

Book reviews

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Liberalizing International Trade after Doha: Multilateral, Plurilateral, Regional and Unilateral Initiatives

by David A. Gantz

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Professor David Gantz of the University of Arizona College of Law is one of the world's most accomplished and widely published authors in international trade law. As such, it is no surprise his new book, *Liberalizing International Trade after Doha*, is an impressive, comprehensive analysis of efforts to liberalize trade after the failure of the Doha Round to produce an ambitious, balanced package.

1. Context

After its launch by World Trade Organization (WTO) Members in November 2001, the Doha Round has seen negligible progress toward a multilateral trade liberalization agreement. Apart from *A World Without Walls: Freedom, Development, Free Trade and Global Governance*, by former WTO Director-General Mike Moore,¹ and a Doha Round trilogy,² little has been written on the implications of the failure of the Round for trade negotiations and the 'single undertaking' methodology. Professor Gantz's

1 See Mike Moore (2003), *A World Without Walls: Freedom, Development, Free Trade and Global Governance* (Cambridge: Cambridge University Press), 377 pages.

2 See Raj Bhala (2011), 'Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part One of a Trilogy – Agricultural Tariffs and Subsidies', *University of Saint Thomas Law Journal*, 9(1): 5–160; (2011), 'Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part Two of a Trilogy – Non-Agricultural Market Access and Services Trade', *Case Western Reserve Journal of International Law*, 44(1 and 2): 1–81; (2012), 'Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part Three of a Trilogy – Trade Remedies and Facilitation', *Denver Journal of International Law and Policy*, 40(1–3): 237–320.

book studies the negotiation process over the past 12 years, and portrays the current political economy with a view to predicting the future role of WTO.

In retrospect, the Doha Round may have been headed toward failure from before its launch. The 1999 Debacle at the WTO Seattle Ministerial Conference, and subsequent acrimonious battle among Members to elect a new Director-General, were precursors to hardships negotiators faced in the Round. As the Round ground on, 'South' (developing and least developed) Members came to realize that 'North' (developed) Members were nearly intransigent on areas of highest importance to the poor, despite the middle 'D' in the 'Doha Development Agenda' rubric: agricultural subsidies given to rich country producers; and increased access to manufactured goods and services markets for poor country exporters and service providers.

2. Gantz thesis

Professor Gantz's book argues that without (1) greater dedication by major developed countries to progress, and (2) increased unity across developing (including middle income countries – MICs) and least developed countries (LDCs), the Doha Round is dead. From that premise—that it is dead—the book considers the future of trade liberalization. If it occurs, then it will be thanks to plurilateral, regional, and unilateral agreements. The death of the round has catalyzed new trade agreements, as Members seek to achieve their trade goals, including securing access to key export markets. In doing so, they evince a belief that multilateral liberalization via a single undertaking no longer is feasible. This belief is a theme resonating throughout the book.

3. Scope

Beginning with events leading up to November 2001, *Liberalizing International Trade after Doha* thoroughly covers a plethora of issues arising in the Doha Round. It expands on issues that plagued negotiations, including the rise of MICs and the divergence of their interests from the LDCs with which they historically had sided, lack of political will or courage to make concessions on major issues by North and South Members, and increased protectionist policies, especially after the Great Recession. Concluding that a successful outcome is unlikely, if not impossible, the book focuses on several key areas in which progress could be made, and the methods for such progress.

First, the book considers WTO efforts to help LDCs and the environment. Five areas could provide the greatest benefit to LDCs: (1) expanding Duty-Free-Quota-Free (DFQF) treatment (i.e. reducing tariff and quota barriers) to all LDC exports; (2) loosening Rules of Origin (ROOs) on imports from LDCs, especially on textiles and apparel (T&A); (3) eliminating cotton subsidies; (4) enhancing the existing General System of Preferences (GSP); and (5) increasing trade facilitation by implementing international customs standards and practices. Members have mumbled a verbal commitment to instituting these reforms, but have made no substantive progress on the first four of them. No progress occurred on the first three issues, because developed countries lacked the gumption to stare down politically powerful domestic interest groups, regardless of their economically uncompetitive position. Hope for rendering GSP treatment less conditional on political criteria for eligibility lies not in a multilateral

agreement, but in unilateral efforts by Members. Increased trade facilitation may hold the greatest promise, in light of the December 2013 agreement (noted below).

Likewise, WTO Members have failed to agree on better trade-related environment protections (such as disciplines on fishing subsidies), and freer trade in ‘green’ goods. MICs and LDCs distrust environmental regulations championed by developed countries as a means to ‘[bar] access for their goods to developed country markets’ (p. 73), and all Members worry about their ‘commercial interests rather than global environmental impacts’ (p. 75). If any gains are to be made on this or the LDC topic, then it will come through a plurilateral agreement like the one pursued by the Asia-Pacific Economic Cooperation (APEC) forum, a free trade agreement (FTA) like the Trans Pacific Partnership (TPP), or remarkable unilateral action.

