

# RESTRUCTURING THE CURRENT INTERNATIONAL LEGAL TRADE REGIME: TOWARD THE NEW GLOBAL DEVELOPMENT CONSENSUS

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Nothing in the contemporary world matters more than achieving more inclusive, more diverse, pluralistic and balanced growth and development. The present international institutional framework is insufficient in achieving such goals. New ideas about how to institutionally reshape the contemporary trade, finance and other international legal rules must be thoroughly and comprehensively discussed.

The key international institutions, the IMF, the WB and the WTO can be restructured in such a way as to support more inclusive alternative development strategies. Without the reinvented capabilities of addressing inequalities between developed and developing countries, as well as within the countries, the current crisis may be prolonged or temporarily postponed.

More policy space, more tools and instruments are needed not only for the developing but also for the developed countries in order to be able to start building productive capacities and to create more innovation-friendly environment.

In order to restructure the existing international arrangement to support more equitable, inclusive and diverse development, which would not harm or threaten either the developed or developing parts of the world, we need to put forward a combination of proven legal rules and principles with new legal solutions.

If properly designed, the inclusion of the labor and environment standards can benefit the citizens of the trading partners, both in the developing countries and in the developed countries. The current international trade rules should be reformed so that they reward instead of punishing countries that improve labor standards.

## INTRODUCTION

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The aim of this article is to show that the existing repertoire of instruments dealing with the international economic and financial crisis is not sufficient to address the existing global economic, financial and social crisis. The method of comparative institutional analysis will show that there is not closed list of institutional possibilities as frequently claimed by the key international economic and trade institution. In order to create more sustainable, more inclusive and more diverse international environment than we witness at present, the approach of institutional reimagination is of crucial importance.

In the first part my article I try to show a relative success of the first two decades of the post-war global economic and trade development. The original Bretton-Woods regime proved to be successful in the golden era of capitalism between 1950 and 1973, characterised by high rates of economic growth, real convergence between the developing and developed world and high levels of employment with growing incomes. We should not forget that the original regime allowed countries and their government to largely maintain a control over financial flows and in the trade regime it retained many of the policy instruments which were later prohibited under the WTO regime.

In the second part I sketch the developments after the collapse of the original Bretton-Woods regime which led to the gradual liberalization of international financial flows and enhanced the role of the IMF in the form of lending conditionality. Equally important was the development of the WTO with its goal to maximize free trade and benefits for all the participants. Results of this post Bretton-Woods are highly unbalanced and as witnessed during the present crisis, highly volatile.

The key question in front of us is therefore, how to redesign international institutional arrangement to be more balanced, more sustainable and above all the be more inclusive. This is not a debate between rich north and poor south, not a debate between developed and developing world or a debate between free trades and protectionists, it is a debate how to gradually redesign international institutions in a way to secure more diverse, more balanced and inclusive international economic, social and legal development that we witness at present. For this purpose I offer some proposals which go beyond the present impasse of the Doha trade talks. At this stage of international discussions among the expert groups, more important than the details of individual proposals is the direction of the these proposals

## I. POST-WAR GLOBAL ECONOMIC AND TRADE DEVELOPMENT

The ongoing financial and economic crisis has offered us an opportunity to rethink, reimagine and restructure the current international and legal order to address the true needs of humanity. The ongoing crisis which we are witnessing, but the end of which we cannot anticipate, can be viewed unlike any other crisis in the post-war period. It raises questions about the existing international institutional structure and requires examinations about many key assumptions on which the post-war international legal and economic structure was established.

The entire post-war institutional structure was established to prevent the calamity of the 1930s and to secure an international legal framework conducive to sustainable growth, avoidance of imbalances that would threaten international growth and exchange, while preserving high levels of employment. The entire design proved to be successful in the golden era of capitalism between 1950 and 1973, characterised by high rates of economic growth, real convergence between the developing and developed world and high levels of employment with growing incomes. In this period the financial crises were relatively few in comparison with the last two decades. We still do not know whether the golden era was an exceptional period of inclusive growth and development, whereas economic volatility and financial crisis are something inherent and largely unavoidable in the future. The success can be attributed to the post-war period of reconstruction, but it can also be contributed to the international institutional design which supported such inclusive and sustainable overall development.<sup>1</sup>

At the same time it has to be noted that the institutional structure, based on the Bretton-Woods agreement had certain built-in flaws. Long before it turned out to be correct, an economist of Belgian origin, Robert Triffin, had pointed to the international institutional deficiency, namely: according to the Bretton-Woods agreement the US dollar was pegged to the gold standard, whereas other currencies were pegged to the dollar in order to secure currency stability and avoid balance of payment difficulties. Triffin has noticed that for the dollar it is not possible to provide both: international stability, based on fixed exchange rate and international liquidity which secured international economic growth. After many hesitations the US

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<sup>1</sup> On the genesis of the GATT system and its purpose to reverse the trade policies of the 1930s, see DOUGLAS IRWING, PETROS MAVROIDIS, ALAN SYKES, *THE GENESIS OF GATT*, Cambridge University Press, 2008.

government has withdrawn from the fixed exchange rate and left the currency to the international financial markets.

