

TRADE AND THE DEVELOPING WORLD IN THE 21ST CENTURY

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Reviewed by Stephen Zamora*

Since the September 11, 2001 terrorist attacks, the Bush Administration's war on terrorism has monopolized our attention. There has been relatively little discussion, however, of the need to address the underlying conditions that provide the environment in which terrorism may flourish—principally, the endemic poverty and inequality of wealth that afflicts many regions of the world. This is not surprising because attacking world poverty has not been a high priority of the industrialized nations for decades. Beginning in the 1980s, the U.S. government adopted a “trade not aid” agenda that emphasized the need for developing nations to promote free trade and foreign investment, and de-emphasized the responsibility of the world's wealthy nations to take an active part in combating world poverty. The United States's contributions to foreign aid—small for an affluent country—declined, along with those of other developed countries.¹ Indeed, many people in the United States advocated dissolution of development agencies, such as the World Bank, which were seen as unnecessary in the new world economy, an economy in which an end to poverty would come from adoption of free market policies, not from foreign aid. The complacency that attended the U.S. economic prosperity in

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1. WORLD BANK, WORLD DEVELOPMENT REPORT: ATTACKING POVERTY 189-90 fig.11.1 (2001). According to this report, official government-to-government development assistance declined throughout the 1990s, despite an increase in GNP per capita during the same period. *Id.* In 1998, annual contributions from the twenty-one principal donor countries declined to less than seventy-five dollars per capita, while GNP per capita rose during the same period. *Id.*

the 1990s helped us ignore what has been happening in those parts of the world that have not shared in this prosperity.

By the 1990s, as world economic growth expanded dramatically, “trade not aid” and neo-liberal economic reforms had become the dominant agendas of economic development agencies nationally and internationally.² Mexico, Argentina, and other nations with protectionist and centrally planned economies embraced neo-liberal trade and investment reforms, as well as competitive markets. Economic growth in the most successful developing countries produced many new millionaires and expanded the middle classes. The adoption of numerous free trade agreements, bilateral as well as multilateral, and the successful termination of the Uruguay Round Agreements, resulting in the transformation of the General Agreement on Tariffs and Trade (GATT) into the World Trade Organization (WTO), confirmed the ascendancy of the neo-liberal trade and investment agenda espoused by the U.S. administrations for twenty years.

Despite economic gains in many countries, poverty reigns in many regions of the world, including those that are most susceptible to terrorist ferment.³ Because of this, one does not have to be a foe of “globalization” to reassess the “trade not aid” agenda. If U.S. society engages foreign terrorists without also concerning itself with the economic injustices of the distant lands in which the terrorists operate, the effort to bring terrorism under control will never succeed.

It is in this context that the publication of Beverly M. Carl’s impressive book, *Trade and the Developing World in the 21st Century*,⁴ is so welcome. This book is the work of a scholar with an abiding interest in exploring the effects that national and international policies and regimes have on world poverty.

2. See Frank J. Garcia, *Trade and Inequality: Economic Justice and the Developing World*, MICH. J. INT’L L. 975, 977-79 (2000).

3. See WORLD BANK, *supra* note 1, at 23 tbl.1.1. Worldwide, the share of the population in developing countries living on less than \$1 per day fell from twenty-eight to twenty-four percent from 1987 to 1998. *Id.* However, due to population increases, the total number of people living at this level of poverty grew from 1.18 to 1.19 billion. *Id.*

4. BEVERLY M. CARL, *TRADE AND THE DEVELOPING WORLD IN THE 21ST CENTURY* (2001).

Professor Carl started her legal career as a lawyer with the United States Agency for International Development. Subsequently, Professor Carl joined the law faculty at Southern Methodist University Law School, where she is now Professor Emeritus. Throughout her academic career, she has concentrated on problems of economic development and the relations between rich and poor nations in her books, articles, courses, and conferences. In this latest contribution, she asks the readers to consider the effect that recent trends in international economic law—especially the move towards regional economic groupings—may have on achieving world economic development that is balanced and sustainable.⁵

In the second chapter, entitled “The Setting,” Professor Carl treats the reader to a cold shower of troublesome facts.⁶ After noting gains in the world economy generally, including lower mortality rates and increases in foreign investment, she indicates that these gains have not been distributed equitably:

Eighty-nine countries are now worse off than they were 15 years ago. Economic growth has failed for a quarter of the world’s people, leading to a global polarization. 358 billionaires in the world, including the Sultan of Brunei and Bill Gates of Microsoft, have more assets than the combined incomes of countries representing nearly 45 percent of the planet’s population.⁷

While foreign investment in developing countries has increased, Professor Carl points out that nearly three-quarters of this investment has flowed to only twelve developing countries,⁸ and that most developing countries still depend largely on earnings derived from exporting commodities.⁹ According to Professor Carl,

[t]he share in global income of the poorest 20 percent of the world’s population has fallen from 2.3 percent to 1.4 percent. The richest 20 percent of the earth’s people now receives 85 percent of the wealth, compared to 70

5. See CARL, *supra* note 4, at 1-14.

6. See *id.* at 15-38.

7. *Id.* at 17-18.

8. *Id.* at 18.

