

Chakravarthi Raghavan

The

**THIRD
WORLD**



in the Third Millennium CE

The WTO – Towards
Multilateral Trade or
Global Corporatism?

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The Third World in the Third Millennium CE

Volume Two

The WTO – Towards Multilateral Trade or Global
Corporatism?

Chakravarthi Raghavan

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The WTO – Towards Multilateral Trade or Global Corporatism?**

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To

Kalyani and Artie

Fool me once, shame on you; fool me twice, shame on me.

– Chinese proverb (famously quoted by George W. Bush)

Forgive, O Lord, my little jokes on Thee,

And I'll forgive Thy great big one on me.

– Robert Frost, “Cluster of Faith”, 1962

For Who deceives me once, God forgive him; if twice, God forgive him; but if thrice, God forgive him, but not me, because I could not beware.

– 1611 *Tarlton's Jests* (1844)

Preface

INTERNATIONAL trade, in the sense of trade over long distances and across kingdoms and countries, over land routes or across seas, has been in existence for ages past. Ptolemaic Egypt, the Roman Empire and the Arabian region (nomads) all traded with India to bring spices to Europe. Roman coinage has been found in archaeological digs in Southern India. There is also historical evidence of trade involving merchants in Europe, India and China over land routes, and India, South-East Asia and China across the seas.

International trade in its modern understanding began to take shape from about the 15th century. Around that period, Venice, through its dominance of the Mediterranean, controlled the spice trade (from Asia to markets in Europe) and became very prosperous, leading to efforts to break this monopoly and find alternative routes to bypass the Venetian controls. With the advent of nation-states in Europe, the Portuguese and others began seeking sea routes to the fabled east and its spices, gold, silk etc. The rulers funded such efforts, backed by the papal “authority” dividing up the undiscovered lands outside Europe between the two great Catholic naval powers of the day, Portugal and Spain (Venice at that time had already started its long, slow decline). The voyage of Christopher Columbus that resulted in the “discovery” of the Americas had begun as a journey to reach the famed Indies in the east and their spices. Though the Portuguese seafarer Vasco da Gama is credited in Europe with having found a sea route to India and the Far East, in fact long before him, the Chinese, the Arabs and the African kingdoms were already trading directly with India. Unlike all these, however, Vasco da Gama was intent on building imperial glory for his Portuguese ruler, and on his heels came other adventurers from other European nations.

Vasco da Gama sailed from Portugal down along the coast of Africa and into the Atlantic Ocean to use the “trade winds” that earlier explorers had found and written about; he went around Africa’s southern tip (which he had sighted around Christmas and so named Natal) and then sailed up northeast along the coast. Along the way he was committing piracy (on the basis of the aforementioned papal authority granting Portugal authority in the East), capturing Arab traders and their dhows, looting the goods and sinking their boats with the crew on board. Even at that time, it was a violation of the “laws of civilized nations”, but Portuguese historians subsequently justified his actions on the basis that Portugal had sovereignty over these seas and the laws of civilization did not apply beyond European shores! Vasco da Gama then sailed on up the East African coast to Mozambique and Kenya, landing at Melinde port in the Kingdom of Melinda. At Melinda, the Sultan allowed him to land and repair his ships, and provided him with a pilot and a Portuguese-speaking Arab merchant to guide and help him cross the Indian Ocean. Guided by the pilot from Melinda, Vasco da Gama and his other accompanying vessels touched land at Calicut in Southwest India. There, he was cordially received by the local ruler, who was however unimpressed with the presents brought to him, raising doubts in the court as to whether Vasco da Gama was really an emissary of the Portuguese sovereign or just an adventurer. As a result, the ruler, the Zamorin of Calicut, refused Vasco da Gama permission to set up a factor in Calicut and leave behind goods he could not sell. The Portuguese adventurer was told he would have to pay customs duties in gold or take back the goods.

