

**“FREE TRADE SEMANTIC DISAGREEMENTS”:  
WHY WTO-STYLE MULTILATERAL LIBERALIZATION AND FTAS STAND  
MUCH CLOSER TO PROTECTIONISM**

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**Abstract:**

*It is “mainstream” to say that the World Trade Organization (WTO) and Free Trade Agreements (FTAs) lead to the liberalization of the member states’ economies. Even “old school” pro free trade authors, known nowadays rather as being “against the tide” for promoting unilateral measures outside the WTO / FTAs sphere, still advocate, in an utilitarian manner, the need for commerce agreements between countries or regions as a way of extending the genuine free trade, basically due to two main reasons. Firstly, the economic gains from international trade are consolidated and improved when more countries or regions agree on a mutual reduction of commercial barriers, and by widening the markets, concerted liberalization of commerce increases competition and specialization amongst countries, thus giving a bigger impulse to both efficiency and consumers’ incomes. Secondly, the multilateral cut-offs of trade barriers may deter political opposition against free trade in each of the countries involved, since those groups that otherwise would have opposed or would have been indifferent to the commercial reform may join the campaign for free trade provide they see export opportunities to the other member countries of these trade agreements. Such lines of reasoning are, in our understanding, a too charitable way of reading the reality, and to look at trade agreements between governments as drivers of the freedom to trade is a “false friend”, a piece of wishful thinking, a semantic illusion.*

**Key words:** World Trade Organization, Free Trade Agreements, free trade, unilateralism, multilateralism, protectionism

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## Introduction

In an academic survey (Frey et al. 1984), revisited also by Irwin (1996, 3), designed to test the market for economic ideas and conducted somewhere at the beginning of the ninth decade of the last century in a series of economic universities' scholar communities from several countries of the world, it looked that free trade was still in fashion: despite the claims raised by interested practitioners and pundits opposing its foundations, 95 per cent of the American surveyed academics declared themselves, with some small amendments, relatively favouring *free trade* – arguing that “tariffs and import quotas reduce general welfare”. They were accompanied by over 75% university-based professors, coming from other countries. The survey had been done in the 1980s, at the beginning of the Reagan-Thatcher-inspired “revolutions” – those inward- and outward-looking “neoliberal” movements originated in US and UK, two main poles of the otherwise Keynes-inspired modern capitalism, and continued afterwards in other epigone-states, including those “Washington Consensus”-driven transitional economies.

A decade later, the World Trade Organization (WTO) was putting in (institutional) order what the General Agreement on Tariffs and Trade (GATT) had been trying to achieve for almost half a century: to get the governments closer, if not in a *credo*, at least utilitarian, to the idea of free trade (actually, towards the idea of incremental trade liberalization).

Free trade, the paradigm formalized by Adam Smith (2008 [1776]) – though preceded him, as human logic is *a priori* to each of its specimens –, had to face, in time, a myriad of accusations and corrective (by no means disinterested) verdicts, raised against it “of principle” or just “politically”<sup>3</sup>. The protectionism’s instability, detectable both argumentatively – “I have a solution (intervention), give me a solvable problem to match it” (sic!) – and praxeologically – “what is half thought in theory confuses doubly in practice” –, makes even the much invoked “limits” of free trade to remain, when rigorously analysed, inferior to the logical (and practical) flaws of the obstructionist alternative, promoted for different rationales.

The economists supporting the protectionist paradigm have always encountered difficulties in providing a scientific, non-arbitrary answer to the

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<sup>3</sup> See Irwin (1996), for a notable synthesis of the diachronic dialogues regarding the “free trade”-type logics with its protectionist-type and allegedly improved substitutes.

very dilemmas raised by the free trade advocates. For example: how can we precisely identify the real distortions in wages?, which are the unjust rents achieved on international markets and how can they be brought to light and resorbed?, which industries fall within the definition of “infant” and should be protected?, where could the external economies of scale, that need encouraging, be discovered? and so on. Frankly speaking, the answer to these questions is, essentially, “pragmatic”, “political” and “perverse” all together, difficult to anchor in a sound logic of correction / justification<sup>4</sup>.

Faced, if not with the fragility of the anti-free-trade petitions, at least with their tiring ever changing variety (depending of interests and times), Alfred Marshall (himself an economist from the cast of those preaching the need for corrective intervention of the governments) suggested that he values free trade, be it only for its propensity to “advantageous simplicity” in all this corrective ubiquitous turmoil... The advantage of free trade would be, in the famous economist’s opinion, the fact that it is not a tool in itself, but, contrariwise, implies exactly the absence of any specific (discretionary) tools. Instruments prevalent in an era become obsolete later on, and, thereby, are deeply ineffective, given the ever changing conditions. “The simplicity and naturalness of free trade – that is, the absence of any device – may continue to outweigh the series of different small gains which could be obtained by any manipulation of tariffs, however scientific and astute” (Marshall quoted in Groenewegen (1998, 118)).

