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# WORKING PAPER

Global Institutional Reform

## Trade, Development and the Doha Round: A Sure Bet or a Train Wreck?

DANIEL DRACHE

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Working Paper No.5

March 2006

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\* Thanks to Blake Evans and Greg Smith for their assistance and many suggestions in the preparation of this paper. Daniel Schwanen gave valuable feedback and his input helped strengthen the final version. Robert Wolfe shared his insight into the importance of the WTO negotiating process. For additional reports on the WTO's legal culture, policy outcomes, and dispute resolution mechanism visit my website: [www.yorku.ca/drache](http://www.yorku.ca/drache).

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Daniel Drache is Associate Director of the Robarts Centre for Canadian Studies and Professor of Political Science at York University. He has written extensively on globalization, the WTO, North American economic integration and new state forms and practices. His most recent work, *Borders Matter: Homeland Security and the Search for North America*, Halifax: Fernwood Publishing, 2004 will soon be released in Spanish published by Siglo XXI and in French by Athena Publishing in 2006. For a full list of Drache's research, papers, and reports visit: [www.yorku.ca/drache](http://www.yorku.ca/drache) or contact drache@yorku.ca.

## **Abstract**

This paper explores the strategy and assumptions that are pushing the Doha Round into dangerously troubled waters, and it assesses the different agendas on the table. It summarizes how we reached the current deadlock, and examines the state of the WTO's legal dispute mechanism. It then critically assesses how divergences play out in the key policy areas of water exports, generic drugs, textile quotas, service-sector liberalization, and agricultural subsidies. Lastly, it will try to answer the question of whether Doha is 'a sure bet, or a train wreck' by looking at several of the prospects and possible scenarios that face the WTO post-Hong Kong. What is now evident is that a target deal seems more distant than ever. It would appear that evolution is not going to be kind to the WTO. The Doha Round is too complex which increases the possibility of failure; too intrusive to assuage many of global civil society's concerns and too anti-development for numerous countries in the Global South to come on board. Paradoxically, many countries are proving to be resilient and innovative when faced with the negotiating impasse and are not pushing the panic button. The global economy is not drifting towards protectionism and the core trading nations seem ready to accept a less dynamic WTO.

## 1. Introduction

The WTO's faltering Doha Round of trade talks has been a turning point for the Global South, for the anti-globalization dissent movement, and for the goals and objectives of the neoliberal goals of the Washington Consensus. Meeting in Cancun in September 2003, the World Trade Organization's (WTO) Fifth Ministerial Conference talks collapsed when members reached an impasse and were unable to find the required common ground.<sup>1</sup> For the first time, the conference witnessed countries of the Global South taking a united stand attempting to make the WTO agenda reflect their own priorities on global poverty and development.<sup>2</sup> Tens of thousands of activists, who had descended on the Mexican city, declared the collapse a "victory for the people of the developing world," and continued to publicize their concerns over both the process and the substance of these negotiations.

Scholars and activists have yet to fully absorb the implications of the failure at Cancun. Nor have they come to terms with the impact which the current cycle of dissent has had on the negotiating environment. The odds of the Doha Round's reaching a successful conclusion grow longer with each passing deadline. The Hong Kong ministerial organized in December 2005 failed to meet any of its deadlines on cutting a deal on agriculture, intellectual property rights, and industrial goods. Agreement on a trade package remains remote, as progress has ground to a halt.<sup>3</sup>

Still, broadening market access remains the strategic priority for the Global South in the Doha Developmental Round.<sup>4</sup> However, obstacles to access continue to multiply. Some of the most problematic areas of contention include US foot-dragging with the WTO dispute resolution decisions and the unwillingness of the

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<sup>1</sup> Daniel Drache, "The Political Economy of Dissent: Global Publics After Cancun". CSGR Working Paper No. 136/04. Centre for the Study of Globalisation and Regionalism. June 2004.

<sup>2</sup> The notion of the Global Soft is a soft term and imprecise. The Global South is made up of many coalitions, ad hoc groups and regional groupings with competing views. The number of loosely knit alliances has exploded into a world of coalitions. A sampling includes the G-20, G-90, Cairns, ACP G-33, and G-10. See Robert Wolfe, for a detailed discussion of their role in broadening the negotiating process of the WTO. In a generic sense, the issues of poverty eradication and development create an overarching common interest with many agendas.

<sup>3</sup> Joseph E Stiglitz and Andrew Charlton, "Development Round of Trade Negotiations in the Aftermath of Cancun". Commonwealth Secretariat. 2005.

<sup>4</sup> World Trade Organization, "Negotiations, implementation and development: the Doha agenda". Online: <[http://www.wto.org/english/tratop\\_e/dda\\_e/dda\\_e.htm](http://www.wto.org/english/tratop_e/dda_e/dda_e.htm)>.

Global North to make significant concessions on agricultural subsidies that directly impact on the Global South's developmental needs.<sup>5</sup>

This paper examines the strategy and assumptions that are pushing the Doha Round into dangerously troubled waters, and attempts to assess the different agendas on the table. It does so by summarizing how we reached the current deadlock, and by examining the current state of the WTO's legal dispute mechanism. It then critically assesses how divergences play out in the key policy areas of water exports, generic drugs, textile quotas, service-sector liberalization, and agricultural subsidies. Lastly, it will try to answer the question of whether Doha is 'a sure bet, or a train wreck' by looking at some possible scenarios that face the WTO post-Hong Kong. Returning to first principles of multilateralism, global public goods and trade liberalization could provide new and innovative directions to a troubled world order. But it seems precisely what trade negotiations from the Global North are set to advert. Winners and losers at the global level do not balance out from one decade to the next. The widening income inequality gap in China, Brazil and Mexico, all regarded as trade success stories, is but one manifestation of the deteriorating social stability that is blocking forward progress at the WTO.

## 2. The Controversy over Economic Benefits

A decade ago, few mainstream experts doubted that a better world trade model entailed aggressive tariff reduction and a radical program of deregulation, privatization and tough fiscal targets to cut taxes and reduce spending.<sup>6</sup> But the failures of structural adjustment policies have polarized public opinion in much of the Global South, and have forced a sea change in mentality. Policy experts have been caught off guard and still don't fully comprehend the extent to which the Washington consensus has unraveled.

Named after the ideas of the orthodox liberal economists and experts who came to Washington in the early 1980s, the Washington Consensus has been identified

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<sup>5</sup> Sylvia Ostry, "The World Trading System: In the Fog of Uncertainty" Lehigh University, April 2004. Forthcoming in *The Review of International Organizations*, 2006.

<sup>6</sup> For example, see Jagdish N Bhagwati, *In Defense of Globalization*. New York: Oxford University Press, 2004; Richard Lipsey, "Economic Growth, Technological Change, and Canadian Economic Policy". Toronto: C.D. Howe Institute, Benefactor's Lecture, 1996.

with the structural adjustment programs of the World Bank's disciplinary framework of aggressive privatization, public deregulation and cutting of social programs to meet strict deficit targets.<sup>7</sup> Many of these assumptions are being revisited by trade experts and development economists alike.<sup>8</sup> The costly trade-off between social welfare and efficiency has fueled a cycle of skepticism among policy analysts and informed publics who now see the profit-maximizing strategies of international competition as posing a danger to the stability of national societies in both the North and South.<sup>9</sup>

The collapse of the trade talks at Cancun set alarm bells ringing, alerting global public opinion to the fact that trade-driven growth increasingly has negative impacts on the incomes of the world's most vulnerable regions, as Milanovic shows in Figure 1. Income inequality continues to be a marked feature throughout the Global South even when poverty levels have been reduced in China and India. Distribution has been skewed to the rich and emerging middle classes.<sup>10</sup>

The asymmetrical gains from free trade remain large and highly visible in the Global South.<sup>11</sup> An example is that of Mexico, where the economic payoffs from

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<sup>7</sup> John Williamson, *What Washington Means by Policy Reform*. Washington: Institute for International Economics, 1990; Moises Naim, "Washington Consensus or Washington Confusion?" in *Foreign Policy*, spring, 2000.

