

State Sovereignty and Post-Covid Globalization

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This text examines how globalization has reshaped global economic dynamics, emphasizing its role in weakening nation-states and fueling trade conflicts. It argues that globalization, driven by multinational corporations (MNCs), financial deregulation, and supranational organizations, has eroded state sovereignty by shifting power to global actors whose interests transcend national borders. The rise of trade conflicts—manifested in disputes over subsidies, dumping, market access barriers, and geopolitical tensions—is traced to the clash between liberalized trade policies and states' efforts to protect domestic industries and social cohesion. The World Trade Organization (WTO) is analyzed as a key institution for resolving disputes, though its mechanisms face criticism for bias toward wealthy nations, procedural inefficiencies, and an inability to address systemic issues like currency manipulation or environmental degradation. Case studies (e.g., agricultural subsidies, US-Japan trade deficits) illustrate the complexities of modern trade wars. The text concludes with recommendations for reforming global governance, including strengthening the WTO's authority, addressing power imbalances, integrating social and environmental standards, and enhancing developing nations' capacity to negotiate. Ultimately, it underscores the paradox of globalization: while driving growth, it exacerbates inequalities and destabilizes traditional state-centric frameworks.

Keywords: globalization, multinational corporations (MNCs), sovereignty, WTO, conflicts

Introduction

Globalization continues to take off after a period of slowdown during COVID-19. It is crucial to note that, over a long period of time, it has led to an increase in trade conflicts, and in turn to a weakening of the power of nation-states.

Encouraged by the world's hard-line liberals, vilified by supporters of the social forum, globalization has given rise to debate and controversy. Nation-states, once the main players in economic policy, are now geographically limited by political borders that determine the space within which they exercise most of their power, while new international players (multinational firms, international financial operators, supranational organizations) have emerged in the context of globalization, their objectives transcending national borders and their effects undermining the sovereignty of nation-states.

Globalization is the transition from an economy operating essentially within the framework of nation-states to one in which private players act and reason on a global scale. This is reflected in the internationalization of companies, which are going to produce and seek out outlets outside their own borders. In addition to international trade, which has been growing faster than world output since 1945, it is this movement that symbolizes the

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development of economic activity from an international perspective, i.e. between nations, to a global one. Another factor in economic globalization is the development of international finance, which seems to be working against governments.

The latter, in pursuing their internal objectives of economic policy or social cohesion, must take into account the capacity of economic players to create competition between territories. In some countries, this is reflected in measures to lower taxes in order to attract companies and capital. This globalism raises a number of questions about the State: what about this elusive figure in the face of globalization? What forms has it taken, is it taking and will it take with internationalization and globalization? An analysis of these questions reveals that states are increasingly losing their decision-making powers in the face of globalization. This globalization of national economies is mainly due to the process of trade liberalization (reduction of customs duties, creation of free-trade zones), which has truly changed the functions of the State through its interventions in economic activity. Advances in the transportation of goods and services (lower costs) and the development strategies of multinational companies (global presence) have also contributed to the growth of world trade.

From a purely financial point of view, this has led to financial globalization, with its deregulation, disintermediation and decompartmentalization. These advances in international trade, driven by multinational corporations, have helped to erode the power of individual states. The world has become a village, a place of exchange crossed by flows of people, goods and services, of money signs.

In 2000, relocated industrial production accounted for 25% of global output. This trend is set to continue, despite the complicated context of war in Europe (Russia's invasion of Ukraine), widespread inflation, tighter monetary policies and financial fluctuations. The global economy will not have fared so badly in 2022-2023. Also since the mid-1980s, the development of direct investment has taken over from international trade as the driving force behind globalization. The weakening of state power is presumed by the existence of a world in which elusive players operate: network firms.

In other words, the symbols of power do exist, but no one pays any attention to them.

This economy of flows, freed from national anchorage and political authority, has given rise to fears about the loss of sovereignty by states. They have also lost control over employment, even though they remain accountable to public opinion, since unequal trade between low-wage and high-welfare countries can only lead to job destruction and social downgrading in affluent countries, and unbridled liberalization in the hitherto protected sectors of air transport, energy and telecommunications can only increase insecurity and undermine public services. For governments, globalization is first and foremost a factor in reducing their capacity to act, by extending the market space beyond the territory over which they exercise power. This is true not only of economic policy, but also of structural policy. Paradoxically, the new situation calls for state intervention, which is more necessary than ever in the face of a disordered global economy and the opportunistic logics followed by companies when locating their activities. Otherwise, governments are more sensitive to the grievances of multinational corporations than to those of their own people. This is the fundamental reason why trade unions, and the countervailing powers in society at national and international level, are mobilizing more and more to ensure that the dynamics of globalization are properly oriented and given a positive value, otherwise everything seems to indicate that globalization is threatening states. There is talk these days of the sanction of the markets, insofar as central banks have lost the quantitative battle on the foreign exchange market. Central bank reserves have become a negligible fraction of total capital. Experience tells us that, while occasionally necessary, government intervention in the capital markets generally fails to achieve the desired objectives. They are

ineffective because they have few resources to mobilize in the face of the colossal sums traded daily on the markets. As a result, they are costly for governments and, consequently, for taxpayers. In contrast to this quantitative challenge, States are forced to fall back on the qualitative terrain, i.e. that of credibility. Credibility can be defined as a set of measures taken by the authorities to inspire the confidence of private agents. To resist the globalization of the world economy, which is outpacing them and demonstrating their relative powerlessness on a daily basis, governments are trying to reinforce their national authority within broader bodies. This is how we understand the cooperation between the world's richest countries (G7). This is also how we should understand the cooperation of the major international conventions: MONTEGO BAY (on the Law of the Sea), the RIO Declaration (on environmental protection). This process of strengthening the basic foundations of the State is taking place through the European Union. In the absence of world government, cooperation remains the way out for states.

Methodology

To demonstrate concretely that globalization has given rise to trade conflicts, we will attempt to approach this sub-aspect of the conflict theme on the basis of the literature review, which underlines the importance of world trade, before demonstrating how nation-states have been overtaken by the actions of other players in globalization.

We will always bear in mind that this phenomenon has played a definite role in the development of international disagreements. The best-known example of this came at the end of 1999 in Seattle, where fundamental differences emerged between industrialized and developing countries, as well as conflicts of interest over agricultural subsidies.

Literature

The long history of world trade is amply documented thanks to the theoretical contribution of economic thought, which bears witness to its astonishing evolution.

