



Trade and Values: Navigating the Intersection of Policy and Principles

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Executive summary

Trade is increasingly used to achieve non-trade objectives, creating challenges in balancing values and global market access.

Traditionally focused on economic efficiencies like optimized production and profitability, trade has nevertheless also long been understood to harbour broader objectives, which even a casual reader of the preamble of almost any trade agreement can easily appreciate. However, more recently, there has been a growing tendency for many countries to begin using trade policy and market access, in particular, to pursue a broader range of non-trade objectives (NTOs). This shift reflects both genuinely held progressive beliefs and more narrowly strategic motives. It is also driven in part by the need for trade policy to be responsive to the negative effects that unbridled trade liberalization is perceived by many to have had on societies and the environment.

The scope of values-driven NTOs has expanded to include complex issues such as climate change, freedom of religion and Indigenous peoples' rights. Countries are increasingly willing to impose trade restrictions or offer preferences based on these values, creating a new landscape where trade and values are deeply intertwined. This trend presents significant challenges, particularly in achieving consensus on universally acceptable values and objectively evaluating compliance. Even where states have signed international agreements, differences invariably arise on how to apply them and their relationship with trade policy.

Geopolitical tensions, especially between major powers like the US and China, underscore the difficulty of reconciling differing perspectives on values within the context of trade. For example, reports of forced labour in Xinjiang prompted the US to ban imports from the region unless proven free of forced labour. While China denies these claims and criticizes US human rights, these

disputes highlight the complexities of incorporating values into trade policies.

Businesses are also balancing economic efficiency with growing demands for social responsibility. Many companies have voluntarily adopted higher standards in areas like environmental sustainability and labour practices, driven by consumer, investor and employee expectations and the rise of social media activism. However, this also exposes them to conflicting pressures from different market segments.

The infusion of values into trade risks further fragmenting the global trading system, which was historically built on the idea of economic integration for greater prosperity and peace. The trend towards “friendshoring” – forming trade relationships based on shared values – threatens to create new divisions, particularly between the developed and developing worlds. Moving forward, the challenge lies in balancing the effective advancement of values with the need to keep trade open and accessible, especially for developing countries. This requires humility, recognizing that few values are truly universal and that values-based trade measures invariably introduce new sources of friction into trade and investment flows. Compliance with these new regulations often places a disproportionate burden on businesses from developing countries. It is crucial to involve developing countries meaningfully in creating standards that will impact their markets and support them through capacity-building and phased implementation.

While integrating values into trade is driven by positive intentions, it must be managed carefully to avoid creating new barriers. Ensuring that trade remains a tool for broad-based economic development is essential to maintaining global prosperity.

Introduction

Trade now serves as a tool for advancing societal values like human rights, labour rights and environmental protection.

Traditionally, the quest for greater economic efficiencies has been the primary driver of trade relationships. The desire for optimized production, greater profitability for corporations, lower prices and wider product selection for consumers – along with the developmental opportunities expanded trade brings – has largely shaped the foundation of trade relationships.

This has evolved over the last few decades. Increasingly, trade is no longer just about trade and economic efficiency. Trade is also being used as a tool to advance a host of non-trade objectives (NTOs) – often including broader societal, ideological, strategic and even philosophical issues (such as identity).

In many instances, these NTOs embed value-laden judgements. Such judgements are evident in complex issues such as human rights, appropriate responses to climate change, labour rights, freedom of religion, governance models, Indigenous peoples' rights, and diversity and inclusion – all issues that are appearing more prominently on the trade agenda. It's important to note that this increased focus on values is not merely a case of governments injecting these issues into trade agreements; many private companies have assumed leadership roles in conducting their operations in a way that aligns with many of the same underlying values.

While some NTOs – such as labour rights and sustainability – have existed on the fringes of the trade landscape for decades, two important things are different today. First, the scope of values-laden NTOs has expanded dramatically, frequently to include highly controversial issues, and second, the willingness of countries to impose restrictions or provide preferences based on values has also grown significantly.

There is no single answer to why this is happening now. In any given situation in which values are being used to condition market access, this change could be driven by a combination of different factors.

Why values matter more now

In some instances, the greater emphasis on values in recent times is being driven by sincerely held liberal progressive beliefs that certain societal norms and behaviours that would have been previously tolerated are not viewed as acceptable today.

