

# GLOBAL GOVERNANCE: OVERCOMING FRAGMENTATION

**Teacher: Olivier De Schutter**  
**Academic Year 2017/2018: Spring semester**

## BIOGRAPHICAL INFORMATION

Mr. De Schutter is Professor of Law at the University of Louvain (UCL) and a member of the Global Law School Faculty at New York University. He has been teaching European Union law, international and european human rights law and legal theory at Paris I-Panthéon-Sorbonne, at Columbia University (2008-2013), and at UC Berkeley (2013-2014). He was appointed the United Nations Special Rapporteur on the Right to Food by the Human Rights Council in 2008, and reappointed for a second term in 2011. An expert on social and economic rights and on economic globalization and human rights, served between 2004 and 2008 as a Secretary General of the International Federation for Human Rights (FIDH). He currently serves as a member of the Scientific Committee of the Fundamental Rights Agency of the European Union (2013-2018), and he has been elected a Member of the United Nations Committee on Economic, Social and Cultural Rights (2015-2018). He has published widely on governance and on economic globalization and economic, social and cultural rights.

## OUTLINE

### Introduction: the background

#### **Unit 1. Introduction: A Brief History of the Relationship between Global Governance and Development**

This session will explore the model of governance considered when the United Nations were established, as illustrated by the attempt to set up the International Trade Organisation through the Charter of La Havana of 1948. It will then discuss the post Bretton Woods consensus, "embedded liberalism" and developmentalism. It will recall the various challenges to orthodox thinking on these matters, whether from the "structuralist" school (R. Prebisch), the "dependency" theorists (S. Amin, F. E. Cardoso), or more recently development economists questioning the impacts of globalization on the international division of labor (H.-J. Chang, E. Reinert).

## Global Supply Chains

### **Unit 2. Controlling Transnational Corporations. 1. Voluntary initiatives and the role of socially responsible investment**

Recent years have witnessed a significant flourishing of voluntary initiatives and non-binding frameworks to ensure that transnational corporations (TNCs) comply with certain generally agreed standards of conduct, largely modeled on the International Bill of Rights. Some of these initiatives are taken by individual companies, in the form of codes of conduct they adopt unilaterally, international framework agreements concluded with global unions, or multistakeholder initiatives (many of which are organized at sectoral level). Other initiatives have been developed by the OECD (Guidelines on Multinational Enterprises, initially adopted in 1976, most recently amended in 2011 to include a human rights chapter), by the ILO (Tripartite Declaration of Principles on Multinational Enterprises and Social Policy, adopted in 1977), by the UN Secretariat (Global Compact, 2000, amended since) or by the UN Human Rights Council (Guiding Principles on Business and Human Rights). The result is a proliferation of tools, which to a large extent overlap, although the enforcement mechanisms are highly variable and generally rather weak.

In the role-playing game, we shall imagine a debate within the Council of Ethics of the Norwegian Government Pension Fund Global, which is asked to strengthen the assessment of the companies in which it invests. If the Fund is to make ethical choices, on which criteria should they be based? Which commitments can be expected from companies? Should companies be penalized because they operate in low governance countries, and would excluding them on that basis not make it more difficult for FDI to support development efforts of the low-countries for which it matters most? Should companies monitor their suppliers and business partners? Should they enter into international framework agreements to ensure that labour rights are complied with throughout their operations? Although there is a consensus that the UN Guiding Principles on Business and Human Rights provide a departure point, how to use these Principles in making "socially responsible" investment choices appears disputed.

