

# *Appendices*

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# Appendix I

## The Multilateral Trading System: A Short Bibliographical Note

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For the purposes of readability, this Report is written in a non-scholarly style. Footnotes and referencing in the text have been kept to an absolute minimum. However, the Report has drawn on a wide range of sources and literature. This short bibliographical note is indicative only. In no way does it purport to comprehensiveness. But it does provide a guide to some of the materials that have informed the preparation of this Report and which anyone wishing to follow up further on various sections of the Report might find useful.

### INTRODUCTION

#### Five Challenges Facing the Global Trade Regime

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By way of background, we should note that the Warwick Commission is not the first inquiry to engage in an analysis of the challenges for the multilateral trade regime in general and the GATT/WTO in particular. Previous exercises include the Leutwiler Report, *Trade Policies for a Better Future*, Amsterdam: Martinus Nijhoff Publishers, 1987; *The Sutherland Report: A Report of the Consultative Board to the Director-General, Supachai Panitchpakdi, The Future of the WTO: Addressing institutional challenges in the new millennium*, Geneva: WTO, 2004, and Ernesto Zedillo, Patrick Messerlin and Julia Nielson, *Trade for Development*, UN Millennium Project Task Force on Trade, London: Earthscan, 2005.

The literature on the World Trade Organization (WTO) is vast. Those interested in the agreements of the WTO in general, and recent negotiations in particular, should start at the website of the Organization ([www.wto.org](http://www.wto.org)) and the Doha briefings of bodies such as the International Centre for Trade and Sustainable Development ([www.ictsd.org/pubs/dohabriefings](http://www.ictsd.org/pubs/dohabriefings)). The recent impasse of the Doha Development Round raises immediate concerns regarding the progress of the trade negotiations, but also longer term questions about the sustainability of the processes and everyday workings of the system in its current form. A good starting point here is Paul Collier, 'Why the WTO is Deadlocked: And What Can Be Done About It', *The World Economy*, 29(10) 2006: 1423-1449, but see also the essays in Donna Lee and Rorden Wilkinson (eds.) *The WTO after Hong Kong: Progress in, and prospects for, the Doha Development Agenda*, London: Routledge, 2007.

For more general analyses of the legal, political and economic processes that underpin the workings of the WTO, see *inter alia*: John Jackson, *The World Trade Organization: Constitution and Jurisprudence*, London: Royal Institute of International Affairs, 1998; Michael Trebilcock and Robert Howse, *The Regulation of International Trade*, London: Routledge, 2005, 3rd edition; Robert Howse, *The WTO System: Law, Politics and Legitimacy*, London: Cameron May, 2007; Bernard Hoekman and Michel Kostecki, *The Political Economy of the World Trading System: The WTO and Beyond*, Oxford: Oxford University Press, 2001, 2nd edition; Kyle Bagwell and Robert Staiger, *The Economics of the World Trading System*, Boston MA: The MIT Press, 2003; John H. Barton, Judith L. Goldstein, Timothy E. Josling, & Richard H. Steinberg, *The Evolution of the Trade Regime: Politics, Economics and Law*, Princeton NJ: Princeton University Press, 2006, and Rorden Wilkinson, *The WTO: Crisis and the Governance of Global Trade*, London: Routledge, 2006.

## CHAPTER 1

## The Global Economic Paradox: Deeper Integration, Shallower Support

For an introduction to the classic case for globalisation, see Jagdish Bhagwati, *In Defence of Globalization*, New York: Oxford University Press, 2004 and Martin Wolf, *Why Globalization Works: The Case for the Global Market Economy*, New Haven: Yale University Press, 2004. Bhagwati argues that properly regulated, globalisation is the most powerful force for social good in the world. It leads to greater general prosperity in an under-developed nation; it can reduce child labour, increase literacy, and enhance the economic and social standing of women. Wolf presents a detailed reply to the critics of globalisation and demonstrates the advantages of a relatively globalised market economy over alternative systems. He holds not only that globalisation works, but also that it is needed if we are to aspire to extend prosperity and freedom. For other general reviews see Manfred B. Steger, *Globalization: A Very Short Introduction*, Oxford: Oxford University Press, 2003 and Michael Veseth, *Globaloney: Unravelling the Myths of Globalization*, Lanham MD: Rowman and Littlefield, 2005.

Critiques of globalisation range from the “critical reformist” (pace Joseph Stiglitz, *Globalization and its Discontents*, New York: W.W. Norton, 2002, and *Making Globalization Work*, New York: Penguin, Allen Lane, 2006); the ‘Fair Trade’ advocates, for example, Laura T. Reynolds, Douglas Murray and John Wilkinson (eds.) *Fair Trade: The Challenges of Transforming Globalization* London: Routledge, 2007; and the globalisation ‘rejectionists’ (pace Walden Bello, *De-Globalization: Ideas for a new World Economy*, London: Zed Books, 2002, and groups such as Focus on the Global South at [www.focusweb.org](http://www.focusweb.org)).

On some of the recent controversies surrounding the contemporary relationship between globalisation and trade see Dani Rodrik, *Has Globalization Gone too Far?* Washington DC: Institute for International Economics, 1997; Michael J. Hiscox, *International Trade and Political Conflict: Commerce, Coalitions and Mobility*, Princeton NJ: Princeton University Press, 2002; Moisés Naím, ‘The Free-Trade Paradox’, *Foreign Policy*, September/October 2007, posted at [http://www.foreignpolicy.com/story/cms.php?story\\_id=3953](http://www.foreignpolicy.com/story/cms.php?story_id=3953); and Kenneth Scheve and Matthew Slaughter, ‘A New Deal for Globalization’, *Foreign Affairs*, 86(4) 2007: 34-47. Statistical analyses on the impact of globalisation may be obtained in the International Monetary Fund (IMF) publication series, *World Economic Outlook*, particularly the April and October 2007 volumes on *Spillovers and Cycles in the Global Economy*, and *Globalization and Inequality* respectively. These documents can be accessed at [www.imf.org/external/pubs/](http://www.imf.org/external/pubs/); see also the Globalization Index at <http://www2.warwick.ac.uk/fac/soc/csgr/index/download>.

