resources like the Article IV consultations produced by the IMF. The IMF can utilize the TPRs to figure out policy priorities of developing countries and the right time for exercising trade reforms. The section uses the example of the Asian crisis to address the IMF's failure to understand the right timing of trade reform and importance of policy priority and further argues that TPRs provide such information.

Section II of this paper traces how the IMF and the World Bank have dealt with the institution issue in developing countries. Sections III and IV investigate how the WTO can assist

developing countries in building up right institutions. Specifically, section III is about modifying the accession process. Section IV analyzes modification of safeguard measure. Section V explains the cooperation between WTO and the IMF.

II. Washington-Based Institutions

A. The IMF

The content of IMF conditionality requirements has been heavily criticized. Some argued that IMF has become too ideological and that its trade reform conditionality requirements for low-income countries are not based on sound analysis.[18] Others have questioned the legitimacy of the policies where key sectors of society are not properly consulted or are excluded from program negotiations.[19] One primary criticism is that conditionality requirements can be excessive and unnecessarily detailed without considering the local environment, and thus, conditionality has been seen as intrusive and undermining national ownership of policies.[20]. In other words, the IMF failed to recognize the importance of right institutions and mistakenly imposed conditionality requirements consistent with the Washington Consensus.

InTo response to d these criticisms, the IMF approved new conditionality guidelines in its "Streamlining" initiative in 2002 to reduce the number of conditionality requirements and to include only structural conditions that were deemed critical to the success.[21] The main purpose of this new guideline was to encourage stronger ownership in order to that makes the IMF program more effective and to ensure that conditionality requirements areare more tailored to recipient

[18] Eurodad, *World Bank and IMF Conditionality: A Development Injustice*, at 18, Eurodad Report (Jun. 2006).

[19] Ruban Lamdany, *Assessing the Effectiveness of IMF Structural Conditionality*, 134 J. Soc. Sci. 133, 134 (2009)

[20] Giustiniani, A., and Kronenberg, R. *Financial Sector Conditionality: Is Tougher Better?* (IMF. Working Paper, No. 05/230, 2005).

[21] Graham Bird, *Reforming IMF Conditionality: From 'Streamlining' to 'Major Overhaul'*, 10 World Econ. 81, 81 (2009).

countries' different economics situations and local culture.[22] Consequently, the IMF allowed loan recipient countryies to have primary responsibility for selecting, designing, and implementing policies that will make the conditionality program successful. For example, the recipient country's financial minister drafts a letter of intent (LOI) and the managing director of IMF establishes stipulates the conditionality requirements.[23] The IMF expected that enhancing the ownership by the letter of intent would solve the problem of the "Right institution" because a recipient country would have sufficient information about the local environment, which presumably would be embedded reflected in the letter of intent.[24]

However, contrary to the IMF's expectation, these new conditionality guidelines have failed. Although the recipient country drafts the letter of intent, in most cases, the IMF determines the specifics of the conditionality requirements restricting the recipient countriess' ability to negotiate the conditionality requirements.[25] Certain governments continue to complain about IMF inflexibility and still perceive the IMF as imposing policies based on the Washington Consensus.[26]

B. The World Bank

The World Bank seems to have followed the same practices as the IMF with respect to conditionality. The World Bank dramatically reformed its conditionality requirements from an emphasis on macroeconomic growth to the different design aspects of structural adjustment conditionality, including enhancing statethe ownership of World Bank programs and reducing the number of conditionality requirements.[27] For example, the number of conditionality

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[22] *Id.*
[23] Boughton, James M., *Who's in Charge?Ownership and Conditionality in IMF-Supported Programs* 9 (IMF, Working Paper No.03/191, 2003).
[24] *Id.*
[25] Bird, *supra* note 21, at 95.
[26] *Id.*
[27] World Bank: Operation Policy and Country Service, *Review of World Bank Conditionality*, at 9, (Sep. 9, 2005)

requirements regarding privatization and trade liberalization has significantly declined, conditionality tends to focus more on the long-term institutional issue, and the average number of conditions per operation fell from thirty-five in the late 1980s to twelve in 2005.[28]

Similar to the IMF, the World Bank allowed recipient governments to draft Poverty Reduction Strategy Papers (PRSPs) because the increase of the local government's participation in creating the policy would lead to greater ownership of the structural adjustment programs.[29] Despite efforts to reform conditionality, poverty in recipient countries has not been reduced.[30] Some studies have shown that World Bank involvement has even had a negative impact on economic growth across countries.[31]

Critics argue that dysfunction of conditionality is due to the lack of recipient government ownership because the Bank is still intervening heavily in the process of drafting and implementing the conditionality requirements.[32] Some argue that, even if the requirements are well drafted, conditionality increases political instability in the recipient country because the implementation itself leads to government crises, cabinet changes, and replacements of entire governments, which all leads to the inability to meet the conditionality requirements.[33]

C. The WTO

The efforts of the IMF and the World Bank seem to be unsatisfactory. Now this paper explores the effort of the WTO on right institutions building in developing countries.

