

Confronting the desperate need for a fair deal on trade

By Angus McLeod



Frank Garcia addresses the audience in his March lecture

American Professor Frank Garcia recently claimed that global trade policy and global justice are not the incompatible concepts that many claim, and that the world must not walk away from its commitment to use trade to create greater fairness for all.

Professor Garcia, an academic at Boston College Law Faculty, focussed in his speech on the current “Doha Round” of the World Trade Organisation’s trade negotiations, on which he has worked as a consultant for the Caribbean Regional Negotiating Machinery. He stressed that, in the context of the current economic crisis, a failure to conclude the Doha Round would, in the words of the WTO deputy director general, be ‘immoral.’ Professor Garcia cited a recent World Bank study to the effect that hundreds of thousands of poverty-related deaths may flow from the contraction of the global economy, deaths that Doha could help alleviate.

Professor Garcia wove his discussion of justice into an assessment of the current state of Doha negotiations. It is generally accepted that the Uruguay Round – which directly preceded the Doha Round and saw the transition from the General Agreement on Tariffs and Trade to the WTO – was a bad bargain for developing countries. Their lack of bargaining power led them to accept heavy restrictions on their trade rights and to allow developed nations to wiggle out of their promises. After the Uruguay Round, the Doha Round was launched in a spirit of justice. Developed countries were not to use their superior economic positions to demand their pound of

flesh in exchange for market liberalisation. While there have been some significant achievements in the round, in particular the reform of intellectual property laws and the availability of HIV/AIDS medication, the entire process has been in jeopardy since July 2008 when an impasse between major developing countries – China, India and Brazil - and developed countries - particularly America, the European Union and Australia - developed over the issue of agricultural subsidies and tariffs.

Professor Garcia stressed that even if an agreement comes out of the Doha Round, it will probably protect developed nations’ right to protect domestic industries. However, despite its current flaws, he argued that Doha could be a crucial insurance policy against protectionism and more broadly serve as the groundwork for a new system of global regulation and support of the sort that is currently being debated by the G20. According to Professor Garcia, Doha is the equivalent of a global ‘stimulus package’, and would result in hundreds of billions of dollars a year in increased trade revenues. He called for a re-commitment to the negotiations, a halt in the creeping rise of tariffs and a return to the spirit of justice invoked when the Doha Round began.

During the questions from the audience, the argument was made that Doha is

just a distraction because it is not discussing the major issues of sustainable development, energy policy and the problem of exchange rates and undervalued currencies. Professor Garcia agreed that there were a number of important issues that Doha left out, however he reiterated the beneficial effect of Doha on the global economy and in relieving world poverty. Furthermore Doha has already made a number of achievements and is relatively near completion; why waste over eight years of work?

Professor Garcia ended his talk by responding to an audience member’s doubts about the ability for both developing and developed countries to come to the negotiating table in a spirit of fairness and cooperation given the dire economic times. He conceded that the road ahead was unclear, but his rejoinder was to reiterate that the very nature of the global credit crisis meant that Doha could benefit both developing and developed countries and that there is a growing awareness of the significant implications of Doha for global justice. Professor Garcia ended as he began, exhorting his audience to maintain hope that Doha could still achieve both economically sound and morally principled results.

Professor Garcia is currently Vice-Chair of the ASIL International Legal Theory Interest Group and an active member of the International Economic Law Group. He recently taught the Monash JD subject ‘Globalization and international economic law’.