In other cases, the focus on values could also be driven by a healthy dose of cynicism. Trade negotiators like having leverage, and to the extent that values can provide leverage, most negotiators are happy to use them. Previous negotiations over past decades have substantially reduced global tariff levels, so values can provide useful negotiating coinage. In the most extreme cases, disguised protectionism can also enter the mix.

In developed world democracies, there is also a need to be responsive to political constituencies that demand that “something be done” on particular hot-button issues, such as modern-day slavery. This conveniently dovetails with the political need (especially in the US and other countries where the benefits of trade are being questioned) to signal to voters that the country is no longer pursuing unvarnished free trade, preferring instead to produce more at home or trade with “friends” who share “our values”.

This growing inclination is reinforced by the reality that the demarcation lines being drawn over values frequently track with the demarcation lines being drawn by those who perceive that the world is engaged in a “democracy versus authoritarianism” struggle.

Geopolitical and national security considerations are perhaps the most combustible NTOs to seep into the trade realm. A time of rising geopolitical tensions has overlapped with a period of deep trade integration. Inevitably, trade has become another arena in which geopolitical differences are contested. Advances in technology have only fanned the flames. Economic and military pre-eminence in the decades to come will be largely driven by mastery over strategic

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technologies such as artificial intelligence (AI), quantum computing, microelectronics and the semiconductors that power these technologies. These realities are driving a proliferation in trade and investment restrictions. Geopolitics, trade and values have never been entirely separate, but they are now more closely connected than ever before.

A Herculean task

Inculcating values into trade relations presupposes two Herculean powers: 1) the ability to arrive at a universally acceptable set of values at anything other than the most vague, generalized level, and 2) the ability to objectively evaluate compliance with any such universally agreed values so that subsequent trade actions are viewed as credible responses rather than disguised protectionism camouflaged under a cloak of virtue.

The first is difficult but, in some instances, achievable. For example, there is universal consensus that slavery cannot be tolerated, and this is a *jus cogens* norm in international law. Overall, 181 countries that agree on little else have ratified the International Labour Organization (ILO) Forced Labour Convention (1930), with the US being a notable exception.

While “forced labour” and “slavery” are defined in international agreements,¹ and assessments are made of modern slavery (forced labour and forced marriage),² problems remain in reaching widely accepted conclusions on whether particular circumstances constitute forced labour.

Trade now serves as a tool for advancing societal values like human rights, labour rights and environmental protection.

The US State Department releases an annual report on human rights practices globally, with the section on China often containing strong criticism. The report highlights concerns about labour practices in certain regions of China, asserting that they amount to forced labour, along with broader restrictions on religious freedoms.³ These accusations have led the US to impose import restrictions on products linked to these regions or produced by specific entities considered complicit in forced labour. To avoid these restrictions, importers must provide clear and convincing evidence that their products were not produced using forced labour.⁴

China denies the US accusations, asserting that the practices in question are, instead, successful vocational training programmes that are well-received by the local populace. Chinese officials also maintain that these domestic issues should not involve the US.

China issues an annual report on human rights in the US, highlighting issues such as systemic racism and gun violence as significant concerns.⁵ The report raises questions about the US’s status as a protector of human rights, given the prevalence of such issues within the country. The US State Department rejects China’s assessment of human rights in the US.

In other instances, even the first step – agreement on a broadly articulated value – is impossible. “Freedom of religion” is one example. While religious freedom forms a philosophical cornerstone, if not a fundamental right, for many nations, it is not universally recognized. Some countries base their national identities – and even portions of their governance and legal systems – on adherence to the precepts of a single religion.

In countries such as these, “freedom of religion” is either restricted or not recognized, and the practice of other religions is not accommodated.⁶ For instance, in some Persian Gulf countries, the public practice of religions other than Islam is restricted, and religious minorities may face legal consequences for not adhering to Islamic principles.

Agreement on values but disagreement on how to achieve them

On other values-related issues, particularly labour and the environment, where there is broad consensus on at least idealized principles, sharp divisions exist over the most effective and “fair” means of achieving the desired outcomes and the timeframes in which those outcomes should reasonably be expected.

Developed-world countries are increasingly adopting an approach where trade preferences are either withheld or granted depending on how well recipient countries align with their values on labour and the environment. The theory is that countries will raise standards to access the incentives (or avoid the disincentives) that are implicitly or explicitly implied.