In general, GATT recognized the need for infant industry protection, flexibility in the use of balance of payment measures, non-reciprocity in trading tariff concessions, and preferential

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[28] *Id.*
[29] *Id.* at 28.
[30] Alice Hsieh, *Does World Bank Involvement Cause Political Unrest?* J.L. Pol. & Int'l Aff. 139, 140 (2009)
[31] *Id.*
[32] Sehili, S. & Stefan K., Conditionality Revisited: Concepts, Experiences, and Lessons (World Bank Publication, 2005).
[33] Abouhard R. & CIngranelli D., Human Rights and Structural Adjustment (Cambridge University Press, 2007).

market access for the manufactured exports of developing countries. These provisions were based on the premise that equal treatment of unequal is unfair. Just as poor people pay lower taxes, developing countries should pay less when they are poor and more as they develop. Finally, GATT established a special and differential treatment for legal flexibility for developing countries. Now there are 155 provisions from the WTO addressing the various concerns of developing countries.[34] Some emphasize the increase of developing countries' trade opportunities, whereas others aim at safeguarding their interests.[35] Others provide for flexibility in the implementation of commitments and permit the use of technical assistance.[36] These provisions may be mandatory or nonmandatory.

However, the crucial question is whether these provisions fit well into the development strategies of developing countries. Large numbers ofMany provisions are considered useless by developing countries, and in particular, these provisions do not seem to address the issue of right institutions in developing countries. As the paper previously described, the fundamental problem for developing countries is whether they are equipped with right institutions. In this regard, the WTO must shift its perspective to a more development-friendly regime and help countries establish right institutions for further economic growth. In that way, income polarization and high levels of poverty would naturally be resolved, which are the underlying goals of the WTO. Therefore, the WTO should be conceived of not as an institution devoted to harmonization and the reduction of national institutional difference, but as an institution that manages the interface between different national systems.[37]

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[34] Gary P Sampson & W. Bradnee Chamers, Developing Countries and the WTO: Policy Approaches 8 (United National University Press, 2008).
[35] *Id.*
[36] *Id.*
[37] Rodrik, *supra* note 10, at 234.

The paper introduces three methods for the WTO to design right institutions in developing countries: (1) modifying the accession process, (2) modifying the safeguard measure, and (3) cooperating with the IMF.

III. Modification of the Accession Process

A. Introduction

The WTO accession is a significant change of the acceding country. The accession process requires countries to follow a number of commitments to redesign their domestic economic institution. Moreover, the accession itself sends a signal to foreign investors to boost their confidence on investing the acceding country.[38] First, this section addresses how the accession works and its problems.

Article XII of the WTO and other provisions addresses the process of the WTO accession, but Article XII does not give any guidance on the "terms to be agreed" for the accession and procedures for accession negotiation. Thus, terms and procedure are decided by the Working Parties during the negotiation. First, an acceding country drafts an accession application for negotiation to begin. After the initial process, a Working Party is established to start three tracks of accession negotiation.[39] 1) a Systemic or multilateral track; 2) a market access in goods track; and 3) a market access in service track. During the process, the Working Party members submit questions to acceding countries regarding various subjects including, balance of payment, foreign exchange operations, custom system, export regulations, import licensing, taxation system, safeguard measure and system for the protection of IP rights etc.[40] This stage of accession is focused primarily on transparency, helping the acceding government to understand

[38] Basu, S.R., *Does WTO Accession Affect Domestic Economic Policies And Institutions?* 4 (UN, HEI Working Paper No. 03/2008, 2008).
[39] Basu, *supra* note 38, at 9.
[40] *Id.*

its own policies and the Working Party to understand the trade-related policies and institutions of acceding country.[41]

Second, the acceding country begins the negotiation by making an initial offer on market access.[42] The Working Party member then enters into bilateral negotiations with the acceding country over the "concession" that the acceding country will make based on an MFN basis.[43] Particularly, the Legislative Action Plans (LAPs) provides a detailed commitment of institutional change.[44] The LAPs include the deadline for legislative changes and the intended policy and institutional reforms.[45] Table 1 shows how the WTO accession process can impact domestic institutions.[46] The WTO accession affects not only in trade sector but also in foreign exchange and payments or even a judiciary administration of policies.

Table 1. Impacts of WTO accession process on economic policies and institutions

			Commitments in specific policy areas
Policies affecting trade in goods and services	Trade in goods	Import regulations	Import regimes, customs code, ordinary customs duty, other duties and charges, TRQ, tariff exemptions, application of internal taxes on imports, prohibitions, quotas, restrictive licenses, import licensing procedures, customs valuation, rules of origin, other customs formalities, pre-shipment inspection, contingency measures (e.g. anti-dumping, countervailing or and safeguard measures)
		Export regulations	Tariffs or taxes on exports, export restrictions, export subsidies, export processing zones
		Internal policies affecting trade in goods	Taxes and charges levied on imports, industrial policies including subsidies, technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPS), trade-linked investment measures (TRIMs), state trading entities, free zones and special economic areas, government procurement, transit, agricultural policies, trade in civil aircraft, textiles Trading rights, (advertising and trade in alcohol and tobacco)
	Trade in services		Horizontal commitments (in Modes 1, 2, 3, 4), MFN exemption, full or partial commitments in the following services – business, communication, construction, distribution, educational, environmental, financial, health, tourism and travel-related, transport.
	Trade-Related Intellectual Property Rights (TRIPS)		Obligations stipulated in the TRIPS Agreement
Other related policies			Non-discrimination, foreign exchange and payments, balance-of-payment measures, investment regime, State ownership and privatization, pricing policies
Policies affecting institutions			Structure and powers of government; powers, executive, legislative and judiciary administration of policies on WTO-related issues; authority of sub-central governments; uniform administration of trade regime; judicial review (including the right of appeal)

Source: Technical Note on the Accession Process, WT/ACC/10/Rev.3, 2005, and http://www.wto.org/english/thewto_e/acc_e/acc_e.htm .

[41] *Id.*
[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] *Id.*
[46] *Id.* at 13.

