

**OMENS AND THREATS IN THE DOHA ROUND  
(The Decline of Multilateralism?)**

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## **OMENS AND THREATS IN THE DOHA ROUND (The Decline of Multilateralism?)**

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**Abstract:** Faced with the lengthening shadow of the Doha Round of trade negotiations, scholars often point to the seven years it took negotiators to conclude the Uruguay Round. This paper argues that the negotiating deadlock in the Doha Round represents a transformative shift on the part of member nations away from the current model of multi-platform, single-undertaking multilateralism and towards smaller negotiating platforms. We examine two dynamics that mark this round as qualitatively different from the Uruguay Round. First, new, highly vocal global trading powers such as India, China and Brazil have begun to use their market power to push for a trade deal that directly benefits the global South. Second, the new rules for trade that were agreed to in the Uruguay Round had promised a reduction in non-tariff protectionism, but the continuing popularity of protectionist industrial policies has shown the developing world that greater access to northern markets might not be delivered at the World Trade Organisation (WTO). The paper concludes with a discussion of trade multilateralism in historical context. This is not the first period of globalisation in which the world has been faced with systemic changes in international economic relations. In the 19<sup>th</sup> and the early 20<sup>th</sup> centuries, global trade broke down – first with the end of the British free trade system, and shortly thereafter with the catastrophic collapse of the interwar trading order. Nevertheless, this qualitative shift in the negotiating strategies of states need not be seen as a return to protectionism. The explosion of preferential regional agreements offers a number of new ways to address the social and political dimensions of economic integration.

### **Recrimination, Bluffs and Brinksmanship**

Negotiations in the Doha Round of trade talks ground to a halt in 2006. Calls for ‘open regionalism,’ where likeminded countries agree on deep liberalisation strategies, are becoming more pronounced (Guha, 2007). For big business and governments alike, trade rounds that last the better part of a decade are becoming irrelevant in a world where money and business move faster than ever. Furthermore, the World Trade Organisation (WTO) is enmeshed in a dangerous cycle of recrimination, bluffs and brinksmanship.

The rising tide of globalisation may not lift all boats; nevertheless the WTO's organisational capacity has been stretched to the limit by a wide number of divergent interests and expectations. It appears as if the era of single-undertaking global multilateralism, in which ongoing negotiation in a number of issue-areas is cobbled together to create a comprehensive trade deal for many parties, is at an end.

This paper examines a controversial idea about the nature of institutional trade governance and its future trajectory. We argue that liberalisation has a life-cycle and that the current dynamic is exploring the limits of that cycle. Furthermore, the conventional wisdom holds that the single-undertaking (wherein membership requires that states sign all existing multilateral trade agreements), one of the WTO's foundational innovations, is sufficient to discipline members and lock in progressive liberalisation. But recent history contradicts this assumption. Members from both the North and the South have proven to be adept at exploiting the legal loopholes of the system and at blocking consensus in contentious areas.<sup>1</sup> Three-quarters of the WTO's membership are developing countries and this fact goes a long way towards explaining the current changes underway in the liberalisation dynamic. The new southern geographies of power agree with the United States on one thing – a bad deal is worse than no deal at all (Alden and Beattie, 2006).

The decline of trade multilateralism is marked by a cocktail of rigid rules, non-tariff protectionism, and a crisis of representation that has thrown sand in the institutional gears of multilateral trade. For example, the WTO's subsidy and antidumping agreements were supposed to be a significant step beyond the arrangement of exemptions and waivers that typified the General Agreement on Tariffs and Trade (**GATT**) governance. And, yet with more than 3,000 antidumping notifications it appears that has not been the

case. In fact, competition policy is not even on the WTO's radar for this round because agricultural liberalisation issues are more pressing (Clapp, 2006).

The paper concludes by hypothesising that we are at the end of the golden era of post-war multilateralism and entering an era of regionalisation (Crawford and Fiorentino, 2005). The devolution of the principles and aims of multilateralism to the regional level represents a major shift in the world trading system (Whalley, 2006). This is not the first time the world has been faced with systemic changes in the international economy. In the 19<sup>th</sup> and the early 20<sup>th</sup> centuries, global trade broke down – first with the end of the British free trade system, and shortly thereafter with the catastrophic collapse of the interwar trading order (Judt, 2005).<sup>2</sup> But this qualitative shift in the negotiating strategies of states need not be seen as a return to 'interwar protectionism'.

The proliferation of preferential trade agreements represents a compelling political and economic logic of advantage. In recent years the perception has grown that the WTO's 'single undertaking' mode of liberalisation is more a straightjacket than it is an aggregation of collective interests. Dani Rodrik has argued that a lack of policy space, not a lack of market access, is likely to become "the real binding constraint on a prosperous global economy" in the near future (Rodrik, 2007). For many regions of the world, including North America, Europe, Asia and Latin America, the diversification away from multilateralism is seen as a step forward, enabling diverse regional economies to broaden and deepen market access and to balance trade liberalisation with other social goals (Drache, 2004).

## **Deadlocked Agriculture Negotiations and the New Geography of Power**

In an era of economic shift and political flux, the deadlock in agriculture negotiations exemplifies the minefield of complex and divergent national interests that are paralysing the WTO. Agriculture negotiations are grouped around three important issues: the elimination of agricultural export subsidies permitted by developed countries, the reduction of domestic farm support (especially in the United States, Canada, Europe and Japan), and the lowering of high agricultural tariffs designed to keep low-priced food products from developing countries out of northern markets (Turner, 2003).

Over the past 50 years agricultural subsidies have increased steadily in developed nations, even as industrial tariffs have fallen (Trebilcock and Howse, 1999). The reason for this is simple. All countries operate under a mercantilist trade model in which international market openness is purchased with trade concessions (Irwin, 1996). A smart buyer will not give up market access in sectors that are not able to compete favourably on world markets. Agriculture is not symbolic of the dysfunctional trading system so much as it is the one sector where the veil of economic theory slips and reveals the politics of global trade as they really are.

In the WTO's bargaining process, negotiators assume that the benefits of trade flow from concessions made by other members. Of course this perspective is a mirror image of the theoretical model of trade liberalisation, in which the countries making the most concessions receive the greatest gains from trade (Myrdal, 1957). In this case the standard assumption of trade negotiators represents reality and the theory is notably flawed, a fact underscored by the heavy concessions made by developing countries in the Uruguay Round and their uneven gains from trade over the past decade. Members who

made the heaviest concessions in the early 1990s are still fighting for agricultural market access in the global North (Dunkley, 1997).

In a typical negotiating session, negotiators table a request for concessions and then make offers in response to other members' requests. The job of the negotiation chair is to help find a zone of agreement among the members. Working with the Director General and the Secretariat, a final package is compiled to meet the minimum requirements of each participating member. Once a package is in place, negotiators review it and ask their governments whether the package on offer is better than the status quo (Bagwell and Staiger, 2006). In agriculture, negotiating positions remain far apart, and after five years there has been no agreement reached on a package deal.

