

Statecraft, Trade and Strategy: Toward a New Global Order

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Introduction

During the first era of globalization, from the years 1870 to 1940, there was an unprecedented cross-border movement of goods, capital, and labor.¹ The essential difference between today's globalized trade and that of the first era is what happened as a result of World War II. The World War II victors' adoption of the General Agreement on Tariffs and Trade at Bretton Woods is widely characterized as a belated recognition by the Western powers that comparative advantage is the best candidate for a foundational norm of international trade.² The classic story is one of failure and redemption. Before World War II, the modern liberal democracies failed to recognize that liberalized trade and freer movement of goods would be a collective benefit. Instead, they remained committed to protectionist policies developed in a prior era of mercantilism and, in the process, tore one another apart with trade wars that hampered their recovery from deep depressions at the time when the greatest of strategic dangers loomed. In their fight over the soul of the State, the story goes, the modern liberal democracies failed to install an international trade order that accorded with their constitutional structures and their strategic interests at the time when fascism was making its bid for global domination.³ This strategic and economic mistake, however, was rectified in the redeeming act of Bretton Woods. Although the U.S. Congress ultimately rejected the international financial and other aspects of the Bretton Woods work, comparative advantage was embraced as the foundational norm of trade, thereby contributing to the binding of the modern liberal democracies into an economically and politically cohesive alliance that withstood the Cold War and ultimately defeated Communism in the struggle for Statecraft dominance.⁴

Scholarly discussion of Bretton Woods and international trade often evinces an “end of history” theme.⁵ Bretton Woods was uniquely qualified to accord with the welfare nation-state structure of the World War II powers, and scholars and analysts have mistaken this efficacious marriage of convenience with a timeless principle. Thus, we are told that Bretton Woods and the GATT “embed” democracy in a unique fashion by bringing in the former fascist nations and providing even greater resources than before for each state to deliver welfare and security to its nation. Any form of democracy requires that political sovereignty be retained by the people and, further, that all the people within the state enjoy universally recognized freedoms and liberties. Comparative advantage and relative specialization contribute to the increase of the global economic pie, thereby making each individual nation-state better off to provide security for its peoples welfare and liberty. The “negative integration” aspects of the GATT, which focus on the removal of barriers to trade through prohibitions on tariffs in excess of agreed-upon bindings, discriminatory taxation and regulation, quotas, and like measures, ensure in theory that each Contracting Party retains the legal capacity to exercise its political sovereignty to regulate within its borders while only giving up tools of protectionism.⁶ Most importantly, each individual state can choose the welfare mechanisms it deems best to serve its nation, all the while benefiting from a more efficient and plentiful international trade order and production. At the end of the day, then, even while maintaining political sovereignty, each country is theoretically better off and has not given up its obligation to discharge its essential function in the 20th century – the welfare of its nation.

Our claim, however, is that the 20th century system accords with the constitutional structure of the victors of war, and that they therefore devised it accordingly, but that comparative advantage is not a timeless truth. Our claim that the key to understanding the global trading order, and its relationship to the strategic interests of its actors, lies in uncovering the relationship between trade and the State.⁷ A central aspect of this understanding is that the victors of war or states that otherwise dominate the strategic playing field have the opportunity to establish a trade system that accords with their Statecraft.⁸ The trade order between states is connected to a larger order of states, an order we identify as “constitutional.” The current trade order is predicated on policies and practices that were the product of a global trading order of nation-states. When the current trade order was conceived and implemented in the middle of the twentieth century, the world was comprised of nation-states. Each nation-state contained an infrastructure and a wealth of industries that were located in a place and connected to markets regulated by the states where those industries were found. For the nation-state, the nature of its Statecraft accorded with the trade system put in place at Bretton Woods, as it was in the interests of the victors of World War II to adopt such a system. This world, which comprised the material background for the institutions conceived at Bretton Woods, is not the one we live in. Yet, the policies, practices, and institutions of the global trading order are all predicated on this world. Given that the rules and institutions of trade are the product of a world that no longer

exists, new norms and institutions are urgently needed. We believe that not only does trade hang in the balance but global security as well.

In Part I, we outline our argument about the relationship of Statecraft to the international trading order, and to the strategic goals of the states that comprise this order. We illustrate our claim with a discussion of the 20th century order, reviewing selected historical events starting with the Treaty of Versailles and continuing through the fall of the Berlin Wall. In Part II, we apply our theory to the current epochal manifestation of the State, and what we perceive to be the new existential dangers: global networked terrorism, globalized diseases and natural disasters, and the rise of religious fundamentalism as a Statecraft competitor. We conclude in Part III with various ancillary observations as to the import of our thesis and its relevance to today's international economic order and what we believe to be the need to overhaul it.

Part I

The State has two faces, an inner and an outer. The outer face of the State has two dimensions: strategy and trade. The inner face of the State is its legal, constitutional dimension. The outer dimension of the State is comprised of two principal features: strategy and trade. At all times, states have a strategic relationship to other states, the most basic of which are peace and war. Trade is the second dimension of the outer face of the State. Trade ideology (e.g., mercantilism or comparative advantage) follows the constitutional order of states in that each form of the State is complemented by a particular trade regime. For instance, as we will explain further, mercantilism was complementary to the state-nation form of the State and in the twentieth century comparative advantage was a natural trade ideology for the era of the nation-state. "Statecraft" embodies the outer and the inner faces of the State. Our argument is that these two dimensions of Statecraft interact with one another over time, and that the trade and strategic outer faces of the State must be structured so as to accord with the inner dimension of Statecraft, as well as with each other. Thus, when we say that the trade order "follows" the constitutional order of states, we mean that each constitutional order of states (i.e., each epochal iteration of the State) embraces a complementary trade ideology, and when we argue that the trade order must accord with the strategic order of state we claim that the dominant group of states in each constitutional epoch tend to adhere to a trade order that accords with their strategic needs.

Our theory posits that the inner constitutional dimension of the State, law, is directly linked to the outer face of the State, that the inner constitution of the State varies from one epochal manifestation to the next, and that the interaction between the inner and outer faces of the State ultimately brings about transformative patterns that over time usher in the next era of Statecraft.⁹ One upshot of this theory is that grand pronouncements as to the achievement of the optimal form of government, or of the establishment of a timeless trade order, are misguided. Fukuyama, for example, was

wrong when he declared that modern liberal democratic Statecraft portended the “end of history.”¹⁰ In fact, he merely took a snapshot of the modern State at its apex.¹¹ As we will explain, the continuous wheel of Statecraft would bring about the next constitutional epoch.¹² Likewise, the classic account that comparative advantage ultimately prevailed over misguided policies of mercantilism and protectionism to bring about an international trade order that accords with democracy, also has a flavor of timelessness that misses the historical mechanisms that makes comparative advantage a legitimate foundational norm for the modern nation-state epoch, but not necessarily for other constitutional eras.¹³ In this part of the paper, we illustrate our theory with a description of the relationship between the inner and outer faces of the State in the 20th century welfare nation-state epoch.¹⁴

In the modern epoch, the State legitimated itself by delivering on its promises of security and welfare to the nation.¹⁵ On the strategic front, the 20th century featured a series of conflicts that were intended to settle the question of which competing forms of Statecraft -- communism, fascism or democracy -- would become the dominant mode of Statecraft in relation to the nation. The Bretton Woods Order was uniquely suited for the modern liberal democracies. Modern era Statecraft included a wide array of legal and policy schemes that embodied the modern liberal democratic State’s commitment to unleash its power to provide for the welfare of the nation.¹⁶ The State achieved its goal through the legal implementation of an organic set of principles in subject matter areas such as public enterprises, unemployment compensation, housing aid, assistance to large families, and other policies intended to achieve the chosen level of redistributive justice. The State established property and economic rights available generally to the nation. It provided for labor protection rules that shored up its working classes. It regulated resource conservation, consumer rights, sales and offerings of securities, competition law, and a myriad of other areas that were relevant to the economic and social life of the nation.

