Critiquing the Critics of Economic Globalization

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Globalization is the great buzz-word of our times, although it lacks any common or agreed definition. It could mean as many different things as globalization of human rights values through United Nations Declarations and Covenants, the creation of War Crimes Tribunals, the International Criminal Court and the Land Mines Treaty, or the globalization of core labour standards through the International Labour Organization (ILO), or the globalization of environmental values through the Kyoto Protocol, but typically this is not what the so-called anti-globalists have in mind. Rather, they fundamentally object to the process of international trade and investment liberalization (economic globalization) that has occurred in the post-war years as reflected in the following summary numbers: from 1950 to 1999 the average annual growth rate of world real Gross Domestic Product (GDP) was 3.8 per cent; the average annual growth rate in the trade of goods over this period was 6.2 per cent; from 1980 to 1999 the average annual growth rate in the trade of services was 7.0 per cent; from 1982 to 1999 the average annual growth rate in the stock of foreign direct investment (FDI) was 13 per cent.[1]

The public perturbations leading up to and surrounding the Seattle Ministerial meetings of the World Trade Organization (WTO) in late 1999, and subsequent civil disturbances in Washington, Quebec City, and Genoa, confirmed dramatically, unambiguously, and probably irreversibly that trade negotiations and trade disputes have moved out of the quiet and obscure corners of trade diplomacy and become matters of 'high politics'. Despite these disturbances, it is important to bring some measure of rigorous detachment to the evaluation of the criticisms that have been widely and vehemently directed at the WTO, especially by the non-governmental organization community. The WTO and international trade liberalization generally are accused of creating a global monoculture, increasing inequality, harming the environment, health and safety, and human rights, and leading society (undesirably) away from self-sufficiency. Another common allegation is that the WTO is undemocratic and unaccountable and improperly constrains domestic political sovereignty.[2] In this article

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1 WTO, *World Trade Organization Annual Report, 2000* (2000).

2 See, for example, full page advertisements endorsed by more that twenty non-governmental organizations prior to the Seattle Ministerial meetings of the WTO, 'Global Monoculture' *New York Times* (15 November 1999); 'Globalization v. Nature' *New York Times* (22 November 1999); and 'Invisible Government' *New York Times* (29 November 1999).

I will argue that these objections are mostly unfounded.[3] Most of these critiques exhibit two broad themes: they focus both on inherent properties of international trade and on the institutional characteristics of the international trade governance regime.

CLAIM 1: GLOBALIZATION IS LEADING TO A GLOBAL MONOCULTURE

This claim comes in various strands, some more critical than others. Naomi Klein in her book, *No Logo*, argues: 'Despite the embrace of polyethnic imagery, market-driven globalization doesn't want diversity; quite the opposite. Its enemies are national habits, local brands and distinctive regional tastes.'[4]

In an economic vein, Thomas Friedman, in *The Lexus and the Olive Tree*[5] argues that there are no longer any ideological alternatives to free market capitalism, (although pacing of adjustment may vary), if a country wants to achieve higher standards of living. He terms a country's acceptance and application of this ideology the 'Golden Straightjacket' and argues that while the Golden Straightjacket improves a country's prospects for growth and higher average incomes, it also constrains political and economic choice by limiting available options. He notes:

> To fit in the Golden Straightjacket a country must either adopt, or be seen as moving toward, the following golden rules: making the private sector the primary engine of its economic growth, maintaining a low rate of inflation and price stability, shrinking the size of its state bureaucracy, maintaining as close to a balanced budget as possible, if not a surplus, eliminating and lowering tariffs on imported goods, removing restrictions on foreign investment, getting rid of quotas and domestic monopolies, increasing exports, privatizing state-owned industries and utilities, deregulating capital markets, making its currency convertible, opening its industries, stock and bond

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3 For excellent critiques of many of these objections, see Douglas Irwin, *Free Trade Under Fire* (Princeton: Princeton University Press, 2002); Jagdish Bhagwati, *In Defense of Globalization* (Oxford: Oxford University Press, 2004); Philippe LeGrain, *Open World: The Truth About Globalization* (London: Abacus, 2002); and Martin Wolf, *Why Globalization Works* (New Haven: Yale University Press, 2004).

4 Naomi Klein, *No Logo: Taking Aim at the Brand Bullies* (Toronto: Vintage Canada, 2000) at 129; see also Joel Bakan, *The Corporation: The Pathological Pursuit of Profit and Power* (Toronto: Viking Canada, 2004) c. 5.

5 Thomas L. Friedman, *The Lexus and the Olive Tree* (New York: Anchor Books, 2000) at 103-6.

> markets to direct foreign ownership and investment, deregulating its economy to promote as much domestic competition as possible, opening its banking and telecommunications systems to private ownership and competition and allowing its citizens to choose from an array of competing pension options and foreign-run pension and mutual funds.[6]

Francis Fukuyama in *The End of History*[7] argues apocalyptically that the final triumph of economic and political liberalism is occurring, and while this is generally to be welcomed, he worries that it may presage a material blandness and homogeneity and lack of engagement with great ideas that ideological conflicts in the past have provoked.

In responding to these claims of cultural, social, political and economic homogenization, it must be re-emphasized that it is crucial to the basic economic theory of international trade that comparative advantage results from exploiting *differences*, not similarities, in production. Indeed, international trade enables countries to accentuate rather than minimize their differences by specializing in economic activities where endowments permit a degree of specialization that confers comparative advantages on them relative to other countries, who in turn should pursue a similar strategy of specialization, thus creating the potential for mutually beneficial trade. This is observable not only across countries but also within countries. Largely unconstrained internal trade has not obliterated, but rather accentuated these differences and the different life-styles and community structures associated with them. Largely unconstrained international trade has had, and will have, similar effects on differences among nations. The stringency of the Golden Straightjacket is also greatly exaggerated by Friedman. Capitalist regimes vary greatly from one country to another, for example Japan, Singapore, China, Sweden, Germany, Canada, and the United States.

Second, the claim that diversity is the enemy of efficiency is false. While it may be true that in some industries like fast foods and hotel chains, many consumers want assurances of quality and consistency across multiple locations, in many, perhaps most industries, the most successful competitive strategy is through innovation to differentiate one's products from those of other providers, whether this is in men's and women's fashions, automobiles, consumer durables, or restaurants. Merely mimicking rivals' product offerings and then competing strictly on price and cost (commoditization) is often a recipe

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6 *Ibid.* at 105.

7 Francis Fukuyama, *The End of History and The Last Man* (New York Free Press, 1991).

for economic oblivion, as opposed to offering consumers with distinctive preferences what they want.[8] That corporations could, or want to, homogenize all consumer preferences globally is belied by the huge and proliferating diversity of product and service offerings that one sees in markets all over the world.[9]

Third, as to what exactly the litmus test is for the claim of increasing homogenization of culture is far from clear. *The Economist* argues that brands are not as powerful as Klein suggests. In fact, consumers' brand loyalty has been declining in recent years, and many previously established brands are suffering in terms of both customer loyalty and value.[10] While it may be the case that certain aspects of popular culture such as mass entertainment and mass consumer products have achieved a degree of world-wide consumption appeal, the claim sometimes made that every place is becoming every place else and that there is no point even in leaving home is belied by the most casual observations derived from traveling in various parts of the world, such as Latin America, Africa, the South Pacific, Western Europe, Asia, and Central and Eastern Europe, where cultural, social, and economic differences in both production and consumption remain huge.

Indeed, these differences, in many respects, translate into disparities that are unconscionable in the modern world. As Amartya Sen argues in his recent book, *Development as Freedom*,[11] the basic goals of development can be conceived of in universalistic terms where individual well-being can plausibly be viewed as entailing certain basic freedoms, irrespective of cultural context: freedom to engage in political criticism and association; freedom to engage in market transactions; freedom from the ravages of preventable or curable disease; freedom from the disabling effects of illiteracy and lack of basic education; freedom from extreme material privation. According to Sen, these freedoms have both intrinsic and instrumental values. While obviously different countries and cultures will seek to vindicate these freedoms in different ways, the challenge facing most poor developing countries in the world today is to realize these basic freedoms as most citizens of developed countries have already been privileged to do. More homogeneity of values, especially liberal values, would also seem a small price to pay for avoiding the huge human costs of ethnic and

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8 See William J. Baumol, *The Free-Market Innovation Machine: Analyzing the Growth Miracle of Capitalism* (Princeton: Princeton University Press, 2002).

9 See Philippe LeGrain, *supra* note 3 at 118-31.

10 'Special Report: Who's wearing the trousers? Brands' *The Economist* (8 September 2001).

11 Amartya Sen, *Development as Freedom* (New York: New York Alfred Knopf, 1999).

religious conflicts[12] that, despite Fukuyama's claim, seem, if anything, to be proliferating in many parts of the world. The recognition that not all convergence in values is necessarily detrimental is implicit in the policy advocacy of many critics of globalization, who on the one hand ostensibly oppose the imperialistic expansion of Western cultural influences, while at the same time selectively promoting distinctly homogeneous concepts of universal human rights, labour standards, and environmental protection.

