

Article

## Class Struggle and International Economic Institutions: The Origins of the GATT and “Embedded Liberalism”

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### Abstract

If one wants to get a grasp on the international institutional arrangement of what J. G. Ruggie called “embedded liberalism,” which included the General Agreement on Tariffs and Trade (GATT), one must first carefully examine the conditions that made the regime of accumulation called Fordism possible. More precisely, it is essential to grasp how the particular evolution of class struggle in the US strongly influenced the organization of capitalism in this country, and subsequently the international institutions at the core of the embedded liberalism. Simply put, the thesis defended in this article is that the evolution of class struggle in the US in the 1930s and the following decades has been the main influence in the shaping of Fordism and an undervalued factor in the creation of the GATT. The GATT, in other words, is an agreement that strongly corresponds to the necessity of the management of the class struggle associated with Fordism.

### Keywords

class struggle; Fordism; GATT; regime of accumulation

### Issue

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### 1. Theoretical Premises

The main theoretical premise of this article is that international economic institutions must be conceived as an important part of the “mode of regulation” of the “regime of accumulation” that the dominant social class of the dominant state wants to defend at the national level and reproduce at the international level (for a fuller description see Bachand, 2021). More specifically, in the capitalist mode of production, their main function is to help the dominant social class achieve rates of profit high enough to ensure such accumulation. Let us develop these arguments a bit more.

First, a capitalist mode of production can give rise to many specific kinds of social configurations that organize the accumulation of capital. Here, I will call these configurations a “regime of accumulation,” even if I define this concept slightly differently than the *école de la régulation* does (Aglietta, 1997; Boyer, 2002, 2015). Different regimes of accumulation distinguish themselves by the way they organize the relations between

capital and labor in the process of production, how they divide wealth between them, how competition is organized nationally and internationally, by the relative importance of industrial and financial capital, and the relations between them, and so on. Yet, some coherence remains necessary between a regime of accumulation and the different formal and informal institutions of society (its “mode of regulation”). In this relation, the institutions have to secure the functioning and the reproduction of the regime of accumulation, or, in other words, help it to overcome its inherent contradictions. This is true for national institutions, but also international ones. Consequently, when one wants to understand a particular set of national or international economic institutions, an accurate understanding of the national regime of accumulation becomes a necessary starting point.

International institutional arrangements do not come to life in an environment where countries can participate on an equal footing. Rather, they are the result of the work of the dominant state(s) that strongly exercise its/their influence to promote its/their interests.

Since these institutions' function is to contribute to the smooth working of a regime of accumulation, it is the regime of accumulation that is proper to the dominant state(s) that will serve as a model for the institutional arrangement (Cox, 1983, 1987; Gill, 2002; Gill & Cutler, 2015).

Saying that international institutions must contribute to the smooth work of the regime of accumulation of the dominant state(s) essentially means that they must help maintain rates of profit high enough to allow the continuity of the accumulation of capital. Accordingly, as long as rates of profit are high enough to sustain an acceptable rate of accumulation of capital, the mode of regulation and the institutional arrangement (including the international economic institutions) are filling their role. Otherwise, the regime of accumulation enters into crisis, bringing the mode of regulation with it in its fall. In other words, the primary explanation for the crisis of an institutional arrangement should be found in the bad functioning of the regime of accumulation sustained by the arrangement (Bachand, 2020).

This explanation leads us to the historical framework that supports this article. A specific regime of accumulation was progressively put in place in the US by the middle of the 1930s with the New Deal and was consolidated in the two decades following the war. A central aspect that influenced the establishment and the development of that regime of accumulation is the state and the evolution of the class struggle between capital and labor. For lack of a better term to qualify this particular form of capitalism, despite different definitions given to that concept and debates surrounding its characteristics (Watson, 2019) and while I recognize its imperfections, I will call this regime of accumulation "Fordism," in direct line with the early works of Michel Aglietta, among others (Aglietta, 1997; Panitch & Gindin, 2012, pp. 82–87). As will become clearer in Section 2, this concept is a singular regime of accumulation that pushed further the logic of fragmentation of work implicit to Taylorism, allowed a greater share of wealth between capital and labor, and counted for a larger part on internal consumption for the accumulation of capital (Boyer & Saillard, 2002, pp. 561–562).

At the national level, Fordism needed some legal support like the Wagner Act (officially the National Labor Relations Act), adopted in 1935. It also needed some international institutions, the most important being the IMF and the World Bank, both created in 1944, and the General Agreement on Tariffs and Trade (GATT), which was created in 1947 and entered into force in 1948, the latter will be the focus of this article. This institutional arrangement is at the basis of what J. G. Ruggie characterizes as "embedded liberalism" (Ruggie, 1982). If one wants to get a grasp on this international institutional arrangement that sought to re-embed economy in society, one must first carefully examine the conditions that made Fordism possible. More precisely, it is essential to grasp how the particular evolution of class struggle in

the US strongly influenced the organization of capitalism in this country or, in other words, how it heavily contributed to shape this new regime of accumulation. Since regimes of accumulation also need, as we have stated, some institutions to secure their good functioning and that some of these institutions be of an international nature, one can consequently presume that class struggle also affects the constitution of these international institutions. The thesis defended in this article is in direct line with this idea. Simply put, the evolution of class struggle in the US in the 1930s and the following decades has been the main influence in the shaping of Fordism and an undervalued factor in the creation of the GATT. The GATT, in other words, is an agreement that strongly corresponds to the necessity of the management of the class struggle associated with Fordism.

