

## TECHNICAL ASSISTANCE POST-DOHA: IS THERE ANY HOPE OF INTEGRATING DEVELOPING COUNTRIES INTO THE GLOBAL TRADING SYSTEM?

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### I. INTRODUCTION

Technical assistance is a joke.<sup>1</sup> To be more precise, technical assistance is the butt of jokes, most of which feature a naïve do-gooder or a rapacious private company. Did you hear the one about the Americans in Mongolia? Sent out to advise the government on building free markets, they were heartened when officials asked for several hardcopies of the voluminous U.S. securities laws—photocopied on only one side of the page. It turns out the Mongolians were not true converts to the U.S. system; they merely wanted to use the documents for scrap to alleviate the government’s chronic paper shortage.<sup>2</sup> If that does not leave you breathless, perhaps you will find the one about the private sector advisor in Kazakhstan more amusing. When a local Kazakhstani bureaucrat fancied his red swim trunks, the advisor was forced to strip down and hand them over because angering the bureaucrat might jeopardize his chance of returning to the bottomless well of the U.S. Agency for International Development (USAID) renewal contracts.<sup>3</sup>

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1. At least one development expert found that sentiment to be literally true. See Gregory Shaffer, *Can WTO Technical Assistance and Capacity-Building Serve Developing Countries?*, 23 WIS. INT’L L.J. 643, 660 (2005) (noting that “a representative of one development organization characterized WTO technical assistance as ‘a joke’”).

2. AMY CHUA, *WORLD ON FIRE: HOW EXPORTING FREE MARKET DEMOCRACY BREEDS ETHNIC HATRED AND GLOBAL INSTABILITY* 8 (Doubleday 2003).

3. Matt Bivens, *Aboard the Gravy Train: In Kazakhstan, the Farce that Is U.S. Foreign Aid*, HARPER’S MAGAZINE, Aug. 1, 1997, at 69, 73. The system of competitive bidding created by the U.S. Agency for International Development (USAID) and other grant providers comes at a cost. Because contracts are short-term affairs, assistance providers must renew them multiple times before they can recoup their expenses and actually make a profit. See Alexander Cooley & James Ron, *Perverse Aid: The New Market for Foreign Assistance* 10 (2000) (on file with author), *republished as* Alexander Cooley & James Ron, *The NGO Scramble: Organizational Insecurity and the Political Economy of Transnational Action*, 27 INT’L SECURITY 5, 16 (2002). One aid provider notes: “You are always chasing new contracts because the contracts are always ending. If

Sadly, these stories are not apocryphal. A few years ago, I managed a U.S. government-run technical assistance program targeted at North and West Africa, and I have at least a few such stories of my own.<sup>4</sup> At times, I felt my fancy law degree and stints at a prestigious law firm and the nation's preeminent

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you just stand in place, you die. You have to keep going, always searching out new contracts, always renewing bids on old contracts. It's a never-ending struggle." *Id.*

The contract renewal process gives power to local stakeholders whom the USAID will often consult before making its decision. As Bivens points out, this provides some incentive for the contractor to keep local officials happy, even if it means granting some ridiculous requests (such as giving up one's swim trunks!). In a particularly hilarious illustration of the point, Bivens recounts meeting with a bureaucrat who demanded five million pocket calendars for "training" purposes:

\$69,000 for the five million pocket calendars they had printed? We owed him \$69,000! Where was it?

The Atamura contract was in the files. In addition to the printing and paper costs, Atamura had included an author's fee, presumably for the five-sentence text exhorting citizens to support privatization; office rent; storage; transport; banking services; a "labor fund"; medical insurance; "social" insurance; and a road-building fund. An additional 5 percent of this running total was added for an "investment fund." Then an additional 10 percent of the new total was added for "rush printing." Then 10 percent of that was added as Atamura's profit margin. Grand total: \$69,000. Where was it?

Olga Kim, Burson's locally hired accountant, had been complaining for weeks about Atamura's bizarre charges. Since when, she asked, did printing a calendar also involve building a road, or insuring the printer's employees, or paying their office rent? George had told her to drop it. But, as she was quick to point out, this week George was gone, and I was the boss.

Bivens, *supra*, at 74.

