Reforming US Trade Policy for Shared Prosperity and the Planet

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Abstract

Trade was not such a controversial topic not so long ago. For most of the post-war era trade worked well for the US and for many other countries. A bipartisan consensus supported continuing trade liberalization as long as it was accompanied by full employment. However trade always had winners and losers as economies adjust to different costs of production among trading partners and over the last few decades the number of US workers losing from trade mounted and the losses spread across hard hit communities. For these and other reasons, trade has become so controversial that it is now a key pivot point in politics and elections in the US.

What changed the equation? Among many factors perhaps the most fundamental was that the US trade model itself changed, beginning in the 1980s. Instead of the gradual reduction of tariffs that had characterized trade policy it became instead an instrument to project specific economic and regulatory policies into trading partner countries through behind the border measures. And the choice of which policies the US chose to project was increasingly dominated by the interests of its global corporations and the financial sector.

Trade became a determinant of winners and losers within the US not only because of the comparative advantage of trading partners but because US trade policies privileged US investors and firms over US and other workers. Measures like stringent protections for offshore investors contrast with weak protections for labor and the environment and failure to enforce even those protections. At a time when the integration of the global economy brought a surge of workers into the global labor force and tilted bargaining power in favor of investors and firms, US trade policy augmented the rights and power of capital rather than seeking to rebalance it toward working people, communities, and the environment. Moreover, globalization has been a major contributor to climate change, as intermediate and finished products repeatedly cross oceans and continents. It is now paramount that the nation and world shift away from fossil fuels while accelerating major investments in green innovation and infrastructure.

The way forward is not isolationism but rather a profound reorientation of US trade policy. A new approach needs to push back against the imbalance of the global economy in favor of capital and establish rules that push wages and working conditions upward globally. It needs to use the incentives of trade negotiations to calibrate the world economy toward the structural

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[1] This paper draws on earlier articles by the authors such as "The Trade Strategy we Need" in the American Prospect, and Small Gains and Big Risks: Evaluating the Proposed United States-Mexico-Canada Agreement (with Jeronim Capaldo).

transformations necessary to move toward low carbon economies and combat climate change. This paper sets out an analysis of what went wrong in multilateral and bilateral trade policies and offers a concrete list of steps to change that.

What Went Wrong: From Global Prosperity to Global Deregulation

The WTO's predecessor, the post World War II General Agreement on Tariffs (GATT) was highly influenced and shaped by President Franklin D. Roosevelt's New Deal policies. The GATT established treaty-based rules, principles and governance that sought to increase global trade in a manner that allowed plenty of room for national policy, which could be calibrated toward the pursuit of financial stability, full employment and long run prosperity. A golden age of capitalism ensued. Between 1950 and 1973, average incomes in the U.S. and the rest of the world grew at a faster rate than they had for the prior century – and haven't been beaten since.

Not only did the US prosper, but so did countries like Japan, South Korea and to some extent Brazil and Mexico (but still leaving behind the least industrialized countries) by fostering national policies for innovation and industrial development that enabled them to become global traders themselves. GATT, unlike the successor World Trade Organization, left plenty of room for development policies and a managed form of capitalism.

Beginning in the 1980s however, the Reagan and Bush Administrations and their counterparts overseas transformed the GATT from a treaty-based multilateral tariff regime aimed at balancing global commerce and national economic goals into what became the WTO. The new trade organization used trade negotiations to facilitate deregulation and project behind the border measures into developing countries.

The GATT system was very, very good to the U.S. and the world economy, but the more recent trade regime is yielding diminishing returns. Economists estimate that trade liberalization injected US$1 trillion into the U.S. economy between 1947 and 2002, yet more than 90 percent of those gains had already occurred by 1982. The benefits of trade deals since that time have been marginal and are shrinking. They may even be negative when one offsets the losses against the gains. Indeed, if all the tariffs in the world were completely eliminated, there would be only a one-time bump in the world economy of just 0.7 percent.