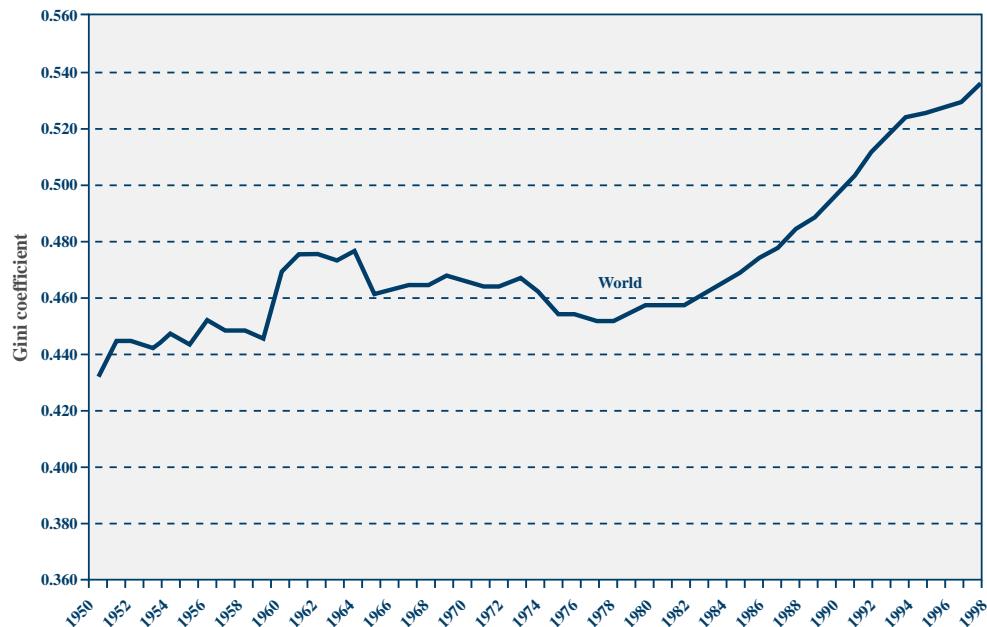
<sup>8</sup> Andrew Rose, "Do we really know that the WTO increases trade?", Centre for Economic Policy Research, No. 3538, September 2005 available online <<http://www.cepr.org>>.

<sup>9</sup> Jeffrey D. Sachs, "Investing in Development: A Practical Plan to Achieve the Millennium Development Goals" *United Nations Millennium Report*, 2005. <<http://www.unmillenniumproject.org/reports/fullreport.htm>>.

<sup>10</sup> Milanovic talks about two "concepts" of inequality when comparing inequality across countries: Concept one, which is unweighted international inequality, and Concept two, which is weighted global inequality. In Concept one inequality the weight of each country is  $1/n$  ( $n$  being the number of countries); in other words, all countries are afforded the same weight in the comparison regardless of their population. In Concept two, each country's gini coefficient value is weighted according to that country's share of the world's population.

<sup>11</sup> Developed by Italian statistician Corrado Gini, the Gini co-efficient is the best method of quantifying income inequality. Charting the Gini co-efficient between 1950 and 2000, Branko Milanovic's article *The Two Faces of Globalization: Against Globalization as We Know It*. New Delhi, India: International Development Economics Associates, 2003 found a dramatic rise in global inequality since the mid-eighties. It is important to note that this period corresponds to the height of the Washington Consensus. Subsequently, his recently published book, *Worlds Apart: Measuring International and Global Inequality*. Princeton, New Jersey: Princeton University Press, 2005 provides an in-depth look at the same subject.

Figure 1. Unweighted international inequality, 1950-1998  
measured by the GINI Coefficient



Source: Branko Milanovic, 2001 [www.networkideas.org](http://www.networkideas.org)

free trade have been smaller than expected. The North American Free Trade Agreement (NAFTA) has provided Mexico with full duty-free access to the United States (US) market; market-access which no other southern country shares. Mexico should have been a showcase for other developing countries. But in per capita terms since 1992, Mexico's economy has grown at barely over 1%, a fraction of its growth-rate during the decades prior to NAFTA.<sup>12</sup> Access to the US market has not been a substitute for a range of domestic factors holding back Mexico's economic growth. A different macro-economic strategy that puts domestic consumer demand and investment in infrastructure and human capital first requires rethinking Mexico's trade and development needs. On the job side of the equation, the NAFTA has failed to produce the hundreds of thousands of new jobs that Mexico requires annually if it is to stop the migration of illegal workers to the US.

<sup>12</sup> Nora Lustig (ed). *Shielding the Poor: Social protection in the developing world*. Washington: Brookings Institution Press, 2001.

Trade has not been a silver bullet for Mexico, nor for the many other countries in the Global South. The best that can be anticipated is that an export-led growth strategy will have positive effects on incomes in the fastest-growing sectors of developing economies, despite the negative impacts for those working in the most vulnerable and exposed industries in the Global South such as textiles, agriculture, and primary resource extraction and processing. For example, in the industrial sectors of many Asian countries, the drive for international competitiveness has been an incentive for many industries to shed labour rather than to create employment. As the case of China so dramatically reveals, employment growth remains uneven. Manufacturing employment has grown persistently but not enough to absorb the massive influx of displaced agricultural workers into cities. Many experts see a link between growing social instability in China and the growing gap between the rich and the poor. The number of violent protests has multiplied tenfold since 1993 and the most violent protests are triggered when peasants lose their land for urban development that benefits principally the wealthy and the massive concentration of resources on industrialization. In 2005, Chinese authorities reported that there were over 87,000 mass protests and the actual number is likely to be much higher.<sup>13</sup>

The Global South, rich in human labour, is at a crossroads. It must find ways to create work and employment faster than jobs are being lost due to the destructive forces of global capitalism.

### 3. WTO's Dispute Settlement Mechanism

The Uruguay Round signatories believed that the WTO would have the last word in trade disputes, and its decisions would be definitive. However, Figure 2 shows that since the Battle in Seattle, WTO rules have been contested more often by the European Union (EU) and the US than by developing countries. The WTO has become a trade court more than a constitutional straightjacket. The heavy users are the US, EU, Japan and Canada, followed by India, Korea, and Brazil. Most of the dispute settlement at the WTO takes place between 34 countries and the largest number are from the advanced industrial world. Between 1995 and 2005, 278 of 329 cases involved a developed country as a complainant or respondent.

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<sup>13</sup> Geoffrey York, "China frets over widening income disparity," *Globe and Mail*, February 9, 2006.

By 2000, only 27 percent of the 149 disputes were filed by the Global South, hardly a critical mass.<sup>14</sup> In percentage terms, this means that 89% of WTO disputes involve at least one country of the North, while only 11% involve countries of the South. In fact, only 29 countries have been involved in a full panel proceeding adopted by the Dispute Settlement Body a dismal figure that speaks volumes about the lack of institutional access to the most important feature of the WTO. Many cases never get to the panel stage, and of those that do, some are bound together, making the actual number of panels, smaller than the number of cases brought to panel. There is an elite taint that raises many issues about lack of access to it.

The proof is in the numbers. The US has been a party in 57 of these cases, the EC a party in 33. The US and EC have been a party in 90 out of 95 cases taken to panel, a fact which speaks not only to the market power of these two trading giants, but also to their near monopoly of the dispute settlement system. Canada follows, having been a party in 20 cases, most of them involving the US and Europe, with the much publicized dispute with Brazil over regional aircraft the only exception. If Poland is removed, Norway, Honduras, and China, who have used it only once from our calculations the result is that only 17 of a possible 148 countries use the panel system with any regularity. From this perspective, after a decade of operation the WTO remains a rich man's club beyond the reach of most developing nations. See Figure 2.

What is now apparent is that the WTO's legal dispute mechanism's decision has been politicized in ways few could have predicted. With respect to steel, textiles, food products, tax subsidies to US corporations, and the Helms-Burton Act, the US Congress drags its feet in implementing WTO rulings when decisions run counter to American interests.<sup>15</sup> This illegal US trade program has been extended to the year 2007. Congress has engaged in a kind of brinkmanship and only complies at the very last moment. Even then funds will be paid under this program for years after that. Over \$1.6 billion (US) have been paid to American companies. The compromise to extend the program is a violation of global trade rules.<sup>16</sup> The disregard shown for

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<sup>13</sup> Geoffrey York, "China frets over widening income disparity," *Globe and Mail*, February 9, 2006.