4. My most memorable experience occurred on a trip to Pittsburg, Pennsylvania, during one of the first seminars I organized. I found myself in a near-shouting match with a very senior foreign dignitary who wanted to commandeer our van for a side trip to the airport for—well, for a shopping trip to New York. In that battle of wills, at least, I managed to win (and as far as I know, no adverse consequences to our USAID contract ever resulted). Many Technical Assistance Providers (TAPs) also offer local officials trips or seminars abroad, justifying these expenditures as "institutional instruction." In 1997, Kyrgyz judges were flown to Paris and Riga, parliamentarians to Washington, privatization officials to New York, health care administrators to Denmark, and oblast administrators to Switzerland. The cost of such trips can run in excess of \$10,000 each, while some seminars top \$30,000. One official directing an economic TAP acknowledged the real agenda driving these education devices when he stated, "[T]he trips are a very good bargain for us—sending the Kyrgyz on regular trips abroad allows us to continue [the project] with the co-operation of important members of the ministry." *Cf. Cooley & Ron, supra* note 3, at 15.

trade policy agency had led me to a job as a glorified travel agent. Some of the foreign officials we flew to the United States for seminars I spent weeks organizing appeared more concerned with shopping trips to New York.

Thus, the anecdotal evidence would seem to support the intuitive belief of most Americans (and many beneficiary countries) that technical assistance is a joke. But for every example of waste and graft, there are equal numbers of success stories. “Success” in the technical assistance sense of the word is measured in incremental improvements—it would be naïve in the extreme to believe the typical one- to three-year assistance contract could cure all the problems facing a developing country.<sup>5</sup> For me, success was measured project-by-project, and even individual-by-individual. If I convened a drafting session with some of the best U.S. and African legal minds to produce a model law on arbitration for West Africa, or if I helped draft Cape Verde’s foreign trade memorandum—the first substantive step in the World Trade Organization (WTO) accession process—in record time and within budget, I considered that a success.<sup>6</sup> Similarly, if I provided detailed first-rate training to an Algerian lawyer who could then go back to the legal affairs ministry and guide her country’s effort to join the WTO, I felt justifiably proud.

In the Anecdote Wars, then, there are at least two sides (admittedly, the successes are not nearly as funny as stories of naked assistance providers). But anecdotes aside, significant problems plague technical assistance programs, both in their structure and in their implementation on the ground. Problems range from the familiar bugaboos of ethnocentrism and biased assistance that merely seek to replicate in developing countries what has worked in the West (or what would be in the West’s best interest),<sup>7</sup> to difficulties within the developing countries themselves in identifying their needs and absorbing the assistance provided. As some developing countries have candidly admitted, “they need technical assistance to identify their domestic technical assistance needs.”<sup>8</sup>

The Doha Development Round was launched specifically to address some of these problems just as developing countries’ frustration with the rules of

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5. Although sometimes, I wondered. On at least a few occasions, I had foreign officials take me aside during an assistance project to ask, “So, if we join this WTO, all our problems will be solved, right?” At first, I believed the question was asked in jest, but after it happened several times, I was not so sure.

6. I recount some of my experience in Cape Verde in Marjorie Florestal, *Preparing Cape Verde for the World Trade Organization*, 18 *TRANSNAT’L LAW.* 47 (2004).

7. See generally JOSEPH E. STIGLITZ, *GLOBALIZATION AND ITS DISCONTENTS* (W.W. Norton 2003) (decrying the heavy-handed, one-size-fits-all approach of the International Monetary Fund); see also CHUA, *supra* note 2 (highlighting the dangers of technical assistance projects that export U.S.-style free markets and democracy to developing countries without the legal and regulatory mechanism to protect against a “market-dominant minority” hijacking the bulk of economic activity).

8. Shaffer, *supra* note 1, at 670.

the trading system had reached its peak.<sup>9</sup> Six years after the close of the Uruguay Round negotiations, which ushered in the greatest changes to the trading system since its inception in 1947, poor countries still found themselves on the outside looking in as the globalization phenomenon brought untold wealth to already-rich countries. Technical assistance was to be the catalyst propelling developing countries from outsider to full-fledged beneficiary of the globalization revolution, while at the same time compensating them for taking on a plethora of new rules that proved expensive to implement. To date, technical assistance has not achieved those objectives.