Efforts to further liberalize the global economy under WTO auspices were stymied in 1999 when many WTO members pushed back against a further deregulatory agenda. In response, the US created a policy of 'competitive liberalization' that leveraged its market power to promote numerous bilateral and regional deals that went far beyond the WTO's terms.

Rather than allowing states to regulate the financial sector and other areas of key public interest as permitted under the multilateral GATT regime, the more recent deals such as NAFTA and the TPP seek to further deregulate financial flows and constrain regulations meant to foster domestic firms and employment. Many of these treaties allow corporations to sue governments under 'Investor State Dispute Settlement (ISDS)' through private tribunals that usually side with foreign firms over host country regulations on finance, public welfare and the environment.

These competitive free trade agreements have done little to improve overall economic growth. Looking at NAFTA as a salient example, studies by US congressional researchers have consistently concluded that the effect of the agreement on overall US gross domestic product (GDP) was likely very small—"probably no more than a few billion dollars, or a few hundredths of a percent'. Economists from Yale University, the National Bureau of Economic Research and the Federal Reserve conclude that at most NAFTA spurred a one-time bump in US growth by a mere eight one-hundredths of one percent.

If there was so little effect overall, why is the agreement still so controversial? It is precisely because trade creates winners and losers—something long recognized by trade economists—as economies adjust to different costs of production in trading partner countries. The losers may be as numerous as, or even more numerous than, the winners, especially in the short-to-medium term. NAFTA was the first trade agreement that eliminated tariffs between relatively high wage economies (US and Canada) and a low wage developing country (Mexico). Further, NAFTA and subsequent US free trade agreements created new protections for cross-border investment, along with the ISDS mechanism for investors to assert their claims against governments. And it offered guaranteed access for the goods and services produced by those offshore investments back into the lucrative US market.

These pro-investor measures in NAFTA and subsequent US trade agreements created additional incentives for firms to move their operations to Mexico and elsewhere to take advantage of low wages and permissive regulation. Thus, beyond immediate winners and losers among sectors and workers directly affected by trade opening, these agreements strengthened investors' bargaining power and weakened labor's, thus setting up workers for continuing losses in the future. Investors can and did move production to lower cost countries, eliminating jobs in the US or threatening to leave in order to depress wages in the US.

While it has traditionally been difficult to measure the actual impact of trade agreements on jobs and wages due to the multiple factors affecting labor markets, new research methods and better data have more recently produced robust estimates of these effects. For example, a study that looks at the effects of NAFTA by measuring each industry's vulnerability to Mexican imports and each locality's dependence on vulnerable industries finds that wage growth was dramatically lower for blue collar workers in the most affected industries and localities, with negative spillover effects on service-sector workers in those localities as well. What small gains did accrue from the agreement flowed to large firms and wealthy households in the US. At a time of increasing inequality, with particularly harsh effects in some regions, the impact of NAFTA continues to be felt and raises important questions about the potential effects of USMCA.

As the gains from trade have been shrinking, its costs have been growing. For example, the IMF found that the countries that liberalized their financial services industry, as many trade and investment pacts required them to do, were among the worst hit by the Great Recession. Rather than investing the profits from globalization into productive and employment-generating activity, many global corporations have been choosing to speculate with their profits and buy back their own stock.

The US government isn't redistributing the gains from trade either. Research at the Brookings Institution shows that the people who lose their jobs because of free trade are not compensated enough to make up for their losses through Trade Adjustment Assistance, a program that theoretically helps those who lose from trade to adjust through training and income support.

Nor have the losses for American workers translated into widespread gains for workers and communities overseas. Indeed, NAFTA boosted Mexico's trade and investment yet its per capita growth has hardly budged. Environmental damage, however, has followed since NAFTA shifted pollution-intensive manufacturing south of the Rio Grande. Rural communities have suffered as more than 2 million Mexican farmers and farmworkers lost their livelihoods to cheap imported corn and other agricultural products exported from the U.S.

