Basic Human Needs and the Globalisation of the Economy

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We will begin with a theoretical reflection on the concept of development and its required ethical references. A characterisation of human development which takes as its defining element the well-being of all people leads us to the consideration of human rights as a necessary tool to achieve this global objective. In this consideration, we will examine to what extent the international community accepts these ideas and we will expose the limits of the Millennium Declaration. In the second section, we will look at the reality of globalisation. This process of globalisation is seen as economically exclusive and involves the neo-liberal construction of rules, such as those of the World Trade Organisation, which respond to the interests of the multinationals companies. As a consequence of this process of globalisation, inequalities in income distribution have increased and poverty and hunger remain persistent problems, while basic medical care is beyond the reach of most of humanity. This is due to market logic, which revolves around business profits rather than the satisfaction of human needs. For this reason technological advances, particularly those in the field of biotechnology, are not a solution in themselves, but rather require a reconsideration of the role of the public sector in order to change their orientation.

1. ETHICS AND ECONOMIC DEVELOPMENT

The consideration of the ethical dimension of economic activity with regard to developing countries is closely linked to the definition of development that has been dominant until very recently. Modern development economics, which began after the Second World War, had a limited view of development centred on the problem of identifying and quantifying economic growth, which has marked its later evolution. Although other elements were added at a later date, their inclusion did not alter this narrowly framed vision of the concept of development. It was implied that the study of development was in no way connected to the philosophical question of the need for a change of values or the search for new institutions and rules. Development studies were limited to technical solutions regarding the mobilisation and assignation of factors that would lead to previously established objectives.

Thus, the development tradition has been characterised as being merely descriptive. The development debate has focussed more on the ways and means than on the goal. One single development objective was legitimised: the goal for all countries was modernisation. In this context, the ethical dimension is regarded as an added extra or complement which acts to lessen the negative consequences of modernisation or in order to design specific social policies, but which does not question the objectives of development.[1]

This does not mean that there was a complete absence of critical vision in the following decades, particularly in the 1960s, when the objective of redistribution with growth was proposed, together with the need to place job creation at the centre of development and the priority given to the satisfaction of basic needs (Thomas, 2000). However, the truth is that these attempts were not strong enough to question basic development objectives and their influence was short-lived.

In the 1980s all ethical and evaluative considerations were abandoned and the idea of economic growth and the attainment of macroeconomic objectives resumed their central role. This was the era of structural adjustment. The terrible social consequences of this policy for the majority of the population led to the need to introduce the concept of «adjustment with a human face» and of the social dimension as a new task.

However, the term development can be used in a normative sense as well as a descriptive one, that is to say it can be used either to describe an existing situation or to project a desirable alternative. Until now, the descriptive use of the term has been prevalent, with the normative use limited to critical viewpoints or to the defence of alternatives. For Goulet (2000), rather than this more common use, development is «above all a question of attitudes and human values, objectives defined by each society and criteria to determine which costs are tolerable and can be borne, and by who, in the process of change». Development is an ambiguous adventure that is born full of tensions between which goods are desired, by who and how to obtain them. Therefore the central questions of development include ethical judgements concerning what is «the good life»; the definition of the objectives which must be achieved to reach a fairer society; and, the type of relationship which should be established between people, and between people and nature.

THE INTRODUCTION OF THE NORMATIVE DIMENSION

At the end of the 1990s, a certain change can be seen taking more into account the normative dimension of development. This new tendency has arisen from the conjunction of a series of processes. The most immediate of these is the failure of the prevailing model of development to reduce the levels of poverty – a phenomenon which, for some, is increasingly regarded as a threat to the system while for others is seen as the main impediment to development. Above all, the persistence of poverty has become an ethical scandal for an international community that bases the legitimacy of its world order on the concepts of democracy and peaceful coexistence. How can a model of development that perpetuates poverty and generates inequality be sustained at the same time as it proclaims democracy and the respect for human rights as the basis of society? Poverty is the great challenge for a world that contains more than enough resources to satisfy basic needs.

In the light of this, economists have tended to review the experience of the last few decades and take note of the doubts over the general premises of development economics (Adelman, 2000). The legitimacy of the model can be questioned both from the point of view of justice and from that of effectiveness, that is to say at the level of the very conception of the objectives or priorities of development or at the level of the policies used to obtain results.

Development is a historical concept, which means there is no one fixed definition of the term but rather an evolution, based on the dominant values and thought in society. Thus, development as it is currently understood is a very different thing from that which was defined forty years ago. Each society and each era has its own idea of what development is, based on the convictions, expectations and possibilities which predominate. In short, the concept of development is related to the idea of the future that each society proposes as a goal for the collective of humanity. When we establish the priorities of what we understand by development, we are merely stating our own vision of what we want our future to be. Sometimes, this dimension is hidden and development is shown as determined by external laws, but those who defend this position are the beneficiaries of the current state of affairs and have no particular interest in changing them. It must be argued as strongly as possible that the decision over which should rest the objectives of development should be the result of a grand consensus in which everyone participates, because the definition of the future cannot be the exclusive preserve of the few. Thinking about development means thinking about the future we want to build.[2]

These considerations are particularly applicable to our society today, where, when we talk about development, we assume this implies something desirable and legitimate. The word *development* is unconsciously identified with a positive perception. However, behind many proposals that include the term development some questionable objectives are hidden. It is important to maintain a critical attitude in order to discover which proposals really lead to fair development and which respond only to the particular desires of certain powers or minorities.

In the situation of profound change in which we are living in the era of globalisation, a concern for change and for justice cannot elude the answer to questions such as: What are the existing visions of the future? And what legitimacy do these visions have? This implies knowing how to differentiate between the proposals that maintain the current situation of power relations and their alternatives, and understanding the different forces at work and the historical processes which have led to the current situation. It implies becoming aware of the moment in which we are living and taking on an active role in the construction of the future, not as the only agents for change but rather co-operating in a definition of the future that we consider the most human and viable.

This progressive opening up to the idea of the ethical considerations of development has occurred at different speeds, and we can highlight three levels of the inclusion of the concern with the normative use of the term:

a) The ethical dimension is seen as a mere appendage. This position limits itself to admitting that development consists of more than just the economic dimension.
b) There is an ethical questioning of the processes and policies which lead to development, but not of its objectives. It is recognised that not all processes are valid, that participation is nece-

ssary to achieve change and that people need to participate in the process, but this does not imply that different objectives should be proposed.

c) An authentic normative vision which states that development is concerned with objectives and processes. The inescapable questions which this normative development poses include: i) a review of what is desirable, which implies the establishment of ethical criteria to define what we understand by «the good life» or by well-being; ii) a reconsideration of what development is possible, which implies the establishment of criteria related to justice which will define the objective that can be achieved.

With regard to this last viewpoint, the UNDP[3] has played a key role in the diffusion of this human development approach, considering the question of human well-being as the objective to be achieved, over and above mere economic growth.

THE LIMITS OF TOLERANCE: THE REFERENCE OF WELL-BEING

The questions posed by the normative viewpoint become particularly relevant when we consider the current state of poverty in the world. How much can we tolerate when faced with people's hardship in today's world? Is it correct to propose different limits to what is tolerable according to each society? This would be more understandable if the limits to available resources did not allow the definition of more ambitious objectives at a collective level, as was the case in the past. Or, from a different point of view, it would be acceptable to establish differences so as not to fall into the illusory and utopian desire to create egalitarian living standards on a world-wide scale. This question, however, is posed in a context characterised by an increasing interdependence and by a sufficient availability of resources and we must therefore pay special attention to this differentiation of levels of poverty. One thing is to propose the impossibility of immediately reaching identical objectives, but quite another is to deny objectives which are achievable. That is to say, one thing is to recognise the limitations which exist with regard to possible results and another is to define these possible results on the basis of different conceptions of what poverty consists of in different countries and for different people.