#### **Readings**

- For a general overview, O. De Schutter, 'The Challenge of Imposing Human Rights Norms on Corporate Actors', in O. De Schutter (ed.), *Transnational Corporations and Human Rights*, Hart Publ., Oxford and Portland-Oregon, 2006, pp. 1-40
- Guiding Principles on Business and Human Rights, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business entities, John Ruggie, UN doc. A/HRC/17/31
- John G. Ruggie, 'global\_governance.net: The Global Compact as Learning Network', *Global Governance* 7(2001), 371-378
- Greetje Schouten and Otto Hospes, *Changing interpretations of sovereignty: interactions between public and transnational private regulation in the field of sustainable palm oil* (July 2016)

**Role-playing game: the Council of Ethics of the Norwegian Government Pension Fund Global**

- 1 : Member 1 of the Council of Ethics defends the view that the Fund should not invest in companies which invest in countries that commit flagrant and systematic human rights violations, unless they are involved in projects that have received support from the World Bank and thus comply with the Environmental and Social Framework adopted on 4 August 2016 by the World Bank (see in particular para. 28)
- 2 : Member 2 considers that the due diligence obligation imposed on companies as part of their responsibility to respect human rights (pillar II of the Framework of the UN Guiding Principles on Business and Human Rights) requires that companies set up a system to monitor compliance with workers' rights throughout the supply chain and within their subsidiaries. Member 2 considers that this necessarily requires that the company conclude an international framework agreement with a global union, to secure the exercise of union rights throughout the supply chain, and to ensure any violation of fundamental labour rights shall be immediately brought to the attention of the headquarters so that they may react.
- 3 : Member 3 disagrees with Member 1: discouraging investment in whole countries is problematic and shall not favor positive change. Rather, the Fund should invest in any company that commits to improve compliance with certain environmental and social requirements in its supply chain, wherever it operates. Such a commitment shall only be credible, however, if supported by other stakeholders, such as a global union (as noted by Member 2) or NGOs (as in multistakeholder arrangements).
- 4 : Member 4 notes that the setting of high standards may disadvantage companies from developing countries, who don't have a strong social responsibility culture yet. What matters is that they make progress and show a willingness to dialogue. Hence, Member 4 would allow the Fund to invest in any company which joins the Global Compact and it not listed as "non-reporting" or removed from the list of participating companies.
- 5 : Member 5 agrees with Member 4 but believes the Global Compact remains incomplete ; commitments linked to poverty reduction and to combating tax evasion should be added requirements (see for instance on proposals to expand the Global Compact here )
- 6 : Member 6 considers that the suggestions made by the other Members are not practical, since they require the Fund to make a difficult assessment as to what mechanisms are truly effective. Rather, Member 5 would opt for a procedural criterion: any company that commits to cooperate with the National Contact Point established under the OECD Guidelines on Multinational Enterprises should be eligible to the Fund.

**Unit 3: Controlling Transnational Corporations. 2. Towards a New Treaty on Business and Human Rights**

This Unit will explore which tools have been developed to ensure that transnational corporations contribute to sustainable development, in particular as regard poverty reduction and realization of universally recognized human rights. Among the tools to be explored are international codes of conduct, internal codes of conduct and supply management initiatives, international framework agreements, and binding international instruments. We will review how this discussion has developed at international level, and ask about its significance: what do these developments tell us about how multilateralism has evolved? We will

study in greater detail the current debate on the proposed adoption of a new legally binding instrument on business and human rights. Is this desirable? Under which form should such an instrument be conceived? Are other options, focused on supply chain management or on voluntary measures, preferable?

### Readings

- O. De Schutter, 'Transnational Corporations as Instruments of Human Development', in Ph. Alston and M. Robinson (eds.), *Human Rights and Development : Towards Mutual Reinforcement*, Oxford Univ. Press, 2005, pp. 403-444
- O. De Schutter, "Towards a New Treaty on Business and Human Rights", *Business and Human Rights Journal*, vol. 1 (2015), pp. 41-67, see here

### Complementary readings (for background only)

- O. De Schutter, 'Sovereignty-plus in the Era of Interdependence : Towards an International Convention on Combating Human Rights Violations by Transnational Corporations', in *Making Transnational Law work in the Global Economy: Essays in Honour of Detlev Vagts*, P. Bekker, R. Dolzer and M. Waibel (eds), Cambridge University Press, 2010, pp. 245-284