This approach often causes frustration in the developing world. The historical experience of expanding trade and reducing trade barriers that have been pursued globally since the end of World War II, it is argued, effectively refutes this approach. In example after example, in every region of the world, their argument continues: that the path to higher standards in labour and the environment has been through trade-driven economic development. As trade facilitates the ability of countries to move up the economic development ladder⁷ and individual and national wealth increases, these standards almost always improve.

From a developing world perspective, if the real objective is to improve labour and environmental standards, the avenue should be through greater access to trade, not by diminishing access. Placing trade restrictions on countries with insufficient standards simply ensures that they will remain deficient, according to this perspective, as they have been blocked from the most accessible path to further development. Setting aside whether this is a valid supposition, it breeds cynicism over whether developed world countries have a sincere interest in values or if they are simply attempting to engage in disguised protectionism or otherwise advance their own national interests.

1

How are governments infusing values into trade?

Governments across the globe are making trade policies and agreements that reflect societal and environmental values.

Despite the challenges involved, many governments are increasingly incorporating values into various trade relationships, trade policies and trade programmes.

The US, EU, Japan and India have established several trade and economic bodies that position the desire to promote shared democratic “values” as a primary basis for their cooperation. The EU-India Trade and Technology Council,⁸ the US-Japan Competitiveness and Resilience Partnership⁹ and the US-EU Trade and Technology Council¹⁰ seek to deepen economic ties and technological collaboration while emphasizing and promoting their common democratic principles. President Biden has said that another values-oriented economic body – the US-India Initiative on Critical and Emerging Technologies – should create “a democratic technology ecosystem”¹¹ to uphold these values.

One longstanding example of traditional trade programmes is the Generalized System of Preferences (GSP), established in the 1970s under the United Nations Trade and Development (UNCTAD) to provide development assistance through trade. The basic premise is simple: developed countries extend targeted preferential tariff treatment to a range of products from certain developing countries as a means of spurring their exports and the associated economic growth.

Developed countries are, however, making access to GSP benefits increasingly contingent on adherence to values-related criteria. The Office of the US Trade Representative explicitly presents GSP as an instrument to promote American values through the annual reviews that assess recipients’ conduct on human rights, labour and environmental issues¹² and condition tariff preferences accordingly. The EU approach is similar. Cambodia found its duty-free access to the EU partially suspended as a result of what the EU viewed as human rights and labour rights violations.¹³

Other policies are more sweeping in formulation. The EU’s yet-to-be-implemented deforestation regulations will require traders to trace and document the origin of a wide array of products, ranging from coffee to palm oil and chocolate, to

certify that they were not harvested from recently deforested or degraded lands. Companies that cannot comply will find their access to EU markets blocked.

The EU regards this as a groundbreaking climate change policy that will help save forests desperately needed to absorb greenhouse gas emissions – an existential imperative from the European perspective that often takes precedence over other considerations.¹⁴

Malaysia and Indonesia, two of the world’s leading palm oil producers, have a profoundly different point of view. According to Nik Nazmi Nik Ahmad, Malaysia’s environment minister: “We’re not questioning the need to fight deforestation. But it’s not fair when countries that have deforested their own land for centuries, or are responsible for much of our deforestation, can unilaterally impose conditions on us.”¹⁵ Indonesia’s economics minister was even more succinct, labelling the regulations as “regulatory imperialism”.¹⁶

Another prominent example of governmental efforts to infuse trade policy with values-related considerations is the EU Corporate Sustainability Due Diligence Directive (CSDDD). The CSDDD aims to encourage sustainable and socially responsible corporate behaviour by requiring companies to conduct extensive audits not only of their own operations but also of their global value chains for compliance with a set of stringent labour and environmental criteria.¹⁷

From a societal and environmental point of view, the impact of this directive should be positive. From a trade perspective, however, the picture is considerably more nuanced. Small- and medium-sized enterprises (SMEs), which predominate in less-developed countries, will lack the capacity, staffing and resources to adequately demonstrate compliance with the stringent and sometimes vague requirements (for example, “spatial freedom”)¹⁸ and their opportunities to trade could suffer. EU importers will be inclined to bypass their products to avoid violating the directive’s requirements. Companies and countries most in need of the opportunity to access the transformative power of trade could find that access curtailed.