On his second and subsequent voyages Vasco da Gama committed more piracy against Arab dhows and traders, and reaching Cochin (where he got a more favourable reception), he sided with Cochin against Calicut, and also lent support to other local chieftains in India in their battles with each other, thus gradually establishing a foothold in India. His successors, in the name of the Portuguese king, established themselves in Goa, West India. The French, Dutch and English soon followed, and set themselves up as traders on the west and east coasts of India and in what is now Sri Lanka, with the Dutch, by then a dominant merchant power, going further east to set up trading posts and then colonize what is now Indonesia. In Europe, the

Portuguese king gifted, as part of the marriage dowry of his daughter Catherine of Bragança, the Bombay island (what is now Mumbai) to Charles II of England, and thus enabled the English and their East India Company to gain a foothold and trade.

With this began the era of mercantilist trade, and colonialism/imperialism in Asia. Britain, after its industrial revolution, was emerging as the dominant imperial and naval power in Europe. In India, the Mughal empire was on the decline. The English East India Company, getting monopoly trading rights (from the English sovereign), established itself in what are now Mumbai, Chennai and Calcutta. The trading rights were soon used to acquire territory and “Company rule” over the territory by siding with one set of native rulers against another, subordinating both in the process, and ultimately ending with establishment of British colonial/imperial rule in India. Force, forgery and freebooting all played a role – in violation of the European “just war” theories – in expanding the British colonial/imperial rule in India.

The beginnings of this European mercantilist trade led to colonialism and the establishment of European empires in Asia. Britain (after the industrial revolution) through the East India Company gradually expanded its foothold and trading rights in India to build an empire across Asia and emerge as the dominant hegemonic power in the world. Unable to trade with China to buy silks, excepting on payment of gold, the British forced peasants in India to grow poppy and manufactured opium to sell in China. And when the Chinese empress prohibited such trade, the British countered with what are known as the “Opium Wars”. This in turn enabled the British and other Europeans to “establish” themselves in China along the coast, claiming “extra-territorial rights” in their settlements and trading posts on the coast. Meanwhile, the Americans, with Admiral Perry leading a naval flotilla, bombarded the Japanese coast and forced the emperor to open up Japan’s markets for trade; and while purportedly against the “Opium Wars”, they demanded equal treatment to establish their own outposts in China.

After a widespread rebellion in 1857 across North India, the East India Company rule was superseded and British Crown rule was established, with a Viceroy in India ruling in the name of the British sovereign. British laws were extended to India, arresting the spread

of the industrial revolution to India.¹ Britons came to India and established plantation economies to export raw materials and commodities to Britain while British-manufactured consumer goods were imported.

Side by side with the establishment of British Crown rule over India began rebellions and resistance, which led, early in the 20th century, to the Mahatma Gandhi-led non-violent freedom struggle culminating at the end of World War II with Indian independence (as also the partition of South Asia). In parallel, the Mao-led revolution on mainland China successfully overthrew the Kuomintang regime. These two events set in motion the process of political decolonization across the globe. After initial efforts to re-establish their colonial rule over parts of South-East Asia, the Europeans gradually gave way, with foreign rule under retreat politically in Asia, Africa and other parts of the world.² The newly independent countries have been struggling since then to translate their political independence into economic sovereignty and autonomy, and attempting to bring benefits of economic growth and development to their peoples. This struggle has been on several fronts, but has seen a constant push forward and back on the trade front.

This book is a compilation of analyses and comments³ on the multilateral trading system, its evolution from the Havana Charter (that never came into force) and the provisional General Agreement on Tariffs and Trade (GATT 1947)⁴ to the World Trade Organization (WTO) (1995), and its current state. It covers, from contemporaneous writings, the change from the GATT to the WTO via the Uruguay Round of multilateral trade negotiations and its promises and unfinished agendas. The process, its historical context and its raison

¹ The British Crown rule was established in 1858, and one of the first English laws to be extended to India, in 1859, was the Patents Act!

² See Part I of *The Third World in the Third Millennium CE*, Volume One.

³ The articles reproduced in this collection have been edited and formatted for style and clarity. Numbered footnotes are from the original articles, while footnotes marked with an asterisk were added during the editing process.

⁴ Third World Network (2001), *The Multilateral Trading System: A Development Perspective*, report prepared for the United Nations Development Programme.

d'etres have been set out in detail elsewhere⁵ and are not repeated here.

