

Contesting ‘Free Trade’: Proposals for collective demands towards an alternative trade regime.²

Introduction

Free Trade Agreements (FTAs) are currently the main dynamic underlying capitalist restructuring in the wake of the global economic crisis of 2007/2008. Considering the way global commodity chains are increasingly organised across borders with pre-fabricated parts being assembled in third countries and then again exported to markets elsewhere, it is no surprise that FTAs have become ever more important for transnational capital (Hart-Landsberg 2013: 91-2). There have been tensions over FTAs within global progressive forces and here in particular the global labour movement. While especially European, export-oriented trade unions have tended to support new FTAs, as they perceived them as beneficial for ‘their’ companies, thereby securing their members’ jobs, labour movements in the Global South objected. For them, free trade has often signified deindustrialisation and loss of jobs, as Southern companies could not compete with higher productivity rates in the North (Bieler 2013, Bieler et al 2015). What could be potential demands towards an alternative trade regime, which progressive forces from both the Global North and South could support?

The purpose of this paper is to develop some potential demands for discussion. What could or even should be the key principles of an alternative trade system, which governs the exchange of goods at the global level in a way which allows countries to emphasise national development based on social justice with the rights of citizens to water, food, housing, etc. prioritised?

In the next section, changes in the international trade regime since the end of World War Two are discussed, before the subsequent section focuses on proposals for potential joint demands towards an alternative trade regime. Key emphasis will be placed on preserving national sovereignty, national policy space as the basic terrain of democratically accountable development policy. Moreover, it will be argued that the increasing power of transnational corporations (TNCs) needs to be kept in check and proposals are put forward of how this

¹ [Andreas Bieler](#) is Professor of Political Economy at the University of Nottingham/UK and Fellow of the [Centre for the Study of Social and Global Justice](#) (CSSGJ).

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could be done. In order to change the trade system, social class forces are required able to push through demands. The Conclusion will assess the current possibilities of forming such an alliance of forces.

From Bretton Woods to an expanded free trade regime

After World War Two, ‘free trade’ was mainly pursued within the framework of the General Agreement on Tariffs and Trade (GATT), with a focus on lowering tariff barriers in order to stimulate the trading of goods across borders. Importantly, GATT was part of the post-war Bretton Woods regime of embedded liberalism (Ruggie 1982), which combined the goal of international ‘free trade’ with the right of governments to intervene in their own economies when domestic stability and welfare was at stake. It was based on a Keynesian understanding that demand management through state intervention was crucial for economic growth and high employment levels. In general terms, ‘the period 1947-73 was one of unprecedented expansion for the world economy, with output and trade growing faster than in any previously recorded period. Global output expanded at an annual average of 5 per cent, while exports grew at 7 per cent per annum’ (O’Brien and Williams 2013: 117). Unsurprisingly, this period until the early 1970s and the onset of a global economic crisis is evaluated in highly positive terms in the Global North (Rodrik 2011: XVII). On the basis of growing wealth levels facilitated by free trade and strong labour movements, full employment levels were reached and expansive welfare states established. And yet, the experience of developing countries during the first three post-war decades has been rather different.

Developing countries had been excluded from the benefits of ‘embedded liberalism’. As McMichael makes clear in his assessment, ‘the colonial division of labor’s legacy of “resource bondage” was embedded in Third World social structures’ (McMichael 2012: 55). Bretton Woods installed a western-style development project, which tied the newly independent, developing countries into relationships of unequal exchange with industrialised countries. The latter reaped super-profits at the expense of the former, partly due to productivity differentials between industrialised and developing countries (Mandel 1975: 71-2), and partly as the result of pushing exploitation beyond the subsistence level of workers in the Global South (Higginbottom 2014: 30-2).