Fourth, the WTO in its rules and trade dispute rulings is not unsympathetic to efforts by countries to protect culturally distinctive activities from foreign competitive encroachment, for example domestic film, television, and magazine industries. Article IV of the General Agreement on Tariffs and Trade (GATT) explicitly allows for quotas on foreign films. In addition, Canada negotiated for itself a more general, qualified exemption for its cultural industries under the Free Trade Agreement and North American Free Trade Agreement (NAFTA). While the WTO Appellate Body in the *Split-Run Periodicals*[13] case struck down features of Canadian policies designed to promote the domestic magazine industry, its decision still leaves open to the Canadian government a wide range of measures to support this and similar culturally sensitive industries—indeed superior mechanisms than those employed in the past, which have focused on subsidizing or protecting national inputs, rather than subsidizing distinctive informational outputs.[14]

Fifth, it is far from clear that government protection through state-imposed trade restrictions is 'better' for culture than exposure to free markets and open economic exchange. Tyler Cowen argues that 'the capitalist market economy is a vital but underappreciated institutional framework for supporting a plurality of coexisting artistic visions.'[15] Standard economic theory would suggest that since culture is

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12 See also Philippe LeGrain, *supra* note 3 at 293-319.

13 *Canada—Certain Measures Concerning Periodicals* (1997), WTO Doc. WT/DS31/AB/R (Appellate Body Report).

14 See Glenn Gottselig, *Canada and Culture: Can Current Cultural Policies be Sustained in the Global Trade Regime?* (LL.M. Thesis, University of Toronto Faculty of Law 1999) [unpublished]; Trevor Knight, 'The Dual Nature of Cultural Products: An Analysis of the World Trade Organization's Decisions Regarding Canadian Periodicals' (1999) 57 U. Toronto Fac. L. Rev. 165; for an argument on extensive cultural exemptions from trade disciplines, see Peter Grant & Chris Wood, *Blockbusters and Trade Wars: Popular Culture in a Globalized World* (Toronto: Douglas & McIntyre, 2004), and review thereof by Frederick Pinto, (2004) 7 J. Int'l Econ. L. 922.

15 Tyler Cowen, *In Praise of Commercial Culture* (London: Harvard University Press, 1998) at 1.

a normal good, demand for it is expected to rise as incomes increase. To the extent that free markets and freer trade promote growth in income levels, one might reasonably expect cultural output to increase. However, Cowen goes beyond this simple interrelation between trade and culture, suggesting that the exchange of ideas engendered by trade is essential to healthy cultural development. Historically there has been at least partial correlation between internationalization of trade and cultural growth. The hundred years before World War I saw tremendous creative output coupled with expanding trade frontiers.[16] By contrast, 'the most prominent period of cultural decline in Western history coincides with a radical shrinking of trade frontiers,' the Dark Ages.[17]

It is unclear whether those opposed to globalization on cultural grounds are motivated by a fear of cultural decline or by a wish for a certain set of cultural characteristics—chosen by them—to remain constant and unchanged. There is a distinction. Fear of cultural decline is belied by the proliferation of artistic expression, preservation of cultural heritage, and consumption of cultural outputs in open economies. On the other hand, it is evident that as societies interact with greater frequency and depth through increased trade ties, their citizens will become exposed to different cultural goods, manners, behaviors, and modes of consumption. In the free-trade version of culture, societies are exposed to heterogeneous cultural practices and individuals are largely free to choose between their existing practices, total acceptance of the new practices, or some hybrid, the last of these being the most likely result. Unless one believes that culture should remain immutable and frozen in time, cultural exchanges of this type should be encouraged. It is true that this implies the loss of certain elements of 'uniqueness' in cases where individuals exposed to new things change their behaviors, but there is no *a priori* reason why this type of change should be discouraged if the parties wish to change. After all, every modern society has been created and transformed by cultural encounters. Making the case that societies should generally be protected from this interaction not only requires a paternalistic assumption that we are better able to decide which cultural characteristics are worthy for consumption, or that individuals are somehow insufficiently equipped to reject cultural goods they do not want, but also flies in the face of our own experience, which one could argue has benefited tremendously from the importation of foreign cultural products throughout our history. The protectionist arguments amount to a modern-day reformulation of Rousseau's dictum, that people must be 'forced to be

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16 Tyler Cowen, *Creative Destruction* (Princeton: Princeton University Press, 2002) at 6.

17 *Ibid.*

free', only now their freedom is from modern international cultural practices, and their reward is a uniqueness that they did not chose. Perhaps tellingly, the most vociferous objections to cultural exchange come from Western activists wishing to protect seemingly vulnerable societies in less developed countries. Naturally, while the benefits of uniqueness to the activist and the tourist may be clear, the costs of remaining 'unique' are borne almost exclusively by the populations which have been denied an opportunity to express their preferences through participation in the global economy and access to the global marketplace of ideas.

Finally, if one was really to avoid the consequences of cosmopolitanism, trade barriers would hardly be enough—there would also be a need for strict censorship laws, exit visas, limits on immigration and ethnic and religious diversity, and other measures aimed at maintaining the insulation of communities from external influences, with highly uncongenial implications for repressiveness, intolerance, and the potential for external conflict. As Sen argues,[18] citizens in developing (and other) countries should be assured of the right to freely choose which traditional cultural values and practices to preserve, which to modify, and which to abandon. This is a freedom that others have no right to deny to them.

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18 Sen, *supra* note 11, c. 10.

CLAIM 2: TRADE LIBERALIZATION EXACERBATES INEQUALITIES OF WEALTH

Despite what some globalization critics argue, most economists find empirically that open economies tend to grow faster.[19] Indeed, amongst developing countries, it is difficult to identify countries with strong growth records that are not aggressive exporters (and concomitant importers). The table below (drawn from Williamson),[20] illustrates this fact:

TABLE 1: TRADE-POLICY ORIENTATION AND GROWTH RATES IN THE THIRD WORLD, 1963-92

	Average annual rates growth of GDP per capita (%)		
Trade policy orientation	1963-73	1973-85	1980-92
Strongly open to trade	6.9	5.9	6.4
Moderately open	4.9	1.6	2.3
Moderately anti-trade	4.0	1.7	-0.2
Strongly anti-trade	1.6	-0.1	-0.4

Sources and notes: adapted from Lindert and Williamson (2002a: Table 3) based on World Bank data. In all periods the three strongly open economies were Hong Kong, South Korea, and Singapore. The identities of the strongly anti-trade countries changed over time. In 1963-73, they were Argentina, Bangladesh, Burundi, Chile, Dominican Republic, Ethiopia, Ghana, India, Pakistan, Peru, Sri Lanka, Sudan, Tanzania, Turkey, Uruguay, and Zambia. For the two overlapping later periods, the strongly anti-trade countries were the previous sixteen, *plus* Bolivia, Madagascar, and Nigeria, *minus* Chile, Pakistan, Sri Lanka, Turkey, and Uruguay.

Whether trade liberalization exacerbates global income inequalities is more controversial. In a recent survey of the evidence, Williamson reports a dramatic divergence in incomes around the globe over the past two centuries, which has been driven overwhelmingly by the rise of between-nation inequality, not by the rise of inequality within countries, as depicted in the following graph (drawn from

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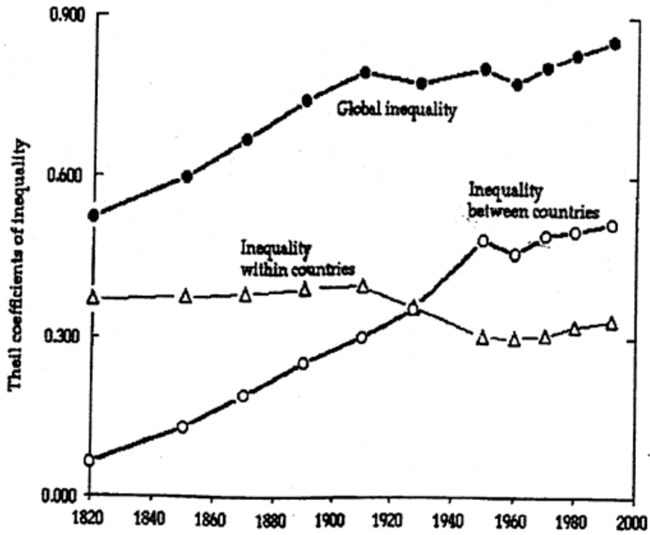
19 See Jeffrey Williamson, 'Winners and Losers over Two Centuries of Globalization' 2002 World Institute for Development Economics Research Annual Lecture (WIDER) at 9, 10; David Dollar & Paul Collier, 'Globalization, Growth and Poverty' (2001), online: The World Bank Group <http://www.worldbank.org/research/growth/Trade5.htm>; Irwin, *supra* note 3, c. 2.

20 Williamson, *supra* note 19; see also data reviewed by Arund Panagariya, 'Miracles and Debacles: In Defence of Trade Openness' (2004) 27 World Economy 1149; Wolf, *supra* note 3 at 140-9.

Williamson):[21]

FIGURE 1: GLOBAL INEQUALITY OF INDIVIDUAL INCOMES, 1820-1992



However, if income differences are measured not as differences between average incomes of each country but as the distribution of individual incomes globally, the distribution has narrowed considerably,[22] reflecting the large populations in rapidly growing developing countries such as China and India. One recent study also finds that measured by the benchmark of two dollars a day or less, adjusted for purchasing power, the proportion of the world's population in poverty dropped from fifty-six per cent in 1980 to twenty-three per cent in 2000—about 1.1 billion in 2000 compared to 1.9 billion in 1980.[23]

In the case of developing countries, the outstanding examples of countries that (despite temporary set-backs in the late 1990s) have dramatically increased the average real incomes of citizens (often by factors as large as six or eight) in recent decades have been the so called Asian Tigers, beginning with Japan and followed by countries such as Taiwan, South Korea, Hong Kong, Singapore, Malaysia, and more

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21 Williamson, *supra* note 19 at 2; see also Wolf, *supra* note 3 at 149-57; Francois Bourguignor & Christian Morrison, 'Inequality Among World Citizens' (2002) 92 American Economic Review 727.

22 'Survey of Capitalism and Democracy' *The Economist* (26 June 2003) at 5ff.