<sup>14</sup> Daniel Drache, Amy Arnott, and Yunxiang Guan, "WTO Dispute Settlement Report Card". Robarts Centre Research Papers. Robarts Centre for Canadian Studies, York University, Toronto. July 2000.

<sup>15</sup> I.M. Destler, *American Trade Politics*. Washington DC: Institute for International Economics, 2005.

<sup>16</sup> Reuters News Agency, "'Illegal' US trade program extended", *Globe and Mail*, February 2, 2006.

Figure 2. Complaints brought to the WTO dispute resolution process,  
by country or origin.

*Complaints and Responses Filed 1995-2005*

Country	Date of Membership	Complaints Filed	Responses Filed
United States	Jan. 1, 1995	102	94
European Communities	Jan. 1, 1995	69	55
Canada	Jan. 1, 1995	30	16
Australia	Jan. 1, 1995	7	10
Japan	Jan. 1, 1995	73	12
Korea	Jan. 1, 1995	25	7
China	Dec. 11, 2001	3	1
Brazil	Jan. 1, 1995	26	16
India	Jan. 1, 1995	34	7
Mexico	Jan. 1, 1995	16	12

Source: WTO dispute settlement database

the WTO's legal rules and practices undermines its legitimacy. In many respects, the WTO's dispute resolution system has as many loopholes and shortcomings as its immediate predecessor, the General Agreement on Tariffs and Trade (GATT).<sup>17</sup>

The legal quality of WTO jurisprudence has been respectable, but by no means outstanding. WTO disputes panels have shied away from breaking new legal ground with respect to health and labour standards, as well as demonstrating innovation with respect to standard setting when trade law confronts complex social issues. Environmentalists, human rights advocates, labour standards activists, cultural diversity organizations and other civil society actors remain unconvinced of the WTO's effectiveness when it comes to setting minimum standards and upholding adequate norms.<sup>18</sup> With respect to human rights, the environment, labour

<sup>17</sup> Sylvia Ostry, *The Future of the World Trading System*. Symposium on the 50th Anniversary of the Institut der Deutschen Wirtschaft Köln, Berlin, 2001.

<sup>18</sup> For example, see Oxfam, *Rigged Rules and Double Standards: Trade, Globalisation and the Fight Against Poverty*, (Oxford: Oxfam, 2002). Online: <<http://www.maketradefair.com/en/index.php?file=26032002105549.htm>>.

standards, and public health, the WTO's jurisprudence is based on the 'negative integration' of telling states what they cannot do, rather than a 'positive integration' of ordering states to be proactive in setting higher standards in their policies.

The WTO dispute panel has not formed any consensus on the legitimate use of subsidies. This comes at a time when all countries are increasingly reliant on subsidies. The open secret is that countries regard many kinds of state aids as functional and useful instruments with which to level the playing field. But these subsidies are now 'actionable' under WTO law. The EU and the US are now heading for a showdown on state aids to Boeing and Airbus. In the aerospace industry, subsidies are used by all, and have been for the last thirty years, as Krugman argued in his classic study on subsidies in technology-intensive industries.<sup>19</sup> State aid is essential to overcoming regional underdevelopment and to enhancing market performance. This is why the EU structural funds are so important to address regional and infrastructural inequalities. Poland, Hungary, Greece, southern Italy and Portugal are net beneficiaries. State aid is big business in Europe but also in North America. The resource and automobile sectors receive billions of dollars in tax breaks, exemptions and other forms of direct assistance. The hi-tech industry receives tax exemption breaks and other direct kinds of state assistance.

Poverty eradication, regional development, and the provision of public goods legitimately involve massive public spending on human capital and direct aid to many small-and medium-sized businesses. So far there is no agreement on the question of where an industrial strategy fits into the larger picture. The role of public enterprise is another terrain of sharply contested views. The WTO legal culture is skeptical about using state aids for broader social goals. In the landmark *Bananas Case*, the WTO panel ruled that the EU quotas for Caribbean-African banana exporting countries were illegal and discriminatory and, following the logic of the case of the Canada-US Auto pact, these kinds of agreements would not longer be regarded as justifiable exceptions. Anti-poverty strategy requires an affirmative action role for public authority and there are many areas where the new role for government requires limitations on investment rights and the private delivery of services. Having public authority compete with private enterprise in many developing countries is inefficient and wasteful with respect to clean water,

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<sup>19</sup> Paul Krugman, *Development, Geography, and Economic Theory*. Cambridge, MA: MIT Press, 1995.

transportation, public health and education. It is far from clear how the WTO's rules and legal culture with its one-size fits all legal standards will ensure the delivery of basic necessities.<sup>20</sup>

To understand the depth of the current divide and to assess whether it can be bridged, we must examine the prospects of a breakthrough in the areas of water, drugs, textiles, services, and agriculture. All these potential deal-breakers involve different kinds of public goods, and each pits the agenda and interests of the Global North against the Global South. Can a market-centered organization like the WTO ensure the delivery of these basic necessities? Will the Doha find consensus, or will it end in disarray?

#### **4. Water as a Public Good and Privately Provided Service**

The future of water as a public good figures prominently in the Doha Development Round. In the Global South, water is a public resource and only 5% of the world's water services are managed by private companies. Water and sanitation services have traditionally been publicly owned because private companies were not interested in the meager profits to be made from owning or managing water utilities. But, with the specter of growing freshwater scarcity and the prediction that water will be the "oil of the 21st century," major global corporations have been moving into the "water market."<sup>21</sup>

Water is a key factor for economic development, as well as being an essential resource. Water also carries dangerous bacteria and disease. Public authorities need to be more effective, and more funds are needed to improve the quality and quantity of delivery. Water privatization would seriously impact rural developmental strategies and public health. While the Doha Round talks about access to markets, access to public goods is an even greater priority to hundreds of millions of people in the Global South. Unless priority is given to public objectives, the expansion of the

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<sup>20</sup> Roy Culpeper, Al Berry and Frances Stewart eds., *Global Development Fifty Years After Bretton Woods: Essays in Honour of Gerald K. Helleiner*. London: MacMillan Press, 1997.

<sup>21</sup> Maude Barlow and Tony Clarke, *Blue Gold: The Battle Against Corporate Theft of the World's Water*. London: James & James, 2003.

General Agreement on Trade and Services (GATS) could interfere with public policy measures aimed at ensuring the quality, affordability and accessibility of essential services such as water and sanitation.<sup>22</sup>

The immediate challenge is to ensure access to the more than one billion people worldwide that lack clean and affordable water, as well as the 2.4 billion who lack sanitation services. Under the Doha Round, countries are being encouraged to privatize this crucial service rather than to develop a capacity to deliver clean water to both urban and rural producers.

## 5. Generic Drugs

At present, much of the Global South is without access to inexpensive generic antibiotic drugs which act to contain and to eradicate pandemics. Stephen Lewis, the UN Secretary General's Special Envoy for HIV/AIDS in Africa, has long been warning the world of the disastrous consequences of inhibiting access to these drugs in the Global South.<sup>23</sup> India recently doubled its spending on anti-retrovirals due to fear of an AIDS epidemic. Brazil also passed a new patent law which forced America's Merck and Switzerland's Roche Holding to manufacture locally. Even in the US generic drugs account for about a half of all prescriptions but they receive less than one-fifth of the nearly \$250 billion spent on prescription drugs in 2004.<sup>24</sup>

The Doha preliminary text recognizes that governments can act to guarantee 'access to medicines for all'. But the expectation of the current Doha Round is to promote stronger patent protection and enforcement of intellectual property rights.<sup>25</sup> This could potentially jeopardize the recent growth of domestic pharmaceutical industries in Brazil, South Africa and India, all large exporters of generic drugs and anti-retroviral treatments for HIV/AIDS. Strengthening intellectual property rights could likewise trigger more litigation and further delays before generic drug producers could start producing life saving new treatments.

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<sup>22</sup> Scott Sinclair. *GATS: How the World Trade Organization's New "Services" Negotiations Threaten Democracy*. Ottawa: Canadian Centre for Policy Alternatives, 2000.

<sup>23</sup> Stephen Lewis. Speech at the opening of the 3<sup>rd</sup> International AIDS Society Conference, Rio de Janeiro, Brazil, July 2005.