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Ultimately, however, the EU's Carbon Border Adjustment Mechanism (CBAM) could end up being the most significant example of an environmental policy that, despite good intentions, complicates global trade.

At first glance, CBAM seems a sensible policy designed to prevent carbon leakage. The EU is one of the first regions to impose a cost on greenhouse gas (GHG) emissions embedded in industries like cement, iron, steel, aluminium, fertilizer, electricity and hydrogen.¹⁹

This creates a problem, however. If the EU imposes a cost on carbon-intensive manufacturing within its borders while other jurisdictions do not, EU producers will be incentivized to relocate production to a no-cost jurisdiction and then simply export back into the EU. Hence the need for a “border adjustment” – or a tariff – to level the playing field. The border adjustment is designed to add the same cost to a product as if it had been produced in the EU, eliminating the financial incentive for companies to move production to countries without carbon costs.

For countries unwilling or unable to replicate the EU's system (and, by extension, the values that support it), the result will be “climate tariffs” on their exports to the EU.

While CBAM will be a positive environmental milestone that will almost certainly reduce GHG emissions, it also provides a case in point of the challenges inherent in interjecting climate change objectives into trade. A number of trade partners have charged that CBAM violates the World Trade

Organization's (WTO) non-discrimination rules, and less-developed countries feel explicitly targeted. Governments lack the capacity required to put similar carbon pricing schemes in place, and businesses will struggle to certify emissions and meet the administrative requirements. If so, this could compromise access to trade opportunities for these countries.

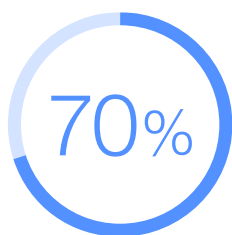
Not only trade policy – governments have other tools

Governments also use other means at their disposal, not limited specifically to trade, to promote a social values agenda. For instance, the Obama administration intentionally appointed openly LGBTQIA+ ambassadors, along with their spouses, to serve in countries with poor records on, or open hostility towards, the rights of sexual minorities. Appointments of this kind were made to the Dominican Republic and Jamaica and caused some disruption and backlash.²⁰ It is difficult to objectively quantify any impact these appointments might have had on social values related to LGBTQIA+ rights in any of these countries, but they are illustrative of the wide scope of US government efforts to attempt to shape values in partner countries.

As another example, the US Agency for International Development provides support and training in developing countries to encourage the conservation and stewardship of natural resources to help ensure that development is pursued sustainably.²¹

The challenge for business

While businesses face challenges in compliance and corporate demands, they sometimes set the bar for best practices.



DHL aims to use clean transport for 70% of its “first and last mile” delivery services by 2025.

With many governments moving values-laden considerations to the centre of their trade agendas, global businesses are navigating a complex terrain. Businesses have three challenges to overcome: 1) comply with the various legal and regulatory strictures articulated by the jurisdictions they operate in, 2) respond to the sometimes contradictory demands of socially and politically conscious global consumers, and 3) conduct their business operations in a profitable manner that comports with any internal corporate value system that may be in place.

Even for successful companies, balancing economic efficiency and profitability with the need to account for values is complicated. Sourcing and production decisions can no longer be made primarily on commercial realities – values are now squarely in the mix. The growing investor preference for companies that perform strongly on ESG (environmental, social and governance) principles only heightens the focus on values.²²

Business often in the lead

It is an unfortunately all-too-common misnomer to see businesses as reluctant partners, being coerced or forced into conducting business operations in accordance with certain delineated values. While there will always be some bad actors eager to maximize short-term profits by behaving in socially and environmentally irresponsible ways, an increasing number of companies have embraced these responsibilities.

In fact, in many instances, businesses are ahead of governments, holding themselves – and their supply chains – to higher labour, environmental and social standards than those legally required by the jurisdictions in which they conduct business operations.