### Role-playing game: towards a new legally binding instrument on business and human rights?

- 1 : Ecuador, in favor of a new legally binding instrument at UN level on business and human rights, explaining how the Chevron case shows the need for action on this matter.
- 2 : France, expressing the common view of the EU, in favor of strengthening implementation of the UN Guiding Principles on Business and Human Rights, without a new legal instrument
- 3 : The Treaty Alliance, in favor of new and ambitious mechanisms to allow for prosecution of serious human rights violations by corporations ([www.treatymovement.com](http://www.treatymovement.com))
- 4 : ITUC in support of proposals that could strengthen the monitoring of workers' rights in global supply chains

## Investment

### Unit 4: Challenges associated with Foreign Direct Investment. Investors' rights and the regulatory powers of the State

The promotion of foreign direct investment (FDI) has often been seen as a key component of a development strategy. It is presumed to add to productive capacity in the receiving State; to help meet balance-of-payments shortfalls; to favor transfers of technology and management skills; and to improve the links of domestic firms with wider global markets. However, it is unclear whether these potential benefits will always materialize. There are many different forms of FDI, with very different impacts on the host economy: when foreign companies buy local assets, for instance after the privatization of a formerly publicly owned company, the arrival of FDI simply implies a transfer of control. In their rush to attract investors, States may be tempted to grant concessions to investors, which will reduce, or even annul, any benefits to the local economy. Investment agreements (or investment chapters in trade agreements) also routinely prohibit the imposition of

performance standards that could allow to strengthen the linkages between the foreign investor and the local economy, for instance by imposing certain local content requirements.

Indeed, investors' rights have been gradually strengthened over the years, the combined result of the TRIMs Agreement of the WTO, of bilateral or regional free trade agreements, and of host government agreements concluded between investors and the countries in which they invest. Indeed, it is arguable that investors' rights have now developed into customary international law, beyond the "minimum standard of protection" that States were traditionally required to ensure. However, the increased protections of investors' rights may in some cases discourage, or even prohibit the State from adopting measures to protect the environment or the rights of workers or the local communities. Situations could even emerge in which this will result in making it more difficult for States to comply with their other international obligations. (See for instance the reports of the Independent Expert on the promotion of a democratic and equitable international order, Mr. de Zayas, in particular report A/HRC/30/44 on the adverse impacts of free trade and investment agreements on a democratic and equitable social order.)

Against this background, the role-playing game will stage a discussion within the Human Rights Council concerning the relationship between the protection of foreign investors and human rights. Specifically, we imagine a group of States, led by South Africa, tabling a resolution calling for the removal of provisions in trade and/or investment agreements that protect investors' rights by reference to "fair and equitable treatment" or by the introduction of "economic stabilization" clauses, and that provide access of private investors to arbitral tribunals, for instance set up under the International Convention for the Settlement of Investment Disputes (ICSID) negotiated in 1965 under the auspices of the World Bank.

### Readings

- For general background, see Ryan Suda, 'The Effect of Bilateral Investment Treaties on Human Rights Enforcement and Realization', in O. De Schutter (ed.), *Transnational Corporations and Human Rights*, Hart Publ., Oxford and Portland, Oregon, 2006, pp. 73-160
- O. De Schutter, J. Swinnen and J. Wouters, 'Introduction: Foreign Direct Investment and Human Development', in O. De Schutter et al. (eds), *Foreign Direct Investment and Human Development. The Law and Economics of International Investment Agreements*, Routledge, London and New York, 2012, pp. 1-24
- You may also consult Yilmaz Akyüz, *Foreign Direct Investment, Investment Agreements and Economic Development: Myths and Realities* (South Centre Research Paper 63)(October 2015)

### Role-playing game: a debate within the Human Rights Council

- 1 : South Africa explains why it has tabled the resolution, and presents its own position as regards the protection of foreign investors (referring to its intention to proceed to a unilateral revision of BITs: Draft Promotion and Protection of Investment Bill terminating all existing Bilateral Investment Treaties (BITs))
- 2:Uruguay is in favor of South Africa's proposal. Referring to the case of Philip Morris Brands v. Uruguay, ICSID Case No. ARB/10/7 (see the materials concerning the procedure collected here, as well as this comment ; a summary of the controversy is presented here; the award was delivered to

the parties on 8 July 2016: see the comment here ), it explains how it was at some point forced to choose whether to comply with the WHO Framework Convention on Tobacco Control, or to risk being sued by tobacco companies.

