Globalisation and International Relations: Challenges and Opportunities for Provinces

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Introduction

"Globalisation" is a popular term used by governments, businesses, academics and a range of diverse non-governmental organisations. It also, however, signifies a new paradigm within world politics and economic relations. While national governments for many years dictated the international political and economic scene, international organisations such as the World Bank, International Monetary Fund and the World Trade Organisation have now become significant roleplayers. In this "global village" national governments have lost some of their importance and perhaps their powers in favour of these major international organisations.

Within the variety of federal systems found around the world there is at least one common denominator, namely that there is more than one level or sphere of government with constitutionally allocated powers and functions. In these systems the changes in global or international relations referred to above have an additional effect on the particular countries. It causes provinces, states or *Länder* to re-evaluate their role, in particular their role in international relations. Global matters – for example the creation of a free trade area – impacts at both the national or federal level of government, as well as at the provincial level.

The effect of globalisation on government – in particular on provincial government – is an issue that has not been debated much in South Africa. It is against this background that an initiative was taken to have an in-depth discussion on various aspects of globalisation within the South African context.

Dirk Brand
Director: Intergovernmental Relations
Western Cape Provincial Government

Opening Remarks

Michael Lange

INTRODUCTION

On behalf of the Konrad Adenauer Foundation (KAF), I would like to extend a very warm welcome to you all.

This is the first conference that KAF has jointly organised with the Directorate for Intergovernmental Relations of the Office of the Premier of the Western Cape and I am delighted that, together with our good friend Dirk Brand and his colleagues from the directorate, we have succeeded in bringing you all together today.

The forthcoming deliberations will focus on an area of special interest to KAF, since the issue of globalisation in international relations plays a major role in our ongoing efforts to contribute to the consolidation of new democratic political dispensations, not only in South Africa but in different parts of the world as well.

1. A BRIEF BACKGROUND

For those wondering what kind of organisation KAF is, allow me to sketch a brief background to the German political foundations and to outline some of the reasoning behind the involvement of KAF in academic endeavours of this nature.

The German political foundations are a unique feature of today's democratic culture in Germany and the move behind their creation – which dates back to the 1960s – has been the expectation that political and civic education would help develop and consolidate democracy in post-war Germany.

Both in Germany and abroad, these foundations seek to develop further and to encourage people to engage in the political debate, thus strengthening democracy and promoting a pluralistic society. By engaging in a variety of activities, they help to strengthen the concept of human rights, assist economic development and help to implement social justice and the rule of law.

KAF is one of six political foundations in Germany today and is closely affiliated to the Christian Democratic Union Party – a centrist political party – founded after the Second World War. It proudly bears the name of one of its founding members, Konrad Adenauer, who subsequently became the first chancellor of post-war Germany.

KAF has been cooperating with partners throughout the world for almost 40 years now. Currently, some 80 colleagues oversee some 200 projects and programmes in more than 100 countries. In this manner, the Foundation makes its unique contribution to policies serving peace and justice in international relations.

2. KAF IN SOUTH AFRICA

KAF currently has wide-ranging programmes in different parts of Africa, as well as in the different provinces of South Africa. The Foundation cooperates not only with academic institutions, but also with governmental bodies, as you will note from today's event.

Since establishing offices in South Africa, KAF has been actively involved in projects concentrating on, among other things, constitutional development at federal, provincial and local levels. A large number of our research studies and seminar publications have tackled constitutional issues.

3. FEDERALISM

Germany – as most of you know – is a federal state. During the Kempton Park negotiations we believed strongly that the new South Africa could gain from our particular experiences with such a federal system of governance.

This conviction formed the basis of a strong interaction ever since between the German governmental aid agencies – like the GTZ and other semi- or non-governmental bodies, such as the German political foundations – and South African partners, with the aim of providing knowledge and experience from our struggle with federalism.

At the Kempton Park constitutional negotiations, some parties argued for more powers for the provinces while others were more centralistically inclined.

Eventually, South Africa's new constitutional system, designed at the Kempton Park conference and further refined by the Constitutional Assembly in Cape Town, was to be a decentralised system of government or, put differently, a system with certain federal characteristics.

South Africa has developed a rather unique political dispensation with much less provincial powers than is the case in the Federal Republic of Germany, but with a certain degree of independence that extends to foreign relations as well.

I am happy that my home country, Germany, with its federal approach to governance sets a good example in favour of provincial autonomy, regarding the definition of rights and responsibilities especially in areas of particular concern to provinces such as culture, education, local government and taxation.

4. FOREIGN AFFAIRS

When it comes to the particular concern of this conference – foreign (economic) relations – the situation in Germany is particularly complex.

Foreign affairs form part of the exclusive legislative competence of the federation, while economic affairs are an area of concurrent legislation. One might say that the foreign economic relations of federal states are a joint responsibility of the state and the province alike.

As the unification of Europe develops even further, the shift in the allocation of powers towards the European Parliament and the Commission is changing considerably the political role of the different spheres of government even in the Federal Republic of Germany. More and more legislation is coming from the "European sphere", some of which has a direct impact on the core legislative functions of the German federal states (*Länder*).

Although the German federal states can influence the voting pattern of the German Government in Brussels via their role in the *Bundesrat* it is not without reason that the German federal states fear that their well guarded independence is being challenged.

That is why our provinces or federal states today not only have representative (interest) offices in the capital of Germany but also in Brussels, where they seek cooperation not only with the different organs of the European Union itself, but with other federal or provincial bodies of neighbouring countries too.

Far from being perfect, the German federal system is constantly under scrutiny as is the South African system right now, and there is always room for improvement when it comes to defining the rights and responsibilities of provinces *vis-à-vis* the federal state.

The South African Minister of Provincial and Local Government recently published a report wherein it was stated that the government is challenged to reassess the roles, responsibilities and relationships between the provinces and the national government.

Several aspects of the current system of cooperative governance in South Africa have come under scrutiny and certain suggestions have been forwarded.

CONCLUSION

This conference is designed not only to stimulate debate on the general role of provincial governments in the current South African constitutional framework, but also to answer the difficult question as to the extent to which a provincial government can and should engage successfully in foreign relations.

Let these proceedings be regarded as our humble contribution to the resolution of these difficult challenges. I wish you fruitful deliberations and can only hope you find the forthcoming dialogue inspiring and worthwhile.

The Role of International Organisations and their Effect on Provinces: The Case of the World Trade Organisation[1]

Nico Steytler

INTRODUCTION

It is no longer possible to speak in the South African context of three spheres of government – national, provincial and local. There is also a fourth sphere of government – supranational governance institutions that set rules governing state conduct both nationally and provincially.

In the area of international trade, we probably have the most sophisticated and advanced form of global governance. At a regional level, we see this in the Southern African Development Community and the signing on 1 September 2000 of its free trade agreement. The real impact of international governance lies, however, with the World Trade Organisation (WTO) and the agreements it administers.

The question that this paper addresses is how this fourth sphere of government impacts on the provincial sphere. At the same time we have to ask whether provinces can (or should) impact on this supranational sphere of government.

1. IMPACT OF THE WTO ON PROVINCES

It requires little argument that WTO agreements impact dramatically on subnational entities. The General Agreement on Tariffs and Trade (GATT) and other agreements prescribe a trade regime that may restrict the powers of provinces in the area of trade and industrial promotion. This very issue lies before the Indian Supreme Court. The states of Rajasthan, Orissa and Tamil Nadu have challenged the Union government's accession to the WTO agreement on the basis that the agreement affects their exclusive constitutional powers and forces them to share power with the Union in violation of the basic structure of the Constitution. The thrust of the argument is that the treaty-making power of the Union may dissolve Indian federalism.[2]

2. WTO AND FEDERAL STATES

An intriguing feature of the GATT system, and now the WTO, has been the recognition of federal systems. It could not have been otherwise. Some of the most prominent founding members of the GATT in 1947 were federations. The United States (US), Canada and Australia insisted on a "federal clause" on the grounds that in a federal system the central government did not have the constitutional power to control subnational governments with regard to fiscal and other measures.[3] The same arguments prevailed at the Uruguay Rounds. Both the 1947 GATT and the WTO agreements thus cater to a limited extent to countries with federal arrangements.

2.1 1947 GATT

The 1947 GATT contained the following provision in Article XXIV:12

> "Each contracting party shall take reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territories."

In the jurisprudence that followed, a restrictive interpretation was given to this clause. In the 1980s South Africa brought a complaint against Canada, because the province of Ontario, in giving effect to economic sanctions against the apartheid regime, refused to allow the selling of Kruger rands. The Panel Report[4] (which was not adopted because of the Canadian veto) saw the provision as a qualification of a country's commitments. This qualification, the panel said, applied in view of its drafting history,

> "only to those measures taken at the regional or local level which the federal government cannot control because they fall outside its jurisdiction under the constitutional distribution of competence."[5]

This qualification of the basic obligation allows states to accede to the General Agreement without having to change their federal distribution of legislative competencies in order to ensure that all subnational units comply with the GATT. Article XXIV:12 is thus an exception to the general principle of international law that a party to a treaty may not invoke its internal laws as a justification for not complying with a treaty obligation.

This qualification may, however, cause an undue imbalance between unitary and federal states' GATT obligations because, the panel noted, it grants "a special right to federal States without giving an offsetting privilege to unitary States".[6] To minimise the impact of the provision, it must therefore be interpreted narrowly. It does not exempt subnational units from the application of the GATT obligations; it merely limits the obligation of federal states to secure the implementation of the provisions by subnational units.[7]

Whether a member has taken "reasonable measures" to secure compliance by subnational units of the GATT obligations, entails an objective assessment. A 1988 Panel Report[8] found that a member state had to demonstrate to other contracting parties that it had taken all reasonable measures available and that it would then be for the other contracting parties to decide whether that was indeed the case.

2.2 GATT 1994

During the Uruguay Rounds, Article XXIV:12 was also subjected to negotiations. Some countries sought its repeal while federal states again asserted the importance of its inclusion.[9] In the Understanding on the Interpretation of Article XXIV in GATT 1994, the following gloss was given to subarticle 13:

> "Each member is fully responsible under GATT 1994 for the observance of all provisions of GATT 1994, and shall take such reasonable measures as may be available to it to ensure such observance by regional and local governments and authorities within its territory."

Although the general principle of Article XXIV:12 is reiterated, the scope of its application appears to have been significantly reduced. The dispute settlement provisions in Articles XXII and XXIII may be invoked for violations by a subnational unit. If the Dispute Settlement Body has ruled that there has been a violation, the responsible member state must take such reasonable measures available to it to ensure its observance. However, in the 1994 Understanding on Article XXIV:12, the matter is taken a step further. Where it is not possible for a member state to secure observance of the Dispute Resolution Body's ruling, the provisions relating to compensation and suspension of concessions apply. The effect is that a country as a whole may be subject to enforcement measures, although only one part of it is in default of the GATT obligations. Indirectly, then, a subnational unit is bound by the obligations taken on by its national state.

2.3 The General Agreement on the Trade in Services (GATS)

The existence of subnational units and other independent bodies in the constitutional arrangements of member states is also recognised in other agreements under the WTO.

The General Agreement on the Trade in Services (GATS) contains a provision similar to that of Article XXIV:12 of GATT 1994. Article I:1 of GATS provides that the Agreement applies to all "measures by Members affecting trade in services", which include measures taken by:

> "(i) central, regional or local governments and authorities; and
> (ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities."

Again, the duty of the member state is to take "such reasonable measures as may be available to it to ensure their observance by" these subnational authorities within its territory.

2.4 Government Procurement Agreement (GPA)

Subnational entities also feature prominently in the plurilateral Agreement on Government Procurement (GPA) under the WTO. Unlike the GATT and the GATS where subnational units provide for the exception, the aim of the GPA is specifically to bind these subnational units into the liberalisation of government procurement.

The first step in this direction was taken in 1979 when a number of significant countries signed the 1979 GATT Government Procurement Code.[10] The Code applied only to central government procurement of specified goods. The negotiations during the Uruguay Rounds resulted in the WTO GPA, one of the pluri-lateral agreements applicable only to the signatories.[11] The new agreement now covers not only goods but also construction contracts and procurement of services. Included in principle are subnational units and government-owned utility companies. Attached to each contracting party's accession to the agreement is an appendix containing a list of entities, both at national and subnational level, that are bound by the agreement.[12]

In conclusion, although the WTO system gives recognition to the existence of subnational units, the consequences of this recognition is limited. It does not enable a subnational unit to escape a country's general commitments.

3. SOUTH AFRICA AND THE "FEDERAL CLAUSES"

The question therefore is whether, if at all, the limited protection provided by the "federal clauses" is available to South African provinces.

3.1 Provincial powers

Provinces play an important role in the area of trade, primarily with regard to goods, but to a lesser extent in services. Functional areas concurrently exercised with the national government[13] include trade, industrial promotion, provincial public enterprises and agriculture. Other functional areas of concurrent jurisdiction that may impact indirectly on trade are consumer protection and the environment. Functional areas of exclusive provincial legislative competence[14] are less, but may be significant. They include abattoirs, liquor licences and veterinary services.[15]

One must therefore ask whether provinces, in exercising their legislative and executive powers, could impinge on WTO obligations. More directly, can they impose tariffs or other measures which result in unfair competition?

The main concern of the GATT has been the lowering of tariffs. In this area provinces have no power to levy any tariffs on the importation of goods. Section 228(1)(a) of the Constitution provides that a provincial legislature may impose "taxes, levies and duties other than ... customs duties". The direct imposition of customs duties in the form of tariffs is thus not permissible. The imposition of levies or duties could, however, be to the same effect. In this regard the conclusive answer to provinces venturing in this area is that section 228(2) provides that the power to impose taxes, levies, or duties, which in any event must be regulated by an act of Parliament, "may not be exercised in a way that materially and unreasonably prejudices national economic policies". Commitments under the WTO would certainly constitute national economic policy, and levies and duties contrary to WTO commitments would prejudice such a policy.

3.2 National overrides

The second string to the WTO bow is to ensure that, in the absence of tariff impositions, there are no internal measures which distort international trade.

Take two examples: in order to promote industrial development – a Schedule 4 concurrent competence – a province could indulge in an array of subsidisation activities, producing (unfairly) a competitive local product for the international market. The second example would be in exercising a Schedule 5 exclusive competency, for example, regulating the granting of liquor licences with stipulations which would inhibit things such as the sale of foreign wines in the Western Cape.

In the case of non-compliance by a province in an area which falls within a functional area of concurrent competence, national legislation may readily override such provincial legislation. National legislation prevails over provincial legislation on a number of grounds, the most likely being section 146(3) of the Constitution. In terms of this section national legislation prevails over provincial legislation if it is:

> "aimed at preventing unreasonable action by a province that,
> (a) is prejudicial to the economic ... interest of the country as a whole; or

(b) impedes the implementation of national economic policy."

Where a province's measure may lead to the suspension of concessions against the country as a whole, national prejudice has been established and a strong case can be made for the override provision. Similarly, non-compliance with WTO obligations – which also apply to provincial governments – impedes the implementation of a national economic policy as evidenced by the country's membership of, and commitments to, the WTO. The failure of the national government to take such actions would be indicative that it has not taken "reasonable measures" to ensure compliance.

Other override grounds in section 146 that may be relied upon are that national legislation prevails if it is necessary for "the maintenance of economic unity" or "the protection of the common market in respect of the mobility of goods, [and] services".[16]

Where the provincial measure falls within the exclusive provincial legislative competence of Schedule 5, the same grounds as above apply. Parliament may intervene in this area when it is necessary "to prevent unreasonable action taken by a province which is prejudicial to ... the country as a whole".[17] Again, the prospect of the suspension of concessions and other measures against the country as a whole, will constitute prejudice to the country.

As far as the vertical dispersal of powers is concerned, the limited federal features contained in the Constitution are unlikely to give rise to claims under the WTO's federal clauses.

4. DOMESTIC INTERGOVERNMENTAL RELATIONS

The fact that no autonomous trade regime in goods or services is possible for provincial or local governments, does not dispose of the matter. International trade regulation may impact profoundly on the well-being of provinces and local authorities. When the national government commits the country to WTO obligations – the impact of which will fall also on the provincial and local spheres of government – it should be done within the context of intergovernmental relations and cooperative governance.

4.1 Cooperative government

One of the central principles of cooperative government is the duty of all spheres of government to cooperate with one another "in mutual trust and good faith" by "informing one another of, and consulting one another on, matters of common interest".[18]

Where WTO commitments made by the national executive may have far reaching consequences for provincial governments, a duty falls on the national government both to inform and, more importantly, to consult with the other two spheres. Consultation entails that before making a decision, the national government informs other interested parties of the pending decision, invites them to comment and considers such comments in good faith. Such a duty should thus be discharged before the national government commences or concludes negotiations on various offers to the WTO.

4.2 South African practice

In practice, a number of state departments deal with WTO matters. The principal department is the Department of Trade and Industry (DTI), which has been responsible for the GATT and WTO negotiations and has a permanent representative at the WTO in Geneva. Another department directly involved is the Department of Agriculture in the light of the specific agreement on agriculture. The issue is how these departments relate to their counterparts in the provinces.

The present practices of the DTI suggest sound intergovernmental relations. The process of consultation with the provinces takes place through three monthly meetings between the Minister of Trade and Industry and the provincial Members of the Executive Councils (MECs) responsible for Economic Affairs – the Minmec meetings. These meetings can thus serve both as a forum for information distribution as well as consultation.

The DTI has also in the past included provincial representation in their delegation to WTO trade negotiations. At the first Ministerial Conference of the WTO in Singapore in December 1996, Minister Alec Erwin invited two delegates from the provinces to accompany him and one MEC for Economic Affairs in the Eastern Cape.

4.3 Legislative intergovernmental relations: NCOP and ratification of treaties

Apart from intergovernmental relations at an executive level, provinces have the final advantage when it comes to the ratification of international treaties, including the commitments undertaken by the national government in terms of the WTO.

Through the National Council of Provinces (NCOP), provinces can play an important and independent role in the ratification process of treaties. Unlike its limited role in legislation, the NCOP has a veto power with regard to the ratification of international treaties. The Constitution is clear:

> "An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces."[19]

This provision does not fit comfortably with the NCOP's role of protector of provincial interests, and is more akin to the US Senate veto right in international relations.

This veto power could be significant where WTO commitments, agreed to by the national executive, impact adversely on provincial interests. This provision also places provinces squarely on the map as equal players in the international arena. However, to exercise this power meaningfully the NCOP should not be confronted with a complex negotiated deal, where one part cannot be changed without the whole deal collapsing. To avoid being confronted with an all or nothing choice, the NCOP (and the National Assembly) should be consulted during the negotiation process.