Some limits to neo-classical economic theory under conditions of contemporary globalisation have been recently outlined by Nobel Laureate Paul A. Samuelson, ‘Where Ricardo and Mill Rebut and Confirm Arguments of Mainstream Economists Supporting Globalization’, *Journal of Economic Perspectives*, 18(3) 2004: 135-146. This debate was continued with Alan Blinder’s essay on ‘How Many U.S. Jobs Might Be Offshoreable?’ CEPS *Working Paper No. 142*, March 2007. See also Sandra Polaski in *U.S. Living Standards in an Era of Globalization*, Carnegie Policy Brief, No. 53 (July 2007).

Opinion poll data in Chapter 1 provide some indicators of popular responses to globalisation. See FT/Harris Poll (July 2007), ‘Monthly Opinions of Adults from Five European Countries and the United States’, [www.harrisinteractive.com/news/FTHarrisPoll/HI\\_FinancialTimes\\_HarrisPoll\\_July2007.pdf](http://www.harrisinteractive.com/news/FTHarrisPoll/HI_FinancialTimes_HarrisPoll_July2007.pdf).

For a discussion of the new actors, especially India and China, and their changing role in the multilateral trading system see Andrew Cooper, Agata Antkiewicz and Timothy M. Shaw, *Economic Size Trumps All Else? Lessons from BRICSAM*, Centre for International Governance Innovation, Working Paper Series, Waterloo, ON: April, 2006: 1-26. On India, see Praesensjit K. Basu, Brahma Chellaney, Parag Khanna and Sunil Khilanani, *India as a New Global Leader*, London: The Foreign Policy Centre, 2005; *India Rising: A Medium Term Perspective*, Frankfurt: Deutsche Bank Research, 2005 at [www.dbresearch.com](http://www.dbresearch.com); John Humphries and Dirk Messner, ‘China and India as New

Global Governance Actors: Challenges for Developed and Developing Countries', *IDS Bulletin*, 37(1) 2006: 107-114; and J. Orstrom Moller, 'China and India: Rise of the New Global Powerhouses', *The National Interest*, 17 September 2003. On China and the impact of its economic growth, see Robert Z. Lawrence, 'China and the Multilateral Trading System', <http://ksghome.harvard.edu/~RLawrence/Lawrence%20China%20and%20the%20Multilateral%20Trading%20System.pdf>. For more cautionary and nuanced analyses see Shaun Breslin, *China and the Global Political Economy*, Basingstoke: Palgrave, 2007 and Albert Keidel, *China's Economic Fluctuations and their Implications for its Rural Economy*, Washington DC: Carnegie Endowment for International Peace, 2007.

For a discussion of the current role and policies of the traditional powers in the multilateral trade system, see I. M. Destler, *American Trade Politics*, Washington DC: Institute for International Economics, 2005, 4th Edition; and Daniel Drezner, *US Trade Strategy: Free Trade versus Fair Trade*, New York: Council on Foreign Relations, 2006. On the European Union, see Simon Evenett, *EU Commercial Policy in a Multipolar Trading System*, The Centre for International Governance Innovation, Working Paper No. 23, 1-38, Waterloo, ON: April 2007. See also Stephen Woolcock, 'European Trade Policy' and Tony Porter, 'The United States in International Trade Politics: Liberal Leader or Heavy Handed Hegemon', in Dominic Kelly and Wyn Grant (eds.) *The Politics of International Trade in the 21st Century*, Basingstoke: Palgrave, 2005.

## CHAPTER 2

### The Management of Global Trade: Purposes, Boundaries and Decision-Making

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As this Report has argued, recent problems in the WTO are sometimes symptomatic of deeper issues regarding the role and functioning of international institutions in the context of contemporary world order and global governance in general, and the structure and process of trade negotiations and trade governance in particular. Key works on the theory and practice of international institutionalism include John Ruggie's classic statement on multilateralism in 'Multilateralism: the Anatomy of an Institution', in Ruggie (ed) *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, New York: Columbia University Press, 1993 and Robert Keohane's insights into the role of institutions, especially *After Hegemony: Cooperation and Discord in the World Political Economy*, Princeton NJ: Princeton University Press, 1994; the essays in *International Institutions and State Power: Essays in International Relations Theory*, Boulder CO: Westview Press, 1989; and *Power and Governance in a Partially Globalised World*, London: Routledge, 2002. See also Beth Simmons and Lisa Martin, 'International Organisations and Institutions', in Walter Carlsnaes, Thomas Risse and Beth Simmons (eds.) *Handbook of International Relations*, London: Sage, 2002.

Michael Barnett and Martha Finnemore make the case for the importance of rules and norms in the management of the global order in *Rules for the World: International Organizations in Global Politics*, Ithaca: Cornell University Press, 2004. Important recent analytical commentaries on global institutional order include Daniel W. Drezner, *All Politics is Global: Explaining International Regulatory Regimes*, Princeton NJ: Princeton University Press, 2007 and Lloyd Gruber, *Ruling the World: Power Politics and the Rise of Supranational Institutions*, Princeton NJ: Princeton University Press, 2000. The classic sceptical view on the role of international institutions is to be found in John Mearsheimer, 'The False Promise of International Institutions', *International Security*, 19(3) 1994: 5-49.

A summary of the different approaches to negotiation processes and their implications for the WTO can be found in Bernard Hoekman and Michael Kostecki, *The Political Economy of the World Trading System*, Oxford: Oxford University Press, 2001, 2nd Edition and Amrita Narlikar, *The World Trade Organization: A Very Short Introduction*, Oxford: Oxford University Press, 2005. Some of the normative underpinnings of the multilateral trading system are explored in Roger B. Porter, Pierre Sauv e, Arvind Subramanian and Amerito B. Zampetti, (eds.) *Equity, Efficiency and Legitimacy: The Multilateral System at the Millennium*, Washington DC: Brookings Institution Press, 2001, and in Jock A. Finlayson and Mark W. Zacher, 'The GATT and the Regulation of Trade Barriers: Regime Dynamics and Functions', *International*

*Organization* 35(4) 561-602. Readers interested in the debates surrounding the Single Undertaking and issues of “Variable Geometry” should see Thomas Cottier (ed.) ‘Mini-Symposium on The Future Geometry of WTO Law’, *Journal of International Economic Law*, 9(4) December 2006 and C. Van Grassek and P. Sauvé, ‘The Consistency of WTO Rules: Can the Single Undertaking Be Squared with Variable Geometry?’ in *Journal of International Economic Law*, 9(4) 2006: 837-864.