Lastly, all concluded bilateral agreements are "Multilateralized" and sent to all the Working party members.[47] The report includes a draft decision and protocol of accession regarding the agreed commitments on WTO rules and concession of goods, etc.[48] After the working party accepts the report, the report is sent to the Ministerial Council for final acceptance.[49] Next, the paper reviews the literature of the accession process.

B. Literature Review

The major criticism of the accession process is that it is a long and demanding process, especially for least developed countries. The transparency stage is too long, often repetitive, and uncoordinated.[50] Moreover, many acceding countries face demanding requirements proposed by the working party because they lack institutional capacity[51]. Many acceding countries do not have, for example, an efficient and transparent legislative process to comply the WTO obligation in time.[52]

In response to these criticisms, some argued that the working party must allow a time extension to meet the obligation. Others even propose that the WTO must allow newly acceding countries to exercise Special and Differential treatment (S&D).[53]

In addition a long and demanding process, others focused on the institutional aspect. The UNCTAD published "WTO accessions and development policies" in 2001 and it explains various aspects of the WTO accession and country specific experiences. It argued that commitment made by acceding countries in connection with WTO accession must not be

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[47] Bosworth M. & Duncan R., Studies in Trade and Investment No.49 Facilitating the Accession of ESCAP Developing Countries to WTO through Regional Cooperation 17 (Trade and Division, 2002)
[48] *Id.*
[49] *Id.* at 18.
[50] *Id.* at 19.
[51] Bosworth & Duncan, *supra* note 47, at 19.
[52] *Id*.
[53] *Id*. at 23.

regarded as a concession. Rather, it must be viewed as an investment.[54] Particularly, Drabek and Bacchetta argued WTO accession positively impacts institutional reform. They found that the WTO accession opens up the significant improvement in economics governance and institution.[55] Likewise, Kennett et al studied the relation between the accession and institutional change in Ecuador, Jordan and Bulgaria.[56] Tang and Wei explored the consequence of accession on income and investment.[57] They concluded that the accession led to increased income and investment only if countries had gone through a rigorous accession process.[58] They also found that policy commitment in the course of accession were helpful, especially for countries with poor governance.[59] Basu conducted a comprehensive empirical study by looking at the effect of the accession on the domestic economic policies and institution comparison to other developing members.[60] He concluded that the accession had a significantly positive effect for acceding countries after controlling for developing countries in the sample by using difference-in-difference analysis.[61] Thus, he insisted that the WTO accession could be seen as a great opportunity to establish better economic institutions.[62]

C. Two Ways of Modifying the Accession Process

The accession process is long and demanding for acceding countries because of their immature institutions. This paper argues that if the working party members successfully diagnose the institutional capacity of the acceding countries and modify the accession process more

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[54] Basu, *supra* note 38, at 5.
[55] Drabek, Z. & Bacchetta M., *Tracing the Effects of WTO Accession on Policy Making in Sovereign State: Preliminary Lessons From the Recent Experience of Transition Countries*, 27 World Econ. 947, 947 (2004).
[56] Kennett et al, Evaluating WTO Accessions: Legal and Economic Perspective (IDRC-Sponsored Research Project, 2005).
[57] IMF, *Does WTO Accession Raise Income*?, at 24, IMF Working Paper No. WP/06 (2006).
[58] *Id.* 24
[59] IMF, *supra* note57, at 24.
[60] Basu, *supra* note 38, at 27
[61] *Id.*
[62] *Id.*

efficiently by tailoring it to their economic institutional capacity, the acceding country would no longer feel the obligation to be demanding and, thus, shorten the accession process. Therefore, modifying the accession process to consider institutional capacity would help acceding countries establish right institutions in their countries. Next, the paper introduces two methods to modifying the accession process.

1. Utilize the resources from the IMF and the World Bank to reduce acceding countries' temptation to inaccurately disclose features of their institutional and policy capacity.

First, the WTO must actively utilize the IMF or the World Bank's resources to gather accurate information about the acceding country in order to reduce the acceding country's incentive to not fully disclose their institutional capacity. Accurate diagnosis of the economic conditions of the acceding country would lead to efficient and transparent negotiations and, thus, helps the country to establish the right institutions.

The accession process includes the fact-finding stage, the transparency stage, where the working party member investigates details on the economic environment of the acceding country, including levels of institutions. This is a great opportunity for the acceding country to understand its own policies and institutional levels and find out any weaknesses. This accurate diagnosis not only helps efficient and transparent negotiation in a later stage of the process but also helps smooth domestic reform for institutional change.

However, the acceding country tends to avoid a full disclosure of their economic features, including the institutional capacity, because of protectionism.[63] For example, they would not want to disclose various government subsidy programs to protect their domestic industries.[64]

[63] Bosworth & Duncan, *Supra* note 47, at 16.
[64] *Id.*

To avoid this, the working party member must utilize resources from other international organizations to accurately detect and analyze the acceding countries' economic features. The IMF, for example, shares with the WTO secretariat the resources of international financial statistics, balance of payment statistics, government financial statistics, and direction of trade statistics.[65] In particular, it provides a projection of individual country data based on a request by the WTO.[66] Moreover, they provide IMF staff reports and papers on Article IV consultations on IMF members seeking accession to the WTO, subject to the consent of the member.[67] Article IV contains detailed information of the IMF's trade policy advice and conditionality.[68] Likewise, the World Bank provides the WTO secretariat access to its economic and social database, as well as to the statistical annex of the global economic prospects and developing countries.[69] In short, the WTO has access to both the IMF and the World Bank's resources on acceding countries' policies and information of institutional capacity. By actively using the data, the duration of the fact-finding stage could be shortened since the working party does not have to fight with the acceding country's efforts to conceal its domestic institutions and policy features.

