

From Bad to Worse: Old and New at the WTO



Photo: David Dunkley/WTO

TRADE MINISTERS AND OTHER ECONOMIC POLICY makers will gather in Cancun, Mexico on September 10-14, 2003 for the fifth Ministerial Conference of the World Trade Organization (WTO). Though public and media attention are increasingly drawn to these large WTO meetings which take place every two years, less known and monitored are the ongoing debates at WTO headquarters in Geneva among some of the world's most powerful economic policy makers. This issue of *Global Economic Justice Report* focuses on some of these crucial but less-talked-about issues at the WTO, known as the 'Singapore Issues' and the 'Implementation Issues'.

The 'Singapore Issues' — investment, government procurement, competition policy and trade facilitation — are new areas of national economies which Northern states like Canada are pushing for liberalization through the negotiation of legally binding agreements as part of 'a new round' at the WTO.¹ Contrary to the claims of Northern governments, a comprehensive new round was not actually launched in 2001 at the last WTO Ministerial meeting in Doha, Qatar. This was chiefly because of the resistance by Southern states to opening negotiation for 'new' WTO agreements on 'Singapore Issues' and their insistence on the resolution of 'old' conflicts, namely the 'Implementation Issues.' Thus among the many tensions which may explode between now and the end of the September WTO Ministerial Conference is the discord over whether to begin new treaty negotiations on the Singapore Issues or to resolve the outstanding 'Implementation Issues'.

At least two outcomes are possible. One is that the Cancun Ministerial will again fail to launch 'a new round' as Southern states stand firm on their demand that the Implementation Issues be resolved before any new treaty negotiations begin. Another is that Northern states will succeed in cornering

Trade Negotiations Committee Meeting, 3 October 2002, in the Council Room, WTO, Geneva

Southern states into making a dangerous tradeoff: open negotiations for new treaties on the Singapore Issues in exchange for serious discussions to resolve the Implementation Issues. [See centrefold for a historical account of this conflict.]

The final section of this issue of *Global Economic Justice Report* examines how Canadians can organize to help prevent the liberalization of new areas of national economies and help avert the cornering of Southern states by those of the North, including our own.

GLOBAL Economic Justice REPORT

The Global Economic Justice Report is a publication of KAIROS: Canadian Ecumenical Justice Initiatives. KAIROS is a coalition of Canadian churches, church based agencies and religious organizations dedicated to promoting human rights, economic justice, peace and viable human development.

For subscription information please contact us at

Global Economic Justice Report
KAIROS
129 St. Clair Ave., West,
Toronto, ON M4V 1N5

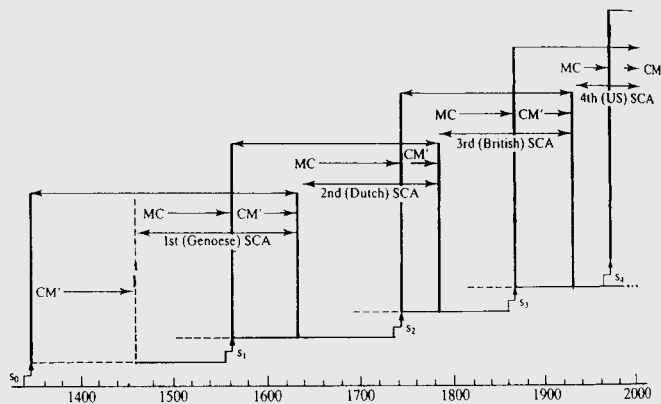
Tel: 416.463.5312 x.246
Toll free: 1.877.403.8933
E-mail: orders@kairoscanada.org
www.kairoscanada.org

Putting 'Globalization' Into Historical Context

Current changes in the world economy are part of an historical process of economic expansion and restructuring which began in the 15th century, according to historical sociologist Giovanni Arrighi. (1994) At that time, the power of 'states' (i.e., government institutions) was fused with the power of 'capitalists' such as moneychangers, merchants, and brokers in Western Europe.

European states were thus launched into a territorial conquest of the world and the development of a capitalist world economy. While capitalists had existed in Eurasian and other trading systems prior to the 15th century, Arrighi argues that it is only in Europe that they came together with states. A modern-day expression of this fusion is Canada's Department of Foreign Affairs and International Trade (DFAIT) — a government ministry so commonplace that we don't question how it came into being.

Starting around the middle of the 15th century, Arrighi traces four "systemic cycles of accumulation" in the history of the capitalist world economy: the Genoese cycle (around 1450-1640), the Dutch cycle (around 1640-1790), the British cycle (around 1790-1925) and the American cycle (around 1925-present).



Systemic cycles of accumulation (SCA), with arrows marking material expansions (MC) and financial expansions (CM). (from: *The Long Twentieth Century*, p. 364)

Taking a close-up look at 'global finance', we can use Arrighi's last 'cycle of accumulation' — the American cycle — to help locate and define the actions of players familiar to us today and often associated with globalization: the International Monetary Fund (IMF), the World Bank, and private banks. As shown in the figure above, Arrighi posits 1970 as the beginning of a period of 'financial expansion'. (see S4 in the figure). This financial expansion is the result of a 'material expansion' (1925-1970) in which the world economy grew in scale and scope through innovations and technological developments leading to a host of mass-producing enterprises operating in many countries.

Especially after World War II, world trade and production increased exponentially as large corporations continued to invest growing profits in the production and sale of goods, and private banks loaned out a portion of those profits to Southern states which were also active in expanding the production and trade of

goods. By the 1970s, the intensification of competition among all economic players, and the consequent downturn in profit rates, caused large corporations and other investors to pull capital out of production and put it into speculative activity (hence, financial expansion).

In the early 1980s, attempting to draw money back into the US economy, the Federal Reserve Bank increased US interest rates. This had the additional effect of increasing the cost of debt servicing for Southern states which had accumulated loans. To deal with the consequent debt crises, as well as to increase speculation opportunities for large investors, Northern states moved to transform the role of the IMF. This entailed reshaping it from a minor lender of last resort, providing short term financing, into a major enforcer of foreign debt service and the leading advocate for the liberalization of Southern financial markets. New roles for the World Bank and other development banks were part of this shift, as was the imposition of Structural Adjustment Programs (SAPs).

