

Fair Trade?
How Oxfam Presented a Systemic Approach to Poverty, Development, Human Rights, and Trade
Susan Ariel Aaronson and Jamie Zimmerman¹

Oxfam, the world's most influential international development organization, is not represented at the World Trade Organization (WTO)¹ and thus cannot directly influence trade deliberations. Yet in the past 5 years, Oxfam has had a remarkable impact in changing both the negotiating agenda and actual WTO policies, albeit one different from its original intent.

In 2000, the 12 national Oxfam member organizations agreed to move beyond providing relief and assistance to the poor. They drafted a four-year strategic plan titled "Towards Global Equity." The Nongovernmental Organization (NGO) vowed to continue to provide relief, while also addressing the structural causes of poverty and injustice. Oxfam's new approach was based on a systemic analysis of global governance and of the relationship between poverty, human rights, development and trade.² Inspired by Nobel Prize winning economist Amartya Sen, the NGO prescribed very specific policies to ensure that WTO rules do not disadvantage development or undermine human rights.

With this strategic plan, Oxfam adopted what it called a "rights-based approach." The NGO vowed to "put economic and social justice at the top of the world's agenda." While other civil society groups, academics, unions and activists long argued that trade agreements could undermine specific human rights such as labor rights, Oxfam examined this issue from a broader world view. It pointed out that trade rules can undermine the "rights and interests of poor people" including their rights to food, water, health care and a sustainable livelihood. Noting that poverty, development, human rights and trade are linked and thus must be addressed cohesively, Oxfam argued that these rights must be placed at the center of the agendas of international bodies and governments.³

¹ Aaronson is Senior Fellow and Zimmerman, Associate Director, Kenan Institute Washington, Kenan Flagler Business School, UNC. They are grateful for the support of the Levi Strauss Foundation, to the participants in the

But in the years that followed, Oxfam did not focus on the relationship between poverty, development, human rights, and trade per se. Nor did it consistently advocate the right-based approach. Instead, it launched an intensive global campaign to “make trade fair” as well as a separate campaign to “make poverty history” for the poor people of the developing world.⁴ Oxfam developed very specific and persuasive suggestions to ensure that the poor can fully participate in trade. Over 6.5 million people signed its online petition, “The Big Noise,” designed “to change the terms on which millions of people participate in the global market.”⁵

This article discusses the evolution of Oxfam’s position and its influence on the debate about trade. (We do not examine the make poverty history campaign). To understand Oxfam’s perspective, the article begins with a discussion of the world trade system and why Oxfam (and others) began to see the system as undermining both human rights and development. We then examine how Oxfam’s strategy changed over time—moving from an systemic emphasis on poverty, development, human rights, and trade to a more limited but visible focus on “making trade fair.” Finally, we examine Oxfam’s contribution to the trade debate and its efforts to create a broader understanding of the relationship between poverty, development, human rights, and trade ⁶

I. The Trade System and Human Rights

In December 1941, before the US formally joined the Allies, President Franklin D. Roosevelt spoke of his vision for the world that he hoped would emerge from the war. “Freedom means the supremacy of human rights everywhere...“We look forward to a world founded on four essential human freedoms.”⁷ Roosevelt clearly understood that the failure of some countries to protect human rights had led ultimately to political and economic instability that endangered the whole world. Thus, he hoped to create a global system of governance that would ensure that states would promote and protect these rights. As the international governance

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institutions took shape, were negotiated, and finally approved by legislators, they reflected some of Roosevelt's concerns about human rights. In 1948, the members of the UN agreed to a Universal Declaration of Human Rights, which delineated some 26 basic rights that member states were supposed to promote and protect.⁸ In that same year, 8 countries became contracting parties to another cooperative legal system-- the General Agreement on Tariffs and Trade (GATT). Like the Universal Declaration, the GATT --the precursor organization to the WTO-- was based on similar legal values and approaches such as nondiscrimination, the rule of law, and adjudication of disputes.⁹ In both the trade and human rights systems, it is states, and not individuals, that have obligations under international law.

The purview of the GATT gradually grew over time, but in contrast with Roosevelt's vision, the GATT said very little about human rights. It did not address the effects of trade (whether trade undermines human rights) or the conditions of trade (how workers, communities and the environment should be treated as goods and services for trade are produced.) Moreover, its scope was limited not only by the difficulty of finding common ground among members, but by the authority granted to the Executive by the US Congress.¹⁰ Until 1974, the State Department was only allowed to negotiate commercial policies (tariffs and quotas) and could not address the many other regulations or national policies that could also distort trade. As a result, for much of its history GATT only addressed border measures.¹¹

The architects of the GATT system were well aware that human rights abuses could distort trade (they saw this in Nazi Germany and in the Soviet Union.) Thus, GATT participants could ban imports for "moral" reasons (Article XX.)¹² For the first 40 years of GATT history (1948-1988) members generally resolved conflicts between human rights and trade in an ad hoc, country or sector specific manner. While these solutions may have been politically expedient, they nonetheless often restricted trade (such as trade sanctions or the denial of most favored nation benefits) or required nations to obtain a waiver from their trade obligations.¹³ In 2003,

the WTO granted its first explicit trade waiver based on a human rights rationale. Some 47 nations now ban trade in conflict diamonds.¹⁴

The GATT/WTO is not concerned with how a state treats its own citizens, but rather how it treats non-citizens who seek to trade. As law professor Steve Charnovitz notes, international trade law “takes as a given that the responsibilities of a government towards its citizens is a matter to be determined by each government, not by the international community.”¹⁵ This contrasts dramatically with human rights law which transcends national sovereignty principles and aims to transmit norms from international law to domestic law.

The GATT had no human rights qualifications for participating members, because it is more concerned with relationships between states than with relationships within states. Initially, the bulk of GATT members were democracies, so their human rights practices were rarely an issue.¹⁶

But beginning in the 1980s, a growing number of countries joined GATT/WTO. Some of these countries did not adequately promote and protect human rights; others lacked funds or expertise to enforce their own human rights laws. The accession of such countries raised some concerns, but the issue of the relationship between human rights and trade came to the fore when China, an original GATT member, sought to join the GATT in the 1990s. Amnesty International, Human Rights Watch and the US State Department, among others, found significant human rights abuses in China throughout the 1990s. On June 4, 1989, the Chinese government use violence to suppress democracy demonstrations in Tieneman Square, Beijing.¹⁷ But in this period as well, China opened its markets to foreign and domestic private investment. The Communist Party was determined to maintain control, but the party did allow greater openness and some public expression of ideas. Under GATT rules, China could not accede to the GATT unless all existing GATT members granted it most favored nation trade privileges (MFN).¹⁸ In the US, China could only achieve MFN benefits after a Congressional review of its human rights practices required by the Trade Act of 1974. Business interests from the US and

Europe generally argued that including China in the framework of multilateral rules and obligations would ensure improvement in China's adherence to the rule of law and prod China to do more to promote human rights. They stressed that by joining the GATT/WTO, China would learn the skills of good governance, which would spill over into other governance institutions and responsibilities; that greater foreign presence of Western firms within China would expose Chinese workers to ideas about their rights; and, that companies would increasingly demand stronger human rights practices of their suppliers, gradually changing China's social and political culture. If the US granted MFN, the US could no longer monitor China's human rights development through annual review, eliminating its ability to use that process as a means of political leverage.¹⁹

Many US policymakers were not keen to lose this lever. Ultimately, the US agreed to grant China MFN privileges despite its human rights practices. But whether the system of rules should do more to promote human rights remained an open question.

In this period as well, critics of the WTO system, including Oxfam, alleged that the WTO allowed governments to undermine human rights in the interest of promoting trade. They cited the example of export processing zones (EPZs), special zones used by many developing countries to attract foreign investment and stimulate trade. Developing country policymakers have often exempted firms in these zones from certain fiscal or financial regulations and others do not require firms in their EPZs to comply with labor laws. As a result, workers toil in substandard conditions and have little recourse to improve such conditions. Some employers ignore minimum wage regulations, fail to give workers written contracts of employment specifying the hours of work, wages and other entitlements, or provide decent working conditions.²⁰ Oxfam and other critics noted that the failure of the WTO to address this issue helped perpetuate human rights violations.²¹

In the late 1990s, policymakers began to think about how human rights policies and trade policies might become more complementary, or at least to ensure that achievement of one

objective did not undermine the other. The UN High Commissioner for Human Rights, Mary Robinson, became interested in these issues and issued several reports on human rights and globalization.²² National government officials also developed strategies that attempt to achieve both goals.²³ The UN and the Bretton Woods Institutions announced that they would work to ensure that their efforts and activities promoted human rights.²⁴

But the WTO seemed impervious to these questions. A search of the WTO website reveals little documentation or discussion of the relationship between trade and human rights or trade and equity.²⁵ In response to the WTO's failure to even discuss ways to ensure that trade reinforces the promotion and protection of human rights, some scholars and academics began to develop ideas on how trade and human rights might become mutually reinforcing.²⁶ Civil society groups also began to work on these issues and to educate the public on the importance of human rights to political stability, social stability and development. And they began to see that some trade agreements were having a significant effect on basic rights such as the right to water and the right to a sustainable livelihood.²⁷ Among those groups were Oxfam.