Second, the book assesses the possible expansion of the Government Procurement Agreement (GPA), and creation of an International Services Agreement (ISA) – both being plurilateral accords. It discusses the 2013 revised GPA (which entered into force in April 2014 thanks to approval by two-thirds of the signatories), and negotiations on a revised Information Technology Agreement (ITA), which became bogged down in 2013–2014. A theme running throughout this assessment, and indeed the entire book, is the need for developed countries to recruit support from MICs, specifically Brazil, Russia, India, China, and South Africa (BRICS), if these plurilateral agreements are to realize their maximum positive impact.

Third, the book examines the potential to liberalize trade through existing and pending Regional Trade Agreements (RTA) and FTAs. Controversial topics include cutting tariff and non-tariff barriers, loosening ROOs, balancing protection for foreign direct investment (FDI) against insulation for sovereign nations against lawsuits in regards to state owned enterprises (SOEs) and regulatory takings. The uncertainty created by intermingling new trade commitments with those in previous agreements make completion of new trade agreements a daunting task. This uncertainty is manifest in diverse proposed or extant FTAs, such as a China–Japan–Korea FTA and anticipated TPP, and MERCOSUR customs union. The book devotes careful attention to challenges facing the TPP, prospects for expansion if it takes effect, and legal issues arising due to overlapping discrepant trade agreements like the North American Free Trade Agreement (NAFTA).

Finally, the book treats the successful efforts to liberalize trade – such as in Korea, the South American Jaguars (i.e. Chile, Columbia, Mexico, and Peru), and Four Tigers (i.e. Hong Kong, Korea, Taiwan, and Singapore) – via unilateral actions. It explains how those efforts were successful, even though their precise nature differed from one country to the next.

4. Highlights

Liberalizing International Trade after Doha argues that, for all intents and purposes, the Doha Round has failed. Yet, this is not its most important point. Rather, throughout is the theme that in a globalized world, events in international trade are all connected. For example, the rise of plurilateral accords and of RTAs might have been less dramatic had the Round not bogged down; agriculture affects trade talks across a spectrum of issues, including SOE behavior and IP rights; and the single undertaking

approach is broken because of the disparate interests of developing countries, MICs, and LDCs.

Persuasively, the book also argues that the current trend is unlikely to shift back toward the WTO, and thus conveys a sense that the world is on the precipice of great change. The twenty-first century may see further polarization into countries clustered, politically and geographically, around great economic powers through a web of trade agreements. A possible FTA between the US and EU would forge a trade bloc surpassing China, and reinvigorate the declining power of the west in the global economy. Such polarization could be cataclysmic for smaller developed and developing countries, some MICs, and LDCs, which may be forced to concede major interests for fear of being left in the cold. Assuming the WTO no longer is an effective negotiating forum, might such countries align with one another in a unified manner to strengthen their bargaining power? Might they be scooped up piecemeal into trade agreements that are dominated by hegemon? These are the kinds of questions the arguments in Professor Gantz's book provoke.

Another insight his book offers is that trade agreements increasingly are a sword and shield to advance political and national security interests. Furthering these interests is as much the reason for their growth as is the desire to expand commercial prospects. A case in point is America's fixation on the TPP as a means of gaining influence in Asia, and an attempt to prevent China from dominating the region through its own trade deals and military projection. If these trends are extrapolated, then perhaps countries like the US, Brazil, China, the EU, and Russia are in a twenty-first century arms race, stockpiling trading partners instead of weapons.

Finally, a simple solution to boost trade and make it more efficient is the improvement of individual country trading systems, i.e., cracking down on bribery and corruption, and standardizing customs procedures. This approach engenders little outward opposition among Members. Developed countries can provide technical and financial support to MICs and LDCs, which would benefit their own exporters and importers, and increase goodwill with poor countries. Indeed, in one of the few Doha Round achievements, Members agreed in December 2013 to a trade facilitation accord – though they have yet to agree on which commitments they will apply, when, and how.

5. Recommendation

Liberalizing International Trade after Doha is indispensable reading on the Doha Round and its aftermath. It teaches how the WTO devolved to its present state, and indicates paths forward. The book is a masterful achievement: a clear picture of the most complex moving target in the international political economy: rules for the global trading system. Uniquely even among the world's foremost international trade law scholars, Professor Gantz has analyzed rigorously intricate, often convoluted, issues, while faithfully keeping perspective to ensure the merchandise is not lost among the containers.

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