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Against the virus of free trade — post-COVID-19 EU trade policy

Incorporating social and ecological standards into the EU trade regime

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Introduction

Even before COVID-19, the free trade regime had come under pressure by a wave of protectionism, the US-Chinese trade war, and a crisis in the World Trade Organisation. The central question now is, how much global trade integration is actually needed. From a progressive standpoint, the answer must be that the opening to trade and investment cannot be a goal in itself. It has to be justified based on the level to which trade contributes to achieving higher-ranking goals of economic development, such as eradicating poverty and enabling developing and emerging economies to catch up. Globally speaking, more trade by itself does not contribute to more production and hence potentially to economic development.

The dual crisis (the climate crisis and COVID-19) has given way to a historic moment, enabling us to strike a balance and ask, what neoliberal free trade has contributed to economic development. I argue that the balance of neoliberal trade system is indeed controversial and it has not led to equitable development. Inequalities between and within economies have not diminished. Arguably, volatility and economic insecurity have also had the effect that populist governments have revived nationalism at the expense of seeking multilateral solutions. Even though the EU is also showing signs of disintegration, the EU Commissions' trade policy has not been fundamentally contested. Nonetheless, I argue that there are majorities to be organised for a paradigmatic and progressive shift in EU trade policy. It remains questionable, though, whether reforms towards a social and ecological trade regime can be accomplished under the EU's current institutional settings.

The paper will be structured in the following way: in the first part, I will provide a brief critique of the political economy of free trade. I will argue that, to a certain extent, free trade can be viewed as a continuation of earlier expansionary phases of capitalism, most prominently, mercantilism and imperialism. I then want to show how free trade is embedded into a broader neoliberal system of organising the economy. Arguably, neoliberalism can be viewed as a system of crisis, for one because it has failed to deliver an equitable economic development. Hence, we can observe a certain disintegration of neoliberal globalisation — and that this disintegration might open a window of opportunity for reforming the way global trade is organised. In the last part, I will try to summarise the most important proposals for progressive EU trade politics.

Free trade and the misconceptions of mainstream economists about the origin of markets

Free trade agreements are symptomatic of a kind of globalisation that we have been witnessing for roughly three decades. The most prominent example of multilateral free trade agreements is NAFTA, the North American Free Trade Agreement, which went into effect in 1994. However, free trade, or,

more generally, an agenda to lower barriers to trade and open foreign markets, has of course been a recurring feature of mercantilism, imperialism and, later, capitalist globalisation. In this sense, David Graeber's comments on the origins of markets are indeed instructive. Mainstream economics are misconceived, he writes, as there always has been an interplay of states and markets. Both are usually depicted as contradicting entities. However, what we can observe in history is that the state establishes markets; and societies without markets are societies that have not formed a state. Like the origin of money, there are two sides of the coin: the 'heads […] remind us of the political authority' that issued the coin, and then there are the 'tails — the precise specification of the amount the coin is worth' (Graeber 2011: 37).

For realising a private contract — selling and buying or borrowing and lending —, there needs to be a state that is formed by a social contract to enforce the private contract between two individuals. This may sound abstract, but it provides us with the theoretical standpoint that 'free' trade itself is a non-statement, because a trade or a contract always has two parties, whose freedom is limited, because they are forced to bargain under the existing circumstances. And these circumstances are, in part, defined by institutions. Bearing this anthropologic history of markets in mind, it is foolish to neglect power relations and asymmetries in trade relations. The free trade ideology thus talks of free trade, on the one hand, while cloaking the state and corporate power that conditions and enforces private trade contracts at will, on the other.

Another aspect that usually goes unmentioned by the advocates of free trade is the hierarchy of currencies. Products are traded for currency. In the mercantilist tradition, it became the aim of the state to open up foreign markets to further accumulate precious metals. This currency, in turn, was needed to finance extensive wars for territorial hegemony to build and defend the empire. Today, of course, we do not live in a commodity money but in a fiat money system: a system of government-issued currencies that are not backed by physical commodities. This fact is intertwined with the trade relations between economies. When a country has a trade deficit vis-à-vis the rest of the world, it has a net capital outflow and becomes indebted to the rest of the world. These debts are mostly denominated in reserve currency. It goes without saying that international trade contracts are also mostly denominated in US dollars, and to a lesser extent in Euro, Yen and Pound sterling.