23 Surjit Bhalla, *Imagine There's No Country* (Washington, DC: Institute for International Economics, 2002); see also Wolf, *supra* note 3 at 157-66.

recently China, (and to some extent India), all of which have pursued relatively open, export-led growth policies. In contrast, developing countries that have pursued extreme forms of import substitution policies have generally experienced disappointing and, in many cases, disastrous results (including India until recently). These results have been exacerbated by the protectionist policies maintained by most developed countries towards goods of potential export interest to developing countries such as textiles, clothing, footwear, agricultural products, and natural resources. Even today, tariffs and other restrictions on imports from developing countries are substantially higher than for imports from other developed countries. This is not to suggest that open trade and investment policies are sufficient in themselves to launch developing countries on a strong growth trajectory. As Gary Hufbauer and Jeffrey Schott[24] point out, between 1975 and 1990, the dollar value of two-way trade between OECD countries and low-income countries tripled from $59 billion to $200 billion. Yet the per capita income gaps between OECD countries and low-income countries actually increased over this period (from thirty times higher to fifty-eight times higher), reflecting the higher productivity of labour in developed economies.

Clearly, a range of domestic policies other than trade policies that promote higher levels of capital investment, investments in human capital, health care, and infrastructure, as well as quality of governance, are important determinants of growth. Again, many of these policies have been important in the growth record of the high performing East Asian economies. In addition, it is important to note that the benefits of growth in these countries have also been reasonably equitably distributed by virtue of policies of land redistribution, investments in public education, health care, and public housing, and the encouragement of small and medium sized businesses (SMEs).[25] More generally, the empirical evidence suggests that extreme levels of inequality have a negative impact on growth at all stages of development,[26] and that over a large sample of countries and over long time periods the income of the poor rises one-for-one with over-all growth—a relationship that holds in poor countries as well as rich

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24 Gary Hufbauer & Jeffrey Schott, *NAFTA: An Assessment* (Washington, DC: Institute for International Economics, 1993) at 12, 13.

25 See Dani Rodrik, *The New Global Economy and Developing Countries: Making Openness Work* (Washington, DC: Overseas Development Council, 1999) [*New Global Economy*]; Michael Trebilcock, 'What Makes Poor Countries Poor? The Role of Institutional Capital in Economic Development' in Edward Buscaglia & Robert Cooter, eds., *The Law and Economics of Development* (London: JAI Press, 1997).

26 Aghion, *infra* note 29.

countries, in economic crises, and in open trading regimes.[27] It is also important to note that recent studies find empirically that greater economic openness tends to lead to improved quality of domestic governance over time.[28]

In the case of developed countries, it is true that the earnings of low-skilled American workers relative to high-skilled workers have declined in recent years, although most empirical studies show that increased trade with low-wage developing countries may account for at most twenty per cent of this reduction, and most of the increase in the wage gap between skilled and unskilled workers is attributable to technological change and rapidly declining rates of unionization.[29] The returns to highly specialized human capital in an increasingly knowledge-based economy have increased while the demand for much low-skilled labour has been reduced by technological innovation. Moreover, as Paul Krugman[30] and many other economists have pointed out, the growth rate of living standards essentially equals the growth rate of domestic productivity—not productivity relative to competitors, but simply domestic productivity. Even though world trade is larger than ever before, national living standards are overwhelmingly determined by domestic factors rather than competition for world markets. In the case of the United States, exports are only ten per cent of GNP, which means that the United States is still almost ninety per cent an economy that produces goods and services for its own use. To the extent that international trade increases domestic productivity, it will enhance domestic incomes on average. In terms of employment effects, jobs lost in import-impacted sectors will typically be replaced over time by jobs in export-oriented sectors.[31] Thus, international trade has little

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27 See David Dollar & Aart Kraay, 'Growth *is* Good for the Poor' (Working Paper, March 2000), online: The World Bank Group <http://www.worldbank.org/ research/growth/absddolakray.htm>.

28 See e.g. Aymo Brunetti & Beatrice Weder, 'More Open Economies Have Better Governments' Working Paper, University of Saarland Economics Series 9905 (1999).

29 See William Kline, *Trade and Economic Distribution* (Washington, DC: Institute for International Economics, 1997); Dani Rodrik, 'Sense and Nonsense in the Globalization Debate' *Foreign Policy* (Summer 1997) 19 ['Sense and Nonsense']; Dani Rodrik, *Has Globalization Gone Too Far*? (Washington, DC: Institute for International Economics, 1997) [*Globalization*]; Philippe Aghion, 'Inequality and Economic Growth' in Philippe Aghion & Jeffrey Williamson, eds., *Growth, Inequality and Globalization: Theory, History and Policy* (Cambridge: Cambridge University Press, 1998).

30 Paul Krugman, 'Competitiveness: A Dangerous Obsession' in *Pop Internationalism* (Cambridge, Mass.: MIT Press, 1997) c. 1.

31 Irwin, *supra* note 3, c. 3.

to do with declining relative living standards of unskilled workers in the United States; to the extent that it does, an argument needs to be made as to why mostly poor developing countries should be denied the opportunity of utilizing their comparative advantage in low-wage, low-skilled labour by investing in manufacturing sectors that capitalize on this advantage, or indeed in pursuing outsourcing opportunities for higher skilled but relatively lower cost labour (despite current controversies),[32] and in pursuing export-led growth policies, which in turn enable them to buy developed countries' exports. However, in recognizing this comparative advantage, it is important not to exaggerate it. Data show almost a one-to-one relationship between labour productivity and labour costs in manufacturing across a wide range of developed and developing countries.[33] Thus, it is a fallacy to assume that low wages are the driving force behind today's global trade or investment flows. This relationship also explains why internationally most firms are not seeking to relocate to, for example, Bangladesh, despite its low wages, and why most foreign direct investment goes to developed countries and not to developing countries.[34] While international trade theory suggests that international trade will generate a tendency to factor price equalization, this is only true, *inter alia*, after adjusting for differences in factor productivity.[35] Nevertheless, international trade will tend to increase the incomes of workers of given skill categories (adjusting for productivity differences) in developing countries.

Another claim that is often made is that trade and investment liberalization threatens to gut the welfare state[36] that, not coincidentally it is argued, evolved in many developed countries in the post-War decades, along with progressive trade liberalization in order, in part, to provide a cushion for the economic instabilities and risks associated with the latter for many citizens. Now the concern is that with increased capital mobility and increased mobility of highly skilled workers, this social contract may be put in jeopardy as the better endowed firms and individuals in the community exit or threaten to exit in order to avoid the taxes required to underwrite the social programs that are perhaps even more necessary in the present and the future than in the past to cushion shocks to less advantaged citizens, given the increasing speed of

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32 Danielle Goldfarb, 'How Canada Wins from Global Services Outsourcing' *The Economist* (13 November 2004).

33 See Rodrik, 'Sense and Nonsense', *supra* note 29.

34 Wolf, *supra* note 3 at 115.

35 See Paul Brenton, Henry Scott & Peter Sinclair, *International Trade* (Oxford: Oxford University Press, 1997) at 86 *et seq.*

36 See e.g. Noam Chomsky, *Profits Over People: Neoliberalism and Global Order* (New York: Seven Stories Press, 1999).

economic change and the transition costs it entails.[37] While these are legitimate concerns, the facts largely belie the claim that economic globalization has to date had major deleterious effects on the welfare state in most developed countries.[38] Data show social expenditures in fact increasing or at worst remaining constant as a percentage of GNP in most OECD countries, and tax levels rising in most of these countries. In 2000, average general government receipts as a percentage of GDP in the OECD and the G7 exceeded forty per cent, up from 1990.[39] Additionally, data show a dramatic increase in social regulation (environmental, health and safety, human rights, and employment regulation) in most of these countries over the past three decades, in part reflecting the fact that a cleaner environment and greater safety are normal economic goods, the demand for which rises with increasing prosperity, itself in part engendered by greater international trade.[40] Thus, there is no evidence to date of any significant contraction in the scale of the welfare state in most developed countries.

Although the critics' arguments have been largely negated by empirical evidence, it is questionable whether even a finding of empirical correlation would have bolstered their arguments regarding a causal relationship between globalization and domestic income inequality. This is because at a fundamental level globalization is about wealth generation. Producing goods and supplying services across national boundaries allows comparative advantages of trading partners to decrease the overall cost of supplying all parties to a transaction with desired products. However, once the wealth is generated globalization does not necessarily dictate how that wealth is distributed within nations. Although economic conditions may create a predilection for benefiting a particular group (for instance, capital holders may benefit proportionately more if a country specializes in capital-intensive goods, or on the contrary, labor may benefit relatively more if demand for it rises), perhaps the most economically important action of governments has been to redistribute wealth according to broader policy considerations. Consequently, to the extent that a correlation between globalization and inequality existed, it is unclear whether it should be attributed to the causal effects of globalization, or more simply the lack

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37 See Rodrik, *Globalization*, *supra* note 29; Robert Reich, *The Work of Nations* (New York: N.Y. Vintage, 1991) c. 25.

38 See William Watson, *Globalization and the Meaning of Canadian Life* (Toronto: University of Toronto Press, 1998).

39 'Globalisation and its critics' *The Economist* (29 September 2001) 4. See also LeGrain, *supra* note 3 at 161-4.