CONCLUSION

The WTO signifies an important step in the development of global governance. Within the context of the South African constitutional state, it should be seen as a further, but most significant, building block of a fourth sphere of government alongside the national, provincial and local spheres.

Portraying supranational governance as the fourth sphere of government not only reflects the actual distribution of power, but also emphasises the imperative of sound intergovernmental relations and cooperative government between all four spheres. Because international governance impacts on provinces, the important principle of cooperative government – the duty to consult[20] before decisions are effectively made – must be adhered to. This entails that, in practice, the national government must, with regard to WTO trade issues, consult with provincial governments during the negotiation process.

ENDNOTES

1) Based on an earlier paper: "Global governance and national sovereignty: The World Trade Organisation and South Africa's new constitutional framework" (1999) 2 *Law, Democracy and Development* p.89.
2) See Rajeev Dhavan & Geetanjali Goel "Indian federalism and its discontents: A review" in Gert W Kueck, Sudhir Chandra Mathur and Klaus Schindler (eds) *Federalism and Decentralisation: Centre-State Relations in India and Germany* (1998) p.54.
3) John H Jackson, William J Davey & Alan O Sykes *Legal Problems of International Economic Relations* (1995) p.323.
4) "Canada - Measures Affecting Sale of Gold Coins" L/5863 unadopted report, 17 September 1985, §§ 53.

5) § 56.
6) § 63.
7) See also "Canada – Import, Distribution and Sale of Certain Alcoholic Drinks by Provincial Marketing Agencies", Panel Report DS17/R, adopted on 18 February 1992; "United States – Measures Affecting Alcoholic and Malt Beverages", Panel Report DS23/R, adopted on 19 June 1992.
8) "Canada – Import, Distribution and Sale of Alcoholic Drinks by Canadian Provincial Marketing Agencies" L/6304, adopted on 22 March 1988.
9) *World Trade Organisation Guide to GATT Law and Practice* (1995) vol 2, p.830.
10) See generally Joseph F Dennin & Jamie L Boucher "1996 WTO Agreement on Government Procurement" in Dennin (ed) *Law and Practice of the World Trade Organisation Commentary*, Vol. 1 (1995).
11) The signatories are the European Union, the United States, Canada, Finland, Israel, Japan, Korea, Sweden, Norway, Switzerland.
12) Appendix I.
13) Listed in Schedule 4 of the Constitution.
14) Listed in Schedule 5 of the Constitution.
15) See sanitary and phytosanitary measures agreement.
16) S 146(2)(c)(ii) & (iii) Constitution.
17) S 44(2) Constitution.
18) S 41(1)(h)(iii) Constitution.
19) S 231(2) Constitution.
20) S 41(1)(h) Constitution.

The Constitutional Accommodation of International Trade Relations, With Specific Reference to Provinces

Gerhard Erasmus

INTRODUCTION

When compared to the dispensation before 1994, the present South African Constitution provides for a completely new arrangement regarding the conduct of foreign affairs. The previous emphasis on a dominant executive, prerogative powers, practically no role for the judiciary and limited parliamentary involvement, has been replaced by a new order. In general terms the present approach reflects the supremacy of the Constitution and its emphasis on the rule of law, democracy, transparency, accountability, judicial review and separation of powers.

The political transition in South Africa also gave birth to a new internal structure of government involving nine provinces with constitutionally protected powers in respect of legislation and administration.

This paper discusses certain aspects of international trade, the conclusion of international trade agreements and the domestic application of such agreements. It will also focus on the position of the provinces within this context.

It is probably safe to maintain that since the end of the Cold War, international affairs are largely dominated by a new paradigm – that of "globalisation". This involves international trade, access to markets, the penetration of the nation-state, supranational decision making and international demands regarding the quality of domestic governance. The latter results in, for example, trade and development agreements that now often contain clear provisions on democratic rule, respect for human rights, the rule of law and an end to corruption.

These trends are often resisted by invoking the sovereignty of the state and the prohibition of interference in domestic affairs. Such defences have limited relevance now. If nations want to prosper and grow they have little choice but to become part of the new international order. This does not mean that the dominance of certain states or trading blocs in international trade organisations has to be accepted unconditionally. It does, however, mean that these bodies and their policies will have to be engaged and that the needs of especially developing countries should receive adequate attention and accommodation. But this will require new approaches, constructive engagement and the necessary skills and expertise within developing nations.

Development aid is now increasingly linked to the demands of the new international order. The East cannot be played off against the West anymore and taxpayers in donor countries want to know where their money goes and whose interests are served. (See the recently concluded Cotonou Agreement.)

1. THE MECHANISMS FOR CONDUCTING INTERNATIONAL TRADE

The international trade dispensation comprises the multilateral structure of the World Trade Organisation (WTO), several regional trading arrangements and bilateral agreements.

The WTO is a rules-based legal structure responsible for implementing the General Agreement on Tariffs and Trade (GATT), the General Agreement on the Trade in Services (GATS), TRIPS and the DSU. It aims at a universal trade system based on the ideas of liberal trade, interdependence and comparative cost advantage, fairness in trade and enhancing competition. Trade covers much more than the movement of goods and payments; it has implications for intellectual property, the environment, human rights, technical standards and many trade-related aspects.

The mechanisms for regulating all these aspects consist of numerous international agreements, often implemented by international organisations such as the WTO, the European Union (EU), the Southern African Customs Union (SACU), the Southern African Development Community (SADC) and the North American Free Trade Area (Nafta).

One result is that there may be considerable overlap in membership and legal obligations. The necessary skills and expertise are required in order to apply the relevant rules correctly and to coordinate technical aspects such as rules of origin, tarrification, licensing, permits and customs and excise. (See examples of WTO, SACU, SADC and Cotonou Agreement. All Southern African states are members of all these arrangements. South Africa has a separate free trade agreement with the EU.)

For the purposes of this paper, the main focus will be on the conclusion and implementation of these international trade agreements. They aim at two basic objectives:

- Laying down rules and standards for furthering liberal trade under conditions of fairness and non-discrimination.
- Creating structures (such as the WTO) to implement these rules and to provide for the settlement of trade disputes between states.

All these objectives are to be achieved through legal arrangements between states, and the main instrument for doing so is public international law. Its main manifestation is treaties (international agreements).

Owing to the sovereignty of states (there is no world government) legal obligations binding states *inter se* can in principle only come about through treaties or customary international law. International trade law is, for all practical purposes, to be found in international agreements.

Implementation of international obligations does not end once an agreement has been concluded. The real practical issues depend on the domestic implementation of these international agreements. National legislation now becomes important.

The nature of these international rules involves negative (e.g. not to increase tariffs) as well as positive (e.g. protect trade marks domestically) obligations for a state. Domestic legislation is, therefore, an important aspect in the broader picture of international trade.

Corporations or individuals (both foreign and local) rely on domestic legal rules for conducting trade. A failure to adopt the necessary legislation will impact negatively on the potential to trade and may involve violations of international obligations. (See example of anti-dumping measures.)

South Africa also has an important regional and international role (the African Renaissance) which includes:

- addressing the neglect of intra-African trade
- the link to good governance in African states
- the link to peace-keeping, peace-making, refugee problems, etc.
- how to secure investments through investment protection agreements.

2. TWO LEVELS OF LEGAL OBLIGATIONS

International legal obligations involve both inter-state and intra-state dimensions.

The first consists of international agreements that come about through a process involving negotiations (by government obligations), the signing of a text, a process of ratification and finally entry into force.

Ratification requires the consent by a state to be bound by the agreement – since states are not automatically bound by international agreements. Such consent often involves a domestic parliamentary role. In the case of South African sections 231–233 and Chapter 5 of the Constitution are the applicable provisions.

3. THE CONSTITUTIONAL POSITION OF PROVINCES

Provinces are involved in the approval of certain international agreements through the National Council of Provinces (NCOP). (The SADC Trade Protocol is an example.)

Provinces enjoy certain powers in terms of Schedules 4 and 5 of the Constitution. Some of them (environment, agriculture, conservation, pollution, trade, etc. in Schedule 4 and veterinary services under Schedule 5) may involve aspects of international trade. The nature of legislation on these matters is to be determined.

Section 146 contains the criteria for determining what legislation will prevail when there is a conflict between national and provincial legislation under Schedule 4.

The executive powers of provinces in principle flow from legislation of a national and provincial nature.

Provinces are not entitled to conclude international agreements, however, they can enter into other types of international arrangements such as "sister agreements" and "twinning agreements".

CONCLUSION

The main issues are therefore how to tackle the challenges of globalisation and international trade, and how we can ensure domestic growth and development.

The challenges of international trade, both positive and negative, also cannot be ignored. Here the elements of skills, expertise and capacity come into play. To conclude, effective cooperation between national and provincial governments will be essential.

The Challenge of Globalisation: Drawing the Poor into the Economic Mainstream– A Perspective from the Western Cape

Servaas Van der Berg

> *"The distribution of physical and human capital emerges from the theoretical and empirical literature as the key to distributional consequences of growth, and as the determinant of growth itself."*
>
> *– Ravi Kanbur (1998: 20)*

INTRODUCTION

Globalisation offers new challenges and opportunities for all developing countries. After a quarter of a century of poor economic growth during which per capita incomes declined, combined with great inequalities of income, South Africa needs to utilise the new opportunities offered by reintegration into a globalising world economy. Economic growth requires greater reintegration into the world economy, both in terms of trade and in terms of foreign direct investment:

- To benefit from trade, South Africa must be internationally competitive, which requires *inter alia* high levels of productivity and utilising technological know-how.
- To benefit from foreign investment requires the ability to attract and absorb such capital inflows, i.e. what has become known as "social capability".

It is with these issues that this paper is concerned. For South Africa to become an international economic player requires the development of technical and managerial skills, as well as a skilled labour force.

At the global, national and regional (provincial) level, the exclusion of countries or people from the economic mainstream results largely from deficiencies of education, institutions and policies. In many circles there is concern about South Africa's capacity to compete internationally and that it may remain unattractive for foreign investors. Others argue that some parts of the South African population may be drawn into the global economic mainstream, but that the gap between the privileged and the disadvantaged within South Africa will only grow.

Education determines productivity and economic growth, but also how labour market earnings are distributed. With the required skills base, South Africa could harness the fruits of globalisation, which would allow much more rapid economic growth. But globalisation in itself creates new challenges, of which the major one is drawing the poor into the economic mainstream, by equipping them with the required education and technical expertise.

In this paper we shall look at:

- poverty and inequality in South Africa in the global context
- how prospects for economic growth are intimately linked to the global economy
- how educational deficiencies among the poor may effectively exclude many from full participation in the benefits of the global economy
- the implications for education policy.

Although the analysis largely relates to the national level, I shall also sometimes refer to the provincial level, i.e. to the challenge faced by the Western Cape, a richer province, but faced in microcosm with all the many problems endemic to South Africa.

1. POVERTY AND INEQUALITY IN SOUTH AFRICA

Apartheid has left South Africa with a racially

Table 1: Per capita income and unemployment by race, 1996

	Per capita income per annum	*Unemployment (broad definition)*
Blacks	R3 240	42.5%
Coloureds	R6 552	20.7%
Indians	R12 444	12.2%
Whites	R27 048	4.5%
Total	R6 398	33.8%

Source: Calculations from 1996 census, 10% sample

highly divided society. Table 1 shows the massive differentials in racial income and unemployment at the end of the apartheid era. As employment is the major source of income, reduced unemployment would considerably increase black incomes. Beneficiaries of economic progress are those with access to education, as an analysis of socio-economic data shows. Moreover, the position in the socio-economic spectrum largely determines who are most likely to gain from globalisation and who face the greatest risks of being excluded from its benefits. In general, most whites are privileged, but the privileged are no longer overwhelmingly white, as Table 2 shows.

Dividing the population by quintiles is useful for understanding the proximity of different segments to the economic mainstream:

- The affluent top quintile of households, no longer dominantly white, exhibit high levels of education, wages and income. Almost all children enrol for secondary education and a substantial proportion go on to tertiary education, thus this income class reproduces itself. They face limited economic risks even in a globalising economy, as they and their children are equipped to face the tough productivity challenge that globalisation brings.
- Quintile 4, the largely urban working class, is also fortunate in having access to paid urban employment. They place strong emphasis on enrolling children in secondary and tertiary education, which makes them an upwardly mobile group. They nevertheless still risk falling victim to unemployment because of lower levels of education and skills.
- Quintile 3 is mixed in terms of both employment status and geographic origin. Access to jobs is tenuous due to limited skills and low educational levels, while high risks of unemployment subject many to fluctuating fortunes. When the duration of unemployment is appreciable and households have no other employed earner, many slip down the income ladder. On the other hand, those with some skills and education who do obtain regular employment may graduate to the second quintile.
- The poorest two quintiles consist predominantly of rural black people, mainly poorly educated (most household heads have not even completed primary education). Social stress is evident in high rates of absence from rural areas of able-bodied males who work in the cities. Unemployment and low

Table 2: Socio-economic situation of different income classes, 1993

	Income/consumption quintiles					*Total*
	Q1	*Q2*	*Q3*	*Q4*	*Q5*	
Per capita income	R 390	R 1 056	R 1 974	R 4 158	R 20 478	R 5 611
Household income	R 2 406	R 6 372	R 11 550	R 22 458	R 82 536	R 30 630
Unemployment	53%	43%	30%	17%	4%	30%
Wage share of income	23%	44%	67%	79%	65%	65%
% rural	76%	68%	46%	33%	15%	47%
% metropolitan	10%	14%	29%	40%	58%	30%
% black	96%	93%	82%	68%	25%	73%
% white	1%	1%	3%	16%	66%	17%
Household size	6.3	6	5.9	5.4	4.2	5.5
% electricity in home	15%	28%	49%	77%	98%	53%
Stunting children under 5	38%	27%	23%	18%	6%	27%

Note: Figures not fully comparable across dimensions, as criteria for division into quintiles differed (e.g. income/consumption group, quintile of households/individuals, etc.)
Sources: Compiled from: World Bank 1995; Saldru 1994; Janisch 1996; Klasen 1996

wage levels means that wages are a small part of their incomes. Those with a permanent job or a social pension usually move up the income ladder, unless the burden of dependants is too large. The poor nutritional status is shown by stunting rates of one in three children under five. Social assistance (social old age pensions, disability grants, etc.) is vital for this group and is the main income source for a quarter of such households.

Despite apartheid, the past 30 years saw a growing black middle class, with the consequence that growth in the consumer market now largely depends on the growth of black incomes. Two competing forces affected income distribution among blacks:

- A combination of trade union pressure, the scrapping of job reservation, rising black skills, improved education, reduced discrimination and currently also affirmative action in appointments led to rising wages that lifted the earnings of a significant minority of black workers far above previous levels and increasingly drew them into the economic mainstream.
- Unemployment resulting from rapid labour force growth in combination with poor economic growth and increased capital intensity detrimentally affected mainly the least educated and the most vulnerable, who were overwhelmingly black.

The black population is indeed becoming more heterogeneous in terms of economic and social status. Black "insiders" are increasingly adopting lifestyles historically associated with whites, while the socio-economic distance between them and black (mainly rural) outsiders is growing. The income ratio between the top decile and the next decile is exceedingly high at 262%, comparable to Latin America's 260% and far above the United States' (US's) 160% (Inter-American Development Bank, 1999:1), but still below the 308% for all of South Africa.

While poverty and inequality can be reduced to some extent by various interventions, the long-term solution lies in accelerating economic growth. Growth contributes most to reducing poverty if it utilises the major assets of the poor, particularly their labour (De Haan et al., 1997), which requires, in a globalising world economy, improvements in the quality of their labour. Growth can reduce poverty directly, even without improved distribution, but may also allow redistribution without engendering increased conflict. Thus it is to economic growth that we turn next.

2. SOUTH AFRICAN ECONOMIC GROWTH IN CONTEXT

Following the rapid growth of the 1960s, political conflict prevented the revival of the economy after the oil shock of 1973. Poor growth also exacerbated unemployment, which further fanned social and political instability. The abolition of apartheid enhanced opportunities for economic growth, mainly by the re-incorporation of South Africa into the world economy. The political transition eliminated the need to sustain large net outflows on the capital account of the balance of payments to repay foreign loans and even brought the possibility of renewed capital inflows. It also made possible the long overdue shift from import-substituting industrialisation to an outward-looking development strategy – an opportunity grasped through negotiations within the General Agreement on Tariffs and Trade (GATT) framework. Simplifying and substantially reducing tariff protection forced industries that for long had been able to survive while operating relatively inefficiently to become more productive or survive against foreign competitors. After painful adjustments, most producers have managed to adapt to international competition. This productivity enhancing adjustment process also created a base for expanding into export markets – the other side to the shift in trade policy. Economic growth has improved modestly, and the manufacturing capital stock again shows some growth. The challenge now is to improve growth at least to the pre-stagnation levels.

Despite these improvements, some areas of economic concern remain:

- Continuing weakness of the balance of payments (BoP) is still the major constraint to growth.
- The weak investment response to the new opportunities offered by an economy freed of the shackles of apartheid and isolation.
- Volatility of the foreign exchange market and of investor confidence.
- The consequent failure to achieve high growth and to reduce unemployment.

- Fiscal stress and the tight budgetary constraints to providing social services to the poor.
- The poor performance of public social and economic service delivery (e.g., education, health, housing, transport), in terms of both quantity and quality of services.
- Continuing distributional conflict and the failure to reduce poverty substantially.
- Still low multi-factor productivity, despite improved productivity growth.

2.1 The Growth, Employment and Redistribution (GEAR) strategy

Faced with these problems – particularly extreme volatility on the foreign exchange market in early 1996 – the government formulated a macro-economic strategy, GEAR (Growth, Employment and Redistribution), directed towards using the opportunities offered by re-integration into the world economy.

GEAR aimed at enabling redistribution both through creating employment and through the government budget, by moving the economy over the medium-term to levels of growth commensurate with employment and fiscal resource needs. The importance of unemployment on poverty can be gauged from the fact that of the 3.9 million unemployed, 1.1 million lived in households where no individual earned a regular income; the probability of severe household poverty is almost halved if at least one member is in wage employment. GEAR illustrated that creating jobs would dramatically increase the income of the poorest, while all other attempts to address poverty will fail in the absence of employment creation. To create jobs requires, *inter alia*, higher economic growth, within a framework of responsible economic policies and social stability. Economic modelling of the GEAR assumptions pointed to export growth and the investment response – the two engines of growth in this strategy – to be crucial.