The emergence of world trade is by no means recent (Barbieri, 2002). As far back as antiquity, the Greeks and Romans traded intensively. Later, the wealth of cities such as Genoa and Venice were largely based on trade relations. In the 18th century, the foreign trade policy of virtually all European countries was guided by the conviction that a country that exported as many goods as possible would have a trade surplus that would increase its wealth. This meant favoring local goods and imposing high taxes on imports. This belief, known as mercantilism, laid the foundations of political economy, and was vigorously opposed by its founding fathers. Today, consumers cannot, out of chauvinism, totally renounce foreign products, just as companies cannot renounce foreign markets. Mexico imports software from the USA, while it sells clothing to the US. The theory of comparative advantage (Ricardo, 1817) explains the reasons for this, and describes how a country that suffers from an absolute competitive disadvantage, i.e. whose industries all have lower productivity than those of its partner, gains from trade. This country will concentrate on producing and exporting the goods in which it is relatively the most productive. In so doing, it gains on its income, because it doesn't need to mobilize resources to manufacture goods that it can obtain more cheaply on the world market. Before him, Smith (1776) had already developed the theory of absolute advantage, but it is the theory of comparative advantage that is more widely accepted among economists. It is also the one that gives rise to the greatest misunderstanding among non-economists, who confuse it with absolute advantage. Classical theories are no longer sufficient to explain trade

flows. Two countries often sell similar goods on a regular basis. They only become aware of the advantages of a liberal trade system when their country falls prey to monopolies or cartels. In such cases, imports exert the competitive pressure to lower prices and even improve quality. In theory, competition is supposed to increase innovation, but in practice it is a source of conflict (Bouët, 1944).

Discussions

The growing influence of multinational firms undeniably an economic reality (Boniface, 2001). Multinationals began life in Europe, before exploding all over the world. The cost of technological innovation and the need for rapid equipment renewal are driving companies to expand their sphere of evolution. Multinational, profit-making companies (with nationality in one country and subsidiaries in others) are internalizing their production activities, but with a single decision-making center. They have enormous economic power, given their influence and their economic and financial weight (Aglietta, 1990). In fact, of the world's one hundred largest economic entities, there are 51 companies and 49 states. General Motors' sales exceed the gross national product of countries such as Saudi Arabia, Turkey and Poland. Similarly, the sales of the world's top five companies exceed the combined gross national product of 132 UN member states. According to UNCTAD (United Nations Conference on Trade and Development), there are 145,000 behemoths controlling a third of the world's productive assets. The countries of the triad are home to the majority of these firms (88% of the world's top 500 by market capitalization). The free transferability of capital has an impact on national economic policy. The autonomy of economic and financial policy is therefore largely undermined by the weight of investors. In short, capital can easily bring free competition between countries into play, and then go where its interests are best served. In this way, they can play an important role in opposing governments. American companies operating in Latin and South America play an important role in the political and economic life of these regions.

They are the subject of various criticisms from anti-globalization advocates.

For some, they promote environmental destruction, the unbridled pursuit of profit to the detriment of employment, the presence of agropastoral firms that play with public health, and pharmaceutical companies that play with the suffering of the poor. What's more, some of these companies employ children in low-wage countries. For the latter, they are a vector of modernity, an inevitable source of technology transfer.

In the past, the capacity of nation-states was linked to control over the material and immaterial flows that circulated within their territories. Today, open borders have at least partially bypassed the State. The process of internalization, reflected in the development of global trade and multinational firms (Baldwin, 1988), and the extroversion of increasingly dependent economies, has led to the emergence of new players over which states have little real control. In this respect, they seem to be overwhelmed by all the effects of globalization, insofar as they are outflanked from above by financial transnationalization, information transmitted by satellite, business practices, the growth of the informal sector in certain states, not to mention states whose territorial limits and legitimacy are challenged by armed groups. Generally speaking, liberal policies are forcing states to disengage from certain economic areas (public enterprises or forms of social control and supervision) that used to contribute to the balance of social cohesion. Faced with the strategies adopted by network firms and their logic of domination (when 200 companies do better than 150 countries), states can only find themselves powerless. No doubt they have means at their disposal which they can make use of: control of foreign investment, either in the form of simple registration or prior authorization, measures to protect national industry, requiring nationals to participate as shareholders or subcontractors, etc., but these actions have only a limited impact with the rise of waves of

deregulation in all spheres of economic activity.

They depend on firms, because they try to attract them to promote development, and support employment (in the case of developing countries) by facilitating their establishment (favorable tax regime, assumption of responsibility for equipment, tax exemptions).

Nation-states depend on multinational firms to balance their trade and strengthen their industry (Barbet, 1997).

For African countries, the influence of network firms can be seen as direct political intervention, interference in the country's political affairs.

Moreover, globalism has undergone a qualitative leap and a change of scale since the 1990s. Nation-states are now trapped in a globalized economy, and are powerless to act. The fragile barriers they seek to re-establish tend to be swept away like straws; and national economic policies are doomed to be no more than a mere accompaniment to movements unfolding on an infinitely wider scale. The short-circuiting of the state by corporations has provoked a resurgence of the radical current. The anti-globalization movement now includes not only the old anti-imperialist left, but also sovereigntists on the right and left, denouncing ultra-liberalism and the globalization that is destroying the values and structures (employment, regions, mentalities, etc.) of the State. Added to this "anti" movement are the vast majority of environmental movements and the concerns of broad political currents in developing countries. So it's easy to understand why, at Davos, the world's rich insisted that the educational effort must continue in order to win popular support for the world as it is, i.e., driven by increased global trade and commercial practices. All in all, globalization is driving global growth, but leaving many countries on the sidelines (Berthaud, 2006). Poverty and inequality in income distribution are, in fact, on the increase. For the radical current, this is a mechanism intrinsic to the new economy: casualization of work, over-remuneration of capital, increased exploitation. They believe that the only way to humanize the economy is to stop the liberal infernal machine. Liberals, for their part, say that these are the collateral effects of opening up economies. Initially, they thought they would spontaneously disappear as a result of growth. However, the crisis has persisted, and global institutions are now obliged to include the fight against poverty in their fields of evolution.

Money, technology and information play a propulsive role, crossing borders with unprecedented speed and ease. Transport and telecommunications costs are plummeting. In most developed countries, capital transfers are no longer controlled, and even drugs, immigrants and weapons enter. Subsequently, the International Monetary Fund itself was mandated to take account of the unequal effects of growth when monitoring or defining economic policies. Similarly, the United Nations Conference on Trade and Development played a major role in determining this diagnosis, which was belatedly adopted by the OECD. In economic terms, the national framework has been supplanted by global corporate networks. Flows are expanding as technological, geographical and political obstacles to their movement disappear.