It was a step into uncharted territory, which was accompanied by the rise of international financial flows, reductions of government control of financial flows and overall market liberalization. The period between 1973 – 2001, which is sometimes labelled as Bretton-Woods II or the post-Bretton-Woods arrangement, contributed to much more divergent outcomes than the previous period. Despite the financial deregulation, heightened international mobility of capital and further liberalization of trade, “GDP growth per capita fell by almost half between 1960-78 and 1979-2000, from 2.7% to 1.5%. From 1980 to 1998, a majority of the world's countries (56%) experienced a level of GDP growth that was less than population growth.”<sup>2</sup> Martin Wolf presented a table which shows the sharp slowdown in growth of GDP per head between 1950-73 and 1973-98 in every one of the world's seven regions except Asia (excluding Japan).<sup>3</sup>

In the same period the number of financial crises, currency instabilities and opportunities for speculative earnings on exchange rates increased rapidly. One of the leading commentators on globalization Martin Wolf, has noted a huge growth of financial institutions in the last three decades. The mismatch between the growth of profits of financial institutions and the growth of their corporate value added shows the growing discrepancy between the financial institutions and the real economy, highly skewed toward the financial institutions. In such a (de)regulatory environment over the past three decades two main characteristics have emerged: the ability of the financial system – national and international – to generate crises, and the mismatch between public risk and private reward.<sup>4</sup>

In addition to the record of post-war unbalanced and divergent growth, the emergence of a financial systemic arrangement, prone to frequent generation of crisis, another important aspect relates to the issues of inequality. Andrew Glyn from Oxford has noticed that, unlike in the golden period of post-war economic development, the income inequality had risen in the OECD countries in the period between 1980 – 2000. The only exception was Spain, whereas the increase in the Scandinavian countries was modest. In addition

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<sup>2</sup> Robert Wade, *Globalisation: Emancipating or Reinforcing?*, Open Democracy forum, January 2007 and Branko Milanovic, *WORLD'S APART: MEASURING INTERNATIONAL AND GLOBAL INEQUALITY*, Princeton University Press 2005.

<sup>3</sup> *Id.*

<sup>4</sup> Martin Wolf, *Why is it so hard to keep the financial sector caged?*, FINANCIAL TIMES, Times, February 5, 2008.

to the OECD countries the situation in the developing countries is even more divergent. Outside the significant poverty reduction in China and India, global inequalities remained great. Despite methodological complexities, and difficulties with coherent data access, some of the most extensive studies have shown that the present global inequalities are greater than earlier thought.<sup>5</sup> Branko Milanovic has come to the conclusion that these inequalities are greater in all three aspects: countries' mean incomes (GDPs per capita) are further apart and more unequal, population-weighted countries' mean incomes are significantly more unequal, and so is inequality between world citizens.<sup>6</sup>

Perhaps the fact that the international economy in the last three decades became much more volatile and fragile was not so visible before the financial and economic crisis occurred yet. It has become visible now. Some of the characteristics of this fragile and fragmented system of production are as follows: the advanced parts of the economy in both the developed and developing world have benefited immensely; other sectors of the economy in the developed as well as in the developing world remain excluded from the benefits, know-how, resources and technologies, together with their employees. The key question not only before the G20 leaders, but also before the experts, lawyers, economists, before the business groups, trade unions and citizens at large is: how would it be possible to reorganise and restructure the international legal framework to make international and domestic markets more inclusive, more pluralistic and more diverse?

It is the aim of this article to overcome the prolonged and narrow debate along the axis between free trade and protectionism. Modern economy and society have become substantially too complex to be reduced to the overly simplistic premises of free trade *versus* protectionism. In addition to overcoming the often reductionist debate between free trade and protectionism, which too often becomes more ideological than conceptual and empirical, another phenomenon which complicates the contemporary search for new paradigms must be added. It must be noticed that there is a growing gap between rhetoric and genuine commitment to the proclaimed principles and international legal rules. One recent vivid example of this was the commitment of the G20 countries to maintaining their markets open. However, a World Bank report before the London summit in April 2009

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<sup>5</sup> Andrew Glyn, *CAPITALISM UNLEASHED*, Oxford University Press 2006, pp. 167 – 170.