2. The working party must prioritize its commitment by trade-offs between specific and detailed commitments and reduced commitment elsewhere based on the institutional capacity of the acceding country.

Second, once the working party members successfully diagnose the accurate information of acceding countries' domestic circumstances, they should focus on priorities of the institutional reforms in the acceding country. The working party members tend to ask for as many concessions as possible for their benefit. However, the acceding countries, especially LDCs,

[65] Marc Auboin, Fulfilling the Marrakech Mandate on Coherence: Ten Years of Cooperation Between the WTO, IMF and World Bank 18 (WTO, Discussion Paper No.13, 2007).
[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] Auboin, *supra* note 65, at 16.

cannot achieve the commitments at once, no matter how much technical assistance they receive. In short, many acceding countries have adopted policies that are too ambitious relative to their capacities.[70] Thus, the working party member must first prioritize the reform commitments. This does not necessarily mean to lower WTO commitments. Rather, the working party member could set up the specific and reliable commitments in a certain area from the acceding countries. In a certain sector, the acceding country may make a stronger commitment meeting the WTO obligation, whereas in other sectors, the country may have difficulty restructuring the sector. The working party then has flexibility to allow the acceding country a greater range to trade off stronger commitments for reduced obligations elsewhere. The working party member can ask for detailed and specific commitments in a certain area where the acceding country can reliably meet the deadline. But the working party might want to postpone the obligation of the TRIPS Agreement that requires the acceding country, especially LDCs, to implement many institutional and enforcement measures that they may rank low in their priority of reform. In the process of prioritizing reforms, the acceding country would have enough time and resources to establish their "right institutions."

To conclude, the WTO must take advantage of the information and data provided by the IMF and the World Bank. This would allow the WTO members to accurately grasp the the acceding country's policies and institutions. Further, this would prevent the acceding country from not fully disclosing their economic circumstances. Once the working party members have accurate information about the institutional capacity of the acceding country, they must prioritize their commitments by trading off between specific and detailed commitments and reduced commitment elsewhere. This selective approach by the working party members would ensure the acceding country has enough time and resources to establish right institutions.

[70] Bosworth & Duncan, *supra* note 47, at 37.

IV. Modification of safeguards measures can help implement "right institutions" in developing countries.

A. Introduction

A WTO member may take a safeguards action (i.e., restrict imports of a product temporarily) to protect a specific domestic industry from an increase in imports of any product which is causing or which is threatening to cause serious injury to the industry.[71] This paper argues that the extension of the use of safeguards measures can be an alternative solution to make the world trading system more development-friendly, and it would render the international trade system more compatible with the goal of local ownership of development programs. Here, this paper explores how modification of safeguards could help developing countries to establish the "right institutions." First, the paper investigates the literature regarding safeguards.

B. Literature Review

First, Hoekman and Kostecki addressed the two roles of safeguards provisions with respect to the underlying agreement—as "insurance" and as a "safety valve."[72] The "safety valve" principle is that the government may wish to escape from the agreement in the presence of economic or political pressure. The government wants an option to suspend their obligation without having to fear that the entire agreement will fall apart. In addition, the "insurance" rationale is that the government may want to hedge against the possibility that unforeseen events may happen. Fischer and Prusa elaborated this thought into the model by arguing that in certain circumstances, resorting to the safeguard is better policy than uniform tariffs.[73]

Others examined how the safeguard policies affect the adjustment process. For example, Miyagiwa and Ohno emphasized that safeguards for domestic industry is an excellent

[71] Jackson et al, Legal Problem of International Economic Relations 691 (5th ed. 2008).
[72] Hoekman B.M. & Kostecki M.M., The Political Economy of the World Trading System: The WTO and Beyond (Oxford University Press, 2nd, 2001).
[73] Fischer Ronald D. & PrusaThomas J., *WTO Exceptions as Insurance*, 11 Rev. Int'l Econ. 201, 201 (1986).

opportunity to adjust to increased competition in order to increase its "competitiveness."[74] On the other hand, Brainard and Verdier studied how the adjustment process diminishes future lobbying intensity.[75] They said the import protection shortens the adjustment process, which leads to the failure of diminishing future lobbying intensity. Davidson and Matusz investigated the impact of safeguards on the labor market. They showed how safeguards can smooth out the adjustment process following an unexpected improvement in a country's terms of trade.[76]

Researchers have developed various aspects of the safeguards. However, an "institution" aspect of safeguards has not been fully discussed yet. It is still unclear whether the modification of the safeguards could help a nation build up its institutions during the trade adjustment process. In this regard, Rodrik introduced the concept of the "developmental and social safeguards" in his book, *One Economics, Many Recipes*. He argued that these modified safeguards should be used in three circumstances for smooth adjustment of trade reform, thus establishing right institutions.[77]

First, Rodrik insisted that the WTO must allow developmental and social safeguards for developing countries when they uphold their national standard and policies, or trade demonstrably undermines domestic practices enjoying broader support.[78] For example, South Korea's historic economic growth during the 1960s and 1970s was achieved not by import liberalization but export subsidization. This type of reform is now prohibited under existing WTO rules on subsidies. Similarly, China's two-track reform strategy in agriculture and industry, which maintained nonmarket institutional form, has been successful. Thus, the WTO must

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[74] Miyagiwa, Kaz & Ohno Yuka, *Credibility of Protection and Incentive to Innovate*, 40 Int'l Econ. Rev., 143, 143 (1999).
[75] Brainard S. & Verdier T., *The political Economy of Declining Industries: Senescent Industry Collapse Revisited*, 42 J. Int'l Econ. 22, 221 (1997).
[76] Davidson, C. & Matusz, S., *An Overlapping Generations Model of Escape Clause Protection*, 12 Rev. Int'l Econ. 749, 749 (2004).
[77] Rodrik, *supra* note 10, at 230.
[78] *Id.*

recognize the country-specific development strategy and give permission to use a safeguards measure in that circumstance.