The need for export growth and foreign investment derives in large part from the BoP, long the major constraint to South African economic growth. A high import propensity meant that rising incomes during economic booms increased imports of consumer goods and capital goods (machinery) for investment. If the consequent strain on the BoP during economic booms could not be alleviated through higher foreign capital inflows or enhanced exports, BoP pressure had to be relieved through reducing import demand or the exchange rate had to be allowed to depreciate. The South African Reserve Bank wanted to limit currency depreciation due to its detrimental effect on import prices, inflation, wage increases, and thereby international competitiveness, which lead to lower exports and further BoP pressure. To prevent this spiral, the Reserve Bank in the past (particularly in the sanctions era) quite often intervened to protect the BoP when economic growth approached about three per cent per annum, through tighter monetary policies (higher interest rates) that dampened consumer and investor spending and thereby reduced import demand. However, this also dampened economic growth. Since the political transition, capital inflows provide some of the foreign currency required to finance import requirements, but substantial long-term capital inflows first require a track record of economic growth, social stability, and responsible and predictable economic policies.

GEAR saw the exchange rate depreciation of 1996 as an opportunity for greater exports. A lower exchange rate improved international competitiveness, as long as this benefit was not eroded through rising production costs arising from accelerated inflation and wage increases. If higher import prices were to feed their way right through the economy, the competitive advantage of the depreciation would soon be eroded. A spiral of depreciations and inflation may destroy long-term growth prospects unless a real depreciation can be maintained. This required steps to combat inflation. Thus the GEAR strategy was quite simply to maintain the opportunity of improved international competitiveness flowing from a lower exchange rate, but to limit the inflationary consequences by tight monetary and fiscal policies, and wage restraint.

The above shows the crucial role allocated to South Africa's international economic position in the government's macro-economic strategy. Critics on the left – critical especially of the fiscal discipline imposed by GEAR – have thus far failed to provide an alternative way to overcome the crucial BoP constraint. No matter how well trained or productive the labour force, if this cannot be translated into an improved BoP, growth will remain constrained by the inability to obtain the foreign exchange required to finance import requirements both of consumer goods and machinery.

Not surprisingly, however, GEAR forecasts erred on the side of optimism, particularly with regard to employment. Forecasts of this sort are notoriously difficult, for they are conditional upon certain permutations of policies, events and private sector responses. Where the assumptions do not eventuate, outcomes are likely to deviate from the forecasts. Furthermore, the employment projections did not adequately take cognisance of discouraging developments in the labour field on job creation.

While GEAR is a medium-term strategy, it attempts to provide a bridge to long-term growth, which is universally accepted to depend on improved education and training, and improving productivity (e.g. through opening up the economy to international competition and the benefits of international technology). A 1994 World Bank study mentioned five policy directions that need attention in a South African development strategy: raising skills, encouraging exports, creating jobs through rural restructuring and encouragement of small business, raising government investment and other expenditures directed towards disadvantaged communities, and maintaining sound fiscal and monetary policies. I shall now discuss the first of these, education, because it is so crucial a determinant of long-term growth and because of the role the provinces can play in this field in assisting economic growth and incorporating the poor into the growth process.

3. THE ROLE OF EDUCATION

3.1 Education, growth and earnings

The new growth literature has again emphasised the importance of human capital and technology for economic growth. This spawned a new array of cross sectional empirical studies attempting to isolate the crucial variables in international growth. Although such attempts have been relatively unsuccessful, most economists ascribe this to data deficiencies and variable specification rather than to the absence of such a causal relationship flowing from human capital to growth. (There is also no doubting the flow of reverse causality as well, which complicates empirical analysis.) A more general explanation is also possible, viz. that human capital with institutions, governance, etc. form part of "social capability", which determines how well countries are able to attract international investment or utilise available technology (Abromovitz, 1989).

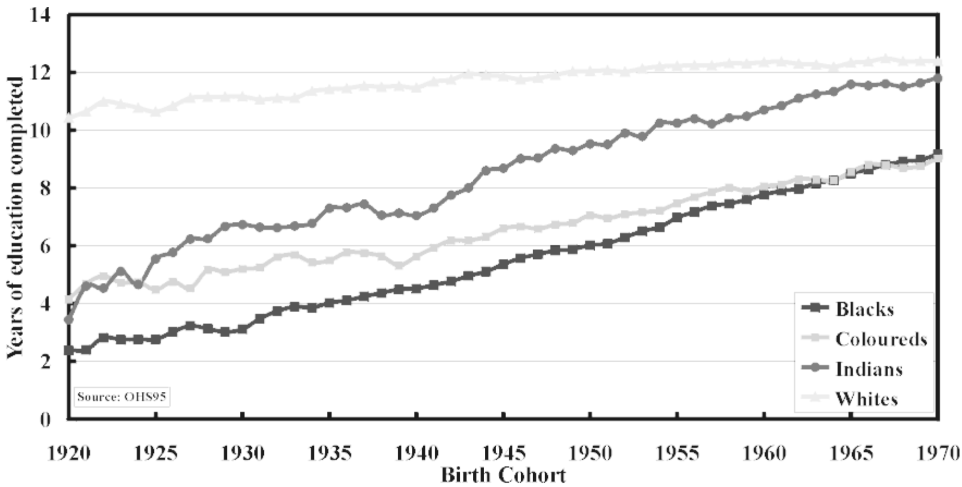
International research has shown the importance of education for labour force participation, employment and earnings. For instance, between one-quarter and one-third of income differentials between households in Chile can be ascribed to differences in the educational attainment of the household head, a far greater proportion than captured by any other characteristic of the household (Ferreira and Litchfield, 1998:32). In South Africa, too, Bhorat and Leibbrandt (1999) show that education affects the propensity of blacks to participate in the labour force, the probability of their being employed as well as the earnings of those employed, with the returns to secondary education being particularly high. Other recent work broadly confirms the importance of education for black earnings (Moll, 1998; Mwabu & Schultz, 1996; Fallon & Lucas, 1998; Hofmeyr, 1998).

Moll (1998) shows that earnings inequality decreased between race groups between 1981 and 1993, whilst it increased within race groups. Improved black educational attainment probably played only a minor role. Moll rather ascribes the growth within group inequality to the removal of labour market discrimination, with some blacks benefiting from new opportunities for upward occupational mobility, while poorly educated whites lost the protection they had historically enjoyed. Thus even though education was not directly responsible for changes in earnings, its distribution determined who could and who could not benefit from the new opportunities for blacks in the labour market.

A distinguishing feature of those forming part of the economic mainstream is that they manage to educate their children better than poorer members of society. Precious few of the poor get access to good quality education which allows them to rise above the constraints set by their environments. Without sufficient productive jobs, education largely determines who get these jobs.

International experience points to growing demand for skills; without an acceleration in the availability of such skills, educational premia are likely to remain high. In the US, only an enormous expansion in secondary schooling

Figure 1: Mean years of education by race and birth cohort, 1995 (three-year moving averages)



after 1910 made possible a reduction in the education returns until the 1950s, after which time returns again rose as skills demand outstripped their supply because of "skill-biased technological change" (Goldin & Katz, 1999: 25; for more recent evidence, see also Murphy & Welch, 1994). Bhorat & Hodge (1998) have shown that South African labour demand patterns also reflect a growing demand for higher skilled labour and a declining demand for low-skilled workers. Thus reducing labour market inequality would require substantial improvement in the supply of skills through more and better quality education.

3.2 Racial inequalities in education

Schooling inequality between races as reflected in years of education completed (unadjusted for the quality of education) has been substantially reduced in the past decades. For instance, Lam (1999) shows (Table 3) the decline in inequality in years of education completed between two birth cohorts separated by 30 years.[1] Figure 1 shows that schooling inequality between the different races also greatly declined, as reflected in mean years of schooling by birth cohort. Blacks in the cohort born in 1920 had a mean backlog of 8.0 years of education compared to whites; those born in 1950 had a 6.0-year backlog, the 1960 cohort a 4.6-year backlog, and the 1970's cohort a backlog that had been reduced to only 3.2 years.

Table 3: Educational inequality for two South African cohorts, 1995

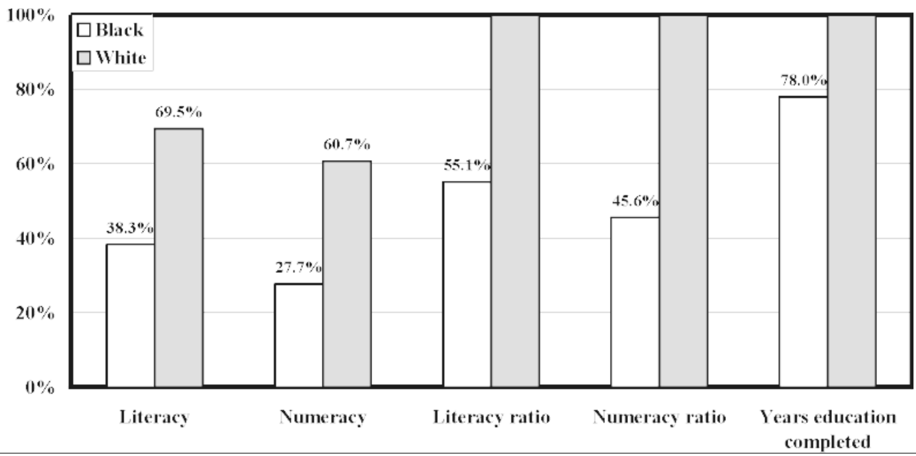
	Cohorts 55-59	*Cohorts 25-29*
Mean	5.77	9.05
Standard deviation	4.51	3.60
Coefficient of variation	0.78	0.40
Gini	0.44	0.21

Source: Lam, 1999: Table 2

One should not forget, however, that South African education quality still varies considerably. The old dividing lines of race have blurred with many black pupils now attending formerly white schools,[2] but there is great quality diversity in mainly black schools, which generally still perform much more poorly than formerly white schools. Judging by the high matriculation failure rates of more than half in 1998 (with only 13% obtaining university exemptions) (Edusource, 1999:5), promotion to higher standards may still be too rapid, despite high repetition rates at lower standards. Thus educational attainment measured as years of education completed may exaggerate black cognitive levels mastered at levels below matric.

Quality differentials are also reflected in the quality of the matriculation itself, in terms of the standard at which matric is passed as well as the subject choice. Only 45% of all matriculation candidates wrote mathematics in 1997

Figure 2: Literacy and numeracy scores of black and white teenagers (12–18 years), 1993
(Scores on 8-point scale converted to percentages; ratios relative to white scores)



(with a marked male bias); only 21% passed, and most only attempted Standard Grade Mathematics, a standard far below what is conventional in developed countries. The percentages who wrote and passed Science were even lower at 25% and 16% respectively. Only 50% and 42% of teachers teaching mathematics and science have studied these subjects beyond secondary school level. Even in the Western Cape – the province with the best matriculation results – only 24% of matriculation candidates attempted mathematics at the Higher Grade, and only 20% passed.

Another indication of inequality in educational output at higher standards can be gleaned from data for the Western Cape. As Western Cape pass rates are almost uniformly high (almost 80% of all candidates pass matric), differences in pass rates between schools are relatively low, as Table 4 shows. However, if more demanding levels of school performance are evaluated (percentage A-aggregates or university exemptions achieved), inequality increases considerably, with a Gini coefficient of 0.56 and 0.80 respectively.

Table 4: Inequality of educational outcomes between schools in the Western Cape, 1997

	Passes	*Uni. Exemp.*	*A-agg.*
Mean	80.6%	23.0%	2.6%
Standard deviation	22.5%	22.0%	5.0%
Coefficient of variation	0.28	0.96	1.94
Gini coefficient	0.15	0.56	0.80

Source: Own calculations from Western Cape Education Department data

Figure 2 shows literacy and numeracy test scores for 1993 for blacks and whites aged 13 to 18, where questions have been set at approximately Grade 7 (age 12) level (see also Fuller et al., 1995). Not even the performance of whites is very encouraging, but what is particularly alarming is that blacks perform far worse on both tests – despite the fact that educational levels attained by blacks and whites differ relatively little at age 13. The poor black attainment at higher levels, and particularly in matric, are partly the delayed effect of lower cognitive achievement levels before the age of 13. Although blacks aged 13 to 18 in 1995 had attained between 78% and 86% of white years of education, in 1993 their literacy scores ranged only between 50% and 63% of white levels, and their numeracy scores lagged even further behind at 36% to 47% of white levels. Using the same data, Case and Deaton (1999, Table 8) show that, keeping all other factors constant, the backlog in literacy and numeracy test scores of black teenagers was equivalent to a backlog of almost 10 years of education completed.

This illustrates the inability of the former black school system to provide the educational quality required to integrate most school leavers into a modern economy – the yardstick

Table 5: Relative wage levels by race for similar gender and job grade (% of white levels)

	White	*Coloured*	*Indian*	*Black*
1976	100%	62.2%	67.0%	57.1%
1985	100%	78.8%	87.3%	78.2%
1989	100%	79.9%	89.4%	84.7%

Source: McGrath 1990:97

by which, from an economic viewpoint, the educational system must be measured.

Considering these quality differentials, racial wage differentials for persons with similar education and experience may result less from labour market discrimination than from pre-labour market discrimination in school quality. Within a given job grade and standardising for gender differentials, racial wage differentials declined considerably since the mid-1970s, as shown in Table 5, i.e. the "rate for the job" is increasingly applied (though this says nothing about differential access to particular jobs). As early as 1989, black wages were barely 15% lower than those of whites in a similar job grade and of the same gender, a substantial reduction in discrimination since the 43% differential of 1976. Using other data sources, Moll (1998:1 & Table 10) came to a similar conclusion: total discrimination fell from 20% of the black wage in 1980 to 12% in 1993.

3.3 Educational inequalities among blacks

Among blacks, growing inequality of educational attainment largely follows the lines of income: more affluent families are better able to support their children through school, so that there is increasing stratification within black society. Case & Deaton (1999:21) conclude that private resources (expenditures) were a major factor determining differential black educational outcomes under apartheid. Figure 3 shows that on average children from the top two black deciles progress considerably better through the school system than their poorer counterparts and only at age 15 start falling behind whites.

Furthermore, greater recent access to formerly white schools for more affluent blacks may have accentuated qualitative educational differentials among blacks. In some Latin American countries, where private education offers an important route to quality education, significant differentials in labour market earnings of people from different economic backgrounds result from differential quality of education.

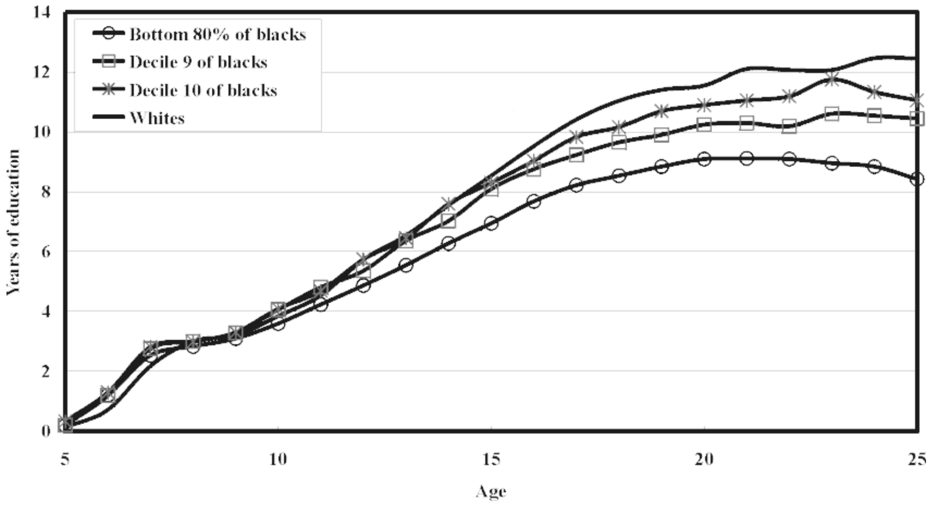
> "Estimates show that individuals from the lower deciles receive a primary education whose quality (measured in terms of income generation capacity) is 35% lower than that of the next decile above" (Inter-American Development Bank, 1998:54).

Data from the 1996 census (*see Table 6*) show mean earnings of full-time employed black workers who are children of household heads still resident in the household to be substantially higher where the household head has at least matriculated at levels of education similar to that of the child. In some way the better education of the parent (household head) translates into higher earnings for their children even compared to other young workers who also have matric only, but where the parent had less education, although such premia decline to about 9% once children graduate. It is not clear, however, whether this measures the quality of education, or some other non-observed aspect of human capital transmitted from parents to children.

4. IMPLICATIONS FOR EDUCATION POLICY

South Africa allocates, by international standards, a large share of its national resources to public education; its public education spending ratio of about 7% of gross domestic product (GDP) is almost the highest in the world (even without including the training levy on the wage bill). Moreover, education spending has already increased relatively rapidly. As the growth in pupil numbers still exceeds the growth rate of the economy, the government team investigating the medium-term expenditure framework (South Africa, 1998) concluded that there will be a major funding problem in education in coming years. Shifting further fiscal resources to education does not appear to be a viable proposition. Moreover, larger financial flows to education in the past five years did not in fact increase real resources for education commensurately, as fiscal resource shifts were overshadowed by wage increases for teachers. The total equivalent number of teachers employed full time may even have marginally declined, while pupil numbers continued to rise. Cutbacks in educational personnel in some of the

Figure 3: Years of education by age (5–25 years), race and income group



richer provinces were therefore not matched by increases in personnel in educationally more poorly endowed provinces, despite large fiscal shifts. As Donaldson perceptively remarked some years ago:

> "... the constraint at work ... is not (only) finance, but the limited real resources available to the economy. Competent teachers, nurses, doctors and community workers are scarce, as is the capacity to produce books, medical supplies, and building materials. So the growth and improved distribution of social services must be viewed as the growth and improved distribution of the inputs required for delivering these services" (Donaldson, 1993:147).

Considered from an economic efficiency point of view, the malaise of the South African educational system lies less in terms of allocative inefficiency than in x-inefficiency. Reallocating resources from one level of education to another – as many suggest for developing countries (Gupta et al., 1999) – would bring little gain in South Africa. There is perhaps a stronger case for shifting more financial resources to non-personnel teaching resources; personnel spending is so dominant that even a small relative shift could greatly increase the availability of classroom teaching resources.