The question we are posing is whether the starting point for a scale of well-being differs according to which people we are talking about, or whether there is a universal benchmark. From a normative approach, there is no doubt that there should be one single reference point for all humanity, even when the specific nature of that reference is represented by multiple manifestations (Nussbaum, 1998). It is quite another matter that the task of defining well-being is not easy and, above all, implies commitment. Well-being as a reference for economic activity and for social coexistence introduces a situation in the future and formulates what people want; it establishes open debate, tolerance and participation as indispensable elements in the process and formulates its the necessary minimum objectives. It is clear that, from this point of view, we will reach a very different understanding of poverty and of the limits of tolerance of human need.

A careful definition of the concept of well-being is fundamental in order to construct the normative approach. Without sufficient reference to what we understand by well-being, how to measure it and how to insert it in economic analysis, the approach loses its effectiveness and its claim to be an alternative. How then can we define well-being? We should point out here that the answer to this question does not imply the definition of an ideal final objective but rather seeks to establish under what conditions people can develop themselves as human beings. To put it in another way, under what conditions do people cease to be in a bad situation and when can they begin to feel well. In short, poverty is a concept based on knowing when a human being has the opportunity to develop his or her potential as a person. It consists in defining positively the minimum capacities and activities which enable each person to carry out their own personal search for the way of life that satisfies him or her.[4]

The priority objective is to make sure that people can live as *people*. Determining at what point a person really becomes a person does not imply establishing the final result nor even the range of possible desirable states that being a person would mean. In fact, there would be many possible groups or packages of different objectives which could be reached. Poverty is definable if it can be precisely pinpointed when a person has the capacity to advance towards a desirable combination of states and make the effort to gain the resources necessary to reach this combination.

If we start from a definition of well-being based on the capability and the freedom of people, we must take into consideration the category of rights. On the one hand, because a human rights perspective sees people as conscious beings who freely choose their life options and, on the other hand, because a rights perspective recognises the need for people to obtain certain basic .. capabilities. The language of rights is a way to make the aspirations of well-being considered basic for all people clear in the discourse of society.

A person's well-being consists of an aggregate of three elements: material achievements, rights and freedoms. This aggregate is different for each person but in every case must contain a minimum of each of these three elements. Defined in this way, individual well-being is ethically significant and an object which can be demanded from economic activity. The area of most resistance is found in the acceptance of rights in the international arena. The concept of rights as positive freedoms implies the recognition of people's access to certain goods, which means there is a positive right to those goods whose use or disposition cannot be left to the invisible hand of the free market. The recognition that certain goods and services are people's right, because they are necessary in order to reach fundamental capabilities, introduces a new dynamic to the consideration of the role played by these goods and services in economic activity.

THE REFERENCES OF WELL-BEING IN THE INTERNATIONAL COMMUNITY

In this framework of new references -access to resources, well-being and rights- to what degree have we seen a reform of the welfare proposals in the international institutions and the aid donor countries? Has the normative dimension been introduced as a constituent part of development discourse? It must be recognised that the practical consequences of this proposal lead to different complications. It is true that the World Summits organised by the United Nations throughout the 1990s have proved to be a first step forward, albeit an insufficient one. Although the Social Development Summit, held in Copenhagen in 1995, opened up new horizons, the international organisations' commitments have been put into practice under a very limited vision of what well-being means. Moreover, the programmatic declarations have taken precedence over the recognition of the rights of some and the responsibilities of others in reaching development goals.

In 1996, the Development Aid Committee (DAC)[5] proposed the new goals for international development to be reached in the 21st Century, applicable to the actions of the donor countries and agencies. These goals were later adopted by the OECD, the World Bank, the International Monetary Fund and the United Nations[6], and have become the benchmark for what orthodoxy considers the desirable and feasible framework of well-being for the economic South (or developing countries). The Millennium Summit, held in 2000, ratified these objectives as the grand commitments and challenges for the coming decades. The Development Finance Conference, held in Monterrey in March 2002, was called to adopt the measures necessary to guarantee fulfilment of these goals. The weakness of the commitments made and of the arguments used in this Conference clearly shows the difficulties concerned with an acceptance of rights as the instrument required to reach the basic goals of human development.

The goals proposed for 2015 in the Millennium Declaration are the following: a) with regard to economic welfare: reducing the percentage of poor people, people without access to drinking water and people who suffer hunger, by 50%; b) in the field of social development: extending primary education in all countries; c) eliminating the gender disparities in primary and secondary education; d) reducing the figures for infant mortality by two-thirds and those for maternal mortality by three-quarters; e) improving access to primary health care, including family planning; f) containing and beginning to reduce the HIV/AIDS contagion rate; and, g) with regard to the environmental sustainability and regeneration: reversing the current trends and promoting strategies for sustainable development.

How can we evaluate this strategic definition of objectives from the viewpoint of the new references of well-being? First, we must recognise the importance of the proposed goals. No one could deny that we are talking about necessary objectives for any development model. However, at the same time they are clearly insufficient, given that their sphere of action is reduced to the participation in a very limited area of all that development consists of. Achieving a reduction of absolute poverty and hunger and reaching the social development goals involves, without a doubt, an improvement in people's quality of life.

Nevertheless, two questions need to be asked. The first is, what is the concept of poverty used as a base line? In other words which extreme situations are considered intolerable and should provoke an intervention over and above merely economic considerations? In the last few years we have observed a wide-ranging debate around the concept of poverty and a wider vision of this notion has slowly been accepted. The World Bank (2000) proposed a revision of this concept and of the strategy for the fight against poverty in its World Development Report 2000-2001. However, even though a more multidimensional vision of this concept was introduced, it remains a fact that the indicator which continues to be used as the reference to measure poverty corresponds to the narrowest definition possible: that of an income of one dollar a day as the threshold which determines whether a person is in a situation of poverty or not. This reference does not correspond to any previous study which would allow us to state that income above this level permits a person a satisfaction of the basic needs that allow biological survival, let alone the development of their capabilities. As a result, the limits of tolerance have not been changed and made more demanding, but have been maintained within totally inadequate parameters with regard to the characteristics which define the current framework and which we mentioned above: interdependence and availability of resources.

In second place, the precise delimitation of the objectives which correspond to development aid implies the establishing of a dividing line between what is considered to be achievable through foreign aid and what corresponds to the workings of the market. In fact, the idea of development aid came about as a mechanism designed to counteract what the market was incapable of providing. It was recognition of the need to develop instruments other than the market if the countries' development and the reduction of the North-South divide were really to be achieved. Development aid makes sense when there are deficiencies in the provision of vital resources without which development does not exist. Development aid is a necessary correction to guarantee that the development model achieves certain results which are regarded as fundamental. Development aid should be an instrument which allows people to exercise their right to development as people.

It does not appear farfetched to state that, with this limited number of objectives, the international institutions consider the remaining development objectives –which are not regarded as priorities- to be achievable with the application of the correct economic policies. Development aid is only necessary to reduce extreme poverty, to improve basic education and in some, not very precise, areas to conserve the environment. Other objectives, such as equity, the realisation of human potential, increased equality of opportunity, etc. are not proposed as development goals. If these are not constituent parts of development, it will be necessary to show clearly how it is formulated the normative reference which allows us to evaluate if the economic model works or not.

What perception of positive freedoms as rights does the international community hold today, if it cannot even guarantee the resources needed to reach the minimum objectives?

FINAL CONSIDERATION

The debate around well-being, as the central reference for the analytical category of poverty, constitutes the unavoidable approach for a new conception of the limits to be demanded from a human development coherent with our world. It is a theoretical construction which cannot be dismissed as empty academic theory, but rather seeks to become a reference for public action and an evaluative reference for economic activity. The election of one or other approach to well-being is of great importance in the determining of goals and the design of polices. The definition of a threshold of a decent life which can be applied universally is increasingly necessary. If this does not happen, we are opening the doors to the consolidation of an already existing discrimination instead of overcoming it.

The definition of well-being should be the foundation on which to build our relationships as human beings. The main issue lies in establishing which are our common interests with regard to our future as humans. The grand question is to know who we are with regard to the future. In other words, what future do we want –and are we able- to build for everyone.