Second, Rodrik suggested the developmental and social safeguards must be applied when characteristics of import goods are in conflict with a widely shared social or developmental norm at home.[79] For example, goods manufactured using child labor violate domestic opinion about what is acceptable, or consumers might want to prohibit imports of the goods from a country because of safety concerns.

Lastly, Rodrik recommends that the safeguards must be used when developing countries face a serious economic distribution problem in society.[80] Rodrik did not elaborate this part in his book, and the next section explores how a developing country can seek the safeguard to eliminate a distributional concern of the society.

C. "Developmental and social safeguards" as a solution to economic distribution problems and the development of "right institutions" in the labor market

Rodrik presumably argued that the WTO must allow the safeguards measures if compliance of the WTO obligation seriously injures the distribution aspect of the society until right institutions are implemented in a sector that influences economic distribution within the society.

First, Rodrik restricted its use to the distribution aspect because, otherwise, many countries would abuse its use on any institution building in any economic sector. Moreover, the distribution issue has been a main target of criticisms in the debate on globalization, especially trade liberalization. Many studies have insisted that trade liberalization weakens the distributional aspect of the society since it brings about income polarization and inequality

[79] *Id.*
[80] Rodrik, *supra* note 10, at 230.

within a nation or between nations.[81] Therefore, Rodrik supposedly thought that the trade reform must be paused until the government implements right institutions in the economic sector to avoid a severe distribution problem.

Second, although Rodrik did not specifically mention what economic sector affects the distributional aspect, this paper argues that a labor market is a critical indicator for determining the state of the distributional aspect of the society since job creation, the unemployment rate, or minimum wage significantly affect income distribution and inequality within the economy.

In sum, according to Rodrik, implementing right institutions in the labor market through the safeguards should be a prerequisite for trade reform if the reform seriously injures the economic distribution in the society.

1. The "development and social safeguards" should be used only when governments in developing countries adopt general Trade Adjustment Assistance (TAA) rather than targeted adjustment assistance.

So far, the paper has concluded the development and social safeguard must be imposed until right institutions in the labor market are successfully implemented to lessen the distribution concern. In fact, many governments actually adopt a Trade Adjustment Assistance (TAA) program to help labors who were injured or lost their jobs from imports to solve the distribution problem in the economy.[82] The TAA offers a set of policies such as an unemployment benefits program or subsidies for workers certified as trade-displaced.[83]

There are two types of TAA: a general TAA and a targeted TAA.[84] The general TAA's purpose is to implement an institution for not only trade-displaced workers but also displaced

[81] Serra & Stiglitz, *supra* note 1, at 4.
[82] Jackson et al, *supra* note 71, at 747.
[83] OCED, OECD Employment Outlook 51, (OECD, 2005).
[84] *Id.*

workers for other reasons, such as consumer preference or technological change.[85] The general TAA includes an unemployment insurance policy, macroeconomic policies conducive to strong growth and high employment, and education and lifelong learning programs to upgrade the skills of the workforce.[86] In contrast, the targeted TAA serves only trade-displaced workers or a subset of this group by implementing specific adjustment assistance or subsidies to trade-displaced workers.[87] In fact, there are ongoing debates regarding when and what type of TAA must be imposed for eliminating a negative distribution issue.

This paper argues the development and social safeguards should be permitted only when governments in developing countries adopt general Trade Adjustment Assistance (TAA) rather than targeted adjustment assistance. In other words, Rodrik's safeguards should be used only when fundamental problems of labor market structure are renovated because exercising the general TAA is consistent with implementing right institutions. Unlike targeted TAA in which the assistance only goes to the injured sector from trade, general TAA requires essential renovation of trade-related institutions for efficient reallocation of labor.

Developing countries need a long period of time to implement right institutions in the labor market since general assistance TAA may even require education reform for the purpose of vocational rehabilitation. Moreover, developing countries face long delays in passing laws or reforms since they usually have inefficient political and legislative systems. Based upon these disadvantages, WTO members should wait until developing countries renovate their fundamentals of the labor market to avoid any further distribution problems due to the absence of right institutions. In that way, developing countries would have strong infrastructures and

[85] *Id*. at 56.
[86] *Id.*
[87] OECD, *supra* note 83, at 51.

institutions to endure further trading activities without seeking additional safeguards for injured workers.

2. By exercising policy options in general TAA, developing countries must choose the policy that fits their local environment and should not merely follow the path of how developed countries have handled their labor market.

So far, the paper concluded that the WTO must allow developing countries to seek the extended safeguards for exercising general TAA to help establish right institutions. There are two guidelines for choosing policy options in general TAA.

First, the governments in developing countries should not merely follow how developed countries have handled their labor market. For example, a developing country might want to reduce "large severance payments" rather than reduce "search costs of employment" because institutions for reducing search costs of new jobs—such as channels of newspapers, web, private consultation, etc.—are more readily available and more developed in industrialized countries than in developing countries.[88] Rather, a developing country might want to reduce "large severance payments." The trade adjustment may involve starting up new firms, and employment protection policies (e.g., large severance payments) may discourage entrepreneurs from hiring workers needed for starting up a new company since it would be costly to let them go in case the business is less profitable than expected.[89] In this regard, reducing "large severance payments" can still become an efficient, instrumental choice in developing countries because a developing country provides a more flexible environment for the creation of new companies that encourage a rapid allocation of labor, especially in the area of micro- and small-scale enterprises (MSEs).[90] In short, because developing countries have a better environment for creating new companies,

[88] WTO Special Studies from Baccehetta M. & Jansen M. on Adjusting to Trade Liberalization, 34 (2003).
[89] *Id.*
[90] *Id.*

the institutional choice of reducing "large severance," which encourages the creation of new companies, is highly effective in developing countries.