The process remains deadlocked because the developed countries have a huge political incentive to protect their rural producers. Farmers' votes are disproportionately heavy in many northern countries because the political system has not evolved with the changing demographics of the wealthy urban northern hemisphere. For example, 80 per cent of Canada's population now lives in cities, whereas fewer than 60 per cent lived in cities 50 years ago (Statistics Canada, 2007). The family farm has all but disappeared. It exists today in the popular imagination of those living in advanced capitalist economies, but for the rural populations of Africa, Asia and Latin America, it is farming household that defines rural reality. Furthermore, large-scale agriculture plays into the global North's view of progress with its labour saving technology, rationalised production methods, and gene-altered plants. There is a powerful constituency for agricultural protection in the United States, Canada, Japan and Europe and no indication that

politicians will roll back farm support to any great extent in the near future. In fact in the United States, subsidies for shrimp, corn, cotton and rice have increased.<sup>3</sup>

Large industrialising countries, China and India in particular, also have an incentive to slow the agriculture negotiations. Trade liberalisation is linked to structural adjustment and greater market efficiencies. China, for one, does not want a more efficient domestic agricultural sector just yet because this would swamp Chinese cities with peasants looking for work – a migratory process that China is attempting to manage and control (McKinsey & Company, 2006).

For India, the problem is more severe. There are 600 million Indian peasants eking out a living on small plots and they constitute the vast majority of India's poor. The Indian agricultural sector is due for major reforms, but until the government develops a hard strategy to overcome the obstacles to structural adjustment, it can make no deal on agriculture. In fact, India is now a net food importer and productivity is declining (Evenson, Pray and Rosegrant, 1999). Prime Minister Manmohan Singh has said repeatedly that there can be no deal unless India preserves the right to protect its rural poor from the tidal wave of globalisation.

At the other end of the emerging economic spectrum is Brazil, with its highly efficient, industrialised agricultural sector. The Government in Brazil has effectively managed the transition from family farms to modern agribusiness. The public sector provided a number of support mechanisms to smooth structural adjustment in the agriculture sector. Brazil's principal problem is American protectionism. Florida citrus growers have waged a successful political campaign to keep low-priced Brazilian citrus

products out of the American market, bringing to bear the full power of Congress' protectionist legislation (Lindsey, 2002).

### **Walking Away from a Bad Deal**

Eliminating market distorting measures in agricultural and textile sectors would add more than \$300 billion to the value of global trade in agricultural products, according to best estimates (Anderson and Martin, 2005). However, the reality is likely to be more complex because most members do not want full agricultural liberalisation. Rather, they prefer a carefully managed process with clear national benefits that can be easily sold to voters. A member's willingness to walk away from a bad deal has fundamentally shifted negotiating momentum away from the Uruguay Round 'quad,' and towards emergent coalitions of developing countries such as the G-20 and a plethora of 'alphabet organisations' organised by sector, industry and region.<sup>4</sup>

The developing world understands that economic integration faces large political hurdles in becoming an engine for poverty reduction. Nevertheless, the West African cotton sector did the impossible, reorganising production in order to effectively compete in global markets for cotton. Thousands of producers were forced out of the industry, subsidies were cut and incomes fell dramatically for those who remained. Today, West African cotton sells for 22 cents a pound. In contrast, American cotton costs about 88 cents per pound to produce. According to economic logic, West African cotton should have a comparative advantage in the United States, but it is not allowed into the country.

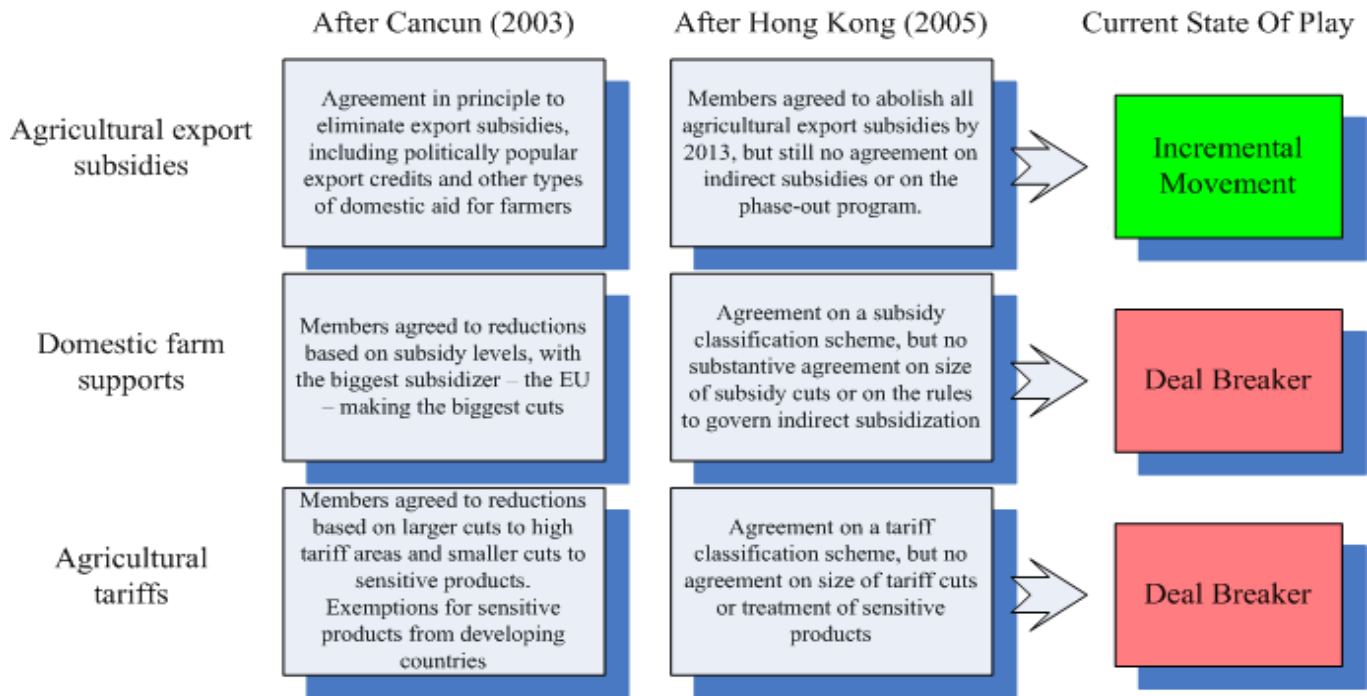
It comes as no surprise that even after five years of negotiation there is no grand bargain on agriculture at the WTO. This does not mean there has not been progress in



some areas. After the Cancun Ministerial Meeting in 2003 members agreed to eliminate export subsidies, including politically popular export credits for farmers, which will be abolished by 2013. European and North American farmers also enjoy an unprecedented level of domestic support under the pretext of protecting domestic food supplies and rural jobs. Domestic farm support has been targeted for significant reductions as it is one of the leading causes of overproduction, waste and agricultural dumping, in which northern food products are dumped on third world markets. In 2005, there was agreement on a subsidy classification scheme, but no substantive agreement on the size of the cuts or on the rules with which to govern indirect subsidies has been reached.