40 'Survey of the World Economy' *The Economist* (20 September 1997); Michael Trebilcock, 'The Choice of Governing Instrument: A Retrospective' [forthcoming in 2005].

of appropriate redistribution mechanisms at the state level. The same state can globalize with vastly different effects on domestic income inequality, depending on the redistributive mechanisms it employs. The analysis extends to the arguments of the anti-globalization critics regarding the disproportionate costs of globalization borne by certain segments of society. To the extent this is true, as has been argued vehemently by the left in America, the supposed plight of those negatively affected has less to do with globalization than it does with a conscious decision not redistribute the gains from globalization to the affected parties. On the other hand, the experience of a number of the High Performance Asian Economies suggests that government policies to redistribute wealth can markedly decrease levels of inequality. The merits of such policies are, at least to some degree, separate from the issue of whether globalization gives a society more resources with which to make distribution choices, which it undoubtedly does. This is merely a reflection of the fact that globalization is not *Pareto*-efficient (where *everybody* is made better-off), but is *Kaldor-Hicks*-efficient (in that the winners could compensate the losers and still be better off).

In summary, the empirical evidence suggests that open economies tend to grow faster than closed economies; that within-country inequalities have generally not been increasing substantially; that global income inequalities measured on a population basis have been declining; that absolute levels of poverty have been declining sharply measured as a percentage of the world's population and more modestly in terms of absolute numbers (reflecting population growth), but that between-country inequalities have been rising sharply, suggesting that many developing countries have become increasingly marginalized in the international economy (raising important questions of domestic governance and remaining external barriers to their effective participation in global trade and investment).

CLAIM 3: TRADE LIBERALIZATION TRUMPS ENVIRONMENTAL, HEALTH AND SAFETY CONCERNS

There are two strands to the argument that trade liberalization adversely impacts environmental, health and safety concerns. According to the first, growth in international trade generally is harmful to the environment. The second strand asserts that, under the WTO dispute settlement system, trade liberalization takes precedence over environmental, health and safety concerns.

Philippe LeGrain[41] argues that the impact of trade liberalization on the environment depends on the balance of five factors. First, comparative advantage will lead to some countries attracting more

[41] LeGrain, *supra* note 3 at 243-6.

environmentally damaging industries than others. Second, environmentally friendly technology will become more widely available. Third, economic growth resulting from trade will lead to increased environmental strain unless production methods change. Fourth, demand for a cleaner environment will increase when people become wealthier. Fifth, countries may or may not choose to lower environmental standards to attract foreign investment. Alan Krueger and Gene Grossman[42] find that while growth is initially harmful to the environment, this effect generally begins to reverse itself as countries get richer (the so-called Kuznets curve). Furthermore, evidence suggests that trade liberalization can pay for the damage it causes, because the gains from trade far exceed the cost of paying for or redressing resultant environmental damage.[43] More generally, the empirical evidence suggests that closer economic integration tends to lead to a ratcheting up of environmental and health and safety standards.[44]

Evidence suggests that fears of an environmental 'race to the bottom', whereby environmental standards decline to attract investment, are generally unfounded. David Wheeler[45] examined pollution levels in the United States and China, Brazil, and Mexico, the three developing countries receiving the most foreign direct investment during the 1990s, and found that in each case particulate pollution is declining. He then draws on empirical evidence to show why the 'race to the bottom' has not materialized. Specifically, studies show that pollution control costs are often not high, regardless of a county's income, and consequently do not provide firms with a strong incentive to relocate due to environmental factors. Also, where there is not strong regulation, local communities use other mechanisms, such as negotiation or forms of protest, to ensure that factories meet

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42 Gene M. Grossman & Alan B. Krueger, 'Economic Growth and the Environment' National Bureau of Economic Research, NBER Working Paper W4634 (February 1994), cited in LeGrain, *supra* note 3 at 245. See also Jeffrey A. Frankel & Andrew K. Rose, 'Is Trade Good or Bad for the Environment? Sorting Out the Causality' (NBER Working Paper W9201, September 20 2002), online: <http://ssrn.com/abstract=332245>, which indicates that generally growth hurts the environment at low income levels, helps it at high income levels, and that trade openness accelerates growth.

43 See M.A. Cole, A.I. Rayner & J.M. Bates, 'Trade Liberalization and the Environment: The Case of the Uruguay Round' (1998) 21 World Economy 337, cited in LeGrain, *supra* note 3 at 245-6; see also Irwin, *supra* note 3 at 48-54.

44 David Vogel, *Trading Up: Consumer and Environmental Regulation in a Global Economy* (Cambridge, Mass.: Harvard University Press, 1995).

45 David Wheeler, 'Racing to the Bottom? Foreign Investment and Air Pollution in Developing Countries' (World Bank Policy Research Paper 2524, January 2001).

environmental standards or to extract compensation for environmental degradation. Additional pressure may be brought by environmentally conscious consumers or financial institutions who want to avoid possible liability. Evidence also indicates that investors' reactions to environmental news impact stock value. Consequently, there is a powerful incentive for multinational companies to abide by OECD environmental standards globally. Finally, environmental regulation improves as a country's income increases. Wheeler qualifies his criticism of the 'race to the bottom' theory with three points: severe short-term pollution in some areas is still possible, information asymmetries may prevent effective environmental controls, and it is likely that average pollution intensity (emissions/output) will initially increase as the industrial production in developing countries rises relative to that in developed countries. Wheeler argues that trade sanctions are not the most effective way to avoid or mitigate the impact of these pitfalls because sanctions impact companies that are environmentally friendly as well as those that are not, they put jobs at risk, and many developing countries are incapable of meeting high environmental standards.

Wheeler and some other trade scholars[46] oppose the use of trade sanctions against countries with low environmental standards, in cases where these standards entail cross-border pollution or threaten the global environmental commons. I believe that there is a limited role for such sanctions in internalizing the costs of these externalities and inducing international co-operation on appropriate collective measures and compliance therewith, provided that trade sanctions in this context are not a disguised form of protectionism and do not discriminate among countries where the same conditions prevail (as required by Article XX of the GATT).[47]

In evaluating the claim that trade liberalization trumps environmental, health and safety concerns in the WTO dispute settlement system, it is important to emphasize that only a handful of cases have come before the WTO's Dispute Settlement Body that implicate environmental or health and safety concerns.[48] Furthermore, some of the cases with respect to which critics allege that the WTO disregarded environmental or health and safety concerns actually involved disguised protectionism or gratuitous restrictions on trade. By way of context, it is important to note that by virtue of successive

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46 Jagdish Bhagwati, *Free Trade Today* (Princeton: Princeton University Press, 2002); Irwin, *supra* note 3 at 191-204.

47 See Michael Trebilcock & Robert Howse, *The Regulation of International Trade*, 3rd ed. (London: Routledge, 2005) c. 16 [Trebilcock & Howse].

48 *Ibid.* at cc. 7, 16.

rounds of GATT negotiations, tariffs have now been reduced to zero or trivial proportions in many sectors (down from over forty per cent in 1947 to less than five per cent on average currently), so that remaining barriers to trade are often internal regulatory measures of Member states. The WTO is necessarily seized with the task of determining when a regulation genuinely serves an environmental or heath and safety purpose, or when, on the other hand, it is a disguised restriction on trade where a complainant country formally complains of its adverse trade effects. Julie Soloway, in detailed case studies of informal disputes in these areas in the three NAFTA countries concludes that perhaps as many as twenty-four of the twenty-five cases of environmental or health safety regulation that she studied yielded no consumer welfare benefits but were merely disguised forms of protectionism.[49]Even if this assessment is unduly harsh, it suggests that this is not an imaginary problem.

The *Reformulated Gasoline*[50] case involved regulations under the United States *Clean Air Act* that entailed the progressive removal of pollutants from gasoline but imposed laxer (plant-specific) base starting points on United States gasoline refiners than refiners in Venezuela and Brazil exporting gasoline to the United States. The WTO Appellate Body held that there was no basis for differential treatment. In the *Thai Cigarette*[51] case, a ban on imported cigarettes, not accompanied by any ban on domestically produced cigarettes, was held to be discriminatory and an unjustifiable restriction on trade. In the two *Tuna/Dolphin*[52] cases decided by WTO panels before the creation of the WTO Appellate Body as a result of the Uruguay Round Agreement, the environmental community has more cause for criticism in that the panels ruled on narrow and unjustifiable grounds that an import ban on tuna caught by fishing methods that killed or maimed dolphin was unjustifiable because it was directed to environmental concerns outside the territorial jurisdiction of the United States or was predicated on changing another country's environmental policies. However, critics of the WTO often fail to note that the Appellate Body in the subsequent *Shrimp/Turtles*[53]

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49 Julie Soloway, *Institutional Capacity to Constrain Suboptimal Welfare Outcomes From Trade-Restricting Environmental, Health and Safety Regulation Under NAFTA* (SJD Thesis, University of Toronto Faculty of Law 1999) [unpublished].

50 *United States—Standards for Reformulated and Conventional Gasoline* (1996), WTO Doc. WT/DS2/AB/R (Appellate Body Report).

51 *Thailand—Restrictions on importation of and internal taxes on cigarettes* (1990), WTO Doc. BISD 37S/200 (GATT, Panel Report,)

52 *United States—Prohibition of Imports of Tuna and Tuna Products from Canada* (1982), GATT Doc. L/5198, B.I.S.D. 29S/91; *United States—Restrictions on Imports of Tuna* (1991), GATT Doc. DS21/R, B.I.S.D. 39S/155 (unadopted).