Since the inception of the multilateral trading system there have been calls for more explicit disciplines on certain types of trade policy measures. A good starting point for those interested in the boundaries of WTO activity, and possible directions of expansion, is the Agreement Establishing the World Trade Organization, available at [www.wto.org](http://www.wto.org). The debate on this question and proposals for reform can be followed in Simon Evenett, ‘The Failure of the WTO Ministerial Meeting in Cancún: What Implications for Future Research on the World Trading System?’ *CESifo Forum*, 4(3), Autumn 2003: 11-17 and, especially, the recent *World Trade Report*, Geneva: WTO, 2007 which discusses a number of policy areas that have been subject to negotiation in the GATT and/or the WTO. The outcome of these negotiations has differed significantly across policy areas.

In his article, ‘When should new areas be added to the WTO?’ *World Trade Review*, 4(2) 2005: 273-293, Peter Lloyd explores how WTO members might make decisions about the addition of new areas to WTO rules, and applies his criteria to three particular areas: international investment, competition law and the environment. Lloyd argues that the Doha Development Agenda opened the door for negotiations on the environment and competition policy and, conditional upon the protection of intellectual property rights in the WTO, a case may even be made for including competition rules. Keith Maskus resists this line of argument, especially with regards to environmental regulation and labour standards (see Keith E. Maskus, ‘Regulatory standards in the WTO: Comparing intellectual property rights with competition policy, environmental protection, and core labour standards.’ *World Trade Review*, 1(2) 2002 135-152). The controversy surrounding the Singapore Issues presents an important insight into the contested scope of the WTO and its evolving agenda. See Simon Evenett, ‘Five Hypotheses concerning the fate of the Singapore Issues’, 4 August 2007, *Oxford Review of Economic Policy*, forthcoming, accessed at [http://www.evenett.com/articles/Fate\\_SIs.pdf](http://www.evenett.com/articles/Fate_SIs.pdf).

A 2002 special edition of the *American Journal of International Law* 96(1) 2002 also addresses the boundary questions in the WTO’s mandate. K. Bagwell, P.C. Mavroidis, and R. Staiger, ‘It’s A Question of Market Access’, (pp 56-76) argue that market access issues associated with the question of the optimal mandate of the WTO should be separated from non-market access issues. They identify “race-to-the-bottom” issues as market access issues and suggest that the WTO should address these concerns. Other relevant papers in this special edition include Robert Howse, ‘From Politics to Technocracy – and Back Again: the Fate of the Multilateral Trading System’ (pp 94-117) and John Jackson, ‘Afterword: The Linkage Problem – Comments on Five Texts’ (pp 118-125).

One scholar questions whether the difficulties in reaching an agreement in the Doha Round signal the need for institutional reform of the WTO. Procedural improvements by themselves will not solve policy disagreements, but the lessons being learned in the Round on how to manage traditional negotiations involving many more Members within a changing global power structure might pay off in any subsequent negotiations (see Robert Wolfe, ‘Can the trading system be governed? Institutional implications of the WTO’s suspended animation.’ Working Paper, Centre for International Governance Innovation, No. 3: 2-92, Waterloo, Canada, 2007). In an interesting theoretical exploration of these boundary issues, Paola Conconi and Carlo Perroni analyse “issue tie-in” – the possibility to make trade-co-operation conditional on co-operation in another field – between multilateral trade negotiations and environmental issues. They suggest that linking the two negotiations could in some situations play a facilitating role, while in other situations could lead to worse negotiation outcomes in both fields (see Paola Conconi, and Carlo Perroni, ‘Issue Linkage and Issue Tie-in in Multilateral Negotiations’, *Journal of International Economics*, 57, 2002: 423-447).

A key question in the management of global trade relates to issues of justice and fairness in the negotiating and decision-making process. For a persuasive theoretical discussion of the importance of concepts of justice and fairness in trade negotiations see Cecilia Albin, *Justice as Fairness in International Negotiation*, Cambridge: Cambridge University Press, 2003. See also Robert Keohane and Joseph Nye Jr., 'Between Centralization and Fragmentation: The Club Model of Multilateral Cooperation and Problems of Democratic Legitimacy' in Roger B. Porter, Pierre Sauvé, Arvind Subramanian, and Americo Beviglia Zampetti, eds. *Efficiency, Equity, and Legitimacy: The Multilateral Trading System at the Millennium*, Washington: Brookings, 2001 and John S. Odell, *Negotiating the World Economy*, Ithaca, NY: Cornell University Press, 2000. For an empirical analysis of these issues, see Sheila Page, *Developing Countries: Victims or Participants Their Changing Role in International Negotiations*, London: Overseas Development Institute, 2003. The radical critique of the limits of justice and fairness in WTO decision-making can be found in Aileen Kwa and Fatoumata Jawara, *Behind the Scenes at the WTO: The Real World of Trade Negotiations*, London: Zed Books, 2003, while an interesting attempt to explore the prospects of securing alternative forms of democratic decision-making within the WTO is Ilan Kapoor, 'Deliberative democracy and the WTO,' *Review of International Political Economy*, 11(3) 2004: 522-541.

Chapter 2 also deals with the issue of dispute settlement. For a compendium of recent legal and economic research on the WTO dispute settlement mechanism see Petros C. Mavroidis & Alan O. Sykes, (eds), *The WTO and International Trade Law/Dispute Settlement*, Northampton, MA: Edward Elgar Publishing Inc., 2005; and John H. Jackson, 'The Role and Effectiveness of the WTO Dispute Settlement Mechanism', *Brookings Trade Forum*, Washington DC: The Brookings Institution, 2000: 179-219. For a good starting discussion of the pros and cons of retaliation as a measure of last resort see Kym Anderson, 'Peculiarities of Retaliation in WTO Dispute Settlement', *World Trade Review* 1(2) 2002: 123-134.

