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INTERDEPENDENCE BETWEEN STATES AND  
ECONOMIES  
THE INTERNATIONAL RESPONSE

*Maxime Delabarre*

ABSTRACT

Through a review of the different forms of interdependence between states and economies, this essay argues that an international response resulting from further global cooperation is the way forward. As interdependence is now weaponized to serve countries' interests, coordination is needed across global players. Specifically, trade and economic negotiations have to take place. However, one needs also to consider deep modifications to the current international framework, strongly unbalanced. International taxation, global public goods, climate change, and global value chain are among the subjects needed to be reconsidered.

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## I. INTRODUCTION

The world is global, and this is no surprise to see economic diplomacy operating in a context of “complex interactions between multiple stakeholders”.<sup>1</sup> It is traditionally considered that economic diplomacy functions within three types of tensions: between politics and economics, international and domestic pressures, and government and other forces.

The tension between politics and economics has been widely studied in the literature, especially with the work of Keohane and Nye who demonstrated the interdependence between politics and economics.<sup>2</sup> Richard Haass considered that “the biggest threat to America’s security and prosperity comes [...] from within”.<sup>3</sup> He argues that the US lost its ability to influence the global world because of internal economic and social crises. This tension is particularly well exemplified nowadays with the Chinese Belt and Road Initiative which is aimed at serving the global interests of China as well as being economically advantageous. However, the current multipolar world economy is likely to be a risky endeavor for the first tension. As Sébastien Jean argues, the current globalization will lead to a more conflicting international setup whereby the logic of power is preminent.<sup>4</sup>

The second tension relevant for this study, and somewhat related to the first one, is the conflict between international and domestic tension. It is widely noted that the international positions of government are now confronted by domestic actors and public opinions. This is particularly true in the case of the EU. With the Common Commercial Policy in place, EU Member States agreed to entrust the EU with the power of negotiations of international trade and investment agreements.<sup>5</sup> Henceforth, the EU is constantly negotiating with both Member States and civil society (the domestic tension) as well as

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<sup>1</sup> Nicholas Bayne & Stephen Woolcock, *THE NEW ECONOMIC DIPLOMACY: DECISION-MAKING AND NEGOTIATION IN INTERNATIONAL ECONOMIC RELATIONS* (2017).

<sup>2</sup> Robert O. Keohane & Joseph S. Nye, *POWER AND INTERDEPENDENCE* (2012).

<sup>3</sup> Richard Haass, *FOREIGN POLICY BEGINS AT HOME: THE CASE FOR PUTTING AMERICA’S HOUSE IN ORDER* (2013).

<sup>4</sup> Sébastien Jean & CEPII, *La démondialisation n’aura pas lieu*, *L’ECONOMIE MOND.* 2018 70–38 (2018).

<sup>5</sup> With the notable exception of portfolio investment which are still in the Member States’ jurisdictions. If originally anecdotal by nature, this distinction has proven to be relevant with the CETA ratification, needed both at the EU and Member States levels.

with external actors (its international situation). At the same time, with globalization, more economic issues are becoming international ones. The galloping ratifications of the so-called next-generation trade agreements – encompassing clauses on trade and investment of course, but also data privacy, services, intellectual property, or even norms harmonization – is perfectly illustrating how the world is developing its economic interdependence not only on trade but also on a range of other factors. As Keohane and Nye argue, the distinction between international and domestic policies is becoming pointless.<sup>6</sup>

Hence, those two tensions appear to be at the origin of interdependence between states and economies which, for this paper, will be defined as the situation in which there are reciprocal costly effects on transactions.<sup>7</sup>

More globalization means more rules. With 3,000 bilateral investment treaties<sup>8</sup> and almost 300 regional commercial agreements,<sup>9</sup> international commitments are rising and can sometimes constraint internal policies. The EU, again, is a great example showing how an international (or regional) framework can impose itself on a national government. The European Charter for Human Rights and the GATT are two other examples of agreements constraining, to some extent, domestic policies and political leadership. If one could argue that the WTO agreements are all subject to consensus, the rise of populist leaders is a threat to this globalized framework. Indeed, the very aim of international agreements is specifically to restrain national control over some domains.<sup>10</sup> This framework reduced States' room for maneuver, increasing the tensions between international and domestic interests. The question of a world lead by economic rather than democratic constraints has also been widely criticized.