According to Arrighi, a 'financial expansion' marks the beginning of a period of change whereby the world economy shifts to something new through a radical restructuring and reorganization. As in global finance, such radical restructuring and reorganization can be traced in most other industries from the 1970s. The move by large pharmaceutical corporations to begin researching and patenting Southern seeds and medicinal plants in the early 1980s, for example, can be seen as an attempt to restructure the agriculture and pharmaceutical industries while reorganizing the use of traditional knowledge systems, indigenous plants, and wildlife.

Both Northern and Southern states also have their part to play in this period of restructuring and reorganization. The 'Uruguay Round' of negotiations under the auspices of the **General Agreement on Tariffs and Trade (GATT)** in the late 1980s, the push by Northern states for a multilateral agreement on 'intellectual property rights', and the transformation of the GATT into the World Trade Organization (WTO) in the early 1990s are part of the radical shifting of the world economy. By the same token, responses and resistance to the restructuring and reorganization also play a part in the process of change. This would include the Jubilee movement for debt cancellation, movements to formalize and protect indigenous knowledge of seeds and medicinal plants, and the popular mobilizations around the WTO Ministerial Conference in Seattle.

In understanding what is new in a period of change, it is important not to forget the old. Below we will trace the newest attempts by Northern States to restructure and reorganize world investment markets. What is old and enduring is the attempt by many Southern states to develop national economies by adopting economic policies which help build domestic job markets and domestic goods markets. The interplay of these two economic visions can be seen particularly through struggles over the 'Singapore Issues' of investment, government procurement and competition.

I. The North: Pushing the 'Singapore Issues' Envelope

Not unlike the 1990s NAFTA investor-state provisions and the Organization for Economic Cooperation and Development's abandoned Multilateral Agreement on Investment (MAI),² but affecting the economies of far more countries, a WTO agreement on investment would:

- provide foreign investors the right to enter countries without conditions and regulations;
- undo existing conditions (in the form of laws) on the operations of foreign investors;
- prohibit existing requirements on the 'performance' of foreign investors (for example, passing on technological knowledge to domestic industries);
- prohibit remaining regulations on the movement of funds/profits out of countries;
- broaden the definition of 'foreign investor' to all types of investors including multinational corporations, portfolio investors, creditors and non-commercial organizations;
- provide NAFTA-style protection to foreign investors, specifically, the right to make claims of lost future profits/revenue due to government policies and laws;
- set up WTO panels with the decision-making power to determine when these rules have been violated.

The key difference between the MAI and a WTO agreement on investment is that rather than opening up all sectors of national economies in one fell swoop, the latter would, except for security and defense, open up sectors gradually. For the first time in the 20th century, the areas of 'agriculture', 'indigenous plants/wildlife', and 'services' have been transformed into "markets" for "liberalization" through WTO agreements: the Agreement on Agriculture (AoA), Trade Related Intellectual Property Rights Agreement (TRIPs), and the General Agreement on Trade in Services (GATS).

According to certain UNCTAD researchers, an overarching WTO agreement on investment would make further sector-specific WTO agreements unnecessary. Additionally, it would solve the challenges presently faced by foreign investors that want to enter sectors already covered by WTO and other agreements, but find that coverage ambiguous.

Ambiguity in the GATS is of particular relevance in the Canadian context. In Greater Vancouver, the competition for a 'Public Private Partnership' contract (GATS language) to design, build and operate the Seymour water filtration plant was cancelled due to citizens' action around the combined impact of NAFTA and the GATS. (Dobbin, 2002) More specifically, NAFTA investor-state provisions could allow US water service companies to claim 'lost revenue' due to municipal water regulations designed to assure public safety. The GATS could allow a water service provider which is jointly owned by a municipality and a private company in a Public Private Partnership to be sold to a foreign water service company, thus taking water treat-

ment completely out of the hands of the municipality.

Similarly in the Halifax region, questions around the opening up of sewage treatment facility operations to foreign investors led the Halifax Regional Municipality to commission a legal opinion on the issue of dispute settlement. The municipality was told that it could write a contract stipulating that all disputes would be settled exclusively according to Nova Scotia law and that they could oblige the private contractor effectively to waive the right to use NAFTA. Countering that legal opinion is the position of Sylvia Ostry, one of the most senior figures in Canadian trade policy planning who sits on an advisory board to the WTO Secretary-General. In Ostry's words: "That [legal opinion] says we are simply exempting this contract from a legal trade treaty that the federal government has signed. ... At the very least, this strategy is completely untested and fraught with uncertainty." (Dobbin, 2002)³

What other challenges do foreign investors face in trying to penetrate economic sectors in other parts of the world? In most countries of the South, foreign investors face regulations, conditions and restrictions on a sector-by-sector basis. The Chinese state, for example, prohibits foreign investment projects which don't fall in line with the objectives of national economic development. In Pakistan, the ownership of land for agriculture and irrigation is banned to foreign investors. Similarly, in Brazil foreign ownership of land in rural areas is prohibited. Foreign investment in forest plantations and mechanical extraction in reserve forest areas are prohibited by the Bangladeshi state. In Malaysia, the state sets a limit on foreign equity ownership in manufacturing firms, depending on the degree of exports in the firm's output. And in the banking sector of several countries of the South, local banks are given a greater scope for business than foreign banks.

Competition Policy

The goal behind a WTO treaty on 'competition policy' ties in well here. For the European Union — the group leading the push for a WTO agreement on competition — such an agreement would provide "effective opportunity" to foreign firms in local markets. (European Community, 1999) Specifically, the EU wishes to address the goals of those firms interested in penetrating precisely the land, manufacturing, banking, and other markets which Southern states are trying to protect for the purpose of domestic capital accumulation. Domestic capital accumulation ideally translates into more jobs and more demand for a growing array of goods (primary, secondary and tertiary) within a national economy. Allowing free entry for foreign investors, combined with free exit for monies made, (as WTO agreements on competition and investment would allow), would at best shift the power to accumulate domestically to foreign investors who have already done so in their economies of ori-

gin. At worst, such conditions would erode the capital accumulation which has occurred in varying degrees in most economies of the South during the post-independence period.

The Real Problem of Investment

Foreign Direct Investment in host countries (millions of dollars)

Country	2000	2001
United States	300,912	124,432
United Kingdom	116,552	53,799
Belgium and Luxembourg	245,561	50,996
Germany	195,122	31,833
Canada	66,617	27,465
Italy	13,377	14,873
China	40,772	46,846
Mexico	14,706	24,731
Hong Kong, China	61,938	22,834
Brazil	32,779	22,457
South Africa	888	6,653
Philippines	1,241	1,792

(Source: UNCTAD)

A quick glance at the table tells of the decline of investment around the world. Where investment does exist in the South, it tends to be highly exploitative of nature and destructive of local as well as national economies. Mining in the mineral-rich countries of Africa, for example, accounts for 60 per cent of foreign exchange earnings but less than 10 per cent of Gross Domestic Product and merely 2 per cent of employment. (Darimani: 2002, 1) In other words, mining money coming in does not stay in, and neither do the unprocessed minerals.