II. The Trade System, Poverty and Developing Countries

The GATT/WTO system was designed to ensure a fair process (certainty in trade) rather than specific results (such as development) for member countries. The architects of the GATT were greatly influenced by economic policies and conditions in the 1930s, when many nations adopted "beggar-thy neighbor trade policies" to protect jobs. In that period, many countries adopted trade distorting policies as subsidies, procurement policies, or preference systems. Such policies favored domestic over foreign producers or certain countries over others. The architects of the GATT recognized that the only way to avoid these problems was to develop an internationally accepted set of rules that each member state would follow. The GATT established a clear set of principles and rules that regulated how and when nations could apply tools of protection.

Every nation that adheres to the GATT/WTO is supposed to follow four principles that would guide how nations interacted with other nations within the GATT's purview: most favored nation status, national treatment, reciprocity, and consensus. However, many developing countries found it difficult to apply these principles. For example, the national treatment principle requires policymakers to apply the same rules and regulations to domestic and foreign producers. Thus, India must apply the same food safety regulations to Coca-Cola that it applies to Coke's local competitor. Developing countries also found it difficult to adhere to GATT's reciprocity principle, wherein nations acceding to the WTO must commit to equivalent obligations as those undertaken already by the existing members. But some developing countries that join the WTO do not have adequate funding or expertise to bind their tariffs, modernize their customs system, ensure adequate intellectual property protection, and at the same time, provide other essential public services.

Despite these difficulties, growing numbers of developing countries joined the GATT system. Although only eight nations were original GATT signatories in 1948, by 1949, 23 nations participated in trade talks. By the Tokyo Round in 1973, there were 99 participants.

These new members recognized that the GATT/WTO system wasn't always working in ways that advantaged development. In 1958 the GATT even set up a special study group to examine that question. Some scholars and developing country officials alleged that GATT's rules were unfair because the rules seem to favor trade in manufactured goods over primary goods, the main export of many developing countries. At the same time, however, after the Tokyo Round, GATT members accepted some major exceptions to GATT rules in the interest of stimulating development.²⁸ Gradually, the GATT allowed special provisions for developing countries. But these special provisions were no guarantee that trade would facilitate development in the developing world. Legal scholar John Jackson argued that while many

countries might initially benefit from such special privileges, these benefits may not help them in the long run, if trade rules perpetuate undesirable policies at the national level.²⁹

Today, the WTO permits a multitude of exceptions and waivers to help developing countries gradually reap the benefits of membership. But these benefits don't seem to always yield development results. For example, poor countries are not expected or requested to make reciprocal concessions in trade negotiations with industrialized nations. However, these countries often find that if they don't make the concessions industrialized countries want (as in services); they won't receive the concessions they may desperately need to stimulate growth.

Trade policymakers seemed less interested in ensuring that all countries reaped the benefits of trade than in ensuring that the WTO system addressed the bulk of trade barriers. During the Tokyo Round of trade talks (1974-1979), policymakers attempted to negotiate common rules governing the trade distortions of non-tariff trade barriers (such as subsidies, regulations, procurement policies and standards) These barriers could be as distorting as those applied at the border, but they were much less transparent. Although they could not achieve a consensus on including such rules in the GATT system, they devised a new strategy to regulate these nontariff trade barriers in codes, which were technically stand alone treaties. But not all GATT members signed on to these codes; their adherence to GATT's broader rules was essentially *a la carte*. Moreover, for many developing countries the focus on such codes did not address their major trade dilemma. They needed greater market access for their commodities in the industrialized world.

To many trade policymakers, economists and business leaders, GATT *a la carte* was not working. In 1986, the 100 members of the GATT agreed to begin a new comprehensive round of trade talks. When the negotiations were completed seven years later, the participants agreed to discipline a wide range of trade distorting policies and to ensure that all members signed on to all of the agreements. They also created a new international organization, the WTO to govern

trade and subsume the GATT. The WTO has authority to settle disputes, to conduct trade policy reviews, and to cooperate with the Bretton Woods Institutions with a view to achieving coherence in global economic policymaking. Today the WTO has 148 member countries with different levels of development and different approaches to social, political and economic governance.³⁰ And not surprisingly, they have extremely different views about how the WTO and trade negotiations serve the needs of the poor. But today there does seem to be a consensus that open trade will stimulate development and reduce poverty. As former Mexican President Ernesto Zedillo stressed, “every case where a poor nation has significantly overcome poverty...has been achieved while engaging in production for export.”³¹ Thus, to many developing countries it is unfair that many industrialized countries continue to shield their markets from developing country goods, in particular agricultural products.³² The preamble of the WTO addresses sustainable development, but neither the GATT nor the WTO discussed how to make trade fairer for the poor.³³ By joining the WTO, countries can obtain considerable economic benefits. Yet many developing country policymakers join the WTO at considerable political risk. Their key trade partners, existing WTO members, set the conditions for countries to accede to the WTO. These demands can change longstanding power structures and privileged elites.³⁴

Moreover, developing country policymakers have not seen the WTO as always working in their interest. They argue that the negotiations often focus on sectors of less concern to the developing world, such as liberalization of services or bringing investment under the purview of the WTO. In their view, the WTO should first concentrate on fully covering sectors of interest to their needs such as agriculture. Moreover, developing countries have often been promised greater market access, but many industrialized countries (in particular the U.S. and the European Community) impose conditions on access to their preferential programs which limit their utility as a means of helping developing countries export. In this way, developing country policymakers and development advocates began to see the system of trade rules as inequitable.³⁵

Many developing countries were not able to benefit from these options because they lacked the money and/or the expertise to take advantage of many WTO activities. These problems gradually became clear not just to developing country policymakers but to advocates of development around the world. Developing countries often don't have the funds to allow them to challenge industrialized country protectionism through trade disputes, to participate in every meeting and negotiation, and to influence the agenda of trade negotiations. These concerns came to a head in Seattle, when the US hosted its first international trade negotiation for the WTO in 1999. Many developing country policymakers were unhappy with US leadership of the Ministerial, tense over the contentious selection of a new WTO director-general, and by the unwillingness of the industrial world to address its trade barriers.³⁶

Many developing and middle income countries were unwilling to agree to a new round of global trade talks unless these talks focused on their needs. Thus, at the Doha Round Ministerial in 2001, the members of the WTO agreed to focus the new round on rebalancing the trading system towards the needs of developing countries, the Doha Development Round.³⁷ As these negotiations ensued, middle and developing country participants frequently banded together on issues of mutual interest. And they occasionally collaborated with NGO groups such as Oxfam that had long worked on the relationship between poverty and development.

.III. Oxfam's Approach

Oxfam was founded in 1942 as a relief organization.³⁸ In the years that followed, it not only helped feed the poor, but provided support to help the poor become self-sufficient. And it researched how public policies in the industrialized world and in international organizations might better support development.³⁹ The organization is widely respected, viewed as well managed, and politically savvy. Oxfam today has multiple roles: it delivers relief; it campaigns to end poverty and powerlessness; and it develops advice and strategies to end poverty, foster development, promote human rights and make trade fairer for the world's poorest citizens.⁴⁰

In the 1980s, Oxfam's staff and leadership began to recognize that development has been stymied by "systemic problems." In particular, they focused on how the global economic governance institutions were managed to meet the needs of industrialized countries, rather than the needs of the world's poor. Oxfam also benefited from new thinking about development. Oxfam's honorary President, Amartya Sen, challenged longstanding thinking about development. In the post World War II period, economists thought that public policies could facilitate development if these policies could ensure that the income of citizens in developing countries could be raised. By giving countries foreign aid, the poor and middle classes in these countries would get jobs, and they would use those funds to save, consume or invest. The economy could then "take-off." But Sen believed countries and individuals are poor not because capital is scarce, but because citizens lack access to productive resources. These resources include education, land and health as well as justice, and credit. Sen believes that governments must actively provide these public goods and make sure all citizens can obtain these services and resources if they want to achieve sustainable development. In this period as well, Sen, a philosopher as well as an economist, provided a normative framework for how human rights could guide the development process and in turn, the international institutions designed to foster development. His 1999 book Development as Freedom, Sen explores the ways in which freedom is both a constituent of development and a means to foster development. The book focuses on political freedoms and democracy, as democracy gives people a voice and a constructive role in shaping values, norms, and ultimately policy responses.⁴¹ Sen was the Honorary President of Oxfam and his ideas held great sway.