Part I of this volume sets out a part of the story of the Uruguay Round: its background and the driving forces behind it; the subjects brought on the agenda; the objectives of bringing into the trade system new issues (services and intellectual property) aimed at obstructing the rise of competitiveness in the Third World and attempting a rollback of the South to its colonial-era political economy; some of the steps leading to the launch of the Uruguay Round; the difficult negotiations and compromises, and the processes, and the conclusion of the Round with the signing of the Agreement Establishing the WTO at Marrakesh, as also an assessment of its outcomes and impacts on the Third World.

The developments in the multilateral trading system after the establishment of the WTO are set out in Part II. These involve the manoeuvres, through the hype of the advent of the third millennium CE, to launch a new round of multilateral trade negotiations at the WTO's Ministerial Conference in Seattle (1999) and the meeting's subsequent collapse; the renewed efforts, on the back of the September 2001 terrorist assault on New York and Washington, to commence a new round at the November 2001 WTO Ministerial Conference in Doha, which resulted in the launch of the Doha Work Programme (DWP); and, via the Cancun (2003) and Hong Kong (2005) Ministerial Conferences, the current state of the DWP negotiations. Popularly known as the Doha Round, the DWP, launched as a "single undertaking", was purportedly to promote development of the developing countries. However, since then, the leading industrial countries, and the WTO secretariat, have so orchestrated and manoeuvred the mandates and the processes as to enable the major centres to escape their commitments under the Marrakesh treaty, in particular issues aimed at reforming agriculture and the trading system itself to benefit the Third World. This lies at the root of the current impasse in the DWP negotiations.

⁵ See Chakravarthi Raghavan (1990), *Recolonization: GATT, the Uruguay Round and the Third World*, Third World Network, Penang and Zed Books, London; and contemporaneous issues of the *South-North Development Monitor (SUNS)* from 1980 to 1994.

In an effort to move the “narration” away from this, the United States and the European Union have successfully focused attention on the one issue on the DWP agenda – trade facilitation (TF) – that will benefit mainly, if not only, their transnational corporations and enable them to export to the Third World markets with little or no border checks or customs scrutiny and inspection. At the moment of writing, the US and the EU (with the WTO secretariat adopting an advocacy/partisan role, and reverting to discredited GATT-style “consultations”) have got a TF agreement adopted by the WTO’s Bali Ministerial Conference in December 2013. The agreement, after legal scrutiny and clearance of the text, is to be adopted, along with a protocol for incorporating it in Annex 1A of the WTO Agreement, and sent to member governments for ratification or acceptance. The TF agreement will come into force when two-thirds of the membership accept the protocol. Some of the rights and obligations under the agreement are in conflict with provisions of the GATT 1994 and the Agreement on Pre-shipment Inspection. If the TF agreement, after inclusion in Annex 1A, is interpreted as validly altering the rights and obligations under the GATT 1994, without going through the Article X (of the WTO Agreement) amendment procedures, it will create future problems and jeopardize the WTO system.

Also, the US and the EU (with the WTO secretariat playing an advocacy role) are attempting to get developing countries to agree that the Doha single undertaking is no longer “doable”. Instead, some parts of the DWP (which are beneficial to the US and the EU) are sought to be taken up and agreements concluded thereon, thereby effectively, if not formally, abandoning other parts (like agriculture etc) and ending the Doha single undertaking, so that the WTO can take up other agendas. If this ploy succeeds, it will turn the WTO into an instrument not of multilateral trade, but of global corporatism.

Part I of this volume (read with this writer’s *Recolonization: GATT, the Uruguay Round and the Third World*), as also Part I of Volume One, touch on the two centuries of European mercantilism resulting in colonial and imperial rule, spawning the anti-colonial, anti-imperialist struggles, the new order established after the Second World War (and its uneasy peace), the decolonization process, and the efforts of the leaders of the newly independent nations to tackle the social and economic stagnation of their countries and bring

development, and recognition of the futility of these efforts in the absence of a more supportive external environment and changes to the rules of the game.