Shortcomings in the current dispute process, such as "foot-dragging" tactics by offending WTO Members are identified in Robert Z. Lawrence, *Crimes and Punishments? Retaliation under the WTO*, Washington, DC: Institute of International Economics, 2003. To mitigate this, Lawrence proposes that Members pre-commit sectors that they promise to liberalise in case they lose a dispute. Other authors have proposed making retaliation rights tradable, such that Members who do not find it opportune to retaliate can obtain some monetary reparation, while others would acquire the right to protect their industries, supposedly at a discount (see K. Bagwell, P. C. Mavroidis and R. W. Staiger, 'The Case for Auctioning Countermeasures in the WTO', *Working Paper No. 9920*, Cambridge, MA: National Bureau of Economic Research, 2003.

In order to increase the incentive to comply, Chad Bown proposes "stiffer" penalties, that is, deliberately punitive damage awards, in 'The Economics of Trade Disputes, the GATT's Article XXIII, and the WTO's Dispute Settlement Understanding', *Economics and Politics* 14(2), 2002: 283-322. Other proposals for implementing monetary compensation can be found in N. Limão and K. Saggi, 'Tariff Retaliation versus Financial Compensation in the Enforcement of International Trade Agreements', *World Bank Policy Research Working Paper No. 3873*, Washington, DC: World Bank, 2006. They recommend that each country post a bond with a neutral party at the time a trade agreement is concluded. If a country is found to have violated its commitments, it has to decide whether to pay the fine and recover the right to its bond or to not pay the fine and forfeit the bond, which is then disbursed to the damaged country as compensation.

The other key issues for consideration surrounding dispute settlement include why countries choose to file complaints in the first instance, the costs of retaliation, and the plaintiff's legal capacity and retaliatory power on the one hand and defendant government's willingness to comply on the other. These issues are discussed in C. P. Bown 'On the Economic Success of GATT/WTO Dispute Settlement', *Review of Economics and Statistics* 86(3) 2004: 811-823. Bown argues that a government's decision to initiate a formal complaint is determined primarily by a

country's retaliatory and legal capacity and its relationship with the defendant, for instance through preferential agreements (see C. P. Bown, 'Participation in WTO Dispute Settlement: Complainants, Interested Parties, and Free Riders', *World Bank Economic Review* 19(2) 2005: 287-310). While differences in legal capacities are important, dispute patterns can also be explained by the diversity and value of exports (see H. Horn, H. Nordström and P.C. Mavroidis, 'Is the Use of the WTO Dispute Settlement System Biased?' *Discussion Paper 2340*, London, Centre for Economic Policy Research, 1999).

Other analysts have shown that the decision to bring a case depends on the strength of the implementation mechanism and the probability of reaching a favourable decision. Both aspects were strengthened with the Dispute Settlement Understanding, which removed the possibility to block panel establishment and reports as well as introducing sophisticated implementation procedures. This can help explain the boost in WTO dispute settlement activity relative to the GATT (see M. Büttler, M. and H. Hauser, 'The WTO Dispute Settlement Mechanism: A First Assessment from an Economic Perspective', *Journal of Law, Economics, & Organization* 16(2) 2000: 503-33).

It is now understood that early settlement offers the greatest likelihood of securing full concessions from a defendant, but developing countries have been less able to do so than developed ones (see M. L. Busch and E. Reinhardt, 'Developing Countries and General Agreement on Tariffs and Trade/World Trade Organization Dispute Settlement', *Journal of World Trade* 37 (4) 2003: 719-735). Small countries are frequently confronted with higher costs of information gathering given that the national mechanisms, as well as resourceful private groups, that could monitor foreign trade practices are often lacking. Once a violation of another country has been detected, many developing and Least Developed Countries may only have limited legal expertise at their disposal to bring or defend a case and may have to rely on (expensive) outside expertise (see B. Hoekman, and P. C. Mavroidis, 'WTO Dispute Settlement, Transparency and Surveillance', *World Economy* 23(4) 2000: 527-542). Unsurprisingly, therefore, developing countries are likely to pursue complaints according to their immediate trade interests. The literature suggests that while they may not be deterred from filing a dispute against bigger players, they often face difficulties in detecting an infringement and building a case and, hence, are constrained in their capacity to launch disputes (see A. T. Guzman and B. A. Simmons, 'Power Plays and Capacity Constraints: The Selection of Defendants in World Trade Organization Disputes', *Journal of Legal Studies* 34(2) 2005: 557-598).

The literature also suggests that participation of third parties, including at the consultation stage, has a major impact on dispute settlement outcomes. Third party participation increases the transaction costs of reaching a mutually agreed solution and may deter disputes from being filed in the first place (see M. L. Busch, E. Reinhardt, 'Three's a Crowd: Third Parties and WTO Dispute Settlement', *World Politics*, 58(3) 2006: 446-77). The nature of the disputed issue also has an impact on the likelihood that settlement will be reached through consultations. When the subject matter of the dispute – such as a health measure – has an all-or-nothing character and leaves little room for compromise, there is considerably less opportunity for a negotiated compromise than when "continuous" variables, such as tariff levels are concerned (see A. T. Guzman and B. A. Simmons, B. 'To Settle or Empanel? An Empirical Analysis of Litigation and Settlement at the World Trade Organization', *Journal of Legal Studies*, 31(1) 2002: S205-S235).

### CHAPTER 3

#### Trade and Development: Making the WTO Deliver More for its Weaker Members

There is another large literature on the relationships between international trade, WTO rules, and the development of nations. But not only large, this literature is often a contested area of inquiry. A survey of the contribution of trade policy to the development process can be found in the 2003 *World Trade Report*, Geneva: WTO, 2003. The various writings of Joseph Stiglitz, Dani Rodrik, and Bernard Hoekman referred to in this Bibliographical Note contain a number of different critical

perspectives on the effect of WTO rules and negotiating processes on developing countries. More positive assessments of trade policies' contributions to development can be found in the writings of Jagdish Bhagwati and Martin Wolf noted earlier. Particularly useful are the essays gathered together in Bernard Hoekman, Aaditya Mattoo and Philip English (eds.) *Development, Trade and the WTO*, Washington: The World Bank, 2002.