<sup>24</sup> Christopher Bowe, "Generics Embrace Globalization," in the *Financial Times*, August 1, 2005.

<sup>25</sup> Ibid.

The new agreement on intellectual property rights for generic drug producers, negotiated outside the Doha Round in August 2003 and strengthened in December 2005, does a better job in protecting public health than the current Doha Agenda.<sup>26</sup> It enables governments to go outside the Doha framework when there is a health crisis and rely on third parties to source critical medicines. WTO Director-General Pascal Lamy hailed it as confirmation that "Members are determined to ensure the WTO's trading system contributes to humanitarian and development goals." However, international humanitarian aid group Médecins Sans Frontières (MSF) has warned that the amendment is "based on a mechanism that has failed to prove it can increase access to medicines."

The mechanism in question is the 'August 30, 2003 Decision,' a waiver of certain Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) obligations that allows countries to export drugs produced under compulsory licence, subject to a large number of conditions in both the exporting and importing country. The Decision's adoption was accompanied by a statement from the Chair of the General Council designed to reassure multinational corporation (MNC) interests that it would not be used to divert low-cost medicines into rich country markets. The global pharmaceutical industry does not want to face competition from low cost suppliers in India or South Africa. However, these fears appear groundless. Norway, Canada, and India have altered their domestic laws to meet the waiver's conditions, and similar changes are pending in the EU and Korea but, according to *BRIDGES Weekly* not a single country has used it to import drugs.

What is significant is that this waiver has not been very effective in getting life-saving drugs to those in need. Nonetheless, the recent decision, taken first in the TRIPS Council and then in the General Council after several extensions and an elaborate procedural process, directly translates this waiver into a formal amendment to the TRIPS Agreement, the first such change to a core WTO agreement since the organization came into being in 1995.<sup>27</sup>

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<sup>26</sup> See *BRIDGES Weekly* Trade News Digest, September 4, 2003 online: <<http://www.ictsd.org/weekly/03-09-04/wtoinbrief.htm#1>>.

<sup>27</sup> Notably, the text of the amendment does not mention the Chair's statement—this had been a key objective for many developing countries, which saw it as a restriction on the waiver. The process which followed to amend the agreement, however, arguably establishes the Chair's statement as legal context for interpreting the amendment in the event of a WTO dispute.

According to WTO rules, the amendment will only enter into force once it is accepted by two-thirds of the membership. This too is a large hurdle since acceptance depends on the respective domestic procedures of some 99 members. Until then the amendment will not take effect, and the waiver will continue to be the legal basis for any trade in generic drugs produced under compulsory licence.

The 'choreography' of adoption offers some protection to Global South governments from lawsuits concerning patent infringement while protecting the patents of the pharmaceutical giants. It puts an onus on them to be part of the solution by providing low cost medicine to those in dire need. Many global nongovernmental organizations (NGOs) remain sceptical including national groups, such as Kenya AIDS Intervention Prevention Project Group (KAIPPG), Assessor de comunicáÈo AssociaÈo Brasileira Interdisciplinar de AIDS (ABIA) and the Ugandan Treatment Access Campaign, as well as international NGOs such as Oxfam and ActionAid. All are pressing their governments to test the waiver mechanism.<sup>28</sup>

This latest development reinforces the view that even when the countries from the Global South enter into multilateral negotiations, which occur outside the formal process of WTO negotiations, rather than inside it they come up short. The process is time consuming and resource intensive and the compromise a poor second best.

## 6. Textile Quotas

Free trade theory may remain the high standard of modern economics, but managed trade and voluntary restraints are the practical norm followed by most countries to varying degrees. The abolition of the global system of textile quotas on January 1, 2005, has created enormous opportunities for China and India to increase their share of the US and EU markets. However, new anti-dumping actions taken by the US have forced China to restrict its exports to the US.<sup>29</sup> Paradoxically, abolishing the old regime of voluntary quotas has forced the US to reinvent quotas through its trade laws, which currently are demanding China to impose voluntary restraints. In the EU, China's enormous success in gaining market share has pitted textile

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<sup>28</sup> The Joint Statement by NGOs on TRIPS and Public Health December 3, 2005 can be found online: <<http://www.cptech.org/ip/wto/p6/ngos12032005.html>>.

<sup>29</sup> "China protests over US imports decision," in *Business Week*, August 3, 2005.

producers in Italy, Germany and France against the big box importers of Chinese dresses, t-shirts and under garments. Quotas have been reimposed and market-sharing agreements negotiated.

Part of China's success has come at the expense of producers in Bangladesh and Sri Lanka, countries that are not strong enough to impose quotas against the Asian super power. They do not have the luxury of US-style protectionism when competing on low wages and are no match for the mass production efficiencies that China has acquired through new production labour-saving technology. They are further down the ladder in terms of foreign direct investment flows and having access to the latest designs and best production equipment. The world's poorest nations are losing export markets at a time of global free trade, and are not going to be able to build up their industries to compete with China's dominance in this sector. Other non-market frameworks need to be looked at that address the very large and difficult issue of adjustment in labour-intensive markets in the Global South. So far, the WTO has put forward few positive suggestions.

For many countries in Africa and Latin America, job creation rather than the promise of access to foreign markets, remains the priority. Access depends on strong and competitive industrial sectors and many of the world's poorest countries are not at this level. Their economies supply essential goods and services for the domestic market and even in the agricultural sector, introducing European or North American intensive agricultural techniques is labour displacing and is costly with its reliance on chemical fertilizers and other high cost inputs. The world slowdown in growth continues to weigh down regional performance. Trade preferences targeted for the least developed countries have not proven to be as reliable as co-ordinated multilateral efforts to contribute to higher standards of living in these regions. It may be part of the solution but wholesale liberalization is the wrong model for millions of small producers in Africa and Latin America.

What development experts agree on is that the agricultural sector is facing crisis and has to become more sustainable and capable of supporting families on very small amounts of land. Even Brazil with its highly modern export sector in citrus and other sectors is not a success story likely to be reproduced elsewhere. It is small wonder that India and Brazil are at loggerheads over liberalization of agriculture by lowering of tariffs. India wants to keep tariffs high to protect its own farmers,

but Brazil is closer to the EU than the US. It wants to make a deal and accept market access to the Global North and open up financial services. It cannot expect a lot of support for this position and pass off its own interests as those of all development countries.<sup>30</sup> Because many people live in rural areas, trade barriers in agriculture offer protection against volatility of global commodity prices. Africa in particular is suffering from low commodity prices for cotton, rice and other staples. Subsidies in Organisation for Economic Co-operation and Development (OECD) countries amount to \$330 billion but phasing out of tariffs, quotas, and subsidies does not commit the rich Global North to putting these savings into poverty eradication at the global level.<sup>31</sup> Oxfam and other NGO organizations have documented that the EU and US spend more on dairy subsidies per cow annually, a figure that is nearly equal to all of their developing country aid. The proposal that trade liberalization will only increase self-sufficiency and lead to favourable terms of trade is a proposition that has many risks and unproven assumptions.

The pressing problem is to address the global job pandemic resulting from a billion people living on one dollar a day or less. Seventy percent of the world's poor live in rural areas and earn their income locally and regionally from agriculture. Unemployment is stuck in double digit figures for all of the Global South, and underemployment is a chronic problem in many countries, as the International Labour Organization (ILO) has shown in its recent report. The ILO estimates that over 1 billion people are either jobless or underemployed.<sup>32</sup> The asymmetrical gains from free trade continue to outweigh the theoretical advantages of opening markets without regard to either cost or consequence. In any event, the post-Hong Kong phase of treating agriculture as more important than other issues is over.

## 7. Service Liberalization

The liberalization of services is likely to divide the Global South, by pitting countries with developed service sectors against newcomers. India, with a large and dynamic information technology (IT) sector, has reversed itself. India used to

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<sup>30</sup> Alain Beattie, "Ministers pledge to speed up WTO talks", in the *Financial Times*, January 30, 2006.

<sup>31</sup> World Bank 2005, *Global Economic Prospects 2005: Trade, Regionalism, and Development*. Washington, DC: World Bank, 2005, p.xvii.