53 *United States—Import Prohibition of Certain Shrimp and Shrimp Products* (1998),

case, in effect, overruled the two panel decisions in the earlier *Tuna/Dolphin* cases and held that there was no territorial constraint on a country adopting environmentally-related trade measures in response to another country's environmental policies (in this case shrimp fishing techniques that killed or maimed a particular species of sea turtle that was an endangered species under the *Convention on International Trade in Endangered Species*, or CITES). However, the United States was found by the Appellate Body to be in breach of its GATT obligations in that it had negotiated exemptions with some foreign countries and not with others from the ban on shrimp imports but there was no rational relationship between these exemptions and whether countries did or did not maintain safeguards against shrimp fishing techniques that endangered sea turtles. Thus, the United States had acted in an arbitrary and discriminatory fashion. The United States later revised its guidelines for certifying shrimp imports and the Appellate Body then found the United States in compliance with WTO and GATT rules.[54]

In the *Beef Hormones*[55] case, the European Union ban on the sale or importation of beef that had been reared on certain growth hormones was struck down both by the panel and the Appellate Body because it was not based on a risk assessment as required by the WTO *Agreement on Sanitary and Phytosanitary Standards* (SPS). Alternatively, if the ban was based on a risk assessment, the available risk assessments at the time that the ban was adopted all indicated that there were no ascertainable risks to human health from this product. Similarly, in the *Japanese Agriculture*[56] case, where imports of various fruits from the United States and elsewhere were banned because of a concern that they could spread disease through codling moth unless they met various stringent border tests, both the panel and the Appellate Body found that these border requirements were based on no risk assessment at all and were thus in violation of the SPS Agreement. In the *Australian Salmon*[57] case, a ban on the importation of fresh, chilled or frozen salmon was found to violate the SPS Agreement both because the ban was based on no risk assessment at all and because, inconsistently, it allowed imports of other kinds of fresh, chilled or frozen fish that presented at least as

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WTO Doc. WT/DS58/AB/R (Appellate Body Report).

54 *United States—Import Prohibition of Certain Shrimp and Shrimp Products: Recourse to Article 21.5 of the DSU by Malaysia* (2001), WTO Doc. WT/DS58/AB/RW (Appellate Body Report).

55 *EC Measures Concerning Meat and Meat Products (Hormones)* (1998), WTO Docs. WT/DS26/AB/R and WT/DS48/AB/R (Appellate Body Report).

56 *Japan—Measures Affecting Agricultural Products* (1999), WTO Doc. WT/DS76/AB/R (Appellate Body Report).

57 *Australia—Measures Affecting Importation of Salmon* (1998), WTO Doc. WT/DS18/AB/R (Appellate Body Report).

high a risk of spreading disease. Finally, in the *French Asbestos*[58] case, a broad asbestos ban including a ban on imports of asbestos and products containing asbestos was upheld by a WTO Panel and the Appellate Body on health and safety grounds.

Thus, with the exception of the two *Tuna/Dolphin* cases (in effect, subsequently overruled by the Appellate Body), all of these decisions by the WTO's Dispute Settlement Body seem to be sensible and restrained, unless one believes that the WTO and its Members should give up entirely on the task of attempting to screen out disguised forms of regulatory protectionism.

The WTO *Trade-Related Intellectual Property Rights Agreement* (TRIPS), as originally negotiated during the Uruguay Round, raises more legitimate concerns relating to the impact of trade rules on health and safety. By requiring all members of the WTO to implement Western standards of Intellectual Property Protection (with some important qualifications), developing countries faced the prospect of paying Western prices for patented drugs (for example, for treatment of AIDS), effectively denying most of their citizens access to these drugs. However, the subsequent Ministerial Declaration at the outset of the Doha Round in November 2001 clarifying the scope of the exceptions to TRIPS, and then an agreement in August 2003 to amend TRIPS to facilitate export of generic drugs to developing countries lacking their own manufacturing capacity, have at least partly redressed these concerns.[59]

CLAIM 4: TRADE LIBERALIZATION ADVERSELY IMPACTS LABOUR STANDARDS AND HUMAN RIGHTS

Some critics of trade liberalization argue that increasing international competition leads to a race to the bottom in terms of human rights and labour standards. However, evidence indicates that trade liberalization generally promotes human rights. Alan Sykes[60] points out that since there is general agreement that trade promotes growth, and human rights are likely income elastic, trade liberalization can provide a country with the means to support human rights. Further, liberalization spreads ideas and may introduce human rights concepts to people who would not otherwise be aware of them Turning to the empirical data, Sykes finds that richer countries have better economic, political, and

58 *European Communities—Measures Affecting Asbestos and Asbestos-Containing* Products (2001), WTO Doc. WT/DS135/AB/R (Appellate Body Report).

59 See Trebilcock & Howse, *supra* note 47, c. 13.

60 Alan Sykes, 'International Trade and Human Rights: An Economic Perspective' (John M. Olin Law and Economics Working Paper No. 188 (2nd Series), University of Chicago).

civil rights, suggesting 'policies which promote real income growth will also tend to promote human rights across a broad range of concerns.'[61] Although Sykes acknowledges that he only examines correlation, not causation, he empathizes that the available evidence does not suggest that liberal trade adversely impacts human rights on a systemic level. Indeed, more generally, over the past three decades, there has been a large increase in the number of countries that have replaced authoritarian or autocratic regimes with democratic regimes.[62] Similarly, there is no empirical evidence to support the claim that trade liberalization leads to a general ratcheting down of labour standards in either developed or developing countries.[63]

That is not to say that human rights abuses (or violation of core labour standards analogous to human rights)[64] should be ignored based on the argument that some day a poor country will be wealthy enough to uphold human rights on its own. In the case of violations of basic or universal human rights, particularly extreme cases such as war crimes, apartheid, genocide, torture, or forced labour, it seems indefensible to exclude trade sanctions as a possible policy instrument (perhaps under the 'public morals' exception of Article XX of the GATT).[65] In terms of the WTO approach to trade sanctions in such cases, again it is important to ensure that the measures are not discriminatory restrictions on trade or disguised protectionism.[66] In my view, this should not require that countries apply sanctions to all, or none, of the countries engaged in universal human rights violations—this would make the perfect the enemy of the good. The problem of 'under-reach' should be left to organizations other than the WTO, such as the ILO, or United Nations Human Rights committees. However, the WTO should address cases of 'over-reach' where sanctions on one industry and not another seem principally attributable to the fact that the imposing country has an industry to protect in the former case but not in the latter.

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61 *Ibid.* at 8.

62 'Survey on Capitalism and Democracy', *supra* note 22 at 5-6.

63 See Trebilcock & Howse, *supra* note 47, c. 17.

64 For example, the ILO's 1998 *Declaration of Fundamental Principles and Rights at Work* enumerates four core international labour standards which are defined more fully in eight background Covenants that are encorporated by reference, i.e. freedom of association and collective bargaining, the elimination of forced labour, the elimination of child labour, and the elimination of discrimination in employment.

65 See also Lorand Bartels, 'Article XX of GATT and the Problem of Extraterritorial Jurisdiction: The Case of Trade Measures for the Protection of Human Rights' (2002) 36 Journal of World Trade 353; Sarah H. Cleveland, 'Human Rights Sanctions and International Trade: A Theory of Compatibility' (2002) 5 J. Int'l Econ. L. 133.

66 See Trebilcock & Howse, *supra* note 47, c. 17.

CLAIM 5: SELF-SUFFICIENCY IS PREFERABLE TO DEPENDENCY[67]

Proponents of self-sufficiency believe in protecting local production of food staples, arguing that local production supports jobs, builds community, and protects national food security[68] and argue that trade liberalization is putting all these at risk.

There are several responses to this argument. First, what distinguishes food production from other necessities, such as clothing, footwear, pharmaceuticals, automobiles and steel? Second, what distinguishes self-sufficiency at the national level from self-sufficiency at the state, local, or family level? Clearly the United States ought not demand that Texas diversify to produce wine, or that Michigan and Kansas diversify to produce citrus fruit. If each member state of the European Union aspired to be self-sufficient in food, this would fundamentally contradict the entire European economic integration enterprise. Furthermore, few people would advocate family self-sufficiency so that each family produces all its own food (and other requirements), returning us all to members of hunter-gatherer or peasant societies. Third, even adopting a national perspective and focusing on food, it would be surprising if the social pathologies said to be afflicting the agricultural sector are due to international trade. Agriculture has been and remains the most protected bastion in the international economy. Protectionism is the problem, not trade liberalization. The empirical evidence suggests that agricultural protectionism in the United States, Western Europe, and Japan entails average costs of over a thousand dollars per household per year for the countries concerned—a large and regressive hidden 'tax' on ordinary consumers of basic staples.[69] Apart from these costs to consumers, it is agricultural protectionism, not liberalization, that has promoted environmentally damaging excessive mono-cropping and use of fertilizers and irrigation, as most starkly exemplified by the European Union's Common Agricultural Policy, which over the post-war years has turned Europe from the largest importer of temperature zone agricultural products into the second largest exporter, and accounts for nearly half of the European Union budget.[70] Moreover, it is important to remember that

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67 See LeGrain, *supra* note 3 at 211-35.

68 See e.g. Franz Fischler, 'Scrap CAP? Think Twice!' *Wall Street Journal Europe* (20 July 2000); Colin Hines, *Localisation: A Global Manifesto* (London: Earthscan, 2000); Caroline Lucas & Colin Hines, *Stopping the Great Food Swap—Relocalising Europe's Food Supply* (Brussels: The Greens, 2001); all cited in LeGrain, *supra* note 3 at 343.

69 OECD, *Agricultural Policies in OECD Countries: Monitoring and Evaluation, 2001* (2001).

70 'CAP it all—Reforms to the CAP are Not Serious Enough' *The Economist* (28 June 2003).

there are communities and farming families on both sides of the trade equation. For developing countries with a comparative advantage in food production, developed countries' emphasis on self-sufficiency is viewed as an excuse for protectionism that prevents developing countries from fully realizing their growth potential by denying them effective market access for their exports. The case for agricultural protectionism on national security grounds—that we cannot risk being held hostage by potential enemies in war-time for basic necessities of life—is also uncompelling. Greater economic interdependency with respect to essential products is likely to reduce the risk of war—the primary historical rationale for the creation of the European Community. The emphasis on self-sufficiency also fails to recognize that globalization may have the effect of diversifying dependencies, thereby reducing them. Since no country could reasonably supply all of its economic needs domestically, some reliance on foreigners is inevitable. Economic integration can reduce exposure to any one foreign party by facilitating global competition, thereby allowing great diversification in the sourcing of products.