China's Challenge

For all the WTO's faults, the global trade body actually remains fairer than regional deals like NAFTA. Under the WTO's one-country-one-vote negotiation structure, our trading partners are able to push back on the most invasive proposals and thus retain considerably more room for their own policy making than under US-led bilateral and regional deals. While the US has been using such trade deals to lock in deregulation at home and with weaker trading partners, China has pursued its own course under the relative flexibilities of the WTO.

Like the US in an earlier era, China sought to integrate with the global economy while pursuing a domestic industrial policy for growth. China's strategy was to invest heavily—more than 40 percent of annual GDP for decades—into infrastructure, industry, and innovation. China also kept tight rein on financial markets to ensure they were steering credit and investment into domestic industries.

Until the turn of the century, China refrained from joining the WTO and regional and bilateral trade and investment treaties. Regardless, US and other multinational companies flocked at the chance to invest in China. Despite strong conditions on the Chinese side (of the kind that the US does not permit under deals like NAFTA) most global corporations were more than willing to trade technology and know-how for access to the fastest growing market in world history. Alongside the many joint ventures that China required, China also invested heavily in its own technology parks, research and development and education through the public purse and a series of national development banks. Many US firms also pushed China to maintain a 'competitive' wage and currency environment so they could reap the benefits as global exporters, including back into the US market.

We know the story from there. The former World Bank economist Branko Milanovic has shown that the winners from these strategies were China and the richest in the US and industrialized world. The losers were the middle working classes in the US and across the industrialized world. China disregarded the West's advice on keeping wages low, average incomes rose dramatically and Chinese wages are higher now than in Mexico and even parts of Europe. According to the World Bank, in 1990 more than 750 million people in China lived in extreme poverty (less than $1.90 per day), representing almost 70 percent of the entire population. Despite some lingering rural poverty, just one percent of Chinese today are extremely poor—though inequality is on the rise (as in the US) and China's industrial boom has come at heavy environmental cost (as in the US).

Meanwhile the United States pursued an opposite course. The US strategy was to largely de-invest in infrastructure and industrial innovation, deregulate financial, labor, social welfare and environmental protections, supposedly to reduce the cost of doing business and make incumbent US firms more globally competitive. Some firms thrived, but the broader US economy did not. According to the World Bank, investment in the US has fallen from 25 percent of GDP in 1980 to 19 percent now. According to the Hamilton Project, wages for all but the top 1 percent of wage earners have remained stagnant or declined in the United States since the early 1980s as the country lost competiveness in key well-paying industries.

It's no surprise that China maximizes the policy space that the WTO allows. Meanwhile, the US disdains industrial policy and promotes deals that further deregulate corporations and weaken protections for working people. Looking at the record of disputes, there is no question that China pushes the limits of WTO rules in an effort to develop their economy. So is China the villain?—Or is it the US and other industrialized nations who under the GATT regime used similar strategies to build global market share only to 'kick away the ladder' by pushing through the more restrictive trade rules once they thought their own corporations would forever have the upper hand?

As the US resists a serious domestic development strategy, China is doubling down on a new round of investment and innovation. As Trump denies the science of climate change and Western companies use ISDS to stamp down attempts to reduce the use of climate harming fossil fuels, China accepts the inconvenient truth of climate change, caps the use of fossil fuels and invests in renewable technologies that have become the envy of the world.

How Trump's Trade Policy Fails

Trump's tariff war has been popular in some quarters, but a closer look suggests that Trump's policies are unlikely to revive a balanced and more equal US economy nor would they spur development across the world.

The WTO and Tariffs

First, even where tariffs improve conditions for certain favored industries, they squeeze other businesses. For example, higher tariffs on imported steel and aluminum are already raising costs in the automotive industry and construction, which are big employers. That was a lesson the White House should have learned from reviewing what happened when President George W. Bush experimented with similar across-the-board tariff hikes in 2002.