<sup>32</sup> International Labour Organization, *Global Employment Trends*. Brief, February 14, 2005. Online:<<http://www.ilo.org/public/english/employment/strat/download/get05en.pdf>>.

lead the charge against service liberalization because banking and financial sectors were vulnerable and non-competitive. It used to oppose corporate-friendly rules on foreign investment, domestic competition and the opening up of public procurement to non-nationals. But New Delhi now supports giving foreign-based multinationals access to strategic sectors of its economy. They are very slow to change their regulations though they now are ready to allow big box stores like Walmart and Carrefour into their retail sector. This is a domestic initiative and not part of the Doha Round. However, for many countries in the Global South, liberalization of services remains a no-go zone. China has been a magnet for foreign direct investment (FDI). With more than one hundred billion dollars of FDI, it is already benefited from freer financial flows. China has many restrictions and requirements in place that American and European banks would like to see lifted.<sup>33</sup> The Global South is divided on how quickly different countries are prepared to open this crucial sector. Every country instead wants to strengthen its domestically-owned banking and insurance sectors in a bid to ensure that its national interests are protected. In general, regarding financial services the Doha Round raises more fears and concerns than can be addressed within the current framework of negotiation.

Similarly, public services such as the construction of low cost and safe public housing continue to be high priorities in many developing countries. But public goods are under-supplied and under-resourced. With domestic growth rates low governments have to do more and here also the WTO's Doha Round is a wash. Many NGOs attack the private-sector bias of the Doha Round for being incapable of enabling developing countries to expand domestic internal markets. Brazil is a case in point. It needs to grow at a rate of more than seven percent annually instead of its very modest 2004 GDP growth rate of 4.9 percent. Interest rates have fallen and on the export side its resource exporters are in overdrive. Despite the good news, government needs to be much more aggressive to encourage growth domestically according to Ken Rogoff, the former director of research for the International Monetary Fund (IMF).<sup>34</sup> Building state capacity and reinforcing public authority requires more public resources and different priorities than those at the

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<sup>33</sup> “South Korea must end its corporate xenophobia,” in the *Financial Times*, August 3, 2005.

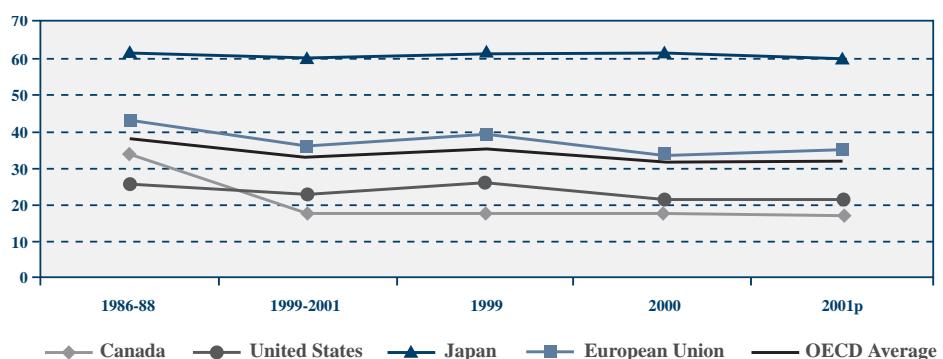
<sup>34</sup> Theresa Ebden, “Investors seduced by Latin moves”, in the *Globe and Mail*, February 2, 2006.

centre of the Doha trade Round.<sup>35</sup> So far, there is very little prospect that the circle will be squared between the development goals of the Doha Round, and its aim to promote market deregulation in the developing world.

## 8. Agricultural Subsidies

Global free trade in agricultural products is virtually non-existent, and has been so since Washington insisted in the early 1950s that agricultural products not be part of the GATT system of tariff reduction. Agricultural subsidies in the global North have risen almost continuously for the last fifty years. Figure 3 illustrates how Japan, the EU, Canada, and the US continue to rely on subsidies, which makes it difficult to imagine an end to trade hypocrisy in this key area.

**Figure 3. Northern Protectionism Has Barely Wavered**  
*OECD Percentage Levels of Producer Support (PSE) by Country*



Washington is only committed to not increasing producers' subsidy levels. Those who entertain doubt should consult the Congressional Record to read the almost unanimity amongst elected officials. Congress has been opposed to altering in any fundamental way the direct price subsidies and other kinds of support that US farmers and corporations receive. Since September 11, 2001, food security falls under the auspices of the US Homeland Security Doctrine.<sup>36</sup> In the near future no

<sup>35</sup> Brian Levy and Sahr Kpundeh eds., *Building State Capacity in Africa*. Washington, DC: World Bank, 2004.

<sup>36</sup> Daniel Drache, *Borders Matter: Homeland Security and the Search for North America*, Halifax: Fernwood Books, 2004.

American president is going to dismantle the highly complex subsidy system so embedded in American domestic politics. In fact, trade subsidies are highly functional for building political constituencies.<sup>37</sup> US trade remedy law protects American groups and individuals from unrestricted free trade, in the sense that any group which can claim “a trade injury” has a right to trigger a safeguards and protection process and if successful, protectionist relief. They have a right to appeal to the International Trade Commission (ITC) the trade policing arm of Congress empowered to impose trade sanctions against US competitors such as Brazil with its highly efficient agricultural sector.

The EU has likewise postponed any action until after 2013. Subsidies are again highly functional for the European community, where many small- and medium-sized producers would have a bleak future in a liberalized system.<sup>38</sup> One of the newest members, Poland, with its large agricultural sector has seen imports flood its markets and farmers respond in anger at not receiving the levels of state protection expected. The Japanese are equally adamant that rice subsidies not be dismantled any time soon and Japanese consumers are highly supportive of this stance. They are suspicious of the quality of foreign food products and demand a high level of public health regulation. No Japanese politician is willing to risk their political future by cutting a deal based on dismantling agricultural subsidies. The social and political costs are too high. With the EU, Japan, and the US so divided on the future of agricultural subsidies it is small wonder that little progress has been made concerning this deal-breaking issue. Since the Hong Kong meeting, agriculture has been set to one side as other questions have moved to the centre of the agenda.

Equally troubling is that many countries in the Global South simply do not have the leverage to negotiate new access for their products, as opposed to pursuing litigation. The EU has extended special agricultural preferences to a handful of the poorest countries, but the new rules have had limited impact and have created significant division between countries such as Jamaica, who enjoy special privileges, and Costa Rica and Peru, whose producers are excluded. The recent WTO decision on EU trade for aid in the case of bananas requires the EU to end its banana quota for Caribbean producers. Similarly, the poorest African countries need to protect

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<sup>37</sup> Daniel W. Drezner. “The Outsourcing Bogeyman,” in *Foreign Affairs*, May/June 2004.

<sup>38</sup> John Moylan. “Sugar firms at risk as EU subsidies shrink,” in the *Financial Times*, June 22, 2005.

their farmers from the onslaught of low-cost competition from developing countries such as Argentina, Brazil, South Africa and even India. Multilateral tariff reduction will have devastating consequences on India's largely rural producers, who are oriented towards the domestic market, have no capital resources for modern inputs, work small subsistence farms and support large families with meager earnings. Millions of day labourers and peasants work for the World Bank equivalent of a dollar a day in African, as well as many Latin American countries. Flooding the Global South's megacities with dispossessed rural peasants who are forced off their land in the aftermath of opening up the world's poorest agricultural sectors would be a catastrophe.

The idea that agricultural liberalization will generate unambiguous gains for the poorest countries in the world is also not supported by empirical research. Dani Rodrik has calculated that many of the effects of increasing market access on world prices will be small, likely between 2 and 8% for rice, sugar, beef, and wheat. Even for cotton producers "the largest estimate of the impact on world prices of the complete removal of US cotton subsidies is around 12 percent."<sup>39</sup> The fact that the economic evidence is so unclear is troubling. In theory, removal of subsidies promises much. But in actuality, the gains for many countries may be nil. The WTO recently ruled that the EU was dumping sugar on the world market, and must end special quotas which allow 19 least developed countries to sell to the EU at an artificial price. But as Rodrik et.al. argue, the resulting price cut of over 30 percent would devastate these countries' abilities to generate hard currency for development projects.<sup>40</sup>

What is clear is that agricultural tariffs are punitive and directed against many of the poorest countries in the world. This may not have been the intent of the tariff, but it is a direct consequence. What is so disturbing about the global tariff wars is that development aid from the Global North has been static or negative for nearly two decades. At the July 2005 Gleneagles G-8 meeting, discerning publics learned that the Millennium goals of halving poverty by 2015 remain a distant goal unlikely

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<sup>39</sup> Alan Beattie, Frances Williams and Raphael Minde, "WTO ruling against sugar policy boosts Brussels reform plan," in the *Financial Times*, April 29, 2005.