Most analysts, both scholars and practitioners, today recognise that trade is a necessary, if not a sufficient, condition for growth and development. Accounts of the other necessary factors in development, especially institutions, are presented in the work of economists such as Dani Rodrik. See, for example, Dani Rodrik, Arvind Subramanian and Francesco Trebbi, 'Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development', *NBER Working Paper* 9305, Oct. 2002 and Rodrik, 'Global Governance as if Development Really Mattered: UNDP: [www.undp.org/mainundp/propoor/docs/povglobal\\_governancetrade.pub.pdf](http://www.undp.org/mainundp/propoor/docs/povglobal_governancetrade.pub.pdf).

Reflective essays on the prospects for the Doha Round, albeit time-limited in their utility, can be found in Richard Newfarmer, *Trade, Doha and Development: A Window into the Issues*, Washington DC: World Bank, 2005; Bhagirath Lal Das, *The Current Negotiations in the WTO: Options, Opportunities and Risks for Developing Countries*, London: Zed Books, 2005; and Joseph Stiglitz and Andrew Charlton, *An Agenda for the Development Round of Trade Negotiations in the Aftermath of Cancun*, London: Commonwealth Secretariat, 2005, subsequently revised as *Fair Trade for All: How Trade Can Promote Development*, Oxford: Oxford University Press, 2006.

More relevant to this Report are two key issues identified in Chapter 3, Special and Differential Treatment (S&DT) and Aid for Trade (AfT). For a good survey of the S&DT literature in terms of both development issues, such as preferences and industrial policy, and implications for WTO rules, such as questions of differentiation and adjustment assistance, see P. Kleen and S. Page, 'S&DT of Developing Countries in the World Trade Organization', *Global Development Studies* No. 2, 2005 Stockholm: Ministry of Foreign Affairs, Sweden. The many types of S&DT, their apparent rationales, and potential reform are discussed by Alexander Keck and Patrick Low, 'Special and Differential Treatment in the WTO: Why, When and How?' in Simon Evenett and Bernard Hoekman, (eds.) *Economic Development and Multilateral Trade Co-operation*, Basingstoke: Palgrave and Washington DC World Bank, 2005. They argue in favour of an issue-specific approach to S&DT that would not require an *a priori* differentiation between developing country Members. Derogations from the rules would be based on economic arguments for otherwise prohibited government interventions. Access to these exemptions would be conditioned on the fulfilment of measurable provision-specific criteria. The authors demonstrate how the list of eligible countries would vary depending on the S&DT provision in question and the threshold criteria used.

Bernard Hoekman in 'Operationalizing the Concept of Policy Space in the WTO: Beyond Special and Differential Treatment', *Journal of International Economic Law* 8(2) 2005: 405-424, suggests that rather than creating formal S&DT exceptions, complaints against developing countries that do not implement "resource-intensive" obligations should be made conditional on prior approval by an independent oversight body that determines the likely benefits of implementation versus the costs of compliance – 'the development test'. In an earlier article, Z. K. Wang and L. A. Winters argued that the capacity of developing countries to implement new WTO rules should be assessed on a country-by-country basis – 'implementation audits'. (See Z. K. Wang, and L. A. Winters, *Putting 'Humpty' Together Again: Including Developing Countries in a Consensus for the WTO*, Centre for Economic Policy Research (CEPR) Policy Paper 4, London: CEPR, 2000).

AfT, as this Report argues, can present an important vehicle for harnessing trade for development. For a discussion of the origins of the policy see IME/World Bank, *Doha Development Agenda and Aid for Trade*, Washington DC: 2005 and Susan Prowse, *Aid for Trade: Increasing Support for Trade Adjustment and Integration*, (A Draft Concept Paper, London: UK Department for International Development, May



2005). The debate over AfT and its implementation has been usefully surveyed by Sheila Page in a recent paper, *The Potential Impact of the Aid for Trade Initiative*, UNCTAD, G-24 Discussion Paper Series No. 45, April 2007. One set of comments on the importance of AfT is to be found in the recent writings on the subject by the WTO Director-General Pascal Lamy (see <http://www.ideas4development.org/contributors/lamy/en/>). South Africa's Ambassador to the WTO, Faizel Ismail, sees AfT as 'an essential component of the multilateral trading system'; see Ismail, *Mainstreaming Development in the WTO: Developing Countries in the Doha Round*, New Delhi: Fredrich Ebert Stiftung and CUTS International, 2007.

## CHAPTER 4

### Reconciling Parallel Universes: Multilateralism and the Challenge of Preferentialism

The seminal work on the problems of Preferential Trade Agreements (PTAs) is Jacob Viner's *The Customs Union Issue*, London: Stevens & Sons, 1950. Viner first theorised the difference between trade creation, which is a positive, welfare-enhancing development, and trade diversion, which is welfare-reducing. Nobel Laureate James E. Meade added to the debate with his book on *The Theory of Customs Unions*, Amsterdam: North-Holland, 1955.

Jagdish Bhagwati has been a relentless critic of the trend towards preferential agreements. In 'Regionalism and Multilateralism: An Overview', in Jaime de Melo and Arvind Panagariya (eds.), *New Dimensions in Regional Integration*, Cambridge: Cambridge University Press 1993: 22-51, he makes a principled argument against PTAs addressing both the contradictions of preferential agreements and the political economy problems of opening up alternative venues for trade governance via bilateral and regional agreements. See also Jagdish Bhagwati and Anne O. Krueger, *The Dangerous Drift to Preferential Trade Agreements*, Washington DC: The American Enterprise Institute Press, 1995, and Jagdish Bhagwati, David Greenaway, and Arvind Panagariya, 'Trading Preferentially: Theory and Policy', *The Economic Journal* 108 (1998): 1128-1148.