This Article explores some of the reasons for that failure, focusing on the challenges facing both developing countries and the WTO in its effort to provide effective technical assistance. These challenges are significant, and merely throwing money at them—increasing “aid for trade”—without addressing some of the structural impediments to meaningful technical assistance will not be enough. With the end of the Doha Development Round fast approaching, developing countries are looking to the trading system to fulfill its long-held promise of providing them with a share of the global wealth. As the WTO itself acknowledges, “technical assistance . . . is indispensable for the effective participation of beneficiary countries in the work of [the organization].”<sup>10</sup>

## **II. FROM TRADE LIBERALIZATION TO ECONOMIC DEVELOPMENT: ON THE WTO’S WINDING PATH TO THE TECHNICAL ASSISTANCE ARENA**

The effort to assist countries in achieving sustained economic growth has had a long, and somewhat tattered, history. After World War II, the United States expended massive amounts of money and technical know-how in the reconstruction of Europe and Japan. But the current technical assistance model finds its roots not in the post-war era but in the Law and Development (“L&D”) movement of the 1960s. The underlying premise of the movement was that law was an indispensable prerequisite to economic development.<sup>11</sup> If developing

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9. WTO Members launched the Doha Development Round in November 2001. *See* World Trade Organization [WTO], Ministerial Declaration of 14 November 2001, WT/MIN(01)/DEC/1, 41 I.L.M. 746 (2002) [hereinafter Doha Declaration]. The Doha Declaration makes multiple references to development issues, particularly the need to promote and strengthen technical assistance and capacity building efforts. *See, e.g., id.* ¶¶ 1, 20.

10. Comm. on Trade & Dev., *Note by the Secretariat: A New Strategy for WTO Technical Cooperation: Technical Cooperation for Capacity Building, Growth and Integration*, ¶ 2, WT/COMTD/W/90 (Sept. 21, 2001).

11. For an analysis of the theoretical underpinnings of the L&D movement, see David M. Trubek, *Toward a Social Theory of Law: An Essay on the Study of Law and Development*, 82 *YALE L.J.* 1 (1972).

countries had not as yet constructed a system of laws capable of steering them out of poverty and into the modern economy, then such a system would be imported for them from America.<sup>12</sup> During this period, a legion of American-trained lawyers fanned out into the developing world ready to build the legal infrastructure for development.

Despite the fashions of the time, the General Agreement on Tariffs and Trade (GATT), and subsequently the WTO, resisted the call to join the ranks of assistance providers. From 1947 to 1994, the organization made at best only half-hearted attempts to address developing countries' knowledge gap, hosting "Geneva Week," for example, and other short-term, seminar-type programs. Even as a record number of developing countries acceded to the GATT in the 1970s, and despite the adoption of GATT Part IV—which acknowledged "the basic objectives of this Agreement include the raising of standards of living and the progressive development of the economies of all [Members]"<sup>13</sup>—the organization defined its core mandate as trade liberalization and maintained that assistance activities were not within its competence. But that was all to change with the ending of the Uruguay Round trade negotiations in 1994.

The Uruguay Round ushered in a paradigm shift. Under the GATT's a-la-carte approach, Members could pick and choose the rules that would apply to them.<sup>14</sup> Essentially, GATT created a "two-speed" system where rich countries liberalized more of their trade and took on more regulatory commitments than did developing countries. In the Uruguay Round, developing countries changed course and signed on to a "single-undertaking," obligating them to implement *all*

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12. The L&D movement's greatest achievement was in identifying a sound legal infrastructure as a necessary building block for development. Unfortunately, that finding was later translated into some of the most ethnocentric and maladapted programs imaginable. Proponents of L&D assumed that developing countries either did not have their own laws or that those laws were not sufficiently advanced to suit a modern context. "Law" could only be found in Europe or the United States. If developing countries were to succeed, they would simply need to transplant and graft those laws onto their own systems. Many L&D practitioners subsequently repudiated the achievements of their field and even questioned some of its basic tenets. *See, e.g.,* JAMES A. GARDNER, *LEGAL IMPERIALISM: AMERICAN LAWYERS AND FOREIGN AID IN LATIN AMERICA* (1980) (maintaining that American legal assistance was often "inept, culturally unaware, and sociologically uninformed"), *quoted in* Carol V. Rose, *The "New" Law and Development Movement in the Post-Cold War Era: A Vietnam Case Study*, 32 *LAW & SOC'Y REV.* 93, 124 (1998); *see also* Trubek, *supra* note 11, at 15-16 ("To the extent . . . that economic development in the Third World is not based on free markets [Max] Weber's work cannot support any inference that modern law as defined by [L&D's] core conception will cause or contribute to economic development.").