Agricultural tariffs are the most prominent and politically contentious form of protection. Developing countries can seldom afford expensive subsidisation and export credit programmes for farmers, but most developing nations use tariffs to protect their own agricultural industries. After Cancun members agreed on a system of reductions based on larger cuts to high tariff areas and smaller cuts for sensitive products. Sensitive products from developing countries would be exempt from any cuts. By 2005 there was full agreement on a tariff classification scheme, but no agreement on the size of the tariff cuts or on how to categorise sensitive products. Like the movement on domestic farm support, tariff negotiations grind along with some agreement in principle on a common approach to classifying what needs to be liberalised, but **with no** agreement on the liberalisation process or the overall depth of cuts.

**Table 1**  
**Agricultural Trade Liberalization in the Doha Round:**  
**Progress at a Snail's Pace**



### Northern Intransigence or Southern Blocking?

It is easy to blame northern intransigence or southern blocking strategies for the current gridlock in agriculture and cotton. Yet, the biggest reason for an inability to conclude a deal in the Doha Round is the comparative weaknesses of a single undertaking model of deal-making in relation to other forms of multilateralism. The consensus among scholars is that the growth of the multilateral trade system, from the 23 Members that participated in the first round of GATT negotiations at Geneva in 1947, to the 123 members that completed the Uruguay Round in 1994, to the 150 Members of the WTO today, has strained the institution's multilateral negotiating model considerably (Drahos, 2003).

In previous decades, a mercantilist approach to trade multilateralism was instrumental to driving down tariff walls. The logic of gaining market access through strategic concession allowed governments to sell market liberalisation to domestic publics as a series of ‘win/win compromises’ -- one of the most overused clichés of trade politics. Publics, however, are increasingly sophisticated and demand that their governments get the best deal possible. It would appear that Putnam’s two-level game of international diplomacy, in which national governments must bargain with international actors as well as domestic constituents, has finally overturned the rarefied world of the GATT (Putnam, 1988). Developing countries led by India and Brazil have developed highly successful blocking strategies. Ruggie reminds us that the goal of trade liberalisation has never been literally free trade, but developing rules and norms to smooth international

**Preamble to the Marrakesh Agreement  
Establishing the World Trade  
Organisation**

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

Source: WTO legal texts at [www.wto.org](http://www.wto.org)

transactions (Ruggie, 1982). With so many members and so little substantive agreement, the green room, where trade ministers and lead negotiators from the developed countries **formed** strong-armed reluctant participants, is no longer an effective mechanism for consensus-building.

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## **Trade Protectionism after the Uruguay Round**

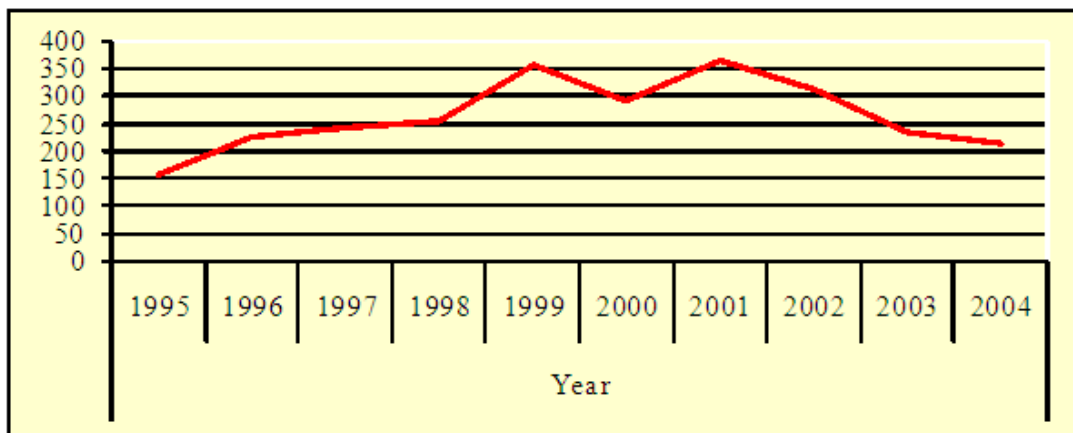
Hudec likens the rise of non-tariff barriers to the uncovering of submerged stumps when draining a swamp. As tariff barriers fall, other forms of trade protectionism rise in importance. WTO jurisprudence is not far advanced and cannot give clear guidance in the areas of public policy dealing with predatory subsidies, dumping, and international competition policy (Hudec, 1999). It is one of the institutional oddities of the WTO that at the heart of the organisation there remains a well-advanced and member-sanctioned system of legalised non-tariff protectionism. In fact, WTO membership may even provide a built-in incentive for states to develop antidumping legislation in order to fully utilise all legal competition strategies available (World Trade Organisation, 2006).<sup>5</sup>

Dumping is the practice of exporting a product for less than the cost of producing it, or for less than the 'normal value' of the product in the firm's home market (Department of Finance, Canada, 2004). In domestic markets, producers sometimes sell their goods below cost in an effort to clear inventory or break into a market dominated by rival producers. On the whole, this practice benefits consumers. However, in international trade, selling goods for less than the cost of production is considered to be an unfair form of competition. Countervailing duties are frequently used by the global North against southern producers whose primary comparative advantage is cheap labour. Global North countries use these measures of protection against each other to defend market share for domestic industries; needless to say, antidumping measures are frequently subject to abuse (Young and Wainio, 2005; Lindsey and Ikenson, 2001).

More than 2,000 antidumping notifications were reported to the WTO in the ten years from 1995 to the beginning of 2005 (see Figure 1 below). Only about 5 per cent of

these went to the panel process, yet antidumping triggers a cycle of relentless trade politics that benefits the most powerful traders – a fact the WTO has been quick to recognise and slow to rectify. This overt reliance on countervailing duties as a trade strategy has five steps: push hard for concessions from trading partners during negotiations, concede less in return, exploit the legal loopholes found in WTO governance, craft a deal and then withdraw the complaint. This explains why so many antidumping actions are little more than bargaining chips to be used in the ongoing negotiating game of trade-roulette.