Even “shaved” with this “Occam’s (operational) razor”, the case of international free trade (whose glory had been achieved in the nineteenth century) didn’t inspire the governments in the next century. Placed on the slope of protectionist solutions to problems of internal development – not generated / caused, but only unmasked by free trade (their source being the economic interventionism of various kinds, a philosophy which became “orthodoxy” in modern times) – and furthermore wrongly reading the causes and effects of the Great Depression (the largest peacetime economic calamity of the XXth century), they (the governments) boldly adopted protectionist policies. The practice had become more acute by the end of the interwar

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<sup>4</sup> Where, naturally and ethically speaking, an injury / aggression must be proven to have materially occurred against someone’s property, the patrimonial damage must be measurable and attributable to a culprit identified without doubt, so that the remedy has a meaning. See, i.e., Rothbard (1998).

period. Tariff and non-tariff barriers had become an odd “lingua franca” in this conflicting Babylon of general meltdown.

Faced with the empirical evidence of disaster, one completed by war, though still unwilling to admit the natural superiority of the free trade setting (being both just and operationally simple), post-war world leaders were finally forced by realities to swallow their pride and experience the regenerative attributes of trade liberalization.

We are speaking of, *nota bene*, a shy liberalization, vitiated by various myths and phobias, and discounted, “pragmatically”, by governments<sup>5</sup>.

### Why “trading” “free trade” for “managed trade”!?

Despite the popular idea that political agreements between states can lay solid foundation for free trade, there are some rationales to amend such confidence.

First of all, some slight prudence may be needed as long as there are empirical analyses pointing out that multilateral trade liberalization is not a decisive *explanans*. In a highly quoted study on the types of trade policies of different states, Rose (2002) shows that the trade policies of GATT / WTO member states have not become more liberal after accession than those of non-members. The author uses a quantitative methodology of no less than 68 ways

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<sup>5</sup> The two major concerns – *trade deficits* and *strong competition* coming from foreign products which would cause the domestic economic activity reduction – represent theoretical conclusions based on erroneous analyses that prove more detrimental when they are delivered during “systemic transitions”, matching the efforts to become globally competitive with simply running away from globalization! Counterarguments are plenty. Firstly, there are countries and territories that have undertaken a bold liberalization and, instead of economic decline and balance deficits (the mainstream forecasts), have enjoyed extraordinary economic performance (see Hong Kong, Estonia, etc.). Secondly, one has to be aware of the main cause for the “chronic trade deficits”, that is the deadly combination: domestic inflation (monetary expansion), exchange rate control (overvaluation of own currency by interventions of the central bank), and foreign loans. Thirdly, higher imports favour two processes that the government (with its social obsessions) ignores and which may favour restructuring and increase economic activity. Therefore, higher imports can be achieved only by increasing production of foreign firms producing those goods, but, since we live in a world of scarcity, this is impossible without certain decrease in the production of other goods. Consequently, trade liberalization will lead to increased activity of indigenous firms now benefiting from cheaper imports, but also of those who are now able to export goods whose production has declined (and whose prices have risen) abroad. Without the reduction, corrected by imports, of activity in other domestic sectors, these companies cannot get the resources (labour, natural resources, capital goods) needed to increase their production. Schematically, this means the process of broad reallocation of resources – the premise of maximizing wealth creation – which the populist dirigisme destroys by suffocating labour markets and hampering private enterprises.

for measuring (that is all the existing methods of quantitative measurement) the level of liberalization and the trade policies to prove this, concluding that: “There are almost no discernible differences between GATT / WTO members and non-members for tariff rates, measures of non-tariff barrier coverage, price-based measures, measures of openness, and so forth” (Rose 2002, 19). In another study (Rose 2004), using also empiricist-quantitative research methods, the same economist holds that the thesis which claims that GATT / WTO have significantly encouraged trade between the member states is not supported by the collected data.