Second, among policy options in general TAA, the government must implement the institution that is suitable to domestic local labor market conditions since their main purpose is to build up the "right institutions." For example, vocational rehabilitation through Internet network programs is a good example of a "right institution" in Korea. The policy is based on Korea's culture of strong enthusiasm for education and a social institution index with a high level of "Internet network access rate." Korea's university and graduate school completion rate tops those of member states of the Organisation for Economic Co-operation and Development (OECD), according to the organization's annual education index.[91] Over 98% of Koreans aged 25 to 34 graduated from junior college, university, or graduate school.[92] Moreover, Koreans' rate of entrance to university or graduate school was 71%, greatly exceeding the OECD average of 56%.[93] In addition to the enthusiasm for education, "OECD Internet Economy Outlook 2012" provides information that Korea ranked no. 1 for easy Internet access rate of any location.[94] Thus, expanding the Internet network vocational rehabilitation program is a good example of the "right institution" since this reflects Korean enthusiasm for education and a strong institution in regard to the Internet network.

To summarize, this paper insists that the extension of the safeguard measure helps developing countries establish right institutions, which in turn, make the world trading system more development-friendly and the international trade system more compatible with the goal of

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[91] CCEF Coree, *Korea's college graduation rate highest in OECD*, *CCEF* Coree, Sep. 8, 2010, http://ccef-coree.com/2010/09/08/korea's-college-graduation-rate-highest-in-oecd
[92] *Id.*
[93] *Id.*
[94] OECD, Internet Economy Outlook 2012 (2012), *available at* http://www.oecd.org/sti/interneteconomy/internet-economy-outlook-2012-highlights.pdf

local ownership of development programs. To avoid the abusive use of the measure, the government is permitted to use the safeguard measure only when they exercise the general TAA that renovates the fundamentals of the labor market to avoid negative consequences of distribution problems in the economy. By doing so, developing countries must implement institutions that reflect their local market conditions and culture instead of merely following the developed countries' path.

V. Cooperation with the IMF can help implement the "right institution" in developing countries.

A. Introduction

There were problems of jurisdictional conflict between the WTO and the IMF. China's accession to the WTO is a good example of the conflict.[95] In 1995, a draft protocol on China's accession required China to make their foreign exchange system consistent with the obligation of Article VIII of the IMF and limited their restriction on the use of foreign exchanges in the future.[96] The IMF objected the protocol by arguing that exchange control is solely in charge of the IMF.[97] The IMF requested to drop all provisions related to the exchange measures from the draft protocol, which created severe tension between the WTO and the IMF.[98] The problem was not resolved for five years, and China finally acceded to the WTO in 2001.[99]

Both the IMF and the WTO realized the solution to the jurisdictional conflict and thus, they agreed to cooperate with each other for the policy coherency. The Policy Development and Review Department (PDR) in the IMF issued two guidances in 1995. The first guidance[100] included aspects of cooperation with the WTO as balance of payment, consistency of policy

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[95] IMF Background Document, *Cooperation Between the IMF and the WTO* 59 (2006)
[96] *Id.*
[97] *Id.*
[98] *Id.*
[99] *Id.*
[100] IMF Report, *Guidelines/Framework for Fund Staff- Collaboration with the World Trade Organization* (1995)

advice, staff contacts, research cooperation and exchange data and information. The second guidance[101] addressed the consistency of IMF advice with the WTO rules, emphasizing the WTO rules that IMF staff must be aware in the process of designing conditionality. Simply put, the guidance tried to draw a clear line about how far the IMF conditionality can go in the area of trade policy. The guidance allowed the IMF to give advice of trade policy as long as the country would not violate the WTO obligation.[102]

Explicit and formal agreement for the IMF and the WTO cooperation were established in the cooperation agreement in December 1996.[103] The key arrangements for IMF-WTO cooperation are specified below Table 2[104]

Table 2. Key arrangement in the IMF- WTO 1996 cooperation agreement.

Area	Arrangement
Balance of payment Consultations	• The IMF will participate in consultations carried out by the WTO Committee on Balance of Payments Restrictions on measures taken by a WTO member to safeguard its balance of payments.
Representation	• The IMF will invite the WTO Secretariat to send an observer to Executive Board meetings on trade policy issues and matters of common interest. The WTO will invite the IMF to send an observer to meetings of its Ministerial Conference, General Council, and certain committees, working groups, and bodies

[101] IMF Report, *Reference Note on WTO-Consistency* (1995)
[102] IMF, *supra* note 95, at 60.
[103] IMF Background Document, *Agreement Between the International Monetary Fund and the World Trade Organization (*1996).
[104] IMF, *supra* note 95, at 61.