<sup>6</sup> Branko Milanovic, *An Even Higher Inequality Than Previously Thought*, MPRA Archive, December 2007, available at: [http://mpra.ub.uni-muenchen.de/6676/1/MPRA\\_paper\\_6676.pdf](http://mpra.ub.uni-muenchen.de/6676/1/MPRA_paper_6676.pdf) (last visited January 11, 2011).

revealed that 17 out of the 20 countries have already enacted protectionist measures. Among the measures catalogued by the World Bank were: higher tariffs, new non-tariff barriers and more resort to trade defense measures, such as anti-dumping actions. This revelation shows that the present international legal framework is either too inefficient to address gross, repetitive violations of the trade rules in the midst of the economic crisis, or too inadequate to accommodate different economic and social situations in the midst of major economic restructuring. It should not be treated as a surprise that even the leading economies in the world, which were also key actors in designing the current system of international trade rules, have serious difficulties in observing many of the rules they themselves advocated in the past.

In order to avoid any possible misunderstanding, I would like to emphasise that trade can be and is a powerful engine of growth and development. In what exact circumstances trade is beneficial to all of the participants requires, however, a more refined and more patient analysis, whereby rich theoretical and empirical evidence must be taken into account. Even if the whole world were organised as one country, the issue of who should produce what and where would continue to depend on the given institutional arrangement.

The goal of my text is also to debate the pressing issue of the export-led growth. I will argue that the export-led growth is neither a viable, nor a necessary model of development to overcome the present economic hardship. This applies not only to the developed, but also to the developing countries. As argued by Roberto Unger in his call to reimagine international trade, maximizing trade is not a goal in itself, the goal is to create diverse institutional and development strategies of the countries around the world.<sup>7</sup> Therefore, more autonomy and policy space should be created for the countries participating in international trade. Such a more flexible arrangement would not be necessarily inconsistent with international trade rules. Some of the rules and principles were already in place during a highly successful and workable GATT regime, while some others can present novelties. How to make an international trade regime at the same time more transparent, more Pareto efficient and closer to the needs of the many segments of the developed and developing economies and their societies, is an issue which will be discussed in a section on the alternative trade institutional framework. Rules on subsidies, on intellectual property and the

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<sup>7</sup> Roberto Unger, *FREE TRADE REIMAGINED*, Princeton University Press 2007.

possibilities of introducing labour and environmental standards will be discussed.

Before coming to the discussion on the possibilities of designing an alternative trade regime, which would partly complement and partly reorganise the current trade regime, the discussion on the export-led model for the developed countries, as well as a discussion on the prospects of the developing countries will be addressed. This is not a discussion, in which the argument is that the developed countries must out of generosity give certain concessions to the developing countries. It is a discussion on how to improve the prospects of all of the countries. In the present context, when large developing countries present an anchor for economic growth, mutual benefits and interests become even more visible.

Finally, despite the narrow focus on how to reorganise the present trade regime, other international economic issues are equally or even more urgent to tackle. How to restore macroeconomic balance, how to address the issue of what is the real and proper role of financial institutions are among them. However, trade rules and principles are always at the heart of the debate about the future direction of global developments. Trade rules are an essential part of the broader, post-war Bretton-Woods and GATT arrangements and belong to the overall debate on how to restructure the current international legal and economic order.

In the context of the present discussion, the impasse of the Doha round is not neglected. Leaving aside for a moment the question of what extent the trade talks, which started in 2001 as a development round, are still relevant to the current global trade context, one may agree with the idea that, before proceeding with the negotiations, it would be useful to create a forum for creative thinking which would take into account the interests of developed and developing countries as well as of humanity at large. Only then could we proceed with negotiations within the WTO setting. Of course, reality may go in other directions, especially if bilateral and regional agreements are to go ahead. But this does not mean that a successful, balanced, inclusive and transparent trade agreement, representing the interests of the majority of countries and people, cannot be reached. A recent tendency of incorporating in the international agreements poorly defined and mutually exclusive clauses only to please certain countries, and then leaving it up to practice to resolve the open issues, is neither transparent nor productive. The same applies, for example, to highly complicated legal instruments, such as Article XVI, which is prone to different interpretations, because of embedded ambiguity, as shown by Petros Mavroidis. Such ambiguities and

complexities should and can be avoided in a more transparent and constructive international setting.<sup>8</sup>

## II. DEVELOPED COUNTRIES AND THE NECESSARY BREATHING SPACE

Most recently many surprising trends have emerged in the leading world economies. One of them was mentioned above when referring to the World Bank report on the protectionist measures in 2009. A most recent joint report on protectionist measures by WTO, OECD and UNCTAD which was presented to the G20 countries in Toronto appears, however, to be more comforting. The main finding of the report is that despite the crisis the countries resort to fewer trade restrictions, but they are accumulating. Although the WTO made an estimate that new trade restricting or distorting measures imposed since November 2009 have covered collectively around 0.4 of annual world imports (whereby the new measures concentrated in particular on base metal products, followed by machinery, agricultural products and transport equipment), a closer look at the WTO report on various kind of measures, including government support measures in both, OECD and non-OECD countries, technical barriers to trade and many other indicators and charts shows a less rosy picture.