Second of all, from the old economic tradition<sup>6</sup> we know that what free trade needs is the unaltered respect for property rights from all the participants in the market exchanges across jurisdictions and not simply to follow the “legal” rules and regulations which rather smother trade. International trade is nowadays nothing more than managed trade, at the mercy and caprices of the bureaucrats delegated by politicians to supervise and regulate it from within the international organizations or agreements. The rather mute question is: what would be the reason for the individuals “to ask for” supranational organisms in order to engage in transactions? We also know that throughout time traders did not feel the need to establish such organisms, the respect for genuine freedom of exchange representing the core aspect. In case of misunderstandings, merchants might have adhered to some non-judicial solution: commercial arbitration. Not only it was more effective to handle disputes without the coercive state instruments, but this detail brought more harmony in business relations, strengthening them long-lastingly. For instance, it is eloquent what the law historian Jerold S. Auerbach (1983, 43-44) had pointedly noted regarding this aspect: “As the geographical, religious, and ideological boundaries of community receded, commercial bonds were strengthened. Paradoxically, the pursuit of self-interest and profit generated its own communitarian values, which commercial arbitration expressed. The competitive individualism of the marketplace was checked by the need for continuing harmonious relation

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<sup>6</sup> In order to be more specific, we state that we have in mind the authors that have supported the property rights paradigm in an unadulterated manner: the representatives of the School of Salamanca, later on, the members of the French School (Cantilion, Bastiat, Turgot, etc.), and in the last century, the coryphaei of the Austrian School of economics. This perspective is less present in the theorizations of the consecrated free-trade-economists such as Smith, Ricardo or Mill, who agreed on, in certain degrees, (too) many aspects of state involvement in trade issues and, implicitly, in private property rights.

among men who did business with each other. [...]. Once commercial activity stabilized in a marketplace economy, merchants were conspicuous for their retention of anti-legal values. Their hostility to judicial dispute settlement did not recede until courts, early in the nineteenth century, moderated their own anti-commercial doctrines. It may seem odd that in a highly competitive economic culture merchants and businessmen retained the most enduring commitment to non-legal dispute settlement”.

For the classical economists, particularly starting with Adam Smith, the fact that from pursuing one’s own interests the whole society benefits is not a paradox. Quite the contrary. It is not the time, nor the place to recollect this cardinal debate in the economic science that marked its epistemic existence and practical developments, and has inspired economists over time. A minimal consultation of the documents related with trade between nations fully reveals an ever growing obsession towards regulating trade instead of securing the definition, defence and disposal of property rights. Today, accession to a multilateral organization or signing a bilateral agreement, such as GATT / WTO or the various FTAs, should stimulate trade development in an unparalleled manner, since it rests upon governmental commitment, the most consistent and coherent form of sovereign will in modern social relations. These frameworks should solidly increase trade volume and develop strong free market habits. And the question is: why in such thick, paper mongering, bi- or multilateral trade agreements, what is noticeable sensibly more often are the (so) many types of barriers (still) allowed to exist and the myriad of references to the regulations of commerce among countries the enterprises had to obey?

As a benchmark for the forgotten pre-modern simplicity, some economists pointed out that the old US Constitution needed only 54 words to establish free trade with countries such as Canada and Mexico. Later on, the North American Free Trade Agreement, which was officially established in 1993 (and came into effect on January 1, 1994) as a form of dissatisfaction with the slow and dull process of liberalization under the auspices of GATT, managed to reach no less than over 2,000 pages, 900 of which dedicated to tariff quotas, while members’ obligations targeted only 10 per cent reductions in tariffs, and this only for 15 years<sup>7</sup>.

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<sup>7</sup> “No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another” (quoted in Batemarco 2007, 67).

These kinds of bureaucratic arrangements simply operate on the old principle “thus he who advocates tariffs, censorship, foreign exchange control, price control supports a positive program that will provide jobs for customs officers, censors, and employees of the offices for price control and foreign exchange control” (Mises 2012, 61). GATT, which aimed to remove, as much as possible, governments and red tape from economic transactions, has failed for 50 years to lower state involvement in international trade. Nowadays, “the crowning jewel of managed trade is the World Trade Organization. Instituted to replace GATT, its 29,000-page treaty is a bureaucrat’s dream come true. Its driving force comes from those who see government’s job as civilizing the market (which they believe would otherwise operate as the law of the jungle). While those 29,000 pages say little about deregulating trade, they say a great deal about regulating everything else” (Batemarco 2007, 70)<sup>8</sup>. Of these new stars (better said, “black holes”) of this quasi-Orwellian “newspeak” built in the name of “fairness” there may be mentioned: a). advocating minimum wage laws in low-wage countries (thus erasing those workers competitive advantages, under the camouflage of social concern and equitable treatment across the world); b). advocating anti-dumping laws (nothing more than shielding entrenched multinational corporations from the competition of Third World upstarts); c) advocating (upward) harmonization / uniformity of standards in labour, environment and health (the countries with the least restrictive measures being coerced to ratchet them up to the level of the most restrictive). The allegedly free (also allegedly fair!) trade enters the vertigo of international interventionism: the aim is not “worldwide free trade based on the division of labour, but rather [...] a worldwide welfare state based on the faith that bureaucrats know best how to run businesses in which they themselves have no stake” (Batemarco 1997).

