Master of International Trade (MIntTr)
ITRA501: Multidisciplinary Approaches to International Trade

STUDENT NOTE

Unilateral Liberalisation and the Race to the Top

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Abstract

The conventional wisdom that trade liberalisation drives a competitive erosion of labour and environmental standards fails to account for the paradoxical outcomes observed in jurisdictions pursuing unilateral tariff elimination. This student note demonstrates that New Zealand's sustained commitment to unilateral liberalisation, whilst retaining carefully calibrated technical barriers, has created conditions under which domestic interest groups advocate for strengthened rather than weakened regulatory standards. More significantly, this policy stance has transformed New Zealand into a credible norm-exporter, enabling the diffusion of higher standards internationally without triggering protectionist suspicions that typically accompany similar measures adopted by larger economies. The analysis reveals that the strategic decoupling of tariff liberalisation from technical harmonisation generates both domestic political incentives for regulatory upgrading and international legitimacy for standards-based trade restrictions, suggesting a viable pathway for embedding sustainability objectives within trade policy frameworks.

Keywords: unilateral liberalisation, trade standards, environmental protection, New Zealand trade policy, technical barriers to trade

I Introduction

Modern criticisms of international trade have most visibly come from the political right, arguing that it shifts manufacturing overseas and takes jobs away from people at home. However, there is a strong history of scepticism from the political left, most visibly in New Zealand by Prof Jane Kelsey. A left-wing critique often centres on the belief that by opening up to competition in different jurisdictions, companies and politicians both at home and abroad have an incentive to weaken workers' rights, lower wages and reduce environmental protections to gain an advantage. In Kelsey's words,

> "each [country] sought to minimise costs and maximise opportunities for investors to exploit their natural and human resources",[1]

and pointed to Thai horticulture workers earning 0.40 NZD p/hr in 1994, producing goods exported to New Zealand as a stark example.[2]

In theory then New Zealand's policy of unilateral liberalisation[3] would heighten this, with little barriers to states with poor standards, domestic firms in New Zealand should theoretically lobby for lowered standards at home to compete. Despite this, we have the second highest minimum wage in the world,[4] and comparatively strong environmental and animal welfare protections.[5]

This note will seek to argue that, contrary to the "race to the bottom" theory, New Zealand's history of unilateral liberalisation has not led to a degradation in standards

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1 Jane Kelsey *The New Zealand Experiment. A World Model for Structural Adjustment* (Auckland University Press, 1995) at 105-106.

2 At 106.

3 Beginning in the mid-80's, before slowing down in the early 2000's.

4 Measured in USD, "Minimum Wage by Country 2025" World Population Review <www.worldpopulationreview.com>.

5 Emily Benson "Small Country, Big Climate Agenda: New Zealand's Approach to Climate and Trade" Center for Strategic and International Studies <www.csis.org>.

at home, but has actually facilitated the "exporting" of higher standards, which presents an opportunity for supporting sustainable trade practices, without trying to limit trade or losing the economic gains from it.

This note will focus on two major reasons for this, and discuss and rebut the counter-arguments to it.

The first will be on how unilateral liberalisation has affected the influence of domestic interest groups, and how New Zealand's policy of unilateral trade policy has made it difficult for race-to-the-bottom beliefs to gain traction.

The second is that it has enhanced New Zealand's status as a good-faith actor in international trade, which has indirectly led more widespread adoption of New Zealand standards by states overseas, who might otherwise suspect it of being a protectionist policy designed to assist domestic firms against overseas competitors.

II Analysis

A Background and Domestic Factors

It is not correct to suggest that New Zealand ever fully unilaterally liberalised trade (even before the liberalisation slowdown). Tariffs were lowered dramatically, from 6.9% for manufacturing in 1987 to approximately 2% today (with some fluctuations). Subsidies were largely eliminated and foreign investment was liberalised. However, some technical barriers to trade remain, most visibly the ban on imported fresh chicken and beef from virtually every state (Australia being the sole exception) due to health concerns – requiring other states to process or can it prior to shipment.