Second, unilateral and scattershot tariff hikes by the world's largest economy will inflict real economic pain across the world. A new study by the World Bank estimates that the trade war could reduce global GDP by $1.4 trillion. If the trade war makes the investment community go into hysterics it could be even worse. Moreover, as Kenneth Shadlen from the London School of Economics has reminded us, developing countries went along with some of the draconian WTO proposals on condition that they would have stable and expanding access to the world economy. Trump is breaking that deal and in so doing may jeopardize the foundations of the entire system.

Third and most importantly, trade deals are not ends in themselves but tools to achieve broader economic policy goals. Trump lacks any overarching economic plan that these tariffs would support. His trade measures are not connected to any set of innovation, industrial or infrastructure policies. Instead we have a major tax cut that jeopardizes our ability to invest in the future and undermines investments in health care, social security and environmental integrity that we have already made.

NAFTA and USMCA

President Trump criticized NAFTA's shortfalls and has delivered a renegotiated agreement. While it includes some minor improvements, it is largely a NAFTA 2.0 that will bring infinitesimal economic benefits and accentuate inequality. It also includes new provisions that would put increased downward pressure on regulation for health, the internet and the environment.

By the US government's own account, the USMCA will yield a one-time increase of three and a half tenths of one percent in GDP (0.35 percent) six years after the agreement goes into force. A study published by the IMF estimates that Canada and Mexico would each have a very slight welfare gain while the US would have a slight loss and that the overall effects on the three countries' GDP would be negligible. Moreover, the types of models used by the USITC and the IMF have long been criticized for overestimating benefits while ignoring costs. For instance, the

USITC assumes that stringent new protections for data companies and cross-border services will increase GDP because they will "reduce policy uncertainty" by freezing current regulations or preventing new ones. In fact, without the positive value attributed to these regulatory constraints, USITC finds that the overall impact of USMCA on US GDP, employment and wages will be negative. Most of the benefits from these new protections would go to ITC firms, digital platforms and biotechnology companies, which tend to be monopolistic and/or to seek rents. The USITC overlooks the impact of more industry concentration on higher prices, which reduce wages' purchasing power, and on the ability of governments—including the US—to regulate in the public interest.

The USITC projects that US employment will hardly increase under the deal, even with the positive value it spuriously assigns to reduced regulatory space. The effect on employment would be a one-time increase in total employment of a small fraction of one percent (0.12%), or 176,000 jobs after six years, when the US economy has completely adjusted to the agreement. This one-time addition is about the same as the number of jobs that are created by the US economy *monthly* in a year of moderate growth. About 70% of the jobs would be in the service sector and most would go to workers with no college education, meaning that most of the new jobs are likely to be low paid. In an economy where wages have stagnated for decades except for the high paid, USMCA would hardly move the needle and even then the slight move would be in the wrong direction. Furthermore, the projections are inflated by the assumption that the labor market is permanently tight due to full employment, an obviously unrealistic assumption.

The agreement will restrict the right of the parties—including the US government—to adopt new regulations that would protect the public interest. For example, the digital trade chapter would prevent the US from instituting new requirements that US individuals' personal and financial data must be kept in the US to protect it from malign or less secure handling abroad. Articles 19.11 and 19.12 should be eliminated or significantly revised to provide policy space for future action. The chapter also appears to restrict the future ability of the US to increase regulation of harmful content on digital platforms by imposing stringent limits on the liability of internet service providers for disseminating such content. Article 19.17(2) should be eliminated. At a time when the public and policy makers are becoming more aware of the dangers as well as the benefits of the digital environment, it is inappropriate to use the backdoor of a trade agreement to constrain governments from enacting new laws and regulations to protect public interests from the distortions created by these concentrated and networked firms. The USITC report acknowledges that "the United States, Canada, and Mexico have yet to establish many types of regulations potentially governing international data transfers" and the same is true of platforms' liability for harmful content. The USMCA would restrict the ability to do so in the future.