## 2. The Fordist Regime of Accumulation

The Fordist regime of accumulation was a response to two characteristics of the 1930s US political and economic environment. First, it was an attempt to pacify the harsh conflict between capital and labor (Section 2.1). Second, it also contributed to the creation of an (internal) market for US production (Section 2.2). For capitalists, if we only consider the rate of profit they could reap, the results were extremely positive (Section 2.3), as these rates were by far higher than in any other period following World War II.

### 2.1. Fordism and Class Struggle

The establishment of social peace between capital and labor was at the core of New Dealers' concerns. On one hand, poor working conditions and miserable wages provoked an intensification and a radicalization of the labor struggles following the end of World War I. On the other, harsh repression hit the labor movement and other social movements (Zinn, 2010, Chapters 14–15). This repression came with the implementation of Taylorism as a model of economic organization that established an extreme segmentation of labor. The crash of 1929 worsened the situation as unemployment strongly contributed to the capital's capacity to force the workers to accept even worse wages and working conditions.

These conditions strongly influenced the claims of the workers and specifically the rank-and-file activists that were generally more radical than the unions' elected leaders. Even if wages and union recognition took a large place in these claims, workers also wanted to have a voice in the organization of the production per se. Indeed, "in a majority of cases the fundamental grievance was the petty despotism of the workplace incarnated in capricious power of the foremen and the inhuman pressures of mechanized production lines" (Davis, 1986, p. 55). Other important claims concerned arbitrary procedures for promotion, hiring, and firing, and the implementation of a seniority system became a common

claim. In other words, the organization of the production, or what employers called their “management right,” became an important point of dispute between workers and employers. Finally, a substantial rise in the number of strikes, including sit-down, wildcat, and solidarity strikes, some of them successful, enhanced the prestige of unions, favoring their membership (Gordon et al., 1982, pp. 176–180).

The New Deal launched in 1933 by President Roosevelt inaugurated some changes. According to Zinn (2010, p. 392), Roosevelt’s program had two goals, that is to help capitalism overcome the crisis and appease the anger of different social movements that were emerging all around the country. One of the first legal instruments adopted was the Wagner Act of 1935 which would become central to achieving these goals. The Wagner Act provided some protection to labor unions and helped them attack anti-union practices. It also established the National Labor Relations Board to rule on labor disputes (Walker, 2020, p. 17).

The Wagner Act and the creation of a new and more radical labor union organization—the Congress of Industrial Organizations (CIO; Schlesinger, 1958, pp. 407–419)—improved for a while the balance of power in favor of the workers. Union recognition was central to the workers’ grievance, but once again, control of the factories took a huge place in the struggle. The concept of “industrial democracy” was regularly invoked and while referring to a wide range of claims, some radical uses of this concept referred to the idea of the self-determination of the workers in their working lives and, more specifically, their participation in the decisions of the company (Brandeis, 1934, p. 7; Derber, 1970; Rupert, 1995, p. 139).

This context allowed a significant improvement in working conditions for a time (Gordon et al., 1982, pp. 172–177; Montgomery, 1979, pp. 131–134), but the pendulum began to swing back when the Japanese attacked Pearl Harbor in December 1941. This new context pushed the labor organizations’ elected leaders to agree to a no-strike pledge with the Roosevelt administration, an agreement that was nevertheless regularly violated by the rank-and-file and that widened the separation between the latter and their elected officials that had already begun to appear by 1938–1939 (Davis, 1986, pp. 183–184).

The situation was worsened by the creation of the National War Labor Board (Atleson, 1995, pp. 46–48) which was mandated with arbitrating all labor conflicts and ensuring that labor-capital disputes would not slow down the war economy. The Board was given a very circumscribed field of jurisdiction (essentially limited to issues related to collective labor contracts and “day-to-day” concerns of workers) and refused to rule on anything that was more or less related to the management of factories (Atleson, 1995, pp. 48–58). The result was a certain “de-radicalization” of the labor demands or, at least, of those coming from the top leaders of

the organizations that were more and more inclined to frame their position around claims that were within the Board’s jurisdiction.

When the Republicans took control of Congress in 1946, this anti-labor reaction continued with the employers wanting to reestablish the “management right” that they had partially lost to a dynamic rank-and-file syndicalism. Indeed, many base activists, politically more radical than their elected leaders, were using what could be called guerilla tactics (that included solidarity and “wildcat” strikes, secondary boycott as well as sabotage against installations) to slow down, up to a certain point, the dictatorial management of factories (Gordon et al., 1982, pp. 176–180). For capitalists, it was then becoming more and more important to de-radicalize this movement. Their strategy was to ensure the collaboration, if not the compromise, of the union officials; and to make sure that the latter would become not only the “official,” but also the “genuine” leaders of the labor movement in place of the rank-and-file activists. They chose, in other words, to exterminate rank-and-file radicalism.