In September 1996, Oxfam's affiliates (the 12 Oxfams) agreed to work together to address the structural causes of poverty and injustice. Oxfam noted that for people to exercise their rights, "opportunities must be created so people can participate in governing their lives and they must have the capacity to organize and take advantage of those opportunities." The

Strategic Plan was a reflection that Oxfam's mission had changed from providing relief and teaching the needy the skills for self-sufficiency to a different approach to assisting the poor.⁴²

Oxfam's new strategy was rooted in a "rights-based approach" to development. However, Oxfam was not calling on all nations to ensure the protection and promotion of development as a specific right of their citizens. Instead, Oxfam focused on "the realization of economic and social rights within the wider human rights continuum." The strategy paper noted, "Equity is central in the realization of these rights. Equity is about making the rules fair for poor people and ensuring that justice prevails." To achieve equity, Oxfam decided to organize the 26 basic rights enshrined in the UN Declaration on Human Rights as well as those delineated by the ILO, into five basic categories of rights. These rights formed the foundation of their Strategic Plan.⁴³

The five rights Oxfam aimed to address are: the right to a sustainable livelihood; the right to basic social services generally provided by governments; the right to life and security (these rights can be undermined by armed conflict, forced displacement or natural disasters); the right to be heard (social and political citizenship); and the right to an identity (and the right to enjoy equal rights and status irrespective of that identity).⁴⁴ Oxfam became the first group to point out how each of these baskets of rights could be affected by trade agreements. For example, the right to a sustainable livelihood might be threatened by the failure of the WTO to ensure genuine market access for the food products of developing countries. The right to health might be threatened by trade agreements that enshrined intellectual property rights that contributed to the high costs of medicine. The right to be heard might be jeopardized by trade agreements which allowed governments to set aside certain geographic zones where workers are not allowed to organize, associate, and voice their concerns.

Oxfam's Delineation of the Rights that Could be Affected by Trade Agreements

GROUPS	RIGHTS THAT ENABLE A SUSTAINABLE LIVELIHOOD	RIGHTS TO ESSENTIAL SOCIAL SERVICES	PERSONAL LIBERTY RIGHTS	POLITICAL AND SOCIAL RIGHTS: THE RIGHT TO BE HEARD	IDENTITY RIGHTS: SUCH AS GENDER AND DIVERSITY
Description of these RIGHTS	Making a living means having access to the resources needed for your work and access to markets to sell your goods and services, including: the right to food and rights to property protected by the rule of law.	In order to thrive and to function, people must have access to their rights to basic health services, clean water, sanitation, and an education. These are basic public goods that can at times be provided by markets, but access must be affordable and equitable.	Right to freedom from violence, conflict, and fear and to receive protection from natural disasters. Right to life and security.	The right to be heard; right to information; freedom of association. These rights are the building blocks of democracy.	Women's rights, indigenous rights, minorities' rights, rights of the disabled and other oppressed groups.

Oxfam also delineated how it would work to ensure greater numbers of poor people gradually achieve these rights. For example, Oxfam promised to challenge intellectual property rights which disfavor the poor.⁴⁵ To help people living in poverty obtain equitable access to basic social services, Oxfam promised to campaign for debt relief and equitable economic governance that give priority to building human capacity by investing in basic social services. If this meant being opposed to privatizing services and opening these services to trade, Oxfam would oppose such negotiations. It would also work to ensure that poor people and their governments were better trained and able to be heard at the WTO and in other international organizations. In addition, Oxfam promised to press for an end to trafficking in women and children; and to work to establish appropriate labor and occupational health standards for women and minority groups.⁴⁶

Oxfam clearly had a strategy designed to bring the human rights cost of trade agreements to the fore, but its objective seemed confused. Did Oxfam want to ensure that as people trade, human rights are promoted? Did Oxfam want the trade and human rights regimes to work together more effectively? Or did they want members of the WTO to use its rules to

enforce and enhance human rights abroad and at home? These questions would eventually need to be answered if Oxfam was to succeed in this effort.

Despite Oxfam's global reach, the leadership of the NGO recognized that it must change the way it operated. The NGO would not only help the poor, but it would lobby for new approaches to ensure that poor countries benefit from globalization at the United Nations, the WTO, and the Bretton Woods Institutions. It would develop expertise on trade as well as development issues. The organization decided to "rebrand its outreach to make it more consistent, and collaborate with other likeminded individuals, groups and government entities." Finally, Oxfam would make sure people get the message that "poor people are actors in their own right, and not victims or beneficiaries."⁴⁷

Oxfam's coordinated approach was bolstered by external factors such as changing public opinion as well as new attitudes in some international organizations. For example, the Asian Financial Crisis and stagnant economic growth in many European, Asia, and South American countries left many members of the poor and middle classes less economically secure.⁴⁸ Thus, it was easy for a growing number of citizens and their representatives to see the global governance system as "unfair." Meanwhile opinion leaders began to lobby more on behalf of the poor. For example, President Clinton called for "a human face on the world economy." The world's richest man, Bill Gates, told his fellow attendees at the World Economic Forum in 2002, "We need a discussion about whether the rich world is giving back what it should to the developing world." The Secretary General of the United Nations said that the rich must develop actions "that translate into concrete results for the downtrodden, exploited and excluded."⁴⁹ After the attacks on September 11 2001, people began to explore how globalization and frustration about human rights and poverty might lead some people to support terrorism. The World Bank asked Mary Robinson, the UN High Commissioner for Human Rights, to speak on how the Bank can make human rights operationally "relevant."⁵⁰ British Prime Minister Tony Blair and his government were perhaps the most receptive, often arguing with their colleagues from other

industrialized country governments of the need to help the world's poor more.⁵¹ Thus, there was growing receptivity among elites to finding ways to make human rights and globalization more complementary. Public concern about the connection between poverty, development, human rights and trade appeared to increase.⁵²

Oxfam's early efforts received worldwide recognition and support. In February 2001, it launched a campaign called "Cut the Cost," to ensure that the world's poor could have access to affordable medicines. Joining with other civil society groups active on public health issues (Medicines Sans Frontieres, Treatment Action Campaign and others), it asked drug companies to ensure that the poor in the developing world could have access to affordable medicines. The drug companies took to the courts, rather than examining how they might change their business strategies to make the provision of drugs to poor countries economically viable. When the South African government sought to import cheaper medicine to ensure that people stricken with AIDS could receive treatment, some 38 companies brought legal action in South Africa. The NGOs mounted a public campaign to pressure the drug companies to change their positions. The 38 drug companies dropped their case against South Africa in April 2001.

While the campaign brought significant attention to the high cost of drugs, it did not solve the larger problem of affordable accessible medicine for the world's poor. Oxfam concluded that a key part of the new WTO on intellectual property (the Trade Related Intellectual Property Agreement –TRIPS) strengthened the market power of Western drug companies and made it harder for developing countries to produce their own generics even in times of medical emergency (such as the AIDS crisis in Africa). Oxfam and its allies gathered signatures on a petition demanding changes to intellectual property rules so that the poor could get access to the medicines they need to survive plagues and diseases. It encouraged investors to pressure the drug companies and develop a strategy to lower drug prices. And they called on governments to reevaluate the rules. In Doha, Qatar, when WTO members agreed to launch a new round of trade talks, participating nations agreed that developing countries could use the

public health safeguards in the Trade Related Intellectual Property Agreement (TRIPS) to improve access of the poor to medicines. However, they did not agree that these countries could violate TRIPS and import cheap generic drugs. So Oxfam concluded that this approach still did not ensure that the poor in the developing world could receive the medicines their citizens needed. Many developing countries don't have the capacity to produce drugs and would have had to import them. Oxfam recognized that a trade based solution can not resolve this problem in the long run. Thus, it recommended that the World Health Organization should invest in research for the diseases of the poor, and an international fund for medicines could subsidize drug purchases and delivery systems in the poorest countries.⁵³

In 2002 Oxfam seemed to change its emphasis. The NGO published "Rigged Rules and Double Standards," an analysis of the impact of trade rules upon the poor.⁵⁴ The report, written mainly by Kevin Watkins (now at UN Development Program), noted that developed country policymakers have constantly argued that their countries need trade because supposedly open markets will stimulate growth. But Oxfam concluded that the 57 years of trade liberalization under the GATT/WTO had not fully opened markets to the agricultural products and manufactured goods developing countries need to export if they are to grow. It concluded that the trade system was full of double standards, which made it look like the system was rigged against the interest of developing countries. The report not only documented these "double standards," but also made suggestions for how they could be remedied.

Oxfam suggested several areas for immediate reform, which included:

- Redistributive reforms (such as land redistribution) linked to national poverty-reduction strategies should be encouraged;
- Universal application of the WTO's intellectual property regulations should be ended;
- WTO members should commit to put public health priorities before the claims of companies;
- WTO members should allow developing countries to obtain medicines from the cheapest source;
- Public services should be excluded from trade liberalization commitments;

- Governments should be allowed flexibility to pick and choose which service sectors they will negotiate to open to trade and which will remain public goods; and
- Special and differential treatment provisions should be strengthened to allow developing countries to protect key manufacturing sectors and time frames for such “exceptions” should be extended.