Kala Krishna and Anne O. Krueger pioneered theoretical work on rules of origin. In 1993, Krueger pointed to the protectionist dimension of rules of origin in Free Trade Agreements. See Anne O. Krueger, 'Free Trade Agreements as Protectionist Devices: Rules of Origin', *Working Paper No. 4352*, Cambridge, MA, National Bureau of Economic Research, 1993. Krishna and Krueger further developed their arguments in 'Implementing Free Trade Areas: Rules of Origin and Hidden Protection', *Working Paper No 4983*, Cambridge, MA: National Bureau of Economic Research, 2005. A thorough overview of today's application of rules of origin has been provided by Antoni Estevadeordal, Kati Suominen and Mathew Shearer, 'Multilateralizing RTAs in the Americas: State of Play and Ways Forward', *Conference on Multilateralizing Regionalism*, Geneva, 10-12 September 2007, text at [www.wto.org/english/tratop\\_e/region\\_e/con\\_sep07\\_e/estevadeordal\\_shearer\\_suominen\\_e.pdf](http://www.wto.org/english/tratop_e/region_e/con_sep07_e/estevadeordal_shearer_suominen_e.pdf).

In its publication, *Trade Blocs*, Oxford: Oxford University Press, 2000, the World Bank provides an overview section of the theory and practice of regional preferentialism. For good general texts see Jeffrey Frankel, *Regional Trading Blocs in the World Economic System*, Washington: Institute for International Economics, 1997, and Richard Pomfret, *Unequal Trade: The Economics of Regional Trading Arrangements*, Oxford: Blackwell, 1997. For a good survey of the 'non-traditional' motives – that is beyond trade creation – for why countries enter into PTAs, see Raquel Fernandez and Jonathan Portes 'Returns to Regionalism: An Evaluation of Non-Traditional Gains from Regional Trade Agreements', *World Bank Economic Review* 12(2) 1998: 197-220. Among the motives they identify are policy credibility, signalling, insurance, through secured access to large markets, increased bargaining power and coordination. G. M. Grossman and E. Helpman in 'The Politics of Free Trade Agreements', *American Economic Review*, 85(4) 1995: 667-690 offer the classic demonstration of how political economy motivations can provide a strong reason for the formation of regional trade agreements. The longstanding propensity of nations to depart from Most Favoured Nation

treatment has been analysed by T.N. Srinivasan in 'Nondiscrimination in GATT/WTO: Was There Anything to Begin with and Is There Anything Left?' *World Trade Review* 4(1), March 2005. Richard Baldwin, 'A Domino Theory of Regionalism', in R. Baldwin, P. Haaparanta, and J. Kiander, (eds) *Expanding Membership of the EU*, Cambridge: Cambridge University Press, 1995: 25-48 shows that the establishment of RTAs create strong incentives for non-members to want to join in.

The debate over the theory and practice of regional preferentialism has been particularly strong in East Asia and the Pacific in the early 21st century. See *inter alia* Aggarwal, Vinod K. and Min Gyo Koo 'The evolution and implications of BTAs in the Asia-Pacific', in Vinod Aggarwal and Shujiro Urata (eds) *Bilateral Trade Agreements in the Asia-Pacific*, London: Routledge, 2006; Barry Desker, 'In Defence of FTAs: from purity to pragmatism in East Asia', *The Pacific Review* 17 (1): 3-26 and Christopher Findlay, Pui Hafiah and Mari Pangestu, *Trading with Favourites: Free Trade Agreements in the Asia Pacific*, Pacific Economic Papers, Number 335, Canberra: Australia-Japan Research Centre, 2003.

Recent literature has begun to reformulate the traditional opposition to preferentialism. Without ignoring the potentially sub-optimal nature of many preferential practices, several studies now address the manner in which regionalism might in some ways be reconciled with multilateralism. See Richard Baldwin, 'Multilateralising Regionalism: Spaghetti Bowls as Building Blocs on the Path to Global Free Trade', *The World Economy*, 29(11) November 2006: 1451-1518. Richard Baldwin, Simon Evenett and Patrick Low have made proposals aiming at the multilateralisation of preferential agreements in 'Beyond Tariffs: Multilaterising Deeper RTA Commitments', *Conference Multilateralizing Regionalism*, Geneva, 10-12 September 2007, at [www.wto.org/english/tratope/regione/consep07e/baldwin\\_evenett\\_low\\_e.pdf](http://www.wto.org/english/tratope/regione/consep07e/baldwin_evenett_low_e.pdf).

## Appendix II

# Membership of the Warwick Commission

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### CHAIR, THE WARWICK COMMISSION

The Honourable Pierre S. Pettigrew, PC

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Pierre Pettigrew is Executive Advisor, International with Deloitte & Touche in Toronto. He has had a distinguished career with success in both public and private sectors. He held a number of senior departments in his 10 years as a minister in successive governments of Canada. In 1996, Prime Minister Jean Chrétien appointed him Minister of International Cooperation and Minister responsible for “la Francophonie”. Minister Pettigrew was promoted to the key social and economic department of Human Resources Development in October 1996 and from 1999 to 2003, he was Minister for International Trade in the Chrétien Government and Minister for Foreign Affairs in the Martin Government. In December 2003, Prime Minister Paul Martin appointed him Minister of Health, Minister of Intergovernmental Affairs and Minister responsible for official languages. He was also the senior minister for Québec in the Government of Canada. At inter-governmental level, having been appointed “Friend of the Chair”, Pierre Pettigrew presided over negotiating groups at three Ministerial conferences of the WTO. Between 1985 and 1995, Pierre Pettigrew was Vice-President of Samson Belair Deloitte & Touche International (Montréal) where he acted as international business consultant.

### DIRECTOR, THE WARWICK COMMISSION

Professor Richard Higgott

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Richard Higgott is Pro Vice Chancellor and has been Professor of Politics and International Studies at the University of Warwick since February 1996. He was Foundation Director of the Centre for the Study of Globalisation and Regionalisation and is now Senior Scientist and Director of the European Union Framework 6 Network of Excellence on Global Governance, Regionalism and Regulation (GARNET). Previous chair level appointments have been held at the University of Manchester and in the Research School of Pacific and Asian Studies at the Australian National University, where he was Director of Graduate Studies in Foreign Affairs and Trade. He was a member of the Australian Government’s Trade Negotiation Advisory Group during the Uruguay Round of Multilateral Trade Negotiations. He is active in the work of the Council for Asia Europe Cooperation and the Evian Group. He is editor of *The Pacific Review*. He is the author/editor of some 16 books or monographs and 100 or so refereed articles and book chapters in the areas of international politics and development studies.