- 3 : Bolivia also takes the floor, explaining why they had to renegotiate gas contracts (as did Ecuador) since the initial agreements were strongly biased in favor of the investor (see this paper published in October 2016 by the South Centre on Bolivia's and Ecuador's renegotiation of gas contracts from 2003 to 2010.)
- 4 : Canada believes the proposal by South Africa is demagogic and self-defeating, since it would frighten investors, who would be reluctant to invest unless they are guaranteed a sufficiently high level of protection. Canada also explains that home States (States or origin of investors) control investors in order to ensure that they behave in accordance with certain internationally recognized standards. For instance, Canada has a CSR policy ("Doing Business the Canadian Way"), most recently updated in November 2014, and it established the Office of the Extractive Sector CSR Counsellor in 2009. There is no reason to fear that investors will abuse the protections they are granted under investment treaties, since the home country provides adequate supervision and thus supports regulation by host countries.
- 5 : At the request of South Africa, the Independent Expert on the promotion of a democratic and equitable international order is requested to intervene; he summarizes the conclusions he arrived at on the topic under discussion in his various reports; he also strongly questions the effectiveness of the kind of measures Canada describes.

### **Unit 5: Promoting innovation through intellectual property rights**

Development has become a knowledge-intensive process, more so than a resource-intensive one. Technologies matter, increasingly more than minerals, land, water or sunlight. The regime we inherit from was initially set up in industrialized countries during the early 20th century. It has been gradually extended beyond that perimeter, and has now a global reach through the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), one of the multilateral agreements of the WTO. Whereas the TRIPs Agreement also covers copyright and related rights, trademarks, geographical indications and industrial designs, it is the duty to allow patents (and to protect patent holders) -- or to set up "an effective *sui generis* system", to protect plant-breeders' rights -- that present the greatest potential conflict with the right to development. The TRIPs Agreement requires that WTO Members allow patents to be obtained "for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step [i.e., are non-obvious] and are capable of industrial application" (art. 27(1) of the TRIPs Agreement), and that they protect such patents. In effect, the patent confers on the patent-holder a monopoly right prohibiting third parties from making, using, offering for sale or selling the patented product or from using the patented process, for a period of at least twenty years (art. 28 and 33 of the TRIPs Agreement).

To a growing number of observers, however, the global intellectual property rights regime now appears inadequate to serve the fulfilment of the right to development, because of the barriers to technology transfers it imposes in the name of rewarding innovation. Indeed, it is a regime that may be failing even if judged by its

own standards: it appears to stifle the very innovative processes it was meant to favour. We will assess these critiques and examine potential alternatives, in the areas of health and agriculture.

### Readings

- Please consider the diagnosis and the proposals made in Dean Baker, Arjun Jayadev and Joseph Stiglitz, Innovation, Intellectual Property, and Development. A Better Set of Approaches for the 21st Century (Shuttleworth, July 2017)
- Please also consider the Interim report of the Special Rapporteur on the right to food, Olivier De Schutter, to the 64th session of the General Assembly (UN doc. A/64/170) (27 July 2009) (on seed policies and the right to food).

### Role-playing game: the Ministerial Meeting of the WTO considers adopting a new Declaration on "TRIPS and Food Security"

- 1 : South Africa, which was instrument in obtaining the adoption of the WTO Declaration on TRIPS and Public Health, now seeks a new Declaration, similar in nature, on "TRIPS and Food Security". It presents its proposals to a small group of States.
- 2 : Switzerland is sceptical, and puts forward the idea that progress in the development of new plant varieties (high-yielding, better adapted to climate change) is best achieved by rewarding innovators.
- 3 : Brazil is sympathetic to the idea presented by South Africa, but fears to spend too much political capital on this issue. It proposes other means through which the objectives of South Africa, including to ensure "orphan crops" can benefit from increased research efforts, could be met.