In this project, both solidarity and exclusion are possibilities. We will not converge around the idea of a co-operative coexistence and of enriching interdependence if we do not propose them as an objective and as the definition of our species. A universal definition of well-being could be the basis of a common project. The question of participation, therefore, becomes an absolute necessity in the construction of a valid and valued human co-existence.

In this situation, the base line is the individual person. If there are no guarantees that every person can participate effectively in the decisions adopted by the most elemental group to which he or she belongs, the process will be perverted from the start by admitting poverty and exclusion. In the last resort, this means denying a future to certain people. If the people have not participated in deciding what they want, giving them something material from outside is useless. This only means we have taken away their freedom to be what they want to be and we have left them without a future.

A human being becomes human when his or her potential is stimulated and this happens only when he or she has a future. People experience well-being when they can decide about their life, when their capabilities and the resources available allow them to distinguish, to choose, to reject, to programme, to desire, to feel, etc. The recognition of this objective as the basis of humanity and the commitment to carry out the public action required to achieve it is the ethical basis which we propose in order to construct a new human paradigm which provides answers in the global dimension we are faced with.

2. ECONOMIC GLOBALISATION AND BASIC HUMAN NEEDS

The term «globalisation» tries to explain the increasing economic interrelations and the multiplication of global networks of production and information which appear to lead inexorably to a true world market. We should therefore expect to see, in the same way as when we talk about the single European market, the free movement of goods, services, people and capital throughout the world. In other words, the most relevant fact is that the economic reference space has widened, from state to global level. This implies the creation of new challenges and opportunities which all can take advantage of, if they can adapt to the new situation. From this point of view, economic globalisation implies an improvement in human well-being. However, this official discourse of Northern (and of many Southern and Eastern)[7] governments, which the international economic institutions they dominate have not ceased to repeat for the last two decades, does not fit very well with existing economic reality.

AN EXCLUSIVE GLOBALISATION

The evolution of the world economy in the last twenty-five years shows certain characteristics that question this optimistic vision of the processes underway. First, world trade flows have polarised. The origin and destination of these flows have concentrated in the Northern countries and in the few Southern economies that have transformed themselves in large-scale exporters of manufactured goods.[8] In this way, large swaths of the Third World, including Sub-Saharan Africa and most of Asia and Latin America, together with the countries in transition in Eastern Europe, are being excluded from world trade. The regulation of world trade has contributed to this, since it is based on the liberalisation of trade in manufactured goods in general, but not that of textiles and clothing or of agricultural products.

Secondly, despite the tremendous expansion of international financial and currency markets, most countries have remained on the sidelines of this globalisation of capital flows. Investment is directed essentially to Northern financial markets and, to a much lesser extent, to no more than a dozen emerging markets. Moreover, the list of participating developing countries changes as some markets disappear after each of the frequent international financial crisis.[9] These crises are caused by the sudden fluctuations of capital movements that increasingly escape from the control of governments and multilateral institutions and provoke great economic instability. Paradoxically, these recurrent crises are of increasing concern to the same state authorities and organisations such as the IMF that have been recommending and putting into practice this international financial liberalisation for more than two decades.

In the third place, movements of labour are much less important than at other historical periods and are faced with increasing difficulties when the movement is from South or East to North. As a result, the defenders of globalisation tend to forget this unpleasant lack of coherence. The globalisation is thus seen as an exclusive and deceptive one: not everyone can participate and not everyone can win. A global market is being built for some concerns but not for others: there is considerable globalisation in the commercial field and even more in the financial field, but there is no globalisation for the people who are looking to improve their situation through employment. Some participate more and more in this global market under construction while others remain on the sidelines and are marginalized.

Unequal income distribution has increased in each country, both in the North and in the South and, above all, in the East. The gap between developed and developing economies has widened. With the important exception of East Asia and the Pacific region, the income per capita of the developing countries is further from that of the Northern countries than it was forty years ago. In the extreme case of sub-Saharan Africa, the income per capita is lower in absolute terms than thirty years ago. Thus, the distance between the rich and the poor has increased at a global level. The distance between the richest 10% of world population and the poorest

10% has increased from 1 to 19 in 1970 to 1 to 27 in 1997 (UNDP, 2001).

In accordance with this fact, poverty has not diminished. Thus, even the arbitrary indicator of poverty used by the World Bank shows the persistent economic misery of excluded populations at the beginning of the twenty-first century. According to statistics from 1998, almost half the world population -2800 million people- lives on less than two dollars a day. Of this population, 1200 million people, a fifth of humanity, live on less than a dollar a day. The latter figure is similar to that of 1987, which means that the percentage of the total population in absolute misery has improved somewhat (from 28% of the world population to 24%). But this is due almost entirely to the sharp decline in poverty experienced in China. Excluding China, the percentage of the population with less than a dollar a day would have been consolidated and the absolute figure would have risen by 100 million in this period. This increase is found principally in sub-Saharan Africa, but also in Southern Asia, in Latin America and in the East (Eastern Europe and the ex Soviet Union), where the increase of poverty has been spectacular and has reached 24 million people (World Bank, 2000).

Approximately two out of every three people who have less than a dollar a day suffer from hunger at the beginning of the twenty first century: 826 million people, forty million less than ten years ago. However, the progress made in the reduction of chronic malnutrition is much slower than was foreseen in the World Food Summit in 1996 and included in the Millennium Declaration. To continue at the current pace, sixty years will be needed to halve the number of people who suffer hunger, or in other words in 2015 there will be close to 700 million undernourished people. As it can be expected, the geography of malnutrition and that of absolute poverty are very similar. Southern Asia (in quantity) and sub-Saharan Africa (in intensity) are the unhappy winners: in both regions the absolute numbers of undernourished people has increased and the percentages have barely declined in the past decade. However, neither the rest of Asia, despite the progress made by China, nor Latin America are free from this curse, which has also grown rapidly in the Eastern bloc countries, particularly in the former-Soviet republics (FAO, 2001).

As we have seen, the official pro-globalisation discourse promises universal benefits derived from the complete liberalisation of the economy; promises which it does not fulfil. It therefore refuses to accept that the kind of globalisation we are witnessing is neither inexorable nor the only globalisation possible. Speaking of human actions, there is always an alternative. Against the dominant ideology and neoliberal policies, «Another world is possible» as the World Social Forum has proclaimed.[10] Indeed the actually existing globalisation is the result of the implementation of a concrete, neoliberal project. This project became dominant in the Northern countries at the beginning of the 1980s and quickly extended to the Southern countries and, from the 1990s onwards, to the East, with the helping hand of the World Bank and FMI's structural adjustment programmes. The clearest expression of this project is the World Trade Organisation (WTO). Above all, the official discourse hides the fact that the rules with which globalisation is built do not even open opportunities for everyone. It is not that everyone is denied the *same* opportunities, which in itself would be evidence of an injustice given the enormous inequalities from which different countries start, but rather that in many cases the opportunities are simply not available for all. This is the case with the WTO rules concerning agriculture, textiles, services or intellectual property rights.

THE WTO, PARADIGM OF NEOLIBERAL GLOBALISATION

The current world economic rules were written at the peak of neoliberal influence, during the eight years of negotiation of the Uruguay Round, which ended in 1994 with the creation of the WTO. The rules of the WTO, in force since 1995, present the clearest expression of the playing field that those who promote neoliberal globalisation seek to construct. In fact, the WTO is a basic element in the deepening of neoliberal practice. This practice is different from the discourse in that it only liberalises those markets which are convenient, at the required rhythm for those who really dictate the rules of the world economy: the major multinational companies based in the Northern countries.

The agricultural and textile sectors have been protected in this way for decades, in the framework of the General Agreement on Tariffs and Trade (GATT), and with the arrival of the WTO trade in these sectors is being liberalised little by little. In the same way, the service sector has been placed under the WTO's supervision, through the General Agreement of Trade in Services (GATS) and those areas (financial services, telecommunications, etc.) where the United States and the European Union believe their companies will gain advantages are beginning to be liberalised. At the same time migrations of labour are explicitly excluded from the WTO's field of competence, while the Northern countries have imposed a uniform projection of intellectual property rights, much to the advantage of the multinational companies, which obtain ever larger incomes from the trade in this matter.