The proof of this reality lies in the ever-changing representation of space. Its dimensionlessness becomes the true measure, not only does time contrast and accelerate, but an entire technological sector (the new economy) has emerged which, thanks to knowledge has become the key to production on a par with labor and capital. Flows of both information and capital are becoming immediate and limitless. For many economists, it is this phenomenon that makes the difference between the economy and the global economy. Basically, the role of the State in international relations is being called into question. It is felt that the nation is being devalued, under the triple effect of new international players competing directly with it in the international sphere, hence the birth of

a debate analyzing globalization and the exhaustion of the nation-state model. The old model is criticized because it can no longer be universally applied to all cases. We have states that lack the means of sovereignty. As a result, they do not have the monopoly which, according to Max Weber, belongs to states and even constitutes their characteristics. They are not in a position to exercise the competences that should be theirs. These are the collapsed states. Others are held hostage by international mafias thanks to the existence of tax havens (representing 3% of the world's wealth). The State is no longer the body to which everyone naturally turns when faced with a challenge. Major economic, budgetary and social issues can no longer be handled by the State alone. For example, between 1981 and 1983, France's economic recovery failed because it was isolated from other partners and therefore went against the tide. Similarly, managing the environment, resolving international crises, regulating stock markets, immigration and the development of biotechnologies all require inter-state debate and involvement. Globalization is also challenging the relevance of the national level, by removing from the State some of the means and power to make decisions within its borders. The multiplicity of flows and networks is taking place in competition, and often through the subtraction of the State. The current situation demonstrates this assertion about change: "the international system based on a stato-national logic has now been superimposed by a network of transnational flows". The international economy is going through a management crisis, as the various attempts to pursue an independent fiscal, social, employment and interest rate policy are frustrated by the regionalism of product markets and the internalization of capital. Firms have pushed governments to remove barriers to trade and the free movement of goods and services, in order to exploit economies of scale. Indeed, they are the winners of competitive macroeconomic policies. While governments struggle to attract investment through low-interest loans, subsidies or tax breaks, firms reap the benefits. Theory and factual practice largely recognize this reality. Consequently, the role of the firm is conceived in a global way (multi-product, multi-function, multi-unit). The separation of functions within the firm using a combination of market and intra-firm organization is well established and is managed by managers in a way that can conflict with government policies. They create situations of informational market asymmetry (Stiglitz, 2000), since the latter are perceived as a source of control over information and its best use. Relations between borders no longer necessarily pass through the filter of state control. The State, recognized as sovereign by international law, accepts no higher authority.

It must now necessarily deal with international players. As a result, the influence of corporations and the implementation of market conquest strategies have given rise to global trade conflicts.

Results

Since the Second World War, the multidirectional evolution of international trade has become apparent. The unwritten rule of every man for himself has taken over from the customs disarmament of the 1960s and the solemn condemnation of unfair trade practices between states, reinforced by the implementation of general negotiations. They remain dominated by the industrialized countries, despite the Asian invasion so often described by analysts. This context does not exclude the fact that we have moved from stability to a period of conflict. But what about the trend? The answer to this question will revolve around the causes of conflict and a presentation of some of the new disputes that are making headlines at the Geneva institution. Indeed, the years from 1960 to the end of the 1970s were marked by a real willingness, or a headlong rush, on the part of states to pursue, if not fully respect, the initial objectives of the GATT, namely the continuation of rounds, the laborious elaboration of anti-dumping codes and rules on subsidies. Subsequently, the eighties and even more so the nineties were marked by quarrels and conflicts, first latent, then open, between countries. Generally speaking, a number

of factors have undermined the multilateral nature of the international trading system, even though the Geneva-based institution has continued to defend it ardently, albeit powerlessly. The latest Uruguay Round negotiations bear witness to this impasse and the deviation from the original GATT rules. Compared with other rounds, the multilateral negotiations encompass three very specific negative features: The rise in protectionist pressures (the introduction of non-tariff barriers to trade, a growing trend towards regionalization, voluntary export restraint agreements linked to the strengthening of existing blocs (the Single European Act) and the birth of new growth poles (NAFTA in 1994) and, finally, the use of retaliatory State measures opening the way to unilateralism in trade policy, known as unilateral trade activism (USA). In the USA, the famous section 301 of the 1974 Trade Act, reinforced and amended in 1998 by the super 301 and the special law on the violation of intellectual property rights, is a concrete example. Firstly, the *de facto* creation of supposedly provisional trade rules and practices, which persist and run counter to the principles of inclusive multilateralization of international trade relations. Secondly, certain conclusions and positions have distorted or, above all, marginalized the importance of the former GATT in the continuing drift of trade. A critical approach to market accessibility shows, for example, that the European Union is the most open zone, ahead of the Americans and the Japanese. The Asian states lag far behind this trilateral universe. All in all, world trade is a veritable jungle in which almost anything goes, as in a famous Hollywood film. As early as 1992, there were over eighty-five GATT complaints about unilateral retaliation. Self-restricting agreements on national quotas (the US-Japan case on semi-conductors and the limited or non-existent agreement on the rice market, vital for Japanese agriculture) are a case in point. Social dumping by developing countries—an allusion to unfair competition—has also gained momentum, as has monetary dumping, characterized by a substantial rise in nominal interest rates to levels close to 3% to boost growth and reduce the overvaluation of their currencies.

The purpose of GATT was to identify these obstacles in order to better combat or circumvent them. Hence the recurrence of conflicts is the logical manifestation of the existence of a multitude of conflicting cases. Indeed, power struggles and threats have become the daily lot of commercial relations. The numerous disputes on the WTO table reflect the scale of this new trade war, which in our view has reached its climax. The agricultural dossier, the cornerstone of the trade negotiations, outweighs all others, so representative is it of the antagonisms between states. In the continuation of this work, we will look at the conflicts in particular, before explaining the methods used by the two institutions (GATT and WTO) to resolve them. With this in mind, it is useful to define conflict with the help of a few old and new examples, and then try to update the debate among economists and managers about the real existence of conflicts.

It is now true that globalization has increased the pace of conflict in many branches and sectors of the international economy. For example, the trade conflict between Japan and the USA stems from the trade deficit with Japan. It is a translation of the trend and amplitude of conflicts.

One way for the Americans to thwart imports of Japanese products and reduce the deficit was to impose a revaluation of the yen on the Japanese to make Japanese products less competitive with American products.

A conflict is a situation in which one country or group of countries with third-party interests accuses another country or group of countries of unfair competition. This situation leads to the implementation by these economic entities of countermeasures covering several facets of unilateral reactions: retaliatory measures, reciprocal measures, institutional sanctions or measures to suspend or terminate a treaty. It is therefore important to define these notions of war, which are linked to the existence of disputes, in order to better define the contours of the theme, as there is a difference in acceptance between these three practices.

Indeed, the definition most commonly accepted by jurists with regard to the notion of reprisals is that adopted by the Institute of International Law.