As highlighted long time before the WTO upgrade, measures which are being put into practice in the form of (fairness-inspired) “nee-protectionism”, whose methods are based on old GATT’s “safeguard clauses” or on new variants of protectionism not covered by multilateral trade regulations, are of vested-interests origin. “«Undesired imports», for example, are being blocked by import quotas or «voluntary» marketing agreements. Currencies are being

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<sup>8</sup> For a discussion on the bureaucratic divorce of the free trade rhetoric and the real policy measures in international trade, see also Hudgins (1997).

devalued or necessary revaluations delayed so as to make national exports cheaper and imports more expensive. Other non-tariff trade barriers are being erected by subjecting imports to stiff rules and regulations as well as to tough specification standards or complicated clearance procedures” (Lang 1984, 131). The international-conflict state of spirit in world trade pays tribute to the dynamics of vested pressure groups which simply annihilates the logic of genuine free trade universal / public benefits: “Trade disputes [...] are the external manifestation of an internal struggle within each country: a struggle between vested interests and the public interest. The rise in protectionism is simply a sign that special-interest pressure groups have been increasingly successful in their quest for public support; [...] that governments have found it increasingly difficult to resist” (Banks 1984, 133).

That man has historically become civilized through trade, through the essential advantages that derive from its voluntary nature, as peace, cooperation – always advantageous for both sides, regardless of religion, ethnics and other social categories –, and division of labour, looks nowadays for too many a thesis of “obsolete philosophers” unable to care for current and practical things. The “new man” is involved in the city’s administrative life, is quite adapted to the current state of affairs, he is a technocrat who always proposes measures of “civilizing” the expansion of the state, but nevertheless expanding it. Bureaucrats maintain the functions within the WTO / FTAs-type entourages by proposing shelves of documents, plethora of commissions and sterile forums in order to legitimize the favours for certain members(’ interests) at the expense of the silent majority of worldwide consumers(’ community). This could be summarized in the following dictum: “we are favouring free trade as long as it does not affect the influent producers and our administrative jobs”. What other purpose could have the policy of criminalizing dumping, for instance? Numerous tests and calculations, pre-emptive measures, assessment and control diligences are necessary to determine and solve the issues of “dumping prices”. Even those who do not resort to dumping waste time and financial resources to prove their innocence, actually contributing to the consolidation of the administrative apparatus and the protection of political entrepreneurs’ interests.

Enlarging the picture, if we make the indispensable distinction between the *political integration* which assumes territorial expansion of state’s power to tax and regulate property (meaning expropriating) and *economic integration*



which represents a widening of the inter-personal and inter-regional division of labour and the participation to the exchanges being held on the market (Hoppe 2010, 289-290), then we can include the bureaucratic management of trade relations as being part of the process of political integration of WTO / FTAs member states. As such, we identify a process lacking the vital instrument of economic calculation and the work of sound incentives. Without significant calculation and proper incentives, the costs of bureaucratic actions cannot therefore be known or measured, and the decisions taken will not reflect the values of the private owners of tradable goods, which will be diverted from the real ends (as it is supposed to happen in case of pure economic agreements, voluntarily established between “private agents”. Unable to get encapsulated in freely-formed-price-calculations, “officials” undertakings in the realm of the WTO / FTAs can be named only metaphorically “services”. Moreover, given the need for entrepreneurs to ease the shift throughout the tough mechanisms of the politically enrooted bureaucratic system and not to jeopardize their business activity by getting to be accused of so-called “unfair practices” (such as breaking the regulations concerning environment, quality standards, costs, rivalry or intellectual property), bureaucratic functions tend to spread also in the private companies, and the oases of calculational chaos also tend to reign in hampered markets (problem theorized by Rothbard (2004, 952)).

The thesis according to which global trade managed by an intergovernmental organization or bilateral trade agreements are not genuinely free trade should not surprise too much. Even a prestigious economist like Jagdish Bhagwati (2002, 116), ex-counsellor of WTO and GATT directors, draws attention on such illusion: “as the great economist Jacob Viner pointed out in 1950, when asked by the Carnegie Commission to write a report on post-war commercial arrangements, free trade areas (FTAs) are not free trade. While they remove tariffs for member countries, they also increase the handicap (for any given external tariff) that non-members suffer vis-à-vis member-country producers in the markets of the member countries, implying therefore protection against them. So, FTAs are two-faced: they free trade and they retreat into protection, simultaneously”<sup>9</sup>. [...] Affirming a couple of pages

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<sup>9</sup> See the book *Free trade today*, by the law and economics professor of the Columbia University, Jagdish Bhagwati (ex-professor of Paul Krugman), released in 2002 at Princeton University Press (Bhagwati 2002, 107).

after, that few bureaucrats and politicians “really understand the distinction between FTAs and FT (free trade)”<sup>10</sup>.

