Notre Dame Journal of International & Comparative Law

Volume 7 | Issue 2 Article 3

5-3-2017

Pride and Prejudice in U.S. Trade

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INTRODUCTION

We are nearing a tipping point in United States (U.S.) trade policy. Populism from both the left and the right egged on by the rallying cry of the Brexit campaign in Britain, with transatlantic echoes of "Make America Great Again," has played into nativist fears of openness, including fears of open economies and free trade. Everyone seems to have an opinion about trade, and the prevailing notion is that we are playing fair while the other guys are not. Free trade is out[1] and something called fair trade, which remains vaguely defined, is in.[2] The sense that the U.S. is being wronged by allies and rivals alike is trumpeted everywhere. Trade now is associated with job loss and trade deficits, mostly caused by foreigners who do not play fair. Much of the corrosive anti-trade rhetoric has taken on nationalist overtones and is targeted against countries such as China and Mexico. The U.S. also has trade deficits with the European Union (EU)[3]

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[1] Tim Hains, *Trump Focuses on Free Trade Agreements: "We're Losing Our Shirts"*, REAL CLEAR POLITICS (Mar. 7, 2016), http://www.realclearpolitics.com/video/2016/03/07/trumps_rust_belt_pitch_when_was_the_last_time_you_saw_made_in_the_usa.html ("All this free trade, you know what, it is free trade for them, not for us. We're losing our shirts.").

[2] Meghashyam Mali, *Trump Threatens to "Break" Trade Pact with Mexico, Canada*, THE HILL (Sept. 26, 2015) http://thehill.com/blogs/ballot-box/255053-trump-vows-to-renegotiate-or-break-trade-pact-with-mexico-canada.

[3] U.S. Census data on foreign trade with the EU show that in 2014, the U.S. ran a trade deficit of 144 billion dollars and in 2015, a trade deficit of approximately 156 billion dollars. *See* U.S. CENSUS BUREAU, FOREIGN TRADE: TRADE IN GOODS WITH THE EUROPEAN UNION (2017), https://www.census.gov/foreign-trade/balance/c0003.html (last visited Mar. 26, 2017).

generally and, for example, with Germany particularly,[4] yet European countries are rarely bashed. In fact, the U.S. trade deficit with Germany is larger than that with Mexico[5], and yet, Germany has barely been mentioned in the anti-trade debate.[6]

Moreover, millions of jobs have been lost because of other factors, such as technology and computerization—not trade.[7] Job loss, due not to outsourcing but to automation, has been particularly heavy in the service sector, where two-thirds of all U.S. workers work.[8] And the U.S. trade deficit, incurred when the U.S. imports more than it exports, is denounced in isolation, without either a *broad* understanding of how U.S. trade is linked to both national security and to finances—that is, the U.S. dollar and its use as an international reserve currency—or a *deep* understanding of the changes that are occurring in the nature of international trade itself—such as the emergence of global supply chains and vertical specialization.[9] Trade continues to be conceptualized in old terms—single-country or "monolocation" production. But in reality, trade is much more complex, with value-added production in many countries. Production is fragmented by task and involves "multilateral" processes[10] using a "global factory model" that transcends national territory.[11] This antiquated understanding of trade has resulted in misleading trade figures that overstate import figures and the relationship between imports and job loss, with countries such as China and Mexico.

The discussion on trade is muddled and anachronistic as well as increasingly tinged with a nationalist, anti-foreign overtone that is directed only at certain

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[4] U.S. CENSUS BUREAU, TOP U.S. TRADE PARTNERS (2016), http://www.trade.gov/mas/ian/build/groups/public/@tg_ian/documents/webcontent/tg_ian_003364.pdf [hereinafter TOP U.S. TRADE PARTNERS].

[5] In 2014, the U.S. trade deficit was $74,808 billion; in 2015, it was $74,849 billion. The U.S. trade deficit with Mexico was $55,408 billion in 2014 and 60,662 billion in 2015. *Id*.

[6] Yet,

> Germany is arguably a far more pressing problem than any of the countries that Trump likes to name-check: The Japanese economy is a poster-child of stagnation and is running an aggregate trade deficit despite its reform efforts; a significant portion of Mexican trade supports the US industrial base; and China has actually started manipulating its currency to make it *stronger* it as it fights its own economic slowdown . . . .

Tim Fernholz, *Trump's Choice of Trade Enemies Reveals the Racial Subtext of His Economic Appeal*, QUARTZ (Mar. 15, 2016), http://qz.com/638695/theres-one-country-that-reveals-the-racism-behind-donald-trumps-economic-rants/.

[7] Bernard Condon & Paul Wiseman, *Recession, Tech, Kill Middle Class Jobs*, YAHOO NEWS (Jan. 23, 2013), https://www.yahoo.com/news/ap-impact-recession-tech-kill-middle-class-jobs-051306434--finance.html?ref=gs.

[8] *Id*.

[9] David Hummels et al., *Vertical Specialization and the Changing Nature of World Trade*, *in* 4 FED. RES. BANK OF NEW YORK, ECON. REV. 2 at 94 (1998). Stating:

> [G]lobalization has gone beyond just "more trade." The nature of trade has changed to the point where countries increasingly specialize in producing particular stages of a good, rather than making a complete good from start to finish. This vertical trade is also what links heightened international trade to greater international production.

Id.

[10] *Made in the World*, WORLD TRADE ORG. (2016), http://tinyurl.com/8ydmkfv (last visited Mar. 26, 2017); *see also* Paul Krugman, *The Move Towards Free Trade Zones*, *in* 76 FED. RES. BANK OF KANSAS CITY, ECON. REV. 6 at 5, 15–18 (1991), http://tinyurl.com/kpn7e9e.

[11] *Global Trade System*, *in* WORLD ECON. FORUM, NETWORK GLOBAL AGENDA COUNCILS (2012), http://tinyurl.com/mrqrbgf.

countries while exempting others. There may indeed be legitimate grievances—against many countries' actions, including those of the U.S.—involving subsidies or dumping or currency manipulation—which can be resolved using trade rules. But the national gestalt against trade distorts debate. For example, trade statistics are being used to promote an intensely nationalistic and nativist view of trade in which "the most important dividing line is that between American citizens and everyone else . . . ."[12] This inaccurate and racialist view of trade has been compounded by rhetorical and false claims trumpeted during the 2016 Presidential race in the U.S. Candidates from both parties lined up to compete to see who is or has been most vociferously against trade agreements. As a result, trade has become a (dirty) household word, reflecting deeply held national assumptions as well as shaping national consciousness about what trade is and what it should be. Trade has become synonymous with job loss and deficits and for many, constitutes America's greatest economic threat.

This Article is not about the 2016 U.S. Presidential race, but what has come out of the race about trade demonstrates the extent to which anti-trade beliefs have entered the political mainstream. It is true that free trade has always been controversial, bringing out anxieties and insecurities in the general population. But in recent years, ritual condemnation of trade has become a daily occurrence and is no longer confined to a few segments of the political spectrum. Trade has become a toxic word and this distorted view of trade has become the new normal. Although Hillary Clinton favored the accord while she was Secretary of State, as a candidate for the President of the United States, she came out against President Obama's Trans Pacific Partnership (TPP) trade agreement with eleven Pacific Rim nations. Her opposition ostensibly stemmed from concerns that the trade agreement did not meet the "high bar" she had set, which was to create "good jobs, raise wages and advance . . . national security."[13]

Immediately after her denunciation of the TPP, she was herself denounced by both the Republican National Party and her then Democratic rival Martin O'Malley for "flip flopping." O'Malley boasted that "[he] was against the Trans Pacific Partnership months and months ago"[14] and compared the TPP to the much maligned North American Free Trade Agreement (NAFTA), which he equated with "shuttered factories and empty pockets."[15] In a blistering attack, Trump called the TPP "the rape of our country."[16] Sanders went as far as to equate support for free trade with incompetence, proclaiming of Clinton thus, "I don't think you are *qualified* if you've supported virtually every disastrous trade agreement, which has cost us millions of decent paying jobs"[17] and has been "a

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[12] Michael Lind, *This Is What the Future of American Politics Looks Like*, POLITICO (May 22, 2016), http://www.politico.com/magazine/story/2016/05/2016-election-realignment-partisan-political-party-policy-democrats-republicans-politics-213909.

[13] Hillary Clinton, Commentary, *If Elected President, I'll Level the Playing Field on Global Trade, Clinton Says*, PORTLAND PRESS HERALD (Feb. 23, 2016), http://www.pressherald.com/2016/02/23/commentary-if-elected-president-ill-level-the-playing-field-on-global-trade-clinton-says/.

[14] Russell Berman, *Hillary Abandons Obama on Trade*, THE ATLANTIC (Oct. 7, 2015), https://www.theatlantic.com/politics/archive/2015/10/hillary-clinton-abandons-obama-on-trade/409546/.

[15] *Id*.

[16] Nick Corasaniti et al., *Donald Trump Vows to Rip Up Trade Deals and Confront China*, N.Y. TIMES (June 28, 2016), http://www.nytimes.com/2016/06/29/us/politics/donald-trump-trade-speech.html.

[17] Daniel Gross, *Why Bashing Free Trade is Paying Off for Trump and Sanders*, FORTUNE (Apr. 12,

disaster for the American worker."[18] Sanders proclaimed categorically that trade agreements of the past twenty-five years have been "written by corporate America and big money. They want to have an agreement that enables them to shut down plants."[19] Consequently, using the language of workers' rights but playing on old themes of economic jingoism and nativism, Sanders has pithily called Clinton the "outsourcer-in-chief" and pointed as evidence her previous support for trade with China, Colombia, and South Korea.[20] Standing in Flint, Michigan in March 2016, Sanders blamed the city's decline on trade with Mexico and China: "Do you know that in 1960, Detroit, Michigan, was one of the wealthiest cities in America? . . . But then what happened is corporate America said, 'Why do I want to pay somebody in Michigan a living wage when I could pay slave wages in Mexico or China?'"[21]

Aside from the use of incendiary words like "slave wages," the accusation is also not true. General Motors began its gradual move out of Flint in the 1940s, building new industrial complexes in the suburbs, and then in the 1980s, it departed from Flint altogether.[22] General Motors's departure from Flint was denounced in Michael Moore's film "Roger & Me" in 1989—four years before NAFTA and long before China became an export powerhouse.[23]

On the Republican side, departing from long-held Republican principles favoring free trade, Donald Trump too has condemned Mexico, China, and poor countries for ripping us off and he has thus threatened to withdraw the U.S. from NAFTA.[24] In his acceptance speech at the Republican National Convention in 2016, he declared, "I have a different vision for our workers. It begins with a new, fair trade policy that protects our jobs and stands up to countries that cheat."[25]

Like Sanders, Trump too sees trade agreements as "a disaster."[26] But Trump goes even further, calling these agreements fraudulent. "Every agreement has to be fair. Every agreement has a defraud claim. We're being defrauded by all these countries."[27] As a result, "[w]e're losing 500 billion dollars a year to China. We're losing billions and billions to Japan and Vietnam and India and Mexico is

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2016), http://fortune.com/2016/04/12/free-trade-trump-sanders/ (emphasis added).

[18] Bernie Sanders, *Elizabeth Warren and I Will Help Lead the Effort to Stop TPP*, REAL CLEAR POLITICS (Oct. 7, 2015), http://www.realclearpolitics.com/video/2015/10/07/bernie_sanders_elizabeth_warren_and_i_will_help_lead_the_effort_to_stop_tpp.html.

[19] Eric Bradner, *The Clinton-Sanders Trade War*, CNN, (Mar. 5, 2016), http://www.cnn.com/2016/03/05/politics/clinton-sanders-trade-michigan/.

[20] *Id*.

[21] Steve Chapman, *Bernie Sanders' Free Trade Mythology*, REAL CLEAR POLITICS (Mar. 10, 2016), http://www.realclearpolitics.com/articles/2016/03/10/bernie_sanders_free_trade_mythology_129928.html.

[22] Josh Hakala, *Flint's Struggles Began with GM's Move to Suburbs in 1940s, Historian Says*, MICHIGAN RADIO (Feb. 8, 2016), http://michiganradio.org/post/flints-struggles-began-gms-move-suburbs-1940s-historian-says#stream/0.

[23] Chapman, *supra* note 21; *see also* Danielle Kurtzleben, *Fact-Check: Bernie Sanders, Abandoned Buildings and NAFTA*, NPR (Mar. 6, 2016), http://www.npr.org/2016/03/06/469234776/fact-check-bernie-sanders-abandoned-buildings-and-nafta.

[24] Referring to NAFTA, Trump said, "We will either renegotiate it or we will break it because you know every agreement has an end." Mali, *supra* note 2.

[25] Donald Trump, Speech at Republican National Convention (July 21, 2016), *in* POLITICO, July 21, 2016, http://www.politico.com/story/2016/07/full-transcript-donald-trump-nomination-acceptance-speech-at-rnc-225974.

[26] Mali, *supra* note 2.

[27] *Id*.

beating us both at the border and they're beating us in trade."[28] Mexican leaders are characterized as more "cunning."[29]

Interestingly, other countries in Europe that the U.S. has a larger trade deficit with are rarely denounced or even mentioned by Trump or any mainstream Presidential candidate. For example, the U.S. ran a larger trade deficit with Ireland in both 2014 and 2015 than it did with India.[30] It also had a larger trade deficit with Italy than with India.[31] The U.S. trade deficit was larger with Ireland than with Vietnam in 2014, although the U.S. trade deficit with both countries was essentially comparable in 2015.[32] The moral urgency to protect American workers from job loss apparently peaks only when jobs are lost to non-European countries. This fact has not attracted much mainstream commentary, except in a few media outlets. For example, the following observation was made about the racial subtext in Sanders' anti-trade campaign:

> Bernie worries a great deal about trade with brown people—Asians, Latin Americans—but has never, so far as public records show, made so much as a peep about our very large trade deficit with Sweden, which as a share of bilateral trade volume is not much different from our trade deficit with China, or about the size of our trade deficit with Canada, our largest trading partner. Sanders doesn't rail about the Canadians and Germans stealing our jobs—his ire is reserved almost exclusively for the Chinese and the Latin Americans.[33]

Trump and Sanders thus represent the yin and yang of nationalist discontent, with corresponding anti-trade stances that consist of one part nationalism, one part nativism, and one part racialism.

In an editorial, Hillary Clinton too has chastised but a handful of countries—"China, Japan and other Asian economies"—as she put it, for their artificially cheap exports via currency manipulation.[34] There may indeed be legitimate reasons to be concerned about currency wars or currency manipulation and in particular the dysfunctional relationship between China and the United States in this arena, as I have noted.[35] But when trade is demonized and accusations of

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[28] Donald J. Trump For President, *Trade War*, YouTube (Mar. 6, 2016), https://www.youtube.com/watch?v=adeKc6dbsI0.

[29] Daniel Bates & Kieran Corcoran, *Trump Takes Incendiary Immigration Views to the GOP Faithful: Tycoon Says He'd Fine 'Cunning' Mexico $100,000 for Every Illegal Immigrant Who Crosses Border in Order to 'Take Back Our Country'*, DAILY MAIL (July 21, 2015), http://www.dailymail.co.uk/news/article-3157729/Trump-takes-incendiary-immigration-views-GOP-faithful-Tycoon-tells-thousands-U-S-outsmarted-cunning-Mexico.html.

[30] The trade deficit with India was $24 billion in 2014 versus $26 billion with Ireland. In 2015, the trade deficit with India was $23 billion versus 3$0 billion with Ireland. TOP U.S. TRADE PARTNERS, *supra* note 4.

[31] The U.S. deficit with Italy was $25 billion in 2014 versus $24 billion with India. In 2015, the deficit with Italy was $30 billion versus $23 billion with India. *Id.*

[32] In 2014, the deficit with Vietnam was about $25 billion versus $26 billion with Ireland. In 2015, the deficit with Vietnam was $30.932 billion versus $30.405 billion with Ireland. *Id.*

[33] Kevin D. Williamson, *Bernie's Strange Brew of Nationalism and Socialism*, NAT'L REV. (July 20, 2015), http://www.nationalreview.com/article/421369/.

[34] Clinton, *supra* note 13.

[35] Lan Cao, *Currency Wars and the Erosion of Dollar Hegemony*, 38 MICH. J. INT'L L. 101

fraud and cheating are unleashed, public officials tend to target *countries* that are easy to bash—either poorer developing countries with few comparative advantage or countries that are sufficiently different to and thus deemed "other," such as Japan and China; or *workers* in poor countries who can be dismissively characterized as "desperate and low-wage labor around the world."[36]

When it comes to trade with the global, non-white poor, charged language tinged with prejudice and designed to provoke anxiety and anger is used: "cunning"[37] foreigners and their leaders "killing us on trade"[38] or "ripping us off"[39] and stealing our jobs[40] while "laughing at us"[41] even as we are being "absolutely crushed"[42] and "taken to the cleaners."[43] The trope that Mexicans, for example, are stealing our jobs has been around for years in the immigration debate and it is not hard to tap into this when the debate shifts to trade.[44] Accusations that apparently resonate with a significant segment of the American public are lobbed about recklessly. Mexico is equated with drugs and disease and then in the same speech accused of "killing us at the border . . . [and] killing us on trade."[45] The anti-trade debate in the U.S. is increasingly founded on "[t]he incessant reliance on xenophobic (and largely untrue) tropes holding that the current economic woes of the United States are the result of scheming foreigners, especially the wicked Chinese, 'stealing our jobs'"[46] or that "economic interactions with foreigners are inherently hurtful and exploitative . . . ."[47] Trump's denunciations of China included the claim that "[t]hey want our people to starve. They're taking our business away. They've taken our jobs away."[48]

(forthcoming 2017).

[36] *Bernie Sanders on Trade*, FEELTHEBERN.ORG (2017), http://feelthebern.org/bernie-sanders-on-trade/ (last visited Mar. 26, 2017).

[37] Bates, *supra* note 29.

[38] Dan Primack, *Is Donald Trump Right that Mexico Is "Killing Us" On Trade?*, FORTUNE, (Aug. 10, 2015,) http://fortune.com/2015/08/10/is-donald-trump-right-that-mexico-is-killing-us-on-trade/.

[39] Donald Trump, Presidential Announcement Speech (June 16, 2015), *in* TIME, June 16, 2015, http://time.com/3923128/donald-trump-announcement-speech/.

[40] Trump said, "[W]e're being ripped off with China, ripped off with Japan, ripped off with Mexico at the border and then trade, ripped off by Vietnam, and by India, and by every country." *India Is Taking Our Jobs: Not Going to Happen Anymore*, THE INDIAN EXPRESS (Feb. 28, 2016), http://indianexpress.com/article/world/world-news/us-presidential-election-donald-trump-again-blames-india-for-taking-away-american-jobs/; Andrew Walker, *US Election 2016: Are Donald Trump and Bernie Sanders Right About Trade?*, BBC (Apr. 11, 2016), http://www.bbc.com/news/business-35981784; Jason Abbruzzese, *What Do Bernie Sanders and Trump Have in Common? This Message*, MASHABLE (Mar. 20, 2016), http://mashable.com/2016/03/20/jobs-inequality-donald-trump-bernie-sanders/#rxwnKyXEdaqr.

[41] Mark J. Perry, *Trump Is Completely Wrong About the U.S. Trade Deficit*, L.A. TIMES (Mar. 16, 2016), http://www.latimes.com/opinion/op-ed/la-oe-0316-perry-trade-benefits-20160316-story.html.

[42] *Id.*

[43] *Donald Trump on Free Trade*, ON THE ISSUES (Nov. 6, 2016), http://www.ontheissues.org/2016/Donald_Trump_Free_Trade.htm (last visited Mar. 26, 2017).

[44] "The trope that Mexicans were 'stealing American jobs' was commonplace among some blue-collar workers, and it offered a frame that conflated both capital flight and immigration into one convenient and loaded piece of moral shorthand." Fran Ansley, *Inclusive Boundaries and Other (Im)Possible Paths Toward Community Development in a Global World*, 150 U. PA. L. REV. 353, 396 (2001).

[45] Hunter Walker, *Donald Trump Just Released an Epic Statement Raging Against Mexican Immigrants and "Disease"*, BUSINESS INSIDER (July 6, 2015), http://www.businessinsider.com/donald-trumps-epic-statement-on-mexico-2015-7. Trump sees trade with Mexico as even more problematic than illegal immigration from Mexico: "I believe that my examples of bad trade deals for the United States was [sic] even more concern[ing] to the Mexican government than my talk of border security." *Id.*

[46] Williamson, *supra* note 33.