Further to this point, the professor of international trade, Simon Evenett, questioned the entire methodology and conclusions of the WTO. He pointed to the fact that the WTO analysis should have not been limited to import restricting measures; the more objective criteria should have been to identify “jumbo discriminatory measures”, that is, those measures likely to affect a large number of trading partners and trade. If such a broader method is applied, Evenett estimates that the total trade covered by the 22 jumbo measures is equivalent to approximately 10.45% of the total value of world imports. On the basis of his calculations and findings he concludes: “while the protectionist measures are nowhere near as high as those seen in the 1930s, they are very hard to square with any claims that contemporary protectionism has affected only a tiny amount of international trade.”<sup>9</sup> One may add that his analysis on broader, jumbo discriminatory measures, also shows that these discriminatory measures are roughly equally divided

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<sup>8</sup> An insight on the issue of 'judicial activism' vs. 'judicial restraint' in the WTO Appellate Body and how the ambiguities can work sometimes against the developing and sometimes against the developed countries in JOHN BARTON, JUDITH GOLDSTEIN, TIMOTHY JOSLING, RICHARD STEINBERG, *THE EVOLUTION OF THE TRADE REGIME*, Princeton University Press 2006, pp. 85 – 87.

<sup>9</sup> Simon Evenett, *The Uneven Complicance: The Sixth Report of the Global Trade Alert*, Voxeu, June 2010, available e at: <http://www.voxeu.com/index.php?q=node/5222> (last visited January 11, 2011).

between the most advanced countries in the world and the developing countries.

It is not my aim, however, to show how protectionist the international trade has become during the financial and economic crisis. I do not believe that international trade after the decades of liberalization and expansion is anywhere near the rise of protectionism in the 1930s. It is my aim to show that the current international legal arrangement in the midst of the crisis is either not efficient in implementing trade rules and principles, which are in place, or else that the current international legal arrangement is not suitable to address the needs of developed and developing countries in the period of major restructuring and adjustment. I believe the latter is the case and it must be addressed directly sooner rather than later.<sup>10</sup>

The point is that the current international trade regime is ill-suited for major economic adjustment and restructuring even in the developed countries. This has become obvious with the huge bail-out packages to certain industries. The professor of international economics from Cambridge University, Ha-Joon Chang has analysed some of the huge rescue packages in the last two years, most notably in the automobile industry in the US, France, Italy, Germany and the UK. He has pointed to a peculiarity why these rescue packages were labelled as part of the green initiatives and came to the conclusion, that this labelling has little to do with the sudden impulse toward stronger environment protection – no matter how important and welcome such a turn may be – but primarily with an attempt to legitimise government bailing out efforts in light of the existing WTO system. Ha-Joon Chang concluded that this action by the leading economies only confirms inherent contradictions and inequities in the current trading system. Even though the WTO system has banned most subsidies, some of the subsidies mainly used by the rich countries, such as R&D subsidies, regional equalizations subsidies and agricultural subsidies, were exempted from this general ban. Another exemption is the subsidy to environmentally friendly technological upgrading. Ha-Joon Chang explains that the so-called greening subsidies have so far not been much used, but now the rich countries desperately need them, for otherwise they will get into trouble with the WTO. Based on analysis of the bail-out packages, while leaving

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<sup>10</sup> Patrick Low, *Is the WTO Doing Enough for Developing Countries?* in GEORGE BERMAN AND PETROS MAVROIDIS, *WTO LAW AND DEVELOPING COUNTRIES*, Cambridge University Press, 2007, pp. 355 – 357.

aside the packages to the financial institutions, he came to this important conclusion:

“What is going on in the automobile industry in Europe and the US exposes the inherent contradictions and inequities in the current international trading system, represented by the WTO. The system bans policy tools that developing countries use more, such as tariffs, direct subsidies and regulations on foreign investment, while being very generous with the tools that the rich countries need, such as the subsidies for agriculture, R&D and reduction of regional disparity. Now that they need to use direct subsidies in large quantity, the rich countries are just going ahead – only they are painting everything green.