**Figure 1 Anti-dumping Initiations by Exporting Country, 1995-2004**



Source: WTO online antidumping databases

Bourgeois and Messerlin examined European antidumping cases at the GATT between 1980 and 1997. They found an inverse relationship between the height of the tariff wall protecting domestic firms and the frequency of their involvement in antidumping cases (Bourgeois and Messerlin, 1998). As tariffs fell, countries engaged more frequently in antidumping trade remedy actions. In this legal culture, the losers are small developing economies such as the African, Caribbean and Pacific (ACP) nations. As Bown, Hoekman and Ozden have shown, poor countries are most frequently the target

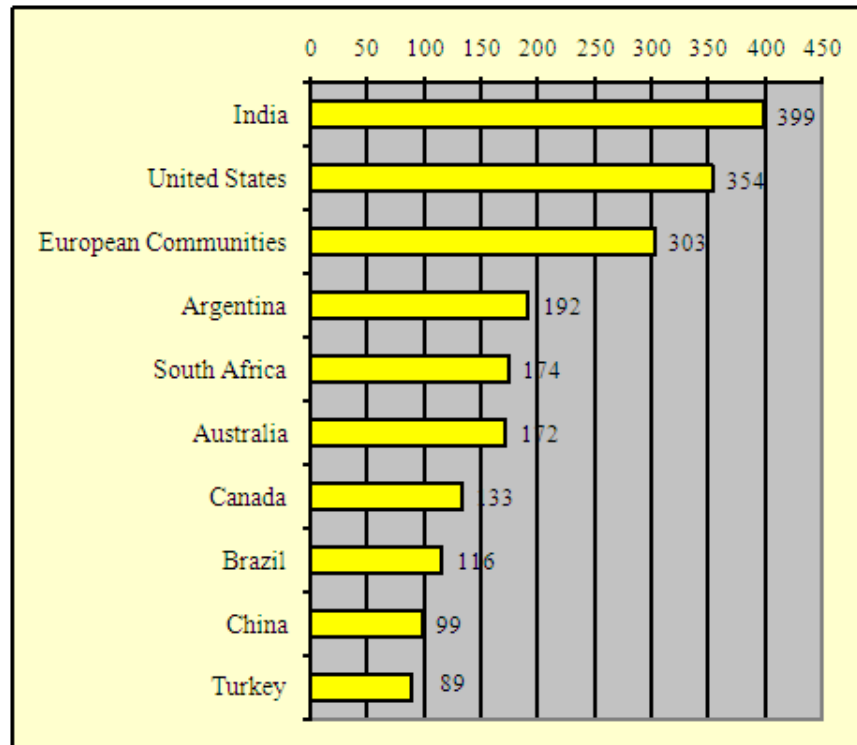
of antidumping actions; they are less likely to settle cases and more likely to face high countervailing duties. They are also less likely to bring cases of abuse to a dispute settlement panel (Bown, Hoekman and Ozden, 2003).

The case of China exemplifies the present policy quagmire surrounding antidumping. China has been the single biggest target of antidumping remedies in recent years because according to the WTO, it is a non-market economy (**NME**), a generalised category left over from cold-war trade politics (Jonquieres, 2006). In the past decade, China has lessened government controls, strengthened private property rights and met the standards for WTO accession. Ironically Russia, yet to qualify for WTO membership, has actually moved backwards on economic reform but has already been recognised by the US and EU as a market economy.<sup>6</sup>

The real issue behind the use of these trade measures is the changing geography of power driven by a global redistribution of labour, not unfair trade practices *per se* (European Union Trade Commission, 2005).<sup>7</sup> China has been hit with 338 antidumping measures since its accession in 2001. The most frequent complainants have been the EU, US and India, which applied measures against Chinese chemicals, base metals and electronics. China, however, has learned the value of antidumping measures for protecting domestic producers as well. As one of the most active users of antidumping measures, China has imposed dozens of measures on chemicals from the EU, steel from Japan, and paper from the United States and Korea, as the list of the top ten antidumping remedy initiators shown below (Figure 2) reveals.

**Figure 2**

**The Top 10 Users of Anti-dumping Action at the WTO**



Source: WTO online antidumping databases

The regulation of non-tariff protectionism is now an important part of any modern trade regime because the WTO's Antidumping Agreements function as a stand-in for an international competition policy (Mankiw and Swagel, 2005). Competition policy is off the table in the Doha Round ensuring that antidumping remains an issue for the foreseeable future because it would require the global North to implement many of the structural adjustment policies that have been demanded of the developing world by international financial institutions (Odyssey, 2005).<sup>8</sup> In a liberalised trading system, the lack of an organised competition policy has significant political and economic implications for small members and WTO legitimacy (Anderson, 2003). For one, small members cannot afford the cost of subsidies, or for that matter, expensive antidumping

remedies. Poor southern countries also lack the ability to enforce compliance in the event that they win against a larger developed country (Brimeyer, 2001). For another, the WTO's free trade ideal takes a hit when its biggest proponents preach free trade while simultaneously maintaining lucrative stop-gap measures for influential business insiders – as much true in Europe and Asia as it is in the United States.

Export credit agencies are but one of the latest and most innovative uses of proactive industrial support to sweep the European Union and Japan. They support domestic exporters who are trying to crack markets in Turkey, Mexico, Iran and China. These agencies protect the investment of domestic exporters, significantly lowering the risk of emerging markets for medium-sized industry leaders (Wolf, 2006). In 2004, EU governments spent \$73 billion on state aid for industry (Marsden, 2005). Many forms of subsidisation are illegal under EU law, but a number of loopholes in the legislation allow governments to continue to generously support their most important industries.

### **Making the Link Between Antidumping and Subsidies**

Countervailing duties are almost always linked to the charge of unfair subsidisation. American producers have relied on antidumping remedies as their preferred form of protectionism since the Smoot Hawley Tariff Act was signed into law on June 17, 1930 (Destler, 2005). To wit, the US practice of subsidising and providing anti-dumping relief to their steel industry has already generated complaints on 13 separate issues around US trade in steel products. Canada has also been targeted by the US and New Zealand for the subsidy/anti-dumping protectionism of its dairy industry (Canada, 1999), its civilian aircraft by Brazil (Canada, 1997) and its automotive sector by



Japan and the European Union (Canada, 1998). India took the European Union to the WTO regarding its anti-dumping protection of Europe's textile industries (European Communities, 1998).

In each of these leading cases, the WTO failed to impose its brand of regulatory convergence, despite a show of compliance on the part of defendants. When states are ordered to stop subsidising domestic industry, they simply switch tracks or tweak policies to remain in bounds according to the Agreement on Subsidies and Countervailing Measures. One example of this commercial practice is Brazil's subsidisation of Embraer and Canada's financing deals with Bombardier. These firms remain global rivals and both countries continue to pursue national interests in the lucrative market for regional jets (Krikorian, 2005). Embraer and Bombardier continue to enjoy preferential treatment from their respective governments. To ignore the large role of subsidies in development is to overlook Krugman's argument that trade competitiveness and hard-won market access are inevitably the outcome of a high-powered and focused industrial strategy, not the abstract principles of comparative advantage (Krugman, 1990).

