

KLUWER LAW INTERNATIONAL

Edited by Terence P. Stewart

# Opportunities and Obligations

New Perspectives on Global and US Trade Policy



Wolters Kluwer  
Law & Business

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## **Opportunities and Obligations**

## Introduction

The year 2008 saw various global crises – first food, then a financial market meltdown, then a global economic slowdown and, for many, a recession. In the meantime, climate change and energy security loom as huge issues affecting the struggle in a world that could have nine billion people by the middle of the 21st century.

These global crises of 2008 put pressure on multilateral institutions and national governments for speedy responses and solutions. However, such solutions can be elusive. Our interconnectedness makes its both easier and more difficult to work out global solutions. However, we must strive to achieve national objectives, often by working in a cooperative fashion, because interdependence is an inescapable aspect of today's world. More than ever, the way we manage our economic and commercial relationships can determine whether nations prosper or languish, whether we help minimize political chaos and maximize tranquillity, whether we promote environmental collapse or preservation, or even whether we increase the difficulties for people around the world in their struggle for daily sustenance.

While there are many aspects to the challenges faced by nations and their people, trade is often one of the important aspects of the challenges faced and exemplifies the difficulty of finding a way through complex policy options. International trade has evolved beyond basic questions of tariffs. International trade laws and regulations affect aspects of life from access to healthy food to the protection of the latest innovations in communications and nanotechnology. Trade policies can determine the fate of a nation's entire manufacturing and service sectors. Trade can directly or indirectly also affect the management of natural resources, the expansion of worker rights, and the safeguarding of human rights. An important challenge for all nations in the short-term is whether the international trading system is configured to ensure sustainable economic growth that is enjoyed by all peoples of the world. This challenge is complicated by nontrade aspects haunting many nations' effort to improve the future for their citizens.

The post-World War II global trading system has remained a work in progress since its creation more than sixty years ago. Beginning with the General Agreement on Tariffs and Trade (GATT) and now with the World Trade Organization (WTO), each international multilateral round of negotiations has increased the flow of trade and opened more markets to more kinds of goods and, since 1995, services. Many challenges exist in whether the needs of all members are reasonably met, whether the rules of trade address the distortions that exist by the differences in economic systems and government policies. When an increasingly larger number of countries convene to discuss the rules of trade in addition to an expansion of trade through tariff liberalization, the process is more cumbersome and less susceptible to rapid resolution. When Rounds take eight years or more, it inevitably means that countries are dealing in large part with challenges of the past versus anticipating the needs of the future.

The challenges faced by the system are reflected in the difficulties for WTO members to reach a consensus on modalities or final parameters of a deal in agricultural and Non-Agricultural Market Access (NAMA) in late 2008, despite a series of high-level efforts to resolve remaining open issues. Some aspects of the challenge may reflect a changing power structure, with advanced developing countries being of greater importance to the successful outcome of the Round than at any time in history. An additional challenge is the simple requirement of transparency for all members, whether important trading nations or not. Transparency improves the understanding of the process and the challenges but inevitably reduces the ability of the organization to achieve rapid results.

In 2009 and beyond, the challenges for the WTO and its members will be how to ensure the relevancy of the organization and its role in expanding opportunities for all members' people. Completion of the Doha Round is one topic; the future direction of trade policy and negotiations is a second.

The first section of this book presents the insights of some of the leading thinkers and practitioners in the field of international trade. Some of the distinguished contributors consider the factors impeding a successful conclusion to the Doha Round and what can be done to move the Round forward. Another group of essayists step back from the Doha Round itself and discuss how the WTO can change moving forward to address some of the challenges to continued relevancy and trade expansion. Perspectives are provided from authors from both developed and developing countries, with institutional, national government, and private sector perspectives. I am confident that the reader will find the essays in this section thought provoking and the challenges for negotiators and the system both daunting and important for early resolution.

The next section focuses on the direction of US trade policy as the United States transitions from one president to another and engages in a fresh debate about the assumptions and realities of the so-called Washington consensus on market liberalization and free trade. As the world's largest single trading nation, the United States' position has a huge effect on the viability of the global trading system and the economic health of other countries. Of course, the United States is itself in the midst of an historical struggle to define its path.



Public opinion polls show declining public support for trade. Advocates of trade liberalization insist they have simply failed to educate the public and yielded the field to their opponents in an ill-timed moment of complacency. However, sceptics of the current model of trade contend that no matter how the debate is framed, middle-class people around the globe see how unfettered globalization undermines their standard of living. Increasingly public policy experts and politicians understand that the model for global trade must be adjusted to enhance global living standards. Living wages and decent working conditions must accompany economic growth. Otherwise, the global pro-trade consensus will continue to be in jeopardy.

In this volume, readers will find an array of compelling perspectives from the public and private sectors. For example, former US Trade Representative Susan C. Schwab aims to memorialize the Bush Administration's efforts on trade and advocates for continued aggressive bilateral and multilateral trade liberalization. On the other hand, Leo Gerard, president of United Steelworkers of America, focuses on the importance of bringing the benefits of trade to all Americans. Free and fair trade could recreate a pro-trade consensus in America.

The third section considers how trade policy has affected a most basic element of human civilization – access to food. Essays in this section direct a spotlight on how decisions that nations make to protect their farmers and ranchers, promote clean energy, and promote development can have unintended consequences. The food crisis illustrates how we must consider policies in their totality or risk the loss of tens of millions of lives and peaceful cooperation on how to best use resources.

Generally, the contributors to this book believe that global prosperity can be enhanced by a rules-based system of international trade. This book brings together a wide array of opinions on how to improve that system and achieve that goal. In the end, policy is made by the interaction of ideas and ideals. Normally, global policymakers act most often in the basic political construct of balancing competing interests. At rare moments, leaders are inspired to consider new paradigms to govern global interaction. This may well be such a moment for the WTO and the world trading system.

The crises in 2008 shook nations large and small, rich and poor. They reinforced the importance of this generation to prepare for future economic well being with greater speed and diligence than was required of previous generations. The book is designed to help advance some major new ideas for reforming and refining the global trading system and raising living standards for people around the globe today and in generations to come.

## Preface

This book contains a total of twenty-five essays from individuals who presently or in the past have been trade negotiators, worked in the WTO or its predecessor, are serving in legislatures, represent important constituencies, teach aspects of the WTO system, or advise clients in the private sector. Typically, essays from government officials were written in the individual's personal capacity. Many of the essays were written in advance of the financial market meltdown in the last third of 2008 and so do not reflect whatever complications flow from the recent turmoil.

An effort was made to obtain essays from a wide range of perspectives. In a few instances, authors have taken quite opposite views of the issue discussed. The essays are grouped into three sections: (1) fourteen essays looking at the ongoing Doha negotiations and/or describing changes to the WTO system or negotiation approach that are needed/viewed as desirable; (2) seven essays from leading American figures on the direction that US trade policy should take moving forward; and (3) four essays that look at the issue of the world food crisis and what role the trading system and individual WTO members can take in helping to resolve the crisis.

The idea for the book arose from my interest in the global trading system, my firm's involvement in international trade matters for the past fifty years (2008 marked our fiftieth anniversary), and a desire to make a small contribution to the global discussion of these issues through the collection of a group of essays from those involved on the front lines of the negotiations and the consideration of the future of trade policies.

Terence P. Stewart  
Editor  
Washington, DC



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