By addressing the importance of interdependence in today's world (II.) and then the points in favor of international response (III.), this essay will argue

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<sup>6</sup> Keohane and Nye, *supra* note 2.

<sup>7</sup> *Id.*

<sup>8</sup> International Investment Agreements Navigator | UNCTAD Investment Policy Hub, <https://investmentpolicy.unctad.org/international-investment-agreements> (last visited Dec 15, 2020).

<sup>9</sup> WTO | Regional trade agreements, <http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx> (last visited Dec 15, 2020).

<sup>10</sup> See Yascha Mounk, *THE PEOPLE VS. DEMOCRACY: WHY OUR FREEDOM IS IN DANGER AND HOW TO SAVE IT* (2018).

that the current framework of international cooperation must be adapted (V.) to overcome the rising concerns about internationalization (IV.).

## II. WHY DOES INTERDEPENDENCE MATTER?

Interdependence is at the origin of today's asymmetries.<sup>11</sup> It is because of the importance of the phenomenon that states use it for their interests. When one considers interdependence, the first example coming to mind is probably the US hegemony on the monetary system. The extraterritorial application of anti-money laundering principles is subject to rising concerns in the legal community.<sup>12</sup> Particularly, US extraterritorial jurisdiction has led to a French bank, BNP Paribas, to settle with the US Department of Justice, plead guilty, and paid approximately \$9 billion in fine for being involved with dollar-clearing operations in Iran. Responding with competition policies, the Intel case<sup>13</sup> led the Court of Justice of the European Union (CJEU) to extend the

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<sup>11</sup> Jean Pisani-Ferry, *Le retour des asymétries mondiales*, LE GRAND CONTINENT (2020), <https://legrandcontinent.eu/fr/2020/10/20/pisani-ferry-asymetries/> (last visited Dec 15, 2020).

<sup>12</sup> This essay is not aimed at developing the current legal debate on the extraterritorial application of US law. For an introduction, see Kern Alexander, *ECONOMIC SANCTIONS LAW AND PUBLIC POLICY* (2009); Todd Doyle, *Cleaning up anti-money laundering strategies: current FATF tactics needlessly violate international law*, 24 HOUS J INTL L 279 (2001); Erin Lawlor-Forsyth & M Michelle Gallant, *Financial institutions and money laundering: A threatening relationship?*, 19 J. BANK. REGUL. 131–148 (2018); David Chaikin, *Money laundering and tax evasion—the assisting of the banking sector*, in THE HANDBOOK OF BUSINESS AND CORRUPTION (2017); Richard John Lowe, *Anti-money laundering—the need for intelligence*, J. FINANC. CRIME (2017); Austen L Parrish, *Fading Extraterritoriality and Isolationism: Developments in the United States*, 24 IND J GLOB. LEG. STUD 207 (2017); Branislav Hock, *Transnational bribery: When is extraterritoriality appropriate*, 11 CHARLEST. REV 305 (2017); Patrick Emmenegger & Katrin Eggenberger, *State sovereignty, economic interdependence and US extraterritoriality: The demise of Swiss banking secrecy and the re-embedding of international finance*, 21 J. INT. RELAT. DEV. 798–823 (2018); William S Dodge, *The Presumption Against Extraterritoriality in Two Steps*, 110 AJIL UNBOUND 45–50 (2016); Pierre-Hugues Verdier, *The New Financial Extraterritoriality*, 87 GEO WASH REV 239 (2019).