Since the completion of the General Agreement on Tariffs and Trade (GATT) Uruguay Round in 1994, the ‘free trade’ agenda has been expanded into areas of trade in services, public procurement, trade related investment measures, intellectual property rights and agriculture. And while the WTO Doha negotiations round, intended to complete

unfinished business, has stalled, this expanded 'free trade' agenda is now aggressively promoted in bilateral FTAs by the EU and the USA with developed, developing and emerging economies alike (see Choudry 2014). The most recent trade agreement negotiations including amongst others the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada, the Transpacific Partnership Agreement (TPPA) and the Transatlantic Trade and Investment Partnership (TTIP) not only incorporate ever larger territories, but also extend this expanded trade regime further. As John Hilary's detailed analysis of TTIP makes clear, the main goal is 'to remove regulatory "barriers" which restrict the potential profits to be made by transnational corporations on both sides of the Atlantic' (Hilary 2014: 6). These so-called barriers include social and environmental standards, food safety standards, regulations on the use of toxic chemicals, digital privacy laws and new banking safeguards. 'Perhaps the greatest threat posed by TTIP is that it seeks to grant transnational corporations the power to sue individual countries directly for losses suffered in their jurisdictions as a result of public policy decisions' (Hilary 2014: 30). These investor-state dispute settlement (ISDS) mechanisms have already been part of many bilateral investment agreements (Hilary 2013: 43-57). TTIP and other recent negotiations have the purpose of making them almost universal.

The rationale provided for this expanded free trade regime is the neo-liberal belief in the benefits of free trade. As long as every country concentrates on producing at what it is best at, general development will result. Empirical reality, however, has unmasked the false promises of liberal economic thinking. In a study by the NGO War on Want, it is illustrated that global economic growth in the 1980s and 1990s, the time of neo-liberal globalisation, was slower than in the 1960s and 1970s (War on Want 2009: 4). A recent report by the ILO (2015) has noted a global shift towards more insecure jobs since the onset of the financial crisis in 2007/2008. Three quarters of the world's workers are employed on temporary or short-term contracts, they work informally without any contract, or they are self-employed or in unpaid family jobs (ILO 2015: 13). Developing countries have yet again been the main losers of this period. An analysis of the consequences of trade liberalisation in Africa and Latin America during the 1980s and 1990s reveals widespread job losses, increasing unemployment and declining wages in both continents (War on Want 2009: 5-13). In many respects, the expanded free trade regime continues the dynamic of extra surplus-value and super-exploitation. 'Today, free-trade agreements and bilateral investment treaties play a role analogous to the structural adjustment programs of the 1980s' (Higginbottom 2013: 188).

Demands towards an alternative trade regime: the centrality of state sovereignty.

Historically, no country developed exclusively through ‘free trade’. ‘During their own process of development the rich countries relied heavily on trade protection and subsidies, ... they did not generally abide by patent laws or so-called intellectual property rights, and ... they generally championed “free trade” only when it was to their economic advantage’ (Shaikh 2007: 60). State sovereignty is clearly a crucial component of development. It is on this basis that I would put forward the **first potential collective demand** towards an alternative trade regime:

Any trade agreement needs to protect national policy space of the participating countries, allowing them to pursue independently additional objectives to trade and liberalisation.

In itself, however, state sovereignty does not guarantee that trade policy is organised in a way that it leads to national development. Trade policy is generally made by high-level officials behind closed doors, often assisted by representatives of (transnational) capital. Unsurprisingly, trade policy is made in the interest of capital (Seattle to Brussels 2005: 16). Hence, in order to ensure that society’s wider interests are taken into account, the very process of formulating trade policy-making needs to be democratised. And this not in the sense of liberal representative democracies with parliaments being given a greater say, but through an emphasis on participatory democracy, bringing people’s interests directly to the decision-making process. In short, **a further potentially collective demand** of progressive forces around the world could be:

The way trade policy-making is carried out needs to be democratized so that the interests of all sectors of society are being represented in the decisions on which areas should be opened for trade and which should be protected.

The importance of democratic decision-making on free trade has been recognised by the Alternative Trade Mandate Alliance. It placed the underlying principle of democratic control over trade and investment policy-making including an end to corporate secrecy and privileged access by industry lobby groups as well as new ways of involvement by civil society and parliaments in trade policy-making at the heart of its alternative proposals for a European trade policy (Alternative Trade Mandate Alliance 2013: 6-7).