After we’ve briefly raised some doubts on the free trade pedigree of multilateral formats such as GATT / WTO or Free Trade Agreements, it is useful to examine further the principles underlying the WTO so as to identify the (perverted) effects upon the international trade it allegedly frees, as in fact it (only) succeeds in managing / controlling.

### **The World (of-not-so-free-) Trade Organization**

The idea of establishing an organization to regulate the trade among countries was not new. Before the WTO there were circulated projects such as the Multilateral Trade Organization or the World Trade Council and it was even attempted the setting up of an International Trade Organization. All of these had in common the objective of global trade regulation and planning in the name of “free trade”. Lew Rockwell (1994) pointed out that along with the name of the newly created World Trade Organization the governmental representatives wished to somehow get rid of the bureaucratic mantra associated with the obsolete General Agreement on Tariffs and Trade<sup>11</sup>: “at the end of the Uruguay Round in December, US Trade Representative Mickey Kantor changed the name of the bureaucracy. It would now be the World Trade Organization, or WTO. That title has more «gravitas» [...] and sounds less bureaucratic”.

But the step of converting the GATT agreements into a global organization meant nothing less than mere internationalization of interventionism (Lal 2005; Jora 2013): the transition from the national asymmetrical protectionism / interventionism to an international compatibilized and concerted

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<sup>10</sup> Or in another paper, when analysing the effects of preferential agreements upon free trade, he points out the political nature of Free Trade Agreements: “Despite a flurry of activity to launch an East African Common Market and the Latin American Free Trade Area, nothing transpired. Why? The reason was pretty simple. The developing countries in question wanted to allocate the different import-substituting activities among themselves by bureaucratic decisions and then support these allocations and intra-PTA (Preferential Trade Agreement – A/N) specialization by managed trade, instead of liberalizing trade among themselves and letting the market decide who got what of the activities. The sheer difficulty of bureaucratic allocations, and the politics that would attend such decisions, got the whole effort mired in the mud. Trade should lead to production specialization; these PTAs tried to do it the other way around, putting the cart before the horse” (Bhagwati 2008, 30).

<sup>11</sup> Wisely nicknamed “Gentleman’s Agreement to Talk and Talk”.

interventionism. The privileged national companies got in the position of receiving their own governments support also on the global markets once negotiated and agreed upon the cross-sector and cross-country trade-offs. Besides the protectionist effect of retaliation from foreign competitors, there are established and developed common protective measures, now made relatively compatible with each other: “trade policies of different countries interact, which is the same to saying that there are interactions also between political markets on which the levels and the benefits of protection are being determined” (Negrescu 1998, 209).

It is obvious, therefore, that not only the name of the organization was intended to resonate with business and liberal economy, but also the entire props of terminology delivered by the WTO officials. Only it was profoundly twisted from the semantic referential provided by the marketplace functionality. Therefore, we have a *political competition* instead of an economic one, we have *trade negotiations* although there are not business negotiations between entrepreneurs, but political negotiations, we have *regulated trade* even if free trade is invoked. The economic philosophy of the organization is a conventional one. Operating with the *neoclassical theory of market equilibrium*, it operates with the policies inspired by the highly unrealistic concepts related to the model of *perfect competition*, *fair competition*, *fair trade* or *perfect knowledge*, and keeps theoretical contradictions in the system<sup>12</sup>.

At the meeting in 1994 in Marrakesh those who signed the act establishing this famous organization were not entrepreneurs, companies and operators, but ministers from 117 countries (out of 124 who participated). It was not the owners from various countries who decided, peacefully and profitably, rules and standards to govern their trade. The whole Uruguay Round was explicitly politics-oriented: customs duties, non-tariff barriers, trade in tropical products, trade in natural resources, trade in textiles and clothing, trade in agricultural products, revision of GATT provisions, safeguards, completion and update of the agreements concluded in previous rounds, settlement of disputes between contracting parties, subsidies and countervailing duties, trade aspects of intellectual property rights, commercial aspects of investment measures, trade of services, or functioning of the international trading system (Miron 2007).

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<sup>12</sup> On epistemic realism within economics, see Hülsmann (2000).

### A free-trade-principled analysis of WTO principles

The WTO themes of negotiation express, in our understanding, rather than the promised freedom of exchanges, the *politicization of trade*.

In relation to its nominal goals of opening markets to competition, the main thing needed is still far from being achieved: "real free trade, consisting of unilateral lowering of trade barriers, is unheard of at the WTO. Economic freedom would leave its bureaucrats with essentially nothing to do" (Sheehan 2009).

WTO's work is of political type, with all the characteristic elements of politics: a type of political competition and political entrepreneurship habits, specific incentives and collective / coercive decisions against entrepreneurs-owners.