13. Protocol Amending the General Agreement on Tariffs and Trade to Introduce a Part IV on Trade and Development art. XXXVI:1(a), Feb. 8, 1965, 17 *U.S.T.* 1977, 572 *U.N.T.S.* 320.

14. *See* RAJ BHALA & KEVIN KENNEDY, *WORLD TRADE LAW* 14 (1998).

WTO rules.<sup>15</sup> Having committed to a multitude of complex new rules, poorer countries found themselves unable to cope with the demands of implementation. Indeed, it was not clear that implementation was even in their interest. As World Bank economist J. Michael Finger bluntly notes:

Implementation will require purchasing of equipment, training of people, establishment of systems of checks and balances, etc. This will cost money and the amounts of money involved are substantial . . . an entire year's development budget is at stake in many of the least developed countries. Would such money be well spent? . . . [F]or most of the developing and transition economies—some 100 countries—money spent to implement the WTO rules . . . would be money unproductively invested.<sup>16</sup>

The “Implementation Problem,” as it came to be known, galvanized the WTO to action as developing countries demanded more and better technical assistance to meet their commitments. In the early days of providing such assistance, the WTO's efforts were less than spectacular, even by its own admission. The organization faced the same problems that other assistance providers had confronted: lack of donor funding, or ear-marked funding, that lacked flexibility; lack of coherence among the aid agencies resulting in duplication of effort; and lack of an overall design-plan for the provision of assistance that incorporated input from recipient or beneficiary countries. In short, the WTO found itself with too few resources responding to one-off requests for technical assistance from developing countries without sufficient coordination with other technical assistance networks. The organization was truly outside its area of competence.

In response to its failure, the WTO adopted The New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration (“New Strategy”). The New Strategy called for a revamp of the WTO's assistance model to provide “a more focused response . . . within a coherent trade policy framework.”<sup>17</sup> One-off training opportunities were disfavored; the organization committed itself to providing technical assistance that was part of a broader

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15. *See id.*

16. J. Michael Finger & Phillip Schuler, *Implementation of the Uruguay Round Commitments: The Development Challenge*, 23 *WORLD ECON.* 511, 511 (2000); *see also* J. Michael Finger, *Implementing the Uruguay Round Agreements: Problems for Developing Countries*, 24 *WORLD ECON.* 1097, 1097 (2001) (“At the Uruguay Round, developing countries took on an implementation burden for which they did not get equivalent value in return. The implementation burden is a real economic burden, beyond the difficult domestic politics that market access concessions entail. Trade negotiations are—institutionally speaking—an ineffective instrument for dealing with the economics of the implementation issue.”).

17. *Comm. on Trade & Dev.*, *supra* note 10, ¶ 3.

integrated national plan linking WTO implementation obligations with development plans and poverty reduction strategies.<sup>18</sup> The WTO's new approach to technical assistance represents a sea change that the organization is "still digesting."<sup>19</sup> Despite the changes, the New Strategy fails to address some significant structural impediments to the provision of effective technical assistance.

Perhaps the greatest impediment is the organization's continued uneasiness with the idea that development and technical assistance are part of its "core function." The first sentence of the New Strategy reiterates that "the core mandate of the WTO is trade liberalization."<sup>20</sup> Implicitly then, development and technical assistance are ancillary activities; to the extent it continues to be viewed as peripheral to the organization's "core mandate," technical assistance activities will continue to be seen as not much more than a boon—an almsgiving venture—developed countries bestow on their poorer colleagues. Of course, a boon may be granted or withheld at the grantor's discretion. Such has been the funding experience for the WTO's assistance activities. When developing countries declined to incorporate the "Singapore Issues" into the Doha Round negotiations, for example, rich countries immediately responded with veiled threats to reduce technical assistance funding. Indeed, the very structure of funding for assistance activities highlights the problem of relegating such activities to the periphery of the organization's mandate. Rather than receiving monies from the general budget, most WTO assistance activities are funded through a combination of the general budget and special "trust funds," or voluntary member contributions. This leaves technical assistance vulnerable to manipulation and pressure.<sup>21</sup>