Importantly, a return to Bretton Woods and the compromise of ‘embedded liberalism’ is neither feasible nor desirable, considering the exploitative way developing countries were integrated into global political economy. Hence, the importance put by Samir Amin, for example, on support of subsistence farming in the search for alternative development models (Amin 2014: 16-17). The concept of food sovereignty is crucial in this respect. It links food security to the right of people to produce their own food, to control the productive resources and means of production, and to participate in an open and transparent democratic system of decision-making in the area of agricultural and food policies. Food sovereignty emphasises the right of all to appropriate food, it values the diversity of providers, highlights the importance of localised food systems, controlled by the producers themselves. It stresses the importance of local skills and knowledge and works in harmony with nature. In sum, ‘food sovereignty is a common struggle against corporate, industrialised food systems and a common determination to achieve socially, ecologically and economically benign models of production, processing and distribution in all societies’ (Mulvany 2007: 19). This does not imply that there should be no trade in agricultural products, but it does signify that it is up to individual people and countries to decide in which areas to trade, and in which to protect the national and local economy. Hence, in relation to agriculture, the following **demand** can be put forward:

All countries should have the right to food sovereignty, i.e. determine themselves what to grow in which way and which crops to trade and which to protect against foreign competition.

The extraction of raw materials by developed countries from developing countries is further intensified during the current epoch of neo-liberal globalisation. While the extraction in the periphery itself is based on labour intensive processes, the raw materials are then used in high value-added production processes in the core. As a result, developing countries are often prevented from using these raw materials for their own development. The EU, for example, heavily pushes against export taxes or the requirement of processing minerals first, before exporting them. ‘In 2010, for example, the European Commission (EC) said that it would withhold trade benefits from developing countries that restrict raw material export’ (Kabemba 2012: 8). According to Claude Kabemba, secrecy is the biggest problem in the extractive industry in Africa. Unsurprisingly, ‘the collusion between weak institutional and governance structures in Africa and mining companies’ pressure to make profit exposes the

sector to mismanagement, opacity and corruption’ (Kabemba 2012: 4). In order to address this problem, the following **demand** towards an alternative trade regime can be formulated:

Countries should have the right to decide independently on the use of their raw materials. They may want to trade with some, but use others for their own industrial development.

Changing the balance of class power: proposals for demands to restrain transnational capital.

One of the lessons to be learned from the Northern labour movements is that the balance of class power in society was decisive in the establishment of the welfare state in the post – World War Two period (Wahl 2011: 35). When discussing potential alternative ways of how to organise ‘free trade’, the implications of these alternatives for the balance of class power need to be kept in mind.

The transnationalisation of production has fundamentally changed the power balance between capital and labour at the global level in favour of the former. Starting in the 1970s with the shift of labour intensive production to countries in the Global South as discussed above, globalisation has led to an increasing transnationalisation of production, with the production of many goods being organised across borders (Bieler 2006: 50). The ISDS mechanisms, mentioned above, are the latest step in the increasing power of transnational capital. Demands towards restraining transnational capital’s power are, therefore, essential in the struggle towards an alternative trade regime.

In order to avoid a scenario, in which various national labour movements are played out against each other by TNCs in their decisions on where to invest, the implementation of global labour standards could be a crucial way forward. Global labour standards here do not refer to minimum conditions such as length of the working day or minimum pay, but fundamental rights of workers to organise themselves collectively in defence of their own rights. Hence, a first joint demand could be:

All FTAs must include a social clause, which commits capital to respect the seven crucial ILO conventions (87, 98, 29, 105, 100, 111, 138) which provide for the freedom of association, the right to collective bargaining, abolition of forced labour, prevention of discrimination in employment and a minimum age for employment.

The International Confederation of Free Trade Unions (ICFTU), the predecessor organisation of the International Trade Union Confederation (ITUC), attempted precisely this in the 1990s, but in the form of a WTO clause. At the time, the proposals did not only fail because of resistance by transnational capital, but also due to disagreements within the labour movement. Some labour movements in the Global South were concerned about the link between these demands and the WTO, giving the latter even more power, and were worried that Northern states would use these clauses to attack developing countries. Moreover, there was a concern in the Global South that Northern labour movements would ensure a social clause, but make compromises over, or neglect, other issues such as debt relieve (O'Brien 2002). The level and method of enforcement mechanism will have to be discussed, but perhaps this is the right moment to return to global labour standards and to explore whether pursuing them collectively could be an acceptable way forward towards constraining the power of transnational capital? The current strike wave in China, for example, is often driven by demands for the right to free association and collective bargaining.