[47] *Id.*

[48] Daniel Roberts, *Here's Why Donald Trump Is Giving Up Oreo Cookies*, FORTUNE (Aug. 26, 2015),

By contrast, again, trade with a European country is viewed through different lens. Indeed, a country such as Germany could also be deemed a currency manipulator, but it has not been the object of U.S. wrath or derision. As some economists have observed, "Germany is, in many ways, the China of the eurozone."[49] By ensuring that real wages and prices increase more slowly in Germany than in other countries in Europe, "in the context of a fixed exchange rate within the EU, Germany effectively devalued within the eurozone and became much more competitive than its neighbors,"[50] allowing it to grow its trade surplus with Europe and the rest of the world. Critics have also noted that Germany relies on state subsidies and supply-side policies aimed at boosting its manufacturing sector.[51] Even Ben Bernanke, the former chairman of the Federal Reserve, has acknowledged that

> in recent years China has been working to reduce its dependence on exports and its trade surplus has declined accordingly. The distinction of having the largest trade surplus, both in absolute terms and relative to [Gross Domestic Policy], is shifting to Germany. In 2014, Germany's trade surplus was about $250 billion (in dollar terms), or almost 7 percent of the country's GDP.[52]

And, according to Bernanke, German policies have the effect of "reducing output and employment outside Germany. . . ."[53]

What underlies the current trade controversy in the U.S. is the belief that jobs, particularly manufacturing ones, should not be allowed to leave the U.S. and that if they do, trade is bad generally *and*, additionally, *particularly* bad if shifted to apparently undeserving countries like Mexico, China, and India. The controversy is not just about job loss. More and more, anti-trade critics leverage job loss to invoke nationalist pride and provoke with nationalist language.[54] The nationalist reaction against trade generally and trade with non-Western countries particularly is partly founded on the fear that the U.S. is losing economically to foreigners not like Americans and that American jobs are being outsourced to *them*. Anti-trade critics have succeeded in constructing a frame in which plant

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http://fortune.com/2015/08/26/donald-trump-oreos/.

[49] Robert E. Scott, *Exchange Rate Policies, Not High Wages, Are Why U.S. Lags China and Germany in Export Performance*, ECON. POLICY INSTITUTE (Dec. 2, 2015), http://www.epi.org/publication/exchange-rate-policies/.

[50] *Id.*

[51] *Id.*

[52] Ben S. Bernanke, *Germany's Trade Surplus Is A Problem*, BROOKINGS (Apr. 3, 2015), http://www.brookings.edu/blogs/ben-bernanke/posts/2015/04/03-germany-trade-surplus-problem.

[53] *Id.*

[54] Daniel Bier, *Bernie Sanders' Anti-Foreign Crankery*, FOUND. FOR ECON. EDUC., (Mar. 7, 2016), https://fee.org/articles/bernie-sanders-anti-trade-crankery/ ("The resentment stoked by nationalists like Trump and Sanders is based on a nonsensical proposition, a mirage of high-paying blue collar jobs stolen by conniving foreigners . . ."); *see also* Corasaniti, *supra* note 16; Tom Hall, *The Economic Nationalism of Bernie Sanders*, WORLD SOCIALIST WEBSITE (July 1, 2015), https://www.wsws.org/en/articles/2015/07/01/sand-j01.html (describing Sanders' anti-trade agenda as reactionary and nationalist, not socialist or internationalist because Sanders "opposes the international unity of the working class, calling instead for American workers to rally in defense of 'their' national state against foreign capital").

closings are deemed to be the result of social injustice—as viewed by populists on the left like Sanders—or the result of fraud and unfairness—as viewed by those on the right like Trump. As William Gamson observed about the effectiveness of what he called "collective action frame," three elements are needed: (1) injustice (framing the situation—in this case, trade—as unfair or unjust); (2) identity (creating an "us" versus a "them"—as in they, be it the global poor or illegal immigrants, are stealing our jobs or have cheated us); and (3) agency ("we" have the capacity and agency to change the unjust situation).[55]

Trade is currently viewed through this small, prejudiced lens and focuses only on jobs and job loss. The incendiary language used to attack trade by both mainstream Democrats and Republicans in the U.S. shows that, where trade is concerned, the old divisions between right and left have blurred and both are now united under an umbrella of economic nationalism and nativism.[56] But as this Article demonstrates, "most jobs cut in the U.S. and Europe weren't moved. No one got them. They vanished. And the villain in this story—a clever software engineer working in Silicon Valley or the high-tech hub around Heidelberg, Germany—isn't so easy to hate."[57]

In the U.S., more than 1.1 million secretarial jobs disappeared from the job market between 2000 and 2010 because new software made it easy for bosses to field their own calls and arrange their own meetings; according to the Labor Department, over the same period, the number of telephone operators declined by 64 percent, word processors and typists by 63 percent, travel agents by 46 percent and bookkeepers by 26 percent.[58] Take the example of Pacific Gas & Electric Company in California, which plans to replace twelve hundred old-fashioned meters every day with digital ones capable of gathering information without human workers—many making $67,000 a year—generating accurate power bills and sending alerts to customers when the power goes out. Its meter-reading department had fifty full-time meter readers in 2007. As of 2013, it had six.[59]

The emergence of what computer scientists call "Big Data" has made computers indispensable for many tasks that involve the sifting, organizing, and processing of data. The explosion of digital data, via sensors and bar codes, has resulted in the transformation of the American work place. Every second, more information is exchanged on the internet than what was stored on the entire internet twenty years ago.[60] Every hour, Wal-Mart Stores Inc. collects the equivalent of fifty million filing cabinets' worth of information from transactions with its customers.[61] Companies from Walmart to Google to Amazon have at

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[55] WILLIAM A. GAMSON, TALKING POLITICS 6–8 (1992).

[56] Tim Rutten, *Nationalism and Nativism Not Populism Fuel the Trump and Brexit Insurgencies*, TIM RUTTEN BLOG (July 5, 2016), http://www.tim-rutten.com/nationalism-and-nativism-not-populism-fuel-the-trump-and-brexit-insurgencies/; Jeffrey Tucker, *Donald Trump's Economic Nationalism Is Just Another Form of Socialism*, THE STREAM (July 15, 2016), https://stream.org/donald-trumps-economic-nationalism-just-another-form-socialism/.

[57] Condon & Wiseman, *supra* note 7, at 8.

[58] Paul Wiseman et al., *Practically Human: Can Smart Machines Do Your Job?*, YAHOO NEWS (Jan. 25, 2013), http://finance.yahoo.com/news/practically-human-smart-machines-job-052642993--finance.html.

[59] *Id*.

[60] Andrew McAfee & Erik Brynjolfsson, *Big Data, The Management Revolution*, HARVARD BUS. REV. (Oct. 2012).

[61] Wiseman et al., *supra* note 58.

their disposal an enormous amount of raw data that they can use not only to digest information about their customers' habits, but also to figure out how to automate tasks that humans now do, which in turn further accelerates automation and human job loss to machines.[62] Moreover, although automation in the past tended to affect specific industries, today, computers are "'general-purpose technologies' used by all kinds of companies"[63] and thus can be more disruptive across the board.

Of course technology also creates new jobs, but not enough to make up for the loss of jobs it destroyed or phased out.[64] In the past, the destruction of the horse and buggy trade also created the auto industry. But the astounding power and reach of computers have led economists to rethink the economic benefits of technology. Automation has not just affected manufacturing jobs requiring "brawn." It has also eliminated high-value, service jobs requiring "brains"—in fact, any job that involves routines regardless of skill level, resulting in the hollowing out of "the very jobs that support a middle-class, consumer economy."[65] Jobs safe from machines are "abstract tasks that require problem-solving, intuition, persuasion and creativity. These tasks are characteristic of professional, managerial, technical, and creative occupations, like law, medicine, science, engineering, advertising, and design. People in these jobs typically have high levels of education and analytical capability . . . ."[66] Computerization and automation have resulted in socioeconomic polarization, with job growth at the high end and low end and stagnation for a significant number of workers in the middle. "This bifurcation of job opportunities has contributed to the historic rise in income inequality."[67]

And yet, despite the fact computerization and digitalization are responsible for a significant amount of job loss and unemployment, it is job loss due to trade that has been trumpeted. In fact, as of 2016, the word automation has been mentioned but once during a U.S. Presidential debate, by Senator Marco Rubio.[68]

It is clear then, that it is not job loss per se that is being decried but rather only job loss due to trade and particularly, job loss due to trade with non-white, poor countries. Bernie Sanders denounced General Electric for "[s]ending jobs to low wage countries"[69] and like Trump, singled out Mexico and China as well as other poor countries as those the U.S. should not trade with. According to Sanders, American workers should not compete against workers in poor countries unless those countries "have standards. And what fair trade means to say that it is

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[62] *Id.*

[63] Bernard Condon & Paul Wiseman, *Will Smart Machines Create a World Without Work?*, YAHOO NEWS (Jan. 25, 2013), http://finance.yahoo.com/news/smart-machines-create-world-without-051025381--finance.html.

[64] Wiseman et al., *supra* note 58.

[65] Condon & Wiseman, *supra* note 63.

[66] David H. Auteur & David Dorn, *How Technology Wrecks the Middle Class*, N.Y. TIMES (Aug. 24, 2013), http://opinionator.blogs.nytimes.com/2013/08/24/how-technology-wrecks-the-middle-class/?_r=0.

[67] *Id.*

[68] Brenda Walker, *Presidential Candidates: Why Is Automation's Job Destruction Not Being Debated?*, THE SOCIAL CONTRACT 50 (2016), http://www.thesocialcontract.com/pdf/twentysix-two/tsc_26_2_walker_3.pdf.

[69] Bernie Sanders, Interview with the Daily News Editorial Board (Apr. 1, 2016), in DAILY NEWS, Apr. 4, 2016, http://www.nydailynews.com/opinion/transcript-bernie-sanders-meets-news-editorial-board-article-1.2588306 [hereinafter Sanders Daily News Interview].

fair [sic]. It is roughly equivalent to the wages and environmental standards in the United States."[70] Economic nationalism from the left in this case would mean the only acceptable trade is trade with the Western European world.

On the other hand, technological change is often viewed as a sign of progress because technology has, in many ways, made life easier for many people. Because it is scientifically driven, it is also seen as neutral and well, scientific, and inexorable. It is difficult to demonize technology but easy to demonize poor countries and blame them for economic ills in the U.S. "It doesn't have political appeal to say the reason we have a problem is we're so successful in technology," said Joseph Stiglitz, a Nobel Prize-winning economist.[71] "There's no enemy there."[72]

Relatedly, viewed through a nationalist lens then, job loss is often wrongly equated with the U.S. trade deficit. Opposition to international trade stems from the claim that the United States imports too much and exports too little—hence the trade deficit. Yet, despite the term "trade deficit," the trade deficit has more to do with savings and investment than trade,[73] as I discuss in Part I. Moreover, even if one worries about the trade deficit, the procedure for how imports and exports are currently recorded is misleading, revealing a flawed picture of the trade deficit itself. Because so much opposition to trade is based on the visceral belief that trade causes job loss in the U.S.—that is, job loss is caused when imports exceed exports—this Article will focus on trade, the trade deficit, and jobs.

The myopic lens through which trade has been viewed has led to a truncated picture of trade and has severed it from other interrelated and equally important parts. Before a new public consensus is formed and takes hold, this Article aims to inject a bit of sense and sensibility into the issue of trade and job loss, using micro and macro perspectives. It makes two main arguments. One, there is not enough "zooming in" of trade to allow a *deep* understanding of the changing nature of trade itself—fragmentation of production or vertical integration and how this has affected our understanding of the relationship between imports and exports on the one hand and job loss on the other. Two, there is not enough "zooming out" of trade to appreciate the relationship between trade and related areas, such as trade and national security and trade and finances.

With respect to the first point, Part I begins with an examination of job loss in the U.S. and shows that blaming trade exclusively for job loss is wrong. It is also wrong to assume that when imports exceed exports, the resulting trade deficit is responsible for increased unemployment. The facts solidly demonstrate that there

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[70] *Id.*; *see also* Jagdish Bhagwati, *Free Trade: Old and New Challenges*, 104 ECON. J. 231, 239 (1994) (arguing that "even though a trade economist would normally consider diversity among trading nations to be good, rather than bad, for mutually gainful trade," protectionist arguments under the guise of fair trade has increased because "protectionist demands are more likely to meet with approval if, instead of saying that you need help because you cannot compete, you claim that the foreigner is gaining because of his resort to unfair trade").

[71] Condon & Wiseman, *supra* note 7.

[72] *Id.*

[73] "A nation's trade deficit is determined by the flow of investment funds into or out of the country. And those flows are determined by how much the people of a nation save and invest—two variables that are only marginally affected by trade policy." David T. Griswold, *America's Maligned and Misunderstood Trade Deficit*, CATO INSTITUTE (Apr. 20, 1998), http://www.cato.org/pubs/trade/tpa-002.html.

is no correlation between a rise in the trade deficit and unemployment. In fact, the correlation is actually negative. A strong economy usually results in a rise in imports; conversely a weak economy and high unemployment usually mean fewer imports.[74] In addition, when the U.S. imports goods and services from foreign countries and pays for them in dollars, those dollars are eventually used to purchase U.S. goods that are exported to those countries or U.S. assets in the form of foreign investment in the U.S., both of which in turn create new jobs in the U.S. In this way, the trade deficit is an issue of balance-of-payments accounting which, as explained below, balances out in the end because the dollars Americans spend on imported goods—which contributes to the trade deficit—actually end up in the U.S. again when "foreign countries returned to the United States by purchasing assets here."[75]

Part I also looks at the changing nature of trade in the age of globalization to show that our traditional understanding of import and export is anachronistic. This anachronism has resulted in "[m]isguided perceptions of competitiveness based on gross trade statistics"[76] and can create the false impression that the U.S. imports more than it actually does, which in part foments even greater anxieties about the relationship between the trade deficit and job loss. International trade statistics can be misleading because they measure the physical flows of goods and fail to capture the value added in the global production process.

Trade has always been about specialization. Countries specialize in producing goods that they have a comparative advantage in and trade with other countries that also specialize in accordance with their comparative advantage. But "[t]he traditional notion of specialization is horizontal—firms or countries become adept at producing particular goods and services from scratch and then export them."[77] Today, much of trade is done via vertical specialization or vertical integration[78] using global supply chains. Data show that from as early as 2013, eighty percent of world trade, exports as well as imports, was conducted via global supply chains.[79]

Trade now more than ever reflects

> [t]he increasing interconnectedness of production processes in a vertical trading chain that stretches across many countries, with each country specializing in particular stages of a good's production sequence. This phenomenon . . . has also been labeled quite extensively: "slicing up the value chain", "outsourcing", "disintegration of production", "fragmentation", "multi-stage production", and "intra-product specialization."[80]

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[74] *See infra* notes 254–58 and accompanying text.

[75] DOUGLAS IRWIN, FREE TRADE UNDER FIRE 158–59 (4th ed. 2015).

[76] LAUREN DAI, THE COMPARATIVE ADVANTAGE OF NATIONS: HOW GLOBAL SUPPLY CHAINS CHANGE OUR UNDERSTANDING OF COMPARATIVE ADVANTAGE 5 (2013).

[77] Hummels et al. *supra* note 9.

[78] "A country's participation in vertical specialization may be defined as: (1) the use of imported intermediate inputs in the production of exports; and (2) the export of intermediate goods used as inputs by another country to produce goods for exports." DAI, *supra* note 76, at 14–15.

[79] Theodore H. Moran & Lindsay Oldenski, *How Offshoring and Global Supply Chains Enhance the US Economy*, PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS 1–2 (2016).

[80] David Hummels et al., *The Nature and Growth of Vertical Specialization in World Trade*, 54 J.

For example, the prevalence of global supply chains means that as inputs or components (that together make up a final product) make their way through these connected chains, they cross national border not one but many times, obscuring "the complex role of frictions in shaping trade when supply chains span multiple borders."[81] In other words, imported component parts are frequently used to produce goods in a country that are later exported. Today, trade is often about "trade in tasks" rather than "trade in goods" because trade "often occurs *within* products, where *for a single product*, the US specializes in design, Korea specializes in intermediate components, and China specializes in assembly, for example."[82]

Take the convoluted and complex trade history of a product described here:

> National Semiconductor manufactures wafers at three fabrication plants, or "fabs": South Portland (Maine), Arlington (Texas), and Greenock (Scotland). Wafers are then shipped to the company's assembly and packaging houses at Melaka (Malaysia) and Suzhou (China) where they are subjected to final testing and from where they are shipped directly to the production lines of customers worldwide. . . . For a particular project we could have a marketing engineer in Germany and design engineer in Korea, a layout engineer from Santa Clara, a production engineer based in Longmont (Colorado), and test engineers in Melaka and Santa Clara.[83]

The World Trade Organization (WTO) thus has correctly observed that "[t]oday, companies divide their operations across the world, from the design of the product and manufacturing of components to assembly and marketing, creating international production chains. More and more products are 'Made in the World' rather than 'Made in the UK' or 'Made in France.'"[84]

Although the U.S. trade deficit is real, trade statistics should be scrutinized in light of changes in the very nature of trade and production. Any time a product or a component crosses a national border, it is recorded as an export or an import. But given the rise of global supply chains, it is now common for components to be shipped across borders at different stages of production. Components may be shipped out of the U.S. to another country where processing or assembly work is performed and then shipped back into the U.S. for additional work before sale or export from the U.S. The processed or assembled product that is shipped back into the U.S. will still be recorded as an import—and as evidence, for some, that the U.S. is losing on trade. For example, given the prevalence of trade in automobiles between the U.S. and Canada, a significant part of the value of the

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INT'L ECON. 75, 76 (2001).

81 Robert C. Johnson & Guillermo Noguera, *A Portrait of Trade in Value Added Over Four Decades*, NAT'L BUREAU OF ECON. RESEARCH 3 (Jan. 2014).

82 DAI, *supra* note 76, at 7.

83 Jyrki Ali-Yrkkö et al., *Who Captures Value in Global Supply Chains, Case Nokia N95 Smartphone* 14 n.12 (Elinkeinoelämän Tutkimuslaitos [Research Institute of the Finnish Econ.], Working Paper No. 1240, 2011), http://csf.rrojasdatabank.info/WP_196.pdf.

84 *See Made in the World*, *supra* note 10.

U.S. imports is actually the value of U.S. exports of American-made goods shipped abroad for minor processing and assembly work before being shipped back into the U.S. for sale or export.[85]

The iconic Apple iPhone is made everywhere and thus nowhere in particular. Therefore, U.S. import statistics as to the true origin of the product are misleading. The design, development, and marketing—as well as the software creation—are done by Apple itself in the U.S. But the parts that make up the iPhone 6 are made all over the world. Take some of the more major parts as an example: the display comes from Japan; mixed-signal chips from the Netherlands; flash memory from both Japan and Korea (via Samsung); touch ID sensor from Taiwan; batteries from South Korea and China; chipsets and processors from South Korea, Taiwan, and the U.S.; accelerometer from Germany and the U.S.; and the transmitter and amplification modules, semiconductors, Facetime camera chip, display screen and glass from the U.S. These parts are finally assembled by Foxconn, a Taiwanese company, at its plant located in Shenzhen, China.[86]

U.S. imports of iPhones from China—because China is the final assembly site—at a unit cost of $179 in 2009, added $1.9 billion to the U.S. trade deficit with China for the year, although the assembly cost by Foxconn in China constituted only $6.50 per unit and about 3.6 percent of the total manufacturing cost.[87] The U.S. credits all of the $179 dollars to China, distorting China's export value and the trade deficit imbalance with China. If one were to disaggregate each value of each production process along the global supply chain, one would see that of the two billion dollar iPhone export from China, "96.4% is actually the transfer from Germany ($326 million), Japan ($670 million), Korea ($259 million), the U.S. ($108 million) and others ($ 542 million). All of these countries are involved in the iPhone production chain."[88]

That the U.S. runs a trade deficit generally and with China particularly is without doubt. But facts matter and conventional trade statistics are obsolete in a world where production is characterized by fragmentation and cross-country movement of parts and components. In the iPhone example, these figures exaggerate China's export volume as well as the U.S.-China trade imbalance. Such distortions facilitate the demonization of trade and trade with China and

[85] IRWIN, *supra* note 75, at 18. Indeed, given the prevalence of international production networks, much of U.S. trade is actually trading of goods between sister companies—that is, intrafirm trade between one firm that is related to another firm. In 2013, fifty percent of imports into the U.S. and thirty percent of exports from the U.S. were done between affiliated companies. U.S. CENSUS BUREAU, U.S. GOODS TRADE: IMPORTS & EXPORTS BY RELATED-PARTIES 2013 at 1 (2014), https://www.census.gov/foreign-trade/Press-Release/2013pr/aip/related_party/ (last visited Mar. 26, 2017). The fear that the U.S. is losing and that other countries are winning because U.S. imports exceed exports is thus also unfounded, at least with respect to the trade deficit issue.