For instance, the Swedish furniture company IKEA has achieved 100% renewable electricity usage at all of its global factories, packaging and distribution facilities on an entirely voluntary basis.²³ IKEA has also established IWAY, an expansive code of conduct for its supply chain that not only sets higher than required standards on labour

and the environment but also extends to animal welfare. DHL, the global package delivery company, aims to use clean transport such as bicycles or electric vehicles for 70% of its “first and last mile” delivery services by 2025. It has also installed telematic software in 450 delivery trucks in Thailand to facilitate fuel savings and more economical driving.²⁴ Unilever asks its suppliers to sign its Living Wage Promise²⁵ as part of its efforts to improve livelihoods across its supply chain. The global retail giant Walmart has taken significant steps to weave sustainability throughout its core operations and global supply chains. Project Gigaton is an ambitious initiative aimed at reducing carbon dioxide emissions across value chains by 2030, and its Standards for Suppliers outlines expectations on fair pay, non-discrimination and workplace safety.²⁶

Initiatives such as these have ripple effects beyond the individual companies involved. By conducting their operations in more labour and environmentally friendly ways than are required, they draw a sharp and visible contrast with other companies that are failing to do so. As consumers take note, direct and indirect pressure is applied to laggards to “up their game”. In this way, one company’s voluntary actions can sometimes lead to the establishment of tougher de facto standards on labour and the environment in a given market, even when governments permit a far more lax approach.

This phenomenon plays out among companies that are both competitors and collaborators. Companies that wish to become or remain part of the supply chain for a higher-standard company are often encouraged or required to adopt those labour and environmental standards. For companies competing in a given market with higher-standard companies, competition for local labour and for the goodwill of consumers often dictates that they also adopt the higher standards.

Social media is a game-changer

Part of what has changed for business is the ubiquity of social media. Social media allows global consumers to process, evaluate and disseminate both favourable and unfavourable examples of corporate conduct. A single negligent incident in

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a factory in a remote part of a global supply chain can be instantaneously shared with millions of users worldwide.

In the most extreme cases, viral social media campaigns can lead to local or even global consumer boycotts. In 2017, Uber was hit with a social media-organized boycott (#deleteUber) in response to what was perceived as support for the Trump administration's executive action to limit immigration from certain countries, a move that antagonized a portion of Uber's customer base.

Even for companies that might otherwise be inclined to engage in the proverbial “race to the bottom” regarding labour and environmental standards or other values-related issues, it is more difficult to do so in an age of ubiquitous social media.

Companies face an additional layer of complexity when oppositional social media campaigns are launched by different segments of their customer base that adhere to different sets of values or hold differing interpretations of commonly held values. This was clear in the fallout surrounding Western accusations of forced labour practices in the Xinjiang region of China.

A number of prominent Western apparel manufacturers rely on Xinjiang both as a source of cotton and a base for production. Their customer bases include both local customers in China and international customers. Through social media campaigns and purchasing decisions, socially conscious consumers in the West exerted strong pressure on these companies to withdraw from engagement in Xinjiang.

This led to a response on social media from Chinese consumers, who viewed the situation as an unfair protectionist move²⁷ aimed at criticizing China.²⁸ Similar social media strategies were used

to apply pressure to Nike and H&M after they also expressed concern over reports of forced labour. A Chinese pop star and brand ambassador for Nike publicly ended their association with the brand, further fuelling the social media discussion.²⁹

Placed in the nearly impossible position of placating two segments of their customer base holding diametrically opposite interpretations on a values-related issue, the companies attempted to strike an awkward balance, emphasizing their commitment to their customers in China and their opposition to forced labour practices.

Motivations vary – but are not terribly relevant

In some cases, companies are adhering to stricter standards because of a genuinely held and deeply embedded corporate ethos and philosophy. Few would question, for example, the sincerity of IKEA's commitment to its expansive and deeply embedded *People & Planet Positive* strategy.³⁰ In other cases, companies are simply responding to marketplace and investor pressures from socially or politically conscious consumers.

Irrespective of motivation, however, the simple phenomenon of companies engaging in trade and foreign direct investment relationships will impact values-related considerations in the countries in which they do business. Under a more favourable scenario, economic interaction and exposure can spur a voluntary and organic narrowing in values divergence. In a less favourable scenario, economic intermingling through trade and investment can expose and intensify values-based incompatibilities between partners. This may lead them to shift their economic relationships towards more compatible partners, excluding others in the process.

An important shift

The value-based trade policy of the EU and the US is being met with China's economic rise.

“ China has already become the world's largest market for automobiles and mobile phones and is either the first or second largest market for a range of other sectors.

As this process plays out, an important shift is under way. The US and EU have been able to exercise a greater impact and enjoy a certain level of success in “exporting their values” based largely on their economic relevance and the imperative for other countries to access their markets or participate in multinational supply chains. This creates pressure to conform to US/EU standards.