Government Procurement

Another market which Northern firms are seeking to penetrate is that of government consumption/procurement. A paper distributed by the USA at an informal WTO Heads of Delegations meeting, on March 18, 1996, explains:

Procurement markets worldwide account for trillions of dollars in commercial transactions. Large, commercially attractive procurement occurs at all levels of government. Municipal governments procure heavily for police and fire departments and local public works. Provincial and other second-tier governments often administer health and social security programs, which involve substantial procurement of goods and services. In many countries, central governments are responsible for national telecommunications networks, electrical power grids and transportation systems.⁴

Prior to the formation of the WTO in the early 1990s, government procurement was not part of the **General Agreement on Tariffs and Trade**. This was due to the recognized benefits

of using government purchasing as a tool to attain social and economic goals, such as creating a demand for the goods and services of local producers and contractors; building national unity through a balanced distribution of government contracts, intentionally favouring under-represented groups or communities; and maintaining a sustained demand in recessionary periods. An instance of the last is the case of China in recent years. For the first three quarters of 2000, China experienced a healthy growth rate of 8.2%. In 2002, while most national growth rates were faltering, China's growth was at 7.9%. (BBC World Service, 2002) Both of these strong growth rates were due in no small part to increased government consumption.

China's growth figures reveal not only the benefits of government procurement to national economies, but also the motivation underlying the push for a WTO agreement on government procurement. Northern states, realizing that Southern states with strong economies are highly unlikely to reduce government consumption in the near future, want a piece of the action for their own investors. In a paper circulated at an informal meeting of Heads of Delegations at WTO headquarters in Geneva just prior to the Singapore Ministerial Conference in 1996, the EU states: "In the absence of clear multilateral rules, billions of dollars worth of trade will continue to be subject to domestic rules and procedures not covered by the WTO framework. It is estimated that public purchasing can represent up to 15% of GDP."

Canada, in addition to supporting these initiatives of the EU and USA, wants to assure special protection for the activities of Canadian investors abroad. According to a recently leaked 'draft' Memorandum to Cabinet entitled **Revised Model Foreign Investment Protection Agreement**, half of the \$57.3 billion CDN foreign direct investment (FDI) by Canadian capitalists in 2001 went to the USA, 20% to Europe, and 30% to countries of the South, mainly in the Pacific Rim. The last set of destinations of Canadian FDI is of particular concern to Ottawa, given the "non-existence" of "effective rule of law in some developing countries." (Ministry of Foreign Affairs and International Trade, 2002)

Through the projected signing of new Foreign Investment Protection Agreements (FIPAs) with India, Indonesia, China and Brazil,⁵ Ottawa aims to establish a "clear set of rules" whereby (a) the "risks" of foreign investment are diminished; (b) foreign investors are "protected" against expropriation and other host state measures which "unduly affect their interests;" and (c) foreign investors have the right to an investor-state arbitration process (as in NAFTA) which "helps deter inappropriate preference in a host country's political or judicial process." Ottawa justifies its intentions by claiming that due to the "reinvigorated" US Trade Act of August 2002, Canada will face increased pressure from its business lobby and therefore Ottawa must become more active in making and shaping global investment protection. (Ministry of Foreign Affairs and International Trade, 2002)

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STARTING FROM THE TOP: Tracing Institutionalized Trade Inequality and Resistance to it

1947: At its birth, the **General Agreement on Tariffs and Trade (GATT 1947)** recognizes the special needs of ‘developing states’ — many of which are under colonial rule which is being heavily contested. Article XVIII of the GATT allows ‘developing states’ to derogate from their **GATT** obligations in times of balance-of-payments difficulties. Similarly, Article XXXVII:1 requires ‘developed states’ to (a) “accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest” to developing states, and (b) refrain from introducing or increasing tariff or non-tariff import barriers to developing country exports.

Mid-1960s: Recognizing the demands of ‘developing states’, the **GATT 1947** is amended to provide “more favourable and acceptable conditions of access to world markets”. (GATT, Art. XXXVI:4)

1979: The **Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing States** comes into being. (GATT Doc. Ref. L/4903)

1982: At the 38th Session of GATT Contracting Parties, ministers issue a ministerial declaration outlining a *GATT work program for the 1980s*. Among other things, the work program commits GATT Contracting Parties to ensure effective implementation of GATT rules and provisions, especially those concerning the developing states. The *work program* also makes specific mention of improving market access for products of particular export interest to developing states such as agricultural and tropical products, and textiles and clothing. (GATT Doc. Ref. W.38/4, 29 November 1982)

1983: During the November meeting of the GATT Contracting Parties, Japan proposes the launch of a ‘round’ of negotiations leading to comprehensive GATT treaty agreements in the areas of services, high technologies and investment.

May 1984: Countering the move to open the discussion of comprehensive treaty agreements on areas of national economies hitherto untouched by the General Agreement on Tariffs and Trade, Uruguay presents, on behalf of developing states, a position paper entitled *Improvement of World Trade Relations Through the Implementation of the Work Program of GATT*. Discussed at the May meeting of the GATT Council, the paper addresses the lack of implementation by developed states of prior commitments made within the GATT through continued restrictions on the exports of developing countries and the application of ‘safeguard measure’ duties on imports from developing countries, counter to **GATT** Article XIX. (GATT Doc. Ref. L/5647, 4 May 1985)

July 1984: The GATT Director General sanctions the idea of launching a ‘round’ of negotiations for comprehensive treaties in areas previously untouched by the GATT and proposes linking into ‘the round’ the task of addressing issues on the implementation of existing GATT rules and disciplines.

1985: Over a series of ‘high level’ GATT meetings, developed states led by the USA, Japan and the states of Western Europe continue to push for a round of treaty negotiations in the areas of services, investment and other issues. South Korea, Taiwan and a few other Asian

states with close political and economic ties with the USA find it increasingly difficult to explicitly oppose this push.