<sup>40</sup> Dani Rodrik, Nancy Birdsall, and Arvind Subramanian, "If Rich Governments Really Care About Development," in *The Guide to Human Rights and the WTO*, April 2005. Online: <[http://www.ictsd.org/dlogue/2005-07-01/Docs/BRIDSALL-RODRIK-SUBRAMANIAN\\_what-rich-can-do\\_April2005.pdf](http://www.ictsd.org/dlogue/2005-07-01/Docs/BRIDSALL-RODRIK-SUBRAMANIAN_what-rich-can-do_April2005.pdf)>.

to be reached on schedule.<sup>41</sup> Many countries are like Canada who promise much but deliver little. Ottawa is a chronic laggard and a wealthy country, but its aid contribution is only 0.26% of its GDP, below the 0.4% average for richer countries.<sup>42</sup> Like many others it has failed to walk the walk even though its economy is one of the strongest in the G-8. It is necessary to recall that Washington provides three times as much in subsidies to its cotton farmers as it does in development aid for 500 million Africans. The pattern is no different for the EU, where cattle subsidies to dairy farmers are four times greater than its aid to all of Africa.

Given such a complex, crisis-prone negotiating agenda, it comes as no surprise that there is little consensus on this issue between the EU and the US, or between leading members of the Global South and the Global North. In fact, the current lack of progress on a range of substantive issues in the Doha Round reflects new divisions and rivalries between southern countries, as well as between Brussels and Washington. Robert Wolfe has documented the explosion of coalitions and counter-coalitions with respect to agricultural liberalization, tariff reduction, special and differentiated treatment and many cross cutting issues besides.<sup>43</sup> In this world of coalitions, opposition is not rock solid, largely process driven and membership in the alliances dependent on the issues at hand. According to Rachid Mohammed Rachid, Egypt's trade minister, the developing world has become smart and savvy. "People come together in groups for some things and two hours later they are standing in a different position against each other. They are getting well-trained to do this."<sup>44</sup> With so much constant horse-trading, there is little incentive for any country to take a principled stand and build a North-South coalition of nations to ensure that the Doha Round will have a decidedly developmental component to it.

Ironically the Doha Round is supposed to deepen market access for the Global South. Yet, Brazil, China, India, and Vietnam have not been waiting for the WTO negotiations to pry open northern markets. With their highly competitive industries,

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<sup>41</sup> "Now G8 leaders must follow up their words," in the *Financial Times*. July 8, 2005.

<sup>42</sup> Doug Saunders and Campbell Clark. "G8 leaders back off 0.7% foreign-aid target," in the *Globe and Mail*, July 5, 2005.

<sup>43</sup> See Robert Wolfe's website: <<http://post.queensu.ca/~wolfer/General/publications.html>>.

<sup>44</sup> Quoted in Alan Beattie and Frances William, "The organisation's next chief needs to reconcile members conflicting interests that arise from special treatment offered by the rich blocs," in the *Financial Times*, April 5, 2005.

very low labour costs, and competitive currencies their export performance is without equal growing in double digit numbers in recent times. Domestic reforms are a key component of winning new market share. For many other countries in Africa and Latin America, the Millennium goals to half poverty levels, eradicate extreme hunger, promote gender equality and women's empowerment, reduce child mortality and combat HIV and other diseases do not seem attainable within the present rules of the game. These countries need a true development round, not a broadening and deepening of global free trade along the current lines.

Since the failure to make significant progress at Hong Kong, there is little political appetite to strike a comprehensive 'grand bargain' in the Uruguay Round fashion. Washington has pursued a neo-protectionist agenda that is strongly supported by Congress, and at least for the moment, has invested heavily in a bilateral strategy, signing dozens of trade and investment bilaterals to protect US interests globally. If the Doha Round collapses, it can live with the result. The US is not pushing the panic button and its commitment to an aggressive bilateralism is a powerful alternative to a paralyzed WTO. Despite the anti-WTO stance of the US Republican-controlled Congress, US experts acknowledge that the existing WTO rules are highly functional and work in US interest. Washington can stick handle around the G-20, led by Brazil, India and China, as well as the G-90, composed of some of the poorest countries from sub-Saharan Africa. What the Bush revolution in foreign policy cannot control is the shift in the balance of power underway that is having impact on both the domestic and external policies of Japan, Europe, the US, Brazil, and India.<sup>45</sup>

Faced with a very different set of trade dynamics, the EU is looking for compromises on development and agriculture, and is prepared to negotiate directly with the Global South on development and many other issues. It has used preferential trade agreements with many countries in the Global South and sees value in creative ambiguity with respect to reform of its agricultural policy. It is prepared to go back to the GATT system that had a lot of escape hatches for Southern countries. The Global South is looking for a deal, but not at any cost, and it does not speak

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<sup>45</sup> Sylvia Ostry, "The Multilateral Agenda: Moving Trade Negotiations Forward", MCIS Briefings, Toronto: Munk Centre for International Studies, November 2005. Available: <[http://webapp.mcis.utoronto.ca/resources/MCIS\\_Briefings/OSTRYBriefing.pdf](http://webapp.mcis.utoronto.ca/resources/MCIS_Briefings/OSTRYBriefing.pdf)>.

with any single voice. Ostry argues that the ‘Great Deal’ promised during the Uruguay Round has “turned out to be a Bum Deal” because most countries in the Global South do not have the resources to pay for the major institutional upgrades and dramatic changes to their infrastructure, legal and domestic regulatory systems that are required.<sup>46</sup> The developing world has a great diversity, as is found within any regional trading bloc. Designing a global partnership for development requires bold action and a new framework that engages the Global North and triggers sustainable growth in the Global South.

Since 2000, with GDP growth falling from five to just below three percent for developing economies, it is no surprise that all Global South countries want to trade and use this lever to power their economies.<sup>47</sup> *The Economist* reported in 2006, that the 32 biggest emerging economies produced almost half the world’s output measured at purchasing-power parity.<sup>48</sup> (See Figure 4) This reconfiguration of economic power globally has moved the goal posts. China is achieving in a single decade what took Britain and the US fifty years during their industrial revolution. China has doubled its real per capita income and this great transformation in the standard of living is likely to continue. The new emphasis on trade has made the Doha Round much more complicated. With the emerging countries of the world demanding more from the system, the WTO rules have to be equitable and results-driven in the medium-term to meet the expectation of the developmental promise of the Doha Round. The question then is: does the WTO with its negative view of what governments cannot do, have the right rules, and does it produce superior outcomes for developmental ends? Business experts believe in benchmarking best corporate practices and the WTO should be held to the same standard.<sup>49</sup> The lack of comprehension about anti-developmental bias of negative regulation has seriously compromised the Doha negotiations.

But despite the dire consequences of overloading of the negotiating agenda, one positive development is that all countries want to export more for their own strategic ends rather than retreat into protectionism. The Global South is more dependent on

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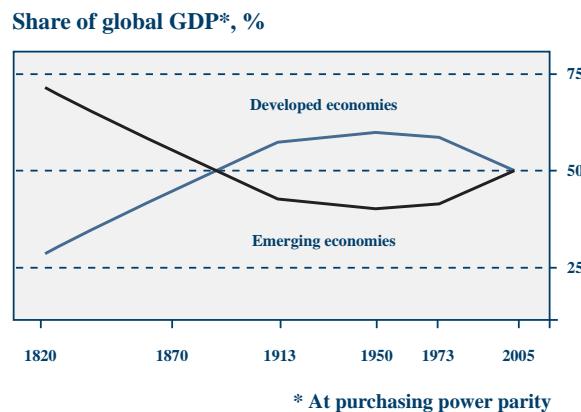
<sup>46</sup> Ibid.

<sup>47</sup> World Bank, *Global Prospects*, 2005.

<sup>48</sup> “Emerging Economies Coming of Age”, in *The Economist*, January 19, 2006.