The Agreement on Trade Related Intellectual Property Rights (TRIPS) is one of the central pieces of this construction. Another is the capacity of the WTO, through its Dispute Settlement Body, to impose economic sanctions on countries that do not comply with WTO rules. No other world-wide organisation has such a capacity. It should be pointed out that these sanctions could consist of intersecting reprisals, by which the failure to comply with TRIPS rules can be punished by a restriction in imports of goods, which would fall under GATT regulations. This explains the presence of intellectual property rights, which were already controlled by the World Intellectual Property Organisation (WIPO), in the WTO. It also explains the repeated attempts of Northern countries to widen the field of competence of the WTO to almost any «trade related» matter: investment, labour rights, environmental protection, etc.

TRIPS establishes minimum rules on the protection of patents, registered trademarks and author's rights which must be complied with by all member countries of the WTO. There are fixed timetables for developing countries to adapt their national legislation, generally five years, which have already expired, plus a further five years when they are obliged to introduce a law for a previously unprotected sector. Without wishing to minimise the importance of the other two questions, we will centre our attention on the effect that this universalisation of patents causes on Southern economies. TRIPS implies levelling up of the protection on innovations by means of patents, so that the absence or «weakness» of protection should be strengthened to the level of the most powerful economies. This implies, among other things, a minimum life of twenty years for patents, both for products and for processes, and their extension to all sectors of the economy. Thus – and this implies a novelty even for developed countries- the extension of patents to certain life forms. Effectively, although article 27.3 of TRIPS allows countries to ban patents on plants and animals, it obliges them to accept patents on microorganisms, plant varieties and microbiological processes.

This is a very controversial matter from many different points of view. The «patents on life» are the subject of a debate that starts with the denomination itself, rejected by industry for reasons of public relations. However, apart from the discussion over the name, it appears obvious that a patent can only be applied to something that has been invented. And biological material is discovered not invented. According to the basic principle of patents legislation developed since the industrial revolution, only inventions can be patented, not mere discoveries. Thus, the TRIPS rules appear to stretch the concept of invention further than should be admissible, allowing biotechnology to claim the creation of life itself. The dubious legal solution has been to declare that a naturally occurring substance is patentable if it is isolated and purified by human intervention (Drahos, 1999).

But the ethical questioning of TRIPS does not stop there. Indigenous communities, Southern governments and NGOs accuse TRIPS of providing cover for bio-piracy by Northern multinational companies, which patent biological material and Southern peasantry's ancestral knowledge (Shiva, 1998). This clearly enters into contradiction with the United Nations Convention on Biodiversity, which establishes the right of indigenous communities to share the benefits of the use of genetic resources (Khor, 2000). Thus, although these patents on biotechnological «inventions» have legal cover, numerous civil organisations and Southern governments consider them illicit and support their removal.

Moreover, the protection of intellectual property does not seem very coherent with the basic principles of the WTO, by which the liberalisation of trade will be of benefit for everyone. Historically, intellectual property rights, which were developed with the arrival of capitalism, are linked to the ideas of monopoly and privilege. Now they are justified with the argument that there would be no investment in research if it were not profitable. Thus, conventionally, the protection of intellectual property rights on a temporary basis implies a balance between incentives for creativity and the defence of the public interest (Sánchez Padrón, 2002). This temporary privatisation of knowledge implies the private appropriation of something that, by its very nature, is the result of an accumulative public process acquired by humanity during thousands of years, and thus appears highly debatable. It would seem more appropriate to use something which belongs to all humanity for everyone's benefit rather than only for a minority. Moreover, it obstructs the unselfish sharing of information, which has been so important in the progress of scientific research. Neither is it true that creativity only exists when it produces profits and is protected by intellectual property rights. In fact, most major inventions have been developed in a very different context.

The privatisation of knowledge and its concentration in the hands of a few multinational companies marks the orientation of scientific and technological research towards the profitable, at the expense of the necessary. Thus between 1979 and 1997, the number of requests for patents in the WIPO rose from 3000 to 54.000. It is calculated that 97% of world patents belong to Northern based companies. In the last twenty years, the constant privatisation of research, financial and trade liberalisation and the strengthening of intellectual property rights have come together to increasingly marginalise an important part of the world's population (UNDP, 1999). The peculiar globalisation we are experiencing is based on the extension of the global market to all the possible corners and sectors of the world. Thus, the process of commercialisation and private appropriation is reaching the sectors of public services and scientific and technological knowledge.

All of the above is far easier to understand if we remember that the implication of the multinational companies in the decisions taken by the WTO/GATT since the Uruguay Round has reached scandalous heights. Different interest groups have pressured governments, particularly the US government, to influence their positions and the composition of delegations as well as to intervene directly in the orientation of GATT. It is of little surprise to discover that the content of the agreements are much more favourable to the interests of the multinationals than to those of thousands of millions of people supposedly defended by their governments. The most recent WTO ministerial conferences (Seattle 1999 and Doha 2001) have not been financed by multinational companies in vain. Although high level civil servants are the only formally legitimate representatives allowed to take part in the negotiations, the permeability between these civil servants and the multinationals is highly suspicious, and can even come to resemble revolving doors. The principal negotiator for the United States, the then-Secretary of State for Trade, Mickey Kantor, has since moved to Monsanto (Ferrara, 1998). And Monsanto is one of the multinationals which managed to introduce TRIPS in the WTO with the decisive support of the US representative body, which included 96 people from the business field in a delegation of 111 (CEO, 1999).

The TRIPS case is evidence of the real empire of the multinationals in the establishment of world economic rules according to their wishes. TRIPS is a direct result of pressure from the same companies that benefit from it. First, a dozen large US multinationals, half of them related to the pharmaceutical or biotechnological industries, created the Intellectual Property Commission (IPC) with the explicit aim of including this matter in the GATT agenda. The European employers grouping UNICE and the Japanese grouping Keidanren joined IPC to put pressure on their own governments. In 1988 this coalition of business organisations from the Triad did what had never been done before; it proposed a draft version of what would later become TRIPS to the then–Director of GATT (CEO, 1999). This document contains all the essential elements of the later agreement, including the widening of what could be patented to the field of life forms (Shiva, 1998).

Until this standardisation imposed by TRIPS, different countries had developed patent laws based on technology they needed for their economic development, with the consequent difference between laws in different countries. In general, economies with less technological development established a «weak» system of patents, favouring the absorption of technology by imitation, as the industrialised countries had done before them. This was the case of Japan in the post war expansion and also, later on, of other South East Asian countries which also grew to be competitors for US and European industry. The technologically powerful economies tended to have a system of «strong» patents designed to hinder the springing up of competitors. With TRIPS there has been a qualitative change: the potential future competitors are being restricted by a tight control which stops, or at least slows down, their possible technological development (Correa, 2000).

Once TRIPS was in place, the need to be competitive with the fast-lane US biotechnology industry was used as the decisive argument to introduce the European Union Directive on Legal Protection of Biotechnology inventions. This directive, very similar to that which was rejected for ethical reasons after a long debate in 1995, widens the field of patents to plants, animals and human biological material. This radical change of position in only three years can be explained in part by the economistic argument of the need to adapt to globalisation, mentioned above, but it is also due to the efforts of EuropaBio, a pressure group created in 1996 by the main European biotechnological companies and which works in Brussels to influence the EU. Evidence of this group's methods is the 30 million dollars which one of the sector's biggest multinationals, SmithKline Beecham, spent to promote the passing of this initiative (CEO, 2001). Due to the controversy around this issue, several countries have declined to apply the directive for the moment.