By so blatantly going against the WTO rules, the rich countries have implicitly admitted that the present world trading system is not working. Rather than trying to cover this up by painting everything green, they should start a serious rethink on how to truly reform the system so that not just the rich countries but also the developing countries can use policies that are more suitable to their conditions.”<sup>11</sup>

It would be a mistake, however, to believe that this debate is just another debate on the North – South trade conflicts. The point is much more subtle and constructive. Instead of resorting to the counterproductive blaming game, which too often occurs during the trade talks, the position of Ha-Joon Chang is much more consistent and nuanced. This is why he was also supportive of the introduction of the ‘buy American’ provision to the US stimulus package with the goal of reviving the US economy. He supported this kind of provision, because the real economy takes time to adjust in the period of big shocks, and it requires a breathing space for the producers to restructure. This is the reason that he is supportive of the idea to establish a new international agreement that allows a transparent, forward-looking and time-bound protectionism as well as more infant-industry protection for developing countries.<sup>12</sup>

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<sup>11</sup> Ha-Joon Chang, *Painting carmakers green*, THE GUARDIAN, February 3, 2009.

<sup>12</sup> See a debate of leading trade experts on *That 'Buy American' provision* in THE NEW YORK TIMES, February 11, 2009.

Instead of double standards and rigged rules based on the one-size-fits-all premise, broader tools and more flexibility should be allowed in the next WTO arrangement. Such an approach would be more inclusive and ultimately in the interest of both, developing and developed countries. Perhaps clear-cut rules can be envisaged in such a way as to be acceptable to the developing and developed countries. How about simplifying and clarifying the rules on subsidies in the following way, as innovatively proposed by Roberto Unger:

“There should be a heavy presumption against outlawing a practice of subsidies on the ground that it represents a subsidy. Only when the government directly and immediately intervenes, and spends, in an effort to change the cost structure of exporting firms, and to distort the commercial relations that would otherwise prevail, is there reason to prevent the intervention. Even then, the preferred remedy is not outright prohibition but the provision of a range of negotiated compensatory measures, all the way from trade favors accorded, in another department, to the foreign countries and businesses that may have been harmed to outright payment to the governments of such nations.”  
(Roberto Unger, *Free Trade Reimagined*, p. 189)

Perhaps by reviving strategic industrial and trade policy one might help to end the deadlock in the WTO negotiations. More policy space, more tools and instruments are needed not only for the developing, but also for the developed countries in order to be able to start building productive capacities in genuinely green technologies, in the area of energy efficiency and other important sectors as a part of the knowledge based economy.

Such a productivist paradigm, strongly needed for both developed and developing countries, can mark a turning point in the history of world trade regime. It may mark a shift from mass production of standardized goods toward a constantly innovating mode of production, which would be capable of making tailored-made products. Such a shift would require a series of institutional innovations at the level of local, regional and national economies, as well as at the level of international institutional arrangement, more hospitable to permanent innovations of productions. In strict legal terms, not only rules on subsidies, but also a principle of the special and differential principle (S&DT) was interpreted substantially more broadly before the Uruguay round than after it.

Current plans of the leading international economies, which try to rescue their economies by increasing the exports span from the announced plan of the US economy to double its exports in the next five years, to the surplus countries ranging from Japan, China and Germany. This neo-mercantilist impulse is in the opposite direction from the post war balanced trade. Although the announced plans and practices are intuitively understandable, it is not sustainable to have a situation in which all major economies try to exit from the crisis by focusing on increased exports. Such a trend may indeed exacerbate the trade conflicts around the world and may further damage the already fragile and volatile global economic recovery.

An alternative to the main focus on export-led growth is equally plausible: to adopt strategies to improve, stabilise and restructure domestic markets and domestic industries. Instead of focusing on the cost efficiency of the exporting industries in all of the major economies, it would be equally important to focus on domestic, local, regional and national businesses, which appear to be largely neglected and left without any support. Small and medium size businesses – In many instances the most dynamic, innovative sectors – which employ the majority of the work force, are stagnating or going bankrupt due to the lack of access to capital, lack of support for investment and diffusion of new technologies. There is evidence of this phenomenon spanning from the US to the German *Mittelstand*, which represented a backbone of the German economy in the past. Without stronger support for local and regional small and medium size businesses, there is little hope that the leading economies may truly recover and reconstruct their economies in the near future.

