

FOREWORD: LEST WE FORGET

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Enjoying the greatest sustained economic expansion, beating the 1950s and 1960s, it is easy to take for granted the conditions and global framework that make this success possible. But as I introduce this Thematic Issue of the *University of New South Wales Law Journal*, let's celebrate that in the last 50 years, life expectancy has increased by 20 years, infant mortality rates have dropped by two-thirds. Thirty years ago, Ghana's income equalled South Korea. Now, South Korea's income equals Portugal's. And look how Portugal's income has lifted since she joined the European Union. South Korea's gross domestic product per capita did not reach US\$100 until 1963; since then life expectancy has risen from 54 years to 73 years, while infant mortality has dropped from 8 to 0.8 per cent. Malaysia and Haiti were equal in 1950. Burma and Thailand had equal incomes in 1945. Thailand is now 25 times richer than Burma. Examine Chile and Argentina, North and South Korea. Thirty years ago, Japan was a developing country. So much for those who argue globalisation means governments don't matter.

We need to remind governments why our parents created an open world with a rules-based trading system. Immanuel Kant, in his essay in *Perpetual Peace*, suggested durable peace could be built upon the tripod of representative democracy, international organisation and economic dependence. By 'dependence' he meant economic integration. President Woodrow Wilson gave the same speech when the world failed to create a durable international architecture after the First World War. John Stuart Mill, David Hume and Adam Smith all argued that expanded commerce produced good government, reduced the propensity for conflict, enhanced individual liberty and security, and promoted equality by lessening the servile dependence of individuals on their superiors. The effect of increased commerce on individual freedom was, according to Smith, the least observed advantage of commerce.

Trade and the exchange of services create friends and are a key factor in development. It is control that breeds enemies. That's why new trade opportunities between India and Pakistan, China and Taiwan are so important.

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That's why the World Trade Organization ('WTO') is important to peace, security and development and why our fathers created it alongside the other great organisations such as the United Nations, International Monetary Fund and World Bank.

The Doha Development Round offers the opportunity to lift hundreds of millions of people out of extreme poverty. But there are problems, almost a crisis. All multilateral trade rounds managed under the umbrella of the *General Agreement on Tariffs and Trade*, now the WTO, are in crisis until a deal is done. The headlines are familiar and predictable, no trade round has ever failed or failed to disappoint. Conferences of trade ministers often fail over the years from Montreal to Brussels, most famously in Seattle. They fail because trade ministers' agreements are real, legal and supervised by a binding disputes mechanism where disagreements about the meaning and implementation of complex details are decided. Ministers of transport, housing, environment, foreign affairs meet and reach meaningless agreements wherever one's position is covered with fine-sounding 'communiqués' that provide comfort and cover in their ambiguity. Quite a few commentators, and many Ministers, did not think we were going to launch the new round in Doha. Indeed some Ministers wanted to postpone the meeting, such was the fear of what another failure after Seattle would do to the trading system. Is it possible, given how everyone can win under the Doha Development Agenda, that the deal could perish because of a lack of political willpower and courage and leadership? What's new now that makes things more difficult and different?

Perhaps major players, including China and India, feel things are good as they are now. There are alternatives to a multilateral solution – inferior, potentially dangerous, and multiplying in direct relationship to the lack of progress in the Doha negotiations. Twenty years ago there were few regional and bilateral trade deals, now there are many hundred. They create trade distortion, trade diversion, some even restrict trade, none have a binding dispute settlement mechanism, most have dozens of exemptions, and few do much in agriculture. The latest South Korea-US deal excludes rice and, like all such deals, protects new privileges and preferences. American beef will be in a privileged position to Australian or Argentine beef. This deal has already stimulated Japan and the EU to take more seriously its options with South Korea. This lightweight deal on agriculture provides yet another opportunity for the Europeans to strengthen their defensive position on agriculture at the WTO negotiations. Many nations now seem to seek preferential deals, one by one, which are easier to sell domestically. It's basically mercantilism which avoids the hard decisions at home for immediate gain; but long-term costs will be painful. These deals provide levers for politicians which they always find hard to resist.

Ministers love to sign things, but this frenetic activity is a poor substitute for direction and multilateralism. It diverts political attention and precious Ministerial time. The costs to the greater global trading system are now beginning to be felt. The answer is, of course, getting the Doha Round finalised. Regional deals and bilateral preference deals are not that hard if you exclude sensitive issues.

Another danger is the increasing number of disputes between nations that the WTO must manage. These are causing pressure to build up. Sooner or later some countries are going to challenge the WTO's findings, and then what?

A world economy without a global trading system that can manage, in a clear, predictable and binding way, these disputes would quickly become dark and dangerous.

Despite all I've written about the perils of unilateralism and bilateralism, I'd be doing it if I were in Government. There's a terrible cost to being left out. The global economy is facing a 'lose, lose' situation. However, we should re-name the present spate of trade agreements 'preferential trade deals' because they insult the concept of free trade.