Global Value Chains (GVCs), Trade and Inequalities

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This post engages with the Global Value Chain Development (GVCD) reports co-published by the World Trade Organization and the World Bank. It focuses on one central claim these reports have made about the development-related benefits of firms' participation in GVCs, and on the policy recommendations that follow. The claim is that by inserting themselves into global value chains (GVCs) and technologically upgrading, firms can move up the value-added ladder and capture a greater share of the economic rewards, thereby also benefiting workers and their states in terms of employment, income and taxation. A policy recommendation follows: in order for insertion and upgrade to take place, states, especially developing countries, need to undertake deeper trade commitments to speed up the integration of their firms in GVCs.

Referred to as 'WTO-plus' and extra provisions because they go well beyond current liberalization commitments and concern areas not currently regulated by the institution, such provisions consist of the strengthening of the protection of investors' rights, in particular Intellectual Property Rights (IPRs), the further

liberalization of investment and services, the free(r) movement of capital, and a higher level of commitments regarding sanitary and phyto-sanitary standards and technical barriers to trade. These provisions have been adopted in bilateral and regional trade agreements, and the World Bank has called for states to undertake unilateral reforms of their trade regimes in this direction as the benefits from participating in GVCs are supposed to provide them with the resources they need to redress socio-economic inequalities domestically.

The post makes two points. First, the links between GVCs and development (understood as increased employment and income for firms, workers and states) are tenuous at best, with numerous case studies revealing the presence of informal workers and 'social downgrade,' that is the deterioration of working and living conditions, even when firms have technologically upgraded and moved up the value-added ladder. Secondly, the adoption of WTO plus and extra rules is likely to exacerbate socio-economic inequalities and wealth concentration by providing lead-firms with stronger legal entitlements and no corresponding legally enforceable obligations.

1. **GVCs and Development: the evidence so far**

Studies referred to in GVCD reports rely primarily on quantitative parameters, particularly employment levels and real wages. Since they show that there has been, in some developing countries, an increase in both employment and wage levels when firms have integrated into GVCs and technologically upgraded, the 2019 GVCD report concludes that insertion and upgrade are key to development. However, not all quantitative analyses reach the same conclusion. For instance, the most up-to-date comprehensive cross-sectoral study, which focuses on thirty countries and four chains, paints a much more ambiguous picture, and concludes that '[o]verall upgrading, i.e. the concurrence of both economic upgrading and social upgrading, has …been rather scarce.'

Furthermore, quantitative parameters are poor indicators of workers' well-being for the following reasons: a) employment levels may increase with participation in GVCs but that increase says nothing about the composition, duration and quality of employment; b) official employment data does not account for the vast number of informal workers on whom GVCs rely, many of whom are

women and migrants; c) insertion into GVCs may lead to an increase in wages but the effect of wage increases can be offset by the reduction of social entitlements; d) wage increases usually refer to national levels and do not present disaggregated data on gender, race and migration. As for the benefits potentially accruing to states, it is problematic to claim that an increase in the share of domestic value translates into benefits in terms of taxation. This is because profits may be shifted away from those countries where value is actually produced. The qualitative analyses produced by academics and NGOs over the last three decades show that increases in real wages and employment levels can be accompanied by the intensification of work, the reduction of social entitlements and the increasing precarization that result in the worsening of working and living conditions of, both formal and informal labourers. This has become apparent in the context of the current pandemic in the global North as well as in the global South where workers have been subject to and life-threatening working conditions.

2. **Social downgrade, wealth concentration and international trade law**

The World Bank has acknowledged that '[t]he concentration of trade in a few importing–exporting firms is extreme'. However GVCD reports disregard the role international trade law plays in providing investors and asset holders with internationally legally enforceable rights and no corresponding obligations, and at the same time suggest states should provide even stronger rights. The adoption of 'WTO-plus' and 'WTO-extra' rules is likely to exacerbate socio-economic inequalities and wealth concentration. The remainder of this section illustrates the impact of WTO, WTO-plus and extra measures on working and living conditions in the areas of services, investment and IPRs.

1. Services liberalization

GVCD reports argue that movement of services (transport, business, finance, telecommunication, logistics etc) is as important as movement of goods, since services are embedded in almost all stages of production; and, therefore, that there can be no integration into GVCs without further liberalization of services. Developing countries are typically regarded as not having made adequate liberalization commitments under the GATS to enable their firms to successfully

insert into GVCs. They are, therefore, being encouraged to adopt WTO-extra measures consisting of the adoption of the so-called negative list approach to liberalization, and the full commitment to National Treatment (NT) and Market Access (MA) rules. When states adopt the negative list approach, they commit to liberalizing all service sectors unless they have listed specific exceptions. This means that unless they have explicitly excluded health and education, for example, these sectors will be subject to rules such as NT and MA. NT is the obligation to treat foreign service providers no less favorably than domestic providers, which therefore prevents states from according any preferential treatment, for instance subsidies, to domestic service providers. And when states bind themselves to MA they can no longer limit the number of foreign providers, the share of foreign equity, the value of the service provided and the kind of legal entity required to operate in their country (i.e. a joint company or cooperative). Putting living and working conditions at the centre of trade policy would require policy-makers to first acknowledge that services contribute to our daily and generational maintenance. It is therefore important to ask: what are the consequences of the adoption of these rules for the ability of states to provide these services and/or to guarantee their quality, geographical reach and affordability?