As amply discussed by Roberto Unger, maximizing free trade is not a goal in itself, the ultimate goal is to create diverse institutional structures which allow the countries, as members of the international community, to run autonomous development strategies aiming at more inclusive, more pluralistic and more experimental market economies. Such a shift does not automatically mean that these countries which acquired comparative advantages in certain niche products are expected to give up on them. It means that in a modern, knowledge-based economy, such comparative advantages are created by deliberate policies instead of being bequeathed upon their economies as a natural gift. Comparative advantages can therefore be constantly created and recreated in a more innovative, more dynamic and more inclusive global economy. Such a shift would represent the exact opposite of ‘kicking the ladder’ of industrial development away, which is currently preventing many of the developing countries and many

ailing parts of the developed economies from participating in more advanced segments of industries.<sup>13</sup>

### III. DEVELOPING COUNTRIES AND THEIR PROSPECTS BEYOND THE DOHA ROUND

In different circumstances and in a different environment many of the developing countries face analogous challenges: how to restructure their economies and strengthen their growth prospects to overcome the crisis.

It remains unclear to what extent the Doha development round is still relevant to either developing or developed countries. Along the course the developed round has become just another trade round, whereas the expected gains from any possible new agreement have shrunk. Many important circumstances have changed in the last decade. In 2001, for example, China's share of global trade was three percent, and in 2010 it is more than 10 percent. This is only one of many important examples illustrating how rapidly international economic relations are changing, despite the impasse of the Doha round. The immense complexity of the trade talks with 153 highly diverse countries in terms of size, overall level of development, climate conditions and social inequalities does not necessarily mean that the members of the WTO cannot reach a new agreement. We should also take into account that the developing countries themselves are not a homogeneous block. There are the least developed countries with little to export, there are the middle-income and fast growing developing countries, determined to fully and completely integrate themselves with the world markets. On top of that, there are growing internal inequalities in countries, such as China and India, and the way these countries continue to integrate with the world markets, has a substantial internal distributional impact on their domestic production, on the regions and on the people.

In trying to reach a new multilateral agreement, certain underlying assumptions should be changed. At the moment, the assumptions of the Doha round are not accommodating the needs and concerns of the leading economies – just think of reported remarks by the US president Obama during the G20 summit in Toronto about the need to redefine some of the basic premises of the Doha round, about the need to think outside the box and not focus only on agriculture and non-agriculture markets, but add other issues to the agenda like services. His other remarks related to the point that the deal does not do enough for the least developed countries. His

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<sup>13</sup> Ha-Joon Chang, *KICKING THE LADDER AWAY*, Anthem Press, London, 2003.

assessment is that the big winners are the major emerging economies, apparently fast-growing countries such as China and India. These reported remarks on the current impasse of the Doha round suggest that any possible agreement in the future may be even more difficult to obtain than in the past decade. And these talks were already very difficult. We can just remember the talks about the requirement to introduce special safeguard mechanisms for the small farmers in the developing countries, which was one of the most contentious items on the table in 2008, and was ultimately rejected despite being supported by many experts. It remains to be seen how the trade talks will continue.

In the interim period, however, while the agreement has not yet been reached, the agriculture subsidies and import tariffs by the EU and US remain in place with all of their divergent impacts on the global agriculture. In the debate on agriculture it is also important to bear in mind the observation made by Nancy Birdsall *et al.*, namely that any future liberalization of agriculture will mostly benefit consumers and taxpayers of the developed world, much less will it benefit the poor agricultural producers in the developing countries, with the exception of the most productive agricultural countries. Birdsall only highlights the complexity of the trade talks and why careful calibration of the rules can have the decisive impact on who may really benefit from a certain arrangement.<sup>14</sup> This is probably the reason why Stiglitz and Carlton have recommended a number of proposals on how to ensure that the liberalization in agriculture would have the largest positive effect on producers and the smallest negative effect on consumers (for example, on the poor people in the inner cities as opposed to the poor people in the rural areas) by differentiating among crops and countries, and have also emphasised the importance of adjustment assistance, which would need to vary among developing countries, depending on the magnitude of the adverse impact.<sup>15</sup>

Each round of trade talks has distributional effects and creates winners and losers. This is why fine tuning and mechanisms to compensate those who may lose out in certain outcomes are so important. Very sobering was an econometric analysis by Sandra Polaski that, at the aggregate, any plausible trade scenarios under Doha would produce only a modest one-time increase in world income of 40 – 60 billion USD, which represents less than 0.2

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<sup>14</sup> Nancy Birdsall, Dani Rodrik and Arvind Subramanian, *How to Help Poor Countries?*, FOREIGN AFFAIRS, July/August 2005, VOL. 84, NO. 4, pp. 136 – 152.