The state continues to have a large role to play in shaping the trade advantages enjoyed by domestic industry (Krugman, 1994). Globalisation has not hollowed out state authority to anywhere near the degree that critical political economists have suggested (Arthurs, 2003). The rise of China shows how misleading the 'hollowing out' thesis really is. State controlled companies remain surprisingly resilient actors in a post-Washington Consensus era. Despite market liberalisation measures, state-owned enterprises still account for 80 per cent of China's economic output. This is, perhaps, unsurprising for a quasi-communist authoritarian state, but Europe shows a similar

propensity for state involvement in the economy. For Finland, state-owned enterprises account for just under 80 per cent of economic activity. In the Netherlands, one of Europe's most market-friendly jurisdictions, state enterprises control about 50 per cent of all corporate assets. For Sweden, Italy and France, the number is closer to 30 per cent (Financial Times, 2006).

### **The Representation Crisis**

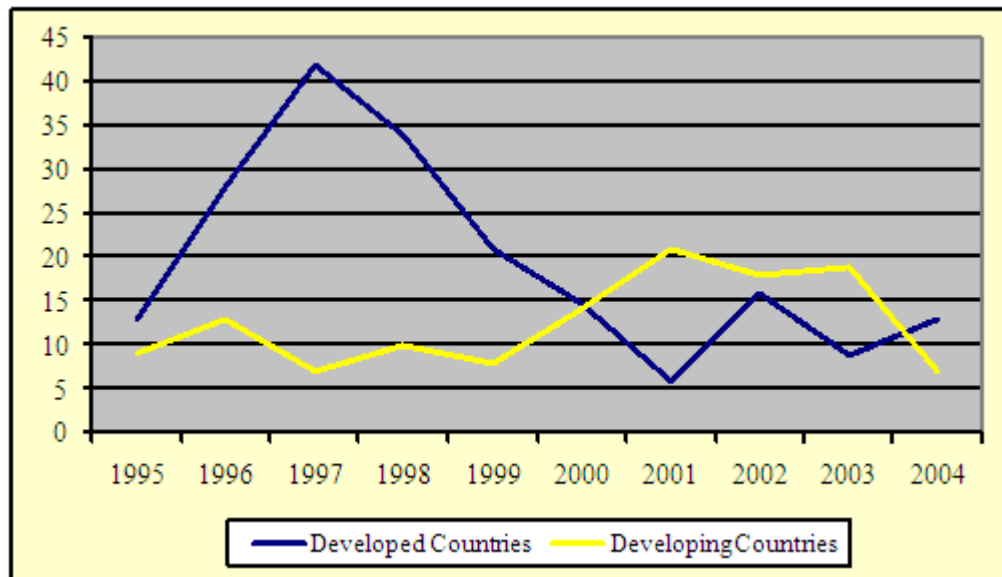
Global civil society activists have long emphasised the vast inequality of institutional trade outcomes for rich and poor countries (Milanovic, 2005). At first, income inequality among the membership did not seem to affect the performance of the WTO (Chayes and Chayes, 2003). But over time, the power imbalance has been shown to have significant institutional side effects that lower the morale of the membership and nurture an environment of distrust and recrimination. For example, despite the fact that new dispute settlement rules were designed to make the system more accessible, southern countries still do not use the Dispute Settlement Mechanism (**DSM**) as frequently as developed countries (Bellow and Kwa, 2003).

The greatest inequality between the global North and South at the Dispute Settlement Mechanism was experienced in 1997, when developed countries brought more than 40 cases and developing countries fewer than ten. However, by 2004 only 20 cases were brought to the WTO, with developing countries initiating seven, or 35 per cent of total cases. This was down from 2003, when 28 cases were initiated and developing countries accounted for 19 of them, or 68 per cent of all cases (see Figure 3 below). When four-fifths of the membership is classified as developing, this is a significant

commentary on the current institutional arrangement (Drache, 2004). Of the 148 members, 81 have never used the Dispute Settlement Mechanism. Further, 278 of 329 cases initiated at the Dispute Settlement Mechanism to date involve developed countries as complainants or respondents. Dispute settlement has not been democratised in the least, and the wealthiest traders ought to be alarmed by the failure to get the rules right for the poorest members.

**Figure 3**

**Disputes Initiated by Developed and Developing Countries**



Out of the 329 cases taken to the Dispute Settlement Mechanism between 1995 and 2005, 203 cases, or 62 per cent, have been launched against developed countries. When we look at the number of cases in which developed members are involved as co-complainants or co-respondents, the number rises significantly: 278 of 329 cases involve developed countries as complainants or respondents. In percentage terms, this means that 85 per cent of WTO disputes involve at least one developed country. Only 15 per cent of

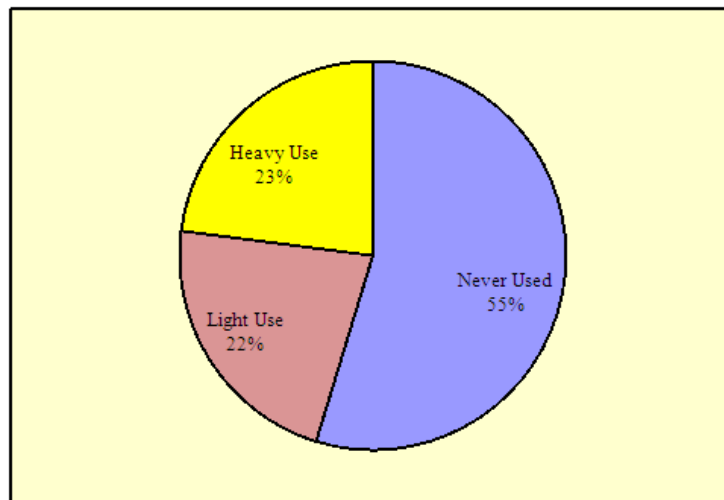
disputes (51 of 329 cases) involve only southern interests. If the WTO is to survive future rounds, southern countries will need to buy into the Dispute Settlement Mechanism in a way they have not in the past ten years.

So far, there is little optimism for a sea-change in the Dispute Settlement Mechanism usage. Only 67 members are on record as having participated in at least one dispute, and 33 of these have been involved in three or fewer cases (see Figure 4 below). Canada, the US, the European Union and Japan file the largest number of complaints and responses – unsurprisingly they account for around 60 per cent of the world's merchandise exports. The US is far and away the biggest user of the consultations system, filing at least 30 per cent more complaints than the EU, and almost twice as many responses.