<sup>13</sup> Case C-413/14, *Intel Corp. v European Commission*, ECLI:EU:C:2017:632, Judgment of the Court (Grand Chamber) of 6 September 2017.

scope of application of TFEU article 102<sup>14</sup> through the qualified effects doctrine. Since then, EU competition has an extraterritorial scope.

The US application of extraterritoriality has increased in the past four years. In 2018, Trump withdraw from the Joint Comprehensive Plan of Action, and his administration sanctioned foreign firms for their links with Iran. This example perfectly reflects how the United States recently uses its power to achieve political interests in the fields of energy,<sup>15</sup> financial markets,<sup>16</sup> global trade,<sup>17</sup> with sanctions.<sup>18</sup>

Farrel and Newman explained how interdependence can be used as a weaponized tool, through panopticon and chokepoint effects.<sup>19</sup> They emphasize the role of networks which are at the origin of complex interdependence, especially in the financial sector.<sup>20</sup> Relying on the work of Keohane and Nye, one can easily see the power implications of this network of interdependence,<sup>21</sup> especially because globalization generated unequal networks in influence.<sup>22</sup> Interdependence is not always harmful to states<sup>23</sup> but should be carefully monitored and overseen.

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<sup>14</sup> TFEU art. 102 reads: “Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited”. The main question in the Intel case was the definition of the substantial part of the internal market.

<sup>15</sup> Jeff D. Colgan, *Fueling the Fire: Pathways from Oil to War*, 38 INT. SECUR. 147–180 (2013); Llewelyn Hughes & Austin Long, *Is There an Oil Weapon?: Security Implications of Changes in the Structure of the International Oil Market*, 39 INT. SECUR. 152–189 (2015).

<sup>16</sup> Thomas Wright, *ALL MEASURES SHORT OF WAR: THE CONTEST FOR THE TWENTY-FIRST CENTURY AND THE FUTURE OF AMERICAN POWER* (1er édition ed. 2017).

<sup>17</sup> John R. Oneal et al., *The Liberal Peace: Interdependence, Democracy, and International Conflict, 1950–85*, 33 J. PEACE RES. 11–28 (1996); Brian M. Pollins, *Does Trade Still Follow the Flag?*, 83 AM. POLIT. SCI. REV. 465–480 (1989); Joanne Gowa, *Bipolarity, Multipolarity, and Free Trade*, 83 AM. POLIT. SCI. REV. 1245–1256 (1989).

<sup>18</sup> David A. Baldwin, *The Sanctions Debate and the Logic of Choice*, 24 INT. SECUR. 80–107 (2000); Robert A. Pape, *Why Economic Sanctions Do Not Work*, 22 INT. SECUR. 90 (1997); Kimberly Ann Elliott, *The Sanctions Glass: Half Full or Completely Empty?*, 23 INT. SECUR. 50 (1998).

<sup>19</sup> Henry Farrell & Abraham L. Newman, *Weaponized Interdependence: How Global Economic Networks Shape State Coercion*, 44 INT. SECUR. 42–79 (2019).

<sup>20</sup> Robert O. Keohane, *The old IPE and the new*, 16 REV. INT. POLIT. ECON. 34–46 (2009).

<sup>21</sup> Keohane and Nye, *supra* note 2.

<sup>22</sup> See Duncan J. Watts, *The “New” Science of Networks*, 30 ANNU. REV. SOCIOL. 243–270 (2004).

<sup>23</sup> Nye argued that interdependence is actually preventing the international community from cyber-attacks. See Joseph S. Nye, *Deterrence and Dissuasion in Cyberspace*, 41 INT. SECUR. 44–71 (2017).