Information and Document Exchange	• The IMF and the WTO will make available to each other in advance the agendas and relevant documents for the meetings to which they are invited. In addition, the IMF will make available to the WTO Secretariat the agendas of the Executive Board meetings at the time of their circulation in the Fund, and the WTO will make available to the Fund the agendas of the Dispute Settlement Body at the time of their circulation in the WTO. • The IMF must inform the WTO of any decisions approving restrictions on the making of payments or transfers for current international transactions, decisions approving discriminatory currency arrangements or multiple currency practices, and decisions requesting a Fund member to exercise controls to prevent a large or sustained outflow of capital. • The IMF and WTO must share their reports with each other (staff reports and related background staff papers on Article IV consultations and on use of Fund resources from the IMF; trade policy review reports, summary records and reports to/of various WTO councils, bodies, and committees from the WTO), subject to a confidentiality constraint.
Informal Consultation	• IMF and WTO Secretariat staff must consult with each other on issues of possible inconsistency between measures under discussion with a common member and that member's obligations under the WTO Agreement or the IMF's Articles of Agreement.
Dispute Settlement	• The IMF will inform in writing the relevant WTO body (including dispute settlement panels), considering exchange measures within the Fund's jurisdiction, as to whether such measures are consistent with the Articles of Agreement of the Fund.

However, there has been strong criticism of cooperation. The frequency of interaction between the IMF and the WTO has steadily reduced. The number of IMF staff who have been reporting back from Geneva office to PDR's trade policy division in the IMF, reduced from five

to two in 2002, and the number became zero in 2008.[105] The Committee on Liason with the WTO (CWTO) in the IMF stopped meeting after 2004 and was not reestablished afterward.[106] Informal consultation has been reduced as well.[107] IMF staff sometimes significantly contributed to WTO meetings either through oral statement or briefing, but the meeting stopped after 2001.[108] Typically, the WTO initiates the request for IMF research or consultation and IMF staff provided research, but this rarely became a basis for the final outcome of WTO decision.[109] Some criticized the WTO by arguing that the cooperation never worked properly, and the IMF and the World Bank do more to induce developing countries to implement trade liberalization by imposing trade conditionality.[110]

Furthermore, there seems to be no cooperation regarding the efforts on right institutions for developing countries. This paper introduces two ways of cooperation between the WTO and the IMF that achieve this goal: (1) the IMF must utilize TPRs (trade policy reviews) in conditionality drafting, and (2) the IMF and the WTO must reinitiate research cooperation to find a priority of reform in developing countries.

B. Two ways of cooperation that help developing countries implement the "right institution"

1. The IMF must actively utilize trade policy reviews (TPRs) in conditionality drafting.

This section argues that the IMF and the WTO must reinitiate the exchange of information and data to establish right institutions in developing countries. To be specific, the WTO's abundant resources in trade-related data, such as trade policy reviews (TPRs), could

[105] IMF, *supra* note 95, at 80.
[106] *Id.*
[107] *Id*.
[108] IMF, *supra* note 95, at 80.
[109] IMF, *supra* note 95, at 68.
[110] *Id.* at 62

become a powerful resource for conditionality drafting in the IMF. TPRs provide a wider and more comprehensive analysis of trade and trade-related policies than Article IV consultation, which is the basis of drafting IMF conditionality.[111]

First, TPRs provide the most up-to-date information of trade policy and trade-related institutional reforms in developing countries and the impact of those on existing domestic institutions. Trade reform leads many institutions to import from abroad, and it significantly affects the economic and social institutions in developing countries. Membership in the WTO, for example, requires the adoption of a certain set of institutional norms—nondiscrimination in trade and industrial policies, WTO-consistent copyright protection and regulatory reform, and so on. In this regard, a TPR provides detailed information of the institution-building process, followed by trade reform in developing countries. Furthermore, it explains how existing domestic laws interact with the new reforms. For example, the TPR for Korea in 2012[112] includes the most recent regulatory reforms responding to a financial crisis in 2009. In 2009, a temporary waiver, Temporary Regulatory Relief (TRR), was introduced prior to the implementation of burdensome regulations to help overcome the global economic crisis; the TRR suspended the implementation of some burdensome regulations for a certain period (one to two years).[113] At the same time, Regulatory Reform for New Growth Engine Industries was launched to clear regulatory barriers to the development of future growth industries, such as new and renewable energy and green technology.[114]

Second, a TPR provides the detailed explanation of the impact of institutional reform on other areas of the economy, such as the labor market. For example, the TPR for Korea addresses

[111] Auboin, *supra* note 65, at 17.
[112] WTO, WT/TPR/S/268.
[113] *Id.*
[114] *Id.*

most recent regulatory reforms and how the reforms enhance the quality of institutions by increasing transparency and predictability.[115] Moreover, it explains the government's underlying purpose of imposing regulatory reform as a solution to job creation in the labor market.[116] For example, the TPR first explains that the Korean government's labor market policies are being focused on increasing investment in labor-intensive activities—notably, services—and thereby raising labor productivity, strengthening the social safety net, and increasing participation of the elderly and females in the labor force.[117] However, the rapid aging of Korea's population will lead to a shortage of labor. In fact, such a shortage could be somewhat relieved by inflows of temporary workers or immigration (mode 4 under the GATS), especially into service sectors, such as health care and nursing homes for the elderly. To respond, the TPR explains that, in October 2008, the government launched the Contact Korea program under the authority of the Korea Trade-Investment Promotion Agency (KOTRA), with the aim of attracting highly specialized foreign professionals to Korea.[118]

To conclude, the TPR addresses how trade policies and the labor market interacts with each other, particularly how trade policy impacts the job creation of the labor market in Korea. TPR's consideration of the labor market is contrary to what IMF had done to South Korea in the Asian financial crisis. There were many criticisms regarding the IMF's failure to consider the aspect of job creation while they imposed an exchange rate stabilization policy.[119] During the crisis, the IMF imposed a high interest rate policy to stop a soaring exchange rate, but it ultimately became a significant burden for many small- and medium-sized firms because their

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[115] *Id.*
[116] WTO TPR (Trade Policy Review) from Republic of Korea, WT/TPR/S/268 (Sep 21, 2012) http://www.wto.org/english/tratop_e/tpr_e/tp368_e.htm
[117] *Id.*
[118] *Id.*
[119] IMF Working Paper, *The IMF Rescue Program in Korea: What Went Wrong?* 13 (1999).

debt ratio was at a high level. In turn, many firms went bankrupt, which led to a historically high unemployment rate. The high unemployment obviously led to low level of consumption, which slowed down a recovery from the financial crisis. The IMF failed to give careful consideration of the impact of policy on job creation in the labor market.