CLAIM 6: THE WTO IS AN UNDEMOCRATIC AND UNACCOUNTABLE FORM OF GLOBAL GOVERNMENT THAT IMPROPERLY CONSTRAINS DOMESTIC POLITICAL SOVEREIGNTY[71]

Every international treaty, whether it pertains to nuclear disarmament or nuclear non-proliferation, land-mines, human rights, war crimes, the law of the sea, or the environment, to the extent that the commitments made by signatory states therein are effectively binding, necessarily constrains domestic political sovereignty. This is the price of a world where nations collectively agree to cooperatively address issues that entail ramifications beyond their exclusive territories. In the case of the WTO, all Member states have voluntarily assumed their obligations, representing the quintessential form of government with the consent of the governed. All member states (now 148) have one vote from the smallest to the largest, and all major decisions are in principle taken on a consensus basis, although I acknowledge that influence has in fact been wielded unequally, especially by members of the Triad (the United States, the European Union, and Japan), for example, through 'Green Room' meetings to close multilateral negotiating rounds. The emergence of an effective group of twenty-one developing countries at the Cancun ministerial meetings of the GATT in September 2003 suggests that this may be changing.

Members have also agreed that in order for these commitments to be effectively enforceable, neutral third parties shall adjudicate

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71 See also LeGrain, *supra* note 3 at 174-210.

disputes between Members regarding alleged violations of commitments. This process of adjudication initially took the form of diplomatic conciliation but has since evolved increasingly in the direction of formal legal adjudication. The roster of panelists from whom panels are drawn in particular cases must be approved by consensus of all Members. The seven members comprising the Appellate Body constituted as a result of the Uruguay Round to hear appeals from panel decisions must also be approved by consensus of all Members. In the event of a Member state failing to comply with a decision of a panel or Appellate Body, if adopted by the General Council of the WTO, now applying a negative consensus rule (only a consensus of all Members favouring rejection leads to non-adoption), retaliation by the aggrieved party may be authorized by the Council against the non-compliant party in the form of trade sanctions. This system has worked remarkably well over the decades in ensuring a relatively high level of compliance with decisions by panels and more recently the Appellate Body.

However, some criticisms of the WTO's dispute settlement process are warranted.[72] Reflecting perhaps the diplomatic origins of dispute settlement under the GATT, the closed, non-transparent nature of current dispute settlement processes is inconsistent with a fully elaborated international rule of law. In particular, initial and subsequent written submissions of disputing parties should be made publicly available, with exceptions for confidential information, at the time that they are filed with the Dispute Settlement Body (DSB), and the oral hearing component of the process should equally be open to the public with provision for *in camera* hearings for confidential information. In addition, non-governmental parties, including non-governmental organizations, affected business firms, and trade associations, should have limited rights of standing as intervenors or *amicus curiae* in dispute settlement proceedings, as third country governments already do, at least to the extent that they are permitted to file short written submissions and respond briefly to any questions from members of the panel or Appellate Body in the oral proceedings by way of clarifying or elaborating on their written submissions. Permitting private parties to

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72 See Robert Howse & Kalypso Nicolaidis, 'Enhancing WTO Legitimacy: Constitutionalization or Global Subsidiarity?' in Marco Verweij & Tim Josling, eds., (2003) 16:1 Governance: Special Issue: Deliberately Democratizing Multilateral Organization 73; Jeffery Atik, 'Democratizing the WTO' (2001) 33 Geo. Wash. Int'l L. Rev. 451, online: <http://ssrn.com/abstract=250331>; J.H.H. Weiler, 'The Rule of Lawyers and the Ethos of Diplomats: Reflections on the Internal and External Legitimacy of WTO Dispute Settlement' (Harvard Jean Monnet Working Paper No. 9/00, Cambridge Mass., 2001), online: Jean Monnet Program http://www.jeanmonnetprogram.org/papers/00/00901.html, especially c.4.

initiate complaints before the WTO Dispute Settlement Body raises a host of much more complex questions, including the capacity of the dispute settlement process to handle a much higher volume of complaints, the potential for strategic abuse of the process by competitors, and the possibility that private firms or trade associations will exploit their ability to challenge domestic environmental and health and safety regulations. Thus, the dispute settlement process should remain, for the present time, a state-driven process, with provision for *amicus* briefs, which are likely to be a particularly important legitimating mechanism in 'trade and' disputes involving major public policy issues.

With respect to the criticism that panelists and Appellate Body members lack expertise or sensitivity in matters relating to environmental, health and safety, labour, and human rights issues, it bears pointing out that the quasi-judicial review role played by the DSB is not markedly different from the judicial review role played by all-purpose courts with respect to specialized agency decisions in domestic administrative law and calls for a similar degree of substantial, but not complete, deference—in effect by requiring some minimum level of rationality in agency decision-making where disparate impacts on foreign suppliers are entailed. The Appellate Body in *Beef Hormones, Shrimp/Turtles*, and *Australian Salmon* has largely adopted this perspective by, for example, recognizing that a respondent need not undertake its own risk assessment but may base its measures on others' risk assessments; by accepting that it is sufficient that the risk assessment is supported by a respectable minority of scientists; and by applying a very narrow consistency requirement across regulations dealing with similar risks. In many respects, the Appellate Body's approach resembles the proportionality test adopted in Canadian Charter jurisprudence. Moreover, under the rules governing the dispute settlement process both in general and in specific contexts such as the SPS Agreement, panels may appoint individual scientific advisors or advisory groups of scientific advisors and have sometimes done so, although they should do so more systematically. In similar vein, panels and the Appellate Body in disputes implicating environmental, health and safety, labour, and human rights issues should be more proactive in seeking the advice of other international agencies with major mandates in these areas, where these exist. Again, WTO Policy Committees, such as the Committee on Trade and the Environment, should be open to submissions by non-governmental organizations and other interested private parties.

Claims that the WTO is undemocratic in the negotiating processes that give rise to trade agreements and obligations should be directed at Member states policy-making processes, not at the WTO as an institution. Here, indeed, there may well be room for improvements. Trade treaties, often negotiated over protracted periods of time and over a very wide range of complex issues, often involve delicate political trade-offs across issues. Once an agreement has been reached, while ratification or implementation may require legislative action in Member countries, this cannot realistically entail picking and choosing among various elements of the agreement without serious risk of the entire agreement and the negotiating processes that led up to it completely unravelling (as recognized in United States 'fast track' approval processes), rendering ratification or implementation actions an imperfect form of democratic accountability. Thus, in terms of public input into the negotiating positions taken by Member states and revisions to these positions and trade-offs across issues as negotiations proceed, the negotiating positions of Member states in future will need to be more open to public scrutiny and input than in the past. In Canada, in past trade negotiations, a large number of industry-specific advisory groups have been constituted by the Canadian government to advise it during the negotiating process, but these groups are not inclusive of all relevant constituencies. However, negotiations themselves cannot realistically be extended beyond government representatives to a host of non-governmental and private sector actors from all over the world without reducing the process to total functional paralysis. Thus, while representatives of governments should remain the chief negotiators, this should not exempt them from being more pro-active and imaginative in structuring an appropriately inclusive domestic consultative process during negotiations. This imperative also has application to the development of government positions in dispute resolution proceedings and WTO Policy Committee deliberations. But, to restate the principal point, this is not a concern that the WTO as an institution for the most part can resolve, but a concern that interested groups and citizens must resolve within their own political communities. That is to say, democratic decision-making begins at home, not in Geneva.

CONCLUSIONS

In critical respects I would argue that the problem with economic globalization is that it has not gone far enough. Major barriers to trade remain in key sectors of export interest to developing countries such as agriculture and textiles and clothing, and trade remedy actions (antidumping, countervail, and safeguards) have proliferated (often directed at developing countries), in many cases replacing prior tariffs. Indeed, tariffs facing developing country exports to high-income countries are, on average, four times those facing industrial country exports for manufactured goods and much higher again for agricultural products. Agricultural subsidies in developed countries further restrict effective market access by developing countries.[73] Economic estimates

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[73] World Bank, *World Development Report (WDR) 2000/2001: Attacking Poverty*

have found that the costs of protection inflicted on developing countries by developed countries negate most or all of the entire value of foreign aid in recent years.[74]

More importantly, in contrast with the data on growth in international trade in goods and services and in foreign direct investment cited at the outset of this paper, the annual growth rate in the number of immigrants worldwide (international movement of people) between 1965 and 2000 was only 1.77 per cent, which does not differ significantly from the rate of growth in world population of approximately 1.72 per cent annually over the same period. In fact, the proportion of the world's population that is made up of migrants has actually decreased since 1965 from 2.4 per cent to 1.97 per cent.[75] Although trade and investment are in some cases substitutes for immigration, in other cases they are complements, thus suggesting that at least in part these contrasts are explicable by reference to the much more restrictive nature of most countries' immigration policies. Bob Hamilton and John Whalley have estimated that the elimination of global restrictions on labor mobility could result in a net doubling of worldwide annual Gross National Product.[76] Less sanguine assumptions result in estimated gains that are still highly significant from the perspective of global economic welfare and far exceed the gains from further trade liberalization.[77] In addition, Hamilton and Whalley report that complete immigration policy liberalization would engender a dramatically fairer distribution of world income.[78] Jeffrey Williamson also finds that the great immigration waves of the past from the Old World to the New World were also associated with dramatic equalizing tendencies.[79] The full efficiency and equity potential of globalization will not be realized until we embrace the so-called 'Fourth Freedom' as strongly as we have embraced the first three freedoms (international movement of goods, services, and capital).[80] The anti-globalists might more constructively re-direct their energies to this politically challenging objective.