### III. AN INTERNATIONAL RESPONSE NEEDED

Facing the situation described above, some governments and politics could be tempted to react only through pure domestic policies.<sup>24</sup> Indeed, one could easily think about policies that do not affect the rest of the international community. For instance, a policy aimed at improving highway efficiency by restraining traffic is likely not to cross borders. But this argument is flawed in at least one major aspect. In a fully interdependent world, regulations will almost always affect other countries. This highway regulation has been taken by the United-States. Mexico introduced an action in front of a NAFTA panel which ruled in 2001 that the United States should take back this regulation,<sup>25</sup> demonstrating how interdependence leads to a conflict between multiple systems. When politics take action oriented towards their economies, they are likely to impact other countries.<sup>26</sup>

Another way in which pure domestic policies might be problematic is through the prism of the beggar-thy-neighbor theory – when actions benefit domestic industries only to the extent that they affect foreign companies. The rationale is quite simple: by creating an artificial rarity on its product, a state will see the global prices increase. As Frieden et al. noted, it could also happen with the setting of optimum tariff through which countries can manipulate their terms of trade.<sup>27</sup> A variation of the same issue is the beggar-thyself policies. Especially preponderant in the agricultural sector, they usually impact primarily the country taking the decision but can also affect the international community. Usually taken not to have an adverse effect on other countries but rather to serve another objective (health, financial stability, etc.), they can affect foreign companies' access to the market. Reducing the capacity of states to regulate in these fields seems inappropriate but international discussions are needed, mainly through next-generation trade agreements. The WTO is also quite active in this field, with agreements such as SPS,<sup>28</sup>

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<sup>24</sup> Jeffrey A. Frieden et al., *AFTER THE FALL: THE FUTURE OF GLOBAL COOPERATION* (2012).

<sup>25</sup> Mexico v. United States (US Trucking Case), NAFTA Panel, Final Report on February 6th, 2001.

<sup>26</sup> About regulation in food and agricultural sector, see Mark A Pollack & Gregory C Shaffer, *WHEN COOPERATION FAILS: THE INTERNATIONAL LAW AND POLITICS OF GENETICALLY MODIFIED FOODS* (2009); Alasdair R Young, *Political Transfer and Trading Up: Transatlantic Trade in Genetically Modified Food and US Politics*, 55 *WORLD POL* 457 (2002).

<sup>27</sup> Frieden et al., *supra* note 24.

<sup>28</sup> Agreement on the Application of Sanitary and Phytosanitary Measures.

TBT,<sup>29</sup> or TRIPS.<sup>30</sup> The Dispute Settlement Body of the WTO has had some impact on regulating those policies. In 2015, while the EU and the US challenged Chinese export quotas and duties on rare earth, thus exploiting its monopoly power in the field, the Appellate Body ruled that Chinese policies were inconsistent with GATT, art. XI prohibiting quantitative restrictions and were not justified under the general exceptions on exhaustible natural resources under the art. XX(g) of the same agreement.<sup>31</sup>

Hence, it seems relatively clear that the current challenges the world is facing cannot be answered through only domestic policies. Cooperation seems to be the key, especially when it concerns global public goods.

The first notable example is climate change. Greenhouse gas emissions cannot be tackled by one government alone without risking either to have its economy less competitive or to impact foreign companies and governments. As the benefits from those actions benefit the entire international community, a global response is needed. As every country is currently counting on others' actions, nothing can be done without a global and binding, at least to some extent, agreement.<sup>32</sup>

Regarding free trade, one could consider that countries will always favor economic rationale, the sum of which could not harm the world economy. This argument is flawed in at least two ways. First, relying on beggar-thy-neighbor policies, domestic policies favoring domestic companies can be achieved by harming foreign competitors. The imposition of quantitative restrictions at the frontier will undoubtedly advantage domestic firms (as undoubtedly as it will violate GATT, art. XI) but will harm the international community. Second, considering that every government is omniscient and will always act in the best interest of its economy is audacious. For those two reasons at least, further global governance is needed on trade.

This is also true regarding financial stability. The repeal of the Glass-Steagall Act in the US and the 2008 financial crisis demonstrated how regulation should be harmonized and why they should exist in the first place respectively. The Basel Committee has since then modified the global framework on banks' capital requirements but has been extensively

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<sup>29</sup> Agreement on Technical Barriers to Trade.