2. Investment liberalization

GVCD reports argue that integration into GVCs requires the adoption of more stringent protection of investors' rights, so they can safely invest in other states in the knowledge their property will be protected. Stronger protection is assumed to make them more willing to contract out production to firms in host states. As a consequence, an increasing number of trade agreements include investment provisions which consist of (in addition to the 'negative list' approach and NT that apply to services) a number of other features which affect the policy space of states.

The prohibition of performance requirements, for instance, prevents states from imposing limits on: repatriation of profits, foreign ownership share, type of legal entity through which to invest, and requirements about local content and transfer of technology. They also include protection of contracts, which are the means through which most transactions between suppliers and lead-firms take place. However, countries have no recourse in case contractual terms end up

harming workers or being unfavorable to the socio-economic interests of their population. Technology transfer and increased income for states are also the presumed benefits deriving from participation in GVCs, so that preventing states from ensuring there is transfer of technology, or that only a percentage of profits are repatriated, as the prohibition of performance requirements implies, seems contradictory. Furthermore, provisions on the establishment of so-called investor- state dispute settlement (ISDS) give investors the right to bring cases against states in private arbitration tribunals for breaches of standard of treatment and regulatory expropriation. WTO reports show that the majority of trade agreements have adopted a negative list approach to investment commitments. In other words, NT and MA apply to all investors who wish to establish a presence, or acquire or resell holdings. Furthermore, most agreements have protection guarantees which entitle investors to recourse to national courts or arbitration, should the guarantees not materialize, for instance, in the event of contract breaches. They also provide investors with the right to dispute settlement, which marks another significant departure from the WTO state-to-state dispute resolution approach, and from most Free Trade Agreements (FTAs) which contain a clause that limits their dispute settlement process (i.e. parties can bring a dispute under the FTA *or* through the WTO's dispute settlement system but not both).

WTO-extra provisions therefore confer extensive rights upon foreign firms without corresponding legally binding obligations since performance requirements are prohibited in many agreements and the legal force of international obligations on corporations is very limited. It is important to ask: what effects do investment rules have on the ability of governments to regulate economic activity so to meet socio-economic goals such as labour and environmental protection, and/or enact positive action measures for marginalised groups?

3. Strengthening of IPR protection

The GVCD reports argue that standards of IPR protection have to be increased as intangibles are one of the most valuable assets of lead-firms, so their protection by states is paramount if they want to give IP holders/investors the confidence to contract out production to their firms. An added benefit of strengthening IP rights, in addition to employment, is thought to be the

technology transfer that results from local firms accessing the advanced technology of lead-firms, which stimulates innovation. However, available empirical evidence casts doubts on whether technology transfer, innovation and greater value capture by smaller firms and countries of the global South has actually taken place since the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) came into force. The materialization of such benefits can be expected to be even more difficult if stronger IP protection is considered together with WTO-extra investment provisions prohibiting performance requirements such as technology transfer. From a global public health and food perspective, this ratcheting up of rights becomes even more problematic. It is important to ask: what are the effects of protecting IPRs not only on technology transfer, but also on access to health and food? The most immediate concern is access to medicine as patents increase the price of pharmaceuticals; but there are also concerns about the kind of health research being pursued, when it is not profitable, for example.

Conclusions

There are concrete mechanisms through which these questions can be embedded in the architecture of international trade regulation. In the short term these mechanisms include the incorporation in bilateral, regional and multilateral trade agreements of: equality/environmental/labour impact assessments of all 'commercial' measures; revision clauses to amend provisions found to negatively impact the ability of states to provide social reproduction-related goods and services; carve out clauses that exclude ISDS, the abolition of capital controls and 'survival' clauses; and adjustment mechanisms for workers that are negatively affected by the agreements. Other initiatives that target the phenomenon of concentration and centralization of lead-firms (beyond the feeble standards of conducts which have proliferated in recent years with very little effect), include the push for mandatory due diligence and joint liability, and other measures that target the ability of firms to shift profits between jurisdictions; and, finally those that introduce mandatory contract terms and conflict of law rules that 'help to re-embed these transactions into the place impacted by the social effects of GVCs'.

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