### WARWICK COMMISSIONERS

Professor Cecilia Albin

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Cecilia Albin is Professor of Peace and Conflict Research at Uppsala University, Sweden. Educated in the US, she was previously on the faculty at Cambridge University and Reading University, UK. Her main research interests include international negotiation, issues of justice and ethics, and international cooperation over global issues. Current projects explore different relationships between justice and durable peace. Among her publications are *Justice and Fairness in International*

*Negotiation*, 2001, 'Negotiating International Cooperation: Global Public Goods and Fairness', *Review of International Studies*, Cambridge, 2003, and *Distributive Justice and the Durability of Negotiated Agreements* (with Daniel Druckman), 2007.

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### Professor Ann Capling

Ann Capling is Professor of Political Science and Director of the Centre for Public Policy at the University of Melbourne, Australia. Her main areas of expertise are trade policy, the multilateral trade system, and global economic governance. Her recent books include *All the Way with the USA: Australia, the US and Free Trade*, 2005 and *Australia and the Global Trade System: From Havana to Seattle*, 2001. She is currently undertaking a major research project on the new politics of trade policy in the Asia-Pacific region.

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### Professor Andrew F. Cooper

Andrew Cooper is the Associate Director of The Centre for International Governance Innovation (CIGI) and a Professor in the Department of Political Science at the University of Waterloo, where he teaches in the areas of International Political Economy, Comparative and Canadian Foreign Policy, and Global Governance and the Practice of Diplomacy. He works in the areas of Canadian and Comparative Foreign Policy, International Institutional Reform, Diplomatic Innovation and Practices, The Americas (particularly Democracy Issues), Canada-Australian Relations and Celebrity Diplomacy. He has led training sessions on trade issues/governance/diplomacy in Canada, South Africa and at the WTO in Geneva. He is currently a member of the GARNET International Advisory Board and a member of the Hague Journal of Diplomacy's editorial board.

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### M. Pierre Defraigne

Pierre Defraigne is an economist and worked as a European civil servant from 1970 to 2005. He presently heads eur-IFRI, the Brussels based think tank of the *French Institute for International Relations* (Ifri). Pierre retired as Deputy Director-General in DG Trade in March 2005. He had been formerly Head of Cabinet for Pascal Lamy, European Commissioner for Trade (1999-2002), after having been Director for North-South Relations, and previously Head of Cabinet for Étienne Davignon, Vice-President of the European Commission (1977-1983). He teaches European Economic Policy at Université Catholique de Louvain. His interests focus on international economic policies, political economy and relations with developing countries.

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### Ambassador Barry Desker

Barry Desker is the Dean of the S. Rajaratnam School of International Studies, Nanyang Technological University (NTU) and concurrently Director, Institute of Defence and Strategic Studies, NTU. He was the Chief Executive Officer of the Singapore Trade Development Board from 1994 to 2000, after serving in the Foreign Service since 1970. He was Singapore's Ambassador to Indonesia from 1986 to 1993, Director of the Policy, Planning and Analysis Division of the Ministry of Foreign Affairs, from 1984 to 1986 and Deputy Permanent Representative to the United Nations, New York, from 1982 to 1984. Ambassador Desker concurrently holds a number of other appointments, including the chairmanships of the Singapore International Foundation, Jurong Port Pte Ltd and Singapore Technologies Marine.

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### Dr Heribert Dieter

Heribert Dieter has been an adjunct professor (Privatdozent) at the Free University of Berlin since 2005. He works as Senior Fellow in the Research Unit Global Issues at the German Institute for International and Security Affairs, Berlin. Since 2000, he has also been Associate Fellow, Centre for the Study of Globalisation and Regionalisation at the University of Warwick. Dr Dieter has

worked on a broad range of issues related to the development of the world economy. Specifically, he has written about regional integration in the Asia-Pacific, Africa and Central Asia, monetary regionalism and the international financial system. His current research focus is on the further development of globalisation, the development of monetary regionalism in Asia and other parts of the world and on the future of the global trading system, which appears to be undermined by the mushrooming of bilateral trade agreements.

#### **Professor Jeffrey L. Dunoff**

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Jeffrey Dunoff is Charles Klein Professor of Law & Government and Director, Institute for International Law & Public Policy at Temple University Beasley School of Law, Philadelphia, Pennsylvania, USA. Following law school, Professor Dunoff clerked for two years for a federal judge. He then practised law in Washington, DC, where he specialised in the representation of developing country governments in international litigations, arbitrations and transactions. Professor Dunoff left practice to accept a Ford Foundation Fellowship in Public International Law at Georgetown, and joined the Temple faculty in 1993. At Temple, his scholarship has focused on public international law and international trade law. During the 2007-08 academic year, Professor Dunoff will serve as a Visiting Senior Research Scholar in the Program in Law and Public Affairs at the Woodrow Wilson School at Princeton University.

#### **Professor Simon J. Evenett**

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Simon Evenett is Professor of International Trade and Economic Development at the University of St. Gallen, Switzerland. In addition to his research into the determinants of international commercial flows, Professor Evenett is particularly interested in the relationships between international trade policy, national competition law and policy, and economic development. Professor Evenett has been a (non-resident) Senior Fellow of the Economic Studies Programme in the Brookings Institution, Washington, DC. Previously, he has taught at Oxford University and Rutgers University as well as serving twice as a World Bank official.

#### **Professor Jean-Pierre Lehmann**

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Jean-Pierre Lehmann is Professor of International Political Economy, IMD Lausanne, Switzerland and Founding Director of the Evian Group. The Evian Group, which he founded in 1995, is a coalition of business, government and opinion leaders from both North and South, committed to an open, inclusive, equitable and robust world economic agenda. Since January 1997, he has been Professor of International Political Economy at IMD in Lausanne, Switzerland. Prior to joining IMD, his career, which has included academe, journalism and strategic consulting, has encompassed activities in virtually all Asian and Western European countries, as well as North America. He is the author of several books, numerous articles and reports on modern Asian history, global governance, development, trade and the international political economy.