<sup>30</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights.

<sup>31</sup> AB Reports, China–Rare Earths, WT/DS431, 432, 433/AB/R (7 August 2014).

<sup>32</sup> Frieden et al., *supra* note 24.

influenced by banking interests. The same is true about the intellectual property rules within the WTO and pharmaceutical companies. A lot of other sectors would benefit from international agreements, such as migration policies, management of the seas, international taxation, organized crimes, or financial regulation with some authors arguing that the only way to avoid another crisis is with tighter international rules.<sup>33</sup>

The main advantage to multilateralism answer is the fight against special interests. Trade agreements force governments to achieve some pre-fixed objectives which reflect the interests of the public and the economies. Hence, according to Keohane et al., multilateralism is an efficient tool to enhance democracy while addressing interdependence.<sup>34</sup>

More specifically, trade negotiations are a great opportunity to do both. The principle of reciprocity fosters the need for states to act collectively. Avoiding protectionism measures and all its deviances are commonly argued to be one of the efficient ways to deal with interdependence.<sup>35</sup> This is also enhanced with GATT principles such as the most favored nation (art. I:1) or national treatment (art. III) principles.<sup>36</sup> Other scholars even go on to argue that another advantage of multilateral trade negotiation is the shift from the congress to the executive in the leadership.<sup>37</sup> This is particularly shown in the United States where the Trade Act from 1934 and the creation of the Special Trade Representative reinforced the power of the President to cut deals.<sup>38</sup> A common critic against multilateral decision-making is often the lack of flexibility, particularly in environmental protection. If no one can deny that the WTO Appellate Body is particularly oriented in favor of trade, a bunch

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<sup>33</sup> Though these authors may push the need of global governance too far, this article was written at the aftermath of the financial crisis. See *What the G20 should do on November 15th to fix the financial system*, VOXEU.ORG (2008), <https://voxeu.org/article/what-g20-should-do-november-15th-fix-financial-system> (last visited Dec 14, 2020).

<sup>34</sup> *Democracy-Enhancing Multilateralism*, 63 INT. ORGAN. 1–31 (2009).

<sup>35</sup> Michael J Gilligan, *EMPOWERING EXPORTERS: RECIPROCITY, DELEGATION, AND COLLECTIVE ACTION IN AMERICAN TRADE POLICY* (1997); John O McGinnis & Mark L Movsesian, *The world trade constitution*, HARV. LAW REV. 511–605 (2000).

<sup>36</sup> Jock A Finlayson & Mark W Zacher, *The GATT and the regulation of trade barriers: regime dynamics and functions*, INT. ORGAN. 561–602 (1981).

<sup>37</sup> See Michael A Bailey, Judith Goldstein & Barry R Weingast, *The institutional roots of American trade policy: Politics, coalitions, and international trade*, 49 WORLD POL 309 (1996).

<sup>38</sup> Gilbert R Winham, *Robert Strauss, the MTN, and the Control of Faction*, 14 J WORLD TRADE L 377 (1980).

of reports is to be considered for their environmental consideration. Among them, the case “US-Shrimp”<sup>39</sup> has been at the forefront to allow contracting parties to take measures protecting the environment based on GATT, art. XX.<sup>40</sup>

#### IV. AN INTERNATIONAL RESPONSE CHALLENGED

If the ways to tackle interdependence between states and economies could be more international negotiations and agreements, the road is not without obstacles.

First, populism is rising. Trump and Bolsonaro made their specialty of being critics of the multilateral system. Common public good, equality, rules-based decision, or the influence of experts are among the things populist love to hate.<sup>41</sup> The current blockage of the WTO Appellate Body reflects this defiance. More, the mere architecture of the WTO and the notion of consensus coupled with 159 contracting parties made the negotiations of the utmost complexity, which the Doha Round demonstrated. While the world is now more fragmented than ever with a myriad of bilateral and regional agreements, the WTO is currently failing to bring convergence.