USMCA intellectual property protections would also constrain the US (as well as Canada and Mexico) from future efforts to reduce prescription drug prices by locking in the number of years biologic companies can avoid competition based on their test data. In general, stronger intellectual property protections produce rents (profits generated by a privileged position in the market rather than by competitive advantage) for the corporations that hold them, rather than for individual inventors. They reduce the incentive for new research by allowing firms to collect rents from prior breakthroughs for longer periods. Article 20.49 should be eliminated or the period of protection should be substantially reduced.[2]

It is worth noting again that these changes and similar provisions that restrict policy space for the US and other governments are identified by the USITC report as the *main source of gains* from the agreement, based on the claim that reducing policy uncertainty will lead to greater investment. However, evidence indicates that investment responds most strongly to growth prospects rather than to anticipation of regulatory behavior. The effects of reduced policy uncertainty are fundamentally a benefit to the profitability of firms and private capital—but at the expense of government policy space and public preferences in terms of privacy, security, access to affordable medicines and other public and social goods. It is a clear reflection of the fact that trade policy as practiced by the US (and some other countries) is a form of mercantilism in which USTR bargains for the interests of leading sectors of the economy and the key firms in those sectors. The system of advisory committees in fact can be seen as open acknowledgement that the policy is one of managed trade to the benefit of politically influential sectors and firms, rather than pursuit of any idealized notion of free trade.

Five Principles for a Trade Policy that Works for People—at Home and Abroad

Trump can be credited for one thing—globalizing the conversation about the need for trade policy reform and projecting it across television screens, research papers and twitter feeds. However for the reasons noted above, it fails to move US trade policy in the direction of more fairness and income equality, more economic security for US households and more international solidarity and cooperation in a world facing escalating cross-border crises and challenges. A step-wise change in international trade and investment is needed in order to rebalance the inequalities characteristic of today's global economy and to transition toward a zero carbon global economy. Toward that end, we propose five principles to guide a progressive conversation about how trade and investment treaties can facilitate a redirection of the world economy toward shared and sustainable prosperity.

1. Reform the US trade policy template to protect and guarantee ample policy space for national level initiatives. The United States and its trading partners need the policy space to boost demand in support of sustainable and inclusive economies. This requires an active mix of fiscal and monetary policies as part of a general expansion of government spending that covers physical and social infrastructure, adequate social protection and access to healthcare for all and investment in a green and sustainable environment. Regulating private financial flows will be essential to steering private finance toward these broader social goals. Curtailing mis-directed business and financial practices will be key to reigning in corporate rentierism and crowding in private investment to productive activities. The Trump initiatives in USMCA that create more rents for pharmaceutical, IT and platform firms should be reversed. More

[2] A similar logic applies to Article 20.45, protection of agricultural chemicals.

progressive tax policies, including on income, wealth, corporations, property and other forms of rent income, are needed to address income inequalities and these will be much more effective if coordinated internationally.

A significant part of the current tension between the US and China stems from the conflict between the US market-led approach and China's state-led development approach. The US emphasizes the primacy of US private sector firms and their interests. Whether it is ISDS creating supranational rights for private investors or the creation of rents for pharmaceutical manufacturers and other corporate holders of intellectual property or the insulation of US digital firms from liability for harmful content or privacy violations, the US trade policy as practiced over recent decades—and including Trump's renegotiations—uses US market access as leverage to achieve benefits for favored US sectors and firms. For its part, China has pursued a state-led approach that uses foreign investors', producers' and sellers' desired access to its market as leverage to develop its own productive capacity, to move toward the global technological frontier and to create jobs for its huge population.