In recognition of Oxfam’s belief that the problems of developing countries are systemic, the report did not only focus on problems at the WTO. It called for changes to IMF and World Bank policies and procedures and addressed the growing clout of multinational corporations.⁵⁵ The report received significant attention. While many critics of globalization lauded Oxfam for its thoroughly researched analysis and suggestions, many of globalization’s traditional allies were openly dismissive of Oxfam’s broad-based and balanced approach to these issues.⁵⁶

In contrast with Oxfam, these trade critics were reluctant to support trade in general or any aspect of the WTO regime. Clearly Oxfam staff felt their analysis and objectives had been misunderstood. Two weeks after the report was released, Jeremy Hobbs, Executive Director of Oxfam International, noted at the annual WTO Symposium, “I want to dispel any notion that Oxfam has been born again as a cheerleader for free trade...We need a radical new approach that puts sustainable development at the heart of trade policy.” Hobbs pointed out the irony of calling the new round a development round when the bulk of negotiations focused on new issues that will primarily benefit the rich economies and multinational corporations.⁵⁷

Yet even before these trade critics attacked Oxfam for its systemic approach, the report signaled a step away from the systemic analysis outlined above towards a more practical focus on the unfair nature of the trade system. Thus, in 2004, when it assessed its own impact, Oxfam stressed the changes it wanted to see in the world, stating “people living in poverty will achieve food and income security. People living in poverty will have access to secure paid employment, labour rights, and improved working conditions. Oxfam’s priority is to...shift the power imbalances in local, national and international markets.” Oxfam aimed to do so by campaigning for changes in the policies, rules and practices of governments, companies and international

institutions.⁵⁸ At the directive of Oxfam Great Britain, the NGO around the world increasingly centered its activities on the fairness of the WTO system and the process and outcomes of trade negotiations. It organized a new movement, "Make Trade Fair," to ensure that the members of the WTO were aware of these inconsistencies. In tandem with this research, it organized a Web-based protest movement, "The Big Noise," to collect the voices of those concerned with the current system of rules. Millions of people signed an online petition, which Chris Martin, lead singer of the rock group Coldplay, presented to the Director General of the WTO at the WTO ministerial in Cancun in 2003.⁵⁹ It teamed up with other celebrities from movies, dance, sport, and music to ensure that citizens in the industrialized world understood the global consequences of some of their economic and political decisions upon the poor. And it provided its constituents with a game plan to achieve this alternative vision. Those individuals who wanted to make trade fair could do many things to help, such as buying fair trade coffee, cotton and chocolate; donating to Oxfam, lobbying policymakers, holding policymakers to account, or taking to the streets in protest.

Throughout this period, Oxfam relied on broad and multiple definitions of unfair and fair trade. To Oxfam, unfair trade means trade that is rigged against developing countries and the world's poor. These rules must be challenged to achieve fair trade.⁶⁰ But Oxfam did not only have a results oriented definition: fair trade is also a means to achieving that result. Oxfam also defines fair trade as "paying poor producers a fair price and helping them gain the necessary skills and knowledge to develop their businesses and work their way out of poverty." Oxfam Great Britain has been pushing for this equity oriented conception of fair trade for over 40 years. For example, Oxfam UK helped found a fair-trade coffee company called Cafedirect that is now the UK's sixth largest coffee brand. In 1992, Oxfam helped set up the Fairtrade foundation which provides consumers with a guarantee that goods on sale are certified that they have been fairly produced and traded."⁶¹ The fair trade good label is designed to assure the consumer that the labeled good was produced in an equitable and fair partnership between marketers in the

industrialized world and producers from the developing world who received a fair wage for their work. Oxfam often concentrated its “fair trade” product work on coffee, urging governments and corporations to increase their purchases of fair trade coffee and other “fair trade products.”⁶² Oxfam staff spent several years researching and writing analysis of conditions in the coffee sector.⁶³ This work with corporations in the coffee sector provides a model illuminating how commodities can be produced in environmentally sustainable practices; open to public accountability; built on long-term trade relationships with developing country suppliers; in healthy and safe working conditions.⁶⁴ Oxfam is so committed to fair trade that it provides a wide range of resources to teachers and students to understand trade issues.⁶⁵

Oxfam’s ideas about fair and unfair trade however, conflict with those of trade policy insiders (including economists, trade lawyers, and many policymakers). These men and women have limited and legalistic definition based on process rather than on outcome. The WTO and its precursor organization, the General Agreement on Tariffs and Trade (GATT), recognized that a rapid increase in imports in a particular sector can be destabilizing although it is fair. Under GATT/WTO rules, governments can apply short term protectionist remedies to help producers adjust to such market changes. Trade law also recognizes that trade can be unfair. When trade “has been influenced or promoted by activities such as dumping, providing government subsidies, or foreign sellers attempting to evade legitimate regulations regarding the environment, intellectual property protection and so on,” policymakers can also apply protectionist remedies.⁶⁶

Nonetheless, while trade policy insiders have a relatively narrow definition of unfair trade, the general public has a broader view of fair and unfair trade. Economists and many policy elites trained in economics see trade as inherently good. But the general public in the EU and the US does not always share that perspective.⁶⁷ Oxfam was able to build on that longstanding concern.

Oxfam kept a close eye on the progress of the Doha Development Round. The NGO recognized that after September 11, 2001, many policymakers from industrialized country governments acknowledged the threat to collective security posed by poverty and inequality. As noted above, this new mindset at first appeared to facilitate trade negotiations centered on development needs. Oxfam hoped this would allow real progress in agriculture negotiations. The NGO notes that 96% of the world's farmers live in developing countries and their livelihoods depend on the outcome of WTO talks. These men and women deserve greater market access to the developed world. Moreover, developing country farmers have made strides in improving their farm productivity.

Oxfam began to join other activist groups in focusing particularly on two heavily subsidized products: sugar and cotton. Oxfam consistently pointed out the hypocrisy of developing countries being asked to reduce their subsidies while rich countries were allowed to keep their subsidies, which often went to well-off farmers in the US and the EU.

Oxfam was particularly concerned about US policies. It noted that the US has the biggest export credit program and that the WTO dispute settlement body has declared these export credits as trade distorting. Moreover, it notes that the US has refused to change its cotton subsidies, even though these subsidies threaten the livelihoods of farmers in some of the poorest regions of the world.⁶⁸ The US responded that US farm programs have not lowered cotton prices and are not trade distorting.⁶⁹ Nonetheless, the idea that developed country subsidies were unfair to developing country farmers was beginning to catch on as an effective argument in support of reform in the industrialized world.⁷⁰

Oxfam also did not ignore EU subsidies, arguing that sugar subsidies lead to big profits for sugar processors and allows EU producers to dump their surplus on world markets.⁷¹ But a focus on trade is too myopic. Even with the end of subsidies, many small farmers in the developing world may not be able to benefit from trade liberalization per se. They may not be able to produce at the quality level required in the highly-regulated markets of the US and

Europe. In addition, should they fail to make a livelihood competing in global markets, they may flood urban areas in search of new income, bringing down wages for other relatively poor people in their home countries, or moving overseas in search of a better life. Thus, simply reducing trade subsidies will not mean an end to poverty in the developing world.

Oxfam had a lot to say about the how WTO procedures diffuse the voice and clout of developing country negotiators. It stresses that developing countries need a stronger voice at the WTO, if these rules are to truly create greater equity. But it has not delineated how this can be achieved without creating new inequities. It notes that industrialized countries wrote the rules and ensured that their exceptions - their chosen protected sectors - were safeguarded by the rules. As Oxfam notes, most developing countries could not demand similar exceptions as part of their accession to the GATT/WTO. This is a fair criticism to make. However, the WTO rules treat each member country equally. This is in fact probably the most equitable and efficient way for the WTO to work.

Finally, Oxfam argued that the process of trade talks is inherently inequitable. The WTO is now too large to facilitate transparent trade talks that involve every member equally and address each nation's negotiating needs. There is no way that 148 nations can easily find common ground on the parameters of negotiations. Thus, we should not be surprised that it has taken 3 years to achieve a framework for talks when that framework was built on negotiations between key industrialized countries joined by Brazil and India. Oxfam is quite right to insist that the process be changed to involve more of the developing countries in the most important negotiations. But on complicated trade negotiations, WTO members may only achieve progress if they continue to work in small closed groups.