Most users of the Dispute Settlement Mechanism have little experience with the panel process, and many developing nations are only tangentially involved in dispute settlement although they have large interests at stake. For example many developing countries were involved on both sides in the Bananas dispute, which paradoxically was actually a market access battle between the EU and US (Javelosa and Schmitz, 2006). The US succeeded in reasserting its long-standing geopolitical interests in Central and South American markets. The irony is that the WTO system was supposed to empower small trading countries and mitigate historic power inequalities. Instead, it pitted poor African and Caribbean nations against small economies in Latin America. This case is typical of current dispute settlement dynamics in which developing countries are enlisted proxies for the hard power interests of the global North (Cutler, 2003).

**Figure 4**

**Membership Use of the Dispute Settlement Mechanism**



**Retaliatory Dynamics**

Global trade politics has developed its own institutional forms and challenges (Braithwaite and Drahos, 2000). Many of the disputes brought by the developed North to the DSM have roots in previous cases. Sometimes, as in the Bananas Case, they are the result of long-running disputes that the WTO is unable to resolve. Other times, as in the Boeing/Airbus dispute between the US and EU, they are the result of retaliatory litigation. This retaliatory dynamic is the result of clashing norms and standards (Oxfam International, 2002). One area where this dynamic is most in evidence is the area of food safety because the EU has imposed extensive restrictions on genetically modified organisms. It touches a raw nerve for civil society activists who believe the WTO is unfit to decide “what we should eat, and what farmers should grow,” as well as for heavily subsidised American agricultural producers who view European markets as the next logical frontier of market expansion (Beattie, 2006).

It is a top priority of the WTO to eliminate this rift. In fact, Pascal Lamy has staked his leadership of the WTO on the successful completion of the Doha Round by making substantial gains for the global South while placating civil society through an institutional dialogue on 'humanising globalisation' (Lamy, 2006). He has given new legitimacy to the fact that states bear the final responsibility for articulating collective preferences and accommodating democratic choice (Charnovitz, 2005).

Why has southern participation in dispute settlement remained so low, despite the rise of strong traders such as China, India, Brazil, Argentina and Mexico? There are two simple reasons. First, for many developing nations, post-colonial sovereignty was hard-won, and governments do not want to cede policy space to external experts. In this vein, the World Bank and the United Nations also argue that local capacities should be developed by governments, not by multinational corporations that are more concerned with shareholder value than they are with the quality of life of southern citizens (Oxfam Great Britain 2001).

Second, the failures of structural adjustment in the 1980s and 1990s reinforce the view that supranational trade governance is a risky endeavour with neo-colonial overtones (Bello, 2003).<sup>9</sup> Developing countries ceded a lot of ground in the Uruguay Round, trading services and intellectual property liberalisation for binding dispute settlement and promises on agricultural market access. Over the past five years there has been little movement on Doha priorities. And even the Joint Integrated Technical Assistance Programme (**JITAP**), designed to prepare developing countries to access WTO legal processes, has made very little difference in the dispute settlement numbers.<sup>10</sup>

## **The End of the Golden Era of Trade Multilateralism**

The accumulation of political and market power in the global South, the WTO's hyper-legalism, and an all-or-nothing process of bargaining have taken their toll on the world trading system. There is mounting evidence that the WTO is entering a period of what scholars call a regime shift. Helfer has noted that states create regimes to "reduce the transaction costs and information problems that plague uncoordinated state relations" (Helfer, 2004, p. 7). Once a regime is in place, it is 'sticky;' it generates a number of costs and benefits, and these, accompanied by states' continued investment, allow a regime to remain in existence even though the interests of founding members such as the US and EU have begun to diverge (Katzenstein, Keohane and Krasner, 1998).

The predictive value of regime theory is that it shows how when interests change, "states and nonstate actors attempt to reshape a regime's constituent principles, norms and rules," often with unintended outcomes for interstate relations and for global governance (Helfer, 2004, p. 9). Regime shifting is an attempt to alter the status quo by moving focus and resources out of one regime and into another. In the international trade regime, there has been a steady increase in regional and bilateral deals, even as more countries continue to join the WTO. It is important to note that regime shifting is not a phenomenon of 20<sup>th</sup> century globalisation. Throughout the modern era, states have relied upon a tactical approach to interstate cooperation.

In his classic analysis of the rise and decline of British free trade, Charles Kindleberger documented how the British believed that their international trading system would dominate the world and last for a century or more (Kindleberger, 1993). But Bismarck was the great spoiler, rejecting this Anglo-centric system that was designed in

the interests of the British Empire. Germany, as a rising industrial power, decided that its strategic interests were best served by high tariff walls. This rejection of the British trade model, coupled with a mercantilist arms race between Britain and Germany were important causes of World War I.

The current trading system, in this period of globalisation, bears a striking resemblance to the 19<sup>th</sup> century British system in that the United States plays the part of 'benign hegemon,' in place of Britain, guaranteeing the system's viability even though smaller states and economic actors have become restive under its authority. Like then, inter-capitalist rivalry is again on the rise and markets no longer look exclusively to the hegemon for financial leadership. The recent slump in equity prices caused by a stock market run in China emphasises this point (TD Bank Financial Group, 2007).

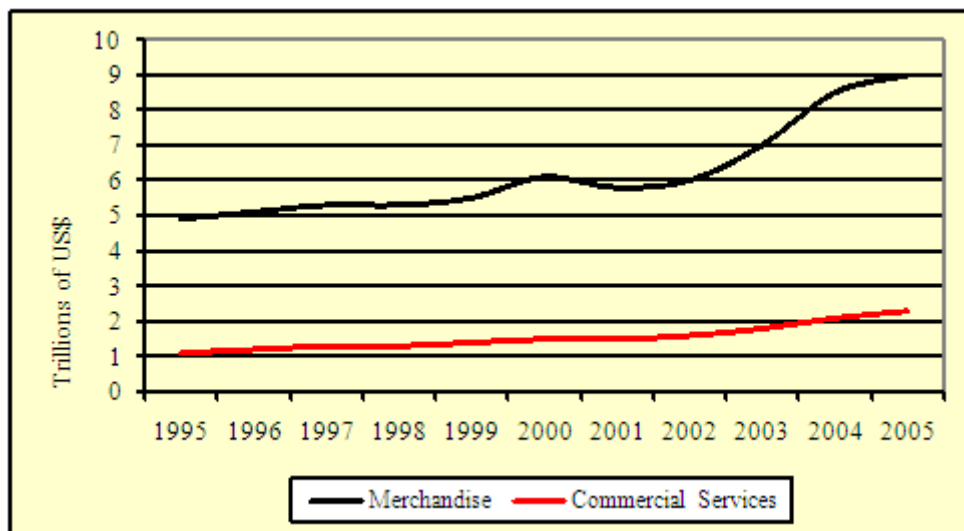
Significantly, states are increasingly reluctant to place all their resources and efforts at the service of an America-led trade regime and the interests it represents. Compellingly, Boltho argues that the end of the British trading order did not presage an end to interstate trade. The growth of world trade barely slowed after 1880, and in fact GDP growth in OECD countries after 1880 was actually higher at 2.6 per cent, than it was between 1850 and 1880 at 2.3 per cent (Boltho, 1996). Despite a moderate level of protectionism, growth continued unabated and a relatively open trading system remained a pragmatic reality rather than an ideological conviction. But much was in flux in the international system. Inter-capitalist rivalry was on the rise, and in Germany, it took the form of Prussian militarism. Nevertheless, trade only collapsed entirely when beggar-thy-neighbour economic policies destroyed the system in the midst of 30 turbulent years between 1914 and 1945. It took a world war to dismantle the previous trading system and



lay the foundation for the post-war compromise between economic liberalism and the welfare state. Inevitably, it takes a system wide crisis to clear the required policy space for new forms of governance to emerge.