This controversy has also reached the United Nations. In August 2000 a resolution of the UN Sub-Commission for the Protection and Promotion of Human Rights admitted that there is a conflict between the private interests protected by TRIPS and public or social interests incorporated in international law on human rights. Basing its opinion on the UN Conventions on Economic, Social and Cultural Rights and on Biodiversity, the Sub-Commission questions the negative consequences of the application of TRIPS on people's rights to health and food. The Sub-Commission therefore commits itself to supervising the matter and recalls the fact that intellectual property rights are subject to public interest limitations.[11] In April 2001 the UN High Commission for Human Rights took over the case, this time with regard to access to medicines in the context of epidemics such as HIV/AIDS. The resolution adopted recognises that access to medication is a basic element in the advances towards people's full rights to enjoy the best possible physical and mental health. It also requires the member states to make sure that the application of international agreements is compatible with public health (Raghawan, 2001 Reference missing in bibliography). In August 2001 the aforementioned Human Rights Sub-Commission made a new call for governments to protect the social function of intellectual property. Moreover the resolution calls on the High Commissioner for Human Rights to organise a Seminar to study the relationship between human rights and TRIPS[12].

In the context of this debate, with ethical principles and economic profits at stake, we will analyse the relationship between two knowledge intensive chemical industries -biotechnology and the pharmaceutical sector- and the satisfaction of basic human needs such as food and health. Technological progress, in general, and that experienced in these fields, in particular, has always motivated the hope of a world free of privations. Nevertheless, global reality at the beginning of the twenty-first century, in the midst of full-scale globalisation, does not allow us to be as optimistic. The means exist, but they are not within everyone's reach.

THE BIOTECHNOLOGY INDUSTRY AND THE ERADICATION OF HUNGER

Biotechnology is not an industrial sector in the strict sense of the word. We are talking about technology in the field of life sciences with applications in the pharmaceutical industry and in agribusiness amongst other sectors. There are large-scale biotechnological companies such as Monsanto, but also small, specialised firms, which tend to be the most innovative, although the formation of clusters and relationships between companies is increasingly important. Since biotechnology is technology or knowledge intensive, the main producers are in industrialised countries (UNCTAD, 2001), although using raw materials that mainly come from Southern eco-systems. The United States maintains the leading position in the biotechnology research field, given that it offers the most effective setting, after benefiting from considerable public funding. At the same time, the European Union has expressed its concern over its difficulties in this field (COM, 2001).

In a greatly expanding sector the leading bio-pharmaceutical firm is Amgen. This company carried out the biggest fusion in the sector, in December 2001, when it bought its rival Immunex for the sum of $16 billion (Fortune, Europe Edition, March 11, 2002, No. 3). Although pharmaceutical firms have traditionally taken over biotechnological ones, today bio-pharmaceutical companies are buying each other (The Economist, December 22 2001). Biotechnology is also applied to agriculture or to agribusiness, term applied in the 1950s to show the increasing interrelationship between agriculture and industry. In fact, agriculture has links with industry at both ends of its activity. Inputs imply relationships with the agricultural machinery industry, with the chemical sector (fertilisers, pesticides, and seeds) and others. Outputs imply links with agro-food industry. In this field we can find multinationals such as Unilever or Nestle. Here we will limit our analysis to the field of .. chemical industry and, more specifically, to biotechnology. Since the mid-1990s, after years of research, biotechnology has revolutionised seed and pesticide markets with the introduction of genetically modified plants.

The most active companies in agricultural biotechnology are Syngenta, Monsanto, AgriBiotech, AgrEvo/Aventis, Limagrain, Empresa La Moderna (ELM), Rhone-Poulenc Agro, DuPont, DeKalb Genetics, etc. As an exception it is worth pointing out that ELM is Mexican. Although some of these companies work in both the pharmaceutical sector and in agricultural biotechnology, the latest tendency is the selling off or separation of the agricultural branch. Four leading pharmaceutical companies (American Home Products, Novartis, AstraZeneca and Aventis) have decided to shed their agricultural divisions. In 2000 Novartis agribusiness and Zeneca agrochemicals merged to form Syngenta. At the same time, Pharmacia has crated a separate unit (Monsanto) as part of its recent fusion.

In recent years we have observed a process of mergers and acquisitions and of vertical integration in the sector. The major biotechnology companies are buying up the few seed companies that remain in individual owners' hands in order to control the genetic material which agricultural production depends on. For example, in 1997 Monsanto bought up the Brazilian seed firm Sementes Agroceres, thus acquiring 30% of the Brazilian market for grain seed. In 1998 the same company bought DeKalb Genetics and the seed division of Cargill's. In this way, Monsanto controls more than half of Argentina's corn seed. As a result of this business concentration, ten biotechnology companies (among which we can find DuPont, Monsanto and Novartis) receive 32% of all income from the trade in seed (Rifkin, 2000).

Inventions based on seeds are currently protected by patents, now that property rights have been extended to life forms with TRIPS, although this tendency was already evident in the US several years before. In 1987 the US Patents and Trademark Office permitted the patenting of living creatures (genes, chromosomes, cells and tissues) and their consideration as intellectual property (Rifkin, 2000). For plants, specific legislation existed even earlier. The 1930 US Plant Patent Act established intellectual property rights over asexually reproduced plants. In 1968 an international treaty, the Union for the Protection of New Varieties of Plants (UPOV), signed above all by the industrialised countries, established rights over new varieties of plants. In spite of this, most countries allowed exceptions to these rights for their farmers, provided that they were not involved in trading these seeds. Nevertheless, the UPOV has become more restrictive since 1991 and some countries have eliminated the exemptions for their farmers (Kothari, 1999).

Modern biotechnology designs genetically modified organisms (GMOs) in laboratories, far from the traditional wisdom which has given rise to an immense variety of crops and breeds of livestock for human consumption. Protected by patents, the multinationals are now able to take advantage of this common legacy of all humanity for their own benefit. They patent genetically modified seeds whose main virtue is that they are sterile or simple prohibit the traditional practice of reusing seeds at the new harvest. This could put at risk access to food for many millions of poor peasants, while at the same time mounting a frontal assault on the maintenance of biodiversity. For the problem is not biotechnology in itself but rather the biotechnology of the multinationals, which moreover has the tendency to transform itself into all biotechnology. Thus, the genetic manipulation which is carried out is guided by economic profitability rather than by human needs, while at the same time ignoring the principle of precaution (Riechmann, 1999).

Despite the justifications of the biotechnology multinationals for their vast profits based on the monopoly granted by patents, justifications centred on the argument that genetic engineering will end world hunger, world hunger continues to exist. This is because hunger is not a problem of food availability, at least in the short run[13]. It is estimated that there is enough food to feed approximately 12% more than the current population (WRI, 1998). Hunger is basically a problem of poverty and the solution involves wealth (re)distribution, which gives access to foodstuffs. Chronic malnutrition is intimately related to poverty and even in periods of famine which cause many deaths, the main cause does not tend to be a lack of foodstuffs (Sen, 1981). Comparing the evolution of China and India since the 1940s, some interesting differences can be observed. China made major advances in reducing poverty and hunger through the creation of rural employment and the provision of health and nutrition services, in both rural and urban areas. However this did not prevent the great famine of 1958-61, which caught the authorities unprepared. In India, there has been more progress in the prevention of famine, due to the popular pressure that obliged the government to take effective measures for bad times, than in the reduction of chronic malnutrition, which needs profound social changes to combat poverty (Drèze and Sen, 1989).

For this reason, the strategies to obtain food security, which were based on national food availability in their origins in the 1960s, have evolved towards a focus on the family unit. In this way, household food security insists on guaranteeing access to food for the poorest and most vulnerable sectors of the population. From this position the idea of the human right to food has developed, with legal, ethical and political dimensions which impose on states and the international community the obligation to respect, protect and promote household food security (Pérez de Armiño, 2000). The fact is that there is hunger in several countries which are major food exporters: in the mid-1990s, more than three-quarters of malnourished underfives in the world lived in countries with a net surplus of foodstuffs (Gardner y Halweil, 2000 reference missing). In Brazil, which is the world's fourth largest agricultural producer[14] and a major food exporter, 10% of the population goes hungry (FAO, 2000, 2001).