Japan has accepted this commitment, but its companies are setting up car assembly plants in the USA and continuing to export spare parts and components. The U.S. government responded by requiring Japanese factories to produce a certain percentage of components locally. Retaliation is defined as “measures of constraint, derogating from the ordinary rules of the law of nations, decided and taken by a State in response to unlawful acts committed to its detriment by another State, with the aim of imposing on the latter, by means of pressure exerted by means of damage, a return to legality”. This definition shows that reprisals violate an international obligation exercised by one State in reaction to the conduct of another. This unlawful act constitutes the motive for resorting to reprisals. Indeed, the principal aim of a reprisal measure is to contribute actively to the restoration of legality, whether to put an end to the violation of an international obligation, or to compel compliance with the obligation to make reparation arising from the international responsibility of the State against which the reprisal is taken.

As for retaliation, it is defined as a legal measure, but can on occasion become discourteous, harsh and damaging.

To explain the nature of these conflicts, we'll disregard the legal nuances that exist between these practices, insofar as they all have a single purpose. How common is a trade war? The concept of trade war has not always been well defined by public authorities in the past. In France, for example, the government has always found it difficult to pronounce on this economic concept. The reference framework is already old, since it was an ordinance of 1959 that defined the concept. The authors of this decree assumed that economic defense applied above all to a crisis situation—not an economic crisis, as would be logical in today's context, but an international crisis of an ideological or territorial nature, more in line with the text of the time. This vision has been heavily influenced by a military reading of historical facts that does not take into account the emergence of new forms of conflict due to the globalization machine. From this point of view, attempts at expansion in peacetime have been overlooked. Today, they are one of the major issues at the heart of most trade negotiations underway at the WTO. To deal with the growing number of conflicts, some countries have introduced new instruments as part of their trade diplomacy. In France, the administration currently distinguishes between peacetime, governed by competition, and wartime, when the use of economic sanctions becomes a complementary weapon to military operations. By limiting the concept of economic defense to a context of international crisis, the 1959 ordinance left new forms of market economy in the dark. The offensive national economies that have emerged since the end of the 1960s have not Americanized their economies to imitate the strategy of the leading country of liberalism. Rather, they have assimilated its knowledge and know-how in order to compete more effectively. This practice is known as the illusion of international trade war. This trend is symbolized by Krugman (1987) in his criticisms of theorists who support the existence of trade conflicts. To the question of whether economic competition between market economies has taken the place of Cold War competition, he sharply retorts that this remark is enough to perplex a professional economist, who will find it quite strange that international trade can be seen as a competition that resembles military rivalry. This view maintains that conflicts do exist, but that we tend to dramatize them, since every time we try to provide figures, we are obliged to note that the stakes are very low, on the order of a few tenths of a percent of national income, i.e. we are far from the life-or-death issue at stake in military competition. Personally, Krugman (1987) offers three thoughts in support of this position, the content of which is open to interpretation. Firstly, the idea that trade is a quasi-military issue emanates from the

most listened-to politicians, captains of industry and intellectuals, i.e. the people whose opinions have an impact. It's not just that economists have lost control of the debate, it's also that the theories in traditional economic textbooks don't fit into this discourse. Secondly, the refusal to accept the conventional economic wisdom, according to which trade is, as a rule, harmless, does not stem, as one might think, from a justified skepticism about the realism of standard economic models. On the contrary, there is a commercial competition between agents who believe themselves to be sophisticated if it is not understood that their theses are based on an inability to understand the simplest economic realities and concepts.

Ultimately, as most debates between influential people on international trade issues are marked by profound ignorance, it is important to understand that the risks of a real global economic confrontation do not emanate from a single source but by the existence of real conflicts of interest between nations.

In short, the real danger comes from the illusion of economic conflict, which has nothing to do with reality. Viewing the global economy as a battleground for markets and capital seems to be an error of judgement. In this respect, a number of criticisms can be levelled at these various analyses. Before going into these sharp criticisms, we'll take the liberty of highlighting the differences in approach used by the analysts. They differ in their approach to the trade war. Reich (1993), for example, describes it as a struggle to attract a pool of highly mobile capital, while (Thurow, 1999) seems more concerned with drawing up a list of strategic industries. They also differ in the emphasis they place on particular policy ingredients: Reich (1993) wants more education and training, while (Thurow, 1999) calls for the definition of an industrial policy. Others, too, recommend a firmer foreign trade policy. As for similarities, they revolve around the notion of competition, which is perceived as a zero-sum game. In addition, military metaphors abound, and a martial tone appears in these authors' manuals. The lack of allusion to international trade theories, and the elaboration of analyses borrowed from the business world, are the main grievances levelled at the Theorists of Trade Warfare.

We will now develop the analysis of the other current, based on facts and a few elements of economic theory.

Basically, we distinguish between conflicts linked to market access, trade defense, anti-competitive practices, geopolitical origin (Bearce, 2001) and the market access conflicts.

This access of foreign products to national markets comes up against tariff and non-tariff barriers. Generally speaking, these relate to customs duties. However, the considerable reduction in customs duties since the establishment of the GATT has significantly reduced the weight of tariff barriers in international relations. As a result, tariff barriers now account for only a negligible proportion of trade. As for non-tariff barriers, these are public policy measures other than customs duties, whose effect is to hinder the access of products of foreign origin to a local market. The arsenal of non-tariff protectionist measures is particularly rich and diverse. Our knowledge of international trade enables us to identify the most appropriate means and methods for curbing imports or creating other distortions in international trade. Some international organizations have identified over 20,000 non-tariff barriers. The most commonly used are: unilateral quantitative restrictions, voluntary export restraints (VERs), abusive use of technical and social standards, and administrative harassment.

Conflicts linked to trade defense arise from the fact that all countries are accustomed to resorting to economic retaliation measures (countermeasures to protect themselves against what they consider to be unfair practices, or simply to deal with temporary difficulties in a given sector of activity, which they attribute to imports). As a result of chain reactions, these practices can quickly become very damaging to international trade. Hence the need to regulate them. This was done in the 1947 GATT, and was significantly improved by the 1994 GATT. There are rules for dealing with unfair business practices, dumping and subsidies.

With regard to the emergency measures that States may have to take in the event of market disruption, a specific agreement has been reached on safeguards.

The safeguards mechanism in this respect, it constitutes a safety valve for the viability of multilateralism, and as such lies at the very heart of the international trading system. It reassures nations by enabling them, under certain conditions, to take urgent protective measures against imports that disrupt their markets and threaten to cause serious damage to their domestic production of similar goods. Safeguard measures often trigger hostile reactions on the part of the countries suffering the consequences (the metals affair between the USA and Europe). To see the scale of the conflicts generated by safeguard clauses, we need only look at the “hormone beef” affair. It involved France, which was strict about meat quality, and the USA, which threatened to restrict wine imports. As a result, French wine is frequently in the crosshairs of the US administration.

The Food and Drug Administration conveniently discovered that French wine contained a harmful preservative.

The “mad cow” affair was also interpreted by the British as a measure designed to protect French livestock farmers.