[86] Christopher Minasians, *Where Are the iPhone, iPad and Mac Designed, Made and Assembled? A Comprehensive Breakdown of Apple's Product Supply Chain*, MACWORLD (Apr. 18, 2016), http://www.macworld.co.uk/feature/apple/are-apple-products-truly-designed-in-california-made-in-china-iphonese-3633832/.

[87] Yuqing Xing, *How the iPhone Widens the US Trade Deficit with China*, CENTER FOR ECON. & POLICY RESEARCH (Apr. 10, 2011), http://voxeu.org/article/how-iphone-widens-us-trade-deficit-china.

[88] *Id.* When Bernie Sanders stated that Apple should be "manufacturing some of their devices here, in the United States, rather than in China," he too is assuming that China actually manufactures the iPhone, that is, including its component parts. *See* Sanders Daily News Interview, *supra* note 69.

paint a gloom-and-doom picture of supposed U.S. economic decline that is more fiction than fact. Other examples discussed below show that even in manufacturing, the U.S. maintains a comparative advantage in the upstream segment of globalized production.

In addition to the need to zoom in and see how the nature of trade itself has changed and the consequences of this change on how one understands the trade deficit and job loss, it is also important to zoom out and see trade as part of an international architecture that has maintained, for the most part, stability and prosperity post-World War II. The preoccupation with trade, as if it were a standalone story, has severed it from other interrelated and equally important parts. Part II shows that trade must be viewed in a broader international order, as one pillar in multi-pillar world with multi-pillar parts, each related to and converging with the other. Part II looks at the relationship between trade and national security on the one hand and trade and finances on the other.

For the post-WWII planners, trade was deemed an important national security issue. President Franklin D. Roosevelt and Secretary of State Cordell Hull were firm believers in the Wilsonian doctrine that free trade promoted peace and security. As Hull said, "When goods don't cross borders, armies will."[89] High tariffs, competitive currency devaluations, and discriminatory trading blocs adopted to combat the Great Depression had exacerbated the world's economic problems, leading post-war leaders to favor economic cooperation through trade as a way to promote both peace and prosperity. Germany and Japan became American allies after World War II, constituting markets for U.S. exports and conversely, exporting their goods to American markets and accumulating American dollars in the process, cementing the dollar's rise and its status as a reserve currency.

After September 11, 2001, the National Security Strategy of the U.S., issued by the White House, specifically designated trade as a vital part of national security:

> A strong world economy enhances our national security by advancing prosperity and freedom in the rest of the world. Economic growth supported by free trade and free markets creates new jobs and higher incomes. It allows people to lift their lives out of poverty, spurs economic and legal reform, and the fight against corruption, and it reinforces the habits of liberty.[90]

In addition, the report noted the connection between trade and development on the one hand—trade as an effective mechanism for lifting the poor towards greater development—and, conversely, the relationship between development and security on the other hand. "A world where some live in comfort and plenty, while half of the human race lives on less than $2 a day, is neither just nor

[89] John Moser, *Sanders and Trump Are Dead Wrong on Free Trade*, THE NAT'L INTEREST (Mar. 29, 2016), http://nationalinterest.org/feature/sanders-trump-are-dead-wrong-free-trade-15614.

[90] WHITE HOUSE, NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA 17 (Sept. 17, 2002), http://www.state.gov/documents/organization/63562.pdf.

stable."[91]

This national security strategy, which has continuously highlighted the linkage between trade and national security, and particularly the fight against terrorism, has been reaffirmed by President Obama. President Obama's 2015 National Security Strategy emphasized non-military forms of power, based largely on "free markets, democracy, and human rights."[92] An economically stable, prosperous and free world is better for the U.S. "The United States is safer and stronger when fewer people face destitution, when our trading partners are flourishing, and when societies are freer."[93] The report committed the U.S. "to reinforce the core architecture of the international financial and economic system, including the WTO, to ensure it is positioned to foster both stability and growth."[94]

Trade should also be understood against a broader international economic framework. International trade rules are rooted in the post-World War II economic universe established under the leadership of the U.S. At the insistence of the U.S., the international financial system was engineered around the U.S. dollar and its status as a world reserve currency, with the dollar convertible to gold upon demand. That the dollar is the top international currency has given the U.S. enormous benefits. Dollar supremacy means the world operates on a dollar-based international economic system, which in turn affects trade, as the Article demonstrates in Part II. When countries export, they receive dollars. The more countries export, the more dollars are used, further cementing the dollar's unique status, all to the benefit of U.S. economic and political supremacy.

Dollar hegemony has bestowed incredible privileges on the U.S. Most of international trade is set in U.S. dollars, even if the exports are not destined for the U.S. Oil—along with other commodities—is priced in dollars,[95] requiring countries that are oil consumers to accumulate dollars to pay for oil—mostly by exporting their goods and services to receive dollars as payment.[96] Oil producing countries with excess dollar profits invest them in U.S. debt securities. International debt securities are in dollars. The world's central banks hold the majority of their reserves in dollars. Under the Bretton Woods system, the U.S. undertook to convert dollars into gold upon demand and the gold-dollar exchange rate was valued at $35 dollars per ounce of gold. Although the dollar-gold convertibility upon demand was broken by President Nixon in 1971, the dollar is still widely accepted as the world's reserve. Thus the U.S. alone can print U.S. paper money to meet global demand. Because the world continues to desire these dollar securities, foreigners are also willing to pay more to hold them. As a result, "Americans can purchase products at a marginally cheaper rate than other

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[91] *Id.* at 21.

[92] James Goldgeier & Jeremi Suri, *Revitalizing the U.S. National Security Strategy*, WASHINGTON Q. 38 (2016), https://twq.elliott.gwu.edu/sites/twq.elliott.gwu.edu/files/downloads/TWQ_Winter2016_Goldgeier-Suri.pdf.

[93] WHITE HOUSE, NATIONAL SECURITY STRATEGY 3 (Feb. 2015), https://www.whitehouse.gov/sites/default/files/docs/2015_national_security_strategy.pdf.

[94] *Id.* at 17.

[95] *See generally* DAVID E. SPIRO, THE HIDDEN HAND OF AMERICAN HEGEMONY, PETRODOLLAR RECYCLING AND INTERNATIONAL MARKETS (1999).

[96] By contrast, the U.S. itself is able to purchase oil or any other commodities and products it wishes with the requisite currency—the dollar—simply by printing.

nations, which must exchange their currency with each purchase and pay a transaction cost."[97]

While Americans complain about unfair trade, foreigners have complained about the unfairness of a system in which the currency of one country serves as the international currency for all countries. For example, they "question whether the U.S. should have been permitted to run current account deficits approaching 6 percent of GDP in the run-up to the crisis [of 2008]."[98] They question why the U.S. does not have to "worry about balance of payments crises as it can pay for imports in dollars the Federal Reserve can just print."[99]

While the U.S. can print the dollar, the rest of the world must accumulate the dollar by producing and selling goods and services to others and get paid in dollars in return. The dollars acquired by foreigners and accumulated abroad can only come about if those foreigners export, and often export a lot, in order to get dollars and save dollars as reserve. Getting rid of free trade or preventing other countries from exporting to the U.S. market by imposing high tariffs could accelerate the erosion of dollar hegemony as other currencies vie to dethrone the dollar and replace it with a new reserve currency.

Much has been written about trade and this Article will not rehash the substantial and thoughtful scholarship devoted to the pro-trade and pro-globalization versus the anti-trade and anti-globalization debate. There is no doubt that certain jobs have indeed moved out of the U.S. because trade liberalization made it easier for production to be globalized. In a non-trivial number of cases, "foreign competition has hurt many U.S. metropolitan areas . . . which once had abundant manual-labor manufacturing jobs, often involving the production of clothing, footwear, luggage, furniture and other household consumer items."[100] Job loss and dislocation concentrated in certain sectors of the economy will need to be addressed—although not in this Article—if for no other reason than to alleviate political opposition to trade. It should be noted that different proposals have already been suggested—from, on the one hand, trade adjustment assistance programs[101] and better job-training directed toward helping people "reintegrate into the labor market and acquire skills, rather than helping them exit the labor market"[102] to, on the other hand, outright "bribes" to "buy off" the "losers" in trade.[103]

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[97] KISHORE MAHBUBANI, THE GREAT CONVERGENCE: ASIA, THE WEST, AND THE LOGIC OF ONE WORLD 71 (2014).

[98] BARRY EICHENGREEN, EXORBITANT PRIVILEGE 5 (2011).

[99] Liam Halligan, *The Dollar's 70-year Dominance Is Coming to an End*, THE TELEGRAPH (July 19, 2014), http://www.telegraph.co.uk/finance/comment/liamhalligan/10978178/The-dollars-70-year-dominance-is-coming-to-an-end.html.

[100] Peter Dizikes, *The High Price of Losing Manufacturing Jobs*, THE FISCAL TIMES (Feb. 26, 2012), http://www.thefiscaltimes.com/Articles/2012/02/26/The-High-Price-of-Losing-Manufacturing-Jobs (citing David H. Autor et al., *The China Syndrome: Local Labor Market Effects of Import Competition in the United States*, 103 AM. ECON. REV. 2121, 2159. (2013)).

[101] *Id.* David Autor, who did a study on manufacturing job loss resulting from trade, suggested "better adjustment assistance—programs that are less fragmented, and less stingy . . . [to] assist the minority of citizens who bear a disproportionate share of the costs and still be better off in the aggregate." *Id.*

[102] *Id.*

[103] Jim Chen, *Globalization and Its Losers*, 9 MINN. J. GLOBAL TRADE 157, 212 (2000). As Chen proposes, society should "bribe losers[;] [c]ash will do" because it is more cost-effective than import barriers such as quotas, tariffs, subsidies or so-called voluntary trade restraints which are more expensive. For example, instead of pressuring Japan to "voluntarily" cut down on car imports to the U.S. in the 1980s,

To sum up this Introduction, the purpose of this Article is to provide a micro evaluation of trade in two particularly thorny areas: (1) job loss; and (2) import vs. export and the trade deficit in a trading system of globally fragmented production. This Article also provides a broad, macro view of trade and its relationship with other parts of the international order—security and finance. This is because trade is a vital component of an integrated international system. Looking at trade in isolation will result in even more incoherence and disequilibrium, perhaps creating unintended consequences in ways that impact negatively on U.S. security and finances. Trade is embedded in an international order—it is linked to national security and to international finance and relatedly, to the dollar's unique status as a global reserve currency.

The U.S. is not losing in trade. The nature of trade has changed, but the trading system is not rigged against the U.S. Indeed, rather than indict the trading system and malign countries that constitute the global poor, U.S. nationalists should instead see trade as beneficial to the U.S. and necessary to the continued health of the postwar international system.

I. ZOOMING IN: JOB LOSS, TRADE DEFICITS, AND THE CHANGING NATURE OF TRADE

A. *Job Loss*

In a market economy, jobs cannot be guaranteed. Companies have opened and closed, moved from one place to another, for reasons unrelated to trade. Donald Trump and Bernie Sanders, for example, have both denounced Carrier for its plan to move twenty-one hundred jobs from Indiana to Mexico.[104] Trump vowed never to buy Carrier air conditioners again.[105] Sanders said that Carrier has "betrayed its own workers" and "betrayed the consumers of this country who buy their products."[106]

But Carrier has moved many times. Between 1918 and 1921, Carrier moved its headquarters, research laboratory, and production facilities from Buffalo to Newark, and in 1931, consolidated everything in Syracuse only to later expand in the 1950s into then low-cost areas in the U.S., such as Indianapolis.[107] Fortune 500 companies have, as a regular course of doing business, shuffled headquarters and business through all the different states. In 2014 alone, the following companies moved out of California: Lockheed Martin moved to Maryland;

Chen observed that "American *taxpayers* could have paid $37,000 in 1984 for each of the 23,800 autoworking jobs at stake. The resulting $881 million welfare program would have been far cheaper than the $3 billion that American consumers absorbed that year in higher car prices." *See id*.

[104] Ben Kesling & Beth Reinhard, *Donald Trump Hammers Away at Outsourcing in Indiana*, WALL ST. J. (Apr. 28, 2016), http://www.wsj.com/articles/donald-trump-hammers-away-at-outsourcing-in-indiana-1461874021.

[105] Heather Long, *America's Top 10 Job-Killing Companies*, CNN (May 17, 2016), http://money.cnn.com/2016/05/15/news/economy/america-job-killing-companies/.

[106] *Id*.

[107] Guian McKee, *This is What Trump and Sanders Get Wrong About Free Trade*, WASH. POST (May 17, 2016), https://www.washingtonpost.com/news/monkey-cage/wp/2016/05/17/this-is-what-trump-and-sanders-get-wrong-about-free-trade/?utm_term=.b29a4405a48f.

Rockwell Automation moved to Wisconsin; Northrop Grumman moved to Virginia.[108] A host of mergers also resulted in the following corporations moving out of California—Pacific Telesis to AT&T in Texas, PacifiCare to UnitedHealth Group in Minnesota, and BankAmerica to the renamed Bank of America in North Carolina.[109] Many corporations once based in New York left for other states—Altria to Virginia; CVS Caremark to Rhode Island; International Paper to Tennessee.[110]

If the claim against trade is that it facilitates job loss and hurts workers, then the departure of a company from California does result in job loss for a California worker whether the company at issue moved to Maryland or to Mexico, Connecticut or to China. But no one denounced these moves and certainly not with the sense of outrage reserved for corporations that moved abroad. As Sanders said in an interview,

> Let's just give an example of a corporation that's making money in America, today, but desiring to move to China or to Mexico to make even more money. That is destroying the moral fabric of this country. That is saying that I don't care that the workers, [sic] who have worked for decades.[111]

Perhaps it is different for a company to move from one state to another state because despite job loss in one state, there is a corresponding job gain in another state and the company is still within the country. But from that perspective, opposition to trade is not truly founded on worries that trade hurts workers but rather founded on nationalist grounds, that is, these jobs are *American* jobs and while they can be shifted from one state, to the detriment of workers in that state, to another state, they cannot be shifted out of the U.S. Opposition to trade then is primarily grounded in economic nationalism. We should not import more than we export because that results in the trade deficit, which is bad for the country. Job loss is a proxy for a deeper anxiety rooted in nationalism.

What about job loss due to automation? That has occurred unabatedly for decades. Technological innovation has been controversial when machines replace workers. The history of capitalism is rife with examples of creative destruction.[112] In 1589, when William Lee sought a patent for his newly invented stocking frame knitting machine to free workers from the tedious job of hand-knitting, Queen Elizabeth I refused, telling him thus, "Thou aimest high, Master Lee. Consider thou what the invention could do to my poor subjects. It would assuredly bring to them ruin by depriving them of employment, thus making them beggars."[113] Labor resistance to mechanization led Parliament to pass legislation

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[108] Shawn Tully, *The Fortune 500's 50-State Shuffle*, FORTUNE, (June 2, 2014), http://fortune.com/2014/06/02/fortune-500-shuffle/.

[109] *Id.*

[110] *Id.*

[111] Sanders Daily News Interview, *supra* note 69.

[112] JOSEPH A. SCHUMPETER, CAPITALISM, SOCIALISM, AND DEMOCRACY 104 (3d ed. 2008).

[113] Carl Benedikt Frey & Michael A. Osborne, *The Future of Employment: How Susceptible Are Jobs to Computerisation?* at 6 (Sept. 17, 2013), http://www.oxfordmartin.ox.ac.uk/downloads/academic/The_Future_of_Employment.pdf.

making the destruction of machines a crime punishable by death.[114] The British government reacted sternly to the riots in Lancashire in 1779, explaining in a resolution that "[t]he sole cause of great riots was the new machines employed in cotton manufacture; the country notwithstanding has greatly benefited from their erection [and] destroying them in this country would only be the means of transferring them to another . . . to the detriment of the trade of Britain."[115] Over time, a shift in attitude more accepting of technological progress occurred. One reason could be that industry became politically dominant over the artisan class; another is that consumers, inventors, and even workers benefitted from technology as average living standards improved.

In the U.S., nineteenth century manufacturing was designed specifically to "de-skill" workers—that is, to displace the artisan shops, eliminating the need to acquire skills through the simplification and mechanization of tasks.[116] The tug of war between machines and workers was long and rough. On the one hand, in 1955, manufacturers asserted that the lower costs of goods and services resulting from automation would benefit the entire population and that the interests of "wage earners" should not trump those of "the people as a whole."[117] On the other hand, in 1963, the President of the American Federation of Labor and Congress of Industrial Organizations [AFL-CIO] warned that job losses due to automation could reach a high of four million each year.[118] President John F. Kennedy observed that "our Labor Department estimates that approximately 1.8 million persons holding jobs are replaced every year by machines."[119]

Workers fought back and hard. There were strikes by longshoremen at Atlantic and Gulf ports and printers in New York newspapers to protest the use of automated equipment.[120] The United Steelworkers and Kaiser Steel Corporation signed a pact in which workers were assured that they would not lose their jobs due to automation.[121] In 1963, the railroad industry and five brotherhood representing two hundred thousand employees fought over industry's plan to eliminate sixty-five thousand jobs resulting from technological changes.[122]

As early as 1964, President Lyndon B. Johnson recommended the formation of a commission to study the effects of automation on workers. In a litany of examples, the following were noted:

> At one plant, one man today operates one machine which performs more than 500 separate manufacturing functions that formerly took some 70 men to perform. . . . In a similar plant, 48 men using automated equipment today turn out a finished product in 20 minutes. Before automation, it took 400 men 40

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[114] *Id.* at 7.
[115] *Id.*
[116] *Id.* at 8.
[117] *Automation Stirs Clash of Opinion*, N.Y. TIMES, Oct. 26, 1955, at 14.
[118] Edward B. Shils, *Must Man Be Idle?*, N.Y. TIMES, Nov. 20, 1966.
[119] John I. Snyder, *Automation: Threat and Promise*, N.Y. TIMES (Mar. 22, 1964), http://www.nytimes.com/1964/03/22/automation-threat-and-promise.html.
[120] A.H. Raskin, *Automation Looming Large in Labor Picture*, N.Y. TIMES, Apr. 7, 1963.
[121] *Id.*
[122] Stanley Levey, *Automation Gains Seat at Bargaining Table*, N.Y. TIMES, Apr. 15, 1963, at 61.

> minutes to do the same job. . . . In an electronics plant where 200 men used to assemble 1,000 units a day, only two men now turn out just as many with the help of automatic machines. . . . A three-man crew in a "robot" steel mill turns out 217 miles of rod per day at more than twice the old rate and at one-tenth the old labor cost. . . . A major Government agency, using computers, has cut its clerical work force from 13,000 to 3,000 workers.[123]

Using the Department of Labor's calculation, the American Foundation on Automation and Employment stated that automation caused "the elimination of 40,000 jobs a week, or more than two million a year."[124]

Fast forward to today. Technology has continued to eliminate certain jobs but no longer with much fanfare. For example, analysts observed that "[f]actory automation will result in a net loss of factory jobs. But if we don't automate, then there will be a massive hemorrhaging. If we lose the ability to be efficient manufacturers, then we've blown our economic future."[125] The U.S. auto industry invested $80 billion in a five-year period in the 1980s to minimize the labor content in its new cars, claiming that "the alternative—not having made that investment—means the pain would be greater for more people."[126]

Webb Wheel Products, which manufactures truck brakes parts, has entered the automation world by using the Doosan V550M, a machine that can easily spin a 130-pound brake drum, smooth the metal surface as well as drill holes, "all without missing a beat. And it doesn't take vacations or 'complain about anything,' says Dwayne Ricketts, president of the Cullman, Alabama, company."[127] The Webb Wheel has spared the company from having to hire any additional workers in three years while simultaneously enjoying a twenty-five percent increase in production or three hundred thousand more drums.[128]

For years then, manufacturing jobs have been reduced by technology. This trend has now entered the service industry as well, "which employs more than two-thirds of the workforce in developed countries. Technology is eliminating jobs in office buildings, retail establishments and other businesses consumers deal with every day."[129] For example, the jobs of telephone operators in New York City hotels paying $29.72 an hour are also being phased out as hotels transition into automated phone services instead.[130] Automation is most likely to take over jobs that involve

> repetitive tasks that programmers can write software for—an

[123] Snyder, *supra* note 119.

[124] *Id.*; *see also* William M. Freeman, *Gains Are Noted for Automation*, N.Y. TIMES (May 24, 1964), http://www.nytimes.com/1964/05/24/gains-are-noted-for-automation.html.

[125] Thomas C. Hayes, *Dealing with Overseas Job Competition*, N.Y. TIMES (Mar. 25, 1984), http://www.nytimes.com/1984/03/25/jobs/dealing-with-overseas-job-competition.html?pagewanted=1.