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18. The New Strategy has seven broad objectives: (1) coordinate effectively with key development partners; (2) assist beneficiary countries to understand their rights and implementation obligations—focusing on helping beneficiary countries "better understand and use the rules"; (3) increase the volume and quality of technical assistance; (4) provide a "focused response" to the priorities identified by beneficiary countries—within a more coherent policy framework; (5) support national efforts at building durable institutions and increasing capacity in trade policy matters; (6) ensure WTO assistance is provided within a coherent policy network—not on a stand-alone basis; and (7) provide legal advice and assistance in dispute settlement matters. *Id.* The organization identified several modes of delivery of these services, including country-by-country technical assistance, regional training efforts, and technical assistance that is agreement-specific. *Id.* ¶ 6.

19. Comment of a WTO official, *quoted in* Shaffer, *supra* note 1, at 647.

20. Comm. on Trade & Dev., *supra* note 10, ¶ 1.

21. For example, technical assistance for the "Singapore Issues," by no means a priority for developing countries, represented over 50% of funding. U.N. DEV. PROGRAMME [UNDP], Human Dev. Report Office, *Occasional Paper: International Trade Technical Assistance and Capacity Building 4-5* (2005) (prepared by Carolyn Deere), available at [http://hdr.undp.org/docs/publications/background\\_papers/2005/HDR2005\\_Carolyn\\_Deere\\_5.pdf](http://hdr.undp.org/docs/publications/background_papers/2005/HDR2005_Carolyn_Deere_5.pdf).

The right of development is part of the balance of rights and obligations undertaken by each Member of the WTO.<sup>22</sup> Technical assistance is not a boon but a tool used in the effort to operationalize that right. As developing countries struggle to honor their Uruguay Round commitments, and as they take on new commitments in this round and in the future, it becomes imperative to depoliticize funding for technical assistance and to make it more effective.

WTO Director-General Pascal Lamy recently noted that the goal of the current development round “is to redress the existing imbalances in multilateral trade relations.”<sup>23</sup> Lamy went on to predict: “Were this Round to fail, developing countries would pay the highest price. . . . But the biggest loser, however, would undoubtedly be the WTO. . . . We now approach the moment of truth.”<sup>24</sup> The moment of truth to which Lamy refers is not just in December 2006, when the Doha negotiations are slated to end; the truly critical period will be the months and years immediately following the end of the round. If, in that time period, developing countries do not at last begin to derive some benefits from their WTO membership, it is doubtful that the organization will continue to exist as presently configured. Either developing countries will leave *en masse*, and the organization will thereby lose its representative character, or Members will have to reconsider the single-undertaking approach and return to the WTO’s “two-speed” past—applying different rule sets to developed and developing countries and allowing them to take on new commitments at a speed commensurate with their level of development.

At least for now, neither option appears optimal. How are we to prevent those outcomes? How are we to ensure that developing countries receive the resources to become fully integrated into the global economy? Providing effective technical assistance is a necessary, though not sufficient, prerequisite.

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22. Part IV of the GATT—entitled “Trade and Development”—provides the legal basis for a “right of development,” as well as a number of stand-alone provisions, such as the decision on *Differential and More Favourable Treatment, Reciprocity and Fuller Participation of the Developing Countries*, L/4903 (Nov. 28, 1979), GATT B.I.S.D. (26th Supp.) at 203 (1980). Better known as the “Enabling Clause,” the decision allows WTO members to deviate from the “most favored nation” or nondiscrimination clause of GATT Article I in favor of developing countries—i.e., permitting developing countries to receive “special and differential” treatment.

23. Pascal Lamy, Dir.-Gen., World Trade Org., Negotiations on the Doha Development Agenda: We Approach the Moment of Truth, Address Before the Committee on International Trade, European Parliament (Mar. 23 2006), [http://www.wto.org/english/news\\_e/sppl\\_e/sppl21\\_e.htm](http://www.wto.org/english/news_e/sppl_e/sppl21_e.htm).