Anti-subsidy (countervailing) duties are special duties levied by the importing state to neutralize the effects of subsidies it considers to have been granted to the manufacture and export of a product. The aim is to re-establish conditions closer to normal competition. In practice, they are sometimes used as a particularly formidable protectionist weapon. It is noticeable that importing countries tend to apply this measure against the most competitive products from the most dynamic countries. This practice is highly developed in the USA. The concept of anti-subsidy duties is therefore directly linked to that of subsidies. What role should public authorities play in supporting investment and production? This question is not directly related to international trade relations.

On the other hand, state subsidies for exports—tax and tariff breaks, preferential export credits, marketing aid, reduced social charges, etc., are one of the main sources of conflict.

-Anti-dumping duties involve exporting products to foreign markets at a price lower than their normal value. GATT 1947 stipulated that if this practice caused or threatened to cause material injury to domestic production, the importing state could impose an anti-dumping duty, i.e. the difference between the export price of the product in question and its price on the domestic market of the exporting country, not exceeding the dumping margin. This provision proved difficult to implement. The system was improved in the WTO agreements, with the introduction of numerous clarifications, notably on the very notion of dumping. The upsurge in disputes linked to dumping and anti-dumping is now a feature of international trade relations.

Conflicts linked to anti-competitive practices include monetary dumping, social dumping, ecological dumping, piracy, counterfeiting, corruption and anti-competitive practices by companies, all of which create major tensions in international trade relations.

-Monetary dumping consists in manipulating the monetary instrument to serve commercial objectives. This is a long-standing practice. The non-existence of an international monetary system worthy of the name encourages this practice.

From the outset, the philosophy of the international trading system was linked to that of Bretton Woods, according to which only a regime of fixed parities could ensure the development of the multilateral trading system. The advent of flexible exchange rates and hard currencies had a considerable impact on the way the world economy was regulated. Since the Jamaica Agreements in 1976, exchange rates have been managed by the monetary authorities of the major industrial countries. The 101 Plaza agreements of September 1985, signed by

the finance ministers of the Group of Five (USA, UK, FRG, Japan, France), and the Louvre agreements of February 1987 of the G7 organized genuine cooperation between the central banks and treasury departments of the major industrial powers. But this cooperation can hardly replace the Bretton Woods system.

-Social dumping: This is based on the notion of unfair competition between countries whose participation in international trade is not accompanied by a comparable development of social conditions. Under these conditions, the competitiveness of products from certain emerging countries would be based solely on the very low level of wage costs, essentially due to non-compliance with social standards: freedom of association for employers and employees, right to collective bargaining, ban on child labor, ban on forced labor.

At present, the Western powers want to introduce a “social clause” into the multilateral trade system. The aim is to introduce trade measures sanctioning violations of employment standards.

-Ecological dumping: Firms that do not integrate ecological costs into their production activities can offer more competitive goods. When these goods reach international markets, they compete with those manufactured by companies that cannot ignore environmental considerations, and are therefore subject to financial constraints. Denouncing this kind of dumping with the utmost energy, certain influential groups are calling for the introduction of an environmental clause in the trading system. The idea is to apply trade sanctions to countries whose export activities fail to take account of environmental costs.

Only goods produced in compliance with certain ecological criteria could be awarded “eco-labels”, enabling them to benefit from the advantages of the international trading system.

-Counterfeiting: The increasing openness of borders has also encouraged the development of piracy. This is particularly true of luxury goods. Top-of-the-range copies are able to imitate 100% the design, weight, label, etc., of a product. These plagiarisms are often so perfect that they require a thorough examination by the technicians of the defrauded brand to uncover the fraud. Generally, imitated products are traded at between 5% and 70% of the authentic price. The coarser products come from South-East Asia, while the more refined ones come from Europe. Counterfeiting is the crime of infringing various intellectual property rights. For companies that are victims of counterfeiting, the purchase of a counterfeit product replaces the purchase of the victim’s genuine product. It is more serious and dangerous for public health, as certain medicines are circulated and put on sale by certain countries.

-Corruption: In international transactions, it hinders competition, distorts trade and harms consumers and taxpayers alike.

-Anti-competitive business practices: The scope of the international trading system extends only to inter-state relations. It does not, therefore, cover the practices of private companies, which are increasingly undermining trade liberalization by erecting private barriers in place of public tariff and non-tariff barriers. Successive waves of mergers and acquisitions, and the acceleration of corporate concentration on a global scale, encourage the use of anti-competitive practices that escape national and regional disciplines. Under these conditions, competition is restricted, prices are raised and markets are divided up on the basis of illicit agreements, to the detriment of consumers (captive trade). Among anti-competitive practices, intra-firm trade occupies pride of place. Despite their growing weight in international trade, multinational firms are largely exempt from international trade rules. Indeed, a significant proportion of trade (over 30%) is made up of intra-firm flows between the parent company and its various subsidiaries. Subject to invoicing and over-invoicing, these “intra-firm” flows obey rules that are very different from the usual principles of supply and demand. We also have trade conflicts of geopolitical origin (boycotts and embargoes): Some conflicts go beyond the strictly commercial

sphere.

The oil pipeline war in the Caspian region or the economic tensions linked to the adoption of extraterritorial legislation are geopolitical in origin.

Boycotts and embargoes are generally imposed for non-economic reasons. They are global or partial restrictions on trade with a country or region of the world. Often presented by those calling for their imposition as indispensable to the triumph of a point of view or the resolution of a problem, they are rarely effective. At worst, if embargoes are effective, they can escalate conflict. The punished party has a tendency to go for broke.

Recommendations

As arbitrator, the WTO seeks to bring countries to a negotiated solution (Kenneth, 1995) which implies a balance of interests. To achieve this objective, it will target the incentives set in motion by the Dispute Settlement Body (DSB) to halt the dynamics of international trade disputes.

As a general rule, the W.T.O. relies on its principle of reciprocity to choose the best balance, enabling disputants to adopt a free trade policy rather than restrictive measures. When there is a multiplicity of equilibria, it is up to the WTO to choose the best equilibrium, qualified as favorable to the improvement of trade relations between members. Balances are created by members through trade. Then, through rounds of negotiations, the WTO invites members to find a balance that satisfies the concerns of each member. In short, it is the member states that provide the balances, and then it is up to the arbitrator in the last resort to select the best one.

Above all, it aims to achieve cooperation between member states. From her point of view, this cooperation is in everyone's interest: it corresponds to a mathematical symmetry (equitable sharing of the cake). Achieving this cooperation requires the omnipresence of a neutral institution capable of driving the liberalization of international trade. In this respect, the WTO acts as a communication and coordination center for trade negotiations. Despite its guidance some countries continue to use non-tariff barriers to capture a large share of international trade. To eliminate these neo-protectionist practices, it must promote its incentive measures.