Furthermore, we will argue that the entire system of rules created within its settings is based on a plethora of principles – among which the main are *non-discrimination*, *reciprocity*, and *liberalization*<sup>13</sup> – which do not (necessarily) promote free trade:

#### (1) *The principle of non-discrimination*

This principle is grounded on the two well-known clauses: (a) "the most favoured nation (MFN) clause", under which a member country is compelled not to discriminate between WTO members, giving all members equal treatment (any advantage conferred to one must be extended to all members) and (b) "the national treatment clause", which prohibits the granting of preferential treatment, by differentiating between inward produced economic goods and those imported, once reaching the domestic market. The entry barriers are still allowed. This principle resonates more with the protectionist policies and denotes a lower understanding over the functioning of the market economy for at least two reasons: it involves other laws and regulations that overlap with free trade, which has its own laws and institutions (private property, free and sound money), while it is not a so wise decision to intend to reach at some indiscriminately trade through hoards of documents and

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<sup>13</sup> Other principles are that of *encouraging the development and economic reform* which, by granting concessions and assistance to developing countries, that focus primarily on increasing the periods for the implementation of agreements, technical assistance and trade barriers, ignores and contradicts what the WTO is aiming through an open global trade; and that of *predictability through measures of regular surveillance of national trade policies*, trying to ensure a transparent and stable business environment, kept in this manner exactly by promoting the WTO policies of incomplete market opening.

regulations that only hinder trade. Once applied consistently, this clause would mean the institution of continuous tracking and supervision, thus turning the WTO into a Big Brother of world trade, though useless since the nationalist measures within the country can be unnoticeable or indirect. At every step, the governments, through their specific interventions on their domestic market, are capable of prejudice, to discriminate the foreign goods and services by offering incentives (tax, banking, monetary, etc.) to national companies in all stages of their production process and distribution, along with the obstructing and the hindering of the foreign firms' businesses. By setting up some WTO regional agencies to ensure the transparency and implementation of the non-discriminatory measures, we may arrive just at the bureaucracy and the politicization of trade that we were presumably trying to escape from through the foundation of the organization. This principle of non-discrimination is consecrated as the basic principle of the international trading system and seems to be accepted by everyone, from the public space technocrats and the policy makers to the multinational companies and consumers, at least at the rhetorical level. Ironically, at this "politically correct" principle it has been arrived because of the interventions that the same state(s) (and not the free market) enforced, so not discrimination should be considered a virtue and sought after in international trade, but freedom. On the free market, not discriminating is, in fact, pure nonsense. Any individual when chooses to take an action discriminates<sup>14</sup>. As essential and natural, the principle of freedom to trade internationally and respect for private property is to be followed in the global trading system and not the equivocal principle of non-discrimination.

(2) *The principle of fair competition*

This principle aims at ensuring equitable trade conditions by decreeing certain practices as "unfair" through various protectionist ways. The following

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<sup>14</sup> If a student that has a 100 bill decides to go to a bookshop instead of a shirt shop, we could say that he discriminates the shirts' seller. If, in that bookshop, he decides to purchase an imported book, we could say that national and local publishers' writers are being discriminated. But this reasoning (to accuse him of discrimination) is absurd, when all he does, as legitimate owner of the 100 bill (acquired by peaceful, economic means), is to decide the preferred destination of his money. For a discussion on the subjective nature of preference, value, cost and reconstruction of the utility concept and welfare economics, starting with private property and demonstrated preference (*volens nolens*, involving discrimination), see Rothbard (1997a; 1997b), commented in Moşteanu and Iacob (2010) and Iacob (2011).

practices were established as incorrect, affecting competition: dumping, subsidies, procurement, breach of environmental standards, breach of intellectual property rights, anti-competitive practices and others. But, carefully scrutinized, “fair competition” is a concept, part of the dominant neoclassical model which overlooks and so obstructs precisely what was inbuilt in this principle: the intensification of the competitive process. This concept involves equilibrium, a perfect knowledge and a perfect and pure competition, in which those who generate the market process on a free market, giving birth to prices (that is the entrepreneurs and consumers) are ignored along with the real conditions of their actions: uncertainty and inconstancy, dynamic competition, dispersed and intimate knowledge etc. “Dumping”, for instance, is just a common and legitimate business practice of those owners that act within the boundaries of their legitimate property, thus not materially harming the competitors and the competition process. Consistently defined, “illegitimate” means to allow someone else and not the owner and its consented partners to set the price of tradable goods. Moreover, subsidizing foreign goods is a benefit to the citizens of the importing country, both as consumers (whose consumption is eased) and as manufacturers (using cheaper foreign components). Fighting dumping is, as in the case of all protectionist measure, fighting first and foremost your own consumer compatriots. People involved in trade want benefits, not equality. Then for whom is desired this alleged equality? Besides *laissez-fair* “dissidents”, only few authors from the mainstream had formulated an analytically reasonable answer regarding the fair trade policy. Dominick Salvatore is one of them. He attaches to the fair trade a protectionist character: “Free trade is based on the notion of *laissez-faire* and lack of interference with the trading system. Fair trade, on the other hand, refers to unilateral rules as to what is permissible and what is not. Procedures to enforce fair trade often end up in protectionist measures. As Finger (1991, 21) points out, «in domestic politics, fair trade has come to mean the right to protection». Talking of fair trade, however, has put the defenders of a free multilateral trading system on the defensive since no one can really argue against fairness in trade” (Salvatore 1993, 312). At this point, our intention was basically to emphasize that free competition is not covered by this principle,