(2001) at 180.

74 *Ibid*.

75 International Labour Organization, 'World Migration Tops 120 Million Says ILO: 67 Countries Are Now Major Receivers of Immigrants' (2000), online: <http://www.ilo.org/public/english/bureau/inf/pr/2000.htm>.

76 See Bob Hamilton & John Whalley, 'Efficiency and Distributional Implications of Global Restrictions on Labour Mobility: Calculations and Policy Implications' (1984) 14 Journal of Development Economics 61.

77 'Survey: The Longest Journey' *The Economist* (2 November 2002) 3.

78 See Hamilton & Whalley, *supra* note 77 at 73-4.

79 Williamson, *supra* note 19; see also Wolf, *supra* note 3 at 85-7, 116-17.

80 See Michael Trebilcock, 'The Law and Economics of Immigration Policy' (2003) 5 American Law and Economics Review 271.

When You Come to a Fork in the Road, Take it Reflections on North American Integration: Regional and Multilateral

SYLVIA OSTRY*

INTRODUCTION

The title of this article was coined by the great American philosopher Yogi Berra. There are many roads that lead to greater economic integration or ever-tighter linkages among countries. Globalization is, indeed, an ongoing process of deepening integration fed by trade, financial flows, direct investment, production networks and increasingly by the technological revolution in information and communication. So it is not necessary to choose one route in, for example, trade policy. In the Western Hemisphere bilateral, regional and multilateral policies are all being pursued. Moreover, there are many facets of integration that go beyond economic linkage but we tend to think mainly of trade and investment as primary and pay far less attention to other avenues.

In this article I shall begin with a brief tour d'horizon of the multilateral landscape. This is, of course, a vast and complex subject and I intend to be selective and to highlight the main issues related to hemispheric integration. In doing so it is important to deal with the American strategy of 'competitive liberalization' past and present,[1] as well as the 'new geography' of global trade. I will then seek to explore a different idea or concept of integration and to propose some possible options for extending and deepening the linkages among countries and peoples in this hemisphere.

I DOHA, CANCUN, AND THE NEW GEOGRAPHY

The Uruguay Round marked a fundamental transformation of the multilateral trading system from the shallow integration of the General Agreement on Tariffs and Trade (GATT), with its focus on border barriers and its rules to buffer or interface between international and domestic policy, to a system of deepening integration with a primary focus inside the border on domestic regulatory and legal institutional

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1 The term is used for a policy strategy that employs bilateral or regional agreements to encourage broader or multilateral liberalization. See Sylvia Ostry 'Regional Dominoes and the WTO: Building Blocks or Boomerang?' (Fraser Institute Conference, Toronto, November 1999), online: <http://www.utoronto.ca/cis/ostry.html>. For a recent version see C. Fred Bergsten & Institute for International Economics, *The United States and the World Economy: Foreign Economic Policy for the Next Decade* (Washington, DC: Institute for International Economics, 2005) at 35.

infrastructure

The implicit Grand Bargain that concluded the negotiations—the North to open their markets for agriculture and labour intensive products, especially textiles and clothing to the South, and the South to accept the so-called new issues of trade in services, trade-related intellectual property (TRIPS), and trade-related investment measures (TRIMs)—turned out to be a Bum Deal. Also, as virtually a last minute piece of the deal, the creation of a new institution, the World Trade Organization (WTO), with the strongest dispute settlement mechanism in the history of international law and virtually no executive or legislative authority. Since the WTO consisted of a 'single undertaking' the deal was pretty much take it or leave it for the Southern countries. So they took it but, it's safe to say, without a full comprehension of the profoundly transformative implication of the new system (an incomprehension shared by the Northern negotiators as well, I might add).

There were a number of significant unintended consequences of the Round. The most important was a serious North-South divide in the WTO. While the South is hardly homogenous there is a broad consensus that the system is asymmetric and must be rebalanced. The debacle of Seattle in 1999 ended in a walkout of virtually all developing countries. It's more than symbolic that the outcome of the Doha Ministerial Meeting in 2001 was termed a 'development agenda' and not a round. The main objective of the Doha meeting was to avoid another Seattle. Thus its great success was that it didn't fail. Both the United States and the European Union visited Africa and the Declaration repeatedly refers to technical assistance and capacity-building. Pushed by the successful non-governmental organization campaign about AIDS in Africa the Americans even seemed willing to antagonize Big Pharma. So Doha was unique in its focus on the South and on development.

But Doha included many other agenda items, especially, of course, agriculture. And, at the insistence of the European Union, the so-called Singapore issues of competition policy, investment, government procurement and trade facilitation. The Doha negotiations went nowhere. All deadlines were missed and there was no progress on key issues, especially agriculture. The ambiguous drafting was too clever by half. And that brings us to Cancun in September 2003.

I was at Cancun and when the meeting ended so abruptly I was swept by a strong sense of *déjà vu* all over again. Cancun was a mid-term Ministerial meeting as was Montreal in the Uruguay Round in 1988. On the last morning of the Montreal meeting around six a.m. the bleary-eyed negotiators were waiting for the United States and European Union warriors who had been up all night dealing with agriculture. When they arrived they announced that it was too bad but they hadn't reached an agreement so we should tidy up the agenda items and finish the *communiqué*. A group of Latin Americans headed by Brazil said 'no': no agriculture, no agreement on anything. It was a moment of shock but was handled with great finesse by announcing that the meeting was adjourned and would be reconvened shortly in Geneva. No big headlines ensued.

In any case my *déjà vu* feeling soon dissipated. The North-South divide had taken a different shape. There appeared to be an axial shift in the political economy of policy-making that would require a fundamental reorientation of the players and the game. Two new coalitions of Southern countries were formed at Cancun. One, termed the G20, led by Brazil and India as well as China (the Big Three) and South Africa included a number of Latin American countries. Its main focus at Cancun was agriculture, catalyzed by an unacceptable draft proposal from the United States and European Union. The G20 seemed an unlikely coalition since it included countries with varying views on economic policy and, indeed, on agriculture. But it didn't collapse under pressure at Cancun and, despite losing members because of American bilateral pressure, it has survived thus far. It appears to be reaching out to the least developed countries (LDCs) to coordinate positions on agriculture and perhaps other issues.[2] And it or its leader, Brazil, has succeeded in challenging the Free Trade Agreement of the Americas to the chagrin of the United States. And India and China are now exploring a free trade agreement as well as a number of other preferential arrangements.

The G20 was very active at the UNCTAD XI meeting at Sao Paulo in June 2004 and, indeed, at that meeting a South-South Round of negotiations was launched under special provisions of the original GATT in which developing countries provide trade preferences for products from other developing countries. This was underlined as another example of the 'new geography' of the trading system by UNCTAD head Rubens Ricupero and the Brazilian president Luiz Inacio Lula da Silva.

Indeed the new geography was evident at Cancun in the formation of another coalition—the G90. This included the poorest developing countries, mainly from Africa. After failing to convince the United States to eliminate cotton subsidies to help the poverty-stricken African exporters and to persuade the European Union to remove the

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2 G20 Ministerial Meeting, Delhi, 18–19 March 2005. The meeting was attended by the coordinators of the Africa Group, ACP countries, CARICOM, and Least Developed Countries (LDCs). See 'G20 Ministerial Meeting Ends with Declaration' TWN Info Service on WTO and Trade Issues (21 March 2005), online: Third World Network <http://www.twnside.org.sg/title2/ twninfo190.htm>.

Singapore issues from the agenda, the G90 terminated the negotiations. It's important to note that at Cancun non-governmental organizations played a prominent role with respect to the G90. African non-governmental organizations were included in many official delegations and they provided ongoing information as well as research and policy analysis. They had regular briefing sessions from officials and Ministers.[3] As noted earlier, they (plus some Northern non-governmental organizations) could be described as a virtual secretariat launched by the internet. But unfortunately there's not enough information to explore this important development in more depth.[4]

The formation of Southern coalitions will undoubtedly change the dynamics of the Doha negotiations, especially but not only on agriculture. The G20 was actively engaged in the bargaining over a 'framework' agreement (a broad outline with minimal detail), which was agreed by all-night bargaining at the end of July before the 2004 summer break. This allowed the negotiations to start again after the United States election and perhaps be concluded, one hopes, just a year later than the target date set at Doha. But there won't be another Blair House deal by the Big Two that sealed the Uruguay Round without the Big Three and perhaps the G90 as well. Indeed splits between the G90 and other developing countries are being encouraged by the rich countries. The geography certainly makes trade policy more complex! Both the United States and the European Union are using bilateralism and other policy instruments to weaken the G20 and provoke conflict with the G90. And of course the new geography is not confined to trade. A shift in the 'balance of power' is underway and, as was the case in the nineteenth century, the response will spur changes in both domestic and external efforts. But that's another story.[5] Back to trade!

The story of the new geography has just begun and its evolution is fraught with uncertainty. Yet clearly the nice, neat concept of regional integration is getting more messy and more complex. Added to the already existing coalitions in the negotiation of the 'framework' agreement was FIPS or Five Interested Parties of the European Union, the United States, Brazil, India, and Australia (representing the Cairns group). Someone has called this the G5, or Gestalt Group. Is it simply a

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3 Falou Samb, Agency for International Trade Information and Cooperation Senegal, correspondence with the author (February 2004).