#### **Dr Patrick Low**

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Patrick Low is Chief Economist (Director of Economic Research and Statistics) at the World Trade Organization. He was first appointed Chief Economist in May 1997 and then served as Director-General Mike Moore's Chief of Staff from September 1999 to December 2001, after which he returned to his previous post of Chief Economist. From 1995-1997 he was in the WTO's Trade in Services Division. He worked from 1990-94 in the World Bank's research complex (International Trade Division). Prior to that, he taught at El Colegio de México in Mexico City and worked as a consultant, from 1987-90. From 1980-87, Patrick worked at the GATT Secretariat in Geneva. He has written widely on a range of trade policy issues.

### Mr Pradeep S. Mehta

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Pradeep Mehta is the founder Secretary General of the Jaipur-based Consumer Unity & Trust Society (CUTS International), a leading economic policy research, advocacy and networking non-governmental group in India, with offices in London, Nairobi, Lusaka and Hanoi. Mehta serves on several policy-making bodies of the Government of India, related to trade, environment and consumer affairs, and is currently advising the Commerce & Industry Minister of India. He has also served as an NGO Adviser to the WTO Director General, Dr Supachai Panitchpakdi. He chairs the advisory committee of the South Asia Watch on Trade, Economics and Environment (SAWTEE), Kathmandu. He has served on the governing board of the International Centre for Trade and Sustainable Development on the Global Policy and Campaigns Committee on Economic Issues of Consumers International, London. He has published/edited several books and papers on trade, investment, competition and development.

### Dr Amrita Narlikar

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Amrita Narlikar is University Lecturer in International Relations at the Centre of International Studies, University of Cambridge, and Senior Research Associate, Centre for International Studies, University of Oxford. Prior to taking up her post at Cambridge, she taught at the University of Exeter, held a Junior Research Fellowship at St. John's College, Oxford, and was also Visiting Fellow at Yale University. She is the author of *The World Trade Organization: A Very Short Introduction*, Oxford: Oxford University Press, 2005. Her research interests lie in the areas of trade negotiations, international organisations, and developing countries. She is currently completing a jointly authored book on Emerging Powers in International Regimes, based on a three-year project that was funded by the Nuffield Foundation.

### Professor Pierre Sauvé

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Pierre Sauvé is a faculty member and Senior Research Fellow at the World Trade Institute (WTI), in Berne, Switzerland, where he directs a Swiss National Foundation research project on the evolving international regulatory framework in service industries. He holds Visiting Professor appointments at the College of Europe in Bruges, Belgium, at the London School of Economics and Political Science, where he also serves as a Research Associate of the LSE's International Trade Policy Unit, and at the University of Barcelona, whose LL.M. programme in international economic law and policy (IELPO) he co-directs. He is also a Fellow of the European Centre for International Political Economy (ECIPE), in Brussels, Belgium. He served as Canada's services negotiator in the North American Free Trade Agreement and was a staff member at the Bank for International Settlements, the General Agreement on Tariffs and Trade and the OECD Trade Directorate. Professor Sauvé's research interests focus on the evolution of rule-making for services trade and investment, labour mobility and the impact that regional integration agreements exert on the design and operation of the multilateral trading system.

### Dr Mills Soko

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Mills Soko's research interests include international trade, international business, emerging markets, globalisation, foreign direct investment and government-industry relations in South Africa. He is a senior lecturer at the University of Cape Town Graduate School of Business, and a founding director of Mthente Research and Consulting Services. He is a member of the editorial boards of *AfricaGrowth Agenda* and *New Agenda*. He is also a member of the board of trustees of Inyathelo (The South African Institute of Advancement), and of The Evian Group's Brains Trust. He completed a doctoral thesis on the political economy of trade policy reform in post-apartheid South Africa at the University of Warwick. He was previously employed as Director of Policy and Legislative Research in the National Council of Provinces (NCOP), the upper chamber of the South

African Parliament. Before that he worked as a researcher to the Select Committee on Trade and Industry, Foreign Affairs and Public Enterprises in the NCOP.

#### Dr Diana Tussie

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Diana Tussie directs the Department of International Relations at the Argentine Campus of the Latin American School of Social Sciences and is the founding director of the Latin American Trade Network. She is a senior research fellow at CONICET (National Council for Technical and Scientific Research). Her latest books include: *Luces y sombras de una nueva relación: el Banco Interamericano de Desarrollo, el Banco Mundial y la sociedad civil* (ed.), 2000; *The Environment and International Trade Negotiations: Developing Country Stakes*, 1999 and *The Inter-American Development Bank*, 1995. She was Guest Editor of the fall issue (volume 6, 2000) of the journal *Global Governance*.

#### Professor Brigitte Young

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Brigitte Young has been Professor of International/Comparative Political Economy at the Institute of Political Science, University of Muenster, Germany since 1999. Between 2000 and 2002, she was Expert Advisor to the high-level Enquete-Commission of the German Parliament on 'Globalization of the World Economy – Challenges and Responses'. She is a senior scientist in the Network of Excellence, funded by the EU-6. Framework Program, 'Global Governance, Regionalisation, and Regulation: The Role of the EU' (GARNET), and is the project leader of the 'Virtual Network' and 'Gender in Political Economy'. Her research areas include globalisation and global governance; transformation of the world economy, trade and financial markets; trade in services (GATS and EU); international political economy, feminist macroeconomics. She has written widely on these topics in English and German. Her book, *The Political Economy of Trade in Services (GATS). Gender in EU and China*, 2007, has just been published (in German) – an English translation will appear in the spring of 2008.

#### SECRETARY, THE WARWICK COMMISSION

##### Dr Andrew Roadnight

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Andrew Roadnight is an administrator at the University of Warwick supporting major research projects and assisting in the preparation of research-related policy and strategy. Before joining Warwick, he was a tax inspector and trade union negotiator in HM Customs & Excise (1974-91) and then a student at Warwick, where he gained a BA (Hons) in Comparative American Studies and a PhD in American Diplomatic History. He is author of *United States Policy Towards Indonesia in the Truman and Eisenhower Years*, 2002 and 'Sleeping with the Enemy: Britain, Japanese Troops and the Netherlands East Indies, 1945-1946', 2002.