9. *Id.* at 19.

percent three decades ago. . . . If the present trends continue, the share of income accruing to the poorest 40 percent of the population in developing countries will drop from 9.8 percent in 1975 to 6.5 percent by the year 2000.¹⁰

The litany of startling facts continues, giving pause to even the most sanguine proponent of free trade. Despite the sobering introduction, however, the book is not a polemic against liberal rules of international trade. Rather, in the words of the author, it is “intended as a ‘do-it-yourself’ manual to assist the reader in attaining an overview of world trade law as it affects developing nations.”¹¹

Trade and the Developing World in the 21st Century is largely a roadmap of the international regimes—regional as well as global—that regulate international trade in goods.¹² The book provides an excellent overview of the intergovernmental institutions that administer international trade regimes, and of the principal rules that make up the regimes. Professor Carl sacrifices depth of treatment for comprehensiveness, but for those who desire more detail, she provides an extensive array of footnotes and appendices.

Chapter 3, “Mechanisms for Trade Control,” briefly discusses the substantive rules that make up most international trade regimes.¹³ Chapter 4 includes a useful overview of the GATT/WTO and briefly summarizes the Uruguay Round Agreements.¹⁴ Chapter 5, entitled “Organizational Patterns in International Trade—Regional,” is the book’s strongest chapter. This long chapter, comprising two-fifths of the entire text, discusses regional trade organizations throughout the world.¹⁵ I am not aware of a single source that provides a more comprehensive treatment regarding the growing number of free

10. *Id.* at 27.

11. *Id.* at 13.

12. *See id.* (noting that international trade regimes have expanded to encompass subjects such as trade in services and protection of intellectual property, but that merchandise trade is “still the main priority for developing nations”).

13. *Id.* at 39-74.

14. *Id.* at 75-99.

15. *Id.* at 101-300.

trade agreements and other economic groupings that have sprouted around the world. Chapter 6, entitled “Non-Reciprocal Trade Structures,” examines international arrangements¹⁶ that provide preferential treatment for imports from developing nations.¹⁷ This chapter includes an excellent discussion of the United States–European “banana dispute,” which arose out of the European Union’s differential treatment of banana imports from Asian, Caribbean, and Pacific (ACP) and non-ACP countries, resulting in a series of GATT/WTO Panel Reports.¹⁸

Chapter 7, entitled “Global Dismantling of Barriers to Trade in Merchandise,” provides a more detailed account of the trade rules introduced in Chapter 3.¹⁹ The non-tariff barrier discussions are very clear, and the explanations of the rules’ workings are understandable, rather than detailed and analytical. Chapter 7 includes a useful “rules of origin” discussion. Due to the proliferation of free trade regimes, this subject has become a source of confusion and a critical terrain for potential non-tariff barriers.²⁰

While the chapters in the book provide valuable overviews, most of them lack conclusions or critical evaluations by the author. Fortunately, in the final chapter, entitled “Some Final Thoughts,” Professor Carl gives us the benefit of her long experience by presenting some conclusions and evaluations.²¹ She makes clear her concern that the needs of developing countries must, once again, be brought into the forefront of discussions regarding the need to reform international economic organizations.²² As Professor Carl points out,

[t]he WTO has concentrated on issues that primarily

16. For example, the GATT-sanctioned Generalized System of Preferences or the Lomé Conventions, signed between the European Union and the Asian, Caribbean, and Pacific (ACP) nations.

17. CARL, *supra* note 4, at 301-64.

18. *Id.* at 314-15 (discussing WORLD TRADE ORGANIZATION, REPORT OF THE APPELLATE BODY: EUROPEAN COMMUNITIES—REGIME FOR THE IMPORTATION, SALE AND DISTRIBUTION OF BANANAS (1997), available at 1997 WL 577784).

19. CARL, *supra* note 4, at 365-456.

20. *Id.* at 370-82.

21. *Id.* at 457-501.

22. *Id.* at 457-59.

benefit the industrialized nations, such as telecommunications or financial services. At the same time, the concept of “special and differential treatment” for the developing countries was watered down in the WTO Agreements. Other than extended time periods and lower rates for tariff reductions, these accords offer few of the special rights and special protection needed for development. Unfettered free trade seems to have become the only acceptable route to development.²³

She further points out the selectivity of the “free trade” bias of industrialized nations. Many of these countries, including the United States, espouse the removal of trade barriers and subsidies in all industries *other* than those in which many developing nations are often competitive, such as textiles, apparel, or agricultural products.²⁴

Professor Carl concludes with a number of reasonable and, at times, provocative recommendations for change.²⁵ She advocates the establishment of a “high level commission,” under WTO auspices, to reexamine the WTO regime in light of the needs of developing countries.²⁶ She also recommends a list of twenty-six specific reforms to be examined in this regard, including a more detailed classification of developing countries, based on a range of factors for the purposes of determining acceptable deviations from trade rules.²⁷

Trade and the Developing World in the 21st Century should be a useful resource for many purposes. While the book concentrates on legal regimes, containing little economic analysis of the rules of trade, the text is not highly technical, and is therefore accessible to students of political science, international relations, or economics. The book includes a number of useful appendices, such as a listing of the principal regional economic integration associations and their members, a listing of the existing regional trade agreements notified to the WTO and their members, and a useful listing of international

23. *Id.* at 459.

24. *See, e.g., id.* at 465.

25. *Id.* at 476-79.

26. *Id.* at 476-77.

27. *Id.* at 477-79.

economic organizations' web sites.²⁸

Despite Professor Carl's clear concern for world poverty and the challenges facing developing nations, this book is even-handed and non-polemical. A highly useful addition to the literature of international economic law, Professor Carl's book reminds the reader of the need to engage the world on terms other than simplistic characterizations of countries as evil foes or benign allies.

28. *Id.* at 503-40.