The major inefficiencies are in what used to be the black school system, by far the largest part of the system, where the quality of learning in schools is often abysmal. Political leaders (the President, his predecessor, and the Minister of Education) have in recent years publicly put the blame for poor education results on poor discipline within schools, particularly among teachers. The Colts (Culture of Learning,

Table 6: Mean monthly earnings of full-time employed black children of head of household by education and whether head of household has matriculated, 1996

	Mean monthly income by education			
	Matric	*Matric + diploma or certificate*	*Matric + other non-degree*	*Degree*
Head of household matriculated	R1 731	R2 658	R2 849	R3 388
Head of household not matriculated	R1 380	R2 285	R2 164	R3 104
Premium for parent being matriculated	25.4%	16.3%	31.6%	9.1%

Note: Cases where the worker reported being in full-time employment but reporting no income were excluded. This had only a very minor effect on the premia.
Source: Own calculations from Census 1996, 10% Sample.

Teaching and Service) campaign, launched in 1996, "was the first more or less official recognition of the fact that efficiency and work effort problems, rather than funding by itself, were at the heart of the problems in the education sector" (South Africa, 1998: 35).

There is a paucity of information for the education authorities to analyse the educational situation and their policy options. Presently, the only measure of educational output available to them is matriculation results, but these still do not identify the roots of the problem (nor are they properly analysed at the school level). It has been shown above that as early as age 13, black literacy and numeracy levels are already far below par. Allocating resources based on matriculation results alone cannot adequately address a problem which may require much earlier intervention. Whether to direct resources to the secondary or the primary level, even if matriculation pass rates were the criterion, cannot be decided without more information on the qualitative performance of different parts of the school system. This requires large scale and continued efforts at measuring cognitive achievement throughout the educational system, in order to better understand the relationship between home background of pupils, educational inputs, and enhanced cognitive achievement. Moreover, identifying poorly performing schools and the causes thereof, in order to take remedial action, requires a better understanding of how schools perform.

CONCLUSION

Despite a narrowing racial gap in educational attainment, aggregate attainment levels are still far from satisfactory and qualitative differentials in education large. Thus a large part of the population is extremely poorly placed to benefit from the opportunities for growth that globalisation brings. Moreover, if globalisation also further strengthens the trend towards job-shedding, many may become further marginalised. South Africa may become, to use a German phrase, a two-thirds society, where one-third of the population remains largely excluded from the benefits of economic growth. This in turn would undermine social stability and endanger growth itself, to the detriment of the other two-thirds as well.

To avoid this outcome requires particular attention to education and training. It was argued above that more resources are not the solution to the need for expansion of educational outputs. In fact, educational access is no longer a major problem, as more than 90% of children of all race groups remain at school until at least age 16.

Government policies have already shifted substantially towards poverty alleviation. Yet the greatest need of the poor is to be drawn into the mainstream economy. This can only take place if a proper educational foundation is laid. Fiscal resource constraints leave limited scope for initiatives requiring additional resource outlays. Thus educational improvement needs to take place within the constraints of present resources, which implies a need for substantially improved educational productivity. Can this be done? A look at some Western Cape data is again instructive. For the 37 poorest schools, 13 had matriculation failure rates of more than 50%, an abysmal performance. In contrast, 10 schools in this same category performed better than the provincial average with failure rates of less than 20%. Failure rates differ enormously, from 0% to 85%. It does not appear that fiscal or even teacher resources, which are equally scarce in all these schools, are the crucial factors determining pass rates, in schools with pupils from similarly poor socio-economic backgrounds. The crucial factor seems to be what is happening in the school itself, which to a large degree is a matter of commitment and management.

Thus, given the extremely poor productivity of large parts of the school system at present, productivity improvement requires the urgent attention of policy makers at all levels, moving beyond debates about curricula and educational resource allocation to actually improving educational outcomes for all South Africans. This is essential if we hope to avert the danger of the continued exclusion of the poor from the economic mainstream in this period of globalisation, and so that South Africa can benefit from globalisation.

ENDNOTES

1) Interestingly, Lam's results comparing educational inequality between Brazil and South Africa are supported by the work of Filmer and Pritchett (1998), who find that Latin American educational inequality is still larger even than in many countries of Southern and Eastern Africa (though South Africa was excluded from their sample). Londoño (1996) confirms that Latin American educational performance, in terms of years of education completed, lags far behind most other countries at this level of economic development. Thus, if South Africa has a problem of providing many with the skills to benefit from globalisation, this may apply even more to the Latin American countries.

2) Data for 1997 for seven provinces (all but Mpumalanga and Eastern Cape) showed that about 22 000 (or 5.4%) of the 400 000 pupils in mainly white schools (defined as those with more than 70% white pupils) were blacks, while in "mixed" schools (where no race group constituted more than 70% of pupils), 197 000 out of 488 000 (40.3%) were black, and 104 000 (21.3%) white. Indian schools had the greatest penetration by blacks: 15 000 (15.2%) were black pupils. Nevertheless, most black pupils (95.8%) were still in schools which were predominantly black. (Own calculations from Department of Education data).

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Including the Poor in the Economic Mainstream: From Survivalism to Wealth Creation through Entrepreneurship

Claudia Mutschler[1]

INTRODUCTION: THE WORLD(S) WE LIVE IN

The world we live in is integrating at a seemingly ever increasing speed and with far-reaching scope. Phenomenal technological advances are driving faster connection and growing interdependence of people across national boundaries in economy, technology, culture and governance. Subsumed under the term *globalisation*, these forces have dominated and shaped the 20th century, and look set to do the same in the new millennium.

The forces of globalisation are not new – a number of writers have pointed out that the world was more economically integrated a century ago[2] – but the age of globalisation we are experiencing, particularly the past decade, is linking people's lives more deeply, more intensely and more immediately than ever before.[3]

As the *Human Development Report 1999* summarises, we live in a world of:

> "*10 New and larger markets:* World exports reached US$7 trillion in the 1990s. This is nearly a fifth of the goods and services produced yearly in the past decade, compared to 17% of a much smaller gross domestic product (GDP) in the 1970s. We are also experiencing growing markets in services such as banking, insurance and transport. Foreign direct investment (FDI) topped US$400 billion in 1997, which is seven times the level in real terms in the 1970s. The daily turnover in the foreign exchange market increased from around US$10–20 billion in the 1970s to US$1.5 trillion in 1998.
>
> *20 New tools:* The remarkable advances in communication technology have provided us with faster and cheaper tools to work with. They have for all intents and purposes collapsed geographic boundaries. The Internet links people around the globe simultaneously and provides instantaneously access to a hitherto unprecedented pool of information. Global media networks bring issues of the world to individuals through newspapers, the radio, the television and the Internet. Satellite and particularly cellular phone technology is connecting people everywhere, while faster and cheaper modes of air, rail and road transport allows people much greater mobility. These new tools of interaction have stimulated exponential growth in the global exchange of ideas and information.
>
> *30 New actors:* The emergence of new global actors best reflects the changes in the global structural power. In addition to the sovereign state globalisation has seen the emergence of the World Trade Organisation (WTO) which is the first multilateral organisation with enforcement authority; multinational corporations (MNC) that often have greater economic assets than states; and networks of non-governmental organisations (NGOs) and other transnational civil society actors. In addition, states have organised themselves into regional blocs such as the European Union (EU) and the Southern African Development Community (SADC), as well as policy coordinating groups such as the Organisation for Economic Cooperation and Development (OECD), the G-7 and the G-77.

> *40 New rules and norms:* The growing interaction among states and people has led to the establishment and at times codification of new rules and norms. In the economic sphere free market policies emphasising privatisation, liberalisation and deregulation have been widely adopted both in response to the perceived exigencies of globalisation as well as in line with multilateral agreements on trade, services and intellectual property rights. Much of the world has also turned to democratic governance. Most states are now independent and more than 70% of the world's population live under relatively pluralist democratic regimes. There is also growing international consensus around human rights standards as well as instruments to monitor and enforce these new rules and norms. The recently convened United Nations Millennium General Assembly session stresses 'the right to development'[4] thus showing that advances have been made towards defining global development goals."

A brief review of basic economic statistics shows that the world has never been more prosperous than now. The average per capita income has more than tripled as global GDP has increased nine-fold, from US$3 trillion to US$30 trillion in the past 50 years. The share of people enjoying medium human development rose from 55% in 1975 to 66% in 1997 and the share in low human development fell from 20% to 10%.[5]

But this is only half the picture. Notwithstanding arguments put forward that increased trade and foreign investment together with advances in information technologies are fuelling economic growth to provide significant scope for human advancement and particularly the global eradication of poverty, globalisation is not only about benefits, but also costs.

There has certainly been significant global economic growth, but as the *Human Development Report 1999* shows, the benefits of global opportunities are very unevenly distributed. While many are becoming richer, many more are faced on a daily basis with the most basic problem of survival. An estimated 1.3 billion people live on an income of less than US$1 a day. (*See Figure 1 in Appendix.*)

Inequality is rapidly rising between countries. While world inequality has been increasing for nearly two centuries, an analysis of long-term trends in world income distribution between countries shows significant differences between the richest and poorest country. This difference was about 3 to 1 in 1820, increasing to 11 to 1 in 1913. The difference then jumped to 35 to 1 in 1950, and 44 to 1 in 1973, and further to 72 to 1 in 1992.[6]

A quick look at human development index (HDI) rankings which is a composite index measuring life expectancy, literacy and per capita income, indicates wide disparities between the developed and the developing world with Canada placed highest and Sierra Leone scoring lowest. Large disparities are also evident between regions. (*See Figure 2 in Appendix.*)

Inequality is not only widening between countries, but also within countries. Though concentrated in the developing world, poverty is not only a phenomenon of the South. The human poverty index (HPI) – bringing together a long and healthy life, knowledge, economic provisioning and social inclusion – was devised by the Human Development Report to gauge poverty globally. These dimensions are used for both developing and industrialised countries, though the indicators to measure them differ to reflect the different realities in the countries. HPI-1 reflects poverty in developing countries while HDI-2 shows poverty levels in industrialised countries.

A short survey of HPI-1 figures reveals that poverty ranges from a low 2.6% in Barbados to a high of 65.5% in Niger. In almost 40% of the developing countries surveyed a third of the people live in poverty, while in 15% of the countries more than half the population is affected by poverty and deprivation. HPI-2 figures show that human poverty is not confined to developing countries. Though arguably not comparable to the deprivation experienced in parts of Africa, Asia and Latin America, a growing number of people are also excluded from the economic mainstream in countries such as the United States (US) and the United Kingdom (UK).[7]

Similarly, the world is definitely much more integrated, but again, significant inequalities exist in the degree of integration. In short, while new information and communications technologies are driving globalisation they are also polarising the world into the connected and

Table 1: Internet usage – a global enclave

	Regional population (as % of world pop.)	*Internet users (as % of regional pop.)*
United States	4.7	26.3
OECD (excluding US)	14.1	6.9
Latin America & Caribbean	6.8	0.8
South East Asia & Pacific	8.6	0.5
East Asia	22.2	0.4
East Europe & CIS	5.8	0.4
Arab States	4.5	0.2
Sub-Saharan Africa	9.7	0.1
South Asia	23.5	0.04
World	100.0	2.4

Source: UNDP, Human Development Report 1999. New York: Oxford University Press, 1999.

the isolated. By implication just as the world can be divided into the "haves" and "have-nots", a line can also be drawn between the "knows" and the "know-nots". Given the increasing importance of the knowledge-based economy, the growing importance of addressing the widening digital divide and the development problems of living in parallel worlds is of central importance in any strategy to address poverty and inequality both globally and nationally.

1. THE SOUTH AFRICAN SITUATION

One of the major challenges the South African government faced after the 1994 election was to address poverty and inequality. Despite the country's relative wealth in GDP terms, the majority of South Africans lived in poverty, or were continuously vulnerable to sliding into poverty. Furthermore, the distribution of income and wealth in South Africa was one of the most unequal in the world. The apartheid legacy of quality services to the privileged minority at the expense of systematic underdevelopment of the majority of the population, meant that the government was confronted with an enormous backlog in development challenges along race lines.

Post-apartheid South Africa faced a dual challenge: externally, to re-integrate itself into the fast globalising economy and to catch up with the industrial countries; and internally, for the poor and marginalised to be integrated into the economic mainstream and to catch up to the living standard of the wealthier parts.

At the time of drafting the Constitution, the African National Congress (ANC) argued, "what do all these classical political rights mean if the majority remain landless, are poor, hungry and jobless?". Given the ANC's stance that "attacking poverty and deprivation must ... be the first priority of a democratic government",[8] Nelson Mandela's government first sought to address the so-called internal challenge by means of the Reconstruction and Development Programme (RDP) launched in 1994. The principles underlying the RDP were:[9]

- an integrated and sustainable approach to harness all the country's resources towards redistribution and development
- a people-driven process which would be inclusive of all regardless of race, sex, urban, rural, rich or poor and which would lead to the empowerment of people
- the promotion of peace and security
- nation building to unify the country and promote national and regional interests
- linking the needs for reconstruction of society with development that serves the interests of people as opposed to purely economic growth
- the democratisation of South Africa.

By early 1996 it was obvious that sustainable economic growth greater than 3% a year would not be achieved without particular government initiatives. A growth rate of less than 3% annually would not allow government to make much headway in poverty alleviation, inequality reduction or job creation. With this in mind the RDP office was closed in June 1996 and government instead launched the Growth, Employment and Redistribution Strategy (GEAR).

In essence, GEAR has sought to address South Africa's external challenge to establish an enabling environment conducive to job creation and the overall aims of poverty alleviation and reduction in inequality.

GEAR identified several related elements in this regard, including:[10]

- speeding up fiscal reform
- gradually relaxing exchange controls
- consolidating trade and industrial reforms
- restructuring the public sector

- encouraging flexible collective bargaining
- supporting a social accord to facilitate wage and price moderation
- prioritising social spending in the budget.

Soon after the introduction of GEAR the Inter-Ministerial Committee for Poverty and Inequality was convened by the then-Deputy President Thabo Mbeki to specifically re-focus on the initial RDP aims. Mbeki's office also tasked a group of consultants to assess and quantify poverty and inequality in South Africa. The subsequent *Poverty and Inequality Report in South Africa*[11] released in May 1998 was the first comprehensive analysis of South Africa's poverty and inequality since the Second Carnegie Inquiry into Poverty led by the University of Cape Town in 1984.

2. POVERTY, VULNERABILITY AND INEQUALITY

The *Poverty and Inequality Report in South Africa* provided a comprehensive statistical update on who and where the poor are, as well as identified groups vulnerable to slip into poverty. The Report also gave an analysis of the causes of poverty and inequality, as well as assessed government policies to address poverty and inequality and made further recommendations in this regard.

To consider how best to move people out of poverty and to redress South Africa's inequalities, it is useful to recall the definitions employed by the authors of the report for poverty, inequality and vulnerability.

To justifiably define what poverty means to poor people it is imperative to move beyond the statistical "poverty line" that reflects the monetary value of consumption separating the "poor" from the "non-poor".

As 1998 Nobel Prize winner in Economics, Professor Amartya Sen, clearly outlines in his *Development as Freedom*[12] that poverty is more than "a mere lowness of income". Instead of this standard determinant, poverty should instead be seen as the "deprivation of basic capabilities".

The authors of the *Poverty and Inequality Report in South Africa* thus defined poverty as the "inability of individuals, households or entire communities to command sufficient resources to satisfy a socially acceptable minimum standard of living".[13]

Though poverty is clearly multifaceted and experienced differently, the Report found that poverty is perceived by poor South Africans to include:

- alienation from the community
- food insecurity
- crowded homes
- lack of safe and efficient sources of energy
- lack of adequately paid and secure jobs
- fragmented families.

Inequality was defined to refer to a "state of social organisation that does not enable or give equal access to resources and opportunities to all members".[14]

Polices to remedy inequality thus need to, among other things:

- increase the relative income share of the least well-off
- facilitate upward mobility
- promote economic inclusion
- avoid perpetuating the advantages conferred by wealth.

The authors of the report also took great care to spell out that poverty is not a static condition. Rather, they recognised that while some households are permanently poor, others move in and out of poverty. This vulnerability to poverty may be the result of crises (illness of a breadwinner, shock in external economic conditions and natural or man-made disasters) and/or long-term trends (various forms of social discrimination, life cycle changes, environmental degradation and macroeconomic trends). The assets and resources held mitigate vulnerability to poverty. In other words, the more assets people hold and the better these assets are managed, the less vulnerable they are to poverty. Conversely, the greater the erosion of people's assets, the greater their insecurity and associated vulnerability to poverty. It is equally important to recognise that poverty is characterised not only by an overall lack of assets but also by an inability to devise appropriate coping or management strategies in times of crises. In other words, poverty is a lack of assets plus income-generating capabilities.

Using various quantifiable money-metric measurements and broader composite indicators of deprivation, the report unsurprisingly found that South Africa compared unfavourably with other middle-income countries in measures of human development such as life expectancy, infant mortality and adult literacy. Again, unsurprisingly, the report showed that these indicators varied widely by race group, gender and geographic location within the country.

The report showed that the majority of poor people were black, while only one per cent of the poor were white. In human development terms the white and Indian population groups fall within the HDI range equivalent to "high human development" and comparable to Israel and Canada. The coloured and black population, however, fall within the lowest bracket of "medium human development" with HDI scores far lower than Egypt and Swaziland. (*See Figure 3 in Appendix.*)

Poverty is not only unevenly distributed between races but also between the country's provinces. Poverty rates were found to be the highest in the Northern Province and the Free State, although the depth of poverty (the amount required to move all individuals above the poverty line) is highest in the Free State and the Eastern Cape.

In human development terms, this means that the Western Cape and Gauteng have a high HDI score, while the Northern Province's HDI is comparable to that of Zimbabwe and Namibia. The report also showed a strong correlation between provincial poverty distribution and race group. In the Northern Province, which scores the lowest HDI, 90% of the population is black. In comparison, in the Western Cape only 17% of the population is black. (*See Table 2.*)

In addition to the uneven distribution of poverty among provinces, there is also a sharp divide in rural–urban poverty occurrence. An overwhelming majority of poor people live in rural areas. (*See Table 3.*)

Table 2: Provincial distribution of poverty (1993)

	% households living in poverty	*% individuals living in poverty*
Eastern Cape	40.4	50.1
Free State	56.8	64
Gauteng	29.7	41
KwaZulu Natal	36.1	47.1
Mpumalanga	33.8	45.1
North West	15.4	21.1
Northern Cape	38.2	48
Northern Province	61.9	69.3
Western Cape	14.1	17.9
SOUTH AFRICA	35.2	45.7

Source: DBSA 1993, quoted in May, Woolard and Klasen, pg. 30.