As Oxfam worked, others in government were beginning to take a more systemic and cooperative approach to the relationship between globalization, human rights and development. In order to "develop a global partnership for development," the 191 nations of the UN adopted Millennium Development goals, including the pledge to further develop a rule-based open

trading system that includes a commitment to good governance, is nondiscriminatory, provides access to affordable drugs and makes the benefits of new technologies and information available. They also agreed to promote gender equality and empower women and achieve universal primary education and eradicate extreme poverty and hunger by 2015.⁷² The UN Office of the High Commissioner for Human Rights wrote a very interesting paper describing how trade and human rights intersect. The paper delineated how trade can both promote and undermine human rights. It was released at the Cancun Ministerial of the WTO. It was bolstered by workshops in Cancun designed to explain how trade policies might be made more supportive of specific rights such as the right to food.⁷³

Policymakers at the national level are also beginning to develop more systemic approaches to these issues. The EU announced major revisions to their trade preference program designed to improve the rule of law, promote human rights and sustainable development.⁷⁴ The Bush Administration developed a new approach to foreign aid, designed to reward countries that have made solid strides in improving the rule of law and investing in their people - the Millennium Challenge Account.⁷⁵

Even senior US officials are talking about the relationship between human rights, trade, the rule of law, and economic growth. In 2003 testimony, US Trade Representative Robert Zoellick noted, “America’s trade agenda needs to be aligned securely with the values of our society. Trade promotes freedom by supporting the development of the private sector, encouraging the rule of law. and increasing freedom of choice.” During his confirmation hearing as Deputy Secretary of State, Robert Zoellick noted that the system in Latin America had been “rigged against the poor.” He noted that governments should help by supporting democracy and the rule of law, as well as trade.⁷⁶

But the WTO remains the one major international governance organization that is not weighing the impact of its policies upon human rights. In discussing the future of the WTO, an advisory commission created by the WTO Director General, the Consultative Board, noted that

trade agreements critics often argue that open trade is a threat to human rights. In its December 2004 report, however, the Board simply noted that the case for freeing trade today is made in terms of enhancing human welfare.⁷⁷ But it never addressed how. In order for trade to advance human rights, we must understand how trade affects human rights and we must understand how promoting and protecting human rights can stimulate economic growth.

Oxfam made a consistent effort to assess its impact. It issued an annual programme review outlining both its achievements and where it needed improvements. In its 2004 report, Oxfam claimed it had helped the poor access better access to and influence in markets. It had helped change the debate over trade and helped remind developing countries of their collective clout. It had campaigned to cut the cost of medicines and had made some progress changing the WTO's intellectual property rules regarding much needed medicines. Oxfam acknowledged this is not sufficient "because treatment remains neither accessible nor affordable for the majority of poor."⁷⁸ Oxfam also acknowledged the dilemma of juggling its many roles. It recognized that it was having a hard time combining its campaigning initiatives with its policy advice initiatives. Its very clout as a source of policy advice made other civil society groups leery, and may have crowded out the voice of other groups in the developing world.⁷⁹ Oxfam highlighted its efforts to increase consumer understanding and support for fair trade products such as coffee. And Oxfam claimed some progress in working to increase the influence of developing country governments and civil society in international trade debates and negotiations. Oxfam noted "it was clear that a poverty and development perspective is now essential in any acceptable solution to trade issues."⁸⁰

But Oxfam's influence and priorities actually seemed to decline as the Doha Round negotiations proceeded. Participants agreed at Doha to place development at the heart of the new round. They said they would substantially strengthen assistance to developing countries; help developing countries implement the existing WTO agreements; and interpret the TRIPS (Trade Related Aspects of Intellectual Property Rights) agreement in a manner that ensures

Members' rights under TRIPS to take actions to protect public health.⁸¹ But negotiations on market access and agriculture, areas of key concern to developing nations, had made little progress by 2005.⁸² And the systemic approach linking poverty, development, human rights and trade was not made explicit in the negotiations or in how participants talked about the negotiations.

One has to ask why Oxfam seemed to change its public arguments from the more systemic approach to one based on the fairness of the trade regime. Oxfam staff I interviewed were unaware of the distinction or of any new or deliberate strategy to focus on inequity over human rights.⁸³ Oxfam staff stressed that their approach was developed to make trade an issue that involves the broader population.⁸⁴ They noted that while it is important to examine what “trade insiders think” Oxfam is much more interested in what the general public thinks. Finally, Oxfam US staff also stressed, “We have not shifted away from our focus on a rights-based approach to development. People everywhere have the right to a sustainable livelihood. They have the right to sufficient and appropriate food resources, which means not having their local markets eviscerated by dumped US exports. This is precisely *why* we are campaigning against unfair US agricultural subsidies. People also have the right to basic services, like health care and education. But they cannot have these services without sufficient resources. People might have greater resources with which to access services if they weren’t faced with pressures on their incomes, such as steep competition from US agricultural products in their local markets.”⁸⁵

Nonetheless, Oxfam staff acknowledged that it is difficult to communicate how poverty, development, human rights and trade are linked. After all the UN Declaration on Human Rights describes some 26 rights governments must protect and promote. There is no magic elixir that can ensure that trade does not undermine these many rights. But a focus on making trade fair made sense for an organization that wanted to build a mass movement supportive of changing the WTO’s rules.⁸⁶ People grow up learning life is unfair. The equity/inequity dialectic is easy to understand, and as noted above, trade has long been characterized as fair or unfair. Relying

on this language probably allowed Oxfam to reach a broader global audience and work more effectively with other organizations also concerned about globalization.⁸⁷

IV. Conclusion

To Oxfam, fairness is both a means and an end of trade. Thus, Oxfam aims to make trade rules more equitable for developing countries and to ensure that those who live in poverty benefit from trade. Oxfam mounted a serious campaign to change the rules governing trade. It has had some important successes. As noted above, it helped prod policymakers to at least say development would be the focus of the new round. Oxfam helped get cotton included as a specific item on the agenda at Cancun and its research contributed to the case brought by Brazil challenging cotton subsidies.⁸⁸ Thus Oxfam's research was being used by governments to change the rules at the WTO.

To its credit, the NGO is always supportive of trade as a means of helping the poor. Moreover, it has frequently distinguished when the problems of the developing world stem from trade and when problems were caused by market failures or governance failures. For example, on patents, Oxfam noted, "the problem is rooted in poverty.... We are arguing that developing country governments must be left free to produce, import and market medicines vital to public health." Oxfam also advocates public spending to improve health infrastructure.⁸⁹ In this regard, Oxfam recognized that the problem of poverty requires a systemic approach that ensures that rights of the poor are protected by the rule of law at the national and international levels.

By 2004, its effort to make trade fair had an important impact on the conduct of the negotiations and on the WTO Rules. It had attracted a wide range of actors and rock stars to add "star power" to its outreach campaign. Scholars and editorials endorsed its ideas.⁹⁰ Noting that "we're in it together," Oxfam brought the issues down to personal responsibility. "Do you know that every time you buy something made or grown in a developing country, you take part in a billion pound scam?"⁹¹ Oxfam had not only made the issues understandable; it had succeeded at embarrassing developed countries for their hypocritical approach to policies.⁹² Perhaps one

measure of its success was its visibility. It was condemned by the left for “allowing the movement’s demands to be diluted,” and co-opted by the British government.⁹³ Meanwhile, Oxfam was also condemned by proponents of the existing trade system. In a January 2005 Wall Street Journal editorial on the progress of the Doha Development Round, noted economist Jagdish Bhagwati argued that industrialized country subsidies to agriculture can help the poor who must import food. And he notes that trade agreement critics such as Oxfam focus on the wrong problems. He sees the WTO as more threatened by the erosion of nondiscrimination and growing demands by rich country lobbies who want labor standards in trade agreements. In his view, developing countries don’t want negotiations about such “extraneous issues.”⁹⁴

But by focusing on fairness, rather than on developing systemic ways to coordinate globalization, human rights and development, Oxfam may have missed an opportunity to collaborate with the economists and lawyers that advise on and make trade and development policy. When many such people hear “unfair trade” they hear a plea for protectionism. In contrast, by framing this as a human rights issue, Oxfam could have highlighted ideas that many economists and policymakers now recognize-- that people are the real wealth of nations. By giving all nations the opportunities to help their people meet their potential, economies can grow. The notion that human rights and development are mutually reinforcing seems easier for economists to accept than to simplify the problem as the system is rigged or unfair. After all, markets as well as the regulations designed to govern them, are by their nature unfair.

It seems strange that given its systemic focus, Oxfam did not seek questions to key questions integral to achieving a systemic approach to poverty, development, trade and human rights. These questions include: what rights must governments protect to stimulate development? How can the existing international institutions of governance help governments progressively realize these rights? These questions should be both asked and to some degree answered before policymakers accept advocate a human rights approach to trade and development.