[126] *Id.*

[127] Condon & Wiseman, *supra* note 7.

[128] *Id.*

[129] *Id.*

[130] Julie Satow, *Automation Claims Jobs of Phone Operators at New York Hotels*, N.Y. TIMES (Dec. 18, 2015), http://www.nytimes.com/2015/12/19/nyregion/new-york-hotel-phone-operators-try-to-put-layoffs-on-hold.html.

> accountant checking a list of numbers, an office manager filing forms, a paralegal reviewing documents for key words to help in a case. As software becomes even more sophisticated, victims are expected to include those who juggle tasks, such as supervisors and managers—workers who thought they were protected by a college degree.[131]

Start-ups account for much of the job growth in the U.S. and other developed economies, as "software is allowing entrepreneurs to launch businesses with a third fewer employees than in the 1990s. There is less need for administrative support and back-office jobs that handle accounting, payroll and benefits."[132] Even universities have succumbed to the logic of automation—in 2013, North Carolina State University replaced human workers with a high-tech library robots called "bookBots" to retrieve books when requested by students.[133]

Indeed, "[t]he impact of computerisation on labour market outcomes is well-established in the literature, documenting the decline of employment in routine intensive occupations—i.e., occupations mainly consisting of tasks following well-defined procedures that can easily be performed by sophisticated algorithms."[134] The growing wage inequality in the past years can be partially attributed to the computer revolution, as "computerisation erodes wages for labour performing routine tasks, workers will reallocate their labour supply to relatively low-skill service occupations."[135] The computer revolution has created a highly polarized labor market with high demand for high-income, high-value jobs and low-income, manual jobs and correspondingly little demand for middle-income routine jobs.[136]

Jobs have been lost for different reasons. Some jobs have been outsourced or offshored when companies move production out of the U.S.[137] Other jobs cannot be outsourced or offshored because they must be performed at a particular location or because they require in-person interaction. The work performed by cashiers might not be outsourced but can be automated. Lowe's has entered into a joint venture with a startup called Fellow Robots in which robots will perform many of the jobs of retail workers. "Without ever needing a coffee or bathroom break, its voice recognition software, fluent in multiple languages, and laser sensor safety technology can do a better job than many of America's five million or so retail workers."[138] "[W]hile some will laud this triumph of technology in terms of saving money, many others view it as a disaster for the low-wage, low-skill labor market."[139]

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[131] Condon & Wiseman, *supra* note 7.

[132] *Id*.

[133] Wiseman et al, *supra* note 58.

[134] Frey & Osborne, *supra* note 113, at 2.

[135] *Id*. at 12.

[136] *Id*.

[137] Anti-trade critics have a point here—it may very well be true that American companies move production abroad because they can count on being able to export the products back to the U.S. at low tariffs due to trade agreements.

[138] *Do Labor Saving Robots Spell Doom for American Workers*, PBS NEWS HOUR (July 30, 2015), http://www.pbs.org/newshour/bb/labor-saving-robots-spell-doom-american-workers/.

[139] Greg Miller, *Wendy's Moves to Eliminate Workforce*, WALL ST. DAILY (May 18, 2016),

But automation is not limited only to low-skill. Golf caddies are being replaced by a robot called the Caddytrek.[140] Human workers are not needed to examine medical scans because now there is software that can discern troubling issues. Software is picking out worrisome blots in medical scans. Trains can run without conductors. Cars will be driven without drivers. Computers can spot profits in stock trades in milliseconds, sift through documents required for discovery in court cases, report and record power usage via digital utility meters at millions of homes.[141]

Automation is also changing how certain jobs are organized and performed. Suitable Technology's Beam, for example, specializes in "telepresence," beaming employees from one business where there is scarce customer demand to another, where more workers are needed.[142] Businesses can also opt to rent computer power on an as-needed basis rather than purchasing expensive machines and employing information technology workers to work them.[143]

Automation is now all the more appealing to industry because technology has become "better, faster, stronger, more convenient and cheaper than before. Contrast this declining cost curve with wages, which generally head higher over time—even if they're not goosed by legislation and don't keep up with inflation."[144] In fact, by switching to technology, not only are companies able to save on costs, but they are also able to go around political change. "Union rules and labor laws may slow the dismissal of employees, but no country is attempting to prohibit organizations from using technology that allows them to operate more efficiently—and with few employees."[145] Technology is seen as part of inexorable scientific progress, embedded in the technocratic realm devoid of politics.

At the same time, machines have become both less expensive and more capable than ever. And young consumers who grew up with technology often prefer to deal with machines—people line up to order food from automated kiosks even when there is no line for human cashiers.[146] Because of consumer preferences, transactions are becoming self-serve. Ordinary consumers are enabled by technology to do tasks for which companies used to have workers. Verizon offers its customers a way to fix problems without calling and waiting for a repairperson. Customers can download Verizon's In-home Agent software, which can assess problems in a cable box or the Internet connection and fix the problem in minutes.[147] Other examples[148] include the self-checkout lane.

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http://www.wallstreetdaily.com/2016/05/18/wendys-automated-ordering-minimum-wage/.

[140] *Do Labor Saving Robots Spell Doom for American Workers*, *supra* note 138. These robots are also suitable for any jobs that entail heavy lifting, such as porters, bellhops, warehouse clerks. Labor-saving machines named "Stanford Jackrabbot" can also do chores such as local deliveries. *Id*.

[141] Condon & Wiseman, *supra* note 7. Driverless cars will also lead to driverless trucks, driverless buses, driverless taxis.

[142] *Do Labor Saving Robots Spell Doom for American Workers*, *supra* note 138.

[143] Condon & Wiseman, *supra* note 7.

[144] Miller, *supra* note 139.

[145] Condon & Wiseman, *supra* note 7.

[146] Miller, *supra* note 139.

[147] Frank Levy & Richard Murnane, *Dancing with Robots: Human Skills for Computerized Work*, THIRD WAY (July 17, 2013), http://www.thirdway.org/report/dancing-with-robots-human-skills-for-computerized-work.

[148] *See* Condon & Wiseman, *supra* note 7.

Consumers who opt for using the machine themselves are opting in favor of machine over the cashier who used to work that cash register. Buying merchandise online means fewer salespeople at brick and mortar stores. Clicking "yes" in an email invitation to choose meeting times means what an office assistant used to do is now redundant. Booking vacations online means the erosion of the job of the travel agent. Wendy's, for example, has begun transitioning to self-ordering kiosks. Carl's Jr. and Hardee's are planning to have restaurants "entirely free of employees."[149] White Castle has also announced that due to rising labor costs, it would either raise prices by 50% or rely more on automation.[150]

Moreover, in the era of big data[151] generated by and culled from electronic messages, social networks, sensors, GPS signals, cell phones, and more, "large amounts of digital information exist on virtually any topic of interest to a business."[152] When budget cuts forced the Gary, Indiana public school system to slash its annual transportation budget by fifty percent, the school district relied on sophisticated software to create alternative, more efficient bus routes, resulting in a fifty percent reduction of bus drivers from 180 to 60.[153]

Indeed, in a speech in 2015, former U.S. Treasury Secretary Lawrence Summers warned that the biggest economic issue of the future would not be the federal debt or competition from China but "the dramatic transformations that technology is bringing about."[154] Although this issue has been studied in scholarly circles, job loss due to automation has not been decried the way job loss due to trade has been. It is easier to scapegoat Third World countries and scold them for their low wages than it is to order technology to stand still.

B. *The Trade Deficit*

The U.S. trade deficit is undeniably real. But first and foremost, it is important to realize that "the most important economic truth to grasp about the U.S. trade deficit is that it has virtually nothing to do with trade policy."[155] Rather, "[a] nation's trade deficit is determined by the flow of investment funds into or out of the country. And those flows are determined by how much the people of a nation save and invest—two variables that are only marginally affected by trade policy."[156] But this issue—the trade deficit, savings, and investment—will be addressed later in this Part B.

For now, this section looks at one part of the trade deficit, the part that relates to imports versus exports, leaving aside the issue of savings and investment for later. When a country has a negative balance of trade where its imports exceed its exports, that country is said to have a trade deficit. Therefore, "[a] trade deficit

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[149] Miller, *supra* note 139.
[150] *Id*.
[151] *See supra* note 6.
[152] McAfee & Brynjolfsson, *supra* note 60, at 63.
[153] Wiseman et al., *supra* note 58.
[154] Condon & Wiseman, *supra* note 63.
[155] Griswold, *supra* note 73.
[156] *Id*.

represents an outflow of domestic currency to foreign markets."[157] In the national consciousness, trade with China is equated with "trade deficit." Although many of the concerns about trade with China are legitimate,[158] it is important to focus on facts and view the deficit in general, and that with China in perspective.

Although the world is indeed globally interconnected, it is also important to understand that there are limits to global trade, even with China. Data breaking down U.S. personal consumption expenditures into different categories—such as durable goods (furniture, motor vehicles), non-durable goods (food, clothing/shoes), and services (housing, medical care)—and relatedly into the import content—particularly Chinese content—reveals a startling reality. The percentage of American consumption expenditures on Chinese goods is only slightly more than one percent.[159] Almost twenty-five percent of consumption spending is on nondurable goods such as gasoline and food and there is negligible Chinese content in those categories. Where Chinese content is high is in clothing, footwear, furniture, and household equipment, but even these categories constitute only eight percent of total U.S. consumption.[160] Moreover, even in categories where Chinese presence is strong—such as clothing and shoes where thirty-five percent of U.S. spending is indeed on goods from China—much of the value is derived from intermediate components that were not made in China. Thus, "after stripping out the foreign components (cotton, yarn, etc.) made elsewhere, only 14 percent of spending in this small category is really going to China."[161] The facts demonstrate that much of U.S. spending is on services that are not as amenable to being traded internationally.

Anxieties rise when a country imports more than it exports and incurs a trade deficit. To understand the trade deficit, the changing nature of trade in which production is globally disaggregated must be untangled. Second, the issue of whether imports are bad and exports are good must be further scrutinized. And third, whether the trade deficit causes job loss must also be further examined.

1. Vertical Integration of Trade and a Much Needed Value-Added Perspective

As noted in the Introduction, vertical integration or international fragmentation of production, as it has also been called, has meant that many products are not made "somewhere" but rather, "everywhere." Processing and manufacturing take place across vertically integrated companies that are themselves part of global supply or value chains transcending national borders; and intermediate components used to manufacture one product might be a final product sold by a subsidiary.[162]

The reduction of transportation costs and the proliferation of cutting-edge technologies have facilitated globalization of production, which means that

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[157] *Trade Deficit*, INVESTOPEDIA (2017), http://www.investopedia.com/terms/t/trade_deficit.asp (last visited Mar. 26, 2017).

[158] *See* Cao, *supra* note 35.

[159] IRWIN, *supra* note 75, at 24.

[160] *Id.*

[161] *Id.*

[162] *See* Kevin B. Sobel-Read, *Global Value Chains: A Framework for Analysis*, 5 TRANSNAT'L LEGAL THEORY 364, 368–69 (2014) (providing a detailed analysis of global value chains).

companies now relocate different stages of manufacturing to different areas of the world. Few companies make one product in its entirety in one country. Production is sliced and diced into different tasks with each task centered in a different geographical location. "Goods exchanged across borders, more importantly, are only fragments of final goods."[163] Through global supply chains, "intermediate goods are traded across borders and more parts and components are imported for use in exports."[164]

Global trade, nonetheless, still uses antiquated rules of origin to determine the nationality of a product, and from such determination, assess the level of tariff or which import restraints apply to such product.[165] Therefore, trade statistics as to which country the product is from, and relatedly which country the U.S. imports the most from and runs the highest trade deficit with, are often unreliable.

Take as an example a car made by a U.S. manufacturer. No fewer than nine countries were involved in its production, marketing, and sales. Thirty percent of the car's value went to Korea for assembly, 17.5% to Japan for components and technology, 4% to Taiwan and Singapore for minor parts, 2.5% to the United Kingdom for advertising and marketing, and 11.5% to Ireland and Barbados for data processing.[166] Although this car constituted an import, most of its cost was still incurred in the U.S., with thirty-seven percent of the production value of the car coming from America.[167] To characterize it merely as an import obscures the contacts embedded in its production chain and the relatively significant U.S. footprint in this process.

Trade with Mexico has been singled out and denigrated because it is equated with job loss and trade deficits, but the picture is more complex because of the vertical integration or production sharing. Much of Mexico-U.S cross-border trade is embedded in a formal production sharing arrangement, which means that "[m]any imports and exports are therefore of a temporary nature as an item is being produced. Cars built in North America, for example, are said to cross the United States' borders eight times during production, integrating materials and parts developed in Mexico and Canada."[168] Production sharing occurs in other industries as well, such as electronics, appliances, and machinery. Because Mexican production processes are deeply integrated with those in the U.S., "a full 40% of the content of U.S. imports from Mexico was originally made in the United States . . . ."[169] Indeed, U.S. imports from Mexico actually contain a significant amount of U.S. content. Therefore, a product may be formally labeled "Made in Mexico," but the product itself contains parts made in the U.S. by U.S.

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[163] Dylan Geraets, *Reconciling Rules of Origin and Global Value Chains: The Case for Reform*, 18 J INT'L ECON. L. 287, 295 (2015).

[164] Gary Gereffi, *Global Value Chains in a Post-Washington Consensus World,* 21 REV. OF INT'L POL. ECON., 9, 19 (2014) (citing R.C. Feenstra, *Integration of Trade and Disintegration of Production in the Global Economy,* 12 J. OF ECON. PERSPECTIVES 31 (1998).

[165] Lan Cao, *Corporate and Products Identity in the Post-National Economy*, 90 CAL. L. REV. 401 (2002).

[166] World Trade Org., *Annual Report: 1998*, WTO DOC 36 (1998).

[167] IRWIN, *supra* note 75, at 18–19.

[168] Christopher E. Wilson, *Working Together: Economic Ties Between the United States and Mexico*, WOODROW WILSON INT'L CTR. FOR SCHOLARS 1 (2011), https://www.wilsoncenter.org/sites/default/files/Working%20Together%20Full%20Document.pdf.

[169] *Id*. at 2 (citing Robert Koopman et al., *Give Credit Where Credit is Due: Tracing Value Added in Global Production Chains*, NAT'L BUREAU OF ECON. RESEARCH 38 (2011)).

workers, which means that "a large portion of the money U.S. consumers spend on Mexican imports actually goes to U.S. companies and workers."[170] For those concerned about the imports-exports distinction, U.S. imports from Mexico actually contain a significant number of components that the U.S. had previously exported to Mexico.[171]

In the same way that an import labeled "Made in Mexico" may have as much as forty percent U.S. content, another product, let's say, labeled "Made in China," may have, conversely, very little Chinese content. A Barbie doll priced at $9.99 and considered "Made in China" actually contained only thirty-five cents worth of Chinese content, mostly in low wages paid to the eleven thousand peasant women working in Guangdong Province.[172] Yet the entire export value of two dollars—about one-fifth of the eventual retail price—was charged to China although a chain of other countries was involved in the production process. Saudi Arabian oil was refined to produce ethylene, which Taiwan used to make vinyl plastic pellets that formed Barbie's body. Her nylon hair came from Japan. Cardboard packing came from the U.S. Hong Kong managed everything else. "Eventually, after transoceanic shipping, domestic trucking, advertising and other functions that employ thousands of workers in the United States the Anaheim Barbie will achieve her full price, resulting in at least a $1 profit per doll for Mattel."[173]

As to the doll's two-dollar export value, a portion was taken by each country that participated in the production chain. Trade ledgers, however, ascribed the entire two-dollar export value to China. In 1995, U.S. Customs reported that toys imported from China made up a total of $5.4 billion, constituting one-sixth of the total U.S.-China trade deficit.[174] China's actual share of the Barbie doll is important because the continuing trade deficit in China's favor touches U.S. national nerves. As Arjun Appadurai, a cultural anthropologist, aptly observed, "The America-China trade issue is a red herring. It fails to take into account a much more complex set of values, of energies, of labour, and of nationalism congealed into a package that carries the emotional label 'Made in China.'"[175]

The trend towards global rather than one-country production is also reflected in the manufacture of the iPhone and iPad. Apple uses suppliers to provide it with the needed components in the globally fragmented production chain, with Apple capturing the largest share of value. Apple retains most of its design, software and product development, marketing, and other high-wage functions in the U.S. For example, the company pays more in wages to workers in the U.S. than to its entire offshore supply chain.[176] Apple kept about 30% of the sales of its low-end $499 sixteen gigabyte wifi-only iPad and 58% of the sales price of the iPhone 4. In both cases, these are far greater than the value amounts received by

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[170] *Id.*

[171] *Id.* at 17.

[172] Rone Tempest, *Barbie and the World Economy*, L.A. TIMES (Sept. 22, 1996), http://articles.latimes.com/1996-09-22/news/mn-46610_1_hong-kong.

[173] *Id.*

[174] *Id.*

[175] *Id.*

[176] Kenneth L. Kraemer et al, *Capturing Value in Global Networks: Appel's iPad and iPhones*, UNIV. OF CAL. IRVINE 7 (2011), http://pcic.merage.uci.edu/papers/2011/value_ipad_iphone.pdf.

any other firms in the supply chain.[177] Second to Apple are Korean companies, such as LG and Samsung, which provided the display and memory chips and which garnered gross profits of 5% and 7%, respectively, of the sales price of the iPhone and iPad. Next are Japanese and Taiwanese suppliers, which capture 1–2% each.[178] Each unit sold in the U.S. added between $229 and $275—the amount constituting the estimated factory cost of an iPhone or iPad—to the U.S.-China trade deficit but only about ten dollars in labor wages are paid to Chinese workers.[179]

Given the increased reliance on global supply chains, it is important to understand that

> [j]ust because a country is the final exporter of a good does not mean that it is responsible for the majority of that good's production. . . . [W]e can no longer look at official gross export statistics to see who produces goods for whom. Because of the global fragmentation of supply chains, we must isolate how much value-added a nation contributes to the production of a good in order to illuminate the true comparative advantage of nations.[180]

The continued preoccupation with the manufacturing or assembly stage of production ignores the "full spectrum of ways in which the generation of a product constitutes the supply chain, simultaneously dictating the roles of the firms within that chain and the distributions of power among them."[181]

A value-added focus, as opposed to one focused on gross exports, is more accurate when there is vertical integration of production because it "corrects for the distortions of imported intermediates in gross trade to provide a clarified understanding of the characteristics of a nation's production."[182] In the case of the U.S., if one looks at the electronics industry, for example, using conventional gross trade statistics, one would conclude that it is in decline. If, however, looking at the same industry using value-added statistics, one would see a much more robust and optimistic picture.[183]

A report to the G20,[184] the Organization for Economic Cooperation and Development (OECD), the World Bank, and the WTO recognized that the most value in the global supply chain web is value in upstream activities such as new concept development and research and development, and in a limited type of downstream activities such as marketing, branding, or customer service.[185]

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[177] *Id*. at 4.
[178] *Id*.
[179] *Id*. at 6.
[180] DAI, *supra* note 76, at 5.
[181] Sobel-Read, *supra* note 162, at 369.
[182] DAI, *supra* note 76, at 7–8.
[183] *Id*. at 9.
[184] The G20—or Group of Twenty—is an international forum for the governments from twenty major economies: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, South Korea, Mexico, Russia, Saudi Arabia, South Africa, Turkey, the United Kingdom, and the United States, plus the European Union.
[185] Geraets, *supra* note 163, at 295 n. 33 (citing OECD, WTO & WORLD BANK, GLOBAL VALUE

Although a product's assembly constitutes but a mere ten percent of the total value of a product, as reflected in the final consumer price, "this 10% determines the applied tariff rate. The remaining 90% of the final product's value is not taken into account when determining the origin, and therefore the tariff."[186] Because rules of origin do not rely on assessment of value but rather merely changes in tariff heading, they "skew[] trade statistics, because the relative share of raw materials, R&D, intellectual property, and marketing are not factored into the total value of the product."[187]

In reality, despite handwringing about losing in trade, developed countries such as the U.S. and Japan remain dominant powers at the upstream of global supply chains and "continue to carry out sophisticated tasks like design and the production of intermediate inputs. Emerging markets like China and Mexico on the other hand, tend to be relatively downstream, still focused on assembly to some degree."[188] This reality is reflected not just in the iPhone, but also in other electronics products as well, such as the Nokia N95 smartphone, assembled in Finland and China. Researchers who disassembled the Nokia N95, examined its six hundred individual components, and traced the product's global supply chain discovered that in both cases, European value-added share was impressively high whether the device was assembled in Finland or China.[189]

In the former case, where the phone was assembled in Finland, the value-added share of Europe was 68%; in the latter case, where the phone was assembled in China, the value-added share of Europe was still high—51% even though Europe had "little role in supplying the physical components"[190] and even though the phone was labeled "Made in China." Europe's capture of 51% of such phones was possible because Finland and other European countries dominated the upstream process—"branding, development, design, and management."[191] Although the final assembly is the stage that gives physical manifestation to the product, it only constitutes two percent of the value-added.[192]

Broad conclusions can be drawn from the Nokia study and extrapolated into other industries such as textiles and automobiles. The country of assembly

> commands only a few per cent of the supply chain's overall value added in the case of an advanced industrial good. . . . [T]he developed countries continue to capture the lion's share of value added generated globally. Even in the case of manufactured goods, it is services (both the ones provided in-house as well as those purchased from outside vendors) and various forms of intangibles (including returns earned on various

CHAINS: CHALLENGES, OPPORTUNITIES, AND IMPLICATIONS FOR TRADE POLICY 37 (2014)).