1986: At the conclusion of a special GATT session in Punta del Este, Uruguay, a round of comprehensive treaty negotiations — the Uruguay Round — is launched. Some of the implementation issues previously raised by developing states are reflected in the Punta del Este declaration as major elements of the round, but so too are the new areas now framed as ‘intellectual property rights’, ‘trade-related investment measures’, and ‘trade in services’. **What developing states had been attempting to avert now begins: the discussion of ways to open up new areas of national economies to foreign investors before the resolution of old trade conflicts.**

1988: In the mid-term review of the Uruguay Round negotiations, citing UNCTAD and GATT studies, the G-77 declare there has been an increased use of protectionist measures by developing states since 1986.

1994: The World Trade Organization (WTO) is established, incorporating the **General Agreement on Tariffs and Trade**. Framing the WTO are: the GATT rules and disciplines on Tariffs and Trade, now legally binding, along with binding treaty agreements in the areas of agriculture (**Agreement on Agriculture-AoA**), trade-related investment (**Trade Related Investment Measures-TRIMs**), trade-related intellectual property (**Trade Related Intellectual Property Rights-TRIPs**), services (**General Agreement on Trade in Services-GATS**), and textiles and clothing (**Agreement on Textiles and Clothing-ATC**). The only aspect of the outstanding problems with the implementation of GATT rules significantly reflected in the new WTO is the area of textiles and clothing, through the **ATC**.

1996: The introduction of two more areas of national economies - competition and government procurement — for WTO discussion, along with the re-introduction of investment (beyond **TRIMs**). These issues are introduced through a ‘Green Room’ meeting (of a few select states) called by the WTO Secretariat during the second WTO Ministerial Conference in Singapore. In the context of such an unexpected meeting, unprepared Southern states concede to exploring competition, government procurement and investment through ‘working groups’ of the WTO, thereby blocking Northern pressure to immediately begin negotiating treaties on these issues. The agreement to limit the Working Group discussions to an exploration of these issues is reflected in the final declaration of the Singapore Ministerial Conference. Also reflected is the need for “full and faithful implementation” of the **ATC**. On the other issues of key concern to Southern states — namely implementation and the operationalization of special and differential treatment provisions for the South, the Ministerial Declaration is vague at best. (WTO Doc. Ref. WT/MIN(96)/DEC, 13 December 1996)

March 1998: At a meeting of the WTO General Council, Southern states, including Egypt, Nigeria, India, Bangladesh, and Brunei (on behalf of ASEAN), stress the need for an in-depth review of the Uruguay Round Agreements, specifically with regard to their imple-

mentation and the imbalances in their content. (WTO Doc. Ref. WT/GC/M/26, 16 March, 1998)

May 1998: During the Geneva WTO Ministerial Conference, Southern states outline specific areas of implementation which need addressing: the **ATC**, **TRIPs**, and the misuse of various WTO provisions by Northern countries to limit the entry of Southern country goods. The Geneva Ministerial Declaration reflects the discussion, stating that “full and faithful implementation of the WTO Agreement and Ministerial Decisions is imperative.” It also establishes a process for the evaluation of “problems encountered in implementation and the consequent impact on the trade and development prospects of Members.” (WTO Doc. Ref. WT/MIN(98)/DEC/, 20 May 1998)

June 1998 - November 1999: At least 22 Southern states (from the Caribbean, Africa, Asia and Central America) submit proposals detailing problems with the implementation of the **Agreement on Agriculture**. At least 35 Southern states (from Asia, South America, Africa, the Caribbean and Central America) submit proposals detailing problems with the implementation of the **Agreement on Textiles and Clothing**. At least 21 Southern states (from Asia, Africa, South America, Central America and the Caribbean) submit proposals detailing problems with the implementation of the **Anti-Dumping Agreement**. At least 14 Southern states (from Asia, Africa, the Caribbean and Central America) submit proposals detailing problems with the implementation of the **Agreement on Sanitary and Phytosanitary Measures**. At least 51 Southern states (from Africa, Asia, the Caribbean and Central America) submit proposals detailing problems with the implementation of the **Trade Related Intellectual Property Rights Agreement**. At least 13 Southern states (from the Caribbean, Africa and Asia) submit proposals detailing problems with the implementation of the **General Agreement on Trade in Services**. At least 51 Southern states (from Africa, Asia, Central America and the Caribbean) submit proposals detailing problems with the implementation of the **Customs Valuation Agreement**. At least 14 Southern states (from Asia, Africa, the Caribbean, Central America, South America) submit proposals detailing problems with the implementation of the **Trade Related Investment Measures Agreement**. At least 13 Southern states (from Asia, Africa, the Caribbean and Central America) submit proposals detailing problems with the implementation of the **Balance of Payments Provisions of the GATT**. At least 19 Southern states (from the Caribbean, Asia and Africa) submit proposals detailing problems with the implementation of **Special and Differential Treatment Provisions** in the Uruguay Round Agreements in general. At least 24 Southern states (from the Caribbean, Asia, Africa and Central America) submit proposals addressing concerns on the marginalization of certain small

economies. (various WTO Proposals, 1998-1999, as cited by Yu III, 2002: pp. 15-18) Following this process, these issues become known as the ‘Implementation Issues’. NB: *The order of regions listed gives a sense of the numbers of proposals per region, beginning with the region making the most proposals.*

November - December 1999: Small Green Room meetings during the Seattle WTO Ministerial Conference shut out most states from discussions and consultations. Even among the select few included, the question of opening the issues of investment, competition, government procurement and trade facilitation for treaty negotiations is highly contentious. The 291-odd Implementation proposals (listed above) are framed by the General Council in two vague paragraphs of the draft Ministerial Declaration. Ministers from Africa and the Caribbean issue statements prior to the end of the Ministerial Conference asserting they will not sign a declaration presented to them on the final day. The Seattle Ministerial Conference ends without a final declaration.

Early 2000 to 2001: Japan and the European Union continue to push for the Singapore Issues to be opened for treaty negotiations via the Working Group discussions at WTO headquarters in Geneva. In time, the USA also joins in the pressuring. An increasing number of Southern states formally express their opposition to the opening of the Singapore Issues, explicitly demanding that first the Implementation Issues be resolved.