<sup>15</sup> Joseph Stiglitz and Andrew Carlton, *FAIR TRADE FOR ALL*, Oxford University Press 2005, pp. 120 – 124.

percent of global GDP. Adjustment costs for the developing countries need to be taken into account as well. From her econometric model, measuring different possible scenarios of the Doha round, we can see that China as the developing country with the largest population – of which there is still a large pool of very poor people – benefits most, whereas many other developing countries may be even worse off, because they may lose unskilled jobs in manufacturing, for example. The most developed countries also benefit under any of the scenarios. Small gains come mainly from the liberalization of manufacturing.<sup>16</sup> The question of whether such a distributional impact would lead to the entrenchment of rigid global division of labour, should be seriously debated before reaching a new agreement.

On the other hand, Bernard Hoekman's most recent estimates are higher. For one thing, he emphasises that the Doha Round is first and foremost about creating greater security of market access, not about dramatic liberalization. Nevertheless, he estimates that according to the new assessments, global welfare gains to the order of 160 billion USD could be realised as a result of reduction in barriers to trade in manufacturers and agricultural products, and even higher in case of reduction in barriers to trade in services. He is less clear on the distributional impact of such an outcome. More important for him is to secure market access, which is why he believes it is better to take what is on the table in the period of economic crisis.<sup>17</sup>

Is this really good enough for the developing, albeit heterogeneous world, after almost a decade of negotiation of the 'development' round, where the words 'development' and 'developing' in the Doha Ministerial declaration are repeated 39 and 24 times respectively in 52 paragraphs? Can we craft a carefully tailored agreement, closer to the needs of the developing and developed countries, taking into account broad productivist interests around the world? Would it be possible to incorporate the declared goals from the Millennium Development Goals as part of the future global trade

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<sup>16</sup> Sandra Polaski, *Winners and Losers: Impact of the Doha Round on Developing Countries*, Carnegie Endowment, March 2006, available at: <http://www.carnegieendowment.org/files/winners.losers.final2.pdf> (last visited January 11, 2011)

<sup>17</sup> Bernard Hoekman, Will Martin, Aaditya Matoo, *Conclude Doha, it matters!*, World Bank Policy Research Paper 5135, November 2009, available at: [http://www.wto.org/english/res\\_e/reser\\_e/dialogue\\_paper\\_worldbank\\_e.pdf](http://www.wto.org/english/res_e/reser_e/dialogue_paper_worldbank_e.pdf) (last visited January 11, 2011); see also Bernard Hoekman, *The Doha Round Impasse*, Voxeu, June 2010, accessible at: <http://www.voxeu.com/index.php?q=node/5206> (last visited January 11, 2011).

arrangement, whereby focusing not only on providing basic human needs, but also on encouraging the developmental potential of the developing world? Would not such an enhanced approach better serve the true needs of humanity, of developing and developed countries? One possibility is to pragmatically conclude the Doha round and then approach a much more comprehensive review of the international trade premises and practice; another is to create a representative and qualified forum outside the negotiation talks in order to reflect more comprehensively how to reach an optimal agreement in the given, rapidly changing, global economic environment.

#### IV. AN ALTERNATIVE MODEL OF TRADE ARRANGEMENT

When analysing the current trade regime and the development talks, Joseph Stiglitz has stated that a development agreement – if genuinely trying to address challenges of the developing countries – would have to be substantially different from the proposal which led to the suspension of talks in the summer of 2008. The crucial issue is how to accommodate diverse interests, development plans, and levels of development in a more inclusive, more balanced and more pluralistic trade arrangement. The export-led growth, when all of the large economies try to export themselves out of the crisis, is not a viable model and it does not internally integrate national economies. Such an approach may create new trading tensions in the future without resolving the issue of global trade balance.

A few years ago Robert Wade has emphasised the need to put forward a model, based on wage-led growth.<sup>18</sup> He maintains that export demand is not the main source of economic growth and that it is possible to create an internally integrated economy with a dense set of input-output linkages between sectors, and a structure of demand ensuring that a high proportion of domestic production is sold to domestic wage earners. Such a model he believes is viable for the developing countries. Developed countries may also reflect this option.

As we see at present, however, many of the developed countries have difficulties in internal articulation of production due to the increasingly fragmented production and also to outsourcing of certain parts of

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<sup>18</sup> Robert Wade, *What Strategies are viable for developing countries today? The WTO and the shrinking of 'development space'*, DEVELOPMENT RESEARCH CENTRE, LSE, June 2003, accessible at: <http://eprints.lse.ac.uk/28239/1/WP31RW.pdf> (last visited January 11, 2011).

production. Some of the leading economies probably overspecialise in certain segments of the economy, for example in finance and services, and they are forced to think about how to revive and restructure manufacturing capabilities. This only adds to the argument about the need for a more productivist paradigm, based on innovative, knowledge-based types of production with a broad social base. Broadening of productive capabilities of all participants and democratization of industrial relations goes hand in hand with such an alternative model of trade.