In relative terms, however, the economic significance of the US and EU is on the decline as China becomes an increasingly important market. With the world's largest and fastest-growing middle class,³¹ China has already become the world's largest market for automobiles and mobile phones and is either the first or second largest market for a range of other sectors, including fashion and accessories, food and beverage, and other electronic devices.

China's ongoing economic rise is having an increasingly important impact on the “values and trade” phenomenon. China eschews the US/EU approach of using trade to drive values convergence. Instead, China steadfastly avoids any involvement in values-related issues in countries with which it has diplomatic, trade or investment relationships. China views this as a sign of respect for other countries' sovereignty that reflects its firm adherence to a policy of “non-interference” in the “domestic concerns” of other countries.

As the US/EU approach faces increasing resistance in the developing world, China's approach is being more favourably received. Officials from developing countries often note that American delegations focus on giving unsolicited advice, while Chinese delegations offer tangible development projects.

The US and the EU will continue to be major global markets for the foreseeable future. However, as China and other rapidly growing developing countries – which follow a very different approach to “values and trade” – constitute a larger portion of global GDP, global consumption and global value chains, the influence the US and EU have over promoting their trade values will diminish.

How will this play out?

As with the impact of higher-standard companies engaging in lower-standard countries, there are two plausible ways this dynamic could play out over time. One would be for the rise of consumer and corporate markets in China and other “values-neutral” countries such as Indonesia, Viet Nam and Malaysia³² to precipitate a “meeting in the middle” between the West's approach of proactively linking trade with a widening scope of value-based principles and China's hands-off approach of non-interference. As a practical matter, this could consist of a more limited focus on only egregious abuses of the most universally held values and a de-emphasis on coercive or punitive approaches – a “values-light” approach.

The second plausible path is that the rise of China and other countries could lead to a clear division on values and trade. Some countries may align with like-minded partners who believe in promoting common values through trade. On the other hand, others might gravitate towards countries that reject mixing trade with values and adhere strictly to a policy of non-interference. It will be years, if not decades, before the outcome becomes clear, and in the meantime, friction between these two different approaches is likely to intensify.

Challenges ahead

Regardless of the sincerity behind using trade to promote values, there are several significant risks involved.

Greater fragmentation in the globalized trade system

The creation of the rules-based trade system after World War II, including the General Agreement on Tariffs and Trade (GATT) and its successor, the WTO, was based on the belief that greater global economic integration and a more open, globalized trade system would lead to better outcomes for both prosperity and peace. The architects of the system recognized that increased trade barriers, trade wars and trade blocs had contributed to one global depression and two World Wars within the space of three decades.

Henceforth, trade relations among countries were to be driven primarily by commercial considerations in a world of steadily declining trade barriers while divisions over national borders and national sensibilities receded. This foundational philosophy has held for eight decades.

Today, that foundation is weakening – or at least changing. Integrating values into trade relationships allows for the exclusion of partners who don't share certain values and strengthens ties with those who do – gravitating towards so-called “friendshoring”.



Rather than being highly reliant on countries where we have geopolitical tensions and can't count on ongoing, reliable supplies, we need to really diversify our group of suppliers. Friendshoring means [...] that we have a group of countries that have strong adherence to a set of norms and values... and we need to deepen our ties with those partners and to work together to make sure that we can supply our needs of critical materials.

Janet Yellen, US Treasury Secretary³³

The often-unspoken consequence of a desire to build trade relationships based on shared values is the simultaneous shift away from those who don't share those values. This would inevitably create greater fragmentation, contradicting the post-war objective of creating a globalized, multilateral trading system.

No system is ever perfect, but for more than three-quarters of a century, this globalized trade system has delivered comparative peace and prosperity, though the gains have been poorly shared and the environment inadequately protected. At a time when other factors, including institutional dysfunction and rising protectionist tendencies, are already creating divisions, linking values with trade will further justify creating even more dividing lines.

A frayed compact and rising antagonism between developed and developing world

The pursuit of values-laden NTOs in trade relationships is potentially exacerbating mistrust between the developed and developing worlds. Many view it as just another form of “disguised

protectionism” – a thinly veiled excuse to block imports from the developing world.

More broadly, the link between trade and values could undermine the implicit “compact” that has been in place since the establishment of the rules-based global trade system. Most developing countries have “bought into” the underlying value proposition this system offered: developed world markets will be progressively opened, and developing countries will be able to use their comparative advantages (frequently including low-cost labour) to expand exports and access foreign direct investment (FDI).