Progressive candidates and the public should be thoughtful and careful about where they wish to align on the issues posed across that spectrum. Many of the policies that could correct some of the most serious problems currently facing the US (rising inequality, huge wealth concentration, bifurcation of opportunity between a handful of metropolitan areas compared to smaller cities and rural regions, climate change) require a more state-led approach rather than the small-government, market primacy mantra of the last four decades. A trade template that privileges private firms and sectors, tries to constrain governmental intervention and fosters regulatory convergence toward lowest-common-denominator regulations for the benefit of US firms abroad is not a policy in the public interest of the US and certainly not in the public interest elsewhere. Therefore it is important that policy toward China and others should focus on legitimate complaints (e.g. actual theft of intellectual property, which does in fact go on in China, the US, etc.) and not on an *a priori* notion that industrial policy, subsidies for desired economic activity or state-owned enterprises are inherently bad or wrong.

2. Upward Harmonization of Labor Standards. Labor and environmental standards and protections are essentially cross-border problems. Economists have long recognized that trade will lead to convergence of wages between higher and lower wage countries (unless the low-wage country represses wages as many do) and politicians have long recognized that "the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries" (Treaty of Versailles, ILO Constitution preamble).

Many of the problems facing US working households are the result of misguided *domestic* policies that compound the pressures posed by globalization of finance and production. The solutions require a combination of reformed domestic labor policy and reformed trade policy. On the domestic front, raising wages in line with productivity by giving workers a strong and protected right to unionize and bargain collectively as well as through adequate minimum wage policy are key to moving to a fairer society. Job insecurity also needs to be corrected through appropriate legislative action (including on employee status, informal and precarious work contracts) and a stronger social protection system, all of which can be achieved through domestic policy changes.

However reform of trade policy on labor is also needed because the global labor market is now more integrated than ever, with a huge global labor force available to investors and producers. This shifts bargaining power away from workers and to owners of capital. In addition, some countries intentionally suppress wages and violate workers' rights to gain unfair competitive advantage in global markets. Workers' advocates have championed the use of trade rules and market access as leverage to counter these abuses and encourage respect for labor standards at home and abroad. But the current labor template used by US trade negotiators has not succeeded in achieving the desired upward convergence of wages and labor standards. Therefore a more effective and robust labor template is needed, at least for deep integration trade deals like USMCA. While the labor chapter of that agreement continues the trend to expand the scope of the parties' *commitments* to protect labor rights it does nothing to strengthen overall *enforcement* of labor rights, meaning that even seeming improvements in the commitments will have little impact in practice.

Instead, here are five areas where the US template needs to be changed:

- Greater use of pre-ratification requirements. The moment of maximum effective leverage to improve labor laws, regulation, labor inspection and enforcement mechanisms of trading partners is before an agreement is ratified. The US started to do this beginning in 2011 with Colombia and has continued with this approach. However the detailed labor action plans that result must be made enforceable *after* ratification through robust trade enforcement mechanisms if progress is to be sustained.

- The arbitration system for labor and environmental provisions must be reformed. The current US template for arbitration under trade agreements is flawed in many ways, including the possibility of endless delays. However when it comes to issues involving public goods like human and labor rights and environmental protection it is profoundly inadequate, as demonstrated by the failure of the US to prevail in the only labor case it has ever taken to arbitration, one that addressed egregious and widespread violations of labor rights in Guatemala. Despite acknowledging that violations occurred, the arbitrators declined to hold Guatemala responsible for violating its obligations under the trade agreement and did not impose any sanctions. Critical public interests such as labor rights cannot be left to the mercy of private arbitrators, many of whom have severe conflicts of interest. Under current US trade pacts and USMCA the arbitrators need only have expertise in trade law or labor law, which could be in anti-union private employment law practice. Instead, labor disputes should require arbitrators to have demonstrated expertise in international labor rights and standards. The arbitration mechanism should include a standing description of the charge given to the arbitral panel that includes defending and upholding international labor standards as negotiated by the International Labor Organization and defined and applied by its expert committees. There should be an appellate body to appeal decisions by individual panels that go against workers' rights and international labor standards. Other obvious loopholes in the current arbitration template, such as requiring that violations of the labor commitments occur "in a manner affecting trade or investment" and through "a sustained or recurring course of action or inaction" in order to be considered in breach of the treaty must be eliminated, not merely narrowed through footnotes as currently proposed in USMCA. These limitations are not applied to corporate investment or intellectual property rights and there is no justification for applying them to labor and environmental obligations.