This is not to argue that the process of regime shifting we see in the international trading system today presages international military engagement. The world economy's relationship to the WTO is complex because the trading system has multiple centres. Even as the Doha Round falters, the value of merchandise and service exports continues to grow. In 2005 world merchandise exports were worth approximately \$ 9 trillion, and the export of services topped \$ 2 trillion, as Figure 5 shows. Today beggar-thy-neighbour protectionism is not on the horizon. No country wants to roll back the world economy to the 1930s.

**Figure 5 Estimated Value of Merchandise and Service Exports for WTO Members, 1995-2005**



Source: World Trade Organisation, International Trade Statistics 2006

In the process of trade liberalisation, the WTO is not hamstrung by special interests, as much as by the realities of global politics which have roughly intruded on the theory of trade liberalisation (Wolfe, 2005). Unfettered liberalisation unleashes in many countries a large and uncertain structural adjustment process. The expectation is that trade will stimulate economic performance, driving up wages and productivity. But stiff global competition frequently forces firms to shed labour and cut wages. It is the human cost of adjustment that is not factored into the neoliberal trade model, and developing member governments are unwilling to sign a blank cheque for Doha as they did at the Uruguay Round.

We have argued that the current crisis is not a system-wide meltdown. Rather it is an accumulation of institutional rigidity, non-tariff protectionism, a shifting geography of power and a narrow organisational focus on commercial interests in a world increasingly concerned with international inequality and poverty eradication. The need for developed countries to compensate losers in the global economic restructuring process is the newest idea migrating from the margins to the mainstream.<sup>11</sup> Economists such as Rodrik and Stiglitz are advocating that rich countries compensate globalization's losers in poor countries as well (Birdsall, Rodrik and Subramanian, 2005; Stiglitz, 2006). Bhagwati has called for greater labour mobility for service providers from the global South (Bhagwati, 1999). In the north, the central issues are income replacement and education. Part of this compensation must be a reform package at the WTO that recognises the unique importance of equity in development. It is an idea long overdue, and without it, global free trade is without a viable future. It will likely take more than a decade to win this ideological battle for compensation, but the international trade regime of the future will

be a very different place. Whether it will be a more equitable system depends upon how the WTO meets two important challenges in the upcoming years.

The first challenge comes from the WTO's inward-looking focus on its own rules and practices – often to the exclusion of other sources of public international law. There has never been a comfortable fit among the dozens of treaties, conventions, diplomatic understandings and legal principles that comprise the body of public international law. Some of the most impressive milestones are the International Ban on Landmines (1997), the International Criminal Court (1998), and the Earth Summit in Rio de Janeiro (2002), which spawned six international environmental agreements on the issues of biodiversity, climate change (the Kyoto Protocol), desertification, and the sustainability of migratory fish stocks among others.

International treaties were meant to be the high standard of the international system with a capacity to bring global governance to the next level. Compare the faded glory of the most-favoured nation and non-discrimination principles of global trade to other international milestones like the Polluter Pays Principle (1971) and the Convention for the Protection and Promotion of the Expression of Cultural Diversity (2005) that was explicitly set out as a challenge and counterweight to the WTO (International Institute on Sustainable Development, 2006). One can see how much a laggard the WTO is, and how few and far between are its triumphs. After a decade the WTO is still not pulling its weight. It was intended to be the epicentre of a new international order, but rather than presiding over a bigger and more robust system of international public law, it has become a juridical silo.

The second challenge will be learning to live with diverse forms of bilateralism and regionalism. For almost every other country besides China and the United States, trade follows well-worn regional patterns. Nevertheless, doctrinaire economists are alarmed about the growth of regional trade agreements because they worry about the protectionist impact of regional blocs on world trade. Nevertheless, best estimates show that it is the ‘bias of blocification’ that has driven the growth of trade volumes over the past two decades. Furthermore, it is quickly becoming common knowledge that a single model of integration does not suit every national context. For example, the model of integration developed by Europe, that emphasises political integration and common markets would not work in North America. But the North American model of integration that emphasises negative rights (thou shalt not) over positive rights may enhance economic opportunity, but at the expense of vulnerable social groups. Other regions will develop their own brands of integration, as Russia is currently doing in Central Asia. In the east, China is also crafting a sphere of influence with its own forms of economic integration.

Asymmetries in the global trading system are likely to continue to grow because the most recent evidence shows that international trade is often the result of the spread effects of regional trade. Once a country has well established regional patterns, it may begin to develop trade ties outside the bloc in an effort to leverage new opportunities. The best example of this process in action is Brazil. Brazil has triangulated its trade ties to the United States, Mercosur and the EU15, and is pursuing more aggressively a trade relationship with China – but only after consolidating its position in South America. Other countries may pursue extra-regional trade only sporadically. For example Canada

trades predominantly with the United States, and only maintains weak ties to Europe, Asia, Mexico and South America. The Harper government is worried about the rise of regional trade blocs and has invested building stronger trade ties with Brazil, Argentina and Chile. Significantly, Mexico, as a strategic priority, has been downgraded.

India and China, Asia's two trading giants, are already articulating regional strategies for trade bilateralism. Both are part of ASEAN, but it is unlikely that this large and unwieldy trading bloc will be able to transform itself into a more effective organisation unless it adopts a binding dispute settlement mechanism, across the board tariff cuts and a much strengthened intellectual property rights regime. China is strategically placed to strike trade deals in Africa and Asia. India and China have already begun exploratory talks to negotiate a regional trade agreement that would bring the two giants closer together economically. It remains an open question whether this new bilateralism will complement or rival the WTO governance model.