As demonstrated by the historical experience of countries like South Korea, Chile, Singapore, Mexico and, perhaps most prominently, China, this trade and investment-led development model afforded a plausible path to greater prosperity and higher quality of life that could reasonably be aspired to by countries at an earlier stage in development.

This was not a charitable exchange; it was based on mutual benefit, as developed-world consumers and companies profited from optimized production and access to less expensive inputs

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and finished products. Trade patterns and trade relationships were formed largely based on economic efficiencies, and exogenous factors – values-related or otherwise – rarely played a decisive role.

This is less true now, as participation in global supply chains or access to profitable consumer markets in developed countries is increasingly dependent not just on economic efficiency but also on alignment with these countries' values.

This creates a two-pronged challenge for developing countries: first, when and where possible and palatable, complying with the prescribed values and second, satisfactorily documenting compliance. In at least some instances, the protocols in place for demonstrating compliance with these values are simply beyond the capacity of developing-world companies or governments.

Large multinational corporations with dozens, if not hundreds, of compliance staff are able to track and document, for instance, deforestation histories or carbon emissions. The SMEs and micro, small and medium enterprises (MSMEs) that predominate in developing countries frequently do not possess this capability. The net result is limited trade access, either due to a lack of compliance or an inability to demonstrate compliance.

Developed countries are now amending the traditional compact – a progressively more open trade system based on economic efficiency – to include an additional set of criteria that will, in some instances, limit developing countries' access to trade.

A trade system pushed to the brink or a chance to reclaim relevance

The inculcation of values into trade relationships is already creating frictions, and as trade and values become more closely intertwined, these frictions can be expected to intensify. The growing number of countries indicating their intention to challenge CBAM in the WTO and the EU's firm insistence on its legality serve as a warning that this could become one of the most divisive trade disputes in WTO history.

The lack of a fully functional dispute settlement mechanism (DSM) raises the stakes. For instance, the US would likely address trade actions against CBAM outside the usual WTO channels. The EU would almost certainly respond with countermeasures, leading to further escalation.

The Indian Commerce Minister, without waiting to see CBAM in its final and full incarnation or bothering with even filing a WTO case, has already stated that India intends to retaliate.³⁴

The net result would be a dispute involving some of the world's largest economies, potentially leading to escalation and a broader trade war. While this will undoubtedly test the WTO, it could be an opportunity for the organization to work creatively to demonstrate its ability to settle disputes among its members outside of the DSM and reclaim its relevance.

5

Navigating the path forward

Striking a balance between economic development and consensus on values is crucial.

An increasingly complex set of values-laden considerations is moving to the centre of certain nations' trade agendas. The scope of these values-related issues is expanding, as are expectations that trade partners can and should align on value judgments. Trade preferences and restrictions are being linked to assessments of how well – or poorly – partners measure up.

The challenge is to manage this new reality sensibly. The goal should be to ensure that trade remains as open as possible to allow countries and citizens access to the developmental benefits of trade while regulating to ensure social and environmental protection. Progress on values-related issues is to be supported, facilitated and encouraged, but coercion through the threat of restrictive trade actions should be limited to the most egregious and clear-cut abuses.

The following guidelines may be of use while navigating this terrain:

1 Proceed with humility



Accept that few values are universal and at least some differences over interpretation will be inevitable and unbridgeable.

Values strongly held in one part of the world are irrelevant elsewhere. The set of values that can credibly be asserted as truly universal are smaller than generally thought. Even when agreement on the universality of a value exists, differences in interpreting particular circumstances in specific countries will abound. Bridging these gaps will not always be possible. Avoid investing time and resources, especially restricting trade access, on the assumption that other countries will eventually share the same perspective.

2 Change takes time and requires support



Phase-in periods and capacity building are a must.

If certain values and standards are important to the developed world, it must be prepared to support and assist other willing countries in achieving them. Particularly for labour and environmental issues, this often involves financial support, but it should also include technical assistance, training, equipment and other forms of capacity building to help raise standards. To make real progress in implementation, it's important to involve developing countries, their producers and civil society in early consultations, just as domestic stakeholders often are.