24. *Id.*



### III. THE POST-DOHA DEVELOPMENT AGENDA: MAKING TECHNICAL ASSISTANCE RELEVANT

There have been a number of excellent proposals for improving the WTO's technical assistance programs, including suggestions for working more closely with agencies like the World Bank and the International Monetary Fund, as well as regional development banks; creating a semi-autonomous agency that could provide bias-free advice; and opening a "branch-office" of sorts in Africa given the significant focus on technical assistance work on the continent.<sup>25</sup> Before any of these reforms can have a significant impact, however, the WTO must deal with the core of fear and distrust many beneficiary countries feel towards the organization and its assistance work. One African representative characterized WTO assistance as "ideological," contending "[t]hey come to tell us what to think, what our positions should be."<sup>26</sup> The WTO has responded, in part, by hiring more staff from developing countries, and by partnering with universities and respected institutions in the developing world, like the African Development Bank and the U.N. Economic Commission for Africa.<sup>27</sup>

More needs to be done to address the underlying distrust of WTO assistance activities. One suggestion I would make is to increase the opportunities for South-South technical assistance projects—perhaps funded by the WTO. Countries like India, Brazil, and now China, have a wealth of knowledge that can be shared, and they do not come with the same amount of "baggage" that WTO secretariat officials bring with them to the developing world.

Another suggestion—more in the form of an exhortation—is for the WTO to fully align its assistance activities with the development agendas of the beneficiary countries. While it is sometimes difficult for developing countries to assess their needs, at least some African countries have begun the process of identifying for themselves the path towards development through the New Partnership for Africa's Development (NEPAD). NEPAD evidences "the determination of Africans to extricate themselves and the continent from the

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25. See, e.g., Shaffer, *supra* note 1, at 683. While beyond the scope of this Article, I make suggestions about increasing technical assistance with universities in Marjorie Florestal, *Bridging the Gap: Using Technical Assistance Projects to Promote International Academic Partnerships* (2005) (unpublished manuscript on file with author).

26. Shaffer, *supra* note 1, at 650.

27. I participated in one WTO assistance project in Africa—jointly sponsored with the African Development Bank and the U.N. Economic Commission on Africa—where the organizer and many of the "resource" people were Africans. Alas, even that effort back-fired as at least one participant remarked to me the WTO had merely hired some "sell-outs" to do their dirty work. (I somehow managed to avoid getting tagged with that label myself. It helped, I suppose, that I was working for the African Development Bank at the time, and that I am an American of Haitian descent. Most Africans I have met through my assistance work identify far more with my Haitian heritage than my American one.)

malaise of underdevelopment and exclusion in a globalising world.”<sup>28</sup> To do this, NEPAD “set[s] an agenda for the renewal of the continent. The agenda is based on national and regional priorities and development plans that must be prepared through participatory processes involving the people.”<sup>29</sup> While some detractors suggest NEPAD is not so much a continent-wide effort as it is a document engineered by a handful of Africa’s “Big Men” with little input or support from the masses,<sup>30</sup> it does serve as a useful model of an African-driven initiative. Rather than contorting the African agenda to fit the needs of developed countries, NEPAD and measures like it can guide both Africa and the West to create technical assistance programs that fulfill the African agenda. Vietnam’s effort to use Western assistance to promote economic development while preserving its political structure is instructive in this regard (although perhaps not politically correct):

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28. THE NEW P’SHIP FOR AFR.’S DEV. [NEPAD], THE NEW PARTNERSHIP FOR AFRICA’S DEVELOPMENT (NEPAD) 1 (2001), <http://www.nepad.org/2005/files/documents/inbrief.pdf> [hereinafter NEPAD].

The NEPAD strategic framework document arises from a mandate given to the five initiating Heads of State (Algeria, Egypt, Nigeria, Senegal, South Africa) by the Organisation of African Unity (OAU) to develop an integrated socio-economic development framework for Africa. The 37th Summit of the OAU in July 2001 formally adopted the strategic framework document.

NEPAD, NEPAD in Brief, <http://www.nepad.org/2005/files/inbrief.php> (last visited Apr. 20, 2006).