Some economists and policymakers are beginning to ask questions about the relationship between human rights and economic growth. For example, Nobel Prize winning economist Robert Barro has shown that GDP per capita, education levels, and life expectancy are highly significant predictors of democracy and civil liberties, “firmly establishing the general link between democracy and the standard of living”⁹⁵ According to the more neo-liberal Ethan Kapstein, “market-based norms of contract—which encompass individual freedom, equity, the rule of law and so forth...also form the micro-foundations for democratic governance.”⁹⁶ Using statistical means, scholars are beginning to examine the relationship between foreign investment and trade and government protection of human rights. The more rigorous studies are finding a complex relationship. Some types of foreign economic penetration are reliably associated with increased levels of government respect for some but not all human rights. Using a data set that by country summarizes each nations human rights behavior, scholars have found that higher levels of foreign investment and trade increase government respect for certain types of human rights (personal integrity rights), But the relationship is not well understood.⁹⁷ Different types of economic globalization seemed to affect respect for different rights differently. Moreover, thus far, these studies reveal that states with better human rights records receive more investment.⁹⁸ In addition, some scholars allege that basic human rights are a precondition for the protection of other types of rights.⁹⁹ In sum, current studies do not say conclusively that promoting and protecting human rights can stimulate and perpetuate economic growth and development.¹⁰⁰ That connection will hopefully be made as more scholars tackle these issues.

In conclusion, Oxfam deserves to be lauded and encouraged for its efforts to make the WTO system more equitable on behalf of the world’s poor. Like all policies to regulate capitalism, trade policy must be flexible to meet changing market conditions, but it also must be fairer to those who have yet to participate in trade. As Oxfam noted, any attempt to rebuild the WTO and other trade agreements on a foundation of human rights would be difficult; as some trade rules can promote some human rights at the same time they can undermine others. Given

these complexities, it is understandable but regrettable that Oxfam moved away from the broader analysis presented in its initial strategic plan. Oxfam missed an opportunity to bring along the public and policymakers on the systemic nature of the problem—that there is a relationship between poverty, development, human rights and trade rules.

ENDNOTES

¹ Oxfam is one of the most influential institutions in the world, see 2004 Edelman Fifth Annual Trust Barometer: Study of Opinion Leaders,” 1/9/2004 at www.prfirms.org/doc/edelman0203ppt.

² Oxfam International, “Towards Global Equity, Strategic Plan, 2001-2004,” Oxfam International, www.oxfaminternational.org, last searched 2/18/2005.

³ Oxfam International, “Towards Global Equity,”

⁴ In regards to the success of the debt relief movement in recent months, journalists have begun to examine the role of Oxfam and others such as the rock star Bono, in debt forgiveness. See Elizabeth Becker, “Odd Alliance Brings About Debt Relief,” *New York Times*, 6/11/2005, B1.

⁵ www.maketradeair.com/en/index.php?file+21032002160705.htm&cat=2&subcat=1&select... and www.maketradeair.com/en/index.php?file+22032002123242.htm&cat=2&subcat. Last searched 8/21/2004. The on-line petition is at <http://www.maketradeair.com/en/index.php?file=bignoise.htm>

⁶ D. Kaufmann A. Kraay, and M. Mastruzzi, “Governance Matters IV: Governance Indicators for 1996-2004,” at www.worldbank.org/wbi/governance/pubs/govmatters4.html; World Bank *Doing Business in 2004: Understanding Regulation*, (Oxford: Oxford U Press, 2004); Kapstein, Ethan, “Behavior Foundations of Democracy and Development” Center for Global Development Working Paper, #52, December 2004; and Rodrik, Dani, et al., “Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development,” *Journal of Economic Growth* 9 (2): 131-165.

⁷ The speech, delivered to Congress on January 6, 1941 is at www.history.acusd.edu/gen/WW2Text/wwt0047

⁸ Ernest-Ulrich Petersmann, “The WTO Constitution and Human Rights,” *Journal of Economic Law*, 19 (2000).

⁹ Caroline Donmen, “Raising Human Rights Concerns in the World Trade Organization: Actors, Processes and Possible Strategies,” *Human Rights Quarterly* 24 (2002), 4.

¹⁰ Susan Ariel Aaronson, *Trade and the American Dream* (Lexington: University of Kentucky, 1996) is an archival history of the ITO, GATT and WTO.

¹¹ US Tariff Commission, *Operation of the Trade Agreements Program*, 2d report, (Washington, DC: GPO, 1949), p. 3, 12, 19-21.

¹² Article XX permits nations to restrict trade when necessary to protect human, animal or plant life or health, or to conserve human resources. An advisory group to the GATT in 1985 found that countries do not have to accept the products of slave or prison labor.

¹³ Examples of the debate about the link between trade and human rights include the debate over trade sanctions on South Africa in the apartheid era and the debate over MFN (in the US normal trade relations) with China.

¹⁴ On May 16, 2003, the WTO allowed the trade waiver www.europaworld.org/week129/euwelcomes16503.htm

¹⁵ Remarks of Law Professor Steve Charnovitz at a Brooklyn Law Conference, “The Globalization of Economic Human Rights,” www.geocities.com/charnovitz/brooklyn.htm, last searched 1/26/2005.

¹⁶ Aaron Forsberg, “The Politics of GATT Expansion: Japanese Accession and the Domestic Political Context in Japan and the United States, 1948-1955,” *Business and Economic History* (27: 1), 1998, 185-195; and Aaronson, *Taking Trade*, 69, 80-82.

¹⁷ These reports often examine developments over time. as <http://www.state.gov/g/drl/rls/hrrpt/2003/27768.htm>; hrw.org/english/docs/2005/06/08/china11103.htm; web.amnesty.org/web/ar2002.nsf/asa/china?Open.

¹⁸ During this debate, Congress changed the name of the MFN review to normal trade relations or NTR. Several members perceived that although most favored nation was the longstanding diplomatic term, it implied that the country under consideration got special benefits, rather than normal benefits.

¹⁹ See WTO and China, at www.uschina.org/public/wto and Ways and Means Subcommittee on Trade, “United States China Trade Relations and Renewal of China’s Most-Favored Nation Status, 104th Cong., 2d sess, July 11, 1996, 4.; and Business Coalition for US China Trade, “China PNTR: Advancing American Values, 4/26/2000, at www.uschina.org/public/wto/usavalues.html.

²⁰ ILO, Bureau of Multinational Enterprises, “Export processing zones: Addressing the social and labour issues” at <http://www.transnationale.org/pays/epz.htm>.

²¹ Oxfam, Rigged Rules and Double Standards: Trade, Globalization and the Fight Against Poverty Oxfam: 2002, 191-196; Kimberley Ann Elliott and Richard B. Freeman, Can Labor Standards Improve Under Globalization (Washington: IIE, 2003), 22-25, 89-93.

²² <http://www.ohchr.org/english/issues/globalization/trade/index.htm>; and

http://ap.ohchr.org/documents/dpage_e.aspx?s=115

²³ For example, leaders of the EU, the U.S. and Canada are wrestling with these questions. See Communication from the Commission to the European Parliament, the European Economic and Social Committee and the Committee of the Regions, The Social Dimension of Globalisation-the EU's policy Contribution on Extending the Benefits to All, May 18, 2004, pp. 52. On the U.S., see, Anne Applebaum, "Does the Right Remember Abu Ghraib," Washington Post, 1/5/2005, pp. A17, which notes that Senator Chuck Hagel has called for linking of trade agreements to human rights. Canadians are also discussing national policy changes, see NGO Working Group on EDC, "Risk, Responsibility and Human Rights: Taking a Rights-based Approach to trade and Project Finance," July 2004, at www.halifaxinitiative.org/updir/Final_HR_discussion_paper.pdf.

²⁴ For example, in order to "develop a global partnership for development," the 191 nations of the UN adopted Millennium Development goals, including the pledge to further develop a rule-based open trading system that includes a commitment to good governance, is nondiscriminatory, provides access to affordable drugs and makes the benefits of new technologies and information available. They also agreed to promote gender equality and empower women and achieve universal primary education and eradicate extreme poverty and hunger by 2015. See www.un.org/millenniumgoals/. The UN Office of the High Commissioner for Human Rights—tried to bring this forward at the Cancun Ministerial of the WTO, UNHCR, Paper prepared for the 5th WTO Ministerial Conference in Cancun, at www.unhcr.ch/html/menu2/trade/index.htm Peter Woike, Executive Vice President, IFC, has been very forceful about these issues as the IFC, an arm of the World Bank, works to expand its performance standards to include human rights. See conference on "Human Rights and Development. Towards Mutual Reinforcement," NYU Law School, 3/1/2004; and ILO (International Labor Organisation, "A Fair Globalization: Creating Opportunities for All," at www.ilo.org/public/english/wcsdg/.

²⁵ www.wto.org/search?NS-search-offset=20&NS-search-type=NS-boolean-query&NS-max-records=%24%24NS-max-records&NS-collection=wto_eng&NS-query=human+rights+and+trade&submit=Search&NS-search-page=results&. Some of the 100 results were multiple copies of speeches; others were trade policy reviews, where the country noted it had strengthened its human rights laws or practices.