Second, the economics of the world is challenging for global cooperation. The emergence of China is accompanied by the emergence of a multipolar world in which consensus is hard to find. More, the current world interdependence is more than what was predicted for the WTO mandate. Global value chain, foreign direct investments, capital flows, or international banking are constituent of the new interdependence for which the WTO is not prepared. Some solutions have been found but a multilateral solution is yet to be ratified. The question of externalities of trade is frequently neglected, with major players withdrawing from the few agreements that have been signed over the years. New challenges, such as data privacy or competition regulation are looming on the horizon, without the shadow of an agreement coming. It is also quite clear that, even if scholars and actioners

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<sup>39</sup> *United States–Import Prohibition of Certain Shrimp and Shrimp Products*, WT/DS58/AB/R, Appellate Body Report adopted on 6 November 1998.

<sup>40</sup> Peter Singer, *ONE WORLD NOW: THE ETHICS OF GLOBALIZATION* (2016).

<sup>41</sup> Jean Pisani-Ferry, *In a Fragmented World*, POLICY BRIEF 8 (2019).

vested in international relations strongly advocate for an international response, policymakers are strongly intertwined with their economies. The first tension needs to be taken into account and a government cannot enter an international agreement without support from its citizens and economy. The importance of internal constituents is of course of the utmost interest for policymakers operating in a form of democracy, as ignoring them will dramatically reduce their time in office.<sup>42</sup>

The perception of international agreements is an interesting proxy to establish the willingness of a government to engage in such endeavors. According to a survey conducted by the Pew Charitable Trust in 2010, 64% of American citizens believe that international agreements lead to job losses, and 50% that it has slowed the economy.<sup>43</sup> If the overall perception of international agreements tends to be slightly better in the EU, the ongoing challenges of the Union<sup>44</sup> make its international involvement more complicated. The fact that, in such situations, policymakers have to demonstrate substantial and direct advantages of international agreements for their constituents make their conclusion unlikely.

The perception of the links between international governance and democracy is one of the central issues the EU is currently facing with rising doubt about Brussels governance. Ralf Dahrendorf went on to say that “internationalization almost invariably means a loss of democracy”.<sup>45</sup> The same conclusions are often directed towards international institutions and international law.<sup>46</sup> Those critics differ with the political spectrum. While the conservatives are most worried about the human rights and environmental protection fostered by international agreements<sup>47</sup> while the left is more

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<sup>42</sup> Frieden et al., *supra* note 24.

<sup>43</sup> Tom Rosentiel, *Americans Are of Two Minds on Trade*, PEW RESEARCH CENTER (2010), <https://www.pewresearch.org/2010/11/09/americans-are-of-two-minds-on-trade/> (last visited Dec 14, 2020).

<sup>44</sup> Among which the rise of populist governments or the coordination between Member States.

<sup>45</sup> Ralf Dahrendorf, *The Third Way and liberty: An authoritarian streak in Europe's new center*, FOREIGN AFF. 13–17 (1999).

<sup>46</sup> Keohane, Macedo, and Moravcsik, *supra* note 34.

<sup>47</sup> Jeremy A Rabkin, LAW WITHOUT NATIONS?: WHY CONSTITUTIONAL GOVERNMENT REQUIRES SOVEREIGN STATES (2005); see also Jeremy A. Rabkin, WHY SOVEREIGNTY MATTERS (1998).

concerned about the influence of WTO and ICSID to protect companies' interests.<sup>48</sup>

Next, the solution of international governance or international law is quite contested. Even though the world is now more interconnected than ever, some authors are skeptical about the logic. Especially, Rodrik mentioned the inherent differences among countries, such as history or culture.<sup>49</sup> More, the mere question of global public good and beggar-thy-neighbor, which is the rationale for international cooperation to tackle interdependence, is criticized.<sup>50</sup> Indeed, Rodrik argues that policies are virtually never one of those but are operating in a much more complex framework. International firms are influencing to the utmost level domestic policies and are much more concerned about their interests than the influence of such policies on the international community. Still, the case to consider those actions as protectionist is quite weak. The mere existence of Investor-state dispute settlement mechanisms is the archetype of international agreements serving foreign investors' interests.