29. NEPAD, *supra* note 28, at 10.

30. See, e.g., Ian Taylor, *NEPAD Ignores the Fundamental Politics of Africa*, CONTEMP. REV., July 2004, at 29, 32.

It is a nonsensical strategy to rely on the Big Men to be the engines of positive change in Africa. Whilst NEPAD remains so dependent upon corrupt dictators to miraculously embrace good governance and democracy, something which goes against the very logic of their own rule, its project to promote the continent’s regeneration in the new millennium, will likely remain stillborn.

*Id.* For a detailed analysis of NEPAD, see James Gathii, *A Critical Appraisal of the NEPAD Agenda in Light of Africa’s Place in the World Trade Regime in an Era of Market Centered Development*, 13 TRANSNAT’L L. & CONTEMP. PROBS. 179, 180-81 (2003) (“NEPAD adopts a market-centered approach to development primarily financed by flows of western aid and capital. As such, NEPAD falls short of challenging and dismantling the structures sustaining inequality, poverty and hierarchy both within and without the African state that stand in the way of Africa’s sustainable development.”).

Because Vietnam's legal system is expected to serve a dual function—promoting economic liberalization while maintaining the one party structure—Vietnam's officials temper their enthusiasm for foreign legal assistance with concern that outside actors, particularly the United States, “still seek to overthrow the Vietnamese Communist Party and to ‘free’ Vietnam.” Vietnam thus has attempted to dilute the political impact of international legal cooperation by limiting legal assistance to technical, market-oriented reforms and by fostering legal exchange with a diverse range of bilateral and multilateral donors.<sup>31</sup>

#### IV. CONCLUSION

There is hope of integrating developing countries into the global trading system. But the coming end of the Doha Development Round<sup>32</sup> must bring with it more than hope if “developing countries, and especially the least-developed amongst them, [are to] secure a share in the growth in international trade commensurate with the needs of their economic development.”<sup>33</sup> Despite some of the problems identified in this Article, technical assistance is an important tool to propel developing countries into the global economy. It must be acknowledged, however, that such programs can play only a supporting role—albeit a significant one—in that process. Ultimately, it is for developing countries themselves to draft and implement coherent development agendas that are in line with *their* interests; technical assistance should be used to advance those needs rather than to promote the interests of the West.

In the Post-Doha era, the measure of success for technical assistance projects should be the extent to which developing countries convert what they have learned to serve their own interests. After all, the basic premise of the modern trading system is that naked self-interest ultimately promotes the interests

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31. Rose, *supra* note 12, at 95 (citations omitted).

32. The Doha Round was slated to end in December 2006, but negotiators failed to arrive at any agreement. In July 2006, Pascal Lamy, Secretary General of the World Trade Organization, declared the talks suspended, noting, “We have missed a very important opportunity to show that multilateralism works.” World Trade Org. [WTO], WTO News – DDA June/July 2006 Modalities: Summary 24 July, *Talks Suspended: ‘Today There Are Only Losers,’* [http://www.wto.org/english/news\\_e/news06\\_e/mod06\\_summary\\_24july\\_e.htm](http://www.wto.org/english/news_e/news06_e/mod06_summary_24july_e.htm). Negotiations were subsequently reopened, and in June 2007, Lamy noted that “an interim Doha agreement is now ‘within reach,’ and urged the G8 leaders ‘not to let this opportunity slip through your finger.’” WTO, *Lamy Asks G8 for “Added Political Effort” to Spur Doha Agreement*, June 8, 2007, [http://www.wto.org/english/news\\_e/sppl\\_e/sppl63\\_e.htm](http://www.wto.org/english/news_e/sppl_e/sppl63_e.htm).

33. Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144 (1994).

of all Members. Success for developing countries, in the end, will mean success for the system as a whole.<sup>34</sup>



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34. It particularly holds true when one considers that nearly two-thirds of the WTO's 150 Members are developing countries. To some extent, the term is self-defining as the WTO has no officially accepted definition of "developing country." See WTO, *Understanding the WTO: Developing Countries*, [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/utw\\_chap6\\_e.pdf](http://www.wto.org/english/thewto_e/whatis_e/tif_e/utw_chap6_e.pdf) (last visited Apr. 21, 2006).