From a domestic standpoint then, this comes with advantages both for liberalising trade and for raising standards. Typically, when trade deals are being negotiated,

those firms that are not what Osgood et al[6] would call "superstar exporters", and would be import competing, are resistant to the lowering of tariff barriers, and will almost always lobby for exemptions for their specific industries, hurting national welfare and delaying trade agreements.[7]

Unilateral liberalisation removes this as an impediment to trade, as tariffs have already been lowered, interest groups don't have much incentive to lobby against them being lowered further/removed. This makes trade negotiations less difficult, but has the added benefit of, ironically, encouraging more stringent standards. As David Vogel has found,[8] states with liberal trading policies often have more stringent standards. Part of this, it could be argued, is correlation rather than causation – states with liberal trading policies are often wealthier developed states (especially when Vogels work was published in 1995, before the establishment of the WTO and the widening of its membership), and wealthier states are also more likely to have capacity to enforce regulations. However, it is also the case that firms will always want an edge over foreign competition, and without tariffs as an option, the alternative left to them is the less politically contentious option of greater standards for goods being sold in the country. Notably MBIE has stated that businesses are often eager to identify and monitor emerging global themes in relation to the development of technical barriers to trade.[9]

Tangentially, as environmental chapters in trade agreements are an important

6 See generally Iain Osgood and others "The Charmed Life of Superstar Exporters: Survey Evidence on Firms and Trade Policy" (2016) J Polit.

7 Howard Lewis III and David Richardson "Why Global Commitment Really Matters!" Peterson Institute for International Economics <www.piie.com>.

8 See generally David Vogel *Trading Up: Consumer and Environmental Regulation in a Global Economy* (Harvard University Press, 1995).

9 "Technical Barriers to Trade (TBT) Strategy" Ministry of Business, Innovation & Employment <www.mbie.govt.nz> at 15.

mechanism for improving sustainable trade practices, unilateral liberalisation could potentially accelerate this process. By removing domestic lobbying over tariffs, negotiations can reduce the time spent discussing new tariff levels (as there will not be a substantial difference post-trade agreement).

B Exporting Standards: The WTO and Article XX's Vagueness

A large factor that has encouraged the spread of environmental chapters in trade agreements over the last 20 years has been due to a lack of clarity within the WTO over what is considered a valid act limiting trade for the sake of sustainability, with Article XX of the GATT,[10] which allows for states to adopt measures that would otherwise be inconsistent with their obligations, as long as it is with the goal of conserving exhaustible natural resources.

This lack of clarity creates instances where states have attempted to use the exception, sometimes with a valid justification that could improve sustainable practices if widely adopted. However, scepticism about whether such justifications are genuine has resulted not only in states declining to follow suit but actually bringing claims to the WTO. For instance, the US has not always followed the international trade order, especially in recent years with the intentional gridlocking of the Appellate Body, leading to distrust towards US trade policy and its true objectives.[11] Turning to US attempts to improve sustainability however, in the Shrimp-Turtle case the US issued a requirement that imports of shrimp must come from fisheries using "Turtle Excluder Devices" to reduce the damage to sea turtle populations. Despite this appearing to be a genuine attempt to reduce the environmental harms of the

[10] Typically Article XX(g), when discussing animal life, but also Article XX(b) when discussing pollution and its impact on human life.

[11] Even more so in light of President Trump couching nearly every tariff and trade barrier under the legal exception of "national security" despite its relative disconnect.

fishing industry, several WTO members filed a claim against the US – the US won, but it does signal that its declared intentions are not trusted in matters of trade restrictiveness.[12]

Returning to a New Zealand context, one of the advantages of unilateral liberalisation has been the impact it has had on New Zealand's status on the world stage, and how it affects international reactions to what would be considered protectionism were the same positions taken by a different state actor. In general, states consider New Zealand to be a good trade actor[13] and as such similar allegations are rare. This is especially important in the case of small-medium states. Larger states, like America, do not necessarily have to worry about the prospect of their actions being seen as hidden protectionism, they have the capacity to respond to legal challenges, and in most cases it is unlikely states will retaliate with trade restrictions outside the WTO framework.[14] However, with smaller states this can have a chilling effect on environmental barriers, unilateral liberalisation makes it very hard to level accusations of that nature against a state.

Consequently,[15] as these restrictions are often seen as genuine rather than economically self-serving, they also gain attention and consideration overseas. This is especially true in relation to health and safety standards, and to a lesser degree

[12] The US initially lost the original case on the art XX chapeau. See *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, WT/DS58/AB/R, 12 October 1998 (Report of the Appellate Body). That was over the US applying the measures and them offering financial assistance to the protesting countries, which the WTO considered discriminatory preferential treatment. After the US amended the EPA, one of the original signatories brought a compliance challenge, which the Appellate Body rejected. See *United States – Import Prohibition of Certain Shrimp and Shrimp Products (Article 21.5 – Malaysia)*, WT/DS58/AB/RW, 22 October 2001 (Report of the Appellate Body).