These are essentially aimed at removing all tariff and non-tariff barriers, and promoting the success of trade negotiations.

Unquestionably, it is the only international organization capable of restoring stability and security on the trade front. It has the experience required to achieve this goal, since from the time of the GATT to the present day, it has constantly organized negotiations to settle disputes. But does it have what it takes to become the regulator and arbitrator of trade disputes? This arbitration role involves balancing the interests of divergent countries. It is therefore the body that must judge and propose solutions when disputes arise between member countries. Over the last fifty years, it has played this role with some success. As a result of trade liberalization, the growth rate of world trade has outstripped that of production. Thanks to its efforts, world trade has become more regulated and freer, and better than in the 1930s (an economic depression caused by protectionist measures). Today, it still has to promote its incentive measures to restore calm, because globalization has led to an upsurge in disputes (steel dispute, subsidies, bananas, etc.). This work consists of getting member states to respect the rules of the international trade game, by threatening bad players with sanctions in the event of non-compliance. Its aim is to create a framework conducive to fair trading conditions: these rules and principles are designed to guarantee free competition for goods, services and capital. In this way, it seeks to eliminate the causes of trade disputes. Restrictive practices have been the subject of negotiation in all the rounds organized by the WTO. It strongly encourages nation-states to seek its arbitration through the WTO rather than undertake unilateral

sanctions (criticisms of section 301 of the US Trade Act). The W.T.O., as the main incentive, provides a solid basis for removing uncertainty and disorder from the trading environment. Encouraging stability and predictability in the trading environment is undoubtedly a means by which the WTO can better control international trade. The perpetuation of negotiations is clearly aimed at establishing a stable environment, characterized by fewer trade conflicts and restrictive practices. The introduction of the principle of non-discrimination is designed to achieve the same results. Consequently, we deduce that incentives tend to reduce trade wars, while encouraging the search for cooperation. Cooperation requires the presence of an arbitrator capable of setting the rules of the game. To resolve disputes, the parties to the conflict must therefore conduct a series of negotiations under the auspices of the WTO. This criticism comes not only from member states, but also from academic circles, trade unions and associations (the alter-globalists). A recent statistical analysis 120 of disputes submitted to WTO arbitration has given rise to various interpretations (as regards the effectiveness of its arbitration system).

Indeed, it is also relevant to note the inadequacies of the dispute settlement system. Notwithstanding the establishment by the WTO of a dispute settlement procedure to pacify trade relations, certain unilateral measures persist. Some countries, such as the United States, have accepted that the general principles of transparency, reciprocity, most-favored-nation clause and transparency, but have preferred to retain their retaliation instrument (section 301).

Sectors such as air or maritime transport, investment and professional services are not covered by satisfactory regulations, leaving the door open to abusive and discriminatory practices. The methods used to calculate damages following the implementation of policies deemed unfair are contested by countries in conflict.

The same applies to the extent of sanctions imposed by the WTO following a dispute. Reprisals designed to induce the opposing party to comply with trade rules have become veritable instruments of trade policy, designed to strengthen negotiating power. In order to fully explain the limits of the measures designed to mitigate and resolve disputes, we will outline the main criticisms levelled at the WTO's dispute resolution system in particular, and at its structure in general. If, in the past, the rule of law was hardly applicable in trade before the birth of the W.T.O., the logic has evolved nowadays. Not only does it exist, but it applies and constrains member states. The law has become a leveller between large and small countries. As proof of this, the dispute settlement system that came into being in Marrakech in 1994 and came into force in 1995 introduced major changes compared to the old GATT system: the "negative consensus" rule (panels are automatically formed if consultations fail, and their reports are systematically adopted unless all member states vote against), and the setting of deadlines for the various stages of dispute settlement. However, this legalization of trade relations does admit of a few shortcomings.

The choice of experts, the cost of the procedure and the gathering of information are often a challenge. For a country to lodge a complaint with the WTO, it must know that a member is violating a trade rule.

This has been the case for African cotton-producing countries regarding the nature of American and European subsidies over the last forty years.

It is the exporting companies that pass on the information to their countries. This explains why and how the richest countries end up as the main plaintiffs or defendants. The market in question must also be sufficiently lucrative to justify the cost of the dispute procedure. This condition is more difficult for poor countries to meet, apart from a small number of mega-markets which often concentrate the bulk of their exports. Some experts raise the possibility of a lighter procedure (one expert, maximum three months) for markets that represent a significant

share of the complainant country's exports (5%, for example). Some members criticize the use of new experts. Panels are set up on a case-by-case basis. Consideration is currently being given to setting up a continuously available panel of 20 to 50 panelists. This professionalization of arbitrators would undoubtedly be a guarantee of independence and speed. Since we often notice a slowness in the settlement of certain disputes. There are limits to this proposal, however: the formula seems heavy on the budget and the composition of the panel risks creating tensions between members. Traditionally, a panel is made up of 3 experts, or 5 if the disputing states so wish. In theory, they cannot be nationals of the States party to the conflict, but States are increasingly tolerant of exceptions to this rule. Experts are usually members of official delegations, but also civil servants from outside the WTO, international trade lawyers, academics and others. Poor countries are under-represented, due to a lack national expertise and sufficient financial resources. When a dispute arises between a poor and a rich country, the W.T.O. secretariat demands that one panel member come from a developing country. As for the members of the appeals body, they are appointed for four years, one from each continent.

The multiplicity of sanctions available is one of the main criticisms, even if the best way of compelling a member to violate a rule has always been a preoccupation of the World Trade Organization.

Basically, the dispute settlement mechanism favours amicable settlements between the parties. Conciliation is therefore possible at any time. If a compromise is not reached, the panel's judgment must be implemented. However, Article 22 of the Dispute Settlement Understanding is ambiguous: it does not say whether a party must absolutely amend a rule deemed not to comply with international trade standards, or whether it can simply grant compensation to the complainant state. The decision depends on a cost / benefit calculation of the norm violation. Generally, at the end of the "reasonable period", if the respondent party acknowledges that it has not modified the rule or practice invalidated by the panel, the complaining government can request compensation. If the challenged party continues to violate the norm and does not negotiate compensation within twenty days, the complaining state can take retaliatory trade measures. In other words, a system that reproduces the inequalities in bargaining and economic power between states: a trade retaliation measure implemented by a small country carries little weight if it is exercised against a major trading partner such as the United States. The problem of power asymmetries taints the entire dispute settlement system. Developing countries are reluctant to lodge complaints with the D.R.O. for fear of the reactions this might provoke. For example, the fear that preferential measures will be challenged, or that development aid will be progressively reduced. Finally, the lack of transparency of the dispute settlement procedure is also criticized, as the deliberations of the appeals body remain confidential. Numerous non-governmental organizations, corporations and trade unions wish to put forward their arguments, without first having to convince their governments. Now, we have to admit that the W.T.O. defends a concept of calm on the international trade front. In other words, it encourages nation-states to respect their commitments. In playful terms, its function is to preserve cooperation. The negotiations conducted under its aegis were remarkably successful: the Uruguay Round. From now on, its remit will extend to other areas which, until now, were not covered by the GATT agreement. It therefore seems surprising to mention its shortcomings. There are sectors which, while not strictly speaking part of the commercial sphere, have a significant impact, positive or negative, on world trade. However, there are certain shortcomings that are constantly the subject of controversy: currency, employment, the environment, taxation, investment and, above all, competition. The WTO is criticized for taking only an imperfect account of economic reality. Firstly, the declaration on the WTO's contribution to greater coherence in the formulation of economic policies at world level is very imprecise. Secondly, the absence of any effective regulation of monetary aspects is all the more regrettable in that exchange rate instability creates