While making some limited and fitful advances, and pushing for a New International Economic Order, by the 1970s the Third World countries found themselves facing not only a stalemate but a determined pushback, and a US-led effort at a “rollback” of international economic relations to the colonial era, with local leaders and governments asked to function as “policemen” to safeguard foreign capital and its right of exploitation.

This Part outlines the US-led attempt, since 1981, to force down on the Third World a neoliberal world economic order: the US motivations to arrest and reverse attempts by the countries of the Third World to translate their political independence into economic development via autonomous domestic economic programmes and reforms and restructuring of the international environment to be supportive of development; and US-led moves to aggressively push back these countries into an era of colonial-type economic relations.

Part II touches on some of the highlights and negotiations at the WTO from its establishment in 1995 to early 2014. The articles in this Part outline the failed attempts to launch a new round at the Seattle Ministerial Conference (1999) that ended in chaos, shell-shocking the two majors and the secretariat; the attempts in Geneva (2000) at the WTO General Council to pick up the pieces of the Seattle wreckage to rebuild confidence in the system, only to be thwarted and hijacked into the Doha Ministerial Conference (2001), where the new round (the Doha Round) was launched. It also tells the story of the subsequent deadlocks in the Doha Round through failed ministerial meetings, up to the current state of impasse, which is primarily due to the unwillingness of the US and Europe to carry out their commitments and obligations (including on agriculture trade) under the Marrakesh treaty to bring about a more just and equitable multilateral trading system conducive to development.

When the Uruguay Round was concluded and the countries of the Third World signed on to the Marrakesh treaty and its annexed agreements, despite their frontloaded obligations and little gains, they did so in the belief that the then 47-year-old provisional GATT, the postwar ad hoc arrangement for a multilateral trading system, was

being replaced with a rules-based treaty organization which would be “the forum” for all future multilateral trade relations and negotiations on matters dealt with in the WTO agreements. The Third World countries agreed to the requirement of everyone joining all the agreements, in order to end the discriminatory arrangements, with various levels of benefits and obligations, that emerged out of the earlier Tokyo Round. The enshrined “most favoured nation” (MFN) provision in the Marrakesh treaty and its annexed agreements was also seen to ensure the end of earlier discriminatory arrangements (like the Multi-Fibre Arrangement or the various “voluntary” export restraint accords forced on the Third World) and ensure benefits to every member state from any two or more members negotiating and agreeing on further trade liberalization and exchange of concessions in areas of trade covered by the WTO agreements. Though it was claimed at its inception that the Marrakesh treaty would ensure a “rules-based” member-driven system, in its functioning and culture since then, the WTO has been continuing some of the worst practices of the provisional GATT.

Even more, in the period since the WTO came into being, the industrialized countries have once again proved that their promises and commitments are not worth the paper on which they are written: they have failed to carry through on their commitments and promises at Marrakesh – of embarking on an irreversible course of domestic agricultural reforms to eliminate subsidies and create a level playing field in agricultural trade. And their commitments of special and differential (and more favourable) treatment to developing countries remain empty promises.

More seriously, the major industrial economies have been whittling away any benefits to the Third World in the multilateral trading system, through so-called free trade agreements (discriminating against those outside such arrangements) at bilateral and regional levels to provide enhanced opportunities for their transnational corporations to accrue rentier incomes – with stringent intellectual property protection regimes and guarantees for foreign investors, including the right of investors to sue host governments, akin to the privileges that investors from metropolitan countries enjoyed in their colonies in the 19th century until the second half of the 20th.

The US, with its neo-mercantilist efforts to weave agreements with a “security agenda” outside the purview of the United Nations – such as the Trans-Pacific Partnership Agreement (TPPA) which excludes China – has been the leading force in this. Not far behind though is the EU, with its colonial-era “we know what is in your best interest” mindset, forcing weak economies in Eastern Europe, Asia, Africa, the Caribbean and the Pacific to enter into unfair partnership agreements to benefit its own corporations. At the same time, both the US and the EU are also pursuing similar agendas within the WTO – blocking accords which require them to make concessions, such as in agriculture or in implementing past commitments, while attempting to force progress in areas such as trade facilitation to benefit their own exporters.