Table 3: Rural–urban distribution of poverty (1995)

Location	*Population share (%)*	*Poverty share (%)*	*Poverty rate (%)*
Rural	50.4	71.6	70.9
Urban	49.6	28.4	28.5
All	100	100	49.9

Source CSS, 1995, quoted in May, Woolard and Klasen, pg. 30.

In addition to poverty measurements, quantification of inequality was equally sobering. Using the Gini coefficient which ranges from zero (absolute equality) to one (absolute inequality), South Africa (currently at 0.58) was considered the most unequal country. Inequality can also be examined by looking at the share of total income of groups of households arranged in order of income level. A disaggregated analysis showed that between-race inequality accounts for 37% of total inequality. Furthermore, inequality within race groups is stark too. Black households have a Gini coefficient of 0.54, which is almost as high as the national average. The rural–urban divide is also sharp with black and coloured median incomes in the rural areas about half the black and coloured median incomes earned in urban areas. (*See Table 4.*)

3. SIX YEARS ON

Where is South Africa now, six years after the end of apartheid rule, in terms of addressing poverty and inequality?

Despite some advances made, *Measuring Poverty* – a study mapping poverty in South Africa released by Statistics South Africa in September 2000 – showed that there is still much to be done. Figures show that up 30% of

Table 4: Comparison of richest and poorest

% of households	*% of population*	*% of income*
Poorest 40% of households	50	11
Richest 10% of households	7	40

Source: May, Woolard and Klasen, pg. 27.

South African households live in poverty, which translates into just above half the population of the country.[15] Moreover, *Measuring Poverty* found that inequality has been rising in South Africa between and within race groups. The most pronounced increase has been within the black population group.

As an editorial in the *Business Day* said in response to *Measuring Poverty*'s release, "the poverty study ... must make uncomfortable reading for the ANC government".[16] Though there are acceptable reasons for parts of these trends – economic restructuring has led to job losses, advancement policies have unblocked black advancement opportunities – there is rising dissatisfaction among the bulk of the people "at the bottom of the pile" with regard to the lack of delivery on the "economic freedoms" fought for in the anti-apartheid struggle. Moreover, reports of millions of rands earmarked for poverty and inequality alleviation programmes lying unspent in government coffers is attracting criticism. Significant media attention focused on the unspent proceeds of the national lottery, for example. In addition, reports shortly after the release of *Measuring Poverty* pointed to the "spending constipation" of R855 million in the Umsobomvu Fund as part of a youth job creation programme. The money has been accumulating since early 1998 from the levies on the demutualisation proceeds of Old Mutual and Sanlam.[17] In short, it is not only about insufficient funds, but the lack of capacity to implement anti-poverty projects.

In addition, there have been a number of public spats within the ANC, South African Communist Party (SACP) and Congress of South African Trade Unions (Cosatu) alliance on economic management issues. Both the SACP and Cosatu favour a more interventionist role for government.[18] The increasing frustration with persistent poverty and inequality trends also surfaced at the Racism Conference convened by the South African Commission for Human Rights held in Johannesburg at the end of August 2000.

4. WHERE IS SOUTH AFRICA HEADING?

Given these harsh realities, where is South Africa, and particularly where are poor and marginalised South Africans, heading? This is a particularly vexing question in the context of general agreement that South Africa's economic fundamentals are sound. South Africa has attempted to follow the main policy components regarded as central to a strategy promoting growth: namely, ensuring sound macroeconomic management and macroeconomic stability, boosting domestic demand by monitoring real interest rates, adopting fiscal discipline, introducing institutional reform and promoting good governance. But it still does not seem to be enough.

In May 2000, the cover story of the *Financial Mail*[19] included an article outlining three roads that South Africa's future can take at this juncture. The article described the "low road" as that of "increasing informalisation of formal employment". With the increased pressures of globalisation South Africa could see the already alarming number of poor and vulnerable increase much further. Of particular concern is the mushrooming of "fourth-world" jobs – i.e. unskilled, low paid and completely deregulated jobs. While these jobs may provide a survivalist income they do not add significantly to higher human development, nor do they equip South Africans to compete effectively in a globalised economy based on knowledge and information.

The "middle road" South Africa could take as outlined by the *Financial Mail* article would entail addressing the country's skills shortage head-on. South Africa's economic shortcomings cannot merely be blamed on the "negative side-effects of globalisation". Other developing countries face similar globalisation-induced challenges as South Africa. Moreover, crime – often put forward as the main reason for the as yet disappointing inflows of FDI – is as prevalent in Brazil and Argentina for example, yet does not appear to be deflecting investors there. The reasons for South Africa's limited economic growth rate have to be found beyond (though admittedly not exclusive of) crime concerns. In the moving target of identifying FDI deflection reasons, the nature of our workforce has being recognised as decisive. South Africa simply has the "wrong" workers. Instead of the "surfeit of unskilled and unemployed workers", South Africa needs management, financial and information technology skills. As the *Financial Mail* puts it, "we need a new workforce for a more modern economy, rich in tourism, financial services and high-ended manufacturing for exports." (*See Table 5.*)

Lastly, the "high road" according to this arti-

Table 5: Jobs – winners and losers

WINNERS	
Sectors	*Jobs gained*
Wholesale, retail, motors and hotels	53 115 (6.4%)
LOSERS	
Sectors	*Jobs lost*
Government	65 907 (4.2%)
Manufacturing	30 742 (2.3%)
Construction	29 267 (11.5%)
Mining and Quarrying	26 780 (6.0%)
Transport, storage and communications	10 493 (4.2%)
Financial	8118 (3.8%)
Electricity	3284 (8.8%)

Source: Financial Mail, 12 May 2000.

cle is the very long-term view of the positive cumulative effects of addressing South Africa's skills gap, appropriate economic restructuring and incentive dispersal to tap into global opportunities within the context of real progress made in terms of integrating Southern Africa economically.

Clearly, it is in South Africa's interest not to stray too far down the "low road". Almost 20% of South Africa's economically active population is already "employed" by the informal sector. With privatisation expected to gain momentum over the next two years, the number of people made vulnerable to a slide into poverty may only increase further. South Africa simply has to grapple with the exigencies imposed by globalisation. This includes recognising that skills development is central to the country's future. While economic growth is a necessary condition for the alleviation of poverty, it is not a sufficient condition. Even the World Bank's *Attacking Poverty: Opportunity, Empowerment and Security*[20] report released in September 2000 debunks the long-held assumption that rapid economic growth will automatically trigger redistribution of income and wealth. Instead, as the 1999 *Human Development Report* summarises "it must be pro-poor growth that expands the capabilities, opportunities and life choices of poor people".[21]

The focus on capabilities, opportunities and life choices echoes the writings of Professor Sen. His welfare analysis of reduced poverty and inequality reduction moves far beyond the classic capitalism/socialism schism to consider the relationship between what he calls "individual agency" and "social arrangement".[22] Sen argued that individual agency is ultimately central to addressing poverty and deprivation. He further argues that this individual agency is, however, also "inescapably qualified by the social, political and economic opportunities available" in the broader "social arrangement". The proverb "give a man a fish and he'll eat for a day, but teach a man to fish and he'll eat for a lifetime", is only half true. If the man does not have tools to fish nor a place to fish, all the knowledge in the world as well as individual agency to act will not produce the next day's catch.[23]

Any meaningful poverty alleviation programme thus has to recognise both the centrality of individual freedom *and* the social influences that impact on the extent and reach of individual freedom. As the title of his book states, Sen sees development as the removal of various types of "unfreedoms"[24] that leave people with little choice and opportunity to exercise their individual reasoned agency. In short, Sen sees the expansion of freedoms and capabilities both as the primary end and the principal means of development.

Importantly, Sen's analysis stresses that policies to help the poor and marginalised do not only have to be typical "hand-outs". Policies need to include specific components to allow the poor and marginalised to unlock already held, yet often difficult to quantify, resources and capabilities for income-earning opportunities.

Some of these difficult to quantify resources and capabilities are summarised by Julian May in terms of four broad categories of assets, claims and resources:[25]

- human capabilities
- natural resources
- social and institutional assets
- human-made assets.

Recognising that there is a wide array of assets and resources to tap into for poverty alleviation purposes besides state coffers, is arguably a much more effective, empowering and sustainable way to address the scourge of poverty than "mere charity". To make globalisation work for people, and not merely for profits, governments have to play a decisive role. The emphasis may be on rolling back the state from economic activities, but not from the responsibility of

Table 6: Wealth Base or Asset Portfolio

Human Capabilities	*Social and Institutional Assets*	*Natural Resources*	*Human-made Assets*
labour	legal claims on the state and private sectors (pensions)	land	finance (savings and access to credit)
technical, administrative and entrepreneurial skills	legal and moral claims on household and community (maintenance, charity)	ground and surface water	machinery and tools
health and nutritional status	access to individual and community decision-making power and structures	common property (communal grazing land and woodlots)	crops and livestock
knowledge and education	access to horizontal and vertical networks and institutions	ground cover and its bio-diversity (forests and wildlife)	housing and other buildings
capacity to adapt and cope	norms and values (trust, altruism or rule breaking)		productive infrastructure (roads and dams)
			domestic infrastructure (schools and energy or water reticulation)
			social infrastructure (community halls)

Source: May, pg. 10.

governance, both at a national and international level. Though our understanding of sovereignty has undoubtedly changed dramatically in the past few years, states and governments (at least for now) remain the only legal entities internationally.

It is up to governments to provide the enabling environment for citizens to capture global opportunities in trade and capital flows by negotiating favourable provisions in multilateral agreements. It is also for governments to put in place national and international measures to shield people from the excesses of globalisation in the form of global financial volatility. It is also for governments to recognise their responsibility to help their citizens adapt to the dramatic changes in the labour market.

As stated before, it appears that the nature of our workforce lies at the core of South Africa's economic shortfalls. While this is clearly a long-term problem to address, government's recent calls for "life-long learning" appear to be the first step in the direction of South Africa embarking on the middle, or even the high road, as opposed to the low road outlined by the *Financial Mail*. Besides formal schooling, life-long education in this regard refers to in-service and pre-service training to allow individuals to compete in a skills-based and constantly changing world economy. To build this new workforce, South Africa has to take a multifaceted approach. In the long-term, it is obviously imperative to upgrade the formal schooling system. Making adult education more accessible, improving on-the-job training and developing community structures to assist education beyond the classroom, are aspects of life-long education which can arguably be approached within shorter time frames and with more immediate results.

The Skills Development Act has the potential to contribute significantly to address South Africa's skills shortage and to allow the current economically active generation to participate in the economic mainstream. According to the Act, businesses have to pay a payroll training levy of 0.5% in the first year and 1% thereafter which can be refunded if they do in-house training. Government hopes the levy will bring in about R1 billion.

Government plans to divert the bulk of the money to workplace training. About 20% of the funds are earmarked to retrain retrenched workers, prepare workers for new investments as well as teach small business skills to the unemployed.

5. FROM SURVIVALISM TO WEALTH CREATION

It is beyond the scope of this paper to consider a full range of policy options to address poverty and inequality. I will instead focus here merely on the small-, medium- and micro-sized enterprises (SMMEs) as entrepreneurial income-generating vehicles to escape poverty.

It was with much excitement that the government initially endorsed and promoted programmes to assist SMMEs as a means to include the poor into the economic mainstream. It was argued that SMMEs could strengthen existing coping mechanisms and offer alternative livelihoods for individuals and households engaged in the survivalist informal economy. Government believed that SMMEs would be useful agents to attain several different objectives including black empowerment, employment generation, income distribution and the enhancement of competition. The Ntsika Enterprise Promotion Agency and Khula Enterprise Finance facilitated the government's SMME strategy.

It soon became apparent, however, that while well-intentioned, the government's SMME programme has not delivered all that was expected of it.

First, the government's SMME programme was obviously far too ambitious in terms of its objectives from the outset. Some analysts described it as "full of internal contradictions and too diverse objectives."[26] Given that there are finite resources, a more realistic assessment of achievable goals needs to be made and objectives need to be reprioritised accordingly.

Second, the initial strategy did not take full cognisance of the fact that the SMME sector is very diverse. The SMME sector is not a homogeneous entity but highly segmented with around 195 000 survivalist enterprises of the informal economy; 396 000 so-called growth-oriented micro-enterprises; and a 228 000-strong formal SMME sector mainly dominated by white-owned enterprises. It would be misleading to conceive all participants in the SMME sector as potentially successful. Consequently, the equation of SMME promotion with employment creation was equally misleading, as was the assumption that the jobs created in this sector would have high human development potential. Some do, many don't.

Third, the government also underestimated several vital institutional factors. These included problems related to establishing new support institutions; the capacity problems of these new support institutions to establish and implement a wide range of new policy initiatives; and the limited capacity of existing NGOs with regards to both financial and non-financial support for SMMEs. For example, from the start significant blockages existed in the network and operations of the Local Business Service Centres.

Fourth, these institutional limitations were particularly harmful with regards to financial support mechanisms for SMME development. Though Khula has only been in operation since January 1997, officials concede that the volume of loans granted is insufficient to meet the needs of the SMME community.[27] Furthermore, a short survey shows that urban-based SMMEs received the bulk of funds dispersed, plus there was a definite bias in lending towards established SMMEs as opposed to survivalist enterprises. In addition, credit has been difficult to obtain by SMMEs as commercial banks have been very reluctant to become involved with this sector.[28]

CONCLUSION

Clearly, South Africa's SMME programme demands significant policy attention and fine-tuning. Per definition, entrepreneurship has inherent income-earning potential and can thus make a significant contribution to moving people beyond survivalism to wealth creation. The challenge lies in devising appropriate government policies to provide, in Professor Sen's terminology, the enabling social arrangement for individual agency to kick in.

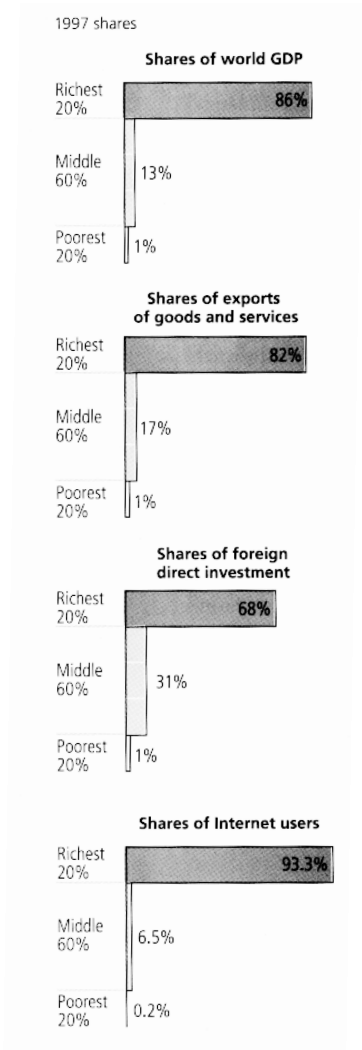
- SMME polices need to be better targeted to be of use in poverty alleviation efforts. Supportive policies to help survivalist and micro-enterprises to become wealth-creating need to be prioritised.
- SMME development would also benefit greatly from stronger horizontal and vertical coordination and cooperation among the different stakeholders and support structures.
- The problem of limited access to credit has to be addressed urgently. A number of analysts are pointing to the micro-lending sectors as able to step into this debilitating void.[29]
- In addition to general policies to raise literacy and numeracy levels, skills training to run small businesses and tap into national and global opportunities must remain of central

importance. Programmes at national and provincial levels therefore need to be continued and expanded. Mentoring programmes can play an important role in this regard too. Business Partners, a SMME financier, recently launched a mentoring service that could yield some important pointers in this regard.[30]

- In addition to continued education, access to information is imperative. Initiatives and programmes to allow SMMEs to utilise new information technologies in this regard need to be strongly encouraged and supported.

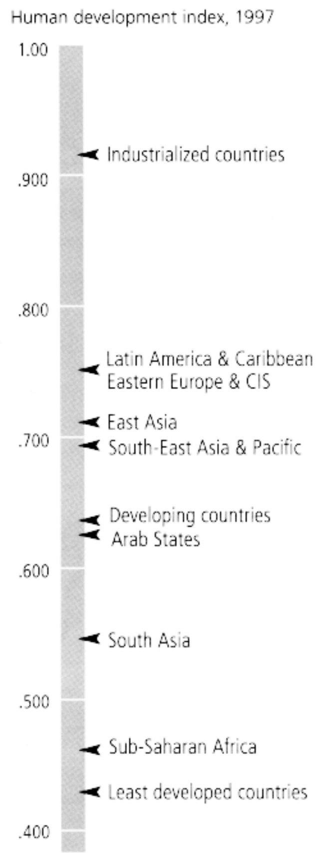
APPENDIX

Figure 1: Stark Disparities between rich and poor



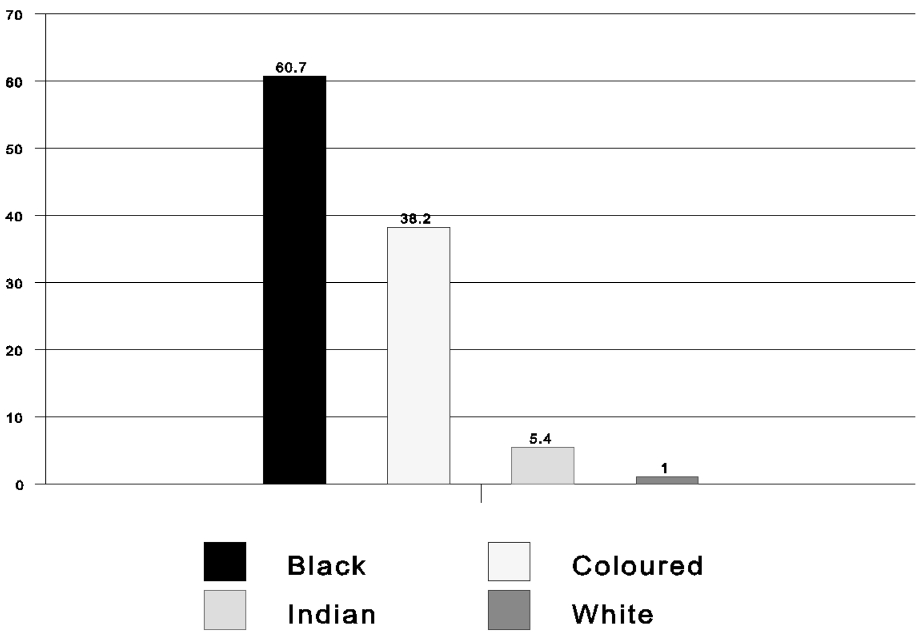
Source: UNDP, Human Development Report 1999. New York: Oxford University Press, 1999, p.2.

