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FOREWORD

TRADE, TERRORISM, AND ISLAM

JOEL A. NICHOLS*

How and why should countries promote trade? How should the world prevent terrorism? How should we address the poverty and lack of basic necessities facing many people in less-developed nations? What is the role of religion (and specifically radical forms of Islam) in fostering terrorism? How should we view the World Trade Organization's Doha Development Round, especially its byzantine provisions on agricultural subsidies, tariffs, and the like? Should we promote adoption of the Doha Round?

These and other wide-ranging questions lie at the heart of the following trio of articles. In November 2011, Professor Raj Bhala delivered a keynote address at the *University of St. Thomas Law Journal's* Annual Law Journal Lecture. That address was titled "The Doha Round as a Failed Instrument in Counter-Terrorism." Professors Robert Delahunty and Frank Garcia offered comments/responses to that lecture, and all three have now memorialized their views in print for continued interaction and engagement.¹ These papers—along with Professor Bhala's other two parts of his trilogy of articles on the Doha Round, Islam, and counter-terrorism²—provide a hearty start to a renewed debate about the Doha Development Round and the possible linkage between free trade and counter-terrorism. Moreover, Bhala's detailed analysis of the litany of trade provisions of the Doha Round in his trilogy of articles is a crucially important addition to the literature in its own right.

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1. See Raj Bhala, *Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part One of a Trilogy—Agricultural Tariffs and Subsidies*, 9 U. ST. THOMAS L.J. 5 (2012); Robert J. Delahunty, *Trade, War, and Terror: A Reply to Bhala*, 9 U. ST. THOMAS. L.J. 161 (2012); Frank J. Garcia, *Doha, Security, and Justice: A Response to Professor Raj. Bhala*, 9 U. ST. THOMAS L.J. 194 (2012).

2. See Raj Bhala, *Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part Two of a Trilogy—Non-Agricultural Market Access and Services Trade*, 44 CASE W. RES. J. INT'L L. 325 (2011); Raj Bhala, *Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part Three of a Trilogy—Trade Remedies and Facilitation*, 40 DENV. J. INT'L L. & POL'Y 237 (2012).

The central article that follows in this volume is that of Professor Bhala. Bhala makes two major moves in his article. First, he sets the stage for this and the other two articles in his trilogy by grappling with the Doha Round as a failed instrument against terrorism. Second—and this comprises the bulk of the pages and notes in Bhala’s hefty work that follows—he addresses the agricultural and commodity provisions of the Doha Round. (In the other two articles of Bhala’s trilogy, he addresses other substantive effects of trade in the Doha Round.)

Bhala states that the Members of the World Trade Organization (WTO) recently articulated three alternative themes or rationales for the Doha Round trade provisions—rather than relying upon their earlier ground of anti-terrorism.³ Even raising such alternate themes is problematic, Bhala believes, because it evinces a “loss of purpose” by the WTO Members and evidences that they no longer “seek to use multilateral trade liberalization as a counter-terrorist weapon.”⁴ Instead, Members have retreated to their own “narrow agendas” and have “lost all sight of the common good”; the result, Bhala fears, is a move away from development and away from counter-terrorism and toward Members’ self-interest, which aligns with “Social Darwinism as trade policy.”⁵ Bhala claims that, rightly understood, international trade law and the Doha Round can reduce poverty and advance development and thereby act as a central cog in a national security policy that combats terrorism.⁶ This link between trade liberalization and poverty alleviation, which should lead to a reduction in Islamist extremism, was at the forefront of launching the Doha Round in November 2001.⁷ But trade negotiators “have lost sight of the theme”⁸ in the intervening years and have instead resorted to ever-more complex rules that favor self-interest rather than meeting the larger goal of poverty alleviation and fighting Islamist extremism.

Having set the stage for the trilogy of articles with that thesis (which is a lament of sorts), Professor Bhala next analyzes the December 2008 Draft Modalities Texts along with the April 2011 Documents—specifically agricultural subsidies and tariffs. With his keen eye as a legal observer, Bhala picks apart a host of textual provisions to illustrate how the Doha Round’s goal of reducing agricultural subsidies, especially in rich countries, has not yet been achieved because of parochial self-interest as well as the minutiae of many provisions.⁹ Moreover, agricultural tariffs have fallen at a slower pace than industrial tariffs because richer nations have protected their farm

3. Bhala, *supra* note 1, at 9–10.

4. *Id.* at 10.

5. *Id.* at 11–12.

6. *Id.* at 16.

7. *Id.* at 23.

8. *Id.* at 29.