- An additional, new enforcement mechanism is also needed that can target inspection and remedial action at the individual firm level. By focusing at the level of specific firms that are accused of violations it will be faster and easier to determine whether they are in violation and will spare firms that are in compliance with the obligations of the agreement. Currently a novel approach to inspection of suspect firms is under discussion with respect to USMCA based on a proposal from Senators Ron Wyden and Sherrod Brown. This would entail inspection by a cross-border team from two or more of the countries to examine claimed violations. It would allow a rapid and targeted response and create a strong deterrent effect for violations by firms.

- Utilize border measures (tariffs, denial of entry, etc.) to exclude products of firms that violate labor standards and obligations. The US currently excludes products made with forced labor under long-standing trade law and this should be expanded to violations of other core labor standards. A law from 1922 (still formally on the US trade law books although not utilized in practice) directed the president to create an adjustable tariff to compensate for differences in wages and other costs of production between the United States and its competitors. These and border measures that are available for commercial interests show that this is a workable approach and a new template should provide a clear and efficient mechanism for excluding products made in violation of workers' rights.

- Finally, Congress should create a new right of action by stakeholders to compel the government to enforce the labor and environment terms of trade agreements. Such rights exist for private commercial interests and should be extended to the public to compel action to enforce labor and environmental terms. This would establish a last resort safety net for failure by the US or other governments to implement these obligations. The reluctance of the US and other governments to pursue enforcement of the labor terms of agreements has been observable over the 25 years of their existence, with the Guatemala case the only one ever to be arbitrated.

3. Upward Harmonization of Environmental Standards. With respect to the environment, old problems like polluted waterways and now climate change defy borders and their solutions require cross-border cooperation. The USMCA fails to even mention climate change, despite the fact that the WTO and the United Nations have shown that trade agreements increase carbon dioxide emissions and that North American emissions from fossil fuels are the second largest of any region in the world. Trade and investment treaties have to be tools to shift the global economy away from fossil fuels in a manner that is socially inclusive. What is more, within the trade and investment regime itself there is a fundamental need for adjustment financing for those workers and communities currently dependent on fossil fuels to shift into new frontier sectors of economic activity in an inclusive and just manner. The elements of upward harmonization of environmental goals are:

- Calibrate trade to climate goals: prioritise the acceleration of trade, investment and technology relevant to goods and services that prevent, mitigate and help adapt to climate change. Just as importantly, it will be necessary to use the regime as a tool that significantly curbs trade, investment and technology flows of goods and services that exacerbate climate change.
- Greater use of pre-ratification agreements. As with labor standards, the maximum effective leverage to improve laws, regulation, inspection and enforcement mechanisms in trading partners exists *before* an agreement is ratified.

- Also as in the case of labor provisions, the arbitration system for environmental violations must be reformed. The requirement for environmental qualifications of arbitrators must be strengthened and the standing direction to arbitration panels must include responsibility to apply and uphold multilateral environmental standards as defined and applied by their monitoring bodies. There should be an appellate body to appeal decisions by individual panels that go against environmental public goods and standards. The limiting loopholes in the current arbitration template, requiring that violations of the environmental commitments occur "in a manner affecting trade or investment" and through "a sustained or recurring course of action or inaction" in order to be considered in breach should be eliminated.

- As with the labor provisions, Congress should create a new right of action by stakeholders to compel governments to enforce the environment terms of trade agreements.