damaging disruptions. This is why some countries would like the WTO, in conjunction with international financial institutions, to take effective action to counter the speculative movements that are destabilizing national economies.

While the issue of controlling international capital movements is not new, recent financial crises (in South-East Asia, Mexico and Argentina) have given it greater relevance. Unfortunately, this solution poses the problem of the scope of the organization's powers, since its vocation is purely commercial. Extending the WTO's remit to all aspects of trade and finance affecting multilateral trade in goods and services would turn it into a global international institution, devoid of any specificity and encroaching on the remit of other well-established international organizations such as the I.M.F. and the World Bank. Such a scenario, despite the constraints of globalization, seems difficult to achieve. This was the approach adopted to determine the competence of the WTO, which is only able to deal indirectly with questions of currency, taxation and employment. Other weaknesses are worth mentioning here because of their theoretical and practical importance. The Uruguay Round agreement makes no provision for secondary legislation. This situation means that there is no direct effect. It also makes it difficult to control the operations of multilateral firms.

-Lack of secondary legislation: The WTO is deprived of the power to adopt binding unilateral acts. Unable to create secondary legislation, it remains under the control of member states. The system does not sin by excess of law, but by default. Areas of lawlessness exist, calling for new regulations.

-The question of direct effect: during the process of approving the Uruguay Round agreements, the main trading partners, namely the European Union and the United States, stated that these agreements could not produce any direct effect.

The WTO is more interested in trade flows between nation-states, and less in those between large corporations. A global competition policy would fill this gap, and would be all the more beneficial. In doing so, it would control the 265 firms that take unfair advantage of the various competition policies by setting up shop in poorly regulated markets. Otherwise, it is difficult to quantify intra-firm flows, exclusivity arrangements, tying practices and inter-company price agreements. After analytically demonstrating the negative impact of trade conflicts on trade, and pointing out the legal advances made by the WTO rules compared with those of the GATT, we develop a reflection on the future of world trade beyond the conflictual aspect.

This involves raising the issues of unequal development between North and South, linked to the excesses of financial capitalism (Aglietta, & Reberlioux, 2004), and insisting on the implementation of global governance.

Generally speaking, most questions about the future of trade focus on the inequalities that the expansion of world trade has caused, while at the same time proposing a number of solutions aimed at improving global governance. We will begin by listing these inequalities, and then go on to suggest a number of ways in which the WTO could further integrate the Least Developed Countries into international trade, in particular by strengthening their production and negotiating capacities.

The inequalities generated by globalization, in addition to the trade conflicts it has brought with it, have also produced enormous difficulties throughout the world. From now on, the threat is economic, or more precisely, geo-economic. Rivalries have shifted from the territorial to the economic sphere, where we need to invest in building productive bases. The key to industrial supremacy lies in mastering the technology of cutting-edge industries.

The mobilization of all strategies illustrates this reality. For example, nation-states are increasingly using the weapons of economic warfare anti-competitive practices, discriminatory regulations, etc.

While disputes concern developed countries, they also involve emerging countries. As a result, many conflicts arise between partners in globalized trade. Examples include the banana war, the softwood lumber dispute, the steel dispute, and the genetically modified organisms' issue. Trade: progressive liberalization of the agricultural and services sectors, and better definition of intellectual property rights, since some believe that international competition has truly changed. Some economists, for example, "call for a policy of economic armament, where capital is the firepower, policies and subsidies are the ammunition, and military bases are replaced by market penetration".

- From an institutional point of view: ensure that anti-dumping clauses are not a resurgence of protectionism;
- Political: clarify the role of the WTO in relation to international agreements and public procurement.

-In the social and intellectual property spheres: finding strategies to combat social dumping on the one hand, and to protect inventions and creations against piracy of all kinds on the other. Despite the existence of these negotiating logics, major difficulties remain. In contrast to the benefits it has brought to the world's trading powers, globalization seems to have left most countries by the wayside. Developed countries are the main players, making or capturing the bulk of foreign direct investment. They account for 3/4 of world trade. Opening up to the world has differential effects, since it favors competitive (highly skilled) jobs, but penalizes exposed exploits and spares protected jobs (civil service). Everywhere, job losses are induced by waves of relocation. As a result, unemployment has become highly complex, and any policy designed to curb it must take account of the interdependencies associated with globalization. Global free trade continues to generate profound imbalances and innumerable disruptions due to the potentially highly unstable global financial system. The piracy of ideas and products is an enormous but delicate issue. World opinion has forced pharmaceutical companies to back down on 300 drugs considered essential by poor countries, 16 of which are under patent. In 1999, Maurice Allais (winner of the Nobel Prize in Economics) wrote in his book "La mondialisation: la destruction des emplois et de la croissance" (Globalization: the destruction of jobs and growth), Clément Juglar; made the same observation: "Unemployment is a highly complex phenomenon whose origins lie in a variety of causes and whose analysis can be reduced, essentially, to five factors: chronic unemployment induced within the national framework, independently of foreign trade, by the structure of social protection; unemployment induced by globalist free trade, aggravated by an international monetary and financial system devoid of any regulation and generating imbalances; unemployment induced by non-EU immigration, technological unemployment; cyclical unemployment". Not only have these crises shown that liberalization without precaution is dangerous, they have also had a knock-on effect on developed countries. The loss of confidence which gripped the American financial markets in September 1998, and which prompted a massive injection of liquidity by the US central bank, demonstrated that global finance is subject to global crises. Systemic risk has become a concern that transcends national borders.

The stock market downturn in 2000 and the disarray caused by the corporate governance crisis in 2002 confirmed this diagnosis of financial globalization and the challenge of economic transformation. In world trade, exchange rates play a major role, since the price of any product from a foreign country depends on the rate of that country's currency. But if exchange rates do not correspond to the balance of trade, free trade can only be harmful and disadvantageous for all participating countries, as it leads to unhealthy and fundamentally unstable situations. Such is the case with the coexistence of overvalued and undervalued currencies. Economic globalization needs to be rationalized. The nation-state as such now seems largely helpless in the face of this largely destructuring movement. These problems suggest that we need to put the WTO back in its place.