The trade surplus economy then takes on a creditor position vis-à-vis the rest of the world. The money that flows in in exchange for commodities cannot be exclusively invested in productive capital within the domestic economy, therefore it has to be reinvested in the rest of the world. Hence, deregulating capital accounts and capital mobility have always gone hand in hand with trade liberalisation. This is inextricably linked with the history of the Washington Consensus: Developing economies who fell into the 'original sin' of getting indebted. They cannot refinance on the capital markets and hence turn to

the liquid developed economies that are organised in the International Monetary Fund (IMF) to refinance their budget. A much-needed cash injection comes with a list of legislative 'recommendations' by the IMF to internally devaluate their economies (cutting wages, pensions, and public spending deficit). Following a period of reform, they might be evaluated as solvent and return to the private capital market. The perfidious but profitable side effect of this situation is that lending to a riskier debtor — be it a government, an individual, or a corporation — will promise a higher risk premium for the creditor.

Free trade agreements go hand in hand with liberalising financial services as well. As an ultimate consequence, free trade and investment treaties include investor-state dispute settlement contracts in order to safeguard foreign direct investment (FDI) from unexpected losses. These potential losses might be induced by regulatory changes or potentially even expropriation in the economy that receives the FDI.

So, arguably, the advocates of free trade cloak a host of real-world conditions in secrecy under which so-called free trade takes place historically and today. This is as miserable as it is unsurprising, since liberals tend to neglect many of the institutional or socio-political circumstances under which markets function. Analytically, therefore, it is an ongoing task to deconstruct this free-market fetish. Naturally, this is best achieved when momentous events help expose real contradictions.

Neoliberal globalisation fails to deliver sufficient welfare effects

We could observe this dominance of neoliberalism as early as the era of Thatcher and Reagan, but even more so since the collapse of 'actually existing socialism'. Globalisation aimed to ensure yet a new round of capital utilisation by accessing new external and internal markets in order to be able to scale up, merge, and acquire. This is in accordance with the tendency of capitalism to pursue expansion by globalising and deepening. However, it cannot be neglected that this economic model has yielded contradictory results. Even developed economies that adopted neoliberal reforms have been faced with deepening polarisation. While neoliberalisation produced income gains for the higher-income tiers of society, for large parts of the middle-classes, the reforms meant a threat of precarity or a real income loss. In developing economies, too, they failed to deliver the productivity gains and employment growth necessary to close the gap to developed economies.

Roughly speaking, it is argued that neoliberalism was not able to deliver prosperity for the population majority and thus failed as an economic model for growth. Specifically, there are numerous negative side effects: Capital mobility and liberalisation of financial markets also had the inherent quality of capital flow volatility. Many economies went through financial turmoil during the last three decades.

During the COVID-19 pandemic, it has become apparent that supply chains are increasingly vulnerable because of high interdependencies.