9. Raj Bhala, *Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part One of a Trilogy—Agricultural Tariffs and Subsidies*, 9 U. ST. THOMAS L.J. 5, 46 (2012).

sectors—and the Doha Round has failed to ameliorate agricultural tariffs despite its intentions.¹⁰

In the end, Professor Bhala decries the turn taken by WTO Director-General Pascal Lamy and others, who proffer that the Doha Round should be advanced as a fiscal stimulus package in these lean economic times.¹¹ Not only will the Doha Round be ineffective in this regard, Bhala reasons, but such a justification runs counter to the purpose of the Doha Round: “[I]n the immediate post-9/11 environment, it was the nexus between trade liberalization, alleviating poverty, and fighting extremism that galvanized WTO members.”¹² Bhala urges the reader—and WTO Members as well—to conclude the Doha Round, even with all its technicalities and potential short-comings, is a way to forge consensus among diverse interests and combat poverty and terrorism at the same time.¹³

Professor Robert Delahunty’s following contribution engages the central tenet of Bhala’s trilogy—namely that poverty causes terrorism. Delahunty proffers that Bhala’s argument has “a highly respectable intellectual pedigree” as a variation on the “peace through trade” argument that has been advanced since the eighteenth century.¹⁴ Nonetheless, Delahunty believes that the specific variation offered by Bhala (of “counter-terrorism through trade”) lacks support in the social science literature. Moreover, Delahunty discounts that the danger of Islamist terrorism remains a grave enough threat to merit adoption of the Doha Round if counter-terrorism were its sole rationale, and he cites both empirical evidence and anecdotes that run directly counter to the notion that poverty causes terrorism.¹⁵

Delahunty is not necessarily an opponent of the “free trade” ideas of the Doha Round—but emphatically urges that they *not* be promoted on the argument that free trade is a good counter-terrorism strategy. Not only is Bhala “wrong” to promote it in this way, but “grounding the case for the Doha Round on such an inadequate and unconvincing theory *weakens* the argument for adopting [the Round].”¹⁶ Instead, Delahunty advocates that free trade through the Doha Round should be “rooted instead in normative arguments and in considerations of efficiency.”¹⁷

Professor Frank Garcia, in his contribution, slightly reframes Bhala’s contentions by claiming that Bhala’s “argument is [fundamentally] that the contemporary trading system is unjust and that this injustice matters on normative grounds and on security grounds.”¹⁸ Garcia builds upon this re-

10. *Id.* at 78–79.

11. *Id.* at 141–42.

12. *Id.* at 157.

13. *Id.* at 160.

14. Delahunty, *supra* note 1, at 162.

15. *Id.* at 184–85, 187–89.

16. *Id.* at 190.

17. *Id.*

18. Garcia, *supra* note 1, at 196.

stated thesis by proffering a parallel thesis of his own: “[the] Doha [Round] is about—or should have been about—remedying unjust trade patterns, which . . . breed resentment and anger and thereby increase the potential for violence.”¹⁹ The failure of the Doha Round, on this view, represents a historic failure to shift trade in the direction of increased support for development and a lost chance to further justice globally at a macro level.²⁰

Professor Garcia also challenges readers to consider whether the stated basis of the Doha Round (as preventing terrorism) was always merely a political trope: “[A]s early as 2001, the WTO was seeking rhetorical justifications” for the Doha Round.²¹ The WTO sought such rhetorical justifications because its concerns were more about “resolv[ing] a political impasse in the WTO in favor of wealthier states” than about the true promotion of justice for the poor of the world.²² Garcia is not as melancholy as Bhala about the turn toward other possible justifications for the Doha Round (such as the now-proffered rationale of overcoming the economic crisis in the midst of continuing uncertainty and austerity measures), for such publicly stated rationales must *always* be tailored in some “political” way. This does not lessen the need for liberalized trade, in Garcia’s view, for its ultimate grounding centers upon justice and fairness. Garcia concludes the volume with gratitude for Bhala’s reminder that “every trade agreement . . . is necessarily about poverty and justice.”²³ He hopes that Bhala’s analysis and writings spur WTO Members and readers to return to the core values of remedying unjust trade patterns so that trade better reflects fairness as a good in itself—which would also lead to the concomitant side-effect of reducing resentment, anger, and perhaps even violence.²⁴

It is a common and worthy refrain among many organizations and individuals to alleviate poverty and establish more justice in the world. It is a common longing and goal of nations to reduce terrorism and violent acts. For the WTO to mutually advance such multiple broad goals through trade mechanisms such as the Doha Round is asking quite a lot. The articles herein make an important contribution to the public commentary about the wisdom of concluding the Doha Round by taking head-on the question of the connection between free trade, terrorism, and justice, as well as through expounding the specific provisions on agricultural tariffs and subsidies.

19. *Id.* at 196–97.

20. *Id.* at 195.

21. *Id.* at 212.

22. *Id.*

23. *Id.*

24. Frank J. Garcia, *Doha, Security, and Justice: A Response to Professor Raj Bhala*, 9 U. ST. THOMAS L.J. 194, 196 (2012).