<sup>49</sup> See the United Nations Development Programme online: <<http://www.undp.org>> and the World Bank <<http://www.worldbank.org>>.

Figure 4. A Seismic Shift in Power Globally - The Global South Now Produces Half the World's Output



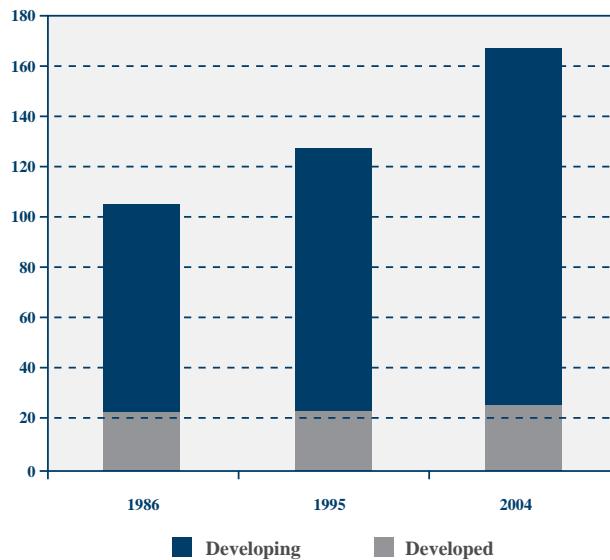
Source: "Coming of Age", *The Economist*, 19 January 2006.

exports for growth than it used to be, and more dependant on export growth than the Global North is. Meanwhile, American protectionism is on the increase, and the US Congress is unlikely to renew the President's trade authority.<sup>50</sup> American public opinion demands that US jobs be protected, and it would be a mistake to underestimate the depth of this feeling. What sells in Washington among Democrats is the idea of fair trade with respect to labour standards and the environment. Tip O'Neill, the former speaker of the US Congress used to say that 'all politics is local' and nothing better sums up the current impasse. Republicans don't want to expand the regulatory arm of government. For this reason, the US Congress is unlikely to neither embrace the goal of poverty eradication nor champion southern development as a primary component of its foreign and commercial policy. The Sachs Report estimates that the US allocates only a meager \$15 billion to development, compared to over \$500 billion devoted to defence.<sup>51</sup> The recent \$1 billion US allotment for Millennium goals is too small to address Africa's needs for financing roads, clean water, sanitation, children's health, schools, fertilizers and irrigation.

<sup>50</sup> Glen Biglaiser, David J. Jackson, and Jeffrey S. Peake. "Back on Track: Support for Presidential Trade Authority in the House of Representatives," in *American Politics Research*. Vol. 32, No. 6, 2004: 679-697.

<sup>51</sup> Sachs. *United Nations Millennium Report*, 2005.

Figure 5. Developing countries' stake in WTO grows  
*WTO Membership by Developing and Developed Countries*



Source: *Financial Times*, July 18, 2005. Page 11.

The Global South has its own agenda to create a new global trade axis. The success of Argentina's President Kirchner, who re-negotiated Argentina's \$130 billion debt, sends the positive signal to other indebted countries. Others are attempting to get the same deal, paying 30 cents for each indebted dollar.<sup>52</sup> It is not going to be easy to repeat his success story in the least. Even China and India are now signing important bilateral trade deals with prospects for much denser trade linkages between Asia's giant trading countries. Despite their economic rivalry and many political disagreements, Japan and China are also looking to find ways to increase their bilateral trade. For India, China, and Brazil deepening domestic demand is as important as tariff reduction. At this point worrying about growth rather than inflation has tipped the policy balance away from fiscal policies that weaken state capacity to modernize the economy. Rather, the focus is on implementing a range of industrial and social strategies that make jobs and growth a priority.

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<sup>52</sup> Adam Thomson, "Beyond Borders: IMF and Argentina Edge Forward, in the *Financial Times*, January 16, 2005.

A macroeconomic analysis of Latin America reveals that countries everywhere need economic policy-making space that reflects their needs and stage of development. Rodrik has long been arguing that successful cases of policy development in the last six decades have been based on creative outside-the-box thinking. China continues to flout intellectual property law with respect to its massive export industries. India raised its growth rate in the 1980s and 1990s by using protectionist policies without membership in the WTO and outside of its rules-based system. Japan rebuilt its economy using a strategic-growth model with subsidies to Honda and other blue chip companies. Chile successfully taxed capital inflows.<sup>53</sup> Today the WTO's rules on subsidies, foreign investment, national treatment, patents, and taxation may be an obstacle to a strong performance, and preclude those policy choices that Rodrik argues made for 'growth champions in the past'.

Rapprochement with the Millennium Development Goals is a long way off. Figure 5 illustrates that over four-fifths of the WTO's membership hails from the developing world. However, the trade agenda continues to be controlled by the EU, the US, and Japan. The question that remains then is how long can this process driven system of Northern elite accommodation hold the reins of power?

In light of the failure to meet the Millennium Development Goals, the Global South is being hard-wired into a new socio-political framework thanks to the energy and commodity boom that is providing it with new mega-financial resources. What is unclear is whether it will stick with the more traditional international economic order of foreign direct investment and tight anti-inflation strategies or strike out on its own? The growing self-confidence among an expanding group of emerging countries gives Brazil, Russia, India, and China new self-confidence to be more autonomous of global financial markets.<sup>54</sup> In early 2006, Brazil and Argentina pre-paid their IMF loans and are not subject to its disciplinary framework as debtor nations. The WTO has yet to process the consequences of this major course correction.

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<sup>53</sup> For example, see Dani Rodrik. *Has Globalization Gone Too Far?* Washington, DC: Institute for International Economics, 1997.

<sup>54</sup> Mohamed El-Erain, "Why Brazil and friends want the world to listen," in the *Financial Times*, January 5, 2005.

## 9. No Momentum for More

With so much division within the WTO, there is no momentum for a grand bargain like the Uruguay Round delivered. Some issues have become more contentious and divisive. The growth of so-called intellectual piracy is one. It is estimated that the entertainment industry loses one hundred billion dollars a year from intellectual copyright infringement.<sup>55</sup> There is no way to stop this hemorrhaging. Southern governments are not prepared to arrest their citizens for violations. Consumers in the Global South and the former Eastern Bloc don't see any reason why they should pay twenty dollars for a CD which costs only pennies to produce. Many experts have begun to re-think intellectual copyright infringement as part of a process of economic development and innovation.<sup>56</sup> In China alone, consumers bought one billion CDs in 2004 but only 1 percent were copyright protected. Regulation has to change to meet the new reality.<sup>57</sup>

The current intellectual property regime suffers from patents of poor quality and overly restricted access to copyrighted materials that are critical for innovation and economic growth. In the US the Federal Trade Commission has concluded that a wholesale revision of the patent system's impact on innovation is needed. In the pharmaceutical area, patent challenges involving many important drugs and the challenger has won more than 70 percent of the cases according to a prominent US intellectual property lawyer.<sup>58</sup> In the nineteenth century in the US and on the continent, infringement and unauthorized borrowing were an important part of American industrial development. The British were the authors of much copyright piracy because they prohibited the sharing of British technological patents with American infant industries. US entrepreneurs borrowed, adapted and stole British patented processes whenever they could. With the institutionalization of the modern copyright regime there was a delicate balance between innovation and competition but the Global South and China in particular, found themselves

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<sup>55</sup> See the International Intellectual Property Alliance's "IIPA's 2004 Final Estimated Trade Losses Due to Copyright Piracy," Available online: <<http://www.iipa.com>>.

<sup>56</sup> Amy Harmon, "Piracy or Innovation? It's Hollywood vs. High Tech," in the *New York Times*, March 14, 2002.

<sup>57</sup> Geoffrey York, "The magic bullet for Chinese piracy?" in the *Globe and Mail*, July 22, 2005.

<sup>58</sup> Alfred B. Engleberg, "Property Rights and Danger of a New Form of Colonialism," in the *Financial Times*, November 21, 2005.

disadvantaged in the field of new information technology, pharmaceutical and software industries. Powerful groups of multinational giants see large profit opportunities in emerging markets and are seeking to impose tougher levels of intellectual property right protection that go beyond the existing laws in their own country.