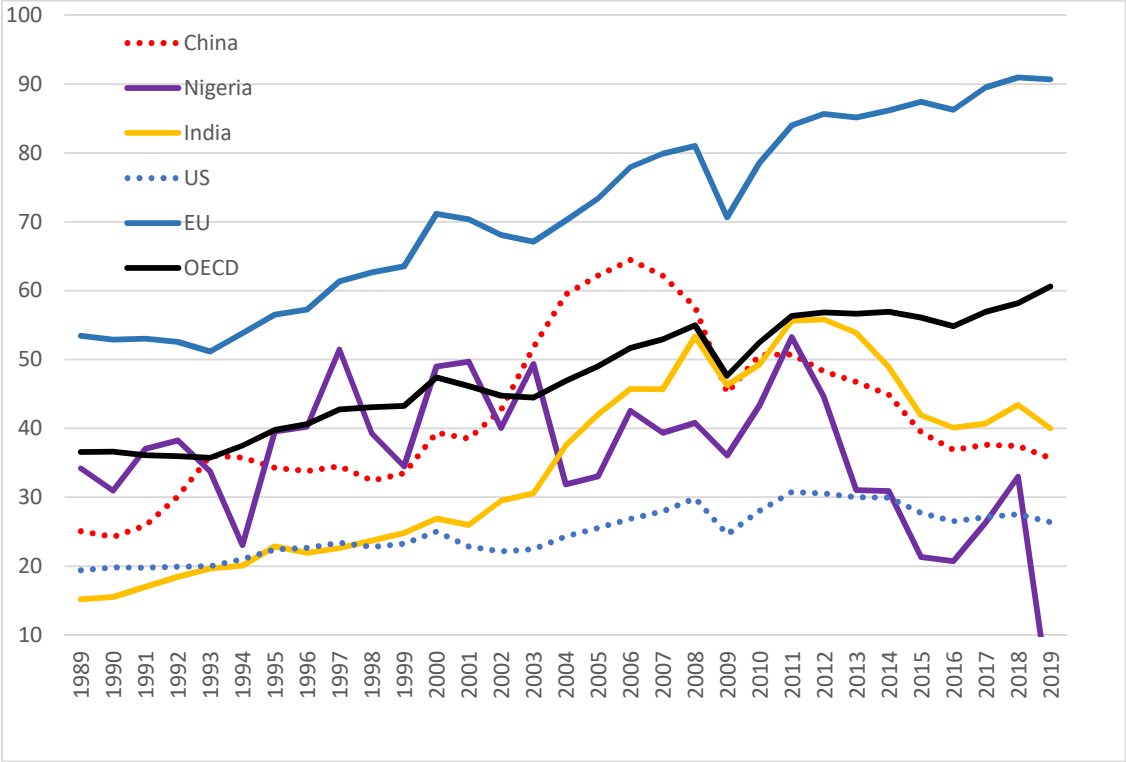
Even before the pandemic, the United Nations Conference on Trade and Development expressed concern faced with multiple sources of vulnerability, 'such as unsustainable corporate debt, disrupted supply chains, volatile capital flows […] all of which could feed off each other and transform a growth slowdown into a recession' (UNCTAD 2019: 3). Across the world, the pandemic had the immediate result that the case for expansionary fiscal policies was gaining support. Given the fact that monetary policy has been exploited to the maximum with inadequate results (UNCTAD 2019: 18), central bank interest rates have already been down before COVID-19, and, in June, the Governing Council of the European Central Bank decided to further increase the €750 billion envelope for the pandemic emergency purchase programme (PEPP) by another €600 billion, bringing it to a total of €1,350 billion (ECB 2020).

So the argument is that trade liberalisation is a key aspect of neoliberal economic policies, which did not perform well in delivering an equitable distribution of productivity growth. Trade liberalisation — secured by trade and investment agreements — sets a path dependency of this neoliberal development programme, because, by liberalising, it essentially hands over decisions to markets, where production standards used to be set by democratically elected institutions. However, if you ask the advocates of market liberalisation, these standards are no more than 'non-tariff barriers to trade'.

The hegemonic system is unjust in global terms (between economies) but also from the perspective of the distribution of income and wealth within the economy. It is designed by those states and corporations, especially transnational corporations, which are already the most productive and hold the most powerful positions in the supply chain. And it is those corporate and state powers that tend to thrive under the systems they have engineered. Nonetheless, and I have aimed to sketch this out above, the neoliberal model for free trade is deficient. Simply speaking, a growth model that focusses on external consumption (exports) cannot be generalised on a global scale.

According to Friederike Spiecker (2020), it would be more important to raise the average salary by the famous 'golden rule'. Adherence to this rule would create an average growth of salary that aims at the sum of productivity growth plus targeted inflation. In this way, steady wage growth would bolster mass income. Arguably, this is an economic policy that could indeed hope to achieve the UN's development goals, including poverty eradication, decent work, economic growth, and reduced inequalities. Curiously, trade as an end in itself is not mentioned as a UN development goal. Nonetheless the European Commission as well as national governments and important industries have subscribed to this export-driven model of growth.