May 2000: It is decided at the WTO General Council Meeting that a series of special sessions of the General Council will be held to address outstanding as well as new Implementation Issues and concerns of Southern countries. (WTO Doc. Ref. JOB 3859, 22 June 2000)

June 2000: In the General Council Meeting, Canada, Japan, Korea, and several European states insist that the Implementation Issues can best be addressed in a new round of comprehensive negotiations combining Implementation Issues with treaty negotiations on the Singapore Issues. The logic they offer for a single negotiating package is that ‘concessions’ made by Northern countries on Implementation Issues can be balanced with concessions by Southern countries on new issues of interest to the North.

29 June 2000: In the formal review of the implementation of the ATC, 23 Southern states (from Asia, South America, Central America, Africa) report the failure of Canada, the USA and the EU to eliminate the great bulk of their import restrictions. (WTO Doc. Ref. WT/GC/W/405, 29 June 2000)

December 2000: The WTO General Council issues decisions on a handful of Implementation Issues as the first outcome of its special sessions on Implementation. (WTO Doc. Ref. WT/L/384, 19



3 October 2002, in the Council Room, WTO, Geneva. Director-General Supachai Panitchpakdi, centre, in the chair.

December 2000) Several Southern and East European states express minimal satisfaction at best and outright disappointment at worst.

July 2001: The General Council Chair announces there remains “a considerable gap between the positions of delegations” and refers discussions on Implementation to various subsidiary bodies of the WTO. (WTO Doc. Ref. WT/GC/M/67, 29 August 2001) It becomes clear that the November 2001 deadline agreed upon by the General Council for work on Implementation Issues will not be met.

26 September 2001: The first draft of the Doha WTO Ministerial Declaration is produced by the WTO General Council Chairman, Stuart Harbinson, and the Director General, Michael Moore. On the issues of investment and competition, the draft includes two options: either begin treaty negotiations or continue studying them in the Working Groups. Some of the Implementation Issues are treated superficially in Annexes I and II of the draft Declaration.

1-3 October 2001: During the informal WTO General Council meeting held to discuss the first draft of Ministerial Declaration, India, Indonesia, Jamaica, Kenya, Tanzania (on behalf of the group of Least Developed States), Malaysia, Pakistan, Zimbabwe (on behalf of the Africa Group), Egypt, Honduras, Dominican Republic, Uganda and Zambia make official statements explicitly stating their opposition to the opening of treaty negotiations on the issues of investment, competition, government procurement and trade facilitation.

27 October 2001: The second draft of the Ministerial Declaration is issued, committing WTO members to begin two years of pre-treaty negotiations on all of the Singapore Issues after the Doha Ministerial. The option to continue discussions in the working groups is not included in the second draft, despite the opposition voiced through statements and other means between October 1 and October 27.

31 October - 1 November 2001: The majority of Southern states speak critically about both the content and ‘production’ process of the draft Ministerial Declaration during a special session of the WTO General Council. It is agreed that discussions on Implementation Issues will continue during the Doha Ministerial Conference, provided that the dissatisfaction of Southern states with key parts of the draft Ministerial Declaration is noted through the use of square brackets around those key parts.

5 November 2001: Chairman Harbinson and Director General Moore transmit an unrevised draft Declaration to the Trade Minister of Qatar, host of the Doha WTO Ministerial Meeting. The draft is accompanied by a covering letter which does not make mention of several differences of view, including those around the Singapore Issues and the Implementation Issues.

13 November 2001: On the last scheduled day of the Doha Ministerial Conference, three groupings of countries at the WTO — the Africa group, the Least Developed Countries group, and the Africa, Caribbean and Pacific Countries group — issue a set of proposals including text to replace the text in the draft Ministerial Declaration on the Singapore Issues. The proposed text states that these countries lack the capacity to engage the Singapore Issues with full appreciation of the implications for their countries and people, and that the next WTO Ministerial Conference “shall determine the desirability or otherwise of negotiations in these areas.” (as cited by Khor, 2002a)

13 November, 2001, 6 p.m.: At the end of the last scheduled day of the WTO Ministerial Conference, a Green Room session is suddenly

convened by the WTO Secretariat. The session includes only some country negotiators as many have already made plans to leave Doha and return to their government duties at home. Technical experts and assistants of country negotiators are not allowed into the special session, which runs until 5 a.m.

14 November, 2001, late morning: A few hours after the suddenly-convened Green Room session has ended, a draft Ministerial Declaration is issued in which the Singapore Issues are recognized as good material for new WTO agreements. Because of the ability of 13 Southern trade negotiators to remain alert and maintain their anti-Singapore Issue position during the all-night Green Room session, the Declaration states that negotiations on the Singapore Issues “will take place after the 5th Session of the Ministerial Conference (scheduled for September 2003 in Cancun) on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.” (as cited by Khor, 2002a)

20 November 2001: The final draft of the Doha Ministerial Conference Declaration addresses one aspect of one section of the Implementation Issues, that of public health and the TRIPs Agreement. On the Singapore Issues, language in the final draft of the Declaration is the same as that in the draft of 14 November. The Chairman’s Statement tries to clarify the demand of India and 12 other Southern states that the decision on whether or not to begin treaty negotiations on the Singapore Issues be taken by explicit consensus in the Fifth WTO Ministerial Conference in Cancun.

February 2002: The General Council Chair assigns negotiations on the Implementation Issues to ‘relevant’ bodies of the WTO. Position papers on new implementation issues and concerns are submitted by various Southern states. These include issues around the implementation of the ATC, and concern around the relationship between TRIPs, the Convention on Biological Diversity and the protection of traditional knowledge. (WTO Doc. Ref. TN/RL/W/4, WTO Doc. Ref. G/C/W/368, WTO Doc. Ref. IP/C/W/356)

October 2002: Under the WTO-mandated review of the TRIMs agreement, India and Brazil propose the inclusion (in TRIMs) of performance requirements on foreign investors to help Southern states promote domestic manufacturing capacity in high value-added and technology-intensive sectors. At the TRIMs committee meeting, the USA opposes the proposal strongly, and Canada, Japan and the EU try to bury the review of TRIMs altogether. (Raghavan, 2002)

December 2002: The General Council states that there is a great deal of “confusion” around how to proceed on the Implementation Issues. (Sharma, 2002) The TRIPs Council fails to reach agreement on how to convert the political commitment in the Doha Ministerial Declaration on TRIPs and public health into a set of rules allowing countries which lack generic drug industries to import life-saving medicines. Despite strenuous efforts by many states to reach a compromise, the USA insists that only medicines to treat HIV/AIDS, malaria, tuberculosis and infectious epidemics can be covered. Southern states insist that drugs to treat non-infectious diseases, including cervical cancer, diabetes and respiratory diseases are also major killers and therefore should be covered. The USA, pressed by lobbyists of pharmaceutical corporations, refuses, and the talks break down. **The one Implementation Issue which seemed to be moving toward resolution now re-joins the list of over 291 outstanding Implementation Issues.**

KAIROS Campaign Update

No to the FTAA Campaign Moves into High Gear

Throughout the Americas, people are continuing their struggles against the Free Trade Area of the Americas (FTAA) agreement which proposes to create a free trade and investment zone for capital, products, and services encompassing 34 of the 35 countries of the Americas.