### Unit 6: Protecting land through an international code of conduct: the case of the Voluntary Guidelines on the responsible governance of tenure of land, fisheries and forests.

As the risks of land grabs on an unprecedented scale started to materialize in 2008-2009, the Committee on World Food Security launched the initiative of adopting a new instrument, which became the Voluntary Guidelines on the responsible governance of tenure of land, fisheries and forests. The Guidelines were adopted in May 2012. They are currently being implemented, with support from the FAO, in a number of countries. But are they sufficient? Where are the implementation gaps? And what was the price of consensus in the negotiations that led to the adoption of this instrument? These questions will be addressed by the guest lecturer, prof. dr. Christophe Golay.

### Readings

- Christophe Golay and Adriana Bessa, Research Brief: The Right to Land and Other Natural Resources (Geneva Academy of International Humanitarian Law and Human Rights, May 2017)

## Policy Coherence for Sustainable Development

### Unit 7. How to align policies for sustainable development? The case of the EU

Target 17.14 of the Sustainable Development Goals refers to the need to enhance policy coherence for sustainable development, and the associated indicator is the number of countries with mechanisms in place

to enhance policy coherence of sustainable development (17.14.1). Policy coherence for development (as it was initially referred to) aims to ensure that the policies developed countries design and implement in areas that may have an impact on developing countries (such as trade, investment, technology transfer and intellectual property, or international cooperation in the area of taxation and in the fight against illicit financial flows) shall support, and not undermine, development efforts. Guest lecturer Marie-Annick Musch shall assess how the EU is discharging its duties in this regard, and what it could do to improve policy coherence for sustainable development.

### Readings

- Olivier De Schutter, "Trade in the service of climate change mitigation: The question of linkage", *Journal of Human Rights and the Environment*, vol. 5 (2014), pp. 65-102

## Trade

### **Unit 8. Trade and Non-Trade Issues: is Linkage Legitimate? 1. The Case of Climate Change Mitigation Strategies**

The relationship between trade and climate change mitigation may be considered from two perspectives. We may ask, first, to which extent international competition is a disincentive for the adoption of regulatory standards that, though aiming to mitigate climate change, may raise costs to the enterprises operating from within the State seeking to adopt such standards. It is arguable at least that the more economies are characterized by a high degree of openness to trade -- depending more on exports to be able to import more in order to satisfy their needs --, the more difficult it will be to justify the adoption of measures imposing constraints on companies, in the form of stronger environmental requirements, that are perceived as reducing the competitiveness on global markets. We may also take another perspective, and ask how the expansion of trade as such affects the growth of greenhouse gas emissions. On the one hand, trade favors in many cases the diffusion of cleaner technologies which, once taken up, can lead to less carbon-intensive types of growth in the importing country. This is the 'technology effect' of international trade. On the other hand however, international trade favors increased economic growth and higher levels of consumption, as resources are freed-up from their less productive uses to be reinvested or spent elsewhere. This is the 'scale effect' of trade. In this Unit, we will consider these linkages and which measures could strengthen synergies between climate change mitigation and the trade liberalization agenda. What are the arguments in favor, and the arguments against, such a linkage?