Figure 2: Human development varies among regions



Source: UNDP, Human Development Report 1999. New York, Oxford University Press, 1999. p.129.

Figure 3: Poverty rate by population group



Source: CSS, 1995, quoted in May, Woolard & Klasen, p.32.

ENDNOTES

1) The author expresses her appreciation for the assistance of Kurt Morais and Nthabiseng Nkosi, both Konrad Adenauer Foundation interns at the South African Institute of International Affairs (SAIIA), in the writing of this paper. All views, however, remain the author's own.
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The European Union–South Africa Trade, Development and Cooperation Agreement and Its Potential for the Provinces

Neil van Heerden

INTRODUCTION

This paper deals with the European Union (EU)–South Africa free trade agreement (FTA) which came into force on 1 January 2000, within the context of the new globalised world order. I will try to look specifically at what these developments have in store for our provinces.

I find it particularly appropriate to consider globalisation and the EU–South Africa FTA in tandem, since the former is more or less inescapable whereas the latter provides us with, as it were, a self-chosen opportunity to prepare ourselves for the rigours of markets ruled by globalised conditions (apart from determining the rules of trade with the most important focus of our trade, of course.)

1. POSITIVE ASPECTS OF THE FTA

In terms of South African business, the EU–South Africa Trade, Development and Cooperation Agreement (TDCA) has the following advantages:

- It is a unique agreement establishing a bridgehead, or access, to the largest, most prosperous and stable trading bloc with an open-ended time-frame and a provision for review after five years.
- It is unique because it is the first of its kind in scope with any country outside the EU, also because it includes agricultural products.
- It improves the trading environment by providing a measure of certainty – an aspect of great importance to business.
- Lower tariffs on component imports from the EU provides leverage for the expansion of existing industries and the establishment of new ones, which will attract domestic and foreign investment. The same benefits are derived from lower tariffs on the EU side.
- As such the agreement will reward entrepreneurs and create jobs.
- It provides a real test of competitiveness – if we cannot compete in the EU where high cost structures prevail, we will have great difficulty doing so elsewhere in the global environment (one must assume this was part of the government's thinking to assist in bringing about restructuring in the economy).
- The agreement provides for a Cooperation Council which will be a point of institutionalised contact and review – this is a considerable improvement over the current situation.
- In addition, safeguards against import surges which threaten domestic producers are included as well as non-reciprocal provisions for South Africa to take exceptional measures to protect infant industries.
- It is estimated the FTA could add 1% to South Africa's gross domestic product (GDP) over the next four to five years and add R12 billion in new trade of which R7 billion will be in South Africa's favour. These benefits are bound to be felt throughout the region.
- The agreement refers to continued development assistance to South Africa at least at current levels, which amount to R900 million a year. This together with South Africa's qualified access to tenders under the Lomé Convention constitutes a significant factor from which South African companies can benefit.

2. NEGATIVE ASPECTS OF THE FTA

- Whereas South Africa's exports constitute only 1% of EU imports, one-third of South Africa's total imports come from the EU, making our economy more exposed to the consequences of the FTA, be they good or bad.
- The issue of non-tariff barriers to trade, to which emerging economies are vulnerable, are not directly addressed in the agreement. Presumably, however, these will be legitimate issues for discussion in the Cooperation Council.
- The agreement makes provision to challenge companies that enjoy a dominant market position, ostensibly to promote competition and investment. The nature of the South African economy would suggest that EU companies operating in South Africa would be in a relatively strong position to challenge mergers and take-overs here while it is feared South African companies will be less successful in this area when their interests are threatened in the EU.
- There is serious concern about the capacity of our customs and related authorities to police the agreement which could be used by third parties to gain preferential access to our markets.

As regards the impact of the FTA on specific sectors, I will limit discussion to some general remarks in view of the fact that more than 8000 tariff lines are involved. But first, I refer you to Table 1 wherein the figures reflect South Africa's trade with the rest of the world for the first six months of 2000 compared with 1999. Table 1 provides some feel for the relative importance of the European market in our global trade.

3. THE FTA

For the first time agricultural products have been included in an FTA with the EU. Exclusions were reduced from the original 46% of South Africa's agricultural exports to 39%. If one takes into account the tariff quotas that were provided for in respect of some of the sensitive products including wine, canned fruit, cut flowers and cheese, exclusions were effectively reduced to 26% of South Africa's exports. In addition, this reserve list of tariff quotas is subject to regular review. Whereas EU agricultural subsidies remain of serious concern, provision is made for compensatory adjustments and a non-reciprocal safeguard clause in cases where proof exists of harm to domestic industry. Here it is important to note that the onus rests on South Africa to put in place an effective monitoring system. All in all, this is a significant achievement given the notorious sensitivity of the Europeans in this area and the fact that exports make a huge difference to the incomes of our farmers.

Industrial products cover 86% of South Africa's exports to the EU. This category will benefit more from the FTA than others and includes product lines that are not currently exported to the EU. While EU tariffs in this area are already low, the removal of tariffs (that will mostly take place within four years) will give South African exporters a relative advantage over competitors. Although our textiles

Table 1: Totals in millions of rand according to world zones and ships' and aircraft stores (January–June 2000)

World Zones	*Imports* 1999	*Imports* 2000	*Exports* 1999	*Exports* 2000
Africa	1784.9	1991.2	9910.8	12427.6
Europe	32877.7	37526.7	25672.3	29046.1
America	12827.6	11956.8	7417.3	10121.7
Asia	19320.2	29383.9	14500.7	18122.9
Oceania	1624.2	2355.3	1327.9	1481.4
Other unclassified goods and balance of payments adjustments	68.3	242.0	18323.0	25471.8
Ships'/Aircraft Stores			631.9	40.5
GRAND TOTAL	**68502.9**	**83455.9**	**77783.9**	**96712.0**

Source: SA Revenue Service

Table 2: Value of trade based on the South Africa–EU FTA (million rand)

Month	*Exports*	*Imports*	*Balance*
Jan	5.1	2.9	2.2
Feb	53.2	6.7	46.6
Mar	134.2	14.3	119.9
April	109.8	20.7	89.2
May	201.2	26.3	174.8
June	213.8	26.6	187.2

will not benefit to the same degree from the asymmetry in tariff reductions, average duties on South African textile exports to the EU will decline from 6% in year one to 0% in year seven. By 2004 all quotas on textiles will be removed by the EU and South African exporters should use the FTA to gain a foothold in the market by then. In the increasingly important South African automobile export industry, the FTA will reduce costs through lower tariffs on imported inputs from the EU. The EU agreement reduces protection faster than our own motor industry development plan, with attendant consequences for competitive balance between European and other foreign manufacturers in the domestic market. As far as imports by South Africa of items that are used in manufacturing in general are concerned, including capital equipment, they are already substantially duty free.

Table 2 illustrates statistics from the Department of Trade and Industry which show the growth in the value of our trade this year based on the FTA with the EU.

The figures could indicate the quite dramatic impact of the agreement although seasonal fluctuations and the rise in the platinum price would also have had an influence.

Turning to the Western Cape specifically, Table 3 shows the contribution of the various sectors to the gross regional product for 1999.

Of these sectors agriculture and manufacturing will be mainly effected by the FTA with the EU, although other areas such as construction, tourism and financial services will be influenced by trade and financial flows with Europe.

The EU farming and agriculture lobby is extremely powerful – in the 1998/99 season export subsidies to this sector amounted to US$ 40 billion. A cursory glance in local supermarkets reveals an increase in the prevalence of EU dairy products, canned goods and manufactured foodstuffs. However, United Kingdom and other EU supermarkets are filled with agricultural products from countries in Latin America and the East which have no preferential access to the EU, and this represents an opportunity for South African producers – especially in the highly lucrative organic foods market.

Many Western Cape industries have not been granted the access hoped for. The wine and spirits agreement, as we now know, will not take effect on 1 September 2000 as planned, due to disagreements over the final text. These will presumably be sorted out in the not too distant future. Canned goods and certain other

Table 3: Western Cape sector statistics – 1999 (estimates)

	Value added (GRP)		*Employment*	
	R Billion	*Percent*	*No.*	*Percent*
Agriculture, forestry, fishing and mining	7.0	6.2	156 400	9.4
Manufacturing	26.5	23.6	243 200	14.6
Construction and repairs	4.1	3.7	104 400	6.3
Electricity. gas and water	3.1	2.8	11 500	0.7
Trade	13.5	12.0	125 500	7.5
Tourism (incl. Catering/accommodation)	10.2	9.0	145 500	8.7
Transport & Communication	9.3	8.3	107 200	6.4
Financial and business services	18.4	16.4	99 400	5.9
Social and personal services	4.5	4.0	103 800	6.1
Government & community services	15.7	14.0	269 000	16.1
Survival activities (n.i.e.) & unemployed	(0.5)	–	304 100	18.3
Total	112.3	100	1.67m	100

Source : Wesgro Estimates

agricultural products remain subject to restriction and quotas, albeit at lower levels.

There are several opportunities that manufacturers in the Western Cape can exploit, however. Industries that could potentially benefit are those such as textiles and footwear (again subject to certain restrictions), jewellery manufacturing, plastics and packaging and furniture. Furniture is particularly interesting in that the trend in Europe is increasingly towards purchases of good quality and higher priced items. The Western Cape furniture sector is obviously well placed to take advantage of this. Jewellery, art and crafts are potentially lucrative markets, especially given the South African government's determination to drive increased exports of gold and other precious metal jewellery. Packaging should receive a boost from increased exports of agricultural products and foodstuffs.

Increasingly, European companies are buying into the South African market in order to gain a foothold, rather than through exports. These investments are in industries or sectors that offer good potential to develop locally and that are competitive in the export market. Cape-based companies should therefore expect a fair degree of interest from their European counterparts. A prime example of this is the dairy industry with the entry of Danone (French) and Parmalat (Italian).

In the UK an interesting marketing tool is being used by Australian companies offering holiday competitions to buyers of their goods. This is good for both exports of goods and services (tourism).

CONCLUSION

I regard the EU–South Africa TDCA as a good agreement. It presents us with both challenges and opportunities. We should be reminded that South Africa would still be facing the challenge of adjusting its structures of commerce, production and marketing to the exigencies of the global economy, irrespective of this FTA. We will have to identify sectors vulnerable to competition and encourage their restructuring. At the same time we need to remind ourselves that the potential benefits of the EU agreement will depend on South African exporters seizing opportunities – European firms will certainly be doing precisely that. Our exporters should also look beyond the agreement with the EU at the wider globalisation of markets and the effect that has on their businesses.

In order to do these things effectively, the private sector will have to take upon itself the task of being accurately informed of the full contents of the new agreement – what are the opportunities, where is there a need for monitoring competitive imports and where should safeguards be pursued?

Each industry and individual company will have to look incisively at its position in terms of the agreement. In order for this to be successful, closer mechanisms for liaison between government and business must be established in a true partnership.

The European Union–South Africa Trade, Development and Cooperation Agreement and Its Potential for the Provinces

Talitha Bertelsmann-Scott

INTRODUCTION

When historians try and track the origins of globalisation, they most often go back to the end of the Second World War. The world was changing, the world economy was slowly starting to boom after the devastation of the wars and the leaders of the world were thinking of ways in which to ensure that no third world war would ever break out.

On the political front, developments included the formation of the European Coal and Steel Community, which would become the forerunner of the European Union (EU) as we know it today. Political leaders argued that if Germany and France could be united in a common goal, they would not go to war with one another ever again – a theory which has thus far been proved correct. The shared economic interests of France, Germany, Italy and the Benelux countries, soon cemented their political ties. The core principle of the EU is the breaking down of borders and the establishment of free trade, a concept which has brought the European continent great riches.

The example that Europe set was soon emulated throughout the world; regional organisations similar to the EU were established – such as the North American Free Trade Area (Nafta), the Association of South East Asian Nations (Asean), Mercosur and the Southern African Development Community (SADC) – and generally countries started to lower their tariffs and borders to foreign competition. The EU itself did not stop at forging open trade ties with its members but actively seeks out free trade with a number of other trading partners. It also plays a pivotal role in the World Trade Organisation (WTO) that was established to promote and secure free trade across the globe. This drive to open borders and to compete internationally, to move goods, people and money from one corner of the world to another, soon became know as "globalisation". There exists no clear definition of globalisation, but one can identify a number of its elements:

> "First, there has been a massive increase in global capital mobility. The share of trans-border capital flows to gross domestic product (GDP) increased by a factor of 10 between 1980–1992. Capital is now managed around the clock in globally integrated markets working in real time, connecting currencies, savings and investments worldwide. An estimated US$1.5 trillion is traded worldwide each day – of which some 85% is believed to be 'hot' money, portfolio flows rather than foreign direct investment (FDI). Private investment in Africa, for example, rose from less than US$1 billion annually at the start of this decade to US$11.7 billion in 1996, or half of the capital flowing into the region. The level of foreign investment is now a (some would argue 'the') critical determinant of the pace of economic growth.
>
> Second, trade has increased substantially. In 1963, world exports stood at US$154 billion. This grew to US$1 trillion in 1977, and to over US$2.5 trillion today. The global customer, wherever located, has become king. The best buy is the key spending criterion, rather than concerns about the country of origin, local unemployment or trade deficits. This offers great opportunities to

globally competitive corporations, but poses threats to those which are inefficient and no longer protected. It has become an article of faith that free trade equals economic growth through the importation of technology, and improvements in competitiveness and productivity. Studies show that developing countries with open economies grew by 4.5% annually in the 1970s and 1980s; but those with closed economies expanded by only 0.7%. Developed, open economies grew by 2.3% annually; closed ones by 0.7%. Closed economies are defined as those with the features of high import tariff and non-tariff barriers, a socialist economic system, a state monopoly on important exports, and a big gap between official and black-market exchange rates. It is difficult to work out whether protected economies do badly because they are cosseted, or because they have unsound macroeconomic practices. Yet this does not challenge the essential argument of the 'free trade growth' thesis concerning developing countries – that there is a striking correlation between export growth and overall GDP growth."[1]

1. SOUTH AFRICA AND GLOBALISATION

It is therefore clear that free trade is the agent of globalisation. It has also become clear that active participants in the globalisation process are reaping great benefits including increased economic output and activity. Throughout President Mbeki's term in office he has made statements to the effect that South Africa has to become part of the global economy and globalisation. It has become clear to most that non-participants in the global economy are economically less well off than those countries that participate actively. It is for this reason that the South African government has been actively searching for ways in which to open its economy to global competition and participation. This process was started during the Mandela presidency. When South Africa became a member of the WTO, tariffs were dramatically liberalised, the idea of free trade in Southern Africa was first suggested and negotiations with the EU were initiated.

2. NEGOTIATIONS WITH THE EU

Negotiations with the EU are of great concern to South Africans, as the EU is our largest trading partner if we look at total volumes of trade – although Southern Africa is South Africa's largest export market. It was therefore vitally important that South Africa secure a positive deal with the Europeans and it is largely for this reason that the negotiations were so protracted. The agreement is being reached in phases between the two parties – with only the fishing agreement still outstanding at the moment – and can be best understood if seen as if resting on three pillars:

- Three agreements on cooperation in the following fields: science and technology, wine and spirits, and fisheries.
- South Africa's partial accession to the Lomé Convention.
- A Trade and Cooperation agreement to cover all aspects of the relationship not addressed in Lomé.

A more detailed analysis of these follows.

3. COOPERATION AGREEMENTS

These agreements are not concerned with the liberalisation of tariffs, but with quality and standards and avenues towards cooperation in these fields.

3.1 The agreement on science and technology cooperation

On 5 December 1996, the first mutual cooperation agreement between the two parties was signed. The agreement provides for scientific and technological cooperation between South Africa, the European Community and its member states. A joint Science and Technology Cooperation Committee will be established in order to administer the agreement. In South Africa, the Department of Arts, Science and Technology, in conjunction with the Department of Finance, is responsible for the implementation of the agreement.

3.2 The wine and spirits agreement

Towards the end of the negotiations the separate cooperation agreement in wine and spirits proved to be one of the major stumbling blocks in reaching a deal. A number of constituencies in Europe wanted South Africa to phase out use of the names "port" and "sherry" for South Africa's fortified wines. They argued that these terms refer to geographical locations in Portugal and Spain and should therefore be used exclusively by these two countries. South African producers have, however, used the names for generations.

It took a number of meetings between the two chief negotiators to come to a compromise on the highly publicised issue. A political compromise was eventually reached in January at Davos. Minister Erwin agreed to phase out the use of names of port and sherry in exports to third countries. South Africa will, however, be allowed to continue to use these terms on its domestic market throughout the 12-year transitional period. After this period the use of these names would be reviewed. In return for these concessions, Commissioner Pinheiro agreed to grant the wine sector duty-free quotas for exports to the EU market and financial assistance for the restructuring of the industry.

The EU ministers, however, could still not accept the agreement and referred it back for discussion. Although Minister Erwin initially insisted that the Davos agreement was South Africa's final offer, he eventually accepted a slightly watered down version. The adjustment period was lowered to 10 years and greater commitment was given to the phasing out these terms.

3.3 The fishing agreement

In addition to the wine and spirit agreement causing extreme difficulties in concluding a deal, the fishing agreement proved to be another major obstacle. The Spanish government is seeking access to South Africa's fishing waters. It, however, seeks the access without any commitments. In other words, it would like to fish and then take the fish right back to Spain to be processed. South Africa, by contrast, is only willing to grant the access if it will be to the mutual benefit of both parties. Under these terms South Africa would grant Spain access to fish in its waters, but would insist on Spain docking the fish on South African soil for processing before being exported to Spain. This would lead to employment opportunities for South Africans and the transfer of technology. In addition, South Africa would have greater control over how much Spain would fish. Currently South Africa does not have the necessary patrolling vessels or legislation in place in order to prevent over-fishing.

In a political effort to conclude the talks, agreement was reached in December 1998 that both parties would endeavour to negotiate and conclude a cooperation agreement in the fishing sector no later than the end of the year 2000. Until such time the EU will hold back on tariff concessions for South African fish exports. South Africa in turn will abolish its tariffs on fisheries' products only in parallel to the Community.