## V. WHERE ARE WE AIMING?

The paradigm between economics and politics on the one side and domestic and international priorities on the other is not yet to be solved. Interdependence is more present than ever on a global scale.

As it has been argued before, the international solution seems to be the path but is at the same time contested. It is commonly argued that “the pace and shape of liberalization are dictated by domestic welfare goals, not the other

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<sup>48</sup> John Braithwaite & Peter Drahos, *GLOBAL BUSINESS REGULATION* (2000).

<sup>49</sup> Dani Rodrik, *Putting Global Governance in its Place* (2019), <https://www.nber.org/papers/w26213> (last visited Dec 10, 2020).

<sup>50</sup> For an overview of the economic rationale of trade agreement, see Kevin P Gallagher & Richard Kozul-Wright, *A New Multilateralism for Shared Prosperity: Geneva Principles for a Global Green New Deal*, BOSTON UNIV. GLOB. DEV. POLICY CENT. UNCTAD (2019); Gene M Grossman, *The purpose of trade agreements*, 1 in *HANDBOOK OF COMMERCIAL POLICY* 379–434 (2016); Kyle Bagwell & Robert W Staiger, *THE ECONOMICS OF THE WORLD TRADING SYSTEM* (2004); Kyle Bagwell & Robert W Staiger, *Domestic policies, national sovereignty, and international economic institutions*, 116 Q. J. ECON. 519–562 (2001).

way around”.<sup>51</sup> New challenges such as climate, artificial intelligence, data privacy, public subsidies need to be tackled. All of those interfere with one another. How can we foster the development of international trade while protecting the environment? How can we protect data privacy and, at the same time, benefit from AI?<sup>52</sup> As Piketty argued, the rapid pace of development of the gains to capital compared to the gains of labor is a downside of the global value chain that policymakers need to take into account.<sup>53</sup> Henceforth, it could be considered that “pure” trade agreements may not be adequate to deal with the current state of interdependence. Rather, the so-called next-generation agreements raise the question of regulatory convergence or international taxation.

Pure trade agreements aimed at fostering exchanges are no longer needed at a time when the WTO agreements handle those issues relatively well. Rather, environmental considerations, harmonization of norms, and labor rights principles are more and more added to international agreements mainly in reaction to the fierce opposition at the beginning of the century against blind liberalization.<sup>54</sup> Both the NAFTA<sup>55</sup> and the Trans-Pacific Partnership include those considerations.<sup>56</sup> However, it is worth noticing that the RCEP, signed on November 15<sup>th</sup>, 2020, does not include those considerations. Rather, the agreement focuses only on tariffs, which may have been the only way to sign such a “mega-deal” without having to solve political discontents. This political shortcut is probably due to the drawback of the US from the negotiations. Also, an important question to address interdependence in those sectors is enforcement. Today, the classical path is through the WTO’s dispute settlement body. The lengthy process decreases the threat of actions that states can enforce.<sup>57</sup> Shaffer argues on this line of argument that a process

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<sup>51</sup> Harlan Grant Cohen, *What is International Trade Law For?*, 113 AM. J. INT. LAW 326–346 (2019).

<sup>52</sup> Timothy Meyer, *How Local Discrimination Can Promote Global Public Goods*, 95 BUL REV 1937 (2015).

<sup>53</sup> Thomas Piketty, *LE CAPITAL AU XXI<sup>E</sup> SIECLE* (2013).

<sup>54</sup> Robert F Housman & Paul M Orbuch, *Integrating Labor and Environmental Concerns into the North American Free Trade Agreement: A Look Back and a Look Ahead*, 8 AM UJ INTL POL 719 (1992).