The modern liberal democracies had, of course, differing approaches to the relevant regulatory issues.¹⁷ From minute regulation, such as pesticide levels or machinery technical specifications, to broad constitutional areas such as expropriation, free speech, or the right of discrete minorities, the modern liberal democratic states adopted disparate approaches to specific subject matter areas. The European states tended to adhere to cradle-to-grave entitlements. In the United States, the emphasis was more on tax and transfer policies. Japan, for its part, relied heavily on centralized planning of industrial activity and subsidies of research and development that would shore up enterprises housing a large part of the domestic workforce. Despite their different viewpoints, all major players shared a basic philosophy of domestic Statecraft: the dedication of the power of the State to secure, as a matter of entitlement, the welfare of the nation.¹⁸

The Bretton Woods Order operated in harmony with domestic Statecraft because it joined an efficient economic theory with a legal structure that respected each modern liberal democratic state’s welfare choice.¹⁹ When the United States, Britain, and France met at Bretton Woods, their aspiration was to produce a new global economic

order that would bring financial stability and promote economic growth through free trade. The protectionist policies of the 1930s and the pre-War era had hampered the democracies in their struggle against fascism.²⁰ At the very time when they needed an economically strong and cohesive bloc to wage their existential war against fascism, the modern liberal democracies followed 19th century of mercantilism that resulted in trade wars and fragmentation.²¹ Redemption happened after World War II, in large part, because the GATT embodied the theories of absolute and comparative advantage developed by Adam Smith and David Ricardo.²² States would maximize their collective wealth by eliminating restrictions on the free movement of goods.²³ They would tend to specialize in commercial sectors where they held an absolute or relative competitive edge, and satisfy their domestic demand through trade rather than the concentration of all or substantially all production in domestic hands.²⁴ The upshot of this economic principle was the maximization of collective resources, and the expansion of the collective pie.²⁵

However, the deeper and more meaningful accomplishment of the GATT was that it institutionalized a set of legal norms that unleashed comparative advantage as the driver of the international economic order, all the while operating harmoniously with the domestic legal Statecraft order of the day. The institutionalization of comparative advantage featured principally three “disciplines”, each of which imposing negative obligations on the participating states, that reduced those states’ ability to impose protectionist trade barriers: (1) a prohibition against the adoption of tariffs exceeding agreed upon bindings; (2) a non-discrimination norm applicable to internal taxation and regulation; and (3) a prohibition of quotas and like measures.²⁶ The Bretton Woods “negative integration order” was uniquely suited for the modern liberal democracies because, at least in theory, it left them war free to implement their individual legal and policy schemes to ensure the welfare of the nation.²⁷ The welfare policies, regardless of their form, could be implemented without interference from the international set of norms regulating trade.²⁸ Despite their different systems, all modern liberal democracies shared a basic philosophy of domestic Statecraft: the dedication of the power of the State to secure, as a matter of entitlement, the welfare of the nation. Bretton Woods worked and, as John Maynard Keynes famously put it, the lawyers were its “poets” because they institutionalized a trade order that, at least in theory, would respect the sovereign national right of each participating state to achieve welfare through the regulatory route of its choosing.²⁹

The Bretton Woods system, in other words, married international economic policies (and an international order of states dedicated to wealth maximization) to a legal framework that protected the nation-states’ power to control their domestic economies. Thus, the GATT created a world trade system that accorded with the domestic expressions of the constitutional nature of modern Statecraft.³⁰ The application of mercantilist policies to a modern epoch was bound to produce economically disastrous results not because mercantilism was an inadequate norm in the absolute, but because it did not accord with the nature of Statecraft of the time. The transformed State of the 20th century had to adjust its outer trade expression and

articulate a modern structure that would accord with the inner face of Statecraft and its expression in the strategic realm.

Bretton Woods also accorded with the strategic needs of the World War II victors because its structure worked harmoniously with the security model of the modern nation-states. The strategic essentials of the modern era of Statecraft included sovereignty and balance of powers. Each individual member of the Western alliance held the sovereignty of the territory defining the nation as a fundamental hallmark of its security policy, and the system created a bloc of states of sufficient strength to defend itself individually and, as a group, to ward off communism as the second competing theory of Statecraft.³¹ (Germany and Japan were of course militarily restricted, but their alliance with the United States essentially gave them the strength to repel foreign invaders that would threaten their post-fascist constitutional order.) Balance of powers in the strategic realm was matched by the trade balance of powers, with each state trading on its comparative advantage and solid economic base associated with the nation (and in the case of the defeated fascist powers strengthened through the Marshall Plan).³² At the same time, balance of powers was achieved consistently with a cohesive economic bloc bound by free trade but sovereign to regulate. At the end of the day, as they prepared to fight communism as a Statecraft competitor, the modern liberal democracies joined themselves into a balanced whole that was stronger than its individual components, infused additional resources to each such individual component and, as structured, did not infringe on their essential sovereign constitutional features.

A predominant feature of the victors of World War II was their concern with their individual vulnerability to the Soviet bloc's competing model of statecraft. The victors found themselves at a cross-road. In order to maintain their position they could not allow history to repeat itself. Economically punishing former fascist nations would only serve to make communism more attractive. The only alternative was creating a unified Western bloc based on modern liberal democracy that not only brought former fascist nations into the fold but provided greater resources for each state to deliver welfare and security to its nation.³³ This was the best structure for the victors of war to provide a strategic and trade alternative to the Soviet bloc. This understanding was the most appropriate economic complement to the Western military alliance in that the international trade order cemented economically the strategic alliance. The modern liberal democracies were able to unleash the welfare regulatory system as a viable alternative to the communist, centralized economy, all the while achieving a well-balanced alliance of collective strength to ward off the Soviet bloc.

The victors of World War II necessarily had to evolve away from the mercantilist system of the 19th century state-nation, not because the foundational principles of that system were inconsistent with a timeless economic truth, but because the continuation of mercantilism would have rendered the victorious states to become fragmented and serve to undermine their ability to unleash its welfare regulation in a harmonious international environment. Mercantilism might have been the

appropriate norm in the 19th century state-nation form of Statecraft, where the State dedicated itself to strengthening its power.³⁴

Part II

The Bretton Woods system brought about changes in the inner constitution and Statecraft of the victors of World War II and other emerging players in the international scene that makes it necessary to revisit the fundamentals of the international trade system.