186 *Id.*

187 *Id.* (citing Yuqing Xing & Neal Detert, *How The iPhone Widens the United States Trade Deficit with the People's Republic of China*, ASIAN DEV. BANK INST. (2011), http://www.adbi.org/files/2010.12.14.wp257.iphone.widens.us.trade.deficit.prc.pdf).

188 DAI, *supra* note 76, at 8.

189 Ali-Yrkkö et al., *supra* note 83, at 3.

190 *Id.* at 2.

191 *Id.* at 12.

192 *Id.*

> forms of intellectual property) that capture most of the value added.[193]

Nationalist anxieties aside, the U.S. is still perched upstream of global supply chains, controlling more value-added, sophisticated tasks such as design *and* production of intermediate products.[194] In an era in which anxieties about "losing" to other countries dominate the national discourse, it is all the more important that trade statistics accurately reflect the fragmented reality of trade and the role of developed countries, such as the U.S., along the supply chain.

Even in manufacturing where it is charged the U.S. has "lost" to other countries,

> value-added measures of trade demonstrate that far from losing competitiveness in advanced manufacturing industries like electronics, the U.S. continues to have a robust and growing comparative advantage in these industries. The dramatic difference in trend for the U.S. between analyzing comparative advantage using the value-added and gross trade approaches emphasizes the importance of helping policymakers interpret official trade statistics correctly.[195]

The value-added data demonstrates that the U.S. has a solid comparative advantage in advanced manufacturing, particularly in areas such as electronics and equipment, which constitute the highest level of technology manufacturing.[196] Studies confirm this observation: that jobs in the U.S. subject to the steepest declines are basic manufacturing jobs and those subject to increase are those in "innovative manufacturing":

> Innovative manufacturing jobs are those where the manufacturing itself is innovative or proprietary such that companies will want to keep them in-house. Some companies have already begun to do this. GE Aviation, for instance, has invested millions of dollars in over 30 sites in the United States, with the latest advanced manufacturing plant being built in Alabama in 2013.[197]

The point is that a value-added framework better reflects the proliferation of global supply chains, and consequently the multi-country production process that currently prevails in the international system. The WTO recognized this emerging consensus when Director-General Pascal Lamy coined the phrase "Made in the World" to introduce an initiative that would measure trade by value

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[193] *Id*. at 14.
[194] DAI, *supra* note 76, at 8.
[195] *Id*. at 9.
[196] *Id*. at 60.
[197] Richard O. Cunningham, *Trade and Jobs: Policy and Political Issues*, 37 CAN-U.S. L. J. 383, 401 (2012).

added rather than by the current country of origin rules because "traditional measurement of foreign trade alone no longer suffices to explain how [the country] fits into the world economy."[198] As Lamy noted, "by focusing on gross values of exports and imports, traditional trade statistics give us a distorted picture of trade imbalances between countries."[199] The WTO has further acknowledged that "attributing the full commercial value of imports to the last country of origin can skew bilateral trade balances, pervert the political debate on trade imbalances, and may lead to wrong and counter-productive decisions."[200]

The WTO's "Made in the World Initiative" (MiWi) is designed to support "the exchange of projects, experiences and practical approaches in measuring and analysing trade in value added."[201] Its core objectives are to incorporate the implications of global value chains and of the "Made in the World" global reality into trade policy, including the use of value-added statistics.[202] Trade is better measured on the basis of value added rather than on the basis of country of origin,[203] which is inaccurate because it is premised on the notion that production can be deemed originating in one country or has a distinct center of gravity around one country. Some politicians have also understood that fragmentation of production cannot be ignored and that how trade is measured and analyzed must reflect this new globalized reality. Karel De Gucht, the European Commissioner for Trade, explained why the current scheme is not accurate: it "is a bit like the final runner in a relay team getting a gold medal while his team-mates get silver and bronze. It doesn't take account of the fact that the final result is the product of a joint effort."[204] Commissioner De Gucht also observed as follows, with respect to Europe,

> when we look at trade in value as opposed to traditional statistics, our trade deficit with China is reduced by 36%. However, our overall trade balance does not change. Our deficits with other partners, such as Canada or Japan for example, will increase to offset these changes. We need to bear all these numbers in mind when thinking about our surpluses or deficits

[198] Pascal Lamy, Director-General, WTO, Speech to the French Senate: Globalization of the Industrial Production Chains and Measuring International Trade in Value Added (Oct. 15, 2010), http://tinyurl.com/4okq9af, [hereinafter Lamy French Senate Speech]; *see also* Pascal Lamy, Director-General, WTO, Remarks on the Made in the World Initiative (Apr. 4, 2011), http://tinyurl.com/nkc4yxk; Pascal Lamy, Director-General, WTO, Keynote Address at the Launching of the WTO and IDE-JETRO Joint Publication "Trade Patterns and Global Value Chains in East Asia" (June 6, 2011), http://tinyurl.com/kadq9dl [hereinafter Lamy WTO Keynote].

[199] Lamy WTO Keynote, *supra* note 198.

[200] *Building APEC Economies' Capacities of Employing Input-Output Tables for Advanced Economic Modeling: Summary*, ASIA-PACIFIC ECON. COOPERATION 2 (2011).

[201] Geraets, *supra* note 163, at 297; *see also* Lamy French Senate Speech, *supra* note 198.

[202] *See* Lamy French Senate Speech, *supra* note 198; *see also* Geraets, *supra* note 163, at 288.

[203] A value-based approach would not only alter how trade statistics are understood but also how a product's nationality is determined. *Building APEC Economies' Capacities of Employing Input-Output Tables for Advanced Economic Modeling: Summary*, *supra* note 200; *see also* Geraets, *supra* note 163, at 296. ("Presuming that the country where the most value is from could be the more logical choice for the determination of origin . . . .")

[204] Karel De Gucht, Speech at the Conference on Competitiveness, Trade, Environment and Jobs in Europe: Insights from the New World Input Output Database (WIOD) (Apr. 16, 2012), *in* EUR. COMM'N, http://tinyurl.com/pzd78zn.

> with our trading partners. China, for instance, starts to look like less of a problem.[205]

In determining where the product was made, one must take into account

> the value (and the location) of the design, R&D, marketing, transport, and perhaps even the sales (retail) of the final product. Ultimately, these steps in the production process are equally, if not more, important than the mere assembly of the product. Moreover, these steps contribute significantly to the good's overall value. Indeed, the value added at these steps generally exceeds the value of the production or assembly activities.[206]

Using this approach, it is obvious that service and manufacturing are linked. The blurring of these two sectors has been referred to as "servitization," "servicification," or the "manuservice economy," and it has been suggested that value added in those servicing phases of the production process should be incorporated in a product's rules of origin determination.[207] A detailed exploration of rules of origin is beyond the scope of this Article[208] but, as a starting point, one might stipulate that origin might be conferred on a country where a certain percentage of the value of a product (for example, fifty percent) is added to the final value of the product, taking into account the following stages of the production process: research and development, design, intellectual property, manufacturing, and marketing.[209]

Understanding how global supply or global value chains work also means understanding that economies today are interwoven. Commissioner De Gucht aptly cautioned as follows:

> [I]n buying something from a distant producer instead of from our neighbour we are actually doing the right thing for the neighbourhood. . . . Because when you look at trade only briefly you may jump to the conclusion that imports are bad for jobs and so we should keep them out. . . . But the insights from global value chains should help people to understand *that imports are valuable in and of themselves*. Because today most people in their own daily work have experience of a supply chain, whether within a small company or a large multinational. Few businesses make a product from start to finish and sell it to a consumer themselves. We might make a component, provide legal advice or support the product's sale through marketing. But we know that our work depends on many other people for it

[205] *Id*.
[206] Geraets, *supra* note 163, at 299–300.
[207] *Id*. at 300.
[208] *See* Cao, *supra* note 165.
[209] Geraets, *supra* note 163, at 301.

> to succeed.[210]

In other words, *even* through a purely nationalist, self-interested lens, it should be clear that imports are not the enemy. Equally important is the fact that because many products the U.S. imports, especially from developing countries, may also contain a large percentage of its own U.S. value-added components, so protectionism in the forms of increased tariffs, for example, would end up hurting domestic upstream firms.[211] For example, in 2007, forty percent of the double counting in U.S. exports[212] came from U.S. domestic content being shipped back to the U.S. as imports, whereas nearly all of the double counting in China's processing exports came from imported, non-Chinese foreign content.[213] Furthermore,

> [b]ecause China is the final assembler in a large number of global supply chains, and it uses components from many other countries, especially East Asian countries, its trade surplus with U.S. and Western EU countries measured in value-added term is 41% and 49% less than that measured in gross terms.[214]

This demonstrates that U.S. export producers tend to be upstream within global supply chains whereas Chinese export producers tend to be relatively downstream.[215]

Nothing in this section is meant to deny the decline of U.S. manufacturing in certain sectors—for example, steel, textile, shoes—or the reality of the trade deficit. Nonetheless, trade should be reconceptualized to take into account the shift from single-country to multi-country production; from singular production in the trade in goods to fragmentation of production in the trade in tasks. Put another way, trade statistics should be "debilateralize[d]" in an era of "multilocated" production.[216] This reconceptualization is important simply

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[210] De Gucht, *supra* note 204 (emphasis added).

[211] DAI, *supra* note 76, at 9–10. Dai goes on to say,

> [T]he fact that the U.S. has the greatest share of domestic content exported that eventually returns back home provides further evidence of the United States' upstream role. After all, for domestic content exported to return home, it must be incorporated as an intermediate abroad before being exported back to U.S. consumers.

Id. at 35.

[212] *Id.* at 14 n. 2. ("Double counted terms are terms that have already been counted in a country's gross exports. Thus, if a given country exports a product containing imported components, the imported components are considered double counted in the country's gross exports.").

[213] *Id.* at 17 (citing Koopman et al., *Tracing Value-Added and Double Counting in Gross Exports*, NAT'L BUREAU OF ECON. RES. 45–46 (2012)).

[214] Koopman et al., *supra* note 169, at 47.

[215] DAI, *supra* note 76, at 17. "For instance, if a country has a high share of intermediate exports sent indirectly through other countries, then the country is relatively upstream within global production chains." *Id.* at 33. Japan is an upstream participant "when it exports an intermediate iPhone component to China and the intermediate component is exported through China as a finished iPhone to final consumers in the US." *Id.* at 33–34. But if a country's value-added exports are in the form of direct final goods exports, it is likely to be a downstream participant in the global supply chain. China is a downstream participant when its value-added work is in assembly of the iPhone as a final product to be exported from China to the United States. *Id.*

[216] Lamy French Senate Speech, *supra* note 198.

because facts matter. First, as a practical matter, the new framework is a better reflection of what is actually going on in the world. Second, reconceptualization should result also in practical changes that have significant policy implications such as more accurate information about trading partners.[217] For example, as noted previously, under the traditional gross trade statistics model, the U.S. has a $2 billion trade deficit in iPhones trade with China for 2009, but under a value-added trade statistics model, the deficit is $73 million, mostly reflecting labor costs incurred in China.[218] Third, more accurate trade statistics also show that, despite nationalist denunciations of trade in the U.S., the U.S. is in fact still competitive even in high levels of manufacturing; that gross trade statistics can be misleading and U.S. high value-added activities are embedded in gross import figures that exaggerate import activities; and that job loss can be the result of economic shifts as well as technological transformation.

To bring further clarity to the trade picture, the next section zooms in some more and looks at imports versus exports. This section shows that restricting imports in one industry may cause harm to other domestic industries. More broadly and more importantly for the purposes of this Article, it corrects the false assumption that imports are good and exports are bad.

2. *Imports Versus Exports: Two Sides of the Same Coin*

Even assuming imports are bad, restricting them does not necessarily lead to the desired result, which is presumably to rejuvenate domestic industry and help domestic workers in the protected industry. For example, in September 2009, President Barack Obama imposed duties on car and truck tires from China, adding a 35% tariff to the preexisting 3 to 4% tariff for the first year, 30% in the second year, and 25% in the third year.[219] The tariffs did result in a 30% decrease in tire imports from China between 2009 and 2011 but that did not mean 30% more tires were made in the U.S. According to the U.S. International Trade Commission, all it meant was 30% more tire imports from Canada, 110% more from South Korea, 44% more from Japan, 152% more from Indonesia, 154% more from Thailand; 117% more from Mexico, and 285% more from Taiwan.[220] Domestic tire producers were also able to increase price with impunity as some consumers switched to domestic tires, resulting in a total net cost to consumers of $1.112 billion per year—$817 million due to the higher cost of imported tires, and $295 million due the increased cost of domestic tires.[221] The higher tariffs "saved" about twelve hundred jobs which meant it cost consumers $900 thousand per job saved, as the average worker in the tire industry made $40 thousand a

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[217] *See* Andreas Maurer, *Trade in Value Added: What is the Country of Origin in an Interconnected World?*, WORLD TRADE ORG. (Apr. 14, 2011), http://tinyurl.com/mjofdwj (noting that the concept of trade in value added is more than a mere statistical change: it is a change that implicates trade policy); *see also* Daniel J. Ikenson, *Lies, Damned Lies, and Trade Statistics*, CATO INSTITUTE (Dec. 16, 2010, 3:20 PM), http://tinyurl.com/nm6ffvw (observing that global economic integration calls for a new way of understanding trade statistics based on value added).

[218] Maurer, *supra* note 217.

[219] IRWIN, *supra* note 75, at 81.

[220] Kenneth Rapoza, *Obama's Half-Truth on China Tire Tariffs*, FORBES (Jan. 25, 2012), http://www.forbes.com/forbes/welcome/.

[221] IRWIN, *supra* note 75, at 81.

year.[222] This is inefficient to say the least.

Moreover, import restrictions also destroy jobs in downstream industries that use imports as intermediate components. Given the prevalence of global fragmentation of production described above, reliance on global supply chains for the manufacture of a product means that the majority of U.S. imports are not final consumer products but intermediate goods used by U.S. firms in their own production. Trade restrictions that raise the price of such intermediate goods have a negative impact on downstream producers that use those goods, which in turn adversely affects employment in those downstream industries.

For example, it is well-known that the U.S. has protected the sugar industry for years through "a Byzantine combination of price supports and arbitrary import restrictions."[223] The high price of U.S. sugar caused by sugar tariffs has protected huge sugarcane conglomerates and at the same time inflicted harm on U.S. industries that use sugar, such as the sugar-refining and candy industries.[224] In 2002, LifeSavers candy plant that used 250,000 pounds of sugar to produce 3 million rolls of LifeSavers per day and employed 650 workers in Michigan shut down and moved to Canada.[225] Citing the high cost of sugar—with sugar costing twice as much in the United States as in Canada and Mexico—the company, which was founded in Cleveland in 1912 and moved to Michigan in 1967, rejected the $38 million incentive package offered by Michigan to keep the company in the U.S.[226]

Other makers of hard candy in the U.S., such as Primrose and Brach's, have also relocated, blaming "their shifting production strategies on one culprit: U.S. sugar subsidies that keep prices of domestic sugar much higher than prices on the world market. In addition, tight import quotas make it hard to import cheaper foreign-produced sugar."[227] Brach's warned in 1990 that the company would close its plant and move to Mexico or Canada "if it did not win federal approval to import sugar at world trade prices. Because of the federal government's protectionist trade policies toward its own sugar growers, Brach's is required to buy more expensive domestic sugar."[228] In 2001, Brach's closed its plant in Chicago, a city once known for its many candy companies. In 2006, the U.S. Department of Commerce reported that for the past twenty-five years, U.S. sugar price has been two to three times higher than world sugar price, which has resulted "in a significant competitive cost disadvantage for domestic sugar-

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[222] *Id.*

[223] James Bovard, *Oreo Shows Losing Side of Trump's Trade Policy*, USA TODAY, Mar. 24, 2016, at 7a.

[224] Jane Mayer & Jose de Cordoba, *Sweet Life: First Family of Sugar is Tough on Workers, Generous to Politicians*, WALL ST. J., July 29, 1991. One family supplies the U.S. with fifteen percent of its sugarcane through land holdings in Florida and the Dominican Republic, reaping between $52 to $90 million in benefits from U.S. restrictions on sugar imports. *Id.*

[225] IRWIN, *supra* note 75, at 94; *see also* Bovard, *supra* note 223.

[226] Tim Jones, *LifeSavers Take Business to Canada Over Sugar Costs*, CHICAGO TRIBUNE (Jan. 30, 2002), http://articles.chicagotribune.com/2002-01-30/news/0201300310_1_sugar-program-life-savers-candy.

[227] Kari Lydersen, *Chicago is Home Sweet Home to Fewer Candy Factories*, WASH. POST (Feb. 7, 2006), http://www.washingtonpost.com/wp-dyn/content/article/2006/02/06/AR2006020601467.html.

[228] Ameet Sachdev, *Brach's To Close West Side Plant*, CHICAGO TRIBUNE (Jan. 12, 2001), http://articles.chicagotribune.com/2001-01-12/business/0101120197_1_candy-production-manufacturing-jobs-facility.

containing products manufacturers."[229]

Employment in industries that use sugar as an intermediate component fell by more than 11,000 between 1997 and 2002, at least 6,400 of which the Commerce Department attributed to plant relocation due to the high cost of domestic sugar; by contrast, employment in the non-sugar-containing food industry rose by more than 30,000.[230] Although there were only about 61,000 workers in the sugar growing industry, and more than 900,000 in the sugar-using industries, trade barriers were enacted to protect the sugar-growing industry; even then, it is estimated that only 2,260 of those sugar-growing jobs were shielded by trade barriers, which means that consumers bore $826,000 in cost to protect each job that was saved.[231]

The same phenomenon—trade restrictions in one industry creating adverse employment consequences in related domestic industries—can be seen in numerous examples, such as the imposition of high duties or price floors on imported flat-panel displays and semiconductors used by domestic makers of laptop computers, causing them to shift production out of the U.S.; or the imposition of voluntary restraint agreements limiting steel imports to help the domestic steel industry but inflicting damage to the many more numerous domestic users of steel, including auto makers such as General Motors and construction industries with companies such as Caterpillar and John Deere.[232]

More than the fact that import restrictions often create other unintended self-inflicted wounds, as described above, is the fact that import restrictions also negatively affect a country's exports. Exports are generally favored by nationalists. Imports are not. Despite the WTO's acceptance of nominally free trade rules, mercantilist vestiges remain so that although states agree to be constrained by free trade rules, many still revert to old mercantilist ways in which "[e]xportation is gain, but all Commodities Imported is loss."[233]

The U.S., for example, aims to improve exports—but certainly not increase imports. The Obama Administration's trade policy consisted of the National Export Initiative with the goal of doubling U.S. exports by 2015.[234] Import tariffs are justified on the ground that they protect American jobs. But in actuality, as shown by the famous Lerner symmetry theorem, export taxes and import tariffs have a symmetric impact on trade. If a country wants to restrict trade, it can use an import *or* an export tax because their effects on the terms of trade are identical.[235] Lerner's paper shows that although it is often assumed that exports

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[229] U.S. DEP'T OF COMMERCE, INT'L TRADE ADMIN., EMPLOYMENT CHANGES IN U.S. FOOD MANUFACTURING: THE IMPACT OF SUGAR PRICES 3 (2006).

[230] *Id.*

[231] IRWIN, *supra* note 75, at 95.

[232] *Id.* at 96–97.

[233] Douglas A. Irwin, *Mercantilism: Power and Plenty Through the Lens of Strategic Trade Policy*, in ELI HECKSCHER, INTERNATIONAL TRADE, AND ECONOMIC HISTORY 247, 252 (Ronald Findlay et al. eds., 2006) (quoting CAREW REYNELL, A NECESSARY COMPANION OR, THE ENGLISH INTEREST DISCOVERED AND PROMOTED 12 (1685)). "The Wealth of every Nation consists chiefly in the share which they have in the Foreign Trade with the whole Commercial World." *Id.* (quoting WILLIAM PETTY, BRITANNIA LANGUENS, OR A DISCOURSE OF TRADE 82 (1690)).