By this time, the Wagner Act had already begun to weaken it in a certain sense (Klare, 1977). Indeed, the National Labor Relations Board had contributed to the “formalization” and the “policing” of the capital-labor conflict. The Taft-Hartley Act was another important piece that confirmed the tendency to undermine rank-and-file syndicalism. This legislation, adopted in 1947:

Banned mass picketing, secondary boycotts, and sympathy strikes, all associated with tactics of the social movement of industrial unionism identified with the CIO. Elected union officials were required to sign affidavits that they were not members of the Communist Party or lose the use of the National Labor Relations Board. Unions were made legally liable for any strikes by their members in violation of written contracts and the president was given the right to seek injunctions against strikes he deemed against national interests. (Milton, 1982, p. 159; see also Davis, 1986)

From then on, labor union officials not only began to adhere to anti-communist rhetoric but also became, up to a point, the “managers” of collective labor agreements with the role of ensuring workers’ discipline and preventing illegal strikes. They became, in Rupert’s words, the workers’ “brokers of consent” (Rupert, 1995, p. 87).

Another aspect that proved to be central to Fordism consisted in a relatively substantial improvement of the conditions of the workers (or, at least, of some of them: the unionized ones). That change can be illustrated by the famous Treaty of Detroit. Concluded in 1950 between United Auto Workers and General Motors and quickly reproduced with Ford and Chrysler (and then other industrial sectors), this collective labor agreement allowed relatively generous wages to the workers (and an advantageous “cost-of-living adjustment”), but also other economic advantages like the participation of

the enterprises to wealth insurances and the retirement pensions of the employees (Davis, 1986, pp. 111–112; Lichtenstein, 1989, pp. 141–142). That kind of labor agreement enhanced the consent of the majority of the workers and diverted their attention from radical demands—notably those that challenged the capital’s right of management and their property right per se. In other words, it gave the majority of the workers the impression that capitalism could work well for them.

The Wagner Act, the Taft-Hartley Act, as well as the labor agreement scheme exemplified by the Treaty of Detroit, became central to the specific configuration of capital-labor relations under Fordism that was based on two ideas. First, a legal—and ideological—arrangement that ensured the formalization of labor relations and favored a certain de-radicalization of the labor organizations. This arrangement subsequently rendered socialist claims or any political argument based on class struggles extremely difficult, if not impossible to formulate (Bowles & Gintis, 1982, pp. 65–66). Second, a significant improvement in the workers’ wages and general conditions helped to legitimize capitalism and, consequently, marginalize radical claims. Both of these aspects participated in a change of perspective on the role that labor unions should play. They contributed to isolate rank-and-file militants and de-radicalize labor unions, pushing them towards “explicit cooperation with corporate labor-management strategies” (Gordon et al., 1982, p. 188) and into a corporatist and mostly economic logic (Lichtenstein, 2003). Labor unions were not there to contest capitalism in itself anymore, but rather to defend the rights embedded in the collective labor contracts. Obviously, they were legally recognized and enterprises then had to deal with them and workers continued to strike. Nevertheless, unions were under the absolute obligation to “respect the property rights of their employers, uphold the sanctity of contracts into which they enter, and assume the corresponding responsibility for controlling their memberships and enforcing compliance with contractual commitments” (Rupert, 1995, p. 92). In other words, from the capitalist point of view, this consideration, even though it came with some financial costs notably associated with raised wages, ensured that the workers would not constitute a threat to the capital accumulation logic (Pizzolato, 2013).

## 2.2. US Workers as Consumers

During the war, the US industry became the first producer of military as well as civil products in the world. When the conflict ended, US capitalists had accumulated a colossal amount of capital that they could use to make gigantic new investments that helped make an important boost in productivity. Obviously, this came with the need of finding (or creating) new markets. At the international level, the negative effects of the war doubled with the protectionist spirit of the time (more on this later), making the exportation of the surplus of commodities pro-

duced in the US difficult. According to Panitch and Gindin, “American reconstruction in the postwar years was therefore bound to be heavily dependent on private consumer spending. Rising working-class incomes were the main mechanism through which this demand could materialize” (Panitch & Gindin, 2012, p. 82). Talking about the role of workers’ consumption in the new regime of accumulation, Aglietta explains that Fordism constituted “a new stage of regulation of capitalism, the intensive regime of accumulation.” One of the main characteristics of this kind of regime (in opposition to the extensive regime of accumulation) is that production relations are intrinsically linked to consumption relations. Fordism, in other words, was based on the principle of “an articulation of the process of production and of the mode of consumption” (Aglietta, 1997, pp. 137–138). The increase of wages not only contributed to putting in place relatively manageable relations between capital and labor (or, at least, to a less aggressive struggle between them than would have been the case otherwise): it also created an important market for US production and then became essential for the reproduction of capitalism in the country.

That is not to say that exports had no importance. For instance, Irwin estimates that they were responsible for 1.33 and 1.97 million out of a total of 58 million jobs in 1946 and 1947 (Irwin, 2017a, p. 493). Now, a historic comparison shows that between 1950–1966, the yearly part of exported goods and services in the US GNP was always between 3.9%–5.1%, and generally below 4.5%. After that period, it rose substantially to reach 9.8% in 1980 and has almost always been over 10% since 1995—the four-year span between 2001–2004 being the only exception. According to data from the Federal Reserve Bank of St-Louis (2022), it has been regularly around 12 or 13% since 2010. That is three times the proportion of the 1945–1966 period.

In short, what characterized this period is that “the organized American working class would now become the backbone of a high-wage and high-consumption proletariat, but its unions were no longer prepared to challenge capital’s right to manage production, let alone question the ‘capitalist system’” (Panitch & Gindin, 2012, p. 84). This particular configuration of the class struggle between capital and labor became, as will be seen, a core element at the origin of the GATT.