4. ACCESSION TO THE LOMÉ CONVENTION

South Africa initially rejected the European proposals of partial Lomé accession and a free trade agreement (FTA), as it was intent on pursuing full participation in all the institutions of Lomé.

This approach was a contentious one from the start, as South Africa's economic situation is unique.

4.1 The terms of South Africa's accession

South Africa's accession to the Lomé Convention remains effectively a political accession rather than an economic one. The main economic benefit will be the ability to tender for European Development Fund (EDF) projects in all African, Caribbean and Pacific (ACP) countries, which could have important economic benefits for South Africa and the region as a whole, enabling these countries to tender for contracts worth R45 billion. In addition, South Africa will benefit from the cumulation of origin clause. South Africa will further participate in Lomé projects on technical, cultural and social cooperation, regional cooperation, industrial development, and investment promotion and protection. It will not, however, be eligible for non-reciprocal trade benefits and will receive development aid separately from the Lomé Convention.[2] The special protocols on bananas, rum, beef and veal, sugar, and coal and steel products will also not be applicable to South Africa.

5. FREE TRADE AGREEMENT

The third pillar of the proposed agreement is the FTA. Faizel Ismail, Chief Director of Foreign Trade Relations, has said that the South African negotiators are "diplomats in the service of development". This laid the foundations for the South African negotiating mandate which proposed a Trade and Development Agreement, rather than a classical FTA. In this way, South Africa hoped to secure more compensation and development aid from the EU and – most importantly – a more favourable trade agreement.

South Africa objected to the European FTA mandate, basing its objections firstly on the proposed exclusion of 39% of South African agricultural products; secondly, on the fact that South Africa would have to lower its tariffs far more than the EU; thirdly, on the brief asymmetrical implementation period; and finally on the adverse effects the agreement would have on the Southern African Customs Union (SACU) and on SADC.

Despite negative publicity and the fact that the negotiations dragged on for some years, South Africa did manage to secure a deal that many analysts would call "the most favourable agreement South Africa could have reached".

The FTA itself has several components, consisting of:

- political dialogue
- provisions for a free trade area
- trade-related issues
- economic cooperation
- financial assistance and development cooperation
- social and cultural cooperation.

5.1 Political dialogue

One of the major stumbling blocks that threatened the conclusion of the agreement was the non-execution provision. The EU wanted to include a clause in the agreement that would allow for the discontinuation of the agreement in the event of South Africa violating the respect for democratic principles, fundamental human rights, the rule of law and good governance.

The EU traditionally includes the first three conditions in any agreement it concludes. This has led to the collapse of a number of trade talks that the EU has been involved in. Most recently, the EU failed to reach agreement with Australia, as these clauses were found unacceptable.

The inclusion of a "good governance" clause is, however, a new stipulation, which is probably aimed at future agreements with the previous Lomé countries in the ACP. It is a clause that has traditionally been included in the Lomé agreements in order to promote democracy and accountability in fragile, developing countries.

South Africa, however, took exception to the inclusion of this clause, as it feared that this would lead to the unilateral definition of these concepts by the EU. In addition, it feared setting a precedent for the Lomé negotiations that could impact negatively on its partners in the region. Although all four clauses were in the end included on the deal, the agreement allows for consultation before suspension, in the event of the violation of these principles by any of the two parties.

5.2 Free trade area

The EU will fully liberalise 95% of imports from South Africa by the end of a 10-year transitional period – which should start in January 2000. By contrast South Africa will only need to liberalise 86% of European imports over a 12-year period. Sectors that have been identified as sensitive by South Africa will be protected for a number of years. These products include automobiles and components, textiles and clothing, red meat, sugar, winter grains and dairy. The agricultural sector will enjoy the least coverage (although arguably the best coverage possible) but provision has been made for a regular revision process. A major negotiating victory achieved by South Africa is the commitment to provide funds to compensate the member countries of the Southern African Customs Union (SACU) for the adjustment costs they might suffer from the agreement.

5.3 Industrial sector

- *South Africa:* The industrial sector accounts for around 86% of total South African exports to the EU. South Africa already exports industrial products under beneficial tariff lines to the EU. However, the further elimination of tariffs will give South Africa a slight advantage above its competitors on the European market.
- *EU:* Most South African companies will be allowed 12 years to adjust to the agreement, whereas automobiles and parts will remain on a reserve list without any tariff elimination or reduction for the foreseeable future. Sensitive products in textiles and clothing will be given eight years to liberalise to around a 20% tariff. By the end of the 12-year period, these tariffs will further be reduced to a level where the EU would enjoy better access than the Most Favoured Nation (MFN) tariff as stipulated by the WTO.

5.4 Agricultural sector

The most contentious issue within the agricultural sector was the EU's Common Agricultural Policy, which makes provision for export subsidies for European agricultural exports. Clearly, South Africa did not manage to change the European agricultural policy and it was impossible to exclude agriculture from the overall talks. To the credit of the negotiators South Africa managed to achieve a number of concessions from the EU.

South Africa will be eligible for compensation in the event of EU changes to its agricultural policy that could adversely affect the balance of concessions made in the trade agreement. In addition, South Africa will have the right to challenge the EU should there be proof that increased imports of agricultural products are causing harm or threatening to cause harm to the domestic industry. South Africa further managed to increase the coverage of duty free South African agricultural exports to the EU from the suggested 54% to 62%. The introduction of tariff quotas effectively means that only 27% of South Africa's agricultural products are completely excluded from the deal.

5.5 Trade-related issues

South Africa identified this area as one that could set a positive or dangerous precedent for the future Lomé agreement. The WTO and World Intellectual Property Rights Organisation (WIPO) have not as yet reached worldwide agreement on some of the issues that the EU proposed to be included in the South African trade agreement. Pretoria managed to avoid making any commitments ahead of global agreement and only committed itself to a number of minor concessions that were essential to the proper functioning of the trade agreement.

Future FTAs or customs unions that either party should enter into could have adverse effects on the South Africa–EU FTA. For this scenario, the agreement provides for consultation on the effects that domestic interest might suffer. This mechanism will soon be tested as the EU is preparing for enlargement towards Eastern Europe and South Africa is concluding an FTA with its neighbours in Southern Africa. Consultation mechanisms have also been agreed on to discuss anti-dumping measures and countervailing measures.

In order to protect infant industries in both South Africa and the SACU countries, South Africa insisted on comprehensive safeguard measures. These include regular safeguards that provide for measures to be taken in the case of a sudden massive increase in European exports which threat or cause damage to domestic producers.

In addition, South Africa alone will be entitled to take exceptional measures to protect infant industries or sectors in SACU facing serious difficulties caused by increased imports during the transitional period. These safeguard clauses in effect allow South Africa to slow down the liberalisation pace if it finds that the effects are too many to handle immediately.

A number of additional concessions were granted to South Africa in the areas of used goods, competition policy, public aid and the dispute settlement mechanism.

5.6 Economic cooperation

The agreement provides for cooperation in a variety of fields including industrial restructuring and modernisation, investment promotion, trade development, development of small and medium sized enterprises, information and communication technology, energy, mining and minerals, transport, tourism, services and consumer protection. This aspect is especially important to South Africa. Studies have shown that the weaker party in an FTA predominantly gains from the transfer of technology and development and not from tariff liberalisation.

6. THE IMPACT ON THE SOUTH AFRICAN PROVINCES

The impact this agreement will have on South Africa's provinces to a large extent depends on the type of economic activity prevalent in the specific province. Large and small companies will be affected in different ways. Different industries will each be affected in their own way. Some industries might have nothing to fear from European competition, whereas others can expect to be shifted out of the market. Some enterprises will do well on the European market, whereas others will gain nothing from free trade with Europe.

Briefly, there are five elements of the EU–South Africa Trade, Development and Cooperation Agreement (TDCA) that will affect businesses in the provinces:

- The speed of the tariff liberalisation schedule in their particular sector.
- Rules of origin.
- Potential non-tariff barriers.
- Their products' competitiveness *vis-à-vis* similar products in the European market.
- Their products' foothold and market share in the South African market and their domestic competitiveness as an indicator of their ability to fend off competition from the European players.

7. THE POTENTIAL FOR SMME DEVELOPMENT IN THE WESTERN CAPE

As already pointed out the South Africa–EU TDCA contains a large development component. Given South Africa's economic and social profile, it has long been the priority of both the South African government and the EU to promote the development of small-, medium- and micro-sized enterprises (SMMEs). This aspect is also not neglected in the FTA and an entire Article is dedicated to SMMEs stating that:

> "The Parties shall aim to develop and strengthen micro enterprises (MEs) and small- and medium-sized enterprises (SMEs) in South Africa, as well as to promote cooperation between SMEs in the Community and in South Africa and the region in a manner that is sensitive to gender equality. The parties shall, *inter alia*:
>
> a) Cooperate, where appropriate, in the creation of enabling legal, administrative, institutional, technical, tax and financial frameworks for the setting up and expansion of MEs and SMEs;
>
> b) Provide assistance required by MEs and SMEs, whatever their legal status, in areas such as financing, skills training, technology and marketing;
>
> c) Provide assistance to companies, organisations, policy makers and agencies providing services referred to under paragraph (b) through appropriate technical support, information exchange and capacity building;
>
> d) Establish and facilitate appropriate links between South African, Southern African and Community private sector operators in order to improve the flow of information (relating to strategy formulation and implementation, business trends and opportunities, networking, joint ventures and transfer of skills)."

The Article provides a very broad framework for SMME assistance. It will therefore be up to the South African government – especially provincial governments – and private sector to maximise the opportunities provided by the agreement and approach the EU for assistance and potentially beneficial links with SMMEs in Europe. Again, the proof of the success of any FTA lies in the manner in which it is implemented.

Given the fact that SMMEs in South Africa are predominantly micro or survivalist orientated and that most of the economic activity occurs in a selection of three to four provinces, one could assume that only a small fraction of South African SMMEs will be affected by the TDCA.

(The enterprises which may be most significantly affected by the agreement are bolded in the table below.)

From the above table it is clear that the Western Cape has great potential to make use

Estimated distribution of enterprises by provinces and size-class, 1995

	Survivalist	*Micro*	*Micro 1-4*	*Very small*	*Small*	*Medium*	*Large*	*Total*
Gauteng	21%	35%	32%	**42%**	**46%**	**48%**	49%	34%
Kwazulu	23%	17%	20%	**15%**	**16%**	**17%**	16%	18%
Western Cape	9%	13%	15%	**16%**	**12%**	**13%**	12%	13
Eastern Cape	17%	10%	11%	7%	6%	6%	7%	11%
Northern Province	11%	9%	6%	3%	3%	3%	3%	7%
North West	7%	6%	4%	5%	5%	4%	3%	6%
Mpumalanga	6%	5%	3%	4%	4%	4%	5%	5%
Free State	5%	4%	5%	5%	5%	4%	4%	5%
Northern Cape	1%	1%	4%	2%	2%	1%	1%	2%
Total	100%	100%	100%	100%	100%	100%	100%	100%

of the agreement especially in order to promote small business development.

CONCLUSION

The benefit of any FTA – especially one that contains such a large development aspect – lies in the implementation by the signatories. Although the EU has for many years been active in development programmes in South Africa through the European Programme for Reconstruction and Development, it is up to the South African government to also make a commitment to the correct implementation of the agreement. A number of impact studies are currently being conducted to gauge the impact of the agreement on the various sectors. The provinces would be wise if they would tap into these studies or commission some of their own in order to prepare their economies for European competition and to assist those companies – large or small – that could benefit from the agreement.

ENDNOTES

1) Bertelsmann-Scott, T; Gibb, R & Mills, G, 2000. *The Global Context of the SA-EU TDCA*.
2) It is interesting to note that South Africa currently receives more development aid than any of the Lomé countries through the European Programme for Reconstruction and Development. South Africa received R1236.75 million in the year 1998/1999.

Globalisation and the Nation-State

Leopold Scholtz

INTRODUCTION

The future of the nation-state is one of the most hotly debated issues of the post-Cold War world. Will the nation-state survive? Three "threats", if one may call it that, come to mind. The one is the economic globalisation of the world, and the question is whether modern governments still have the power to direct their own economies in the way they used to a decade and longer ago. The second is a very new phenomenon: the intervention of the international community in the form of bodies such as the United Nations (UN) or the North Atlantic Treaty Organisation (Nato) in places like Bosnia and Kosovo, as well as the internationalisation of the prosecution of those who commit crimes against humanity. In the third place there is the development of international and regional bodies, such as the UN and allied organisations, the Organisation of African Unity (OAU), the Southern African Development Community (SADC), etc. Does the growing importance of these phenomena not limit governments' freedom to manoeuvre in almost every respect?

These questions are, of course, not exactly new. Even in 1919, the economist John Maynard Keynes wrote in an often quoted passage about Europe before the First World War:

> "The inhabitant of London could order by telephone, sipping his morning tea in bed, the various products of the whole earth, in such quantity as he might see fit, and reasonably expect their early delivery upon his doorstep; he could adventure his wealth in the natural resources and new enterprises of the world … The projects and politics of militarism and imperialism, of racial and cultural rivalries appeared to exercise almost no influence at all on the ordinary course of social and economic life, the internationalisation of which was nearly complete in practice."[1]

These questions are of great importance to governments worldwide, simply because they have to know what the limits of practicality will allow. Any government that fails to realise where the art of the possible ends, will inevitably be penalised by the practical situation. The events in Zimbabwe of the past few months immediately come to mind as an illustration of a government refusing to acknowledge the practical limits on its sovereignty. In this paper I will therefore attempt to explore the limits to state sovereignty in the present world in the light of globalisation.

1. HISTORICAL BACKGROUND

The nation-state is one of those fixtures of political life without which one cannot imagine the world. Yet, as things go, it is a relatively recent phenomenon, no more than five centuries.

Approximately 1500 is usually taken as the point of origin of the modern nation-state in Western Europe. The main intellectual builder of this concept was the Dutch legal pioneer Hugo de Groot, who mainly wrote under his Latinised name Grotius. Grotius is regarded as the father of modern international law in that he was the first to create a legal code for states to interact. He did not innovate all that much, but mostly codified usages which already existed. Nevertheless, his work meant that the state for the first time became the basic legal and political unit in the network of international relations, and that state sovereignty became one of the bedrocks of international law.

The nation-state is therefore a typically Western phenomenon. Other states – such as the various Arab kingdoms, the Roman Empire or the Chinese Empire – were actually rather multinational conglomerates. In Africa, one may perhaps regard kingdoms such as that of the Zulu, Mali or Ghana as rudimentary nation-states.

Under modern international law a few legal fictions were created to regulate states' interaction. For instance, all states – great and small, powerful and weak – were regarded as equal in law. No state had the right to interfere in the internal affairs of another state. In theory, every government exercised sovereign power within its borders. (Of course, in constitutional law, it became a question of who exactly was the sovereign, the monarch – parliament or the people – but that is a different matter.)

Like all things in life, theory and practice did not always see eye to eye. In practice, smaller and weaker states were frequently forced by bigger and stronger states to regulate their internal affairs differently, which in turn impinged on their sovereignty. Also, geopolitics, for instance, forced the British and Dutch to become trading and maritime nations. For their part, the Germans' central geographical position in Europe made them extremely vulnerable to strategic encirclement from the west, south and east, and this complicated warfare for them immeasurably.

Economic realities also fettered state sovereignty. The economic crisis which started with the Wall Street catastrophe in 1929 narrowed the limits of the possible to a great extent. This was exactly what the Hertzog government in the Union of South Africa had to learn when, in the name of state sovereignty, it tried to cling to the gold standard, but was forced to abandon it after a while when huge amounts of money started to leave the country. After the government bowed to the dictates of the market, the outflow was reversed.

In the same way, apartheid and communism in the end failed, mostly because they did not take account of economic realities. Here, also, state sovereignty was not strong enough to allow a government to do what it felt was right. (Obviously, the fact that both systems were immoral is immaterial to this argument.)

The point is, then, that the idea of state sovereignty remained a legal fiction which never existed unfettered in practice. The balance of military power, economic laws and geopolitics always conspired to limit state sovereignty to an extent that differed widely according to any given historical situation.

2. ECONOMIC GLOBALISATION

Economic globalisation is defined by the International Monetary Fund:

> "as a historical process, the result of human innovation and technological progress. It refers to the increasing integration of economies around the world, particularly through trade and financial flows. The term sometimes also refers to the movement of people (labour) and knowledge (technology) across international borders. There are also broader cultural, political and environmental dimensions of globalisation that are not covered here."[2]

As is clear from the Keynes quotation above that globalisation is not exactly new. The occupation of most of the world by Europe in previous centuries led to a first wave of globalisation, which reached its zenith in the years before 1914. As the American historian William R. Keylor observes:

> "These impediments to the free movement of labour in search of jobs, savings seeking high returns, and exports seeking markets gradually disappeared during the second half of the [nineteenth] century. The advent of steamship and railway transportation around midcentury inaugurated a mass intercontinental and transcontinental migration unequaled before or since. Between 1860 and 1920 over 45 million people left the grinding poverty of overpopulated Europe for the sparsely settled spaces across the seas."

Accompanying this process, he continues, "was the infusion of European capital to the undercapitalised economies of these lands of recent European settlement." Especially Britain, France and Germany invested heavily in the New World, and later even the United States (US) joined the fray.[3]

As a matter of fact, the value of world trade in 1913 was about 25 times bigger than in 1800

– and this actually understates the case because inflation is not taken into account in this calculation. By 1914 the Europeans had invested roughly $40 billion abroad. The British were investing about 7% of their annual national income abroad, slightly more than their investment in their entire domestic economy. As McKay, Hill and Butler formulate it:

> "In a general way, the enormous increase in international commerce summed up the growth of an interlocking world economy, centered in and directed by Europe."[4]

Of course, this phase of economic globalisation was not sufficient to counter the madness which swept across Europe in 1914, a madness which re-emphasised state sovereignty, but made the economic costs of the war immeasurably heavier. In the aftermath of the war, states increasingly sought to protect their own economies by import tariffs and subsidies, which undid most of the effects of the era before 1914. Not before the 1980s, and especially the 1990s, did a new phase of economic globalisation start to manifest itself.

The drive for a new globalisation was started in 1993 with the conclusion of the so-called Uruguay Round of the General Agreement on Tariffs and Trade (GATT), which sought to lower import tariffs and state subsidies and to increase world trade. It was estimated at the time that this would increase world economic growth quite a lot.