4 The author has launched a project with a group of African graduate students to track the role of non-governmental organizations in the trade policy-making process in Africa at both the country and regional level.

5 But one that needs exploring because there is, of course, considerable overlap between high and low policy today. See, for example, 'Charlemagne: The Reds in the West' *The Economist* (15 January 2005) 40, on the 'emerging axis' between China and Europe.

wily means of co-opting the G20 or will it continue to play a significant role in the negotiations? We'll have to wait and see. But whatever else, it's certainly inter-regional. As are the growing partnerships or other relationships between the European Union and LAC (Latin American and the Caribbean), which have been expanding and strengthening since the 1990s. The EU-LAC summit process is described as 'a distinct form of North-South integration,' 'an exercise in political alliance-building,' and an effort to 'encourage the LAC countries to adopt policies that increase social cohesion by reducing poverty and inequality.'[6] So South-South is new but so is a quite new North-South. The point to be made is that the ongoing changes in the political economy of trade policy-making are too complex and uncertain to rely on one paradigm such as the linkage between regional and global trade and investment integration. The concept of competitive liberalization touted by the USTR will likely result in fragmentation not integration. There is an enormous economic and political disparity between the United States and the other Western Hemisphere countries, so bilateral and regional agreements (often including 'WTO plus' versions of, for example, TRIPS and investments) are creating a new and ever-mutating spaghetti bowl. To add to the mass both Mexico and Chile are pursuing a large number of bilateral agreements. The transaction costs for business of the rules of origin included in the agreements are so large that many corporations are choosing to pay non-preferential or MFN tariffs. These ever-proliferating preferential agreements have been strongly criticized in the Report by the Consultative Board to the WTO Director General.[7]

Competitive liberalization is not a new idea by any means. But the form it is taking now differs significantly from that of its earlier phase in the 1980s, which I have called domino policy. The main architect of regional domino policy was the US, which initiated a multi-track policy with the Canada-US Trade Agreement (CUSTA) because the Uruguay Round was stalled by the European Union over agriculture and Brazil and India over the new issues. A major objective for the Americans was to demonstrate to the Europeans that bilateralism was a feasible alternative that would be actively pursued if the foot-dragging at the GATT continued. For Brazil and India and their followers, the implied threat was strongly reinforced by a new 'tough policy' announced by President Reagan in September of 1985 that included support for the little-used section 301 of the 1974 *Trade Act*. CUSTA was

6 Inter-American Development Bank, *Integration and Trade in the Americas: III EU-LAC Summit: Special Issue on Latin American and Caribbean Economic Relations with the European Union* (Washington, DC: Inter-American Development Bank, May 2004) at 1-3.

7 Peter Sutherland *et al.*, *The Future of the WTO: Addressing Institutional Challenges in the New Millennium* (Geneva: WTO, January 2005).

the first trade agreement to include trade in services. While it can't be proved it may well have helped add to the internal pressure in Europe to agree to launch the Round. NAFTA, the next domino, built on CUSTA and the Uruguay Round GATS (General Agreement on Trade in Services) and included TRIPS and a very impressive investment regime—the two new issues not achieved in CUSTA. But the next domino—a multilateral agreement on investment to be concluded at the OECD then transferred to the WTO—failed and indeed proved to be a boomerang since investment issues have been kept out of the WTO ever since.

The earlier version of competitive liberalization was primarily directed to extending multilateralism. Since that was the ultimate American target, the European Union had to be part of the end game. But now the entire game involves the European Union. And it's being played by others, especially China in Asia. Fear of an Asian Union led by China and excluding the United States may be exaggerated.[8] Or maybe not. ASEAN plus three (China, Korea, Japan) has been announced.[9] But the main issue is that a *global approach* seems the best strategy no matter how difficult it will be. A global rules-based system is the best alternative when one considers all of the others. It would be very dangerous to eschew the multilateral approach and will be very challenging to devise policy options to facilitate deeper integration not just in the hemisphere but in the global system. That takes us to the other road in the fork.

II Integration: Process by Project

The only example of 'deep integration' that exists today is the European Union. The objective was political, driven by the need to forever preclude a repeat of the wars of the twentieth century. The means were economic, such as the creation of a single market and free flow of factors of production. But of course, a great deal more was involved, especially the creation of a range of institutions. And the story has not ended. The deepening and widening process is ongoing. As is the search for a shared concept of community.

In the Western Hemisphere the integration process has been mainly a product of the private sector. Policy has played a minimal role. There are some regional institutions but they also are minimal. It's not clear what the objective is but it is not to build a 'community'. One of

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8 Claude Barfield, 'China, the United States and the Rise of Asian Regionalism' (Paper presented to the Western Economic Association International 79th Annual Conference, Vancouver, 29 June-3 July 2004) [unpublished].

9 See 'Baucus proposes FTAs in Asia to offset Chinese influence' *Inside U.S. Trade* 22:50 (10 December 2004) 15.

the abiding characteristics of the Latin American region is the extremely high inequality in income and health. In a recent Latinobarametro survey *The Economist* reports that seventy-one per cent of respondents think that their country 'is governed for the benefit of a few powerful interests.'[10] The hopes that trade liberalization would ameliorate this were dashed and, in any case, misplaced. Yet most experts agree that inequality and poverty, as well as widespread crime and corruption in many countries, pose a serious threat to the sustainability of democracy. And create serious impediments to domestic and international policy effectiveness. Deep integration requires increased convergence of per capita income to promote social cohesion: catch-up is the aim. Thus while the focus of the Washington Consensus was efficiency—a worthy and necessary objective—the 'second generation' reform has also underlined the importance of dealing with poverty and equity and a growing number of suggest that the serious inequality in Latin America contributes to lower growth.[11] But dealing with these issues is not like macro-economic stabilization. Second generation reform has landed development economics squarely into neo-institutional economics. And the truth must be faced: this is largely *terra incognita*. As a recent book on the subject states: 'Second-generation reforms are a motley crew, encompassing broad reforms of the state, the civil service, and the delivery of public services; of the institutions that create and maintain human capital (e.g., schools and the health care system); and of the environment in which private firms operate (more competition, better regulation, stronger property rights).'[12] That's part of the list. And as the authors note: 'Any economist can tell you that curtailing inflation requires lower money growth' but most are silent on how to reform legal, regulatory and political institutions.[13]

Nonetheless the research on institutions and the link with economic performance in the region has begun. Neo-institutional economics is the vogue. One hopes that it can be encouraged and that the minimalist mathematical model can be resisted. As one expert or innovation has noted 'case studies are data' and the need to pursue a wide range of these will be essential. Benchmarking best practices is

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10 'Democracy's low-level equilibrium' *The Economist* (August 14 2004) 41.

11 See Nancy Birdsall, Augusto de la Torre & Rachel Menezes, *Washington Contentious: Economic Policies for Social Equity in Latin America* (Washington, DC: Carnegie Endowment for International Peace and Inter-Americas Dialogue, 2001), and Pedro-Pablo Kuczynski & John Williamson, eds., *After the Washington Consensus: Restarting Growth and reform in Latin America* (Washington, DC: Institute for International Economics, 2003).

12 Patricio Navia & Andrés Velasco, 'The Politics of Second-Generation Reforms in Latin America' in Kuczynski, *ibid.* at 266.

13 *Ibid.*

usual in the private sector so why not the public sector?

Granted the second generation reform agenda is formidable but it's also necessary for deepening integration. So why not launch the process with some projects? That has already started, as is apparent in the Inter-American Development Bank's *Beyond Borders*.[14] Noting that infrastructure projects have significant network and scale economics, regional infrastructure projects should have had a high priority but did not. That changed when IIRSA (Integration of Regional Infrastructure in South America) was launched in 2002, as was the Puebla-Panama Plan (both with IDB support). Both are complex multinational, multisectoral, and multidisciplinary. Careful monitoring and analysis will yield extremely important insight not only into best practices but the vital link between infrastructure and growth. In rural areas infrastructure is essential if farm productivity is to improve: trade policy is pointless if you can't get your product to the market. As Robert Pastor points out NAFTA made no provision for infrastructure and the resulting delays because of increased traffic 'have raised the transactions costs of regional trade more than the elimination of tariffs has lowered them.'[15]

Regional infrastructure is a project of high priority. But there are many others that could be listed. Thus, for example, the financial crisis of the 1990s underlined the need to reform the capital markets and the banks. And the requirement to develop regional standards for fiscal discipline.[16] The list could be long and experts will have many important proposals. What is needed is an institution for selecting, launching, and evaluating the proposed projects. And a funding mechanism that includes contributions from all the countries in the hemisphere, allocated by an appropriate and mutually agreed formula. And a shared objective of deepening integration. The creation of the 'Convergence Club' in the OECD countries after the Second World War was certainly due to economic factors such as trade, investment, and technology transfer but also depended on what Moses Abramovitz called in his 1986 seminal article 'social capabilities' or what would be called institutions today.[17]

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14 Inter-American Development Bank, *Beyond Borders: The New Regionalism in Latin America*, (Washington, DC: Inter-American Development Bank, 2002) at 126-44.

15 Robert A. Pastor, 'North America's Second Decade' *Foreign Affairs* 83:1 (January/February 2004) 127.

16 John Williamson, 'Summing Up' in Kuczynski, *supra* note 11 at 311-12.

17 Moses Abramovitz, 'Catching Up, Forging Ahead, and Falling Behind' (1986) 46 Journal of Economic History 385.

Conclusion

The issue of deepening integration is complex and multi-faceted. In the Western Hemisphere the main approach has been preferential trade and investment policies. But today's world of ever-changing geography and balance of power requires a global approach. And a policy that recognizes that institutions matter.