People across the Americas are rising up to have their excluded voices heard. As we reported in the last GEJR (Volume 2, Number 1), the people of El Salvador have been engaged in an ongoing struggle against the privatization of their healthcare system. Despite the fact that the government — bowing to massive protests — passed an anti-privatization decree, the law was later overturned. Now entering its seventh month, the striking doctors have gone on a hunger strike as of April 1st, 2003, to protest the lack of political will to resolve the healthcare crisis and demand a solution to the crisis that would put people's rights before profits.

In Brazil, after holding a successful unofficial referendum in which close to ten million Brazilians rejected the FTAA, the Campaign has organized meetings with parliamentarians who have agreed to officially support and present a motion to hold an official plebiscite on the FTAA in Brazil, while encouraging parliamentarians across the Americas to do the same in their countries.

March 18th marked the first in a series of days that the Mexican Campaign is holding unofficial plebiscites. The Mexican Campaign asks four questions including, "Are you in favour of our ongoing participation in NAFTA" and "do you believe that the lives of women are bettered by free trade?"

Here in Canada, Common Frontiers members including KAIROS have been holding workshops, meetings, discussion groups, and public events across the country mobilizing concerned Canadians to sign on and distribute our petition campaign No to the FTAA: It's Hazardous to Your Health. In B.C. we heard of the drastic and life-threatening cuts to healthcare that the provincial government is attempting to make and the dramatic impacts these cuts would have, particularly on rural towns and villages. Through our workshops we were able to link the Salvadoran peoples struggle against privatization with the struggle of local B.C. communities against cuts to their own social services. Both cases demonstrated how privatization and cuts to public services is laying the groundwork for the free trade integration model. At the same time, we were energized by how our cross border struggles were linked and united in our resistance and alternative vision that put peoples rights before profits.

For more information on the No to the FTAA Campaign contact info@kairoscanada.org or check out our website at www.kairoscanada.org

KAIROS RESOURCES AND CONTACTS

KAIROS network

KAIROS has a network of one hundred local "communities", organised into five regions. We also have a francophone partnership with the Montreal-based Réseau Océanique justice et paix. For information on starting or joining a group, or to learn more about the Fall 2003 Regional Meetings, contact Sara Stratton, Communications/Networking Specialist, 1.877.403.8922 x241 or sstratton@kairoscanada.org

Kairos Times newsletter

To subscribe to KAIROS' free bi-weekly email newsletter, contact Julie Graham, Education/Website Specialist at jgraham@kairoscanada.org with your full name, email address, province or territory and a little information about your interests and affiliations.

Resource Orders

KAIROS produces a range of print and video resources for researchers, teachers, and activists. All resources, including a free brochure outlining our latest titles, can be ordered online at www.kairoscanada.org You can also email orders@kairoscanada.org or leave a message at 1.877.403.8933 x246.

Website

The KAIROS website offers our latest analysis and action ideas. Check it out at www.kairoscanada.org

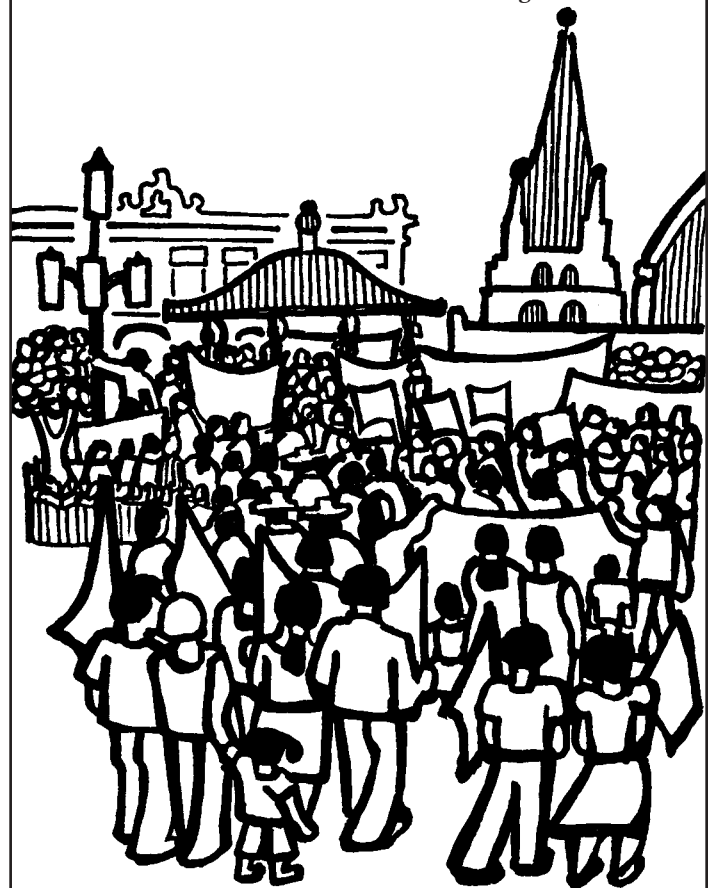


Illustration: Rini Templeton

II. The South: Holding Out For The ‘Implementation Issues’

In focusing predominantly on the motives and actions of Northern states and capitalists (i.e., large investors, banks, industrialists, and so on), we tend to underestimate the magnitude of longstanding conflicts between Northern and Southern states. In other words, it is easy to assume an uncontested strength of the North and miss the dynamics of North-South struggle over economic issues.

In studying the history of this struggle set out in the centrefold, it is important to note (a) the early recognition in the **GATT** of what is now called ‘special and differential treatment’ for Southern states; (b) the persistent efforts by Southern states to raise questions and demands around accessing Northern markets [see especially the 1982, 1984 and June 1998 - November 1999 entries in the centrefold]; and (c) the persistent failure of Northern states to implement the rules and disciplines agreed upon in the **GATT** and **WTO**.