Some of the key elements of the alternative model relate to the more transparent rules on subsidies; more elaborated rules on labour standard – one of the important elements which is entirely missing in the current trade talks; and more elaborated environmental protection rules. In the near future, several other asymmetries of the present world trade regime will also have to be discussed. As observed by Roberto Unger, the present world trade regime can be labelled as selective unfreedom freedom, according to which capital and products move around the world freely, whereas people remain in their home countries, and while ideas remain protected by the intellectual property rules. He believes that sooner rather than later it should be the other way around to more successfully combine economic openness and national diversity.

We saw in the previous sections of this article that subsidies continue to play an important role even in the most advanced economies in the world. They played an even more important role when those countries embarked on the path of industrialization. The same should be allowed to the developing countries. Foreign direct investments are important, but they cannot sufficiently replace the importance and need of domestic support to infant industries. There is a real risk of favouritism and inefficient use of subsidies by the government of developing countries, although a number of countries from Singapore to South Korea and Taiwan show that the subsidies can be efficiently used to support domestic development. Transparency of public investments and subsidies, a decentralised approach in launching several mutually competitive development strategies and a mixture of domestic support and gradual opening out to the world trade can work successfully – are some of the elements, of how a modern development strategy for the developing countries might look.

Openness and domestic development can be reconciled in many ways, including with the temporary opt-outs for the economies which are restructuring and reorganizing their economies. Such a regime, with envisaged opt-out rules in order to reconcile national development strategies

with international openness, resembles more the GATT arrangement than the current WTO arrangement, as we are reminded by Roberto Unger.

There are other elements, however, which have not yet been tried. Linking labor standards with trade is one such important element. The deal on linking higher labor standards in return for greater access to the markets, new technologies and innovations can have a positive impact on the developing countries with an upward pressure on returns to labor and can also benefit workers in the developed countries. It can, however, have also a negative impact: if the developing or middle income countries find themselves in a situation of high unit labor costs, countries can be trapped in high labour costs combined with low productivity, from which there is no easy way out. Mexico is one such example: relatively high labour costs in comparison with China and India on one hand, and relatively low level of productivity on the other, threatens its economic future, because it remains unable to improve productivity and is unable to reduce labour costs to comparative levels. The solution in such a case, as suggested by Roberto Unger, is to launch concerted efforts toward improving access to ideas, innovations and technologies, to help improve productivity of labour and total factor productivity. This cannot happen automatically and over-night, but it may change some of the basic premises of comparative advantages.

There are many other aspects of the global labour standards, the improvement of which may prevent a global race to the bottom. The vast pool of poor, but increasingly more educated and skillful workers from China, India and other big developing countries could enter markets on more favourable terms, than is the case at present. This would be beneficial to them, to the workers in the advanced countries and to humanity at large. The global minimum wage agreement and effective prohibition of child and slave labour should present an important part of this equation.

Similarly important to the linkage of labour standards to trade access are environmental standards. They are important for the developing countries, for their people and for the whole world. The countries which prove to systematically care for and improve the environment standards should be rewarded by better access to the developed markets and by more diffusion of advanced technologies. This could create a virtuous circle of cooperation and advancement, as opposed to the many instances of race to the bottom in the area of environment we witness at present.

It has to be noted that, if intellectual property is part of the international trade instead in addition to WIPO, the same could apply to labour standards

and ILO. Labour standards and improvements can be part of the ILO activities, but labour standards can be also linked to the trade issues.

The issue of intellectual property protection is also very demanding with a series of arguments and counter arguments. Perhaps a system of public rewards and subsidies at the international level can be tried out again, as it was practised in the nineteenth century in order to enhance diffusion of technologies and innovations inside the countries and at the international level. Rigidity of the property rights, heavily skewed toward exclusion and monopoly, is only one of the many possibilities for regulating the rules in the area of intellectual property. Other, more open systems can be equally seriously exploited and designed without destroying incentives for future research, innovations and development.

## CONCLUSION

The idea of the article is to show that there is a much broader repertory of proposals, of qualified possibilities and possible outcomes in the area of international trade, than we witness at present. The often dogmatic debate between free traders and protectionists has largely impoverished the repertory of possible institutions, instruments, standards and rules. When we accept that the current trade regime is not optimal, either for developed or for developing countries, and when we accept that there are many possible alternative approaches, which may be more transparent, more efficient than the current regime, I believe it is worthwhile to seriously engage in such a debate.

In so doing, we must not lose from our sight that the growing inequalities within the countries and globally may lead to further protectionism, not the other way around. Therefore, if we directly address some of the most pressing needs of the developing and developed countries, we may still embark on a more inclusive, more balanced and more diverse global economy with many different development strategies, from which humanity may only benefit.