But the effect is not simply on trade, however important this may be. Traditional multinational companies are being transformed into transnational companies. Peter F. Drucker writes:

> "In a transnational company there is only one economic unit, the world. Selling, servicing, public relations, and legal affairs are local. But parts, machines, planning, research, finance, marketing, pricing, and management are conducted in contemplation for the world market. One of America's leading engineering companies, for instance, makes one critical part for all of its 43 plants worldwide in one location outside of Antwerp, Belgium – and nothing else. It has organised product development for the entire world in three places and quality control in four. For this company, national boundaries have largely become irrelevant."[5]

And Ulrich Beck echoes him:

> "The levying of taxes is the principle underlying the authority of the national state. Yet companies can now produce in one country, pay taxes in another and demand state infrastructural spending in yet another."[6]

Besides, Drucker states, the world markets, with currency fluctuations and the like have created:

> "virtual rather than real money. But its power is real. The volume of world money is so gigantic that its movements in and out of a currency have far greater impact than the flows of financing, trade, or investment. In one day, as much of this virtual money may be traded as the entire world needs to finance trade and investment for a year. This virtual money has total mobility because it serves no economic function. Billions of it can be switched from one currency to another by a trader pushing a few buttons on a keyboard. And because it serves no economic function and finances nothing, this money also does not follow economic logic or rationality. It is volatile and easily panicked by a rumour or unexpected event."[7]

Since 1995 South Africa has had, of course, two experiences of the havoc this can create.

The effect of this is enhanced by the Internet. It is not yet entirely clear what the effect of the Internet on humanity is going to be, but this much is already known: governments will find it ever harder to regulate financial transactions across borders and to control the flow of information and – perhaps even more importantly, opinions – across traditional national barriers. Money is being transferred as we speak from accounts in some places to accounts in other places, without governments knowing about it and without tariffs or taxes being paid. People are exchanging information and views and influencing others. Dictatorships may try to limit this, as – for instance – China and Singapore are doing by intimidating Internet providers, but simply by entering through providers in other countries, this may very easily be evaded. The Internet is truly the face of globalisation in the 21st century: unregulated and unregulatable.

3. POLITICAL GLOBALISATION

Collective international intervention to defend the security and stability of the world order has been with us since the advent of the UN, whose Charter makes provision for it. The best known example of the UN actually going to war to resist aggression is, perhaps, the Korean War (1950–1953), but the body has also sent peace-keeping troops to several parts of the world, such as Cyprus, the Middle East, the Congo-Leopoldville, etc. To a certain extent, this amounted to international intervention in states' sovereignty, although the big powers were never affected and the intervention was strictly regulated.

The scope and reach of such intervention has, however, greatly intensified since the end of the Cold War. This type of new interventionism may be categorised in two types: military intervention and the internationalisation of the prosecution of those who commit crimes against humanity.

The first differs quite distinctly from international intervention to stop aggression, such as the Gulf War of 1990–1991, ostensibly to restore the sovereignty of Kuwait, but in reality more to safeguard the country's vital oil flow to especially the West. We are here solely concerned with armed international intervention to change a sovereign state's treatment of its own citizens.

Previously, international action stopped at economic and political sanctions, such as those against South Africa during the apartheid years. Armed intervention is something new. Examples of such intervention may be found in Somalia (1993–1994), Bosnia (1995), East Timor (1999) and Sierra Leone (2000). The fact that there was no intervention during the genocide in Rwanda in 1994, is generally considered an indictment of the international community. Strictly speaking, this in itself boils down to the right of the international community, through the UN, to impinge on state sovereignty when the state in question does not comply with international human rights conventions. However, in 1999 this type of intervention underwent a further qualitative change with the intervention in Kosovo by Nato without seeking the sanction of the UN Security Council, as is demanded by the UN Charter.

What happened here was, in essence, that Nato took it upon itself to wage war against the Federal Republic of Yugoslavia, a recognised sovereign nation-state, because of its treatment of the ethnic Albanian Kosovar minority, to occupy Kosovo and transform it in practice into a Nato protectorate. The Yugoslavian actions – which took the form of the mass deportation of the people – was, admittedly, horrible, but the fact that action was undertaken without the sanction of the Security Council made this, technically, an illegal war. As Michael J. Glennon, a law professor at the University of California, wrote:

> "As the twentieth century fades away, so too does the international consensus on when to get involved in another state's affairs. The United States and Nato – with little discussion and less fanfare – have effectively abandoned the old UN Charter rules that strictly limit international intervention in local conflicts. They have done so in favour of a vague new system that is much more tolerant of military intervention but has few hard and fast rules. What rules do exist seem more the product of after-the-fact-rationalisation by the West than of deliberation and pre-agreement."[8]

The other category also seems like a considerable limitation of state sovereignty. In view of the horrific war crimes in conflicts such as Rwanda and Bosnia, the UN has set up an International War Crimes Tribunal in The Hague, which has already begun proceedings against several individuals and completed them against a few others.[9]

The Pinochet case has gone even further. Because of alleged crimes committed by the Chilean military dictatorship against people within its own borders (admittedly, some of them were Spanish nationals), a Spanish court applied for the extradition to that country of the aged ex-dictator, general Augusto Pinochet, when he visited Britain for medical treatment. Against the vehement opposition of the new democratic government in Chile, where the transfer of power was done by way of agreement and compromise, the British Law Lords assented. In the end, they did allow him to return home because of his medical condition, but the legal precedent they created stands regardless.

4. REGIONAL BODIES

Historically, states entered into political and military alliances with one or more other states. These alliances were temporary in nature, and states also switched allegiance according to how they saw their own interest: today's ally was frequently tomorrow's adversary.

The first true multilateral regional alliance, albeit a very loose one, was the so-called Concert of Europe, an informal gathering of states created at the Vienna Conference of 1814–1815, with the purpose of strengthening monarchical autocracies and to fight the rise of liberalism and democracy. It held together for a few decades, and saw governments harmonising certain aspects of their internal policies. It was, however, simply the harbinger of things to come, and withered away during the 1850s and 1860s.

Its true successor was the League of Nations, established in 1919 in the wake of the most terrible war mankind had hitherto experienced, with the main purpose of preventing another war. It, too, failed and gave way under the determined aggression of Nazi Germany and Imperial Japan. It was superseded in 1945 by the UN.

Neither the League of Nations nor the UN were, of course, regional bodies, although the very fact of membership meant that states did voluntarily limit their sovereignty to a certain extent. The postwar era, however, saw a proliferation of regional international organisations, the scope of which were much wider than simply preventing war.

The mother of these bodies was the European Coal and Steel Community, which was founded in 1949. Although the formal purpose was limited to economic cooperation, several visionary European leaders – people like sir Winston Churchill of Britain and Robert Schumann of France – saw in this organisation the first seedling of an eventual federal United States of Europe. The Coal and Steel Community was in 1957 superseded by the European Economic Community (EEC) with six founder member states, which has now grown to the EU with 16 member states and with far wider powers than the EEC of 43 years ago.

There are, of course, several other regional bodies as well. Further afield there is the Association of South East Asian Nations (Asean), the Association of Pacific Economic Cooperation (Apec), the North American Free Trade Area (Nafta) and Mercosur, the regional economic cooperation body of South America. In our own part of the world there is the Organisation of African Unity (OAU), the Southern African Development Community (SADC) and the Customs Union. Elsewhere similar bodies exist in East and West Africa.

It seems that two models apply to these bodies. The one is represented by the EU, while the others form a second model. Let us look at both.

The EU model clearly goes much further than the others. It consists of several bodies which gives it the appearance of a supranational nation-state. There is, firstly, the European Commission, which acts as the executive council, with commissioners having a separate portfolio; and then the European Parliament, with representatives directly elected by the voters of each member country. These even have decision-making and legislative powers, although limited in nature.

The real powers are at present still largely in the hands of the member governments, meeting regularly in various ministers' councils, and government leaders' summits twice a year. In most cases, each government has a veto power, although it must be said that this has been limited to a certain extent, decisions in some cases now being taken by a majority vote.

Allied to this, the European Court of Law under the auspices of the Council of Europe – formally a separate body, but cooperating very closely with the EU structures – has to some extent taken on the role of a supranational constitutional court. It has the power to test legislation of any member state to its Charter of Human Rights and to "advise" the relevant government to change it. In theory that government may, of course, refuse, and there is very little the court can do about it. But it has never happened.

In theory, therefore, the sovereign nation-state still very much holds sway in the EU. Nevertheless, in various ways the EU is seriously eroding state sovereignty in practice:

- In view of the planned enlargement of the Union with several Central and East European states, plans are being drawn up to limit the member states' veto power even more and extend majority vote decision making.
- This would even apply to foreign and security policy, a field where governments have hitherto been fiercely protective of their sovereignty.

- Slowly but surely, a common EU defence force is developing. Several states – e.g. Germany and France, Germany and the Netherlands, Germany and Denmark – have created common army corps, divisions and even brigades, while the navies of the Netherlands and Belgium have practically amalgamated with a common operational headquarters. The EU has even drawn up plans for a rapid deployment force of 50 000 soldiers, which for the first time ever gives this body the military clout to intervene and stabilise crisis situations on the European continent.
- In view of the common internal market and the practical abolishment of internal borders, the EU structures have acquired the power to prescribe to member states a whole host of mundane matters in order to commonolise the economies.
- From the beginning of 2002 most national currencies will be abolished in favour of a common currency, the euro.

The course is not yet without controversy. Britain especially is holding out on various matters, but at the cost of being shoved to the periphery of Europe. Another matter is the incorporation of new member states who seem lukewarm to the rapid pace of integration. In answer to this, the idea of a "Europe of differing speeds" is being mooted and winning support. Also, the idea of European integration does not elicit great enthusiasm at grassroots level, where there is considerable unease and even resistance. Nevertheless, in the broader scheme of things, the conclusion seems inescapable: the EU is inexorably moving in the direction of a confederation, which, in time, may even develop into a fully-fledged United States of Europe, with state sovereignty being the main casualty. Even now, while each member state retains the theoretical power to leave the Union, it would be a practical impossibility. No member state of the EU can, therefore, in reality be called sovereign in the classical sense any more.

The other model is a much more loose cooperation, mainly in two fields – economic and security. It seems that economic cooperation frequently is in the driving seat. Nafta, Mercosur, Asean and Apec are all primarily economic groupings, with security issues playing second fiddle, albeit at times an important second fiddle. All of these bodies are purely voluntary in nature, and none of them have eroded state sovereignty nearly to the same extent as the EU. Inasmuch as sovereignty has been limited, this is much the case as it always has been – by the limits of the possible, and not because of a formal integration and unification process such as in Europe.

5. AND YET …

Does this formidable array of facts mean that the end of the nation-state is nigh? Not at all. Limitation of state sovereignty does not equal the end of the legal fiction of state sovereignty. After all, as we have noted in the historical analysis above, state sovereignty has always been limited by various practical considerations. These have simply become quantitatively more in number and qualitatively more intense.

This does, of course, mean that the nation-state is relatively on the decline. Its freedom of movement has become ever more restricted, and the notion itself will become, to some extent, even more of a legal fiction than it has been in the past. Governments will find it more difficult to deviate from international consensus on matters such as the economy and human rights. But this does not mean that the nation-state will vanish – at any rate, not in the foreseeable future. The basic building block of international law and politics will still remain the nation-state. This will for a considerable time be the case even in the EU, where the erosion of state sovereignty has gone the furthest.

Nevertheless, as *The Economist* pointed out last year, globalisation notwithstanding, government tax revenue and spending as a percentage of gross domestic product (GDP) has in most Western states continued to rise. This suggests that the role of the state as an economic player is far from over. In other words, globalisation does not mean:

> "that the state has lost, or is likely to lose, the means of functioning as a separate entity in the world. Nor does it mean that manoeuvrings among these states will cease to be the chief component of geopolitics … they show no sign of creating any alternative to the state as the basic unit of international affairs. The boundaries between states may be blurrier than they used to be, but they are still there."[10]

As Peter Drucker observes:

> "Despite all its shortcomings, the nation-state has shown amazing resilience … So far, at least, there is no other institution capable of political integration and effective membership in the world's political community."

He concludes:

> "Since the early Industrial Revolution, it has been argued that economic interdependence would prove stronger than nationalist passions … But whenever in the last 200 years political passions and nation-state politics have collided with economic rationality, political passions and the nation-state have won."[11]

6. SOUTH AFRICA

Where does all this leave South Africa? In the present world, no country can remain isolated indefinitely any more. Even China, long isolated, is inexorably being drawn into the globalisation process, and even political hermit states such as North Korea and Myanmar will not be able to escape the beast in the long run. South Africa therefore has to account for itself how the new world order in the form of globalisation will affect it.

In the post-apartheid era our economy, which was never completely isolated, has been re-integrated fully into the world economy. We have signed the GATT, which obliges us to lower tariffs and domestic subsidies. We have become a member of the World Trade Organisation. We have concluded a free trade treaty with the EU, while negotiations for similar treaties with SADC and India are under way.

We are, whether all of us like it or not, part of the so-called Washington Consensus of the post-Cold War era: capitalism is in and socialism is out, that free trade is in and protectionism is out, that labour liberalisation is in and rigid labour laws are out. Our freedom of manoeuvre is limited. As the International Monetary Fund (IMF) states in a short study about the effects of economic globalisation:

> "In the short-term, as we have seen in the past few years, volatile short-term capital flows can threaten macroeconomic stability. Thus in a world of integrated financial markets, countries will find it increasingly risky to follow policies that do not promote financial stability. This discipline also applies to the private sector, which will find it more difficult to implement wage increases and price markups that would make the country concerned become uncompetitive."

The IMF concludes, however, that this does not reduce state sovereignty.

> "It does create a strong incentive for governments to pursue sound economic policies. It should create incentives for the private sector to undertake careful analysis of risk. However, short-term investment flows may be excessively volatile."[12]

In theory, this is correct. In law, none of the attributes of the sovereign nation-state has been abolished by globalisation. However, in practice, the constraints on sovereign state behaviour, which have always existed, have increased to the extent that state sovereignty has indeed been eroded. In the long run – the wishes of political parties or lobbies notwithstanding – South Africa's internal policies will have to be adjusted to international consensus.

This, incidentally, will not be the case simply in economic matters, but also as far as human rights is concerned. While the present Constitution is, indeed, an admirable document which protects individual human rights like few other constitutions, the international consensus is moving in the direction of incorporating ethnic minority rights as part of the main corpus of human rights jurisprudence. Several documents published by the UN and the Council of Europe attest to this.[13]

Obviously, if any government refuses to toe the line, so to speak, it may and can still do so. Zimbabwe has done so since the beginning of 2000. And just look where that has landed it!

South Africa is also a member of several international bodies, such as the UN, the Non-Aligned Movement and the Commonwealth, none of which qualify as regional bodies. We are a member of three regional institutions: the OAU, SADC and the Customs Union.

In spite of colonel Muammar Gaddhafi's visions of a United States of Africa, this is, however, undoubtedly a long way off, if ever. Africa is – and will remain for a long time – too disparate and undeveloped for such a vision to be realised in any meaningful way. What about SADC and the Customs Union? At the SADC summit in Windhoek in August 2000, a free trading area was decided upon, which could help to integrate the Southern African economies, which in turn could, in time, provide a building block for an EU-like process in this part of the world. But this could only happen provided two prerequisites are met:

Firstly, the economies of the region will have to be developed much further than they are now. South Africa, the most developed, has a GDP three times that of all the other SADC member states put together. Even a free trade area – let alone any further integration – will require a much more even spread of development, or otherwise the relatively strong South African economy could damage the rest of the region severely.

Secondly, political stability will have to be established. At the present, civil wars are destabilising both the Democratic Republic of Congo and Angola, while the fighting at times threatens the stability of Namibia and Zambia as well.

Zimbabwe is in the throes of tearing itself apart because of a megalomaniac leader who is so blinded with his own hunger for power that he is pulling his entire country to the edge of the abyss, and thereby threatening the entire region. Alas, the questionable morality and political wisdom the SADC leaders in Windhoek showed by endorsing Mugabe's catastrophic policies proved that African solidarity means more to them than creating a lasting political stability, thereby sending a sign to the world not to invest in the region.

The irony is that SADC's declaration on Zimbabwe meant a severe blow to South Africa's sovereignty. We are continually told that the South African government speaks quite forthrightly to its counterpart in Harare – behind closed doors, that is. There is no reason to doubt this. However, when the time comes to speak in public, the South African government's docile meekness in giving in to Mugabe shows that it is not capable or willing to exercise its sovereignty.

The SADC summit aside, the time for a formal limitation of state sovereignty in Southern Africa, and most other parts of the world, apart from the constraints of practicality, is clearly still far off. The globalisation of the world will be a major constraint, but the nation-state has, in general, little to fear from regional international bodies. The nation-state is alive, albeit not always so well, but will survive for a long time to come.

ENDNOTES

1) Quoted in 20th Century Survey, *The Economist*, 11.9.1999.
2) International Monetary Fund, *Globalisation: Threat or Opportunity* (www.imf.org/external).
3) William R. Keylor, *The Twentieth-Century World* (New York/Oxford, Oxford University Press, 1996), pp. 34-35.
4) John P. McKay, Bennett D. Hill and John Buckler, *A History of World Societies, II* (Boston, Houghton Mifflin, 1992), pp. 961-963. The quotation appears on page 961.
5) Peter F. Drucker, The Global Economy and the Nation-State, *Foreign Affairs*, September/October 1997, p. 168.
6) Ulrich Beck, Beyond the nation state, *New Statesman*, 6/12/1999 (www.consider.net/forum).
7) Drucker, The Global Economy and the Nation-State, *Foreign Affairs*, September/October 1997, p. 162.
8) Michael J. Glennon, The New Interventionism: The Search for a Just International Law, *Foreign Affairs*, May/June 1999, p. 2.
9) See the Tribunal's Statute at www.un.org./icc/part2.htm.
10) The New Geopolitics, *The Economist*, 31.7.1999.
11) Peter F. Drucker, The Global Economy and the Nation-State, *Foreign Affairs*, September/October 1997, pp. 159-160 and 171.
12) International Monetary Fund, *Globalisation: Threat or Opportunity* (www.imf.org/external).
13) See, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 18.12.1992 at hyperlink gopher://gopher.un.org/00/ga/recs/47/135; gopher.un.org/00/ga/recs/47/135; Framework Convention for the Protection of National Minorities, 1.2.1995 at conventions.coe.int/treaty/en/Treaties/Html/157.htm; and "European Charter for Regional or Minority Languages", 5.11.1992 at conventions.coe.int/treaty/EN/cadreprincipal.htm.