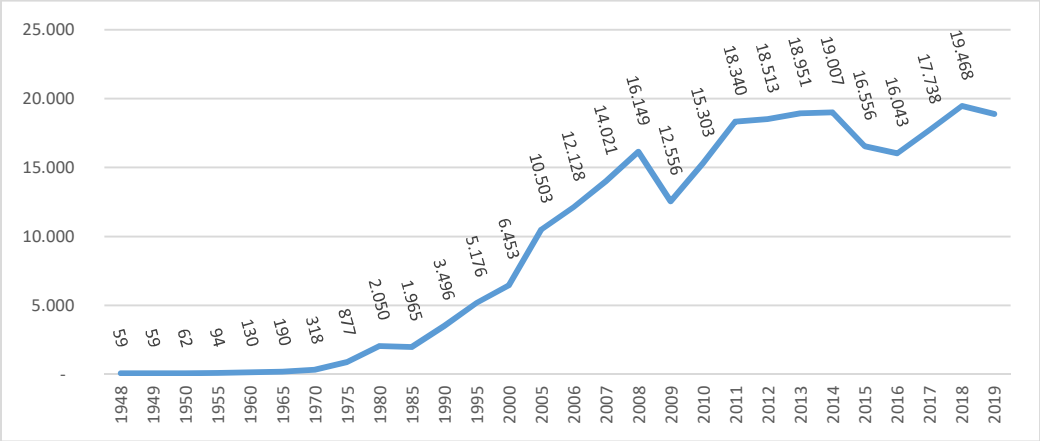
Figure 1 – Trade (% of GDP), 1989–2019, selected countries and groups



Source: World Bank Group (2020)

Analysing trade — the sum of exports and imports of goods and services — measured as a share of gross domestic product (GDP) over time, Figure 1 shows how different economies are differently involved in trade vis-à-vis the rest of the world. For Germany, this indicator has risen sharply from 1989 until 2019 and is very much aligned with the EU's trajectory. France, however, is more aligned with the OECD average. We can observe a very low integration into global trade for the US. Representative of many developing countries, Nigeria exhibits a very volatile participation in global trade. For China, and somehow more mitigated and with a time lag for India, we can see how trade integration was thriving until the advent of the global financial crisis. In its aftermath, China, at least, explicitly aimed at becoming less dependent on trade and shifting the focus to domestic growth.

Figure 2 – Development of global exports (in billion US dollars), 1948–2019



Source: UNCTAD (2020)

In Figure 2, we see how exponentially global exports grew from 1990 onwards. This growth path was interrupted only by the global financial crisis. For roughly the last decade, global exports have not substantially risen anymore. We do not yet have data on the deep recession that COVID-19 will have likely caused to global exports. It also remains to be seen, how the debate on re-shoring, shortening supply chains, and de-globalisation will play out for the trade integration of the different economies.

A window of opportunity to push for an alternative model of globalisation

I have hinted at this above, but it seems as though we have reached a historical moment of an economic standstill and a recession of regional and global trade integration. With national populist governments on the rise, an ongoing US-Chinese trade war, the United Kingdom leaving the internal market of the EU, unresolved conflicts around CETA, and a challenging of EU-Mercosur agreement, it looks as though neoliberal trade liberalisation is sustaining some heavy blows, opening up windows for change. With this battered neoliberalism in mind, one can't help but think of the famous quote by Antonio Gramsci (1930: 275): 'The crisis consists precisely of the fact that the old is dying and the new cannot be born; in this interregnum a great variety of morbid symptoms appear.'

Concrete proposals for a progressive reform of EU trade policy

Against this backdrop, my aim here is to sketch out the key principles that should underlie a progressive trade agenda. For the sake of brevity, and because these proposals have been adequately fleshed out elsewhere, I will only give a brief summary of what I would argue are the most important principles for

a progressive reform of EU trade policy. There are three main sources that I derive this list of principles from. The first is the 'Resolution for an EU progressive trade and investment policy' by the Executive Committee of the European Trade Union Confederation (ETUC 2017). The second consists of the study 'Towards a Progressive Trade Politics in the European Union' conducted by Lucia Barcena Menendez und Ethan Earle (2019), a report commissioned by the GUE/NGL (European United Left/Nordic Green Left) in the European Parliament. The third main source is a study conducted by the environmental organisation Friends of the Earth (2018) titled 'Setting course for sustainable trade – a new trade agenda that serves people and the environment'.