Major public investment in clean transport and energy systems is imperative to establish zero carbon growth paths, transform food production for a growing global population and address problems of pollution and environmental degradation more generally. Moreover, the country has to decommission many fossil fuel intensive activities. This will need to be supported by a mixture of general and targeted subsidies, tax incentives, equity investments, loans and guarantees, as well as accelerated investments in research, development and technology adaptation. Beyond the environmental chapters of trade agreements this will require profound changes in the chapters on investment, intellectual property rights, subsidies and incentives, etc. Specific measures and support will be required in developing countries to help them leapfrog the old, dirty development path that was followed earlier by the global north.

4. Re-Balance Trade and Investment Governance. The governance of trade needs to be reformed to make it inclusive and transparent. The privatization of dispute resolution to private firms through investor state dispute settlement (ISDS) should be reversed. The WTO model of state-to-state dispute settlement, whereby nation-states can properly weigh the private versus the social costs and benefits of trade issues, should continue to be the core of a multilateral trade system. However both trade negotiations and dispute resolution need to be carried out in a more transparent and inclusive manner. The Washington Post, in an investigative report titled "Industry voices dominate the trade advisory system," revealed that US trade policy-making is run by the very corporate interests that get to enforce their favored terms of the treaties through ISDS.

Trade negotiators operate in an essentially neo-mercantile context in which they seek greatest advantage for favored or politically-connected sectors and firms in their own country. When this was mainly a question of lowering tariffs during the GATT decades, the net result was a gradually liberalizing global economy that offered some opportunity to most countries and avoided the harshest adjustment costs. However as noted above the US has included more and more behind the border measures that require changes in regulations and policies that bind both the trading partners and the US. These policies touch on politically important and sensitive issues including access to medicines, digital privacy and liability, food safety, etc.

When these issues are determined domestically there are political processes that allow the public to express preferences and demand accountability of policy makers. And regulatory processes allow input from a broad spectrum of stakeholders. But when trade negotiators determine which policies to advance through binding trade treaties they can undermine and constrain not only other governments' policy space but that of the US as well.

5. Make a serious commitment to adjustment assistance both domestically and internationally. When the European Union (EU) began to integrate, the region agreed on a set of uniform minimum standards for the environment, health, and worker protection so that cross-border competition would not undermine living standards across Europe. This reflects wide agreement that deep integration will lead to a convergence of standards and that can be either a race to the bottom or upward harmonization. Recognizing that poorer countries could have difficulty meeting those standards the EU set up adjustment funds for regions and individuals. The EU's European Investment Bank and national development banks such as Germany's KfW were refueled to invest in technologies and companies to get them ready for the expanded market place. While the implementation of the EU's good intentions has often disappointed, the recognition of the need for both instruments to push harmonization upward and resources to cover adjustment costs reflects the insights of economics and political economy that deep integration requires harmonization and that it doesn't happen automatically.

Over the decades of US development these principles were sometimes embraced as part of our own internal market expansion, for example through the Fair Labor Standards Act that set minimum standards for wages, hours and working conditions across all the states. However more recently the approach has been inadequate, as seen in the competition across states to relax protections for workers and the environment to draw investment. The inadequacies are seen glaringly in the failure of trade adjustment assistance policies to compensate workers, households and communities for losses due to trade. More broadly, US policy over recent decades has failed to provide adequate domestic standards and programs that ensure decent jobs, a healthy environment, a functional financial system that invests in the real economy and a social safety net that maintains adequate living standards. And US trade policy has not only failed to counterbalance the harsh effects of globalization, it has often tilted the playing field further in favor of investors and firms and against the interests of working households and communities with serious consequences for the rest of the world's people and the planet itself.

An upward harmonization and adjustment approach should be adopted globally. The UN Conference on Trade and Development (UNCTAD) has elaborated a 'global new deal' that would not only better ensure that the benefits of trade and investment are shared, it also would generate a stronger constituency for integration and cooperation. It includes adjustment financing for affected workers and communities in the United States and trading partner countries to ensure that the benefits from trade are spread in a manner that ensures a just transition to a zero-carbon, socially inclusive world economy.

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