²⁶ For examples of scholarship, see www.worldtradelaw.net/articles.htm#trachtman. This site has links to a wide range of scholarly papers. Also see, Robert Howse and Makau Matua, "Protection Human Rights in a Global Economy: Challenges for the World Trade Organization," (Montreal: Rights and Democracy, 2000), 4-6. at www.rightsanddemocracy.org.

²⁷ For example, from civil society, see www.3dthree.org; www.rightsanddemocracy.org; and www.panos.org.uk.

²⁸ Jackson, the World Trading System, 321-323.

²⁹ *Ibid.* 17.

³⁰ www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm

³¹ Paul Krugman, The Great Unraveling (New York: Norton, 2003), 368; Zedillo quoted in Aaronson, Taking Trade, 10

³² Lars Osberg, "The Equity/Efficiency Trade-off in Retrospect," Keynote address to conference on "Economic Growth and Income Inequality," 4/26/1995. Policies that increase equality of opportunity may increase average incomes, but redistributive policies that equalize economic outcomes have efficiency costs

³³ Preamble at www.wto.org/english/res_e/booksp_e/analytic_index_e/wto_a...

³⁴ Rodrik, "Trade Policy Reform as Institutional Reform," at ksghome.harvard.edu/~rodrik/papers.html, last searched 2/2/2005.

³⁵ Joel P. Trachtman, "Legal Aspects of a Poverty Agenda at the WTO: Trade Law and 'Global Apartheid'," Journal of International Economic Law (2003) 11.

³⁶ Jeff Schott, The WTO After Seattle (Washington: Institute for International Economics), 5, 14-17.

³⁷ [Web.worldbank.org/WBSITE/EXTERNAL/TOPICS/TRADE/0,,content MDK: 20113... and ...content MDK: 20111](http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/TRADE/0,,content MDK: 20113... and ...content MDK: 20111), last searched 2/24/2005.

³⁸ The name Oxfam comes from the Oxford Committee for Famine Relief, founded in Britain during the Second World War, when a group of Oxford citizens campaigned for grain ships to be sent through the allied naval blockade to provide relief for women and children in enemy-occupied Greece. Today, the 12 member Oxfam organizations are based in Australia, Belgium, Canada, Germany, Great Britain, Hong Kong, Ireland, The Netherlands, New Zealand, Quebec, Spain and the United States.

³⁹ Interview with Barbara Fiorito, Deputy Chair of Oxfam International and Chair Oxfam, February 21, 2005. Oxfam continues to influence development policy at the national and international levels, see "Discussion Paper for Department for International Development, towards Development of a White Paper on Globalisation," Oxfam GB, policy Department, 3/2000, at www.oxfamgb.org, last searched 2/25/2005 and Oxfam International, "Paying the Price: Why Rich Countries Must Invest Now In A War on Poverty."

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- ⁴⁰ The organization is transparent and managed responsibly. According to http://partners.guidestar.org/controller/searchResults.gs?action_gsReport=1&partner=networkforgood&ein=23-7069110 in fiscal year 2003, more than 77 percent of funds went directly to Oxfam's programs. This is well above the 60% recommended by leading charitable watchdog organizations including the American Institute of Philanthropy. The balance supported fundraising, member recruitment, and administration. The NGO does not accept government funds or funds from any source that might interfere with its ability to speak out on policies that affect global poverty. Policymakers around the world often seek its advice and many corporations from Procter and Gamble to Starbucks seek (and now have developed) partnerships with it to facilitate development. Finally, the organization constantly evaluates its work. See as example, Oxfam Great Britain, "Programme Impact Report," July 2004/
- ⁴¹ Amartya Sen, *Development as Freedom* (Oxford: Oxford U. Press, 1999).
- ⁴² Oxfam, "Towards Global Equity," 1-3.
- ⁴³ Oxfam, "Towards Global Equity," 6-11. The ILO, International Labor Organization, delineates the rights of workers and the responsibilities of employers and governments. It is the only international organization with a tripartite membership, but it has no enforcement powers. See www.ilo.org. The Universal Declaration of Human Rights delineates 30 internationally accepted norms for human rights, agreed upon by 191 governments. Many of these rights have implications for trade or can be understood as affected by trade such as the right to nondiscrimination (age, gender); the right to work; freedom of association; immigration and emigration rights; the right to own property and not to be arbitrarily deprived of property; and the right to freedom of thought, conscience, religion, opinion and expression. See www.unhcr.ch/udhr/lang/eng.htm.
- ⁴⁴ Oxfam. "Towards," 12-15.
- ⁴⁵ *Ibid.*, 10.
- ⁴⁶ *Ibid.*, 12-15.
- ⁴⁷ Oxfam. "Towards," 12-15.
- ⁴⁸ Nancy Birdsall et al, "Stuck in the Tunnel: Is Globalization Muddling the Middle Class," at www.cgdev.org, last search 2/9/2005.
- ⁴⁹ Annan, Gates and Clinton quoted in Serge Schmemmann, "Annan Cautions Business as Forum Ends," *New York Times*, 4/15/2002.
- ⁵⁰ Mary Robinson, United Nations High Commissioner for Human Rights, "Bridging the Gap Between Human Rights and Development: From Normative Principles to Operational Relevance," 12/3/2001 speech to the World Bank, at www.worldbank.org/wbi/B-Span/sub_mary_robinson.htm.
- ⁵¹ www.bbc.co.uk/pressoffice/pressreleases/stories/2004/10_october/15/blair.shtml; http://www.cafod.org.uk/resources/campaigners_kit/general_election_guide/issues/blair; <http://www.number-10.gov.uk/output/Page3073.asp>
- ⁵² There are very few global polls that specifically address human rights. One that discussed human rights as an aspect of CSR is the Environomics International of Toronto, Canada poll of 20,000 citizens in 20 countries conducted from Dec 2000-January 2001. See, "Poll Findings Suggest Trouble Ahead for the Globalization Agenda," at www.wtwatch.org/news/index.cfm?ID=2638. A more recent poll on international institutions and internationalism is at <http://people-press.org/reports/display.php3?PageID=795>. This is a 2004 survey of 8 countries examining views on the U.S. and the UN.
- ⁵³ Oxfam, "Cut the Cost," Patent Injustice: How World Trade Rules Threaten the Health of Poor People," 8-9; and Kevin Watkins, Senior Policy Advisor, Oxfam, "Trade Globalisation and Poverty Reduction: Why the Rules of the Game Matter," Seminar on World Trade and Poverty, Carnegie Endowment, 7/2/2002.
- ⁵⁴ Downloadable at www.maketradeair.com/en/index.php?file=03042002121618.htm
- ⁵⁵ Oxfam, "Rigged Rules," 254-257.
- ⁵⁶ www.networkideas.org/feathm/june2002/ft12_oxfam.htm, last searched 2/17/2002. Oxfam included many of the criticisms on its web site at www.maketradeair.com/en/index.php?file=28052002092914.htm
- ⁵⁷ Jeremy Hobbs, Executive Director, Oxfam International, "speech to the WTO Symposium," 4/29/2002, at www.oxfam.org
- ⁵⁸ Oxfam Great Britain, "Programme Impact Report: Oxfam GB's work with Partners and Allies Around the World," July 2004, 10.
- ⁵⁹ www.maketradeair.com/en/index.php?file=21032002102849.htm&cat=2&subcat=7...last searched 2/22/2005.
- ⁶⁰ www.oxfam.org/uk/what_we_do/fairtrade/
- ⁶¹ www.oxfam.org/uk/what_we_do/fairtrade/oxfam_and_ft.htm.
- ⁶² www.oxfam.org/uk/what_we_do/fairtrade/ and tore.gxonlinestore.org/aboutfairtrade.html
- ⁶³ www.oxfam.org/uk/what_we_do/issues/trade/bitter_coffee.htm; and www.maketradeair.com/en/index.php?file=16092002163229.htm
- ⁶⁴ Oxfam GB, "Programme Impact Report," 18-23.

⁶⁵ www.oxfam.org/uk/coolplanet/teachers/fairtrade_resources/ind

⁶⁶ John H. Jackson, *The World Trading System: Law and Policy of International Economic Relations* 2d Ed., (Cambridge, MA: MIT Press, 1998), 177-178.

⁶⁷ Douglas A. Irwin, *Against the Tide: An Intellectual History of Free Trade* (Princeton: Princeton University Press, 1996), 4-6; Mario Broussard and Steven Pearlstein, "Reality Check: Great Divide, Economists Vs. the Public," *Washington Post*, 13-15, October 1996, A1, A6; and

http://www.gmfus.org/doc/TradePoverty_FINAL_722.pdf. On European view, see SUSTRA network, "European Governance and European Public Opinion on trade and Sustainable Development," June 3-4, at www.agro-montpellier.fr/sustra/publications/policy_briefs/policy-brief-eg.pdf.

⁶⁸ Oxfam: "US Blocking Trade Deal at the WTO," July 28, 2004, at www.oxfam.org/eng/pr040728_wto.htm; www.makestrade.fair.com/en/index.php?file=27092003101309.htm, last searched 2/22/2005.