How important is this place in global governance? Clearly, the members of the WTO members are currently of the opinion that the work undertaken to help establish a constructive relationship between trade, the environment and sustainable development must continue. The global issue of the environment is of particular importance, as those responsible are often also the victims. Hence the importance of a global approach, which presupposes the participation of all countries and an international negotiation process. International conventions (Kyoto Protocol) on the environment have an impact not only on a global scale, but also at regional and local levels. But, to reinforce the implementation of these conventions, it is necessary to include sanctions against defaulting states. Improving global regulation therefore requires greater involvement on the part of the W.H.O. This contribution calls for greater coherence and cooperation with other international organizations, as well as clarification of the articulation of standards. Thus, the ILO (International Labour Organization), in conjunction with the United Nations Economic and Social Commission, the World Bank, the IMF, UNCTAD and the WTO, must tackle the equally important problem of mobilizing the means and resources that will make it more effective to improve compliance with fundamental standards, without which we cannot speak of happy globalization. The consolidation of mechanisms designed to ensure greater equality of opportunity and equity between nations in the completion of the process of liberalization of the various commercial activities must continue. Taking account of the needs of developing countries in commitments to technical assistance and inter-institutional cooperation seems to be one way forward. Capacity-building for LDCs is desirable to accelerate the pace of their integration, since they are not participating effectively in the WTO process. They need to ensure that the multilateral trading system and investment framework can strengthen trade and growth prospects. This can be achieved through the effective and more active participation of these countries in the design and implementation of the institutional rules and mechanisms that govern the global economy. Recognition of the vulnerability of these countries enables appropriate measures to be taken to remedy their marginalization. In this context, better market access, more balanced rules, and well-targeted, sustainably-funded technical assistance and capacity-building programs have roles to play. The training courses offered by the General Secretariat must be expanded to strengthen the negotiating skills of poor countries. The process is comparable to a competition in which the competitors are not on the same starting line. The result is a lack of fairness, to the detriment of the weakest (Stiglitz, 2000).

Training sessions are organized in Geneva, while others take place in the countries concerned. A number of programs are also implemented jointly with other international organizations. When it comes to participation in international trade negotiations, the least developed countries must opt for coordination of national, sub-regional and international initiatives.

Conclusion

The effects of globalization are increasingly being interpreted in different ways. Appreciated by international structures and by most economists as an engine for growth and as a solution for increasing global prosperity, others stigmatize it, seeing in it the end of redistributive social policies or of economic policies independent of nation-states. However, both positions acknowledge the fact that the acceleration of world trade, the emergence of restrictive policies in the rules of international competition, and the offensive strategies adopted by states to gain access to foreign markets have led to a rise in international trade conflicts. Globalization is therefore inevitably a source of conflict, since trade retaliation has become a veritable instrument of trade policy, used less to preserve or restore conditions of fair competition than for the protection it provides, and even more so for the bargaining power it procures. After identifying the actors and causes of the main trade conflicts, an

analysis of the legal means of both the GATT and the WTO was carried out to assess their effectiveness in resolving conflicts. It emerged that the WTO's 1994 Memorandum of Understanding on Rules and Procedures Governing the Settlement of Disputes constitutes a genuine system for settling trade disputes. Indeed, the contentious procedures for settling international trade disputes established by the WTO. remarkably reinforce those already instituted by the GATT (Articles XXII and XXIII). It is a quasi-judicial system. While maintaining the consensual approach which was the basis of the GATT mechanisms, it expresses a desire to rationalize settlement procedures. It establishes a general procedure and special procedures. The general procedure is multiplied in order to improve its efficiency: consultations, good offices, panels, appeals, application of the recommendations and decisions of the Dispute Settlement Body. It is worth pointing out that there is a negative link between the upsurge in trade disputes and the volume of exports.

With a view to limiting the rise in conflicts, the WTO encourages the practice of negotiation in order to strike a balance between the interests of the parties. The objective assigned to WTO dispute settlement procedures is reflected first and foremost in the role played by negotiations. Almost always a prerequisite for initiating the procedure, negotiations reflect the intention to reach an amicable settlement wherever possible. However, the importance of bilateral negotiations between the parties to the dispute may seem incompatible with the multilateral nature of the dispute and, consequently, of the procedure.

There is an apparent contradiction between the desire to settle disputes bilaterally and the need to take account of the impact that the solution given to a particular conflict.

Indeed, although they are conducted by the disputing states, they take place against the backdrop of the organization. Also, negotiating power, which is a function of a country's size and endowments, can influence the outcome of a negotiation, since it has been established that this capacity is much greater in the case of major trading partners. In the final analysis, it is important to stress that the WTO's procedure for settling trade disputes, despite its progress over that of the 1947 GATT in practice, suffers from a number of weaknesses.

These include: the ever-increasing cost of the procedure, the failure to meet deadlines in certain disputes, the absence of provisional measures to safeguard the economic interests of the injured party during the settlement procedure, and the non-reimbursement of the winning party's procedural expenses by the losing party.

At the end of this work, we feel it is necessary to make a few recommendations that could help to pacify trade relations between trading nations and enhance the performance of dispute settlement mechanisms:

- 1) The need to strengthen the negotiating capacities of countries in transition, particularly LDCs.
- 2) Include on the negotiating agenda the elaboration of rules to control transnational oligopolies.
- 3) Give the D.R.O. (Dispute Settlement Body):

The power to refer cases to itself, for example in cases of flagrant violations of the WTO's rules. For example, in cases of flagrant violations of agreements.

- 4) The introduction of a financial penalty to discourage abusive recourse to the settlement system.

5) Introduce a financial compensation mechanism, which could be the best safeguard against the risk of escalating threats to resort to countermeasures.

6) Encourage the creation of a division within the WTO secretariat to monitor and control anti-competitive practices.

- 7) Deepen cooperation between the WTO and other organizations to improve global governance.

8) Make good on promises to abandon export subsidies, and comply with environmental standards. We could, however, turn our attention to cultural and social variables to limit the excesses of globalization. This

means that social globalization, which is synonymous with protective social rules that apply to all countries, could be a way of correcting the excesses of economic globalization. In the final analysis, the O.M.C must now answer the following question: Given the irreversible growth of world trade, where, when and how can consensual positions be reached in order to avoid collateral damage, and to institute exceptions to deal with international collective goods that the market so dear to Adam Smith is unable to manage efficiently.

9) Accelerate investment in the ecological sector.

10) Better prepare developing countries, especially the least developed, by pooling expertise and resources to tackle future trade conflicts (subsidies for Brazilian or American cotton, access to international markets).

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