The so-called Green Revolution of the 1950s and 1960s also proclaimed the end of world-wide malnutrition. Research institutes and seed companies developed new types of seeds that provided greater yield per hectare, although they needed chemical fertilisers, pesticides and irrigation that substituted traditional practice. While it is true that production rose, the strategy has not been enough to reduce hunger since it has not altered socio-economic structures in favour of the poor. In fact, it has facilitated the concentration of land and profits from agriculture in fewer hands. The result has been more food and more hungry people, even though this appears paradoxical. In the Third World as a whole, the availability of food per person increased by 11% between 1970 and 1990 and the number of under-nourished people fell by 16%, which is undoubtedly a success, as the defender of the Green Revolution points out. However, excluding China, the number of undernourished people rose, despite the increase in the availability of food per capita, both in Latin America and in South Asia, the main bastions of the green revolution (Lappé et al., 1998).

Once again, the difference between these cases and the strategy followed by China, which involved profound economic and social changes, transformed a necessary factor, that of an increase in food production, into a sufficient one. In an unchanging social context, the application of Green Revolution techniques harmed the poorest people in rural areas, who lacked access to credit and irrigation and were without political influence. They were thus unable to take part in an industrialised agriculture that needs ever more fertilisers and pesticides to maintain the same results. This is why, when biotechnology multinationals announce a second Green Revolution, not only should we take into account the ecological implications but also raise the question of whether this would solve the distressing problem of hunger (Lappé et al., 1998).

This is not to say that certain application of biotechnology which can help to increase agricultural yields on marginal land or make crops more resistant to drought are not very welcome (UNDP, 2001). However, a biotechnological investigation with precise objectives which favour poor people in the rural areas of the South does not stand much chance of being funded by private companies, which by definition are profit making entities. Public funding is therefore necessary (FAO, 2000b). But Official Development Aid has been falling for the last ten years and it is not possible to remain very optimistic in this sense.

PHARMACEUTICAL COMPANIES AND AVAILABILITY OF MEDICINES

The case of the pharmaceutical industry clearly shows the difference between justifying patents for the common good and acting for one's own benefit with a total disregard for public interest. On the one hand, it is not even true that patents are the unavoidable price to pay for the research needed to develop new drugs. This information is kept secret and the little that is published is highly contradictory: there are variations in the figures of between two million dollars and 500 million (Hoen, 2000). Moreover, in

The ten largest pharmaceutical companies by sales in 1989 ($million) and 2000 ($ billion)

	1989		*2000*	
1.	Johnson & Johnson (US)	9844	GlaxoSmithKline (UK)	23.5
2.	Bristol-Myers Squibb (US)	9422	Pfizer (US)	22.6
3.	SmithKline Beecham (UK)	8029	Merck (US)	18.6
4.	Sandoz (Switzerland)	7766	AstraZeneca (UK)	15.7
5.	American Home Products (US)	6747	Aventis (France)	15.2
6.	Merck (US)	6698	Bristol-Myers Squibb (US)	14.4
7.	Pfizer (US)	5904	Johnson & Johnson (US)	12.0
8.	Takeda Chemical (Japan)	5454	Novartis (Switzerland)	10.9
9.	Abbot Laboratories (US)	5454	Pharmacia (US)	10.8
10.	Glaxo Holdings (UK)	4408	American Home Products (US)	10.8

Sources: Fortune for 1989 and Pharma for 2000. The figures for 2000 only include turnover for the pharmaceutical sector.

many cases most of the research has been paid for with public money: «The applied research that is carried out in the pharmaceutical industry interacts ever more strongly with the progress of academic research carried out in hospitals, medical centres and universities. There has always been a very strong complementarity between the product-oriented research done in industrial laboratories and the more problem-oriented research carried on in academic settings» (Duestsch, 1998: 102).

On the other hand, these companies' research is not directed towards poor people's illnesses, given that their limited spending power implies little potential business. Thus, only 0,2% of world health-related technological research and development is dedicated to pneumonia, diarrhoea and tuberculosis, three poverty-related diseases which make up 18% of world illnesses (UNDP, 1999). In the same way, of 1223 new chemicals entities developed between 1975 and 1997, only 13 are for treating tropical illnesses and only four were the result of research by the pharmaceutical industry. Another example concerns the only effective medication against sleeping sickness in its advanced state which is no longer produced by the multinational that holds the patent because the thirty thousand people who catch the disease each year do not represent a commercial interest (Hoen, 2000).

This should not surprise us if we observe some basic facts about the pharmaceutical sector. Its demand is concentrated in industrialised countries, with Africa representing only 1.3% of its market and South East Asia, including China, representing 5% (Hoen, 2000). Its production is dominated by Northern companies (UNCTAD, 2001). Within the Triad, the main producer in 1997 was the European Union with 45.3% of total production, followed by the United States with 35.9% and Japan with 18.8% (COM, 2000). Of the ten largest companies in the world, six were from the United States and the rest were European.

The US and European companies (but not the Japanese ones) have passed through an intense process of mergers and take-overs to create a wider base for research and a higher share of the market. In 1985, for example, Glaxo bought Wellcome. The year 2000 was very intense. Glaxo Wellcome took over SmithKline Beecham for $76 billion. Pfizer completed its merger with Warner-Lambert. Pharmacia & Upjohn completed their purchase of Monsanto/Searle. Recently, Bristol-Myers Squibb has taken over DuPont Pharmaceutical. In addition to these operations, the companies increasingly develop strategic alliances and agreements to collaborate with each other. The level of concentration does not appear to be too high and it is estimated that GlaxoSmithKline commands 7.3% of the market after its fusion. What is undeniable is their market power which is clear if we observe the high market share that a few companies command in specific products: analgesics, antibiotics, etc.

The pharmaceutical sector is technology intensive, but not as much as is commonly believed. GlaxoSmithKline, for example, spent 16% of its turnover in 2000 on research and development and Pfizer spent 19%. Staff costs are relatively high; in 1999 they made up 22.8% of total operating costs in the case of the European pharmaceutical companies. According to the European Commission, this is a result of the high number of research staff in these companies and their high salaries (COM, 2000). Nevertheless the technological intensity of the pharmaceutical sector has been overestimated. According to a study carried out by the Health Reform Program at the Boston University School of Public Health, marketing costs are much more important than research costs. In the year 2000 US pharmaceuticals employed 81% more people in marketing than in R+D. We can therefore see that the industry is in fact marketing intensive: the consumer pays more for marketing than for research (Sager and Scolar, 2001). It is precisely because of this fact that the companies are able to increase their monopoly power. The power of the pharmaceutical companies is such that they try to manipulate clinical trials of their products as part of their marketing policy. This is the accusation of the 12 most important medical journals in the world: The Lancet, The New England Journal of Medicine, BMJ, The Journal of the American Medical Association, amongst others (El País, 11-09-2001).

The key elements for their business are the patents. The major pharmaceuticals depend to a considerable extent on a few patented products, which make up a high percentage of their income. Patents give pharmaceutical companies monopoly power that enables them to set prices in a totally arbitrary way. In fact the prices of medicines vary substantially between neighbouring countries, always reaching a highest possible level in each market. Thus, in 1995, the same presentation of Amoxil from SmithKline Beecham sold at $36 in the United States and $14 in Canada; $16 in Italy and $60 in Germany; $29 in the Philippines, $34 in Malaysia and $8 in Pakistan (Hoen, 2000). Moreover, once it has been invented the production cost for medicine is relatively small.

As a result, the pharmaceutical companies make enormous profits. Their income rate is much higher than the average of the five hundred biggest companies in the world. As we saw in the figure, year after year the pharmaceutical sector is in first place in profits compared to turnover in the Fortune 500 list.