Some of the emerging powers in the South including China, India, Brazil, Indonesia, South Africa, Argentina and the like are resisting this. They are also pushing back by promoting their own free trade agreements for full liberalization (reducing or eliminating tariff and non-tariff barriers), covering trade in all goods and services sectors, including agriculture, and excluding no nation *a priori*. It is not clear which one of these competing outlooks will prevail.⁶

However, unless the current policies of the US, the EU and other leading industrialized countries are reversed, the WTO will not endure for long.

Chakravarthi Raghavan
Geneva, May 2014

⁶ See Gordon Campbell (2012), “Asia’s Rival Trade Deal to the TPPA”, Scoop, 25 October, gordoncampbell.scoop.co.nz/2012/10/25/gordon-campbell-on-asias-rival-trade-deal-to-the-tppa/.

Part I
THE URUGUAY ROUND AND ITS
OUTCOME

GATT: The MTNs, promises, practices

(May 1985) It was Lewis Carroll who said it in the 19th century: “The rule is jam tomorrow, jam yesterday, but never jam today.”

For most Third World countries (whose poor merely ask for bread, and not butter or jam), Lewis Carroll appears very much relevant today, as they face pressures to agree to a new round of multilateral trade negotiations (MTNs) under the General Agreement on Tariffs and Trade (GATT), and when they judge its “promises” with the experiences of the past.

The United States is trying to launch another new round of MTNs in the GATT and bring into the GATT “services”, and is pressuring the Third World, through promises and threats, to agree to it and come on board.

The Third World countries, quite chary of the outcome of earlier GATT rounds, are insisting on prior implementation of commitments and undertakings of past rounds, and of the 1982 Ministerial declaration commitments.

On their part, the US, and the GATT secretariat, are arguing that without the launching of a new round, and the opportunities provided in it for trade-offs, the protectionist barriers against the Third World would not come down.

To the Third World countries, past experience has shown that new rounds and Ministerial declarations and commitments in the GATT have an unbroken record of focusing essentially on issues of interest and concern to the industrial trading partners, and have invariably resulted in discriminatory and restrictive measures against the Third World.

At a recent informal meeting of the GATT Consultative Group of 18 (CG-18), several Third World delegates reportedly made the

THE SECOND VOLUME of *The Third World in the Third Millennium CE* looks at how the countries of the South have fared amidst the evolution of the multilateral trading system over the years. Even as the General Agreement on Tariffs and Trade (GATT) gave way to the World Trade Organization (WTO) as the institution governing international trade, this book reveals, the Third World nations have continued to see their developmental concerns sidelined in favour of the commercial interests of the industrial countries.

From the landmark Uruguay Round of talks which resulted in the WTO's establishment to the ongoing Doha Round and its tortuous progress, the scenario facing the developing countries on the multilateral trade front has been one of broken promises, onerous obligations and manipulative manoeuvrings. In such a context, the need is for the countries of the Third World to push back by working together to bring about a more equitable trade order. All this is painstakingly documented by Chakravarthi Raghavan in the articles collected in this volume, which capture the complex and contentious dynamics of the trading system as seen through the eyes of a leading international affairs commentator.

CHAKRAVARTHI RAGHAVAN, Editor Emeritus of the *South-North Development Monitor (SUNS)*, is a veteran Indian journalist whose professional experience spans six-and-a-half decades, including nine years covering the United Nations in New York and, since 1978, in Geneva closely monitoring and analyzing activities and negotiations at UNCTAD, GATT and the WTO as also the UN specialized agencies. He was formerly at the Press Trust of India, including as its Editor-in-Chief (1971-76). He is the author of *Recolonization: GATT, the Uruguay Round and the Third World; The New Issues and Developing Countries; The World Trade Organization and Its Dispute Settlement System: Tilting the Balance Against the South; Developing Countries and Services Trade: Chasing a Black Cat in a Dark Room Blindfolded;* and *The Third World in the Third Millennium CE: The Journey from Colonialism Towards Sovereign Equality and Justice;* as well as other papers and numerous articles on trade and development, finance and other issues. He was presented the Group of 77/UNDP award for TCDC/ECDC (Technical and Economic Cooperation among Developing Countries) for 1997.

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