[234] *See generally* NAT'L EXP. INITIATIVE, REPORT TO THE PRESIDENT ON THE NATIONAL EXPORT INITIATIVE: THE EXPORT PROMOTION CABINET'S PLAN FOR DOUBLING U.S. EXPORTS IN FIVE YEARS (2010), http://www.whitehouse.gov/sites/default/files/nei_report_9-1610_full.pdf.

[235] A.P. Lerner, *The Symmetry Between Import and Export Taxes*, 3 ECONOMICA 306 (1936).

are good for a country and imports are not because they can lead to trade deficits—or that imports and exports are independent of one another—in fact, any restriction a country imposes on imports also functions as an equivalent restriction on exports. Import tariffs negatively affect jobs in export industries.[236]

On a general, intuitive level, it is not difficult to see that import restrictions will lead to a decrease in exports as well. Exports and imports are not separate and independent from each other, but rather they are "the flip side of the same coin. Exports are the goods a country must give up in order to acquire imports. Exports are necessary to generate the earnings to pay for imports."[237] For example, if foreign countries reduce their exports to the U.S. because the U.S. imposes high tariffs on their products, they will not be able to accumulate dollars needed to purchase American products.

The two are intertwined in another way. Assume the U.S. reduces its tariffs on Chilean imports, which will become cheaper to U.S. consumers who will then want to purchase such goods. U.S. demand for Chilean goods will increase, which can be met only when consumers in the U.S. (indirectly) sell dollars on the foreign exchange market to buy Chile's peso—to pay for Chilean goods.[238] As dollar holders increase their demand for pesos, the value of the dollar will decline relative to the peso, or put another way, the value of the peso will rise relative to the dollar, making Chilean goods more expensive and restraining demand for them.

The point of the example is as follows: although it was the U.S. that lowered its tariff on Chilean products—and although Chile made no changes to its tariffs—Chile will end up purchasing more American goods. As explained above, once the value of the dollar declines relative to the peso, the price of U.S. goods in pesos becomes cheaper for Chileans and thus Chilean demand for U.S. goods increases.[239]

The connection between imports and exports also means that trade intervention aimed at restricting imports will be offset by restrictions in exports. "Throughout U.S. history, large tariff increases have failed to stimulate greater employment because any increase in employment in import-competing industries was offset by a decrease in employment in industries that are export oriented."[240] This was the case in the 1930s as well when the U.S. imposed huge Smoot-Hawley tariff increases to protect domestic industry and boost domestic employment. The result was a corresponding almost one-for-one decrease in exports, resulting in job losses in the U.S. export industries.[241]

In addition, given the fact that, as previously noted,[242] eighty percent of world trade occurs "either within MNC [multinational corporations] networks or through supply chains organized by MNCs . . . [,] it is important to understand the

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[236] Moran & Oldenski, *supra* note 79.

[237] IRWIN, *supra* note 75 at 90. It is well-known that China is a major exporting country but its exports figures are also matched by high imports figures. *Id*. at 91.

[238] *Id*. at 92.

[239] *Id*. at 93.

[240] *Id*.

[241] *See* Theodore Phalan et al., *The Smoot-Hawley Tariff and the Great Depression*, FOUND. FOR ECON. EDUC. (Feb. 29, 2012), (discussing the negative effects the tariffs had on American exports).

[242] Moran & Oldenski, *supra* note 79.

impact of trade measures on today's world in which trade and investment are intertwined and in which the 'us versus them' mentality is fundamentally misguided."[243] The prevalence of global supply chains means more than ever that the U.S. export sector is intertwined with its import sector. "The biggest exporters from the United States are U.S. MNCs and foreign MNC affiliates located in the United States,"[244] offering higher than average wages and benefits paid by all other firms in the U.S. Blocking imports either through quotas or tariffs would harm not just downstream American users of those imports or the U.S. consumers but also U.S. exporters because multinational exporters "rely on their international supply chains to keep their US operations competitive in international markets."[245]

More than fifty percent of American imports are affiliated transactions, in which U.S.-headquartered firms import from their foreign affiliates or alternatively, in which foreign firms operating in the U.S. import from their parent corporations.[246] Moreover, because more than sixty percent of American imports are intermediate components for other firms located in the U.S., blocking these imports will hurt those other U.S. firms, their foreign affiliates and foreign firms doing business in the U.S. because doing so will impede the smooth operation of companies that are connected via the global supply chains. "A tariff on imported goods would undermine the strongest companies with operations in the United States and hinder their ability to continue to pay the highest wages to U.S. workers."[247]

Return to the Apple example. As discussed previously, because the manufacture of the Apple iPhone and iPad is done via a global supply chain, Chinese labor and inputs constitute only between two and five percent of the total value of the final products, with about six percent going to component suppliers in other countries besides China and "overwhelming majority of the value [going] to Apple itself and other firms in the United States."[248] More important to the point made here about the symbiotic relationship between import and export sectors, if Apple was not allowed access to lower-cost imported intermediate components, it is not simply that U.S. consumers would be faced with higher prices for Apple products, but, additionally, Apple's exports would themselves fall. This would have the effect of hurting the American export sector and other U.S. workers in the export sector connected to Apple; market share of phones would shift to other non-U.S. producers.[249]

There would be other ripple effects as well. Trade statistics highlight imports and exports of goods—but that is only part of the picture. The American export sector, which everyone wishes to promote and protect, is itself linked to the U.S. service industry which contributes much of the value added to the research, design, manufacturing, distribution, and marketing of U.S. goods. Data gathered by the OECD reveals a breakdown of "the share of services that are embodied in

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[243] *Id*. at 2.
[244] *Id*.
[245] *Id*.
[246] *Id*.
[247] *Id*.
[248] *Id*. at 3.
[249] *Id*.

each country's exports and indicates the extent to which those services are provided by domestic or foreign firms."[250] About fifty percent of the value of exports of U.S. goods comes from the U.S. service sector, a figure that is comparable to other developed countries, but is much higher than that of lesser-developed economies such as China and Mexico.[251] This matches what was discussed in the preceding section about the significant role the U.S. has in upstream production and upstream servicing of products produced via global supply chains.

Equally important to the discussion about the relationship between imports and exports is the fact that the service component embodied within U.S. goods exports itself contains a high level of U.S. content—96.5%, compared with 93.3% for Canada, 90.6% for Mexico, 90% for France, 88.6% for China, 86.3% for the Netherlands, 88% for Germany, and 84.2% for Sweden.[252] What this means is that not only do U.S. goods exports contain a high percentage—more than 50%—of embedded services, but additionally that the U.S. content of such services itself is very high—96.5%. The U.S. service sector is an important sector for the U.S. economy and the U.S. has been able to retain a comparative advantage in high-end services to the benefit of skilled U.S. service workers.[253] Equally significant to the point made in this section, this service sector is intertwined with the manufacturing sector generally and more particularly with the U.S. export sector, which is in turn intertwined with imports. Lines everywhere are indeed blurred.

a. *Trade Deficit, Employment and Balance of Payments*

Job loss—and job gain—happens for many reasons. Generally speaking, economists believe that "the level of unemployment is determined more by the business cycle than by changes in trade flows or trade policy."[254] Jobs are constantly created and destroyed in a dynamic economy. Except from 1970 to 1975, high unemployment rates are not correlated with increases in imports as a share of GDP and in fact, since the early 1980s, the unemployment rate has gone down even as the imports-to-GDP ratio has gone up.[255] The trade deficit usually rises when unemployment falls and falls when unemployment rises; a strong economy supports job gain and imports and a weak economy is associated with job loss, which decreases spending on imports.[256] In addition, according to the Bureau of Labor Statistics, competition from imports and relocations of plants overseas accounted for only three percent of total employment displacement in recent years; during the 2008 financial crisis, layoffs reached two million in 2009

[250] *Id*. at 4.
[251] *Id*.
[252] *See id*.
[253] *Id*. Over the last decade, employment in U.S. business-service sector grew by more than twenty percent while employment in manufacturing decreased by more than twenty percent.
[254] IRWIN, *supra* note 75, at 116.
[255] *Id*.
[256] Griswold, *supra* note 73 ("Trade deficits do not cost jobs. In fact rising trade deficits correlate with falling unemployment rates. Far from being a drag on economic growth, the U.S. economy has actually grown faster in years in which the trade deficit has been rising than in years in which the deficit has shrunk."); s*ee also* IRWIN, *supra* note 75, at 155.

but less than one percent of those layoffs were due to imports.[257]

Critics charge that the U.S. trade deficit means that the U.S. is losing in trade or that U.S. exporters face unfair barriers in foreign countries. "The obvious implication is that, if other nations were to open their markets as wide as we have supposedly opened ours, or if American companies became more competitive against foreign rivals, we could export more relative to imports, thus reducing the trade deficit."[258] Over and over, the trade deficit is used as evidence that the U.S. is harmed by trade.

But to understand the trade deficit, one cannot see it in terms of imports versus exports alone. One needs to see it in balance-of-payments accounting terms. Balance of payments is an accounting of a country's international transactions, used to keep track of a country's imports and exports. When U.S. consumers and businesses buy imports, they pay for them in dollars but the dollars "eventually return to purchase either U.S. goods (exports) or U.S. assets (foreign investment)"[259] which in turn boost U.S. employment. Sales of U.S. goods or assets to non-U.S. residents are recorded as a positive entry or a credit in the balance of payments and conversely, purchases of foreign goods and assets are recorded as a negative entry or a debit. "While the data, itself, is neutral, it is sometimes reported in ominous tones, especially when the numbers total up to a deficit in the merchandise account."[260]

The balance of payments is categorized further as the following: first, the current account, which includes essentially trade in goods (airplanes, wheat, cars, and so on) and services (tourism, technical training, concert musicians, and financial services); and second, the financial account, which includes trade in assets, mainly in portfolio and direct investments.

In accounting, the balance of payments balances, that is, by definition, "the balance of payments sums to zero."[261] This is because

> what a country buys or gives away in the global market must equal what it sells or receives—because of the exchange nature of trade. People . . . will generally not give up something without receiving something of comparable value in return. The double-entry nature of international bookkeeping means that, for a nation as a whole, the value of what it gives to the rest of the world will be matched by the value of what it receives.[262]

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[257] IRWIN, *supra* note 75, at 118.

[258] Griswold, *supra* note 73.

[259] IRWIN, *supra* note 75, at 155.

[260] *Lesson 6: The Balance of Payments Always Balances*, FOUND. FOR TEACHING ECON. (2006), http://www.fte.org/teacher-resources/lesson-plans/tradelessons/lesson-6-the-balance-of-payments-always-balances/ (last visited Mar. 26, 2017).

[261] IRWIN, *supra* note 75, at 156. However,

> [i]n the official figures, the balance is not always zero. A government cannot keep track of every single international transaction its citizens engage in, as hard as its customs agents and financial regulators may try. That creates the need for a "Statistical Discrepancy" line in the accounts. . . . [But] [f]or all practical purposes, the flow of money out of the United States in a given year equals the flow of money in.

Griswold, *supra* note 73, at n.16.

[262] Griswold, *supra* note 73.

Thus, the current account + financial account = 0. With that equation in mind, this means that a country with a current account deficit will have an offsetting financial account surplus. "Goods, services, and resources traded internationally are paid for; thus every movement of products is offset by a balancing movement of money or some other financial asset."[263] A surplus in the current account by definition is offset by a deficit in the financial account—"if we export goods and services, then we import financial assets of the foreigners who purchased those goods and services."[264] Conversely, a deficit in the current account by definition is offset by a surplus in the financial account—"if Americans import foreign products, then we export our financial assets to pay for them."[265] This means "American money and other financial assets flow out of the country to foreigners."[266] Generally speaking, American money—U.S. dollars—is mostly useful for American purchases and thus, "holders of American money have a claim on American assets" such as currency, treasury bills, stocks in American companies, government or corporate bonds, houses, office buildings, office franchises, and so on.[267]

Take the following concrete example. If the U.S. buys more *goods and services* from other countries than it is selling, then it is also selling more *assets* to the other countries than it is buying. Thus, "[w]hile the Current account deficit of recent years has received much media attention, there is little public awareness that this trade deficit is accompanied by a surplus in the Capital (now referred to as financial) account."[268] If a country runs a financial account surplus of $100 billion, it will run a current account deficit of $100 billion to balance its payments.[269]

In 2013, the U.S. had a merchandise trade deficit of $704 billion and a services trade surplus of $229 billion, resulting in a deficit of $475 billion, which when adjusted for other factors,[270] the current account deficit was $379 billion, which was about 2.2% of 2013 GDP. In that same year, U.S. consumers and corporations bought foreign assets worth $552 billion and foreigners bought $906 billion of U.S. assets, resulting in a U.S. financial account surplus of approximately $354 billion.[271] "In essence, for every dollar Americans handed over to foreigners in buying their goods (our imports), foreigners used eighty three [sic] cents to purchase U.S. goods (our exports), three cents (net) to pay us interest, and the remaining fourteen cents to purchase U.S. assets."[272] These assets include short-term financial assets such as stocks and bonds, direct investments through mergers and acquisitions, real assets in real property, and land.

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263 *Lesson 6: The Balance of Payments Always Balances*, *supra* note 260.
264 *Id.*
265 *Id.*
266 *Id.* As the next section demonstrates, foreign willingness to hold U.S. dollars for private investment as well as for official reserves is what keeps demand for the dollar high, with enormous benefits to the U.S.
267 *Id.*
268 *Id.*
269 Griswold, *supra* note 73.
270 The factors are not relevant for this Article.
271 IRWIN, *supra* note 75, at 157–58.
272 *Id.* at 158.

As long as foreign investors continue to demand U.S. assets, the U.S. current account deficit is sustainable. But even if foreign investors were to stop buying U.S. assets, the result can be a soft adjustment rather than a hard landing. That is, if foreign investors no longer desire U.S. assets, the dollar will depreciate because fewer foreigners will need to buy U.S. dollars to buy U.S. assets. Once the dollar depreciates, U.S. goods will be less expensive to foreigners. This will make U.S. exports more competitive and U.S. exports will increase. Imports will decrease and the trade deficit will be reduced.

Viewed in a slightly different light, a U.S. current account deficit means in essence that the U.S. is selling assets to foreigners,[273] whose purchases of U.S. assets allow the country to finance more investment than it could were it to rely on domestic savings alone.[274] "The necessary balance between the current account and the capital account [now called the 'financial account'] implies a direct connection between the trade balance on the one hand and the savings and investment balance on the other."[275] Foreign investment allows the U.S. to supplement its relatively low domestic savings to engage in more investment than it would have been able to if it had to rely on domestic savings alone. When restrictions on international capital movement were lifted in the early 1980s, foreign capital flooded into the U.S. For example, seeking higher rates of return, Japanese investors took part of their capital, resulting from a high national savings rate, from their domestic market and invested in assets in the U.S.[276] The current account deficit for the U.S. peaked at six percent of GDP in 2006, prompting then Federal Reserve Chairman Ben Bernanke to remark that there was a "global savings glut," caused by the accumulation of foreign exchange reserves by East Asian countries and the windfall to oil exporters from high oil prices.[277] This huge pool of foreign savings was used by foreigners to invest in the U.S., resulting in the large U.S. current account deficit.[278]

The controversial U.S. trade deficit with China can also be viewed in the framework described above. One reason for China's trade surplus is that dollars it receives from exporting goods to the U.S. are not used to buy U.S. goods—which would have rebalanced the current account and decreased the trade deficit—but rather, U.S. assets instead. China purchased approximately $215 billion in U.S. Treasury in 2013, swelling its foreign exchange reserves to $3.8 trillion at the end of 2014.[279] Because China's central bank sold the yuan and bought dollars, it pushed up the value of the dollar and pushed down the value of the yuan. The resulting devaluation of the yuan made Chinese exports less expensive to U.S. consumers, contributing to the U.S. trade deficit with China. Moreover, China pegged the value of its currency, the yuan, against the dollar at a low rate, leading to additional charges of currency manipulation and devaluation

[273] *Id*. at 158–59.

[274] If capital were not allowed to move freely between countries, "domestic savings must equal domestic investment, and therefore the current account will be balanced" in that way. *Id*. at 159.

[275] Griswold, *supra* note 73.

[276] IRWIN, *supra* note 75, at 160–61.

[277] Brad Setser, *Bernanke's Global Savings Glut*, COUNCIL ON FOREIGN RELATIONS (May 21, 2005), http://blogs.cfr.org/setser/2005/05/21/bernanke-s-global-savings-glut/ (last visited Mar. 26, 2017).

[278] IRWIN, *supra* note 75, at 160–61.

[279] *See generally* Cao, *supra* note 35.

to give its exports a competitive edge.[280] It is certainly true that devaluing the yuan could be viewed as an implicit subsidy for Chinese exports, making them less expensive to U.S. consumers but also reducing U.S. exports to China. Of course, another way to view this phenomenon is also to see it as "an implicit subsidy to the U.S. Treasury since it enables the government to borrow at a lower interest rate than it otherwise could."[281]

The balance of payments model is much more complex than simple exchange of money for finished products. "Contrary to the impressions we may receive from gloom-and-doom news reporting, balance of payments accounting simply offers us a number—a reporting of the aggregated record of trade flows."[282] A deficit or a surplus in the current account which measures trade in goods and services or the financial account which measures financial flows or claims on assets is provocative because different groups within a country experience this deficit or surplus differently. For example, a current account surplus—and a corresponding financial account deficit—is usually favored by those who are in the export sector. The U.S. exported more to a particular country than it imported and is "holding their IOUs in the form of money or claims on their financial assets."[283] A current account deficit—and corresponding financial account surplus—means the U.S. is buying more goods and services from other countries and so these other countries "are holding IOUs in the form of American currency and other financial claims on assets."[284] It is important to understand that their willingness to do so is a reflection of their trust in the strength of the U.S. economy and its political system.

If the U.S. blocked imports to reduce the trade deficit, "net capital inflows from abroad would necessarily have to fall"[285] as foreigners would have fewer dollars to buy U.S. assets or U.S. Treasury bills—because they could not export as much to the U.S. The dollar's value would depreciate since there is less demand for it. U.S. domestic investment would have to be financed by domestic savings. To encourage domestic savings, U.S. interest rates would have to be raised which could slow economic growth and have adverse consequences for business investment and employment.

The term "trade" is a broad term. Zooming in and breaking it down into more specific components, for example, imports versus exports, the trade deficit, current account versus financial account, trade in goods, and trade in services, vertical integration and global supply chains, one can see that these components *within* the trading system are all interrelated. The rhetoric against imports and the blame placed on foreign countries for U.S. job loss begins to lose its potency when an integrated perspective is adopted. In addition, the changing nature of trade from monolocation production to multilocation production and hence the increasing reliance on global supply chains means that traditional gross trade

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[280] Michael W. Klein, *What You May Not Know about China and Currency Manipulation*, BROOKINGS (May 22, 2015), http://www.brookings.edu/opinions/what-you-may-not-know-about-china-and-currency-manipulation/.

[281] IRWIN, *supra* note 75, at 162.

[282] *Lesson 6: The Balance of Payments Always Balances*, *supra* note 260.

[283] *Id*.

[284] *Id*.

[285] IRWIN, *supra* note 75, at 162.

statistics about imports and exports are anachronistic and increasingly unreliable. There is, in addition, a blurring of lines between "us" versus "them" when products are "made in everywhere" and companies import intermediate components from their foreign affiliates plugged into their global supply chains. Blocking imports will end up hurting U.S. companies as well as U.S. workers, both in the production of goods and the provision of services, as discussed above.

II. ZOOMING OUT: U.S. TRADE *AND* . . .

Part I zoomed into the subcomponents within trade. Part II aims to zoom out and look at trade and its relationship to other priority objectives of the U.S., such as protecting U.S. national security and ensuring the continued dominant status of the U.S. dollar. In Part II, this Article will demonstrate first that there is indeed a link between trade and national security and that despite this acknowledged linkage, by the U.S. itself and by scholars in the field, the U.S. has too often allowed itself to be mired by anti-trade rhetoric and the politics of trade to the detriment of national security issues. Second, Part II also claims that no country can have everything and can win in every arena, dominating every single economic sector from low-cost processing and assembly to downstream and upstream manufacturing and service as well as innovation and intellectual property. The U.S. has incredible privilege flowing from a trading system that reinforces dollar supremacy. To maintain this privilege, open trade is necessary.