From its creation in 1947, part and parcel of the **GATT** has been the notion that Southern countries have special and specific development needs. In most cases, it is on this basis that Southern states elected to join or/and remain in the **GATT**, even following independence from colonial rule. Though not widely acknowledged at the time, the reasons behind these special development needs were, and continue to be, rooted in a history of exploitation and unequal trade relations not unrelated to informal and formal forms of colonization by militarily superior states of the North.

In the two decades or so following World War II, old and newly independent nations of the South were active participants in what historian Thomas McCormick has called “the most sustained and profitable period of economic growth in the history of world capitalism.” (as cited by Arrighi, 1994: 297-298) Southern manufactured goods were in great demand but continually faced difficulty reaching Northern consumer markets. In many cases it was in fact because of this great demand that southern manufacturers faced difficulty reaching Northern markets. A close-up look at the case of “tropical products” helps show why.

The term ‘tropical products’ in GATT-WTO language refers to agricultural and other products exported by Southern countries with tropical climates. In the Uruguay Round, this category included tropical beverages, spices, flowers and plants, planting products, certain oilseeds, vegetable oils and products thereof, tropical roots, rice, tobacco, tropical nuts and fruits, rubber, tropical wood, jute and hard fibers. (WTO Glossary, Doc. Ref. IDB/URM/2, 15 February 1996, as cited by Yu III, 2002) While Northern states had consistently committed to reducing tariff barriers and improving market access to Southern exports, in fact Northern tariffs on processed tropical products escalated. (Yu III, 2002: 9) In turn, Southern tropical economies were

unable to further diversify into more processed and higher value-added tropical products or, even worse, unable to maintain the production of even simple processed tropical products. The same pattern played out in the case of “natural resource-based products” — fishery and forestry products and non-ferrous metals and minerals.

Why did Northern tariffs on Southern manufactures escalate? The key reason is that producers based in the North — large and even medium-sized corporations — pressured Northern states to maintain or/and increase tariffs on manufactured products for which they were the main suppliers to the

Canadian mining company brings ‘the rule of law’ to the Philippines



“In 1997, the indigenous people of Zamboanga del Norte were awarded an ancestral land certificate for 6,500 hectares of land by the Department of Environment and Natural Resources. Around the same time, the Philippine government awarded 500 hectares of land within the same ancestral land as a Mineral Production Sharing Agreement to TVI Resource Development Philippines. Even after human barricades by indigenous groups of the area, divide and rule tactics by TVI, the exposure of human rights abuses committed by TVI and the subsequent withdrawal of financing by the Commonwealth Development Corporation as well as two Japanese investors — TVI is still attempting to begin operating a mini-cyanide plant with local government grants.”

— Tito Natividad Fiel,
Diopim Committee on Mining Issues, Philippines

relatively rich northern consumer markets. In this way, they have been able to maintain a monopoly over the production and sale of high value-added products. This is at least part of the reason why by the 1980s, Southern economies were caught in the trap of producing mainly low value-added goods for export — for which tariffs did not decrease significantly either.

It was in a desperate yet still rational hope of breaking this pattern that Southern states agreed to partake in the Uruguay Round. By 1983, despite the fact that the ‘implementation’ of prior commitments had now entered the lexicon of the GATT workplan as a principle problem area in need of resolution, Japan began pushing for a round of negotiations in which new areas of national economies would be discussed as ‘markets’ for liberalization. In 1986, Southern states made a dangerous choice by agreeing to such a round — the Uruguay Round — with the intention of using the negotiations to push for the liberalization of existing markets still not opened-up by Northern states.

While the most widespread analysis today — especially in the North — has it that the formation of the World Trade Organization in 1994 was the turning point in world trade relations, Yu III and others see the establishment of the WTO as the institutionalization of already existing global trade inequality. What was new was that the WTO entailed a large increase in the number of legally binding and enforceable trade and investment rules which meant a heavier implementation burden on the scarce economic, technical, and human

resources of most Southern countries. (Yu III, 2002: 12)

Rather than 1994, it was the launch of the Uruguay Round, in 1986 that marked a turning point. This was the point at which Southern states were no longer able to resist the GATT Director General’s push for a ‘single undertaking’ approach to work through trade conflicts. Through this approach, the discussion of outstanding GATT commitments was linked with negotiations for new commitments in the areas of ‘intellectual property’, ‘services’ and ‘trade-related investment measures’.⁶

Today, in the run-up to the Fifth WTO Ministerial Conference in Cancun, many Southern partners working on trade and investment issues, particularly in Asia, perceive that we are at a very similar turning point. Pressure to start treaty negotiations on the Singapore Issues (investment, government procurement, competition, trade facilitation) combined with the sheer number of outstanding, unresolved Implementation Issues are signs that a new cornering by Northern states and new trade-offs by Southern states are in the works. As economist Martin Khor put it at a recent conference of activist-researchers working on Asian socio-economic issues: “Through the existing WTO agreements, we have been robbed of the furniture, televisions, and utensils in our homes. New agreements on investment, competition and government procurement will be the tractor which takes our grandmothers and babies too.” (Guangzhou: November 4, 2002)

III. What Can be Done?

In the decades preceding what he calls the British-led “Free Trade episode,” Karl Polanyi highlights an “outburst of legislation” and an “enormous increase in the administrative functions of the state now endowed with a central bureaucracy able to fulfill the tasks set by adherents of liberalism.” (1944, 139) In the process of opening and keeping open the road to the ‘free market’, Polanyi further notes the “continuous” nature of “controlled interventionism.” (1944, 140) The repeated attempts by Northern states to usher in multilateral treaties on ‘investment’ - first through the MAI at the Organization for Economic Cooperation and Development, and now through a new treaty at the World Trade Organization — can be seen in this light. In Canada, as in other countries, concerned people of conscience must come to terms with an onslaught of persistent attempts to change legal structures in this period of massive economic restructuring and reorganization.

Before, and possibly after, the September WTO Ministerial in Cancun, Canadians and those in other Northern countries should demand of their leaders to **stop pressuring Southern states for the negotiation of new WTO treaty agreements on the Singapore Issues**. Mobilizing around this demand will be most effective if we uncover how WTO treaty agreements on

investment and government procurement will be detrimental to Northern societies as well as Southern societies. On the question of the Singapore Issues versus the Implementation Issues, a focus by Northern peoples’ on preventing the birth of new WTO treaties on the Singapore Issues will compliment the focus of Southern peoples’ demanding resolution of the range of Implementation Issues.