<sup>55</sup> Timothy Meyer, *Saving the Political Consensus in Favor of Free Trade*, 70 VAND REV 985 (2017).

<sup>56</sup> See TPP, art. 19.3 which reads “Each party shall adopt and maintain in its statutes and regulations, and practices thereunder, the following rights as stated in the ILO Declaration”.

<sup>57</sup> Not even considering the fact that the DSB can be blocked by one State only through its refusal to appoint a judge to the Appellate Body.

like the one used for improper subsidies (i.e., the possibility to raise tariff barriers immediately and then asking for WTO review)<sup>58</sup> could be usefully applied to protect workers without enhancing protectionism.<sup>59</sup>

Many authors argue in favor of more flexibility in international agreements to deal with interdependence.<sup>60</sup> Specifically, Rodrik noted that the ban on export subsidies will negatively affect developing states' advantages of access to raw materials.<sup>61</sup> Flexibility would allow governments to react to specific domestic policies and circumstances while enforcing agreements aimed at developing common principles. Specifically, Shaffer considered that the Agreement on Subsidies and Countervailing Measures might be adapted for developing countries. Developed contracting parties could ask in return the observation of labor, environmental, or competition safeguards.<sup>62</sup>

Finally, the interpretation of current trade agreements by the WTO is often contested by developing countries, even though the Appellate Body considered domestic policies as a possible exception of GATT art. XI.<sup>63</sup> Adding flexibility in those interpretations of GATT art. XX on the general exceptions would certainly foster the development of domestic policies aimed at increasing citizens' welfare, especially in developing countries.

Finally, taxation is one of the downsides of the global value chain as it is increasingly difficult to capture the gains from trade in this situation.<sup>64</sup> Transnational tax agreements and coordination would be a good beginning to solve the problem. A good start could be to continue the discussions engaged

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<sup>58</sup> See Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and GATT, art. VI.1

<sup>59</sup> Gregory Shaffer, *Retooling Trade Agreements for Social Inclusion*, U ILL REV 1 (2019).

<sup>60</sup> See Dani Rodrik, *THE GLOBALIZATION PARADOX: DEMOCRACY AND THE FUTURE OF THE WORLD ECONOMY* (2011).

<sup>61</sup> *Ibid.*, at. 253

<sup>62</sup> Shaffer, *supra* note 59. Here, the point is not about the economic efficiency of subsidies in the domestic country but rather the political impact it could have.

<sup>63</sup> As long as they are justified, unarbitrary, non-discriminatory, and does not restrict trade more than necessary. See Appellate Body Report, European Communities—Measures Prohibiting the Importation and Marketing of Seal Products, WT/DS400/AB/R, WT/DS401/AB/R (adopted June 18, 2014) and Panel Report, United States—Measures Affecting the Production and Sale of Clove Cigarettes, WT/DS406/R (Sept. 2, 2011)

<sup>64</sup> Reuven S Avi-Yonah, *Globalization, tax competition, and the fiscal crisis of the welfare state*, HARV. LAW REV. 1573–1676 (2000).

at the OECD on the same. Meyer and Garcia go even further by suggesting a new tax on financial transactions.<sup>65</sup>

## VI. CONCLUSION

To conclude, economic exchanges and new forms of interdependence are shaping the repartition of power across the globe. Through a smart usage of networks, countries can exercise tremendous influence in fields such as communication, financial markets, trade, etc. Even if the international response is not widely seen as the response to this phenomenon, this essay demonstrated its need. The world needs coordination in the way it addresses interdependence, and this coordination can only be through international negotiations and agreements, be it soft law or treaties.

However, there is also a need to focus on priorities. Taxation of international activities, global public goods, and global value chain are all issues to keep in mind.

**Total number of words: 3,248**

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<sup>65</sup> Frank J Garcia & Timothy Meyer, *Restoring Trade's Social Contract*, 116 MLR ONLINE 78 (2017).

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