⁶⁹ http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2004/asset_upload_file784_6153.pdf?ht=http://www.ustr.gov/Document_Library/Press_Releases/2004/September/WTO_Panel_Issues_Mixed_Verdict_in_Cotton_Case.html?ht=

⁷⁰ http://www.ustr.gov/Document_Library/Transcripts/2005/February/Transcript_of_Press_Teleconference_Call_with_Richard_Mills_Assistant_US_Trade_Representative_for_Media_Public_Affairs.html?ht=

⁷¹ Oxfam "The Great EU Sugar Scam," Briefing Paper 27, at www.makestrade.fair.com.

⁷² See www.un.org/millenniumgoals/.

⁷³ UNHCR, Paper prepared for the 5th WTO Ministerial Conference in Cancun, at www.unhcr.ch/html/menu2/trade/index.htm and Rights and Democracy, "Implementing the Human Right to Food: Domestic Obligations and the International Trade in Agriculture," submitted to the UN Food and Agricultural Organization, 2d sess., 10-27-29, 2003, at www.ichrdd.ca/english/commdoc/publications/globalization/f... last searched 3/3/2005.

⁷⁴ Communication from the Commission to the European Parliament, the European Economic and Social Committee and the Committee of the Regions, "The Social Dimension of Globalisation-The EU's Policy Contribution on Extending the Benefits to All," May 18, 2004, 52.

⁷⁵ www.mca.gov/about_us/overview/index.shtml

⁷⁶ Robert Zoellick, "America's Trade Policy Agenda, Testimony before the House Ways and Means Committee," February 26th 2003; and 2005 quote in Marcela Sanchez, "Latin America Needs More than Words," *Seattle Post-Intelligencer*, February 25, 2005.

⁷⁷ Right before he took office, Supachai Panitchpakdi, suggested that the Doha Round include a code of conduct for multinationals, which presumably would have addressed human rights. But his idea was not well received and he quickly abandoned it. Elizabeth Olson, "For WTO's Next Chief, A long List of Headaches," *New York Times*, August 16, 2002, pp. W1, W7. In June 2003, he set up a consultative board to reinforce the multinational trading system by examining the functioning of the WTO. Report by the Consultative Board to the Director-General Supachai Panitchpakdi, "The Future of the WTO: Addressing Institutional Challenges in the New Millennium," December 2004, pp. 10. The members of the WTO have not asked the organization to examine the human rights impact of trade although the Office of the High Commission for Human Rights has discussed trade. See Caroline Dommen, "No Sell-Out on Trade in the Human Rights Commission, April 2003, at 209.238.219.111/Trade-Human-Rights-Commission.htm.

⁷⁸ Oxfam GB, "Programme Impact Report," 3-4; and www.oxfam.org.uk/what_we_do/issues/evaluation

⁷⁹ *Ibid.*, 5, 6, 59.

⁸⁰ *Ibid.*, 10, 18.

⁸¹ www.wto.org/english/tratop_e/dda_e/dda_e.htm#dohadeclaration; Oxfam GB, "Programme Impact," 31.

⁸² / www.euractiv.com/Article?tcaturi=tcu:29-117027-16&type=Analysis;

europa.eu.int/comm/trade/issues/newround/doha_da/index_en.htm; and Susan Aaronson and Jamie Zimmerman, "How to Jumpstart the WTO," yaleglobal.yale.edu/display.article?id=5761

⁸³ Interview with Kevin Watkins, who wrote the bulk of "Rigged Rules," 3/17/2005; Interview with Phil Bloomer, Executive Director Oxfam International, 3/1/2005; and Interview with Alison Woodhead, Oxfam International, 3/1/2005.

⁸⁴ Interview with Kevin Watkins, who wrote the bulk of Rigged Rules, 3/17/2005; Interview with Phil Bloomer, Executive Director Oxfam International, 3/1/2005; and Interview with Alison Woodhead, Oxfam International, 3/1/2005.

⁸⁵ E-mail, Chad Dobson, Policy Director, Oxfam USA to S. Aaronson, 5/13/2005.

⁸⁶ Interview with Kevin Watkins, 3/13/2005.

⁸⁷ For example see, Mariama Williams, "Free Trade or Fair Trade? An Overview of the WTO and the Myths Surrounding It," *Dawn is the Development Alternatives With Women for a New Era*, June 2003, ISSN 1562-4587; and Marianne C. Scott, *A Citizen's Guide to Global Economic Policymaking* (Washington: League of Women Voters, 2002), 6, 32-33.

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- ⁸⁸ Oxfam GB, "Programme Impact Report," 3-4., http://www.ustr.gov/Document_Library/Press_Releases/2004/September/WTO_Panel_Issues_Mixed_Verdict_in_Cotton_Case.html; and Economist Global Agenda, "Unpicking Cotton Subsidies," 4/30/2004, at www.economist.com/agenda/displayStory.cfm?story_id=2626900.
- ⁸⁹ www.madetradefair.com/en/index.php?file=05092003160059.htm, last searched 2/22/05.
- ⁹⁰ http://www.ustr.gov/Document_Library/Transcripts/2005/February/Transcript_of_Press_Teleconference_Call_with_Richard_Mills_Assistant_US_Trade_Representative_for_Media_Public_Affairs.html?ht=all
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- ⁹⁴ Jagdish N. Bhagwati, "The Truth About Trade," *Wall Street Journal*, 1/18/2005, at www.cfr.org/pub7606/jagdish_n_bhagwati/the_truth_about_tr...
- ⁹⁵ Robert Barro, *Determinants of Economic Growth* (Cambridge: MA; MIT Press, 1997), 67.
- ⁹⁶ Ethan Kapstein, "Behavioral Foundation for Democracy and Development," Working Paper Number 52, December 2004, 12.
- ⁹⁷ The State University of New York at Binghamton has a comprehensive data set, the CIRI Human Rights Dataset, which contains standards-based quantitative information on government respect for 13 internationally recognized human rights for 195 countries, annually from 1981-2003. It is designed for use by scholars and students who seek to test theories about the causes and consequences of human rights violations, as well as policy makers and analysts who seek to estimate the human rights effects of a wide variety of institutional changes and public policies including democratization, economic aid, military aid, structural adjustment, and humanitarian intervention. See ciri.binghamton.edu/ and as an example of how that data has been used, Ifie M.F. Okwuje, "Human Rights and Globalization, Is it Time to Take This Relationship in a New Direction," unpublished paper prepared for the American Political Science Association 2004 conference, 9/2/2004, provided by the author.
- ⁹⁸ David L Richards et al., "Money with a Mean Streak? Foreign Economic Penetration and Government Respect for Human Rights in Developing Countries," *International Studies Quarterly* (2001) 45, 219-239; David L. Richards and Ronald D. Gelleny, "Business Friendly or Friendly Business: Examining the Impact of Government Respect for Human Rights on Foreign Economic Penetration in Developing States," unpublished paper, provided by authors; and Shannon Blanton and Robert G. Blanton, "Trade and Human Rights: Beyond the Spotlight," unpublished paper, provided by the authors.
- ⁹⁹ Economists are often skeptical concerning the economic effects of various forms of human rights: some think protecting basic human rights can make the legal system less efficient and that extensive social rights are incompatible with market economies. Lorenz Blume and Stefan Voigt of the University of Kassel, Germany argue that basic human rights are a precondition for other kinds of rights such as property and civil rights and that they are thus efficiency-enhancing. They identify four different groups of rights and asked what effects they have on welfare and growth. They estimate their effects on investment in both physical and human capital and overall productivity. Basic human rights have indeed a positive effect on investment, but do not seem to contribute to productivity. Social or emancipatory rights, in turn, are not conducive to investment in physical capital but do contribute to productivity improvements. They also found that none of the four groups of rights ever has a significant negative effect on any of the economic variables here included. The research was published as University of Kassel Working Paper, No.67/ 04. Also see Randall Peerenboom, "'Show Me the Money: The Dominance of Wealth in Determining Rights Performance in Asia," 15 *Duke Journal of Comparative and International Law*, (2004): 75-152 and Daniel A. Farber, "Rights as Signals," Boalt Hall, UCB School of Law.
- ¹⁰⁰ D. Kaufmann A. Kraay, and M. Mastruzzi, "Governance Matters IV: Governance Indicators for 1996-2004," at [/www.worldbank.org/wbi/governance/pubs/govmatters4.html](http://www.worldbank.org/wbi/governance/pubs/govmatters4.html); World Bank *Doing Business in 2004: Understanding Regulation*, (Oxford: Oxford U Press, 2004); Kapstein, Ethan, "Behavior Foundations of Democracy and Development" Center for Global Development Working Paper, #52, December 2004; and Rodrik, Dani, et al., "Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development," *Journal of Economic Growth* 9 (2): 131-165.