First, the subdivision of the world into economic units coextensive with nation-states was eroded because the GATT and the WTO opened up borders to trade in goods and services. This openness lies at the heart of comparative advantage. In such a marketplace, goods and services are exchanged across borders by consumers, distributors, and manufacturers. Manufacturers will purchase components necessary for their output, and distributors will purchase products for domestic resale (in particular from jurisdictions that enjoy a regulatory comparative advantage).³⁵ Importers will inevitably seek to acquire equity or other stakes in their suppliers, so as to increase profit margins. Conversely, exporters will seek to participate in the profits of the importing companies. Joint ventures and other cross-border partnerships will flourish. The upshot is that the trading world that grew out of the Bretton Woods system gradually “flattened” the economic units that formed the core of that system (the nation-states).

This outward expansion of market activities and of market integration was directly related to the adoption of comparative advantage as the animating norm of the system. In the mercantilist era, the inward solidification process led to the creation of a national industrial context that set the stage for comparative advantage. In the comparative advantage era, the gradual relocation of factors of production to the countries with the most comparative advantage created relationships that were bound to yield a diffuse world.

The textiles industry provides a clear example of the phenomenon. The principal players in the industry include manufacturers, designers, brand owners, distributors, and retailers. At the beginning of the comparative advantage era, all of these actors were associated with one nation and national industries were identified with geographically located nation-states (by way of example, Paris’ *Sentier* or New York’s Garment District).³⁶ The model was national in character. The *Sentier* merchants presented their wares to retailers and wholesalers. Designers worked in the back office to produce the models for each season. Manufacturers were located in the neighborhood, together with producers of cloth, buttons, zippers, hardware, fabric, and other raw and intermediate materials needed to make the goods at issue. The factories with which they worked were located in regions of France traditionally devoted to the production of textiles, leather, and other fashion goods.

Free trade gradually changed the rules of the game.³⁷ Although the reduction of textiles and leather tariffs was by no means a smooth or complete process, and other

barriers to trade faced the industry, comparative advantage resulted in the gradual shift of manufacturing to the Far East. The phenomenon was manifold. First, companies having sufficient volume to outsource production shifted away from domestic manufacturers to Tunisia, Portugal, or other North African and Southern European countries. They then moved to the Far East countries affording at the time the most comparative advantage by way of cheaper labor and less restrictive regulation, taking into account other factors such as expertise and skills, customs duties, transportation costs, and other considerations relevant to the ultimate pricing of the product. The domestic industry in France, for instance, went through a first stage of transformation with the gradual elimination of domestic production. Companies remaining in France did so in order to make a statement, in the face of the unchallenged economic logic of moving manufacturing abroad. At the same time, comparative advantage brought about the gradual displacement of companies that could not afford to compete with those products or the manufacture by French companies abroad or the sale in France by foreign companies.³⁸

After a half century of GATT/WTO, the French, American and other fashion industries became cross-border enterprises dissociated from the nation and state in which their respective components sit and comprised of partnerships between domestic creators and sellers, and foreign manufacturing companies. The next stage of the commercial evolution came naturally, with French and American economic actors in the textiles industry reaching out to take advantage of the comparative advantage enjoyed by foreign manufacturers. First, sellers and distributors began to take equity stakes in their manufacturers. As volume increased, manufacturers found it necessary to expand their operations. Establishing a new factory requires cash and a commitment from the buyer to agree to long-term supply contracts. The buyer, in return for its commitment or a possible capital infusion, wanted to participate in the profits generated by the manufacturer. A joint venture was created, whereby manufacturer and distributors essentially integrate their enterprises vertically across borders.

At the next stage of evolution, manufacturing companies naturally sought to expand their activities beyond production of goods. They invested a part of their profits to acquire stakes in their customers. The design expertise that first remained in the country of import slowly shifted to the country of export. In turn, this created an incentive for Western companies to partner up with Chinese manufacturers/wholesalers, pooling resources such as privileged access to American buyers working in large department stores or chains, to create profitable joint ventures. At the bottom, interloping ownership, the spread of production units across nation-state borders, and the cross fertilization of enterprises contributed to the replacement of national products with global, diffuse goods.

This phenomenon, we submit, was the inevitable outcome of the GATT and Bretton Woods and its logic of comparative advantage.³⁹ The world transformed itself from a compact of economic units associated with the states that comprised the trading

world, into a global trading mass joined across borders by commercial and corporate links. In turn, the transformative mechanisms engendered by the GATT changed the inner nature of Statecraft in such a fundamental way as to usher in an epochal manifestation, which has been referred to as “post-modern” or “market-state” era. The change in inner Statecraft does not adequately quell the upsurge of global networked terrorism, globalized diseases and natural disasters, and the rise of religious fundamentalism as a Statecraft competitor. Therefore, the change in inner Statecraft requires that the international trade order be rethought and that its foundational norm be adjusted.

The diffuseness of the transformed world also brought about a gradual commodification of the fundamental policy tools of economic regulation and wealth transfer, which were and are increasingly influenced by international, diffuse markets and correlatively escaping control by domestic regulators.⁴⁰ Monetary policy, for example, is gradually escaping control by states. Public debt is increasingly held by foreign actors and affected more by the interplay of commercial interests than by domestic policy choices.⁴¹ A simplified and simplistic example is the relationship between the United States and Japan.⁴² The United States has for a long time been a main purchaser of Japanese goods, and Japan a main purchaser of U.S. debt. The same situation obtains with respect to China and the United States dollars.⁴³ China holds a staggering amount of U.S. dollars, and its currency has been pegged to the dollar. Its willingness to continue to hold the U.S. dollar and avert a precipitous further decline of that currency is due in part to the fact that Chinese goods are priced in U.S. dollars.⁴⁴ Over time this phenomenon may extend to new actors on the international scene, with a resulting decrease in domestic control.⁴⁵

Concurrent with these phenomena, the balance of powers that characterized the modern world, which was centered on the modern liberal democracies of Europe, the United States, and Japan, is eroding. As a result of the global marketplace wrought by Bretton Woods, the twenty-first century has inherited a multi-polar economic world resting on a global middle class spread across the North and the South, Brazil, India, China, and South Korea, to cite a few, who have increasingly become world economic centers. Developing countries have achieved growing importance in the world markets and gradually eroded the dominant market share of the developed countries.⁴⁶ The old Second World, made up of communist countries, is being replaced by a new Second World comprised of economies formerly classified under the global heading of “developing countries.”⁴⁷ Lying within and alongside the first (post-modern) and second (modern) economies are pre-modern collectives of people that lack the education, infrastructure, and other conditions to benefit from the liberalization of trade that the WTO brought about. These collectives may be Brazilian shantytowns, Afghan mountain towns, or the “excluded” neighborhoods surrounding Paris.⁴⁸ The bottom line, though, is that the main interlocutors of trade are no longer national middle classes represented by their states.⁴⁹ Rather, the trading world is comprised of a diffuse trading class, numbering some 800 million people

and spreading out in a multi-polar economic configuration, which is surrounded by those who have yet to become meaningful participants in the global marketplace.