## 2.3. Economic Results of Fordism

The results, in terms of rates of profit, were exceptional (see Table 1). Not only did this period produce results that have been unbeaten since the end of World War II, but even its down years (1958–1961) gave profits that were higher than any period since that time. Actually, during those two decades, only three years gave a rate of profit below 10% (1958, 1960, and 1961). In comparison, since 1970, no more than three years produced a rate (and only slightly) higher than 10% (1978 with a 10,03%, 2006 with a 10,49%, and 2021 with a 10,31% rate of profit).

**Table 1.** Rate of profit, before tax, non-financial corporate business.

|                   |        |
|-------------------|--------|
| 1945              | 13.91% |
| 1946              | 14.29% |
| 1947              | 15.67% |
| 1948              | 15.66% |
| 1949              | 12.06% |
| 1950              | 16.46% |
| 1951              | 15.46% |
| 1952              | 12.79% |
| 1953              | 12.66% |
| 1954              | 11.32% |
| 1955              | 13.36% |
| 1956              | 12.11% |
| 1957              | 10.75% |
| 1958              | 9.02%  |
| 1959              | 10.94% |
| 1960              | 9.93%  |
| 1961              | 9.68%  |
| 1962              | 10.38% |
| 1963              | 11.16% |
| 1964              | 11.85% |
| 1965              | 13.16% |
| 1966              | 13.14% |
| Average 1967–1982 | 8.99%  |
| Average 1983–1997 | 5.93%  |
| Average 1998–2013 | 7.26%  |
| Average 2014–2020 | 7.64%  |

Source: Bureau of Economic Analysis (2022).

This performance largely—but not only—rested on the consumption power of the working class that relied on wages and other economic advantages conceded by the capitalist class. Now, two things must be underlined. First, only exceptional productivity allowed the capitalists to grant such wages to their employees and still make profits. This productivity, as we have seen, was due to the large investments made after the war. Second, this consumption power was not enough to contribute to the success of Fordism. Indeed, this power had to be used to buy US and not imported products. In most economic sectors, US enterprises’ productivity was sufficient to guarantee the competitiveness needed to ensure this condition. Still, some sectoral or temporary cyclical exceptions would still require protectionist interventions. In other words, Fordism counted on three conditions: high productivity, significant consumption power by the working class, and relative protection of national markets against foreign products (Davis, 1986, p. 118). These conditions were an important part of the context of the creation of the GATT, as will be seen in Section 5.

### 3. International Economic Context

The international context undeniably played a huge role in the background of the GATT and some factors must be underlined here. First, shortly after the 1929 crash,

Congress adopted the Smoot-Hawley Act that entered into force in 1930 and increased tariffs on imports from 40% in 1929 to some 53% in 1932 (Irwin, 2017b, pp. 107–108). This increase had a significant impact on imports on US territory but it also convinced other countries to adopt the same kind of strategy, having consequently detrimental effects on US exports. Notably, it pushed the UK to adopt the imperial preference system that gave preferential treatment to products traded between Commonwealth countries (Irwin, 2017b, pp. 176–182), the results being a decrease of 74,4% and 66% of US exports to Canada and the UK between 1929–1932 (Eckes, 1995, p. 126).

Roosevelt and his secretary of state, Cordell Hull, nevertheless tried to reverse the situation. They convinced Congress to adopt, in 1934, the Reciprocal Trade Agreement Act (RTAA) that gave the president authority, for a period of three years, to conclude trade agreements and to decrease tariffs up to 50% (Letiche, 1948). Having been renewed multiple times in the following years, it ended up constituting the legal justification for 33 agreements with 29 countries between 1934–1948 (United States Tariff Commission, 1959, pp. 13–16).

Now, the objective of the US executive was not to enforce “free trade” as much as to establish “freer trade.” Concretely, it was first to transform non-tariff barriers into tariffs, and then to lower these tariffs, but only insofar as the national economy was not injured by trade liberalization. More important, these tariffs were to be applied on a non-discriminatory basis, that is to say, to subordinate them to the most-favored-nation treatment (Kock, 1969, p. 7). For example, the president could only negotiate under the condition that the negotiations to lower tariffs were to be organized on a “product-by-product” basis where it is easier to protect products and producers susceptible to being hurt by foreign imports. Congress also insisted on an “escape clause” being added to the agreements so that specific national producers be protected if economic agreements injured them. Globally, the agreements failed to have a substantial effect on foreign access to the US market and global trade in general as the US tariffs were still, in 1939, only slightly lower than they were before the adoption of the Smoot-Hawley Act (Irwin, 2017a, pp. 433–443).

### 4. Fordism and the GATT

In this section, I will argue that the contextual elements underlined in Sections 2 and 3 formed the background that made possible the debates surrounding the redaction of the GATT, and that made acceptable some provisions promoted by other countries and against the initial will of the US negotiators. The argument is that the GATT represented the kind of trade agreement needed for the reproduction of Fordism in the US and its expansion at the international level. Since the struggle between capital and labor is probably the core aspect at the origin of the GATT, this amounts to saying that the state and the

evolution of the class struggle in the US was a central element in the creation of the General Agreement.