Despite government “information” campaigns and a handful of ‘dialogues’ with certain interest groups, far-reaching decisions on economic questions and legal changes to enforce them are being made by Cabinet in Ottawa, with little or no input from other areas of government, including the municipal and provincial levels. What this often means is that the Minister of International Trade and his office is committing Canada to new economic measures at the WTO before even other Ministers in Ottawa become aware of their social, cultural, economic and ecological implications. Now more than ever before, questioning Canadians need to become informed in order to communicate with their city counselors, MLAs, and MPs about new economic commitments and changes to legal structures which are likely to affect their jurisdictions.

IV. Questions for Reflection and Action

1. Study the Vancouver and Halifax sewage treatment facility experiences cited earlier (see p. 3) and determine whether your municipal and provincial governments' power to make decisions for the public benefit are being obstructed by Ottawa's deal-making at the WTO, especially in the comprehensive areas of 'investment' and 'government procurement'.⁷ Encourage your municipal and provincial government officials to **speak-out against Ottawa's push for WTO treaty agreements on government procurement and investment**. This will help draw attention to the dangers of WTO agreements, increase the political pressure on Ottawa from now until the September WTO Ministerial in Cancun, and help safeguard your local and regional decisions to promote public health, eco-friendly practices, and locally produced goods.

2. On June 28, 2001, the Supreme Court of Canada in unanimous decision, upheld the right of municipal governments to restrict the use of pesticides within their territory. The case involved a municipal by-law passed in 1991 by the Town of Hudson, Quebec, which restricted the use of pesticides for cosmetic uses within its boundaries. Chemlawn and Spraytech, two companies involved in the routine application of pesticides, had challenged the by-law in two Quebec courts before taking it to the Supreme Court level. Chemlawn and Spraytech are now appealing the Supreme Court's unanimous decision. Investigate which by-laws in your city will be at risk of being challenged by foreign investors coming to Canada through a WTO agreement on investment. Mobilize people in your communities around these concrete dangers and visit the website of the Canadian Federation of Municipalities (www.fcm.ca) to explore how you may collectively push for a resolution challenging Ottawa's push for a WTO agreement on investment at the Federation, which has been the national voice of municipal governments since 1901.

3. In your local KAIROS group or community, organize discussions around the FTAA and the WTO and consider how both are part of neoliberal restructuring and reorganization. Powerful governments are acting increasingly on behalf of corporate interests rather than for the well-being of society as a whole. As citizens who still have a large number of democratic rights relative to other citizens of the world's nations — to question in public, to mobilize, and access the media through our collective actions — we must demand why the Canadian government is making such a choice. What is at stake is our willingness to challenge a federal government which sees its political power as rooted in corporate interests rather than in the principles, vision and voting power of individual Canadians.

4. As citizens of a wealthy, net capital-exporting country, do we believe that giving more rights to Canadian foreign investors



Photo: Yayasan Tanah Merdeka (YTM, Indonesia)

INCO's smokestacks in Soroako, Indonesia. Air pollution from INCO's nickel operations includes smoke, soot, particulate and gaseous sulfur and ore dust. Blankets of dust are suffocating vegetation. Soroakans suffer continual bouts of flu, colds and asthma thought to be related to this air pollution. Nickel giant INCO is Canada's largest investor in Indonesia and its investment in Soroako is the second largest mining investment in Indonesia. These are the types of investments which are protected under the FIPAs.

through instruments like Foreign Investment Protection Agreements (FIPAs) or a WTO agreement on investment are the path to more investment and development in the South? In your KAIROS group, community, or organization oriented toward corporate social responsibility, discuss how Canadian corporations can be made accountable for their business activities.

5. In 2001, Canada was on the receiving end of \$42.8 billion in foreign direct investment. The Ministers of Trade and Foreign Affairs argue in the leaked Memo to Cabinet on investment protection discussed on page 4 that increased foreign investment in Canada creates job opportunities in Canada, while at the same time arguing that Canadian capital invested abroad is more productive than if it were invested in Canada. Investigate how existing foreign direct investment and dependence on export production in your city or region is affecting socio-economic well-being and raise questions about it in your community. Are there creative alternatives to large-scale industry and mega-development projects which tend to be socially and ecologically costly in the medium to long run? As citizens can we engage in rethinking what is considered 'economically productive', bringing into discussions of 'economy' the notions of 'solidarity' and 'mutual aid'? How can such reconceptualizations become the heart of economic decision-making?

For more ideas on these suggested actions and background reading on issues raised in this GEJR, contact the KAIROS Economic Justice Program at info@kairoscanada.org or 1.877.403.8933 (toll free).

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Endnotes

1 The issues of 'investment', 'government procurement' and 'competition policy' were first formally raised for WTO discussion in the Singapore WTO Ministerial Conference of 1996. 'Trade facilitation' was later added by Northern states as another issue for WTO discussion. The group of four issues then became known as the Singapore Issues.

2 For a Canadian account of the anti-MAI struggle, see www.twinside.org.sg/title/1856-cn.htm

3 To sum it up, municipal governments in Canada are increasingly at odds with policy makers in Ottawa and foreign investors perceive this as a new risk to investment within the liberalizing service sector, hence the 'need' for a WTO agreement on investment.

4 Quite apart from the economic interests at the root, US rhetoric draws a connection between "corruption" and government procurement. At a WTO General Council meeting in December 1995, in raising the need for a WTO agreement on government procurement, the deputy US trade representative proclaimed "corruption" to be "the single greatest non-tariff barrier." (Khor, 2001a) The EU and USA call for "transparency" in government procurement practices of WTO member countries follows from this.

5 India, China, and Brazil are also the key examples mentioned as candidates for "new economic partnerships" with Canada in the Department of Foreign Affairs and International Trade's "Foreign Policy Dialogue." See www.foreign-policy-dialogue.ca

6 The WTO Agreement on Trade Related Investment Measures (TRIMs) has made illegal the use of three key investment policy measures typically used by Southern states to encourage manufacturing and assure needed balances of foreign exchange. These measures are: requirements on firms to use local inputs, restrictions on the imported inputs of a firm to a certain percentage of its export earnings, and limits on the export of goods which are needed in the home economy. A WTO treaty on investment would do more harm than even TRIMs has done.

7 At present, there is a WTO plurilateral agreement on Government Procurement (i.e. signed only by members who are willing), but it covers the procurement of only 37 state governments in the USA and none of the procurement of US municipal governments.