A. *Trade and National Security*

In the post-September 11 era, "free trade, economic development, strengthening international law . . . [are] tools [that] have to be considered in the American portfolio of combating international terrorism."[286] It is said that the fight against terrorism has two sides, the demand side and the supply side. Whereas the supply side approach emphasizes security, the demand side emphasizes the underlying socio economic reasons behind this security threat. Free trade has an important role to play in this objective.

The political and economic conditions of many countries in the Middle East are dire, characterized by "'low growth, bad institutions of governance, and resistance to economic globalization.'"[287] Foreign direct investment and international trade have been directed elsewhere, resulting in economies that are dominated by government management and ownership and ill-equipped to provide employment.[288] Entrenched political elites operating in a system marked by corruption, clientelism and patronage oppose reform,[289] seeing efforts to

[286] Mohamed R. Hassanien, *International Law Fights Terrorism in the Muslim World: A Middle Eastern Perspective*, 36 DENV. J. INT'L L. & POL'Y 221, 221–22 (2008).

[287] *Id*. at 223.

[288] MARCUS NOLAND & HOWARD PACK, THE ARAB ECONOMIES IN A CHANGING WORLD 175–81 (2007).

[289] Marcus Noland, *Explaining Middle Eastern Authoritarianism* 5 (Peterson Institute for Int'l Econ., Working Paper No. 05-5, 2005), http://www.iie.com/publications/interstitial.cfm?ResearchID=523.

change top-down management, for example, as a threat to their rule and survival. The huge divergence between the interests and incentives of rulers versus those of potential entrepreneurs is deemed one of the greatest impediments to reform, and against that backdrop, economic liberalization should loosen the control of political and economic insiders and consequently have a democratizing effect.[290]

Economic development is more likely to occur when poor countries are plugged into rather than excluded from the international system:

> "[T]he increased involvement of the WTO, multinational corporations, international aid agencies, non governmental organizations, and foreign investors focusing on the development of non-oil industries through a process of market diversification and stabilization will improve the lives of those living in the Middle East," thus rooting out all the causes of terrorism.[291]

As Timur Kuran, a scholar on Islamic economies observed,

> The West in general and Europe in particular has made a major mistake over the past 15 years in sending signals that Islamic countries are not really part of their world. The West has to do more to encourage those people—really the majority in many countries—who want to integrate, not turn their backs.[292]

At the 2002 World Summit on Sustainable Development, the consensus was that states, multinational corporations, multilateral institutions, and civil society all have a role to play in facilitating aid, trade, and foreign direct investment, which were deemed the best avenues for ending poverty.[293] However, as former Secretary of State Colin Powell remarked, "[o]fficial development aid alone is not enough. Countries must also be able to attract the trade and investment that account for 80% of the money that is available for development."[294] A comprehensive multi-country World Bank study analyzing real and financial integration to poverty using indicators of trade and financial openness reveals that at low levels of globalization, poverty is not likely to be alleviated but that at a certain level of globalization and connectivity, the possibility for poverty reduction is markedly improved.[295] The study shows that "[t]he real problem is the 50-odd very poor countries, which generate only 0.4 percent of world exports.

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[290] Ian Ayres & Jonathan R. Macey, *Institutional and Evolutionary Failure and Economic Development in the Middle East*, 30 YALE J. INT'L L. 397, 411, 413 (2005).

[291] Hassanien, *supra* note 286, at 236.

[292] Joseph Kahn, *A Business Plan for Islam*, N.Y. TIMES (Dec. 30, 2001), http://www.nytimes.com/2001/12/30/weekinreview/30KAHN.html.

[293] Delissa A. Ridgway & Mariya A. Talib, *Globalization and Development-Free Trade, Foreign Aid, Investment and the Rule of Law*, 33 CAL. W. INT'L L. J. 325, 329 (2003).

[294] Colin Powell, Remarks at World Summit on Sustainable Development, in Johannesburg, South Africa (Sept. 2, 2001), *in* U.S. DEPT. OF STATE, Sept. 4, 2002, http://2001-2009.state.gov/secretary/former/powell/remarks/2002/13235.htm.

[295] *See generally* Pierre-Richard Agenor, *Does Globalization Hurt the Poor?* (World Bank, Working Paper No. 2922, 2002), http://elibrary.worldbank.org/doi/abs/10.1596/1813-9450-2922.

Their plight is due to too little globalization, not too much."[296]

In the case of investment, a 2002 study by the OECD found that despite potential drawbacks associated with foreign direct investment [FDI], the overall benefits are also clear: "FDI triggers technology spillovers, assists human capital formation, contributes to international trade integration, helps create a more competitive business environment and enhances enterprise development. All of these contribute to higher economic growth, which is the most potent tool for alleviating poverty in developing countries."[297] Because trade and investment also need a basic, reliable rule of law framework, "free trade and trade liberalization in general would be a catalyst for improving the deficient legal regulatory rules and systems in the Middle East and facilitate the legal integration of the WTO as well."[298]

Since September 11, trade and development have been elevated to a first-order national security issue. "[D]evelopment experts say that helping countries to manage their economies better is as important to challenging the terrorist vision as educational and political reform."[299] In 2002, the National Security Strategy of the U.S. emphasized the promotion of trade policies that "can help developing countries strengthen property rights, competition, the rule of law, investment, the spread of knowledge, open societies, the efficient allocation of resources, and regional integration—all leading to growth, opportunity, and confidence in developing countries." [300] And in 2006, President George W. Bush called for global, regional, and bilateral trade initiatives

> to open markets and integrate the global economy through launching the Doha Development Agenda negotiations of the WTO. The United States put forward bold and historic proposals to reform global agricultural trade, to eliminate farm export subsidies and reduce trade-distorting support programs, to eliminate all tariffs on consumer and industrial goods, and to open global services markets.[301]

Emphasis has been on negotiating free trade agreements with countries all over the world, particularly the Middle East, and this strategy has continued into the administration of President Barack Obama. For example, the National Security Strategy of the U.S. in 2015 continued to consist of reinforcing the basic international economic order, including the WTO's trading regime precisely because the U.S. sees it as being crucial to promoting economic stability and growth.[302]

Over and over, the mantra between trade and national security has been

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[296] *Id*. at 1.

[297] ORG. FOR ECON. COOPERATION & DEV., FOREIGN DIRECT INVESTMENT FOR DEVELOPMENT: MAXIMIZING BENEFITS, MINIMIZING COSTS (2002).

[298] Hassanien, *supra* note 286, at 236.

[299] Kahn, *supra* note 292.

[300] WHITE HOUSE, *supra* note 90, at 19.

[301] WHITE HOUSE, NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA 25 (Mar. 16, 2006), https://www.comw.org/qdr/fulltext/nss2006.pdf.

[302] White House, *supra* note 93, at 17.

repeated. Right after September 11, 2001, Robert Zoellick, then U.S. Trade Representative wrote that in the face of terrorist attacks, "U.S. leadership in promoting the international economic and trading system is vital. Trade is about more than economic efficiency. It promotes the values at the heart of this protracted struggle."[303] Zoellick correctly reminded the public that Congress had used free trade "as a cure for the protectionism of the Great Depression and then to help Harry Truman revise a devastated world,"[304] granting the President negotiating authority to enter into trade agreements to ensure open markets. Zoellick urged the U.S. to finalize its free trade agreement with Jordan,[305] the first such agreement with the Arab world and with Vietnam, a former enemy that was pivoting away from Marxism and towards a market economy.

Despite proclamations about the link between trade and national security, in reality, it has not always been easy to use trade to further national security objectives. Take the example of Pakistan after September 11, which functions below as a case study into how priorities of different branches of government often conflict. Even wartime exigencies could not pry loose the entrenched protectionist interests of the powerful textile and apparel industry. Battle lines were drawn, pitting

> two critical American policy interests on a collision course. On one side is the imperative to promote U.S. security by shoring up Pakistan and other allies in the Muslim world. On the other side is the perennial pressure to support domestic manufacturers of textiles and other products that seek desperately to preserve trade constraints on those very same countries.[306]

Despite Pakistan's crucial role in the fight against terror and then Pakistani President Musharraf's promise to help the U.S. locate Osama Bin Laden, President Bush's concerted efforts to reciprocate by helping Pakistan's exports to the U.S. were thwarted. After September 11, private U.S. companies retreated from the volatile country. Insurance companies increased their premiums for insuring shipments from Pakistan.[307] U.S. apparel manufacturers like Tommy Hilfiger, American Eagle, and Perry Ellis cut down on business with Pakistani firms.[308] Maintaining its textile and apparel industry employing sixty percent of the country's industrial workers was a priority for Pakistan because its exports

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[303] Robert B. Zoellick, *Countering Terror with Trade*, WASH. POST (Sept. 20, 2001), https://www.washingtonpost.com/archive/opinions/2001/09/20/countering-terror-with-trade/aa1e3f27-f069-4b66-b752-8d141876d0b7/; *but see* Alan Tonelson, *There's Only So Much That Foreign Trade Can Do*, WASH. POST (June 2, 2002), https://www.washingtonpost.com/archive/opinions/2002/06/02/theres-only-so-much-that-foreign-trade-can-do/de573a19-09d4-46b7-bf28-8c88306dcb83/.

[304] Zoellick, *supra* note 303.

[305] The U.S. did enter into a free trade agreement with Jordan—the first with an Arab nation. This historic event was viewed as a way for the U.S. "to help Islamic countries create material hope for their people." Kahn, *supra* note 292.

[306] Helene Cooper, *Pakistan's Textile Bind Presents U.S., Bush With a Difficult Choice*, WALL ST. J. (Oct. 29, 2001), http://www.wsj.com/articles/SB100432372562283680.

[307] *Id*.

[308] Franklin Foer, *The Textile Lobby vs the War on Terrorism*, NEW REPUBLIC (Mar. 3, 2002), https://newrepublic.com/article/63702/fabric-softener.

totaled $5.8 billion, with $1.9 billion to the United States alone.[309] Layoffs of tens of thousands of Pakistani textile workers "contribut[ed] to resentment of the United States among many young Pakistanis . . . while mullahs at radical local mosques . . . play[ed] on anger over job losses in their sermons."[310]

Alan Larson, the former U.S. Undersecretary of State for Economic, Business, and Agricultural Affairs, urged American importers to continue doing business with Pakistani suppliers.[311] Wendy Chamberlin, the U.S. ambassador to Pakistan, announced, in a twist to the conventional "Buy American" slogan, that "[t]he patriotic thing to do if you're American is to buy Pakistani products."[312] The statement prompted a scathing retort from a spokesman of Representative Howard Coble, Republican from North Carolina: "My boss said he'd like to have someone stick a sock in her mouth—an American-made sock at that."[313]

President Bush had the authority under the auspices of the Committee for the Implementation of Textile Agreements chaired by the Department of Commerce to modify textiles quotas.[314] But tariffs required Congressional action, and President Bush prodded Kansas Senator Sam Brownback to sponsor legislation granting the president authority to lower Pakistani tariffs. In the midst of the war in Afghanistan, it was widely assumed that Congress would not oppose the President's initiatives to help lift Pakistan. Indeed, under the first Bush Administration, the U.S. had increased textile quotas by fifty percent for Turkey "as a reward for its help in the 1991 Persian Gulf war."[315]

But the textile and apparel industry fought hard against the possibility of increased textile imports from Pakistan. Under pressure from textile manufacturers in their states, then Senator Jesse Helms from North Carolina and Senator Fritz Hollings from South Carolina warned President Bush that "[t]hese Americans [textile workers] must not be made pawns in efforts to build an international coalition."[316]

A fierce battle ensued. Developed countries had successfully exempted textile, apparel, and agriculture from the liberalization regime of the international trading system since the beginning of the General Agreement on Tariffs and Trade (GATT) in 1948, although WTO rules in 1995 had obligated that such

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[309] Susan Rosegrant, *Pakistani Textile Exports, Fast Track, and the US War on Terror: A Collision of Foreign and Trade Policy Goals*, KENNEDY SCH. OF GOV'T 3 (2006), http://faculty.fiu.edu/~revellk/pad3034/Textile.pdf. These figures do not reflect the industry's significance because "textiles create linkages for income generation all through the economy. Much of the cotton used in making Pakistani garments is grown here. If there is a shortfall anywhere in the chain it affects everyone's income." Robert Looney, *Problems in Using Trade to Counter Terrorism: The Case of Pakistan*, STRATEGIC INSIGHT 3 (Oct. 1, 2002), http://www.dtic.mil/dtic/tr/fulltext/u2/a524528.pdf.

[310] Keith Bradsher, *Pakistanis Fume as Clothing Sales to U.S. Stumble*, N.Y. TIMES (June 23, 2002), http://www.nytimes.com/2002/06/23/world/pakistanis-fume-as-clothing-sales-to-us-tumble.html?pagewanted=all.

[311] Cooper, *supra* note 306.

[312] Foer, *supra* note 308.

[313] Brian Faler, *Jobs in Pakistan or In North Carolina?*, PAKDEF.ORG (Jan. 4, 2002, 5:28 AM), http://www.pakdef.org/forum/topic/550-jobs-in-pakistan-or-in-north-carolina/ (last visited Mar. 26, 2017).

[314] Rosegrant, *supra* note 309, at 5. "And, while the Brownback bill took care of tariffs, the administration already had the authority to alter (or eliminate) quotas on its own—simply by having Commerce Secretary Don Evans file an announcement in the Federal Register." Foer, *supra* note 308.

[315] Bradsher, *supra* note 310.

[316] Foer, *supra* note 308.

those exclusions be phased out.[317] The U.S. saw U.S. reduction of tariffs and expansion of quotas as a needed boost for President Musharraf who was himself under attack by conservative and Islamist domestic critics for his support of the U.S.[318] It was widely acknowledged that

> if President Bush wants to reach out to U.S. Muslim allies, there are few better things he can do than allow them greater access to the U.S. textile market. Exporting textiles has long been a critical first step that poorer nations can take on the road to becoming full participants in the world economy.[319]

In addition, the Bush administration "hoped trade concessions would help bolster the image of the U.S. in Pakistan—and in the Muslim world generally—by demonstrating America's desire to *directly* aid the workers of an Islamic country."[320] As the State Department's Alan Larson stated, "As much as people in Pakistan clamored for and benefited from debt reduction and from increased aid, those are all things that are channeled through government, whereas trade benefits are more immediately felt by people."[321]

The Pakistani government also hired lobbyists to promote its case. In 2002, pressure on the U.S. increased when the EU announced it would allow Pakistani textile and apparel products to enter its market duty-free.[322] The Bush Administration drafted a proposal that would have granted President Bush authority, renewable until 2004, to reduce or eliminate tariffs on textile or apparel imports from Pakistan if the President determined that Pakistan's aid was critical and that as a result, Pakistan was suffering "substantial economic harm."[323]

In the end, Congressional opposition, not just to trade concessions for Pakistan but also to fast track,[324] made the Administration scale back its efforts; even then, fast track passed the House by a mere 215-214 vote.[325] Although President Musharraf asked for a trade concession package worth $1.4 billion, what Pakistan got was a package worth $476 million over three years with no tariff reduction and some quota concessions in areas that were almost never filled by Pakistan,[326] such as woven blouses for women and girls, a category with only eighteen percent of its 2001 quota used.[327]

Countries such as Pakistan, Egypt, Indonesia, India, and Morocco have all pressed the U.S. to end subsidies for farmers and cut tariffs on agricultural and apparel imports. All issued a joint statement in 2002 expressing their deep

[317] *Understanding the WTO: The Agreements*, WORLD TRADE ORG. (2017), http://www.wto.org/english/thewto_e/tif_e/agrm5_e.htm (last visited Mar. 5, 2017).
[318] Rosegrant, *supra* note 309, at 4.
[319] Cooper, *supra* note 306.
[320] Rosegrant, *supra* note 309, at 5 (emphasis added).
[321] *Id*.
[322] *Id*. at 12.
[323] *Id*.
[324] Fast track authority is authority granted by Congress to the President to negotiate international agreements that Congress can vote up or down but cannot amend or filibuster. *See* The Trade Act of 2002, 19 U.S.C. §§ 3803–3805 (2002).
[325] Rosegrant, *supra* note 309, at 16.
[326] *Id*. at 18–19.
[327] Looney, *supra* note 309, at 4.

disappointment with how the U.S. has addressed their concerns thus far.[328] U.S. inability to loosen its protectionist stance on textiles and apparel was evident even during the Doha Rounds of trade talk in December 2001, when it steadfastly resisted "efforts by India and others to make textiles the litmus test of the rich countries' promise to launch a 'development round' of world trade talks that would bring more benefits of globalization to poorer countries."[329] Textiles has been at the center of the development debate "[s]ince Great Britain embarked on its industrial revolution . . . [because] this sector has been a crucial steppingstone for countries seeking to enter the modern industrialized age."[330] Yet it is precisely in this and other sectors in which poor countries have a comparative advantage and "would have the best chance to work their way out of poverty"[331] that developed countries have enacted the highest trade barriers. Pride and prejudice again have tainted the trade debate in which rich countries continue to hector and berate poor ones for their audacity to leverage their only comparative advantage to trade with richer countries.

Critics of the domestic textile and apparel industry have pointedly noted that even as all textile quotas would have had to be phased out by 2005 under WTO rules,[332] the industry nonetheless managed to "squash proposals to grant trade benefits to Turkey, Uzbekistan, and Tajikistan—all key allies in the war on terrorism. In other words, the protectionist lobby of a dying industry has quietly become arguably the most effective domestic opponent of American foreign policy."[333]

The relationship between trade and national security is widely touted, but zooming out and seeing this picture on an abstract level is one thing, while implementing trade measures to ensure the national security interests of the U.S. by advancing the economic development of key allies is another. In 2002, faced with midterm Congressional elections and the possibility of losing Pennsylvania, a steel-manufacturing state, President Bush decided to impose steep tariffs on steel imports despite almost uniform international condemnation. Thus, "[t]he president has decided that domestic political considerations take priority, even at a time when America continues to need international support in the war against terrorism,"[334] especially from steel-producing countries such as Kazakhstan, a U.S. ally bordering Afghanistan.[335]

Although national security interests and the war against terrorism have undoubtedly shown that U.S. "security depends on ensuring that other countries have a stake in the international system—which can only be done if the wealthy nations lower their trade barriers."[336] It is also true that in the end,

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[328] Cooper, *supra* note 306.
[329] Lael Brainard, *Textiles and Terrorism*, N.Y. TIMES (Dec. 27, 2001), http://www.nytimes.com/2001/12/27/opinion/27BRAI.html.
[330] *Id*.
[331] *Id*.
[332] Bradsher, *supra* note 310.
[333] Foer, *supra* note 308.
[334] *Anger Over Steel*, THE ECONOMIST, March 11, 2002, http://www.economist.com/node/1032895.
[335] Cooper, *supra* note 306.
[336] Brainard, *supra* note 329.

> [t]rade policy presents hard tradeoffs between, on one hand, the losses faced by those whose jobs and companies are vulnerable to international competition and, on the other hand, the greater but more diffuse national interest in a more competitive and productive economy—and in promoting a more peaceful, prosperous and equitable world.[337]

B. *Trade and the U.S. Dollar*

Without doubt, the U.S. has a unique advantage because the dollar is the reserve currency of the world. This privileged position of the dollar is not intrinsic. It is a reflection of American economic and political hegemony. This privilege solidified after World War II when the U.S. was the undisputed superpower that was not only the largest importer but also the primary source of trade credit and the leading source of foreign capital; thus imports and exports were invoiced in dollars.[338] When central banks around the world needed to stabilize their currencies against the dollar, banks held dollars in reserve.[339]

As this section demonstrates, the dollar will continue to be the international reserve currency only if the U.S. is willing to maintain an open international economic system. Other countries can hold and accumulate dollars only if they can export freely in order to attain dollars. Restrictions on their exports will only erode the dollar's reserve status.

A foreign reserve currency is currency held by central banks and other major financial institutions as a way to pay off international debt obligations and as a means to influence their domestic exchange rate.[340] The U.S. has engineered through its political, economic and military power, the dollar's supremacy because this unique status has given it great advantages.

What does it mean for a currency to be the national currency of one country but also the reserve currency of the world? Even international trade between or among countries that have no contact with the U.S. is likely to be denominated in dollars. For example, if Thailand buys Indian goods, it is more likely than not that the payment will be in dollars and not in Thai baht. With dollars, India could buy gold, oil, and other essential commodities on foreign markets. Such commodities are all traded in dollars and as a result, all balance of payment differences are settled in dollars.[341] But to pay India in dollars, Thailand would somehow have to acquire dollars in order to trade with India—usually by exporting. The U.S., on the other hand, can buy anything from India and pay for it with dollars which it can print any time. "[O]ther countries around the world cannot simply create money to settle their current account deficits. This is a privilege that accrues to [the] United States because of the dollar's status as the

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[337] *Id.*

[338] EICHENGREEN, *supra* note 98, at 2.