#### 4.1. The Main Goals of the US Administration

The negotiation of the postwar economic order has been marked by conflictual positions between the two main participants, that is the US and the UK. First, the British were putting full employment at the top of their priorities, and keeping the possibility to intervene on the market was seen as a priority. Even some British industrials, skeptical about their capacity to compete with their American counterparts, were opposed to the liberalization proposed by the US (Gardner, 1956, pp. 30–31). They were also strongly opposed to the elimination of the imperial preference system, which was one of the main goals of the US delegation (Curzon & Curzon, 1976, p. 144).

On the US side, strong internal consumption was not considered enough to absorb the national production and it was felt necessary to export part of it and to ensure, at least, a positive trade balance (Kock, 1969, p. 13). It was also necessary to guarantee that the high wages would continue to be used to buy the US and not foreign production. Consequently, the objective was only to provoke a certain drop in tariffs on a non-discriminatory basis (Curzon, 1966, p. 7; Gardner, 1956, p. 13). Quoting an interim report of the Special Committee on Relaxation of Trade Barriers produced in 1943 that expressed “the prevailing view among American officials,” Douglas Irwin summarizes the concrete objectives during the negotiating process:

[The report] proposed “a substantial reduction of protective tariffs in all countries”; the abolition of import quotas, which “are among the devices most destructive of international trade and least conformable to a system of private enterprise”; “elimination of all forms of discriminatory treatment in international trade,” particularly Imperial preferences; the establishment of principles for state trading; the elimination of export subsidies; and the creation of an international commercial policy organization as “essential to the successful operation of the proposed convention”. (Irwin, 2017a, p. 462)

Hence, the US wanted to establish a sort of level playing field, accepting the legitimacy of the protection of internal markets, but mainly in the form of tariffs founded on a non-discriminatory basis. It was also to eliminate “unfair trade” (dumping, subsidies, anticompetitive, state trading, etc.). In other words, even if the US and the UK disagreed on specific aspects of the postwar economic order (notably the elimination of the Imperial preference system), both “shared a common view of the legitimacy of state intervention to secure domestic stability” (Lang, 2011, p. 195). This shared mindset concretized itself in many ways, two of them being the lowering of

tariffs (Section 4.2) and the insertion of different exception clauses in the GATT (Section 4.3).

#### 4.2. Tariffs Negotiations

As seen before, the mandate of the US negotiators was determined by the RTAA, which had been extended for three years in 1945. This renewed RTAA gave the authority to the State Department to reduce tariffs by up to 50% from their 1945 level on a product-by-product basis (Irwin, 2017a, pp. 463–471). Yet, the result of the negotiations, if we only consider the US tariffs, was not extraordinary. Bown and Irwin, for instance, calculated that the average duty on dutiable products (that is, excluding those entering free of duty) was still at 20,1% at the end of the negotiations (Bown & Irwin, 2015, p. 8). Moreover, Irwin opines that the fall of the tariffs was more a result of the rise of the price of imported products than the negotiations—a substantial amount of tariffs was not ad valorem but specific (Irwin, 2017a, pp. 484–485). If we now put in the balance that “it is generally acknowledged that the United States made the deepest tariffs cuts” among the contracting parties (Irwin et al., 2009, pp. 118–119), we understand that the contracting parties of the GATT, including the US, kept important latitude to protect internal markets through import duties.

Furthermore, the goal of bringing down the imperial preference system was far from being achieved during the negotiations since all the US negotiators could achieve was a promise from their British counterparts not to widen the margin between the preference and the bound tariffs (Gardner, 1956, pp. 348–361).

#### 4.3. The Escape Clause and Other Exceptions

The GATT also included different provisions that allowed the contracting parties to impose different duties, notwithstanding the engagements they took to bind tariffs. The first one was the escape clause that allowed contracting parties to take some temporary actions such as the withdrawal or modification of concessions (that is, bounded tariffs) in certain circumstances (GATT, 1947, art. XIX). This provision “provid[ed] a means by which governments [could] literally ‘escape’ GATT tariff concessions and thereby protect their interests from imports that [were] likely to injure domestic industries” (Derrick, 1998, p. 348; on the escape clause in general, see Eckes, 1995, pp. 219–256). This escape clause and this is important, was *not* a compromise accepted by the US. Rather, it was under their insistence that it was inserted into the GATT (Jackson, 1969, p. 553).

Once again, and “largely at the insistence of the United States” (Stewart et al., 1994, p. 23), protections against “unfair trade” (notably subsidies and dumping) were also included in the GATT. These protections, in the opinion of Alfred Eckes, had the effect of “emasculat[ing] other trade statutes” (Eckes, 1995, p. 257). For instance, protection against “dumped” products was

taken seriously by the US negotiators that were “the main proponent of including AD procedures in Article VI of the GATT in 1947. Indeed the [US antidumping] legislation formed the textual basis for Article VI” (Irwin, 2005, p. 654).

A general exceptions clause (art. XX) was also inserted to ensure that contracting parties could continue to adopt and enforce measures otherwise contrary to the obligations of the agreement, but that were, for instance, “necessary to protect public morality,” “necessary to protect human, animal or plant life or health,” or “relating to the conservation of exhaustible natural relation,” etc. (GATT, 1947, art XX). Once again, this article was not a concession made by the US but almost replicated the exact wording of a similar article that appeared in the Proposals for Expansion of World Trade and Employment developed by the American Department of State in preparation of the negotiations for the International Trade Organization and, subsequently, for the GATT (United States Department of State, 1945, Section G).