These changes in the nature of Statecraft and in the strategic concerns of the day (which we will discuss in greater depth in Part III) necessitate a rethinking of the international trade order and the adoption of norms.

Part III

Today, as in the Bretton Woods era, the world must introduce a new constitutional norm for the international trading order.⁵⁰ In Bretton Woods, the trading partners ushered in comparative advantage, a norm that accorded with the hallmarks of modern Statecraft. At the time, as we have explained, the principal trading partners had graduated to the modern era of Statecraft. They needed to institutionalize comparative advantage in order to bring the world trade system in line with the modern constitutional principles of sovereignty, balance of powers, nation-state, and welfare. Today, the decline of welfare in countries like France, Japan, and Mexico, the “flattening” of the world, and the other hallmarks of postmodern Statecraft that we have identified, require that the world install institutions designed to give life to the new animating norm of the trading system. Further, the entry on the international scene of states that have not traversed the modern era of the welfare nation-state contributes to the growing obsolescence of comparative advantage as the central international trade norm.

We identify the new international norm that we believe is needed as the “global enablement of economic opportunity,” and we believe that a new institution dedicated to unleashing and giving concrete expression to this norm is needed.⁵¹ We call this organization the “Trade Council”, and we believe that its membership should include representatives from the principal trading nations as well as from industry and other private interests with a stake in any of the given projects that the Trade Council would undertake.

The Trade Council will radically shift the paradigm for infusing capital into the pre-modern pockets of the post-modern world. Instead of relying on the regulation of foreign private enterprises by the domestic host states, the Trade Council will adopt a two-prong approach to making capital available to the excluded classes. First, the Trade Council will put into place a new Marshall Plan. This Plan will include a financial institutional framework for making financial instruments adapted to the circumstances of a given region available to small entrepreneurs.⁵² Unlike the Marshall Plan, which featured a one time massive investment into the destroyed economies of a war torn Europe, the New Marshall Plan will include gradual extension, on a microeconomic level, of capital resources to entrepreneurs.⁵³

The Trade Council will act as an umbrella organization, presiding over a network of institutions that could be used to make these financial instruments available, and for establishing the related infrastructure that we describe. These institutions will

include, first, regional banks that will be funded by the member states of the Trade Council. The Trade Council will also work with private interests and domestic states to create a system of domestic incentives for companies to establish what may be conceptualized as “social contracts” in the pre-modern and modern pockets of the post-modern world.⁵⁴ These social contracts will be entered into with respect to both the excluded classes and the vulnerable middle classes. Their goal will be to incentivize foreign enterprises to achieve the same type of performance requirements that host jurisdictions tried to impose on them. Thus, where regulation by national officials has failed (as in the case of Mexico having regulations against corporations like Honeywell exploiting its workers but does nothing to enforce it in the maquiladoras), incentives might win by encouraging those officials to enforce the regulations that are already in place.

The incentives-based partnership among the Trade Council, states, and private enterprises will include the use of tax and other regulatory incentives by the home states of the foreign investor. This package of incentives would be made available to enterprises that achieve the performance goals defined by the Trade Council.⁵⁵ By way of example, the Trade Council may set as one of its goals the expansion of the free trade zones recently established in Jordan and Egypt. These zones feature the establishment of industrial facilities for European and American companies, which can then export their products to the home country with an extremely low tariff treatment. These zones extend economic opportunity (for the people of Egypt and Jordan, and well as the nations themselves) to areas of the world that, as discussed above, are of extreme strategic importance in an era of high oil prices and transportation costs.⁵⁶

The passage into the post-modern epoch, however, renders the system of tariffs insufficient to incentivize companies to move to free trade zones that are strategically located. Post-modern diffuseness, together with the virtual elimination of tariffs during the modern era, has two consequences for projects like free trade zones. First, manufacturing shifts rapidly to states that offer the most welcoming regulatory and labor environments. Second, the virtual elimination of tariffs renders the very concept of “free trade zones” much less powerful than it was in the modern era. When tariffs averaged 50 percent of the landed cost of a product, establishing a free trade zone carried a strong likelihood of attracting a meaningful amount of business. With tariffs averaging less than 5 percent, however, enterprises are much more interested in locating a jurisdiction that provides skilled labor at a relatively low wage, such as China or India, rather than flocking to states that offer slightly lower tariffs, but that cannot compete with the regulatory comparative advantage of the powerhouses of the post-modern age.

In addition, without the system of incentives that we are advocating, free trade zones suffer from the same ailments as the international investment system of the modern age. Even if enterprises establish factories in the free trade zones, the host states do not gain much economic development beyond the temporary employment of workers at relatively low wages.⁵⁷ Enterprises will not accept a system that forces them to

confer on the domestic economy benefits that go beyond those attendant to the operation of a factory in the most cost effective way.⁵⁸

Instead of relying on domestic regulation, the post-modern system will motivate enterprises to move to strategically desirable locations through a system of incentives established by the home jurisdiction of the investor enterprise.⁵⁹ This system of incentives may include tax breaks, subsidies, and other benefits that may be used by the “exporting jurisdiction” to entice its enterprises to move to free trade zones.⁶⁰ In other words, if the United States wants its companies to move to the Egyptian free trade zone, and to have a meaningful impact in relation to the enablement of global economic opportunity, it must also act domestically rather than rely solely on the mechanics of tariff reduction and the Egyptian government’s ability to regulate.⁶¹ The strategic interest of the United States in such a system is clear, and in keeping with post-modern Statecraft the structural framework will include a partnership among an international organization, domestic states, and private concerns.

The social contract, in this instance, could involve a promise by the enterprise to use local suppliers to manufacture a meaningful part of its product. It could also include a commitment to acquire stakes in local companies, and to give them privileged status as suppliers to the home market of the investor enterprise. Likewise, the investor enterprise could commit to take on a specified amount of higher-level employees. Instead of primarily using local workers for unskilled jobs and “Western” workers for skilled undertakings, the enterprise could train and equip the local workforce with the skills necessary to establish businesses of their own and compete in the post-modern global market.

This structure would go hand-in-hand with the network of banks that we advocate. Entrepreneurship and economic opportunity might arise among the excluded classes on account of the system of incentives created by the Trade Council and its partners. An Egyptian company making zippers or other garment hardware might, for example, acquire the skills and network necessary to compete meaningfully in the United States. That enterprise could apply for a loan from a regional bank working with the Trade Council to build the infrastructure necessary to produce its goods in greater quantity and compete more meaningfully in the post-modern global markets. The enablement of economic opportunity would come from the junction of two separate, eminently post-modern programs, under the aegis of the Trade Council. The social contract and incentives structure would also extend to solving the problem of the vulnerable middle classes.⁶² The social contract, in this context, would provide incentives to companies in return for action that fosters the economic opportunities for the vulnerable middle classes.