the reasons of unfair trade and its protectionist inherent character stand in a rather counterintuitive relation to trade freeing / liberalization.

(3) *The principle of liberalization*

The pursuit of this principle is also done bureaucratically, and what is finally achieved is just a certain degree of freedom to trade, gradually got through public debates that take place in the rounds of negotiations with results that are modest relative to the intended scale, resources allocated and claims announced. “Since GATT’s creation in 1947-48, there have been eight rounds of trade negotiations. A ninth round, under the Doha Development Agenda, is now underway. At first, these focused on lowering tariffs (customs duties) on imported goods. As a result of the negotiations, by the mid-1990s industrial countries’ tariff rates on industrial goods had fallen steadily to less than 4%” (WTO 2011, 11). We notice here the operation with a different concept of liberalization, somehow departed from the authentic sense. This vitiated concept is common to the verbiage of Free Trade Agreements and GATT, containing exactly the same types of perverse incentives described above, and in which not only that some of the mercantilists’ thoughts (e.g., policies to stimulate exports and restrict imports) were kept untouched, but new ones have been added. In the WTO framework, the true incentives to adopt authentic liberalization are missing. Due to the pentagonal structure, liberalization does not mean only removing trade obstructions coming from governments, such as those discussed (customs duties, quantitative restrictions, etc.), but also removing standards of all types (environmental, qualitative, quantitative, safety measures, etc.), as well as all regulations and interference with the pattern of trade which may not be consistent with the objectives dedicated to the full creation of genuine free trade. A policy of true liberalization means, in a substantive interpretation, the adoption of sound money, issued unmonopolistically, even outside the usual central banking system. By sacrificing any of these, “liberalization” will be used only as a tricky way of enriching officials and lobbyists. Assuming a liberalization policy in which currency is built so as to be issued exclusively by state authorities and not be subject to the market test leaves society still at the mercy of protectionist habits: the state’s influence continues to be an essential tool for the distribution of privileges,

ordinary people’s monetary incomes being “softly” exfoliated through monetary mechanisms. Short of an un-manipulative currency, it is nonsensical to advance the idea that managed trade under the institutional auspices of WTO might help the carrying out of a structure sustainably devoted to liberalization. “If, therefore, the state is able to gain unquestioned control over the unit of all accounts, the state will then be in a position to dominate the entire economic system, and the whole society” (Rothbard 2013, 26).

### **Trade: market competition vs. protection market**

Gradualism is, arguably, the means of obtaining (some) freedom, but all this according to government’s tastes. Having other hidden purposes and a core misunderstanding of what liberalization means and serves for, the state enters the never-ending game of trying to mitigate the “unintended consequences” of (incomplete) freedom, even up to suppressing it, because, as Mises (1990) stated, interventionism is unstable and needs perpetual fixing. More precisely, since the economic calculation is a paramount societal tool (Mises 1998), the remoteness from this fundamental function of generating (in our case, international) market prices (where they are the result of free trade between legitimate owners) hampers both worldly peace and prosperity. Without rational economic calculations, the whole economic process is vitiated and the prolongation of protectionist policies could lead to the collapse of civilized society.

Gradualism only keeps still, to varying degrees, the political protectionism under the guise of various bottlenecks such as reciprocity measures. To rely on an argument that “those pauses are good in that they allow members to digest previous agreements and conserve energy for future multilateral trade negotiations” (Irwin 2000, 355) is as if we could substitute metaphors for pure economic reasoning with no significant cost. It’s pretty clear that some countries seem to need a process of “digestion” to last for decades, but this may not be necessarily a prudent strategy as laymen think. These long “breaks” camouflage protectionist tools which consolidate poor economic performance, the waste of resources through calculations in terms of vitiated prices and through the perversion of human incentives, substituting at the margins the “hunt” of privileged positions in the economy for productive and socially coordinated work.