## **Conclusion**

So far the lack of forward movement in the Doha Round has not had a negative impact on the global economy. Global merchandise trade is growing at a robust 6 per cent annually and services trade at a phenomenal 10 per cent each year (WTO, 2006). This is more than twice the average rate of growth in OECD countries. In China, India and Brazil, an emerging middle class is driving domestic growth at rates that challenge the economic superiority of North America and Europe (Milanovic, 2005). In 2006, the *Economist* reported that half of the world's industrial products are now produced in the global South. According to the newest research, within a decade, 20 per cent of Fortune

Five Hundred firms will be southern multinationals (Agtmael, 2007). Neither Marxian dependency theory nor neoliberal economic theory foretold such a large-scale transformation.

It is, however, clear that multilateralism is in for a rough ride as the US, EU and other regional powers look for new frames within which to pursue their strategic interests. The golden era of post-war trade multilateralism is over. A new configuration of collective economic regulation is on the rise. Perhaps, the clearest indication of this regime shift is the slow death of the Doha Round. A new balance of power is emerging in the heart of the World Trade Organisation (Ostry, 2005).

Optimists predict a soft landing for the round; after a pause in negotiations, members will finally agree to a comprehensive deal although it might be smaller than what was hoped for in 2001. Pessimists predict a hard landing for the WTO; deadlock at Doha will drive deal making towards a 'spaghetti bowl' of many different bilateral and regional arrangements. According to neoliberal economists, this weakens the multilateral system because many small regional arrangements undermine the most-favoured nation principle enshrined in the GATT (Bhagwati, 1999). The regime shift towards a more regional approach to integration is the more realistic outcome; the regionalisation process is well underway and has accelerated throughout the past six years of Doha negotiations. States move their power resources out of institutional settings which do not reflect their interests and into other institutional settings that better reflect their goals. Recent evidence suggests that members are inclined to shift their energies outside the WTO – a bad omen for multilateral trade governance (Frieden and Lake, 2000). As we have argued above, open borders and moderate protectionism can coexist. As we look ahead we have

to ask ourselves the most significant question – what role will the WTO’s governance model play in the upcoming era of new priorities and evolving alliances? Will it even survive these seismic shifts in power?

## Endnotes

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<sup>1</sup> Judith Goldstein blames the shift from multilateralism toward regional and bilateral platforms on the drive by the US in the Uruguay Round for judiciable legal norms and enforceable dispute settlement rules that have created an organisational rigidity in the WTO. See Barton et al, 2006.

<sup>2</sup> In a different context, historian Tony Judt has argued that the institutionalisation of the European Union was in part an attempt to erase the remembered horrors of the 1930s and 1940s. The same can be said of the GATT/WTO, which has operated under the shadow of protectionism and collapse for the past 60 years, and is haunted by the spectre of the interwar system each time negotiations bog down. See Judt, 2005, Chapter 1 “The Legacy of War.”

<sup>3</sup> To see market information for American agricultural commodities, consult the US Department of Agriculture Economics, Statistics and Market Information Service at <http://www.ers.usda.gov/Publications>.

<sup>4</sup> These groups include the G110 which is an umbrella grouping of nine Global South single issue groups: the G20, the ACP, the LDCs, the African Group, the SVEs, NAMA 11, Cotton 4 and CARICON. Add to this the G90, the least developed countries and the G33. Non-reciprocity in market access for agriculture products as well as so-called ‘smart coalitions’ have also gained presence. India and Brazil have been invited to become part of a small group of countries called the Five Interested Parties. Bloc coalitions as well as issue based alliances have given the global south capacity to hold out against pressures to make a deal as they have in the past.

<sup>5</sup> As of 2006, 68 members are on record at the WTO as having antidumping legislation. Twenty-eight members have notified the WTO that they have no such legislation, and the rest of the membership have not contacted the Committee on Antidumping Practices to report the status of their legislation. "Report (2006) of the Committee on Anti-Dumping Practices." Geneva: World Trade Organisation, 2006.

<sup>6</sup> Non-Market Economy (NME) status is a magnet for antidumping violations. Imagine that a Chinese firm produces handbags and sells them at home for \$10 apiece and in foreign markets for the same price. Handbag manufacturers in the US, who sell their product for \$25 apiece, complain to the Department of Commerce that Chinese manufacturers are dumping handbags on the American market. Article 2.1 of the Antidumping Agreement states that “a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.”

The usual test of dumping is a comparison of handbag prices on the domestic market and their price in foreign markets. But China is a non-market economy according to the WTO, which means that its industries are assumed to be heavily subsidised and this would drive down the price of handbags in the domestic market. So the WTO allows complainants to use a proxy market to test domestic prices. If the Department of Commerce examines the price of handbags on the Indian market, and finds that they are sold for \$15 apiece, antidumping duties may be levied against Chinese handbags. NME status means that even if Chinese handbags are produced according to free market rules, manufacturers may still face steep duties when selling in the US.

<sup>7</sup> Antidumping measures are a blunt instrument wielded against China because northern manufacturing has been hard hit by China's rise. The export surges, in textiles for example, are unlike anything seen before. Between January and June 2005, Chinese positions in European textile markets grew by up to 500 per cent. Europe negotiated quantitative restrictions, reverting to managed trade in this sensitive sector where Chinese competition puts close to a half million jobs at risk. See *EU Textile Imports from China: Some Important Points* [HTML file]. European Union Trade Commission, 2005 [cited May 25, 2006]. Available from [http://ec.europa.eu/comm/trade/issues/sectoral/industry/textile/memo120905\\_en.htm](http://ec.europa.eu/comm/trade/issues/sectoral/industry/textile/memo120905_en.htm).

<sup>8</sup> The Byrd Amendment is the most recent example of the way that anti-dumping is used to protect mature industries that employ a large number of workers and carry on well-organised lobbying efforts and exert significant political influence domestically. The US government has collected more than \$5 billion in punitive levies since 2001. Canada and the US have just crafted a compromise deal that imposes quantitative restrictions on Canadian softwood for the third time in the past 20 years. The deal allows US producers to keep \$1 billion of the illegal duties collected. A significant reason for American success with trade remedy action is that the US Congress has a high degree of autonomy that has no equivalent elsewhere – a power that domestic business interests exploit very effectively. See [www.dfait-maeci.gc.ca/eicb/softwood](http://www.dfait-maeci.gc.ca/eicb/softwood) for a full account of the dispute.

<sup>9</sup> It also bears mentioning that the Agreement on Agriculture contained a 'peace clause' that forbade developed countries from bringing disputes in this developing country area of comparative advantage. When it expired in 2003, the United States brought disputes against Brazil over exports of sugar and cotton.

<sup>10</sup> JITAP has been widely supported by social democratic nations in Europe and by Canada. The US is much more reluctant to provide funds for technical capacity building. For more research on the difficult issue of technical assistance, consult [www.jitap.org](http://www.jitap.org).

<sup>11</sup> The social safety nets of developed countries already absorb some of the costs of structural adjustment. France, the US, Germany and Holland compensate the victims of free trade through job retraining, income replacement and long term unemployment benefits.

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