The next area of activities for the Trade Council relates to the establishment of infrastructures for the pre-modern pockets of the post-modern world, and of collaboration with other post-modern organizations to address the externalities engendered by the passage from the modern to post-modern age. Let us start with the second category of work, which will also be relevant to our discussion of

infrastructures. As discussed previously, the globalization of economic activities has resulted in a large number of externalities, which no single state has the capacity to regulate and which international organizations alone cannot eliminate. Environmental protection and resource conservation are classic examples of this phenomenon.⁶³ As is well known, the explosion of economic activities in the post-modern age has created thorny questions of environmental protection.⁶⁴ The externalities created by globalized and intensified industrial activities span several discrete subject matter areas, which have become household names throughout the world. Global warming, acid rain, destruction of rain forests, multiplication of the number of endangered species, are all examples of the type of environmental dangers that were born out of the modern era and have become post-modern mainstays.⁶⁵

The incentives-based approach to tackling these global problems would go hand-in-hand with international efforts to build infrastructure necessary to assist the pre-modern regions of the post-modern age to compete more meaningfully in global markets. The New Marshall Plan that we advocate would include, in addition to the financial instruments system described earlier, investment in the infrastructure of strategically-designated states.⁶⁶ In turn, these states would be asked to comply with internationally-defined goals in order to avail themselves of the economic packages. The Trade Council would coordinate among the Western states, which would pool resources to fund the projects, the host states, and regional organizations such as the Organization of African States.

Conclusion

Together with strategy, trade constitutes the outer face of the State. Taken together, strategy and trade constitute Statecraft, the structure of which evolves over time and serves as the legitimating ethos of the State vis-à-vis the nation. In each era of Statecraft, the State has faced existential challenges that call into question its ability to discharge its obligations to the nation in its quest for legitimacy. In this paper, we have outlined how the elements that comprise the outer face of the State interact and evolve with one another over time against the backdrop of unfolding historical events. Trade plays a significant role in the ongoing legitimization of the State and in meeting the ever-changing strategic needs of the State. We believe the present moment is one that calls for a rethinking of Statecraft for the age of postmodern states. The challenges are many but so, too, are the opportunities.

Endnotes

1. Frieden (2006) at 13-18.
2. See Barton et al. (2006) at 12: “The main purpose of the GATT was to lower trade barriers at the border: tariffs, quotas, countervailing duties, antidumping duties, safeguards measures, together with their administration.”
3. We use the word “state” in two different senses. When we write “State,” we are referring to the conceptual political entity that has evolved in the Western world over roughly the last five hundred years. See McClelland (1996) at 280 (dating the birth of the modern state at 1500). The State is manifested in many territorially and politically distinct “states,” like Italy or the Republic of Latvia. When we refer to these individual states, we refer to them as a “state.” For discussion of the various phases of the State’s development, and their relation to a variety of constitutional orders, see Bobbitt (2002) at 69–347.
4. According to Fukuyama, the liberal democratic model soundly beat fascism and communism because, simply put, it was a better idea. The liberal democratic model had no problem besting the fascist ideology of expansionism and racial superiority. In time, it defeated the Marxist ideology – in part because the growth of a strong and expansive middle class, resulting from (among other factors) the welfare policies of the nation state – as it had radically changed the social reality in which Marx wrote. In the end, Fukuyama argued, all good government would be organized along the lines of the liberal democratic model, which would be applied to govern an ethnic or otherwise discrete nation and would protect the rights of minorities. See Fukuyama (1989) at 3–18.
5. Fukuyama (Summer 1989) at 3. As he had for so many intellectuals of his generation, Fukuyama’s Hegel came by way of Alexandre Kojève. See Kojève (1969). For a general discussion, see Drury (1994) at 179–98.
6. As Professor Weiler has pointed out, the GATT’s economic ethos largely resulted from the creation of professional trade elite. This elite created a set of norms intended to project the impression that the GATT was grounded in “economic science” and insulated from crass politics:

A dominant feature of GATT was its self-referential and even communitarian ethos explicable in constructivist terms. GATT successfully managed relative

insulation from the “outside” world of international relations, and it established among its practitioners a closely knit environment revolving around shared normative values (of free trade) and shared institutional ambitions. GATT operatives became a classical “network” of first-name contacts and friendly relationships.

Weiler (2002) at 336–337.

7. On the “State” See Patterson and Afilalo (2008) at Chapter 2. The “State” is an enduring entity that has gone through a series of metamorphoses we identify as “constitutional” in nature. Simply stated, while there are certainly different types of states in the world at any given time, the principal states of the trading regime all exemplify the same structure. The nation-state is a prime example of an important but by no means timeless form of the State.
8. We make no claim for the “necessity” of the story we tell. That is, we take no position on the question whether the history of global trade could have been different. We prescind from this discussion for two reasons. First, matters of explanatory historiography are very controversial. It itself, this is not a reason to refrain from taking a position. But the second reason leads us to believe that ours is the wiser course. The reason is quite simple: we do not need to take a position. Whether or not past events are in any sense “determined,” we believe that we can see how the New global trading order requires the sort of analysis we offer in this book. We can make our argument without taking a position on the question of historical necessity. Thus, we tell our story without reference to a controversial historiography.
9. Cooper writes: “The kind of world we have depends on the kind of states that compose it: for the pre-modern world, success is empire and failure is chaos. For the modern, success entails managing the balance of power and failure means falling back into war or empire. For the postmodern state, success means openness and transnational cooperation.” Cooper (2003) at 76.
10. Fukuyama has continued to massage his initial claim. Recently he had this to say:

The End of History was never linked to a specifically American model of social or political organization. Following Alexandre Kojève, the Russian-French philosopher who inspired my original argument, I believe that the European Union more accurately reflects what the world will look like at the end of history than the contemporary United States. The EU’s attempt to transcend sovereignty and traditional power politics by establishing a transnational rule of law is much more in line with a “post-historical” world

than the Americans' continuing belief in God, national sovereignty, and their military. Francis Fukuyama, "The History at the End of History," http://www.project_syndicate.org/commentary/fukuyama3/English.