1. International labour rights, social, and human rights

Every EU trade agreement must contain protection and specific legal enforcement of labour rights, including the right to form a union, to bargain collectively, and to strike. These standards are critical to social and economic development. Labour rights and co-determination increase average wages and reduce inequality. The minimum standards of the International Labour Organization (ILO) only prevent a 'race to the bottom'. The ILO standards must be legally binding for companies to comply with workers' and other human rights in their location of production and across their global supply chains.

2. Make corporate social responsibility clauses binding to complement labour standards

Many companies are unable and more often unwilling to comply with social and ecological production standards along their global supply chains. For decades, increasing voluntary commitments of corporate social responsibility have developed into a completely untransparent system of certification and product labels. These efforts are not even remotely sufficient to comply with minimum standards. Therefore, it is central to hold corporations accountable if they do not fulfil their due diligence and are unable to ensure that no human rights are violated along their supply chain.

3. Environmental requirements and climate change mitigation

The global challenge of climate change mitigation has not been adequately addressed in existing international trade and investment agreements, despite there being a whole range of proposals that have been formulated by environmental groups. For example, EU trade partners should have the right to tax products with high environmental impacts. Governments must still be able to apply tariffs in order to develop domestic, sustainable, and climate-friendly industries (→ 4. Right to regulate). The discussion also prominently features a border carbon adjustment tax as well as taxes on aviation, and

especially shipping emissions. These should be accompanied by a gradual reduction leading up to the removal of subsidies for mining, transport, and the processing of fossil fuels.

4. Right to regulate

The aim of trade and investment agreements should not be to lower existing standards, regulation, and norms. Many standards are an expression of collective preferences that are negotiated in the democratic process and should thus only be changed based on voting decisions. Instead of being defamed as 'non-tariff barriers to trade', these standards should be treated as expressions of a living democracy. Political intervention to control economic activity in the public interest is fundamental for a democracy and it must no longer be undermined by trade and investment agreements.

5. Protection of public services

A progressive trade and investment policy does not impair the rights of democratically legitimised governments and parliaments, but it has to protect and expand the framework for collective goods and services (public services, services of general economic interest) and secure their funding. Public services are indispensable for social and economic cohesion. Broad, effective, and affordable services for everyone is a decisive criterion, but one that does not result from (international) competition. This is precisely why competitive regulation of public services should be excluded entirely from trade and investment agreements.

6. Globalisation and restructuring: no one left behind

The last phase of neoliberal globalisation has led to a strong outsourcing and offshoring of work. The EU must enshrine a framework of industry policy in its trade agreements and civil society should be given a proactive role in managing structural disruptions in the economy. For example, workers should be helped with retraining and enabled to find new jobs. Likewise, member-state and EU industry strategy should be focused on employment creation. Staff in those sectors and companies most negatively affected by globalisation must be protected and supported by further expanding and strengthening social security systems.

7. Regulatory convergence of industrial standards: No tool for de-regulation

Technical standards are, in effect, political standards. Norms are technical translations of political decisions and intents. The EU clearly prescribes a high level of protection in the areas of health, safety,

environmental protection, and consumer protection, and takes new developments based on scientific results into account when adjusting standards. The establishment of overarching, non-democratic regulatory bodies for the new generation of EU trade and investment agreements is to be criticised. These bodies, which mostly consist of representatives of the administration, largely make non-transparent decisions that evade democratic and parliamentary scrutiny. This development undermines social, economic, and ecological regulation and is incompatible with progressive trade policies.

8. Trade and development

The EU must change its trade and investment policy towards countries of the Global South and towards the least developed countries (LDCs), making the promotion of social and economic advancement and the protection of human rights, including labour rights in the LDCs, its main objective. Developing countries and LDCs must be given the ability to organise their economic systems in such a way that prevents them from being exploited solely as cheap manufacturers, raw material exporters, and global garbage dumps. Their opportunities for autonomous development and greater integration into global value creation must be increased.