The US worldwide entertainment industry is a case in point. It is opposed to any such re-thinking that would make it easier and cheaper to innovate and bring a new degree of transparency and fairness to the current regime. One thing is certain: the intellectual property rights regime needs a thorough overhaul, but this is not part of the Doha agenda. Doha is headed in the wrong direction on intellectual property issues.<sup>59</sup>

Another discordant issue is the aggressive drive by many southern countries to broaden special and differential treatment.<sup>60</sup> Under existing WTO rules, developing countries get exemptions from WTO rules for a variety of ends. But to pin their hopes on getting more exemptions is risky. WTO dispute-resolution panels with respect to the Auto pact, sugar, bananas, and the Bombardier-Embraer decision want to narrow derogation, rather than enlarge the scope for special treatment.

Free trade is in trouble not only in Geneva, but as ‘a big picture idea’ it has run into stiff resistance at the regional level. The Free Trade Area of the Americas (FTAA) initiative collapsed, and the Central American Free Trade Agreement (CAFTA) barely made its way through the US Congress.<sup>61</sup> It would have taken only a couple of discontented Congressmen and CAFTA would have been toast. What is significant is that Central American countries are small and hardly constitute a threat to US economic might. US trade politics loads the deck against the very idea of free trade that if there are winners, there will be losers. Large complex trade talks seem endlessly bogged down in wrangling and technicalities. Small but important producer groups are able to block any deal.

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<sup>59</sup> Peter Drahos, An Alternative Framework for the Global Regulation of Intellectual Property Rights, Centre for Governance of Knowledge and Development, October 2005, available online: <<http://cqkd.anu.edu.au/menus/workingpapers.php>>.

<sup>60</sup> Hugo Cameron, “Special and Differential Treatment”, Briefing Note, International Lawyers and Economists Against Poverty (ILEAP), Toronto, June 2005; See also Sheila Page and Peter Kleen, “Special and Differentiated Treatment of Developing Countries in the WTO.” *Global Development Studies*. No. 2 Stockholm: Expert Group on Development Issues Secretariat. Online: <[http://www.egdi.gov.se/pdf/study/40725\\_Gl%20Dev%20Stud%202.pdf](http://www.egdi.gov.se/pdf/study/40725_Gl%20Dev%20Stud%202.pdf)>.

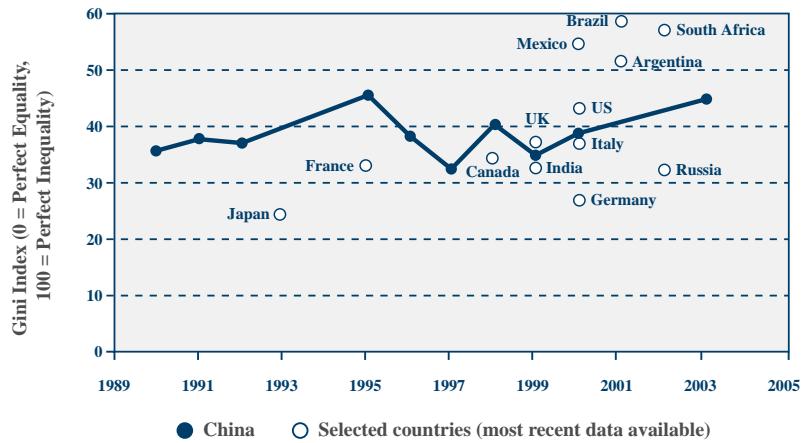
<sup>61</sup> “Partisanship in Trade,” in the *Financial Times*, July 29, 2005.

Even if there is no next step the strategic question is, should the global North and South stick with the Doha Round and see it through? Or should they work around it and develop other initiatives? Since the mid-1990s countries have been hedging their bets and signing hundreds of bilateral trading arrangements. Mexico has signed over thirty-five agreements; China and India are negotiating market access and special arrangements with dozens of countries; the US and the EU are in stiff competition to make as many side deals as possible. At first sight, these mini-derogations from the WTO's multilateral framework seem to be contradictory to the letter and spirit of the WTO. On closer inspection far from undermining 'The Single Undertaking' of the WTO's legal framework, bilateral outreach are extending its rules, principles and norms to an unparalleled degree.

By far the bigger story is that many countries are relying on a strong domestic performance to exploit new opportunities in an increasingly unstable world economy. They are not betting on a successful Doha Round. China's appetite for resources has been a boom to African and Latin American counties. The rising consumption of energy and demand for primary products in India and China with almost 2.5 billion of the world's inhabitants is producing a seismic shift in production and trade. The consequences for developing countries cannot be underestimated. Technological change and the entry of billions of Asians into the world economy have tapped into a much larger political and economic dynamic.

Environmentally, the WTO is not ready to tackle the significance of climate change and dependency on fossil fuels pushing the planet towards a very dangerous crisis. Will evolution be kind to this instrument of global governance? Should the Doha Round collapse, there is a lot that can still be done despite its incapacity to ratchet up global neoliberalism and strengthen its norms and practices. Global governance reforms can finance new knowledge for developing countries and is particular interest to the South. Southern workers need better health security and need access to education. Investment in human capital is one of the keys to poverty eradication. As Figure 6 so starkly reveals, China is losing its race against poverty and income inequality. With labour more abundant and capital relatively scarce in the developing world, workers' share of the national income has shrunk while profits have surged. The downward pressure on wages has denied them the material benefits of globalization. The Global South is ill-equipped to address this issue at the WTO and pressures increase for solutions outside of its governance structure.

Figure 6. China's Great Race Against Inequality: Is It Winning?



Source: Adapted from York and Johnson, "China Frets Over Widening Income Disparity", *Globe and Mail*, February 9, 2006, A1.

Eliminating the causes of global poverty require a back-to-basics approach to public goods. Experts have begun to rethink the role of public authority in social well-being by admitting the potentially explosive relationship between markets and poverty. Researchers have long recognized that public security is a function of governments rather than markets, but they are only now beginning to understand that public authority plays a larger role in societal well-being than has been recognized in the past two decades of structural reform.<sup>62</sup>

The World Bank has championed the idea that the market, as much as possible, should supply food, water, medicine and employment. But many economists, influenced by the work of the United Nations Development Programme and Amartya Sen's research into capability deprivation, are now reconsidering trade liberalization in terms of its social impacts.<sup>63</sup> The new consensus is that public goods, which benefit everyone in society equally and are available only through public authority, are extremely important to sustained poverty reduction. In well-functioning societies, basic needs are non-rival and non-exclusive. Everyone

<sup>62</sup> Daniel Drache. "Economic Integration and Citizenship: Modeling Social Inclusion after the Quebec Summit." Toronto: Robarts Centre for Canadian Studies, York University, 2003.

<sup>63</sup> Amartya Kumar Sen. *Development as Freedom*. New York: Knopf, 1999.

benefits from the public provision of clean water and cheap electricity. Redrawing the boundaries between public and private may be a Herculean task in the face of market fundamentalism, but human well-being requires that poverty eradication not be left to dysfunctional market forces.

Rodrik, Birdsall and Subramanian also believe that making the world a less hospitable place for corrupt leaders would increase democratization and improve regional governance.<sup>64</sup> Ending the safe American and European banking havens that corrupt leaders depend on to hide their spoils would have far-reaching economic and political benefits. The looting of the Global South by its own elites is facilitated by Western complicity. Corruption is therefore not a Southern problem, it is a global one, and it needs to be part of new governance measures as Rodrick and Birdsall have emphasized. The WTO's bold promise was that it would be a new kind of organization to enforce legally binding decisions, and that it would lead to better outcomes than the GATT, its immediate predecessor. After a decade, the WTO dispute resolution system is increasingly politicized and many of its decisions are increasingly contested. The absence of forward momentum in the world trading system is both an opportunity and a cost. In the end there is too much process and too little substance on poverty eradication, market access, strengthening human capital and public goods.

Time is short and the demands of the poor and marginalized are many. Returning to first principles—multilateralism, global public goods, and trade liberalization—could provide new and innovative directions to a troubled world order. But it seems precisely what trade negotiations from the Global North are set to advert.

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<sup>64</sup> Dani Rodrik, et al. The immobility of labour is one of the authors' core concerns. More needs to be done to enhance temporary labour mobility between the industrialized world and developing countries, as well as within the Global South.

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