11. According to Fukuyama, the liberal democratic model soundly beat fascism and communism because, simply put, it was a better idea. The liberal democratic model had no problem besting the fascist ideology of expansionism and racial superiority. In time, it defeated the Marxist ideology – in part because the growth of a strong and expansive middle class, resulting from (among other factors) the welfare policies of the nation state – as it had radically changed the social reality in which Marx wrote. In the end, Fukuyama argued, all good government would be organized along the lines of the liberal democratic model, which would be applied to govern an ethnic or otherwise discrete nation and would protect the rights of minorities. See Fukuyama (1989) at 3–18.
12. The literature on the question of the State is vast. Not surprisingly, there exists a wide range of opinion on the question whether the State is dying, in a process of change, or neither. For discussion of the literature and the full range of opinions, see Levy (2006a).
13. Some see the “end” of the State marked by a transition to other, more complicated organizing forms. See Van Creveld (1999) at vii (“Globally speaking, the international system is moving away from an assembly of distinct, territorial, sovereign, legally equal states toward different, more hierarchical, and in many ways more complicated structures.”). See also Slaughter (2004) at 32 (“The conception of the unitary state is a fiction.”).
14. On the origin of the phrase “welfare state,” see Johnson (2005):

The phrase “welfare state” is one that emerged after the Second World War, and was first used to describe the complex of social policies enacted under the Labour government in Britain after 1945. From Britain, “the phrase made its way around the world.” The welfare state possesses a unique institutional structure for the administration of social policy. In Weberian terms, the development of the welfare state may be linked to the process of rationalization, and the development of bureaucratic authority and the emergence of social clients. The expansion of the services provided by the welfare state in the twentieth century to cover a widening range of risks has also been described as a “general phenomenon of modernization”. The growth of the number and kinds of social services provided by the state was a function of its ability to create procedures defining social policy, raise the

funds (through taxation and contributions) to pay for these policies, identify recipients and distribute benefits and services. The welfare state may thus be conceived as a very advanced and developed state apparatus, functioning in political space that recognized its legitimacy, and in an economic space provided the means of paying for its output.

Ibid at 5.

15. The classic citation remains Weber's essay "Politics as a Vocation," in Gerth and Mills (1958).
16. See, e.g., http://www.imf.org/external/np/exr/center/mm/eng/mm_dr_05.htm; "The System of Bretton Woods" at 12, available <http://www.wv.unimagdeburg.de/fwwdeka/student/arbeiten/006.pdf>.
17. Cooper (2003) at 20 remarks: "National identities are usually created by states out of the raw material of history, culture and language."
18. The logic of the GATT/WTO order is that welfare and distributional policies were left to individual nation-states as a matter of political ideology (embedded liberalism). The differences between European-style welfare and the Japanese approach are discussed, *inter alia*, in Est'vez-Abe (2002) at 158. She writes:

The Japanese case also shows how different institutional designs of welfare states produce different problems. Continental European countries use welfare programs to reduce labor supply. Germany, for example, uses old age pensions to encourage older workers to leave the labor force. Likewise, the Netherlands – at least until the recent reforms – used disability benefits for the same purpose. Japan did not use pensions, unemployment, or disability benefits as means to control labor supply, and thus what prompted welfare reforms in Japan was not the problem of *Welfare without Work*.

Instead, by the end of the 1980s, Japanese policymakers were aware of three major problems: (1) the growing cost of benefits/services for the elderly; (2) rising inequity in cost allocation; and (3) skewed access to social services. In all cases, the problems resulted from a gap between those *paying* for welfare services/benefits and those *receiving* them, a gap embedded in the institutional structure of the welfare state.

Ibid.

19. Kent Jones describes these institutions in their historical context in Jones (2004): Near the end of World War II, in 1944, representatives of the Allied

powers met in Bretton Woods, New Hampshire, to discuss the future of world economic relations. The hope was to develop international economic institutions that would promote prosperity and peace in alignment with the foreign policy goals of the victorious Allies. As part of that plan, the Bretton Woods meeting led eventually to the establishment of the International Bank for Reconstruction and Development (World Bank), the International Monetary Fund (IMF) and the General Agreement on Tariffs and Trade (GATT).

Ibid at 68.

20. When he wedded balance of power to the idea of “containment,” George Kennan authored the US approach to the cold War. See Kennan (X) (July 1947) at 566–82.

21. Alvarez and Howse (2002): A paramount goal is the avoidance of a protectionist summum malum – the situation where domestic social or economic pressures lead some states to increase or reinstate barriers to trade, thus triggering a competitive reaction in kind by other states, and eventually a “race to the bottom” that is disastrous for the global economy. This sort of behavior was widely perceived by the founders of the Bretton Woods system to have led eventually to perilous instability in the interstate system and economic catastrophe in the interwar years – which phenomena were seen as having contributed to the climate that made fascism, and the Second World War itself, possible.

Ibid at 94–95.

22. See Bagwell and Staiger (2000). It was Smith who, in *The Wealth of Nations*, married the private interests of individual agents to a theory of political economy. Smith’s insight, of course, was that the pursuit of individual interest would collectively result in a stronger State because market efficiency would engender greater economic activity which devolved to the benefit of the State through taxation. Ricardo, in 1817, took Smith’s insight and expanded the idea to foreign trade. Free trade, grounded in the theory of comparative advantage, would result in greater wealth for all nations. See Ricardo (1817).

23. Molle (2001) at Chapters 7 and 8, provides a thorough and accessible account of the economic theory underlying the formation of common market, including free trade areas, customs unions and more integrated constitutional forms of union.

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24. See Alvarez and Howse (2002). The postwar trade and financial order was therefore mainly designed to enable states to manage their domestic economies, in a manner consistent with political and social stability and justice, without the risk of setting off a protectionist race to the bottom. States obligated themselves not to impose quotas or related import restrictions, of the sort strongly associated with the race to the bottom of the interwar years. On the other hand, they were not required to eliminate or reduce their import tariffs. The legal structure of the General Agreement on Tariffs and Trade (GATT) was designed to facilitate such concessions and make them binding, but it did not require them.
- Ibid at 95.
25. But see Sassen (2006): “[T]he early Bretton Woods system aimed at protecting national economies from external forces, not at opening them up.”
26. This removal of barriers to trade spurred a sharp increase in cross-border economic activities among nation-states over the second half of the twentieth century. The GATT took off with 23 Contracting Parties, and gradually took hold in over 150 nations. It progressively expanded to new subject matter areas, such as intellectual property and trade in services. These developments are, in retrospect what grant Bretton Woods its status as a constitutional moment.
27. This list illustrates the broad category of “welfare” which we discussed in previous chapters. Of course, a key feature of the society of nation-states is the fact that development of a particular welfare scheme was left to individual states, thereby respecting the sovereignty of nations. In the post-modern era, this emphasis will change as the conception of sovereignty evolves (see Cooper (2003) on this) and the society of states comes to realize the transnational nature of certain problems such as SARS, AIDS, and global warming.
28. See Est’vez-Abe (2002).
29. Alvarez and Howse (2002) at 96.
30. See Weiler (2002).
31. The classic argument for this is made by Sassen. See Sassen (2006) and (1996).