One of the main realizations of the GATT was to obtain the elimination of quantitative restrictions (or quotas) on trade. Now, this provision came with exceptions that allowed contracting parties to continue to apply quantitative restrictions in many situations. Curzon actually noted that countries other than the US:

Felt that they were sufficiently safeguarded by the number of exceptions written into the agreement, and sufficiently assured of the permanency of these exceptions, to be able safely to accept the general principle of freer multilateral trade without direct controls. (Curzon, 1966, p. 130)

The two main exceptions to quantitative restrictions were the one for agriculture and fisheries products—once again inserted at the insistence of the US (Curzon, 1966, p. 131)—and the one for balance-payment or development reasons that came as a compromise on the part of the Americans. The latter exception was so written that according to Curzon, “besides the United States and Switzerland, there were practically no countries in the world which in 1947 could not claim exception to the rule of freer trade for one of these two reasons” (Curzon, 1966, pp. 131–132).

Article XXV.5 also provided that, “in exceptional circumstances not elsewhere provided for in this Agreement, the contracting parties may waive an obligation imposed upon a contracting party by this Agreement” (GATT, 1947, art. XXV.5). Even with a wording referring to “exceptional circumstances,” this article had, in 1967, been used from 40 to 50 times according to John Jackson, the most important one probably being the waiver granted to the US to protect their agricultural sector (Jackson, 1967, pp. 152–153).

Another aspect that undermined the liberalizing objectives of the GATT is what came to be known as

“grandfather rights,” which allowed pre-1948 legislation that was contrary to the requirement of the GATT to continue to be enforced by the contracting parties (Kock, 1969, p. 65) for various reasons that space limitations prevent me from elaborating. Some of these legislations actually persisted until the creation of the WTO in 1995.

In summary, the GATT was not an agreement in which free trade was the aim. The very content of the rules and the large number of exceptions it contained left a wide range of possibilities for the US to continue to intervene in their economy in a way that promoted other values than commercial and economic ones. In other words, it was an agreement that perfectly corresponded to the needs of a country with a Fordist regime of accumulation—like the US—that wished to increase its exports, but without losing the possibility of intervening in the market to protect its industries and its workers. This necessity, as seen before, was directly linked to the relation between capital and labor where the latter was accorded relatively satisfactory wages—that helped give some legitimacy to capitalism—that needed to be used essentially to buy domestic production.

## 5. The Fall of Fordism; the Rise of Neoliberalism

From 1967, American enterprises’ profits began a long downturn. Even if not all of the factors at the origin of this situation were intrinsic to the regime of accumulation, the result was that Fordism went into crisis. Unsurprisingly, the regime of accumulation crisis had similar effects on its national and international institutions. First, the US abandoned the “Bretton Woods monetary system” between 1971–1973 (Block, 1978, pp. 198–199; Brenner, 2003, pp. 27–28; Panitch & Gindin, 2012, pp. 122–131). Second, Washington began to adopt protectionist actions (Brenner, 2003, p. 29; Irwin, 2017a, pp. 524–525), particularly against Japan (Arrighi, 2010, p. 316), that were increasingly incompatible with the idea of a free(r) trade commercial order. The result was a break in the consensus underlying the agreement (Hudec, 1970, p. 214).

Protectionist strategies did not work, however, and it was only when Neoliberalism replaced Fordism that the rate of profit stopped its tendential fall. Ironically, the average rate of profit was lower than that of the preceding period but its tendency to grow added to some other factors (such as the fall of the Berlin Wall), brought optimism to the capitalist side. A fundamental distinction between Fordism and neoliberalism is that the former is an intensive regime of accumulation while the latter is an extensive one, the difference being the way that both manage the contradiction between capital and labor. In Fordism, wages and other economic advantages contributed to buying a relative social peace and constitute an internal market for national production. In an extensive regime of accumulation, the national market is not as important since the search for consumers had turned towards the international market. The importance of this

move is enormous for workers for at least two reasons. First, they lose their importance in the eyes of the capitalists because foreign consumers (at least partly) replace them in terms of needed markets. Second, now that the new coveted market is international, it means that the competition increasingly comes from foreign firms that employ workers with potentially lower working conditions and wages. Wages then become significant constraints in competing against these new international competitors. In Neoliberalism, restraining wages and other costly worker advantages becomes a necessity.

Estimating that Fordism was not viable anymore, the US capital, helped in by an administration that was closer and closer to its interests (especially after Reagan's election), undertook a violent attack against workers and their unions. First, the Volker shock drastically raised the interest rate in 1979 (Arrighi, 2010, pp. 326–330), and pushed multiple enterprises into bankruptcy, provoking a large wave of unemployment that strongly and negatively affected wages (Brenner, 2003, pp. 51–79; McNally, 2013, p. 75). A virulent animosity against union labor also arose from the government. This new context quickly affected workers' confidence and the resistance of the unions (Pizzolato, 2013, p. 41).

With their workers more "competitive" but also less able to constitute a sustainable market, the aggressive search for new consumers was the next priority for the US capital and it quickly appeared that a new set of international institutions was needed. These rules and organizations appeared when free trade agreements were concluded, first with Israel (1985), then with Canada (1989), and finally the most important, NAFTA, with Canada and Mexico (1994). Then, the Marrakech agreements created the WTO, which entered in function in 1995. In parallel, a large web of treaties to protect foreign investments was created to afford some protection to the enterprises that thought that profits could be more easily made abroad than at home (Bonnitcha et al., 2017, pp. 1–31).