In terms of an enriched, property-rights-enrooted, economic analysis (Hülsmann 2004; Jora 2013), it is obvious that the “uninvited co-owners” should be excluded from trade, but this could be more easily achieved through unilateral liberalization strategy and not through political negotiations under WTO’s “reciprocity aura”, as many economists naively consider. Or: “Why should we subject our population to more tariffs and prohibitions merely because other countries do so to their populations? To borrow an analogy from the British economist Joan Robinson, there is nothing very clever about tipping boulders into your own harbors just because your neighbors have rocky and inaccessible coastlines that make it hard for your own ships to dock. Saying *I’m not going to allow myself to choose from a wider range of good, cheap products unless you do the same* is a sacrifice, not a cunning reprisal” (Norberg 2010, 117).

The logic of seeking “reciprocity” and “non-discrimination”, and this as “gradually” as possible, denotes another fatal flaw in the mainstream line of reasoning: (international) trade is perceived by some as a “fight”, not as mutual welfare enhancement. Liberalization is not about (good) rules universalization across jurisdictions, as root of sound ethics and economics, needed for acquiring peaceful and prosperous order, but concessions from the cross-border “double standards” twisted normality. As North (2012) noted: “People who favour tariffs are willing to admit that people should have a legal right to trade without state interference with people across the street, or people outside the zip code, or people across the county line, or people across the state line, but then they think the state should revoke this right at the national border. The logic of free trade supposedly stops at the national border. So does the logic of ethics”.

## Conclusions

Within the framework of political agreements, a policy of genuine liberalization will not have many faithful supporters. The logic of political competition supports measures that extend protection and redistribution, as there never is a shortage of ideas about “how to build enterprises with other people’s resources”. The incentives also act in favour of maximizing the rent-seeking returns, since the bureaucrats / technocrats are able, under the auspices of international political agreements, to capitalize even more of the share of the society / societies’ resources which they obtain, as they feature the scene as

“unwanted co-owners” of the legitimate properties of fellow citizens. The political competition over socialized resources is heavily accelerated by development of the parasitic skills needed to secure the access to the bureaucratic apparatus<sup>15</sup>, and this extremely erosive political competition grants the selection at the top of the hierarchy of precisely the most skilful bureaucrats and political entrepreneurs in the field of expanding the protection and interventionist measures. It is a utopia to believe that someone can convince them to give up these benefits by supporting liberalization through the WTO<sup>16</sup>, FTAs, and, basically, the member states, as the sole pretended catalysts of free trade. Nobody should expect a regulator to be a promoter of liberty. Under the excuse of deregulating international trade, new dedicated measures are introduced (in a disguised manner, or politically consented at the international level, upon trade-offs involving benefits for the entrenched clientele and costs for the “unaffiliated” categories). These generate a whole political market with political decision-makers, entrepreneurs-clients (socially infertile), who are well organized so as to support those attracted by the benefits granted at the expense of their fellow citizens.

The alternative to political favours (often obtained at great societal cost) cannot be a profitable investment for the players accustomed with this altered market. The shift to a real free market, with real competition sanctioned solely by the consumers, with the real liberation of captive customers and adequate structural adjustments, would nevertheless mean losing the benefits (for politically “relevant” players) offered by trade barriers. All these make more difficult and unprofitable (costs would exceed benefits for the “relevant” agents) the implementation of the liberalization policy. Therefore, we can consider the multilateral bureaucratic management of liberalization as effective only to the extent that the expansion or preservation of trade protectionism is desirable. But such market, unfair and expensive for the population, is a fiction that cannot deliver its stated purposes and can never be flourishing at society’s level.

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<sup>15</sup> For a straightforward analysis of the consequences of the socialization of property on human behaviours and types of personality, see Hoppe (2010).

<sup>16</sup> As Douglas Irwin (2000, 355) idealistically argues, hoping that liberal economists can set or change the objectives politicians paid precisely from the state expansion: “We should keep the WTO focused as much as possible on reducing border measures and not expand its agenda hastily by groping for new issues (many of which are going nowhere fast anyway) when there is plenty to do on the old issues”.

As it can historically be observed, along with the resignation in front of such malformed markets, it is actually being accepted the entrenchment of the different forms of coercing trade, be they domestically camouflaged or internationally accommodated, and therefore the return to a simple way of trading, freely consented by private owners-entrepreneurs with their customers, gets not only difficult in practice, but also undesirable. And although “on the record”, nowadays, positions supporting protectionism seem, despite the present crisis of spasmodic protectionist ideas, rather rare, we may still observe that the current concept of “liberalization” entails, as a priority, the accommodation of privileges (see the Doha spirit). By creating the WTO or establishing FTAs, the old protectionist instruments (tariffs and quotas) have been replaced with those of a new protectionism, preaching for “standards of fairness”.

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