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32. The Marshall Plan was embraced only after the initial plan for Germany – the Morgenthau Plan – had been abandoned. Designed by then American Secretary of the Treasury, Henry Morgenthau, Jr., Germany was to be partitioned and reduced to an agrarian society, all in an effort to prevent it from ever again posing a military threat. Among other things, the plan called for removal or destruction of industrial equipment and the flooding of mines. But the plan was abandoned when it became clear that the plan was wreaking havoc on the German economy, specifically wiping out agricultural productivity. Sent in 1947 to investigate the situation, former President Hoover concluded that the only way to make the plan work would be to move or exterminate 25,000,000 people in Germany. The Morgenthau Plan was abandoned and the Marshall Plan – a pro-growth plan – put in its place. See Balabkins (1964). A recent and fuller history of the Marshall Plan is found in Behrman (2007). For a contemporary German assessment of the Marshall Plan, see Stern <http://www.germany.info/relaunch/culture/history/marshall.html>.
33. As mentioned above, Kent Jones describes these institutions in their historical context in Jones (2004).
34. Deane (1978) at 2.
35. As discussed later, this unsettled the balance of power of the twentieth century.
36. For an extensive outline of the changes international trade has brought to the apparel industry, see Gereffi (2001).
37. Reinert (2007) observes that mere “openness” of an economy (i.e., unbridled comparative advantage) is positively dangerous. He writes:

From the unification of Italy in the nineteenth century to the integration of Mongolia and Peru in the 1990s, historical experience has shown that free trade between nations at very different levels of development tends to destroy the most efficient industries in the least efficient countries. I have referred to this common phenomenon as the Vanik-Reinert effect. It was seen in France after the Napoleonic War, during the unification of Italy and – during the end of history – both in the Second and Third World. The first thing to die is advanced manufacturing, the last thing to die out is subsistence agriculture, the least advanced. The sequence is 1) deindustrialization, 2) de-agriculturalization, 3) depopulation. This phenomenon can be observed in many countries, for example in the south of Mexico and in Moldova in the

European periphery, where only the population over sixty and under fourteen stay behind while those in the working age bracket are working abroad.

Ibid at 251. In a critical review of Reinert's book, Paul Collier praises what he describes as Reinert's "core idea," that "manufacturing industry offers much better long-term prospects of development than either agriculture or natural resource extraction." Collier (2007b) at 44. Collier chides Reinert for the latter's failure to analyze "the recent manufacturing successes of developing countries in global markets." Ibid. at 45. Although he does not make this point, it is fair to say that in his critique, Collier demonstrates that the issue in trade theory is not comparative advantage versus protectionism. Rather, it is engendering growth in underdeveloped countries in ways that enable those countries to enjoy the benefits of global trade. We read Collier as an advocate of what might be called "Enlightened Comparative Advantage" or "Comparative Advantage for the 21st Century." To the same effect is Ha-Joon Chang's recent book on the problems facing developing nations. Like Collier, Chang is critical of developing nations' over-reliance on natural resources as a source of wealth. With respect to manufacturing, Chang writes: "History has repeatedly shown that the single most important thing that distinguishes rich countries from poor ones is basically their higher capabilities in manufacturing, where productivity is generally higher, and, more importantly, where productivity tends to (although does not always) grow faster than in agriculture or services." Chang (2007) at 213.

38. As Elkington and Lee (2005) point out, the United States and other Western powers have advocated free trade and open markets at the same time as they have increasingly complained about the emerging powers' access to their own economy. We would characterize this approach as reflective of the post-modern reluctance of Western powers to extend a modern framework of free trade, but in any events, as we point out, it is difficult for the West to sell such concepts as "sustainable developments" to emerging economies like China.
39. See Weiler (2002).
40. See Marchak (1991). In this book, Marchak makes a now familiar argument that unrestrained global capitalism, which she associates with the "New Right," has created an unregulated mix of new markets, labor supplies and resources, which has benefited corporate interests and left masses in dire conditions. The catchy phrase that Marchak coined – "Integrated Circus" – is intended to capture the unbridled aspect of the jungle capitalism that the author argues has come to dominate the global market. Marchak takes on various institutions, including the IMF and the GATT, to argue that globalized trade and conservative policies have resulted in an unmanageable

global commons. A recent and fuller history of globalization through the lens of finance can be found in Stiglitz (2003). We disagree with the over-used political polemic and the rather dogmatic assault on policies traditionally associated with the right wing of the political spectrum, but we agree with Marchak's view of the global marketplace as having transformed itself without overhauling its normative or institutional setting.

41. The IMF has convened a forum for a select group of countries to promote dialogue on and, eventually, a common solution to deal with deficits in budgets and their impact on global financial stability. Delegates include the United States, China, the Euro Area, Japan, and Saudi Arabia all of whom were selected because of their likely ability to reduce the imbalance while sustaining increased world economic growth. While the parties invited to participate are eager to effect change, the IMF is having trouble incentivizing countries to cut deficits through trade measures. For more on the development of this body, see Robinson (2007).
42. See Wan (2001) at 22–70 and 186–204 (Wan argues that Japan competed with the United States on the economic level, at the same as it provided essential political collaboration and shored up the modern liberal democratic alliance on both the political and the economic level); See Horsley and Buckley (1990) for a general narrative of Japan's economic achievements since World War II.
43. China's trade surplus passed \$100 billion in 2005, See <http://news.bbc.co.uk/2/hi/business/4602126.stm>; The US-China Business Council reports a trade surplus of \$178 billion in 2006. See <http://www.uschina.org/info/forecast/2007/trade-performance.html>.
44. See Corsi (2006) (reporting these numbers and noting that “[p]rior to Thanksgiving 2006, China's central banks suggested a possible move to diversify foreign exchange holdings away from the dollar. As a consequence, the dollar sold off on world currency markets, hitting a new 20-month low against the Euro, a currency which is beginning to compete with the dollar as an international foreign reserve currency”); D'Amato, Hon. C. Richard (2005), testimony available online at http://www.uscc.gov/testimoniesspeeches/testimonies/2005/05_07_13_testi_damato.php; Capital Markets Transparency and Security: The Nexus Between U.S.-China Security Relations and America's Capital Markets, *U.S. – China Economic and Security Review Commission*, available online at http://www.uscc.gov/researchpapers/2000_2003/reports/cpmkex.php.

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45. In addition, the success of industries such as textiles in China can lead to a backlash from competitors in Western states. The U.S. textiles industry, for example, has often lobbied for measures limiting access by Chinese-made garment to American markets. See, e.g., Becker (2004).
46. See Rehn (2006) (address by former member of the European Commission emphasizing that the future of Europe lies in its enlargement to, among other territories, Southeastern Europe, and Turkey).
47. See Mandelson (2003) (speech before the European Parliament Trade Committee arguing that at the credibility of the WTO as a multilateral organization is at stake in the Doha round, that Doha's success depends in large part on integrating developing countries in world markets and emphasizing the need to solve some of their pressing problems, such as access to affordable drugs). See also Cendrowicz (2005).
48. We have drawn the concept of “excluded” or *exclus* from the French context, where it has come to symbolize a socio-economic group that does not integrate into the economic and social framework where most subjects of the State find themselves. The question is intricately linked to the question of ethnicity and the lack of integration of North and sub-Saharan African immigrant communities in France. In Jennings (2000) at 575–585, the author explores whether traditional republican principles might be reconciled with a recognition of ethnic and cultural diversity. There are several schools of thought in France, which distinguish themselves from one another by the extent to which France should accept multicultural diversity or insist on conformity. Regardless of the extent to which prejudice and lack of successful policies of integration contribute to the calcification of the excluded classes, the traditional French resistance to reforming modern welfare policies that have run their course and result in a rigid job market and relative lack of economic opportunity is a primary cause of the phenomenon.
49. The situation of the excluded in France is dire. One astute commentator describes it this way:

Millions of young people remain trapped in the unemployment and underemployment ghetto. Hundreds of thousands of youth of North African descent, especially young women, have never had the chance to work. The victims of the expensive system of “solidarity” which protects older, “Frencher” workers, these abandoned youth are also the scapegoat of the far Right, which portrays them as leeches on the public purse. The reality is that immigrants receive very little social spending – with two clear exceptions, derelict public housing which can hardly be considered a great social gain,

and the RMI (“welfare”) payment. The lion’s share of social spending, however, goes to pensions and health care, not to the “welfare” or housing costs associated with the immigrant unemployed. Still, the majority of public housing units are indeed occupied by non-French-born citizens and non-citizens, and this is a powerful image in the minds of Le Pen supporters. Smith (2004) at 176–177.