When trade agreements include commitments related to values, such as labour or environmental standards, there should be adequate phase-in periods to give partner countries enough time to adjust. The Paris Climate Agreement adheres to a policy of “common but differentiated responsibilities” in which differing national circumstances shape the actions countries are expected to take.³⁵ A similar approach could be applied to the broader trade and values effort.

3 Avoid hypocrisy



Don't hold others to standards you cannot meet yourself.

One value that can reasonably be asserted as universal is an aversion to hypocrisy. Proclaiming the primacy of a particular value while failing to meet that value undermines any positive intentions. For instance, the US insisted that Mexico agreed to more stringent

labour requirements on collective bargaining and freedom of association when it renegotiated the North American Free Trade Agreement (NAFTA) (subsequently the United States-Mexico-Canada Agreement or USMCA). Yet it was unclear whether several US states with “right to work” legislation in force complied with the labour standards that the US insisted Mexico adhere to.³⁶ Mexico claimed that this constituted hypocrisy.

Likewise, giving some countries a “free pass” on values if they are geopolitically significant or supply critical resources not readily available elsewhere will undermine credibility.

4 Assess trade-offs



Advancing an agenda on values should be evaluated against the dislocations to trade and development it might produce.

Putting trade restrictions in place (or removing trade benefits) from countries judged to be lacking in particular values will materially impact the lives of citizens in those countries whose livelihoods are linked to export markets. This could limit their access to healthcare, education and other necessities. It is important to ensure that the societal benefit achieved is worth the societal costs imposed. A values-based agenda that leads to trade action should never be pursued solely for the sake of virtue signalling. If there is political pressure to take a proactive approach to a values-related issue, actions should be taken in ways that do not place excessive burdens on those least able to handle them.

5 Be mindful of colonial legacies



Historical footprints cast a long shadow over present-day trade relationships.

Values-based trade policies are being implemented within the context of complex historical experiences, which can make their impact more challenging and sensitive for those affected. Many countries advancing a values agenda in trade relationships were previously colonizers of the countries they now seek to “influence”. Although presumably not intended, these efforts can nonetheless carry uncomfortable overtones that will ultimately be counterproductive. It is, therefore, important to be historically cognizant and appropriately sensitive. These historical legacies are why some countries have included non-trade objectives, like protecting Indigenous peoples’ rights, in their trade policies. Developing countries have also sought policy space in trade and investment liberalization negotiations on these grounds.

6 Practical regulation



Develop compliance protocols that companies can reasonably be expected to meet.

Imposing unreasonable compliance requirements or costs on businesses, especially SMEs in developing countries with limited resources, can be detrimental to all parties involved. Protocols should be developed with a real-world understanding of whether, for example, a typical SME furniture manufacturer on the Indonesian island of Sulawesi could comply. If compliance requirements to maintain trade benefits are clearly beyond the capacity of most companies in a particular country, those requirements will likely be viewed as intentionally exclusionary, and the entire effort may be dismissed locally as protectionism.

Conclusion: Striking a difficult balance

The increasing integration of societal values into global trade policy represents both a challenge and an opportunity. While values such as human rights, labour standards and environmental sustainability have long been important, their recent prominence in trade policy marks a significant shift. This shift is driven by progressive ideals, strategic economic interests and geopolitical dynamics.

Yet, values in trade elicit friction. Balancing the advancement of values with the need for open, equitable trade – especially for developing nations – is essential. Moving forward, it is crucial to involve all stakeholders in policy design, ensuring they are not disproportionately impacted by emerging values-laden policies.

While much of the impetus for using trade to advance values is motivated by positive intentions, it must be accomplished to encourage trade rather than strengthen barriers to it. This will require a highly nuanced and carefully calibrated balance

between the desire to advance universal values and the need to ensure that the transformative potential of trade remains open to all – especially those who need it most. This will not always be easy, and many issues will fall into shades of complexity rather than clear-cut solutions.

Firstly, humility is key. Not all nations will agree on specific interpretations of trade policy, and bridging this gap will require understanding. Secondly, phase-in periods and assistance to developing countries are a must. Third, countries should adhere to their own standards and avoid hypocrisy. Fourth, trade-offs must be carefully considered to ensure that promoting values doesn't unduly harm citizens who depend on trade for their livelihoods. Fifth, the historical legacies should be addressed with the impacts of colonialization taken into consideration. Finally, regulations that companies, particularly SMEs in developing countries, can reasonably comply with must be developed.

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Endnotes

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