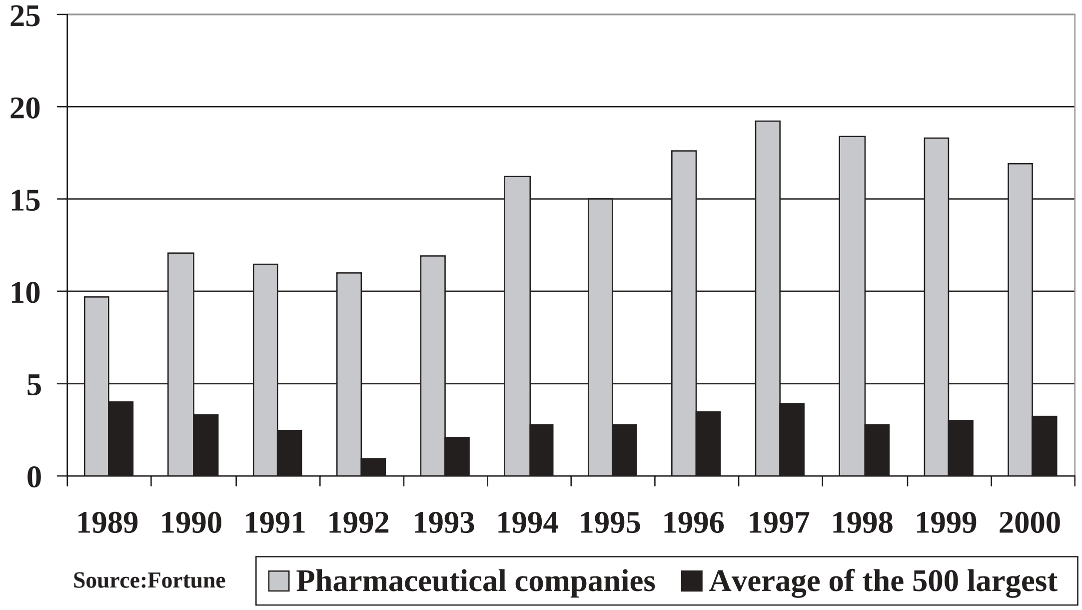
These same companies support the application of TRIPS patents to restrict the rights of Third World countries to produce, commercialise and import low cost generic essential medicines. This increases prices and reduces yet further the limited access of the poor to vital cures. For example, the Indian generic producer, Cipla, is able to offer its AIDS combination medicines for US$150-300 per year per patient, compared with the US$10,000-15,000 being sold by the multinational companies; which means the difference between life and death for many poor people in Southern countries. Moreover, in countries where alternative or generic medicines are available, the price of a branded product usually falls as a result of the competition it faces from low-priced alternatives. When the Brazilian government began producing AIDS drugs generically, for example, the prices of equivalent branded products dropped by 79 per cent. The same brand is sold at a higher price in countries where there is no competition from generic producers (Oh and Leaver, 2001).

Until now many Southern countries and some Northern ones, putting public health before private profit, have not maintained a protectionist patents legislation with regard to medicines. For example, they have protected drug production processes but not the final products. In fact, before TRIPS became effective, there were more than fifty countries that did not allow patent rights over pharmaceutical products (Oh, 2000). In this context, very efficient generic drug manufacturing companies have grown up in Southern countries such as India[15], Thailand, Egypt, South Africa, Brazil or Argentina, capable of producing medicines at a much lower price than the originals. This has allowed the reduction of their dependence on imports and has even enabled them to export medicines to other poor countries such as those of sub-Saharan Africa. However it is worth remembering that patents on pharmaceutical products in some Northern countries such as Italy, Japan or Switzerland only appeared in the last quarter of the century (Gerster, 2000).

Moreover, the scant safety measures foreseen in TRIPS are proving very difficult to put into practice. These measures include parallel imports, which implies the purchase of the drug in another country where it is cheaper, and obligatory licences, which involve the concession, in exceptional circumstances, of a production license to a third party without having to obtain the consent of the patent owners. However, thanks to the collaboration of the US government with PhRMA (Pharmaceutical Research and Manufacturers of America), one of the strongest pressure groups in the world, South Africa and Brazil have been accused of not respecting pharmaceutical multinationals' patents and have faced the threat of trade sanctions. Other countries such as Argentina, the Dominican Republic, Egypt, Thailand or India have also been pressured not to use their right to grant obligatory licences and parallel imports, under the threat of being accused before the WTO (Oh, 2000).

The South African case, however, had serious repercussions in public opinion thanks to the campaigns of Oxfam International y Médecins sans Frontières (MSF)[16] and has become an important step forward. In this country four million people, ten per cent of the population, are affected by HIV/AIDS. Notwithstanding this fact, the effort of the government to supply generic medicines due to the existence of a national health emergency, contemplated in TRIPS, were faced with legal action by the US government before the WTO's Dispute Settlement Body. Although domestic and international pressure obliged the Clinton administration to back down, a coalition of 39 companies took over the accusation and challenged the law in South African courts on the grounds that it was a violation of TRIPS (Oh, 2000). Months later the pharmaceutical companies withdrew their case due to the bad publicity which their actions received in their real markets in the Northern countries. The affair was transferred to the IV WTO Ministerial Conference in Doha, in November 2001, where TRIPS was to be revised.

The Declaration on TRIPS and Public Health agreed in Doha is an important step forward in the campaign for affordable medicines. It affirmed the primacy of public health over intellectual property rights, and the rights of governments to make full use of the public health safeguards in TRIPS. The Declaration also gives least-developed countries more time before they are required to implement pharmaceutical patenting. However, there is some important unfinished business in the Doha Declaration. Ministers recognised a fundamental imbalance within the TRIPS Agreement and committed themselves to finding an effective solution before the end of 2002. This concerns the way the TRIPS Agreement, by restricting countries like India from exporting inexpensive generic versions of new



Net profits in the world's 500 largest companies and in the pharmaceutical companies (in per cent)

medicines, will prevent most developing countries from finding affordable sources of new improved medicines to treat diseases such as HIV/AIDS, malaria, and tuberculosis.

Many developing countries cannot afford expensive patented medicines yet neither can they produce cheaper generic versions. Currently they can import these generic copies from a handful of other developing countries which do have the capacity to produce them, but which have not yet fully complied with TRIPS. The key problem is that these cheaper supplies of medicines will begin to dry up once India and other developing-country generic producers comply with TRIPS, which they have to do by January 1st 2005, at the latest. This is because TRIPS prohibits producer countries from exporting cheap copies of patented medicines, whatever the health needs in other countries, and even when there is no patent in force in the importing country. This represents a fundamental imbalance in TRIPS[17]. Some developing countries and NGOs argue that the simple solution to this problem is to lift TRIPS restrictions on exports of public health related products.

But the governments of the United States and other industrialised countries, pressured by their pharmaceutical industries, oppose this. It therefore appears difficult to believe that this path will be able to establish the primacy of the right of access to basic medicines over rights connected with intellectual property. Nevertheless, effective follow up to the Doha Declaration is a crucial next step in making patent rules compatible with public health and development needs. Half-baked solutions will indicate that rich-country governments are not serious about allowing developing countries the right to buy the cheapest medicines, and will merely strengthen the calls for a fundamental redesign of TRIPS (Mayne et al., 2002).

RECONSIDERING TRIPS: A STEP FORWARD TO CHANGE THE DIRECTION OF GLOBALISATION

For all the above, many Third World countries call for TRIPS to be modified and even for it to be removed from the WTO framework, seeing it as an obstacle for their development and a danger for the environment, even a attack on the right to life. They remind the developed countries that they were able to incorporate existing technologies without having to face protectionism such as that imposed by TRIPS. The World Bank (2001), which predicts future opportunities for developing countries under TRIPS, recognises, however, that these rules clearly favour industrialised economies and imply a considerable cost for Southern ones. This is due to the increase in payments for the use of technology and the price rise of products such as computer programmes or medicines. The biopharmaceutical companies are working hard to obtain new drugs in a field with great potential, especially after the publishing of the human genome map. But these new medicines will be even more expensive than the existing ones and therefore further from the reach of a third of humanity –including half of the population of the poorest parts of Asia and Africa- who do not have access to essential medicines (Hoen, 2000).