50. In its Policy Paper, the Atlantic Council also recommends convening a conference “aimed at restructuring the existing institutional architecture” of global trade. Atlantic Council (2007) at 3.
51. Global enablement of economic opportunity – is nascent, and its adoption on a global scale is in no way guaranteed. The arguments in this chapter serve to explain why we think this emerging norm should be nurtured and how the new institution of global trade will engender the growth and development of this norm.
52. See also www.kiva.org, an organization that facilitates loans between private citizens and small businesses in the developing world. Private lending to the third world is also described in Williamson (2007).
53. From a telephone interview with Adam Smith, Editor-in-Chief of nobelprize.org, on October 13, 2006, immediately following the announcement that Professor Yunus was to receive the 2006 Nobel Peace Prize. This interview can be accessed <http://nobelprize.org/nobelprizes/peace/laureates/2006/yunus-interview.html>. Microcredit is so popular that even Hollywood and royalty are taking part. See Wighton (2007).
54. See Struggling Members Programme, Grameen Bank website, <http://www.grameeninfo.org/bank/BeggerProgram.html>.
55. For a guide to proposed legislation in the 110th Congress of the United States, see Solving Global Warming: Your Guide to Legislation, *Natural Resource Defense Council*, available online at http://www.nrdc.org/legislation/factsheets/leg_07032601A.pdf (last visited August 13, 2007); Paulus-Jagrič (2007).
56. The examples adduced by Rodgers (2006) illustrated the basic claim that corruption is one of the greatest obstacles to economic and social development because it undermines the rule of law and the institutions fostering growth.

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57. Soriano describes the desperate conditions inside the maquiladoras, which are matched with wages ranging from \$3.50–\$5 a day. Workers are placed in dangerous conditions, experience sexual harassment, and are often exposed to toxic chemicals. Still, the workers hope for increased and fair wages that can ensure them more than minimal survival. See Soriano (1999); Although maquiladora workers along border towns collect higher wages than people working south of the cities, it is still not enough to cover the higher cost of living at the border. Bacon interviews a maquiladora worker who attests that his wages are not enough to sustain his family, and barely enough to put food on the table. Further, Bacon reveals the dirty sweatshops to be sites of toxic exposure. See Bacon (1997).
58. About.com, 2007, Maquiladors in Mexico, <http://geography.about.com/od/urbaneconomicgeography/a/maquiladoras.htm> (reporting that the number of maquiladora workers has doubled since the 1990s and continues to grow and while foreign companies thrive and continue to raise more sweatshops along border towns, poor conditions inside many of the maquiladoras remain stagnant and without meaningful improvement).
59. Brown et al. (2005) at 4–15, outline the growth and history of regional trade agreements, citing instances where they have contributed to economic prosperity and stability as well as scenarios where individual member states have been adversely affected by the entry into force of an RTA.
60. See McGinnis and Movesian (2004) at 353–365 (arguing that proposals for transfer of additional power to WTO to regulate substantively in areas such as labor or the environmental standards would create an unworkable “global government” and that the WTO should confine itself to its central task of reducing barriers to trade).
61. Professor Weiler explored the evolution and formation of the European Union, and the relationship of the greater whole to the individual states. Weiler developed a powerful theory and axiom of international law holding that the less “Exit” states have the more “Voice” they will require in the formation of international law. Weiler illustrates this theory in the context of the European Union, showing how the Luxembourg Crisis of the mid-1960s was linked to Member State (France in particular) surprise at the extent to which the European Court of Justice “constitutionalized” European law, giving it direct effect and supremacy. Together with the Treaty framework giving individuals access to national courts for cases arising under European law, the European Court jurisprudence gave European law a presence within the European legal fabric akin to national law in a federated state, and, to a substantial extent, deprived the Member States of the ability to exit the

European system. See Weiler (2005) at 2403. See also Cass (2005) (critiquing main conceptual paradigms for understanding the WTO: institutional managerialism (represented by J. H. H. Jackson), rights-based constitutionalization (represented by E.-U. Petersmann) and judicial norm-generation (represented by Weiler); and arguing that the WTO system is not constitutional in nature and should take into account to a greater extent the uneven playing field and the economic development needs of states in order to achieve democratic legitimacy). See Petersmann (2000), (arguing that WTO should adopt human and civil rights as core constitutional values, in addition to economic rights).

62. The examples adduced by Rodgers (2006) illustrated the basic claim that corruption is one of the greatest obstacles to economic and social development because it undermines the rule of law and the institutions fostering growth.
63. See Wan (2001) at 22–70 and 186–204 (Wan argues that Japan competed with the United States on the economic level, at the same as it provided essential political collaboration and shored up the modern liberal democratic alliance on both the political and the economic level); See Horsley and Buckley (1990) for a general narrative of Japan’s economic achievements since World War II.
64. See Agnew and Entrikin (2004) at 2 (the joint effect of the massive infusion of US aid to Europe and the implicit acceptance of open trade and investment were essential factors contributing to the Western European choice of a modern liberal democratic alliance with the United States).
65. For a guide to proposed legislation in the 110th Congress of the United States, see Solving Global Warming: Your Guide to Legislation, *Natural Resource Defense Council*, available online at http://www.nrdc.org/legislation/factsheets/leg_07032601A.pdf (last visited August 13, 2007); Paulus-Jagrić (2007).
66. In international investment, for example, states used principally “gunboat diplomacy” to resolve conflicts during the mercantilist era. This resulted in a Darwinian playing field where imperial and other strong states would impose their will on weaker states. In that world, as La Fontaine would say, “*la raison du plus fort est toujours la meilleure.*” (the reason of the strongest is always the better). The “Calvo Doctrine” (named after the Argentinean jurist Carlos Calvo, the idea is that the location of an investment decides the jurisdictional question for dispute resolution) was, in part, a reaction to the power-driven structure of the global trading order. That school of thought

provided that each state (in particular a developing country) was free to impose its own rules, implemented through its own institutions, free of interference from foreign states. While the Calvo Doctrine rejected international institutions as legitimate law-makers and dispute resolution fora, it departed from the model of dispute resolution through force. See Cook (2007) at 1087–1089. See also Lekachman (1959) at 43 for discussion of the mercantilists' zero-sum view of the world.

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