[13] "Trade Policy Review: New Zealand" World Trade Organization <www.wto.org>.

[14] Consider, for example, the European Union's lack of reciprocal tariffs after Trump's announcements.

[15] In conjunction with being an English-speaking developed state, leading to higher media coverage overseas.

environmental concerns. Most recently, a visible consequence of New Zealand's policy changes is the ban on trade in live animal stock. After its initial announcement in 2021,[16] it prompted discussion in Australia, which initially denied any intention to follow suit. However, by 2024 (with the ban implemented in New Zealand in 2023),[17] following a combination of a change in government and public pressure, Australia shifted policy and implemented a similar measure.[18]

All of this is not to say that environmental chapters are not necessary if a country is trusted not to erect non-trade barriers, they are, they directly address a gap in the current global trade rules. However, much as a motivating factor for unilateral liberalisation when it was first implemented was to get the benefits (from cheaper imports, and provide competition for domestic firms to encourage greater productivity), without needing to spend substantial time negotiating trade agreements, negotiating environmental chapters lengthens that time even further.

C Criticism

A competing point of view is that, whilst some technical barriers to trade are reserved, and can encourage states to raise standards, either directly or indirectly through public pressure, the lack of tariffs gives New Zealand less to negotiate with during discussions over trade deals with states that, largely, see little to gain through getting better access to New Zealand's market. An obvious example being India, which has rapidly growing emissions, and which is already extremely hesitant to open up to trade. From their perspective there is no incentive to make concessions under

16 Hon Damien O'Connor, "Government to Phase Out Live Exports by Sea" New Zealand Government <beehive.govt.nz>.

17 Animal Welfare Amendment Act 2022 (NZ).

18 "Phasing Out Live Sheep Exports by Sea" Department of Agriculture, Fisheries and Forestry <agriculture.gov.au>; Export Control Amendment (Ending Live Sheep Exports by Sea) Act 2024 (AU).

environmental chapters or other health/workers if they don't gain much in terms of economic benefits.

Additionally, this note's argument in favour of restricted unilateral liberalisation (that is, retaining barriers for various regulatory standards) must acknowledge potential costs. Research has shown that, whilst technical barriers imposed by developed economies can raise standards and limit harms from trade,[19] they could also harm trading partners in developing countries.[20] For instance, Otsuki et al estimated that proposed EU barriers could cut African exports of food by 64%.[21] However, this study from 2001 has not been borne out, whilst substantial exports of food to the EU are rejected,[22] exports are still at a record high.[23] Unlike tariffs, which see trade drop, technical barriers have been (to a degree) complied with, raising standards at home and abroad.

III Conclusion

Far from harming standards at home and abroad, unilateral liberalisation has actually solidified and enhanced standards important to sustainability. Whilst complete unilateral liberalisation with no remaining restrictions might not result in a positive outcome, a more limited form that lowers tariff barriers whilst retaining technical barriers has consistently improved standards, whether in health and safety in food or in animal welfare. Looking forward, if the government wishes to enhance

19 In that case, phytosanitary standards.

20 Tsunehiro Otsuki, John Wilson and Mirvat Sewadeh, "A Race to the Top? A Case Study of Food Safety Standards and African Exports" World Bank Policy Research Working Paper Series <www.worldbank.org>.

21 At 16–19.

22 Fatima Olanike Kareem, Inmaculada Martinez-Zarzoso and Bernhard Brümmer "What Drives Africa's Inability to Comply with EU Standards? Insights from Africa's Institution and Trade Facilitation Measures" (2022) Eur J Dev Res 938.

23 "The EU Remains the Main and Most Open Market for African Food and Manufactured Products" European Union External Action <www.eeas.europa.eu>.

sustainability there is an incentive to continue maintaining and lowering tariff levels whilst pairing them with greater environmental standards at home and applying those standards to imported goods. These technical barriers can provide a negotiating point in future trade agreements (not through elimination but by making it easier for foreign firms of trade agreement partners to demonstrate compliance) and create domestic pressure on politically similar states to follow suit.