They also recall that intellectual property rights, as defined and protected by TRIPS, legalise biopiracy and contribute to the destruction of traditional forms of agricultural production and reduce access to food. They therefore propose the renegotiation of the agreement and, in the meantime, the extension of the period of grace until its full application. For the revision of TRIPS, the African Group has proposed making it clear that «it is not permissible to patent plants and animals or any other type of living organism». Instead, it should allow the protection of the innovations of indigenous communities and the peasantry in the Third World (Khor, 2000). For if we really want to fight hunger, food sovereignty is fundamental. According to *Via Campesina* (2000), it is the right of every nation to maintain and develop its own capacity to produce the basic foodstuff for its people, respecting productive and cultural diversity. Food sovereignty implies the right to produce food autonomously in a country's own territory and is a precondition for genuine food security, while patenting life forms leaves the control of genetic resources in private hands and is totally unacceptable. Thus, *Vía Campesina* is committed to changing the unsustainable and unfair models of production and trade.

Patents are a type of property and as such are not ethically neutral. A political regulation of biotechnology developments is necessary, moving from a logic based on the protection of inventions as private property to one based on the social uses and consequences of these inventions. To achieve this a debate is needed in which the whole of the society participates to decide which limits should be placed on the privatisation and commercialisation of biotechnology. These decisions are too important to be left in the hands of the patents system (Sánchez Padrón and Gómez Uranga, 2001).

On the whole, it is becoming clear that the existing economic globalisation based on the tyranny of the market, where the main priority is the profitability of private companies, not only does not improve the situation of many human beings, but in fact make it worse. The acknowledgement that every person has the right of access to the goods and services needed to satisfy his or her basic necessities demands that the public sector performs its role to compensate growing inequalities. Contributing to income redistribution, both at national and at international level, it is the quickest way to eradicate poverty and, in consequence, eliminate hunger. On the road to human development, in the face of neoliberal globalisation, the solution lies in globalise solidarity: it is economically possible and ethically necessary.

KEYWORDS Economic Development. Basic Needs. Patents. Multinational Companies. Third World

ABSTRACT Development has to do with the well-being of all people. Therefore, human rights are a necessary tool to achieve this global objective. The international community doesn't accept these ideas and the Millennium Declaration has clear limits. The process of globalisation is economically exclusive and involves the neo-liberal construction of rules, such as those of the World Trade Organisation, which respond to the interests of the multinationals companies. As a consequence, inequalities in income distribution have increased and poverty and hunger remain persistent problems, while basic medical care is beyond the reach of most of humanity. This is due to market logic, which revolves around business profits rather than the satisfaction of human needs. For this reason technological advances, particularly those in the field of biotechnology, are not a solution in themselves, but rather require a reconsideration of the role of the public sector in order to change their orientation.

NOTES

1 For a panorama of the evolution of economic development thinking and the current debates from an orthodox perspective, although relatively critical of the multilateral financial institutions, see Meier and Stiglitz (2001).

2 The importance of participation in development is highlighted by all development agents. However it is worth differentiating between the proposals which regard participation as a mere instrument to obtain greater efficiency from those which pose participation as the very aim of development. For the latter, which form part of an alternative development approach, participatory development is a distinct approach, complementary to the traditional ways of conceiving and carrying out development aid. In this sense it implies a reconsideration of the traditional role of mediation. The traditional view of the relationships between donor organisations and beneficiaries and of their respective functions undergoes an important change that obliges us to review the form and content of the formulas for association.

3 The United Nations Development Programme (UNDP) has published an annual Human Development Report since 1990, which serves as a good reference point for this normative vision, especially in the first half of the 1990's.

4 The theoretical contributions of Sen (1992, 1999, 2000) have had particular influence on this redefinition of well-being. We owe the analytic concepts of functioning capabilities and

entitlements to this author.

5 The DAC is a body that forms part of the OECD and brings together the donor countries from the economic North. Its role is to establish the requirements to be taken into account in official development aid and the determination of its basic directives.

6 For more details, visit the web site «A better world for all»: http://www.paris21.org/betterworld/

7 The Northern or «developed» countries are the United States, Canada, Western Europe, Japan, Australia and New Zealand. They contain 14% of the world population but own 77% of world GDP. In the South, Third World or «developing» countries, we can find all the Latin American, African and Asian countries (with the exception of Japan and the republics of the ex - Soviet Union). These countries have 79% of the world's population but only 20% of world GDP. The Eastern countries or countries «in transition» are the states which have arisen from the ex – Soviet Union and those of East and Central Europe. They contain 7% of the global population and receive 2,5% of world GDP (United Nations, 2000).

8 We refer to China, the Asian dragons and tigers (Korea, Taiwan, Hong Kong, Singapore, Malaysia, Thailand and Indonesia), Mexico and Brazil, which together represent more than 90% of manufacturing exports from the Third World. These countries participated in 6% of world exports in 1973 and 19% in 2000. In the same period, the remaining Southern economies have fallen from 14% of world exports to 11% and the Eastern countries have halved their previous share of 9% (WTO, 2001).

9 In addition to the episodes which have affected Northern economies (such as the New York stock exchange crash in 1987 or the recent fall in the value of «new economy» shares, the collapse of the property market and the Japanese stick exchange in the early 1990s or the crisis in the European Monetary System in 1992) and the famous debt crisis in the Third World which began in 1982, several crises have occurred in the emerging markets since the mid-1990s. Following the Mexican «tequilazo» (1994), we have witnessed financial crises in Asia (1997), in Russia (1998) and in Brazil (1999). After a short respite, the year 2001 has brought us financial crises in Turkey (February) and in Argentina (December).

10 For information on the World Social Forum, whose first two meetings have been held in Porto Alegre in 2001 and 2002, see the web site: http://www.forumsocialmundial.org.br/

11 We refer to the Resolution of August 17, 2000 on "Intellectual Property Rights and Human Rights" (E/CN.4/Sub.2/2000/L.20). This resolution is based on a preliminary report on "Globalization and is Impact on Full Enjoyment of Human Rights" compiled by two jurists, members of the sub-commission, J. Oloka-Onyango and D. Udagama (E/CN.4/Sub.2/2001/10).

12 Resolution of 16 August 2001 (E/CN.4/Sub.2/RES/2001/21).

13 Even a neo-Malthusian like Lester R. Brown (2001), who loses no opportunity to identify the demographic growth of the poor as the main cause of their problems, acknowledges that it is possible to increase the productivity of farm land enough to feed the entire world population, both now and in the coming decades. This can be achieved with the need to generalise the use of GMOs, except in the case of more drought-resistant varieties, given the question marks that remain over their effects on the environment and on health.

14 Brazil represents 4.2% of world agricultural production, while its population makes up 2.7% of the world total.

15 The key to Indian pharmaceutical industry success lies in its 1970 Patents Law, which only allows the patenting of processes for a maximum of seven years, while, at the same time, permitting obligatory licenses. Thus, companies such as Cipla have allowed India to enjoy a high degree of self sufficiency in medicines, available at much lower prices than those of the major Northern multinationals. In South Africa, Cipla created a mixed company with a local firm to supply antiretrovirals there. This provoked the anger of the US pharmaceutical industry, which pressure its government to take the case to the WTO.

16 The basic principle of these campaigns is that access to essential and vitally needed medicines is a fundamental human right. Poor people have the right to a good health, and therefore to medicines for the treatment of poverty-related diseases. Protecting people's health and saving their lives must take precedence over the strict protection of intellectual property and the very high profits which drug companies derive from this. For more information see the following web sites: Oxfam: http://www.oxfam.org.uk/cutthecost/index.html and MSF: http://www.accessmed-msf.org/index.asp

17 TRIPS allows countries to override a patent, for example if prices are too high, or supplies limited, if certain procedures are followed. Countries with their own production capacity, mainly the rich and industrialised, can take advantage of this to produce their own cheap generic versions of medicines. However, the majority of poor countries are not able to because they lack manufacturing capacity. Nor will they be able to override a patent to import medicines, because TRIPS stops generic-producing countries from exporting to them.

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