[339] *Id.*

[340] *Reserve Currency*, INVESTOPEDIA (2017), http://www.investopedia.com/terms/r/reservecurrency.asp (last visited Mar. 26, 2017).

[341] *See* Management Study Guide, Exorbitant Privilege: US Dollar, https://www.managementstudyguide.com/exorbitant-privilege-us-dollar.htm.

reserve currency."[342]

Once the dollar is the world's reserve currency, every country needs dollars, which in turn reinforces demand for the dollar. The dollar "has replaced gold as being the standard mechanism of exchange between currencies."[343] Indeed, eighty-five percent of all foreign exchange transactions are invoiced in dollars while half of international debt securities are also accounted for in dollars.[344] The world's central banks also hold close to $5 trillion of the bonds of the U.S. treasury and other quasi-governmental agencies such as Fannie Mae and Freddie Mac,[345] and because they continue to desire these dollar securities, they are willing to pay more to hold them. Investors also like to invest their dollars in a safe dollar-denominated asset—the U.S. Treasury bond.

Because demand for U.S. Treasury bond is high, the yields on those bonds are low, which in turn means the U.S. government can borrow money much cheaper from the world than it would be able to if the dollar were not a high-demand reserve currency. Approximately $500 billion of American currency circulates outside the U.S., which foreigners acquired, not because their governments printed the dollars, but because they had had to provide the U.S. with $500 billion of actual goods and services.[346] "The American government has taken full advantage of the hegemony as they currently borrow to the tune of more than $2 billion daily."[347]

As this section demonstrates, the U.S. is well aware of the privilege of dollar dominance and has worked to ensure its continued use as top dog currency. After World War II, the U.S. established an international monetary system that inaugurated the dollar's supremacy. Bretton Woods returned to the gold anchor that preceded World War I but with a unique twist. The system was anchored to gold *through* the dollar at a fixed price of thirty-five dollars an ounce. Other currencies would fix their exchange rates to the dollar,[348] which would be convertible to gold. Thus, "[f]or foreign central banks and governments the dollar was as good as gold, since the United States stood ready to sell gold at a fixed price of $35 an ounce."[349] Although central banks could still accumulate gold, the gold supply was limited, which made a currency such as the dollar more appealing; moreover, the two main producers of gold were despised regimes—the Soviet Union and South Africa—and so accumulating gold would mean benefiting them.[350]

After World War II, war-ravaged Europe and Japan needed to import food and materials for reconstruction. Armaments factories had to be converted for peacetime production. It was in the interest of the U.S. for Europe and Japan to export to earn dollars. But before either country could export, capital equipment and other inputs had to be purchased to produce goods to export. Given the post-

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[342] *Id.*
[343] *Id.*
[344] EICHENGREEN, *supra* note 98, at 2.
[345] *Id.* at 4.
[346] *Id.*
[347] Management Study Guide, *supra* note 341.
[348] KWASI KWARTENG, WAR AND GOLD 140, 143 (2014).
[349] EICHENGREEN, *supra* note 98, at 39.
[350] *Id.*

war dollar shortage, the Marshall Plan for Europe and the Dodge Plan for Japan provided both with dollars so they could finance the purchases needed to jumpstart exports. "In this sense the Marshall and Dodge Plans saved the Bretton Woods System and, by implication, the international role of the dollar."[351]

The dominance of the dollar meant great economic advantages for the country and the American people. For example, U.S. consumers and investors could buy foreign goods and acquire foreign companies by using dollars that would be freely accepted. At the same time, the U.S. government did not have to worry that the dollars accumulated by foreigners would be redeemed for gold, because foreigners were willing to accept and keep dollars—as dollars were presumably as good as gold. "This ability to purchase foreign goods and companies using resources conjured out of thin air was the exorbitant privilege of which French Finance Minister Valery Giscard d'Estaing so vociferously complained."[352]

From 1946 to 1971, the system worked well. Whenever there were disruptions in the system, the U.S. issued statements assuring the world of the stability of the dollar-anchored system. President Johnson declared, "[t]he nations of the free world are united in their determination to keep the international monetary system strong . . . ."[353] Furthermore, "[he] reaffirm[ed] unequivocally the commitment of the USA to buy and sell *gold* at the existing price of $35 an ounce."[354]

Pressure on the dollar began to build, however. For example, when Germany and Japan, the two defeated World War II powers, denied military ambitions after the war, focused on growing their economies instead, it was not long before they became economic powerhouses and were able to accumulate—again, by exporting—all the dollars they needed. If there are more foreign-held dollars than U.S. gold holdings, the threat to the system could be serious if foreign holders all demanded dollar to gold redemption. French President Charles De Gaulle resented U.S. privileges "given the decline in the United States economic prowess and the rising price of gold at that time."[355] France, followed by Spain, converted much of their dollar reserves into gold.[356] But the U.S. found help in Germany. With its persistent trade surpluses and large dollar holdings, it was important that Germany not exercise its right to convert dollars into gold. Germany sought to preserve the security alliance with the U.S. In fact, in a secret agreement, the President of the Deutsche Bundesbank assured the chairman of the Board of Governors of the Federal Reserve that Germany would not exchange dollars for gold.[357]

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[351] *Id*. at 48–49.

[352] *Id*. at 40.

[353] *See* Lyndon B. Johnson, Statement by the President on Devaluation of the British Pound (Nov. 18, 1967), *in* PUBLIC PAPERS OF THE PRESIDENTS OF THE U.S.: LYNDON B JOHNSON, JULY 1, 1967 TO DEC. 31, 1967 at 1057 (1968).

[354] *Id*. (emphasis added).

[355] Management Study Guide, *supra* note 341.

[356] JAMES RICKARDS, CURRENCY WARS 82 (2012).

[357] *Id*. at 83; *see also From Our Archive: The Blessing Letter*, DEUTSCHE BUNDESBANK, https://www.bundesbank.de/Redaktion/EN/Standardartikel/Topics/2013_01_18_blessing_letter.html (last visited Mar. 26, 2017) (Dr. Karl Blessing of the Deutsche Bundesbank emphasized that the German promise represented "German contribution to international monetary cooperation and is intended to avoid

Concern about the U.S., however, grew as the Vietnam War and President Johnson's antipoverty Great Society program became increasingly costly. Although the U.S. "had built up a reservoir of economic strength at home and political goodwill abroad . . . [,] that reservoir now slowly began to be drained."[358] Overseas dollar holders made relentless claims on the dollar and by March 1968, at $35 per ounce, gold was now valued too low. The problem was "an excess of paper money in relation to gold [and] [t]his excess money was reflected in rising inflation in the United States, the United Kingdom and France." [359] In 1971, President Richard Nixon declared that the U.S. would no longer convert dollars held by foreign central banks to gold or any other reserve assets and that it would no longer intervene in the market to maintain the par value of the dollar against gold.[360]

Despite the collapse of gold convertibility, dollar dominance was nonetheless maintained[361] because the U.S. was able to modify the system to prevent the dollar from becoming "simply paper money" or fiat currency.[362] As Representative Ron Paul put it,

> a new system was devised which allowed the U.S. to operate the printing presses for the world reserve currency, with no restraints placed on it, not even a presence of gold convertibility, none whatsoever. . . . U.S. authorities struck an agreement with OPEC [Organization of the Petroleum Exporting Countries] to price oil in U.S. dollars exclusively for all worldwide transactions. This gave the dollar a special place among world currencies, in essence backed the dollar with oil. In return, the U.S. promised to protect the various oil-rich kingdoms in the Persian Gulf against threat or invasion or domestic coup.[363]

Because of this deal, the dollar became the dominant currency in which energy transactions would be denominated,[364] boosting its status as a reserve currency as governments all over needed to hold dollars in order to buy oil. In this way,

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any disrupting effects on the international foreign exchange and gold markets.").

[358] RICKARDS, *supra* note 356, at 79.

[359] *Id*. at 85.

[360] *Id*. at 86. The ability of other holders of dollars to ask for conversion of dollar to gold ended many years before.

[361] Patrick Barron, *How Much Longer Will the Dollar Be the World's Reserve Currency?*, HEARTLAND NEWS (Oct. 14, 2013), http://news.heartland.org/newspaper-article/2013/10/14/how-much-longer-will-dollar-be-worlds-reserve-currency.

[362] Brian Domitrovic, *August 15, 1971: A Date Which Has Lived In Infamy*, FORBES (Aug. 14, 2011), http://www.forbes.com/sites/briandomitrovic/2011/08/14/august-15-1971-a-date-which-has-lived-in-infamy/; *see_also Fiat Money*, INVESTOPEDIA (2017), http://www.investopedia.com/terms/f/fiatmoney.asp (last visited Mar. 26, 2017) ("Currency that a government has declared to be legal tender, but is not backed by a physical commodity.").

[363] *The End of Dollar Hegemony: Hearing Before the US House of Representatives*, 109th Cong. (2006) (statement of Ron Paul, Rep. of Texas), https://www.gpo.gov/fdsys/pkg/CREC-2006-02-15/pdf/CREC-2006-02-15-pt1-PgH318-2.pdf.

[364] Alastair Crooke, *Non-Dollar Trading Is Killing the Petrodollar—And the Foundation of U.S.-Saudi Policy in the Middle East*, HUFFINGTON POST (Feb. 1, 2015), http://www.huffingtonpost.com/alastair-crooke/petrodollar-us-saudi-policy_b_6245914.html.

> [a]s emerging markets grow, they naturally accumulate foreign reserves as a form of self-insurance. Central banks need the funds to intervene in the foreign exchange market so that they can prevent shocks to trade . . . . This capacity becomes more important as previously closed economies open up and when international markets are volatile . . . . It is only logical, in other words, for emerging markets to accumulate reserves.[365]

And—this is key to the point made in this section of the Article—"to acquire dollar reserves, countries must run current account surpluses with the United States."[366]

Dollar supremacy is not guaranteed. Critics have complained that the U.S. "has not been a worthy steward of an international currency . . . "[367] because of its heavy debt and chronic budget deficits. Russia and China are also interested in challenging the dollar's supremacy, proposing "the introduction of a new international reserve currency that is to be created to replace the dominant U.S. dollar . . . ."[368] Both countries have entered into agreements to use their national currencies and bypass the dollar when engaged in bilateral trade.[369] Even as the U.S. complained that China was manipulating its currency by devaluing it to make its exports cheaper, China too has had its own complaints. In 2009, without mentioning the dollar, the Governor of the People's Bank of China called for the establishment of a new international reserve currency: "The desirable goal of reforming the international monetary system, therefore, is to create an international reserve currency that is disconnected from individual nations and is able to remain stable in the long run . . . ."[370]

Given all the privileges that come from being able to print the world's reserve currency, it is also important to understand the implications of this where trade is concerned. If the dollar were to lose its status as the international reserve, the U.S. would lose the ability to do business in other countries in its own currency, the ability to borrow more cheaply than others countries, and the insurance policy that comes with the dollar's safe-haven status.[371] For the U.S. to keep its dollar privileges, it also needs to keep the international economic system open for trade. But there is a built-in tension. Identified by the noted Belgian economist Robert Triffin, the Triffin Dilemma stated that if the U.S. did not run trade deficits, that is, if it was not willing to supply the trading system with an unlimited supply of

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365 Barry Eichengreen, *The Dollar Dilemma*, FOREIGN AFFAIRS (Sept./Oct. 2009), http://www.wright.edu/~tdung/dollar_dilemma.htm.

366 *Id*.

367 EICHENGREEN, *supra* note 98, at 6.

368 Liu Chang, Commentary, *U.S. Fiscal Failure Warrants a De-Americanized World*, XINHUA NEWS AGENCY (Oct. 10, 2013), http://news.xinhuanet.com/english/indepth/2013-10/13/c_132794246.htm.

369 At bilateral economic forum Prime Minister Putin said, "We should consider improving the payment system for bilateral trade, including by gradually adopting a broader use of national currencies." *PM Putin Suggests Russia, China Ditch Dollar in Trade Deals*, SPUTNIK (Oct. 28, 2008), http://en.ria.ru/russia/20081028/117991229.html (last visited Mar. 26, 2017).

370 *China Eyes SDR as Global Currency*, BEIJING REV. (Mar. 23, 2009), http://www.chinadaily.com.cn/business/2009-03/23/content_7607627.html.

371 Tracy Connor, *Passing the Buck: What Would Happen If Greenbacks Weren't Top Dollar?*, NBC NEWS (Oct. 20, 2013), http://www.nbcnews.com/news/other/passing-buck-what-would-happen-if-greenbacks-werent-top-dollar-f8C11425181.

dollars—for countries that received dollars when they exported—trade would contract, growth would be stunted, and the contraction would damage the international economic system.[372] On the other hand, if the U.S. continued to run trade deficits and hence provide an unlimited supply of dollars to the rest of the world, confidence in the U.S. ability to convert dollars to gold would diminish.[373] The point of this Article is not that the trade deficit is never a cause for concern. It is rather that discussion of trade must be based on facts and must be situated in a broader context, that is, in the wider international system that has maintained dollar supremacy and international peace and prosperity since World War II.

Indeed, eliminating the trade deficit, as some have noted, "could mean giving up some of the key levers of power that allow the United States to get its way in international politics. Getting rid of the trade deficit could very well make America less great."[374]

CONCLUSION

There are legitimate disagreements on trade policy, whether a particular measure is right or wrong, wealth-enhancing or wealth-reducing. But the debate about trade has become increasingly strident, propelled by an entrenched view of "us" versus "them" that is itself fueled by nationalistic and nativist rhetoric at odds with the international economic order established since World War II. Today, trade has become the battlefield on which "economic nationalism, nativism, and identity politics"[375] are being played out. This Article has argued that policy differences aside, the gestalt of trade is one of openness. The trade debate has been most heated in the area of job loss—how "we" have lost jobs to "them." I have shown that job loss due to technology and automation has scarcely entered the national consciousness and has scarcely garnered condemnation, much less outrage. Trade with others, especially the non-white others outside the U.S. nationhood, has become the target of fear and anxieties instead.

This Article does not claim that criticism of trade or of globalization generally is wrong or off-limits. Indeed there is a wealth of scholarship that addresses the benefits as well as problems of international trade. But the trade debate must be grounded on clear-eyed facts, not pride and prejudice. By focusing trade inward or zooming in, this Article shows that trade has been transformed by global supply chains. Boundaries are thus blurred. Production is

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[372] Robert Hockett, *Bretton Woods 1.0: A Constructive Retrieval for Sustainable Finance*, 16 N.Y.U. J. LEGIS. & PUB. POL'Y 401, 464–65 (2013).

[373] EICHENGREEN, *supra* note 98, at 50.

[374] Neil Irwin, *The Trade Deficit Isn't a Scorecard, and Cutting It Won't Make America Trade Again,* N.Y. TIMES (Mar. 27, 2016), https://www.nytimes.com/2016/03/28/upshot/the-trade-deficit-isnt-a-scorecard-and-cutting-it-wont-make-america-great-again.html.

[375] Konrad Yakabuski, *A Dangerous Moment in History: Can the Political Centre Hold?*, THE GLOBE AND MAIL METRO (June 16, 2016), http://www.theglobeandmail.com/opinion/can-the-political-centre-hold/article30474884/.

characterized by multilocation and products are "made in the world," rarely in one country. But trade statistics are still anachronistically founded on an old-world view of monolocation at odds with facts on the ground. When imports and exports figures are distorted because they exclude a value-added perspective that would accurately reveal the many "contacts" a product has with the countries embedded in the global supply chain, political debate about trade and trade deficits is misshapen. Exaggerating these figures to show that the U.S. is "losing," and being "ripped off" by other countries allows opportunistic critics to further fuel their agenda of economic nationalism. The U.S. continues to dominate the upstream segments of global production, in both upstream manufacturing and in the service component of trade. U.S. imports contain many components the U.S. had itself exported. Manufacturing and services are becoming more intertwined and less blurred. Protectionism in manufacturing will harm the export sector and growing services sector of the U.S. economy.

Boundaries are blurred in other ways as well. Imports and exports are not wholly separate and distinct components of trade but are two sides of the same coin. In this vein, it is also important to understand that the trade deficit should be viewed in a broader context and linked with investment. Take the trade deficit with China as an example. If China acquired $366 billion of goods from the U.S. and the U.S. acquired $482 billion of goods made in China, there is a $366 billion trade deficit with China—although some economists have argued that from a different perspective, "China 'lost' a net amount of $366 billion of goods that ended up being consumed and enjoyed by Americans."[376] Regardless, the main point is that the China paid for those goods with U.S. dollars. China took in "a net amount of $366 billion worth of U.S. currency, the exact amount of the trade deficit."[377] As this Article has demonstrated, this dollar amount returned to the U.S. and the capital inflow is used to purchase U.S. assets like stocks and bonds, real estate, U.S. Treasury securities and also as direct investment in the U.S. economy.

Boundaries are indeed blurred. Merchandise and financial assets are linked. The trade deficit is offset by a corresponding financial surplus and foreign investment surplus. Thus there is no net loss. Indeed,

> to constantly lament America's trade deficit is to lament the fact that foreigners are eagerly investing hundreds of billions of dollars in America every year. We shouldn't think of trade deficits as losing to countries such as China, but rather as "inflows of foreign investment capital that strengthen America's economy."[378]

Of course, economic nationalists have lamented about foreign "takeovers" when foreigners, particularly non-Europeans, buy up American assets,[379] showing the

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[376] Perry, *supra* note 41.
[377] *Id.*
[378] *Id.*
[379] Jonathan Soble & Keith Bradsher, *Donald Trump Laces into Japan with a Trade Tirade From the '80s*, N.Y. TIMES (Mar. 7, 2016), http://www.nytimes.com/2016/03/08/business/international/unease-after-

face of nativism, not economic rationalism.

Boundaries are blurred when one takes trade and zoom out as well, into two related areas—national security and finances. Trade has been viewed as an integral part of promoting peace among nations since the post-World War II era. Indeed, the Nobel Peace Prize in 2012 went to the EU, prompting some to joke that the "Nobel committee congratulates Germany on over 70 years without invading France."[380] But it is no joking matter that in fact, Germany has not invaded France in seventy years or that the reduction of trade barriers within EU countries has made poorer countries within the continent richer, and "that stopped war."[381] The beginnings of the EU emerged from the establishment of the European Coal and Steel Community following "a hard-headed proposal by Robert Schuman, the then French foreign minister, to ensure that war could never be fought again by France and Germany by pooling the two resources vital to wage war—coal and steel."[382] Schuman's famous declaration noted: "This merging of our interests in coal and steel production and our joint action will make it plain that any war between France and Germany becomes not only unthinkable but materially impossible."[383] Thus, the idea that trade, connectivity, and openness is conducive to peace is not new. But in the U.S. after September 11, this connection was elevated to a first-order national security level.

The boundary between trade and the supremacy of the dollar is also blurred. The status of the dollar as an international reserve currency is dependent on an international economic system that removes barriers, facilitates trade, and allows foreigners who cannot print dollars to accumulate dollars, which in turn cements dollar supremacy. In fact, from a nationalist standpoint, free trade and dollar supremacy have been great for the U.S. It is, at the very least, ironic that trade is under attack in the U.S. on nationalist grounds.

Although it is wholly understandable that people in certain industries and sectors who have lost because of trade will be anxious, the solution is not to demonize trade. It is, rather, to pursue policies that will harness the best elements of globalization and moderate its worst ones via increased social safety nets, outright cash payments, or trade adjustment assistance or job retraining.

As Oscar Wilde once said, "patriotism is the vice of nations."[384] Workers, even those outside one's nation—even those from poor, non-European countries—should be allowed to trade openly and freely with others—this is in fact, the basis of international trade if it were untainted by populist zeitgeist of racialized identity politics and economic nationalism.

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trump-depicts-tokyo-as-an-economic-rival.html?_r=0.; *see also* Michael Schuman, *Will Asia "Buy Up" America*, TIME (Aug. 30, 2011), http://business.time.com/2011/08/30/will-asia-buy-up-america/.

[380] Dylan Matthews, *Five Reasons Why the E.U. Deserved the Nobel Peace Prize*, WASH. POST (Oct. 12, 2012), https://www.washingtonpost.com/news/wonk/wp/2012/10/12/five-reasons-why-the-e-u-deserved-the-nobel-peace-prize/.

[381] *Id*.

[382] Nicholas Watt, *Nobel Peace Prize Led EU to Question Its Raison D'Etre*, THE GUARDIAN (Oct. 12, 2012), https://www.theguardian.com/world/2012/oct/12/nobel-peace-prize-eu-question-existence.

[383] *Id*.

[384] Oscar Wilde, Phrases and Philosophies for the Use of the Young, 1 THE CHAMELEON 1 (1894).