Few other areas indicate the power of transnational capital as much as the issue of tax avoidance and tax havens. Tax avoidance refers to practices which use the official tax regime to reduce the amount of payable tax with legal means. In turn, tax havens facilitate these practices of tax reduction. The British bank Barclays, for example, 'has come under fire for promoting the use of offshore tax havens as a route for companies investing in Africa' (The Guardian, 20 November 2013) and this against the background of estimates that African countries lose billions of dollars in unpaid taxes each year. This is not only a problem of developing countries. Another example is the bank HSBC, the Swiss subsidiary of which actively approached potential clients with a scheme, which would allow them to avoid a new tax resulting from a treaty between Switzerland and the EU (The Guardian, 10 February 2015). In a research report for the Public and Commercial Services Union (PCS) in 2014, Richard Murphy concludes 'that the UK's tax gap may now be £122 billion a year' (Murphy 2014: 2), 'tax gap' referring here to the sum of tax that could be collected, but is not. In short, tax avoidance and tax havens are a problem for countries in the Global South and North alike. This could result in the following second collective demand vis-à-vis TNC power:

All tax havens must be closed and tax avoidance schemes be abolished through the introduction of new regulations to control transnational finance.

Some economic areas are closely related to fundamental human rights. As the Alternative Trade Mandate Alliance (2013: 15) has put it, ‘essential services such as energy and water distribution, education, health and social services have to be safeguarded against offensive commercial interests, and tightened market rules’. The fight for water as a human right and against privatisation is also one of the most successful one around the world with an increasing number of examples of re-municipalisations in every part of the globe (see <http://www.remunicipalisation.org/>). Hence, a further collective demand vis-à-vis TNCs could be

Certain areas such as water are to be excluded from any trade agreements.

Finally, ISDS mechanisms have already been part of bilateral free trade and investment agreements. Thus, ‘Argentina has faced compensation claims for over USD 20 billion, following the impact of its economic crisis in 2001 on the viability of numerous water and electricity privatisations’ (Hall 2006: 184). The following demand underpinning an alternative trade regime can be formulated as a result:

Investor-state dispute settlement mechanisms must not be part of any trade agreement.

Conclusion: from joint demands to common action?

In sum, despite the different position of various national labour movements in the global political economy, a range of joint demands may be feasible. This paper introduced one set of potential demands around the re-assertion of national sovereignty and another set of potential demands against the increasing structural power of transnational capital. Nevertheless, it is one thing to agree on collective demands, and another to devise a common strategy in order to push for the implementation of these demands.

This could be an opportune moment for transnational solidarity against free trade agreements. While there have been tensions over ‘free trade’ within the global labour movement until fairly recently, in view of the damaging impact of, and secrecy surrounding, TTIP negotiations, more and more Northern and here especially European trade unions come out against ‘free trade’. Detlef Wetzels, the current General Secretary of the IG Metall, the powerful German metalworkers’ union organising workers in export sectors, recently criticized negotiations of TTIP. While the potential benefits are either unclear or small at best, the planned investor-state dispute settlement mechanism would undermine national

sovereignty and potentially also include downward pressure on working conditions and workers' rights. Hence, TTIP negotiations should be stopped (Wetzel 2014). The British Trades Union Congress, in turn, adopted a motion at its Congress in September 2014, in which it resolved 'that the trade union movement should now call for the TTIP negotiations to be halted and adopt a clear position of outright opposition to TTIP' (TUC, 23 September 2014; <http://www.tuc.org.uk/international-issues/trade/congress-2014-composite-resolution-transatlantic-trade-and-investment>; accessed 20 February 2015). The German DGB too is vehemently opposed to ISDS provisions, it demands that CETA is re-negotiated and argues that instead of deregulation as envisaged by TTIP, we would need more regulation of globalisation to ensure that social dumping is avoided and globalisation becomes more just (DGB 2015). Even more encouraging is the campaign Stop-TTIP, which is based on a broad alliance of social movements, trade unions and NGOs across the EU and has already collected more than 2.5 million signatures in its independent European Citizens' Initiative (see <https://stop-ttip.org/>; 03/09/2015). Considering this widespread mobilisation against further free trade agreements in the Global North, this could be the moment to mobilise at the global level for an alternative trade regime. Such broad alliances may have the potential to address the imbalance of power between capital and labour and potentially turn the tide against neo-liberal restructuring.

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