Globally, these institutions and treaties put an end to the Fordist's intensive regime of accumulation and to what Ruggie called "embedded liberalism." The result, if we follow Slobodian, was the protection, through international law and institutions, of the invisible hand against the "disruptive capacity of democracy" and "its legitimization of demands for redistribution" (Slobodian, 2018, p. 272).

## 6. Why Re-Embeddedness Must Be Thought on New Bases

As argued elsewhere (Bachand, 2020), the current institutional crisis that the WTO faces is directly linked to the crisis of its regime of accumulation. Indeed, an analysis of the rates of profit of American non-financial enterprises since 1997 shows that the only periods when good rates of profit were obtained are characterized by financial bubbles or by the enlargement of credit and that both characteristics have led the US and world economy

towards crisis (the Asian crisis, the Dotcom crisis, the Subprime crisis, etc.). This conjuncture leads us to the perspective of the structural crisis of Neoliberalism and its replacement by another regime of accumulation—or of decumulation.

Implicitly, this thematic issue presumes that the future regime of accumulation should be inspired by the "embedded liberalism" that characterized the Fordist era. My position is rather that a return to the 1945–1966 economic organization is both impossible and unadvisable. Impossible because the high productivity of the US economy that was necessary to the Fordist success is not there anymore, and its return in a near future is highly doubtful (Posen & Zettelmeyer, 2019). It is also unadvisable (from a left-wing point of view) because it was based on a labor-capital institutional framework that tended to de-radicalize the labor movement with the effect that it was too weak and not mobilized enough to attack neoliberal reforms put in place by the end of the 1970s. Lessons to be learned from the period is that a new embedded regime of accumulation should rather be inspired by a different, and probably more radical agenda from the part of the labor and the social movements, an agenda that should probably include broader participation in the economy and the enterprises' decision-making process (Ferrerias, 2017; Ferrerias et al., 2022; Piketty, 2019, pp. 1111–1190).

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## References

- Aglietta, M. (1997). *Régulation et crises du capitalisme* [Regulation and the crisis of capitalism] (2nd ed.). Jacob.
- Arrighi, G. (2010). *The long twentieth century: Money, power, and the origins of our times*. Verso.
- Atleson, J. B. (1995). The law of collective bargaining and wartime labor regulations. In S. M. Miller & D. A. Cornford (Eds.), *American labor in the era of World War II* (pp. 43–68). Praeger.
- Bachand, R. (2020). What's behind the WTO crisis? A Marxist analysis. *European Journal of International Law*, 31(3), 857–882.
- Bachand, R. (2021). Taking political economy seriously: Grundriss for a Marxist analysis of international law. In P. O'Connell & U. Özsü (Eds.), *Research handbook on law and marxism* (pp. 356–374). Edward Elgar.
- Block, F. L. (1978). *The origins of international economic*