Thus, the paper maintains that the IMF must actively use TPRs in the process of drafting conditionality. This can become a prominent tool to solve a problem of "ownership" and implement the "right institution." TPRs provide the most up-to-date information related to trade policy and other sectors of the economy. TPRs give insight to how trade reform interacts with domestic law. Furthermore, TPRs explain the impact of trade reform on the other side of the economy, such as the labor market, which the IMF had failed to consider in the past.

Despite its strong merits, IMF staffs have not been fully utilizing TPRs in their process of drafting conditionality. In a survey of IMF staff (grades A15–B4), one quarter of the respondents reported never having read a TPR, and only 15% said they had read a TPR.[120] Moreover, less than three-fifths of these TPRs were cited in IMF reports.[121] This result shows that TPRs do not significantly affect shaping the conditionality of the structural adjustment programs of the IMF. Cooperation must be reactivated in terms of data exchange so TPRs would become a significant source for establishing the "right institution" for many developing countries.

2. Reinitiate research cooperation for selecting priority of reform since the right timing of the institution is critical for establishing the "right institution"

The WTO and the IMF must reinitiate research cooperation to determine policy priorities in developing countries because right timing of the policy is crucial to implementing right institutions.

[120] IMF *supra n*ote 95, at 66.
[121] *Id*.

The IMF had tended to disregard the priority among liberalization and reform conditionality. The right timing of implementing conditionality leads to successful implementation of right institutions in developing countries. The IMF seems to be conducting research on "priority" of the policy.[122] For example, the IMF produced a paper arguing that trade restriction is not a first-best policy for achieving a targeted growth rate during a financial crisis.[123]

However, the IMF failed to apply their policy priority study on conditionality. For example, for South Korea during the Asian financial crisis, the IMF failed to impose the trade reform policy in the later stage of the financial recovery. In 1998, the IMF imposed trade liberalization by eliminating trade-related subsidies, restrictive import licensing, and the import diversification program. The Korean government agreed to set a timetable in line with WTO commitments to eliminate those three hurdles. However, this structural reform became a substantial burden to many trade corporations that were severely hit by high interest rates. Many trade corporations did not have enough capacity to handle both trade reform and a high level of debt. The IMF should have concentrated on helping the economy with a temporary foreign exchange shortage for financial stabilization, and then structural reform should have been imposed next. Simply put, the IMF failed to examine the policy priority among conditionality requirements.

To respond this criticism, a TPR can help the IMF analyze the local market conditions of developing countries and decide which policy or reform should be initiated first.

First, TPRs can help the IMF decide what timing trade reforms must take effect given certain maturity levels of customs administration and ongoing macroeconomic policies. Many

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[122] *Id.* at 71.
[123] *Id.*

findings suggest that the impact of trade reform on fiscal revenue depends on the modernization of customs administration and sound macroeconomic policy.[124] Thus, if the IMF knows one nation's maturity level of customs administration and ongoing macroeconomic policies, the IMF would be able to point out the right timing to exercise trade reforms among conditionality. In this regard, TPRs provide a great solution because they address both customs level and ongoing macroeconomic policy in detail. For example, the 2012 TPR reported by South Korea starts with the World Bank report regarding a ranking of trade facilitation effort across different countries.[125] The TPR provides information on recent Korea Customs Service (KCS) efforts to achieve modernization of customs administration. According to the TPR, KCS recently established "The World's Best Customs 2012+ Plan," consisting of five strategies and 80 specific mid- and long-term reform initiatives.[126] Its main implementation directives are cooperating with the private sector for governance-based customs administration, emphasizing both self-regulation and participation of every company, expanding the role of customs to secure public health and welfare, and realigning customs procedures, practices, rules, and regulations with international standards (including the revised Kyoto Convention).[127] Moreover, the TPR further elaborates on the customs procedure and valuation in extreme detail.

To conclude, based on the experience from the Asian financial crisis, the IMF failed to establish right institutions in developing countries because they failed to recognize the impact of their conditionality on other economic sectors, such as job creation in the labor market and priority of policy. To respond to this criticism, the WTO could help the IMF solve this by providing TPRs. As the IMF admits, documents such as TPRs provide more comprehensive data

[124] IMF Occasional Paper, *Revenue Implications of Trade Liberalization* (1999).
[125] WTO, *supra* note 116.
[126] *Id.*
[127] *Id.*

of trade reform and trade-related policy than those such as the Article IV consultation report. For example, a TPR accounts for recent data on modernization of customs administration, which affects the decision to pursue trade reform at a certain level of economic stage.

VI. Conclusion

The primary purpose of this paper is to seek how WTO can achieve this goal—shifting from a market access mind-set to a development-friendly mind-set. The paper introduces three methods for the WTO to help developing countries establish right institutions: (1) modification of the accession process, (2) modification of safeguards, and (3) cooperation with the IMF. The paper argues that these three methods enable developing countries to experiment with institutional arrangements and leave room for them to devise their own right institutions. These three methods are the ways in which the WTO can promote its free trade goals by being sensitive to the development needs of its members.

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