9. Transparency of negotiations and democratic participation

EU trade policy is largely determined by the European Commission and the governments of the member states and, to a far lesser extent, by the European Parliament and the national parliaments. Citizens' consultations are rare, often ignored, and never binding or decisive, while company representatives, lobbyists, and other such associations are given broad access to the decision-making process. After ratification, trade and investment agreements usually further limit the ability of elected governments and parliaments to make democratic decisions in the future. It should come as no surprise that this process produces results that favour not the majority but rather a minority of well-positioned special interests. This development will increasingly help undermine our current and future democracies.

Transparency is a key issue as trade and investment agreements are increasingly directed towards setting standards rather than reducing tariffs. Key documents of the EU trade and investment agreements are to be made public, including consolidated texts during the negotiation process. All draft negotiating mandates have to be published, discussed, and decided in the EU member states and on a civil society level before they are adopted and negotiations commence. The lack of broad public

consensus on the goals of the negotiations makes it almost impossible to achieve results that are acceptable to the majority of workers, affected industries, and the general public.

10. Investor's rights and obligations

Laws and regulations on occupational safety, environmental protection, and health protection via collective agreements may under no circumstances be challenged by reference to investment protection provisions. The parallel private dispute settlement procedures for companies and investors, the investor-state dispute settlement (ISDS) mechanisms, are to be rejected. They are not necessary under the rule of law. It is not conceivable why a foreign investor should be in a more privileged position than a domestic investor.

11. Taxes and capital mobility

Tax and investment regulation must be designed to meet the social and development needs of societies. Trade and investment agreements must in no way promote the existence of tax havens and instead support international standards for transparency, effective taxation, and good governance. Effective cooperation mechanisms for information exchange in the area of taxation of multinational corporations and offshore corporations should be integrated into the agreements in order to address aggressive tax evasion and tax avoidance strategies. Public disclosure of country-by-country reporting on the activities of European multinationals worldwide should become the norm. It is essential to create a mechanism by which international capital flows can be effectively monitored and taxed. Bearing in mind their 'right to regulate', the states should be permitted to implement capital controls under specified circumstances, for example, to favour productive over speculative investments.

Summary and conclusion

In this paper, I argued that the theory behind neoliberal free trade policy is fundamentally flawed in the sense that it shuts its eyes to a whole array of real-world conditions under which trade functions and markets operate. In the subsequent section, I made the argument that neoliberal globalisation, which was hegemonic for more than three or even four decades, has failed to deliver on its promises. On the one hand, it failed to deliver the growth effects that were needed in the developing world to create jobs and close the gap to the industrialised countries. On the other hand, neoliberal globalisation let to an inequitable distribution of income and wealth in the developed economies that resulted in heightening economic insecurity for the middle-classes. Furthermore, liberalisation of financial markets also had the side effect of increasing financial instability. In the wake of these

developments, I argue that it is becoming increasingly difficult for national governments to organise the required level of societal consent to these neoliberal trade policies.

I put forward for discussion that this situation opens possibilities to push for a progressive agenda with the aim of reforming EU trade policy according to social and ecological principles. To help this process along, I summarised the most important principles of such an agenda. These principles were derived from a range of progressive forces in the EU policy arena: the European Trade Union Confederation, the European United Left/Nordic Green Left in the European Parliament, and Friends of the Earth.

A question that must be left unanswered in this paper is whether a reform of EU trade policy is feasible under the current balance of power. We can observe that centre-left alliances can oppose some developments to a certain degree, for instance, when stopping or renegotiating treatises such as CETA or TTIP. Nonetheless, it is doubtful that there is sufficient political pressure to build centre-left majorities that would be necessary to revoke the essential orientation of EU trade policy, which is fundamentally neoliberal.

However, this means that now more than ever, there is a need for non-governmental actors, civil society, and the parliamentary opposition to show that continuing the EU's neo-mercantilist approach will have poor effects on the environment as well as social cohesion, within Europe and also on a global scale.

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