- disorder*. University of California Press.
- Bonnitcha, J., Poulsen, L. N. S., & Waibel, M. (2017). *The political economy of the investment treaty regime*. Oxford University Press.
- Bowles, S., & Gintis, H. (1982). The crisis of liberal democratic capitalism: The case of the United States. *Politics & Society*, 11(1), 51–93.
- Bown, C., & Irwin, D. A. (2015). *The GATT's starting point: Tariffs levels circa 1947* (Working Paper No. 21782). National Bureau of Economic Research.
- Boyer, R. (2002). Aux origines de la théorie de la régulation [The origine of the theory of regulation]. In R. Boyer & Y. Saillard (Eds.), *Théorie de la régulation: L'état des savoirs* [Theory of regulation: State of knowledge] (2nd ed., pp. 21–30). Découverte.
- Boyer, R. (2015). *Économie politique des capitalismes: Théorie de la régulation et des crises* [Political economy of capitalism: Theory of regulation and crisis]. Découverte.
- Boyer, R., & Saillard, Y. (Eds.). (2002). *Théorie de la régulation: L'état des savoirs* [Theory of regulation: State of knowledge] (2nd ed.). Découverte.
- Brandeis, L. D. (1934). *The curse of bigness: Miscellaneous papers*. Viking Press.
- Brenner, R. (2003). *The boom and the bubble: The US in the world economy*. Verso.
- Bureau of Economic Analysis. (2022). *National data: National income and product accounts*. <https://apps.bea.gov/iTable/?reqid=19&step=2&isuri=1&categories=survey>
- Cox, R. W. (1983). Gramsci, hegemony and international relations: An essay in method. *Millennium*, 12(2), 162–175.
- Cox, R. W. (1987). *Production, power, and world order: Social forces in the making of history*. Columbia University Press.
- Curzon, G. (1966). *Multilateral commercial diplomacy; the General Agreement on Tariffs and Trade, and its impact on national commercial policies and techniques*. Praeger.
- Curzon, G., & Curzon, V. (1976). The management of trade relations in the GATT. In A. Shonfield (Ed.), *Politics and trade* (pp. 141–283). Oxford University Press.
- Davis, M. (1986). *Prisoners of the American dream: Politics and economy in the history of the US working class*. Verso.
- Derber, M. (1970). *The American idea of industrial democracy, 1865–1965*. University of Illinois Press.
- Derrick, C. W. (1998). The evolution of the escape clause: The United States' quest for effective relief from fairly traded imports. *North Carolina Journal of International Law*, 13(2), 347–371.
- Eckes, A. E. (1995). *Opening America's market: U.S. foreign trade policy since 1776*. University of North Carolina Press.
- Federal Reserve Bank of St-Louis. (2022). *Shares of gross domestic product: Exports of goods and services*. <https://fred.stlouisfed.org/series/B020RE1Q>
- 156NBEA
- Ferreras, I. (2017). *Firms as political entities: Saving democracy through economic bicameralism*. Cambridge University Press.
- Ferreras, I., Battilana, J., & Méda, D. (Eds.). (2022). *Democratize work: The case for reorganizing the economy*. The University of Chicago Press.
- Gardner, R. N. (1956). *Sterling-dollar diplomacy: Anglo-American collaboration in the reconstruction of multilateral trade*. Clarendon Press.
- General Agreement on Tariffs and Trade, 1947, 55 U.N.T.S. 194.
- Gill, S. (2002). Constitutionalizing inequality and the clash of globalizations. *International Studies Review*, 4(2), 47–65.
- Gill, S. & Cutler, C. (Eds.). (2015). *New constitutionalism and world order*. Cambridge University Press.
- Gordon, D. M., Edwards, R., & Reich, M. (1982). *Segmented work, divided workers: The historical transformation of labor in the United States*. Cambridge University Press.
- Hudec, R. E. (1970). The GATT legal system: A diplomat's jurisprudence. *Journal of World Trade*, 4(5), 615–665.
- Irwin, D. A. (2005). The rise of US anti-dumping activity in historical perspective. *The World Economy*, 28(5), 651–668.
- Irwin, D. A. (2017a). *Clashing over commerce: A history of US trade policy*. The University of Chicago Press.
- Irwin, D. A. (2017b). *Peddling protectionism: Smoot-Hawley and the Great Depression*. Princeton University Press.
- Irwin, D. A., Mavroidis, P. C., & Sykes, A. O. (2009). *The genesis of the GATT*. Cambridge University Press.
- Jackson, J. H. (1967). The puzzle of GATT: Legal aspects of a surprising institution. *Journal of World Trade*, 1(2), 131–161.
- Jackson, J. H. (1969). *World trade and the law of GATT (a legal analysis of the General Agreement on Tariffs and Trade)*. Bobbs-Merrill.
- Klare, K. E. (1977). Judicial deradicalization of the Wagner Act and the origins of modern legal consciousness, 1937–1941. *Minnesota Law Review*, 62(3), 265–340.
- Kock, K. (1969). *International trade policy and the GATT 1947–1967*. Almqvist & Wiksell.
- Lang, A. (2011). *World trade law after neoliberalism: Re-imagining the global economic order*. Oxford University Press.
- Letiche, J. M. (1948). *Reciprocal trade agreements in the world economy*. King's Crown Press.
- Lichtenstein, N. (1989). From corporatism to collective bargaining: Organized labor and the eclipse of social democracy in the postwar era. In S. Fraser & G. Gerstle (Eds.), *The rise and fall of the New Deal order, 1930–1980* (pp. 122–152). Princeton University Press.
- Lichtenstein, N. (2003). *Labor's war at home: The CIO in World War II* (2nd ed.). Temple University Press.
- McNally, D. (2013). *Panne globale: Crise, austérité et*

- résistance* [Global slump: The economics and politics of crisis and resistance]. Écosociété.
- Milton, D. (1982). *The politics of U.S. labor: From the Great Depression to the New Deal*. Monthly Review Press.
- Montgomery, D. (1979). *Workers' control in America: Studies in the history of work, technology, and labor struggles*. Cambridge University Press.
- Panitch, L., & Gindin, S. (2012). *The making of global capitalism: The political economy of American empire*. Verso.
- Piketty, T. (2019). *Capital et idéologie* [Capital and ideology]. Éditions du Seuil.
- Pizzolato, N. (2013). *Challenging global capitalism: Labor migration, radical struggle, and urban change in Detroit and Turin*. Palgrave Macmillan.
- Posen, A. S., & Zettelmeyer, J. (Eds.). (2019). *Facing up to low productivity growth*. Peterson Institute for International Economics.
- Ruggie, J. G. (1982). International regimes, transactions, and change: Embedded liberalism in the postwar economic order. *International Organization*, 36(2), 379–415.
- Rupert, M. (1995). *Producing hegemony: The politics of mass production and American global power*. Cambridge University Press.
- Schlesinger, A. M. (1958). *The coming of the New Deal*. Houghton Mifflin.
- Slobodian, Q. (2018). *Globalists: The end of empire and the birth of neoliberalism*. Harvard University Press.
- Stewart, T. P., Markel, S. G., & Kerwin, M. T. (1994). *Antidumping. Uruguay round of multilateral trade negotiations, Denver*. Kluwer Law and Taxation.
- United States Department of State. (1945). *Proposals for expansion of world trade and employment*.
- United States Tariff Commission. (1959). *Trade agreements manual: A summary of selected data relating to trade agreements negotiated by the United States since 1934* (3rd ed.). Government Printing Office.
- Walker, A. N. (2020). *Divided unions: The Wagner Act, federalism, and organized labor*. University of Pennsylvania Press.
- Watson, D. (2019). Fordism: A review essay. *Labor History*, 60(2), 144–159.
- Zinn, H. (2010). *A people's history of the United States*. Harper Collins.

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