### Readings

- Olivier De Schutter, "Trade in the service of climate change mitigation: The question of linkage", *Journal of Human Rights and the Environment*, vol. 5 (2014), pp. 65-102

**Role-playing game: a dialogue with the EU Commission involving the Commissioner for Jobs, Growth, Investment and Competitiveness, the Commissioner for Trade and the Commissioner for Climate Action and Energy.**

- 1 :Commissioner for Climate Action and Energy: proposes that access to the EU markets should be made conditional on meeting certain targets as regards climate mitigation; insists that the commitments made by countries under their respective "nationally determined contributions" (NDCs), following the entry into force of the Paris Agreement on 4 November 2016, shall be insufficient to meet the targets set by the international community to avoid a warming beyond 2° C by the end of the century. He sees no possibility to impose more from economic actors in the EU unless they are protected from foreign competition, however; and he believes the EU should do more to put pressure on other countries to do better.
- 2 :Commissioner for Trade: fears a trade war if the EU were to act unilaterally by imposing conditionalities linked to efforts at climate change mitigation in its trade policies; moreover, doesn't see how this could technically be achieved.
- 3 :Commissioner for Jobs, Growth, Investment and Competitiveness: is unclear as to the benefits of what the Commissioner in charge of climate action proposes; notes that businesses in the EU should not be penalized, as they already face heavy regulatory burdens. Is the best way to support them to protect them from competition, or to allow them to import inputs at a low price? And how about consumers' welfare?

**Unit 9: Trade and Non-Trade Issues: Is Linkage Legitimate? II. Linking Labour Rights to Trade Policies and Labour Rights in Generalized Systems of Preferences**

Does trade liberalization create the risk of "social dumping" ? There is no consensual answer to this question. Econometric studies tend to show that the countries with the most open trade policies have witnessed improvements in working conditions, at faster rates than countries with closed trade policies. But the improvement in labour conditions may be attributable to a range of other factors than trade per se. Moreover, a generally positive correlation between trade openness and working conditions does not provide information about the counter-factual: what if a country had resorted to more protectionist policies, shielding certain sectors from competition? Could it be that the working conditions would have improved even further? It is equally difficult to arrive at definitive conclusions concerning the relationship between trade openness and the evolution of labor regulations in any particular country. How the regulatory framework evolves depends, first and foremost, on the balance of political forces in a country at any point in time, as well as on the respective bargaining power of employers and workers' unions. Trade openness is one among many factors that influences the respective positions of the different social political actors in the country.

Here, we will examine arguments in favor of establishing a stronger linkage between trade and labor rights. This will lead us to review the debate concerning the role of a social clause in WTO Agreements, and the legitimacy of making access to markets conditional on respecting basic labor rights, as a tool to avoid "social dumping".

### Questions

- To which extent should we be concerned that linking labour rights to trade opportunities reduces the policy space for exporting countries, and may be perceived as a challenge to their sovereignty?
- Are governments right to fear that labour conditionalities might deprive them from building on their comparative advantage in international trade relations?
- Does it make a difference, in this regard, whether labour rights conditionalities are inserted in trade agreements or are imposed unilaterally in the design of their trade policies by the importing countries?
- Consider the views expressed by Bob Deacon in a blog in which (taking as departure point the UNRISD Flagship Report 2016: Policy Innovations for Transformative Change) he laments that the SDGs have emphasized national sovereignty, at the risk of neglecting the urgency of improving global social governance. What are the pros and cons, respectively, of action taken at country level to ensure appropriate linkage between labour conditionalities and trade, and reforms of global governance? If the latter is considered more desirable, which forms could it take?
- What is the role of social movements and transnational civil society in this debate? Do the changes in the organization of workers, civil society and social movements since the 1990s, influence the framing of this debate?

### Readings

- Christian Barry and Sanjay Reddy, 'Just Linkage: International Trade and Labor Standards', Cornell International Law Journal, vol. 39 (2006), pp. 545-637.

### Role-playing game: a discussion within the UN System Chief Executives Board for Coordination

- 1 : The representative of the ILO within the UNSCEB regrets that some countries in the developing world still see the lowering of wages and violations of labour rights as means to improve their competitiveness on global markets. Insists that this is not acceptable and that the UN agencies should make this clear, and build a mechanism to overcome this situation.
- 2: The representative of the WTO notes that social rights are routinely invoked in the context of trade policy reviews, and that this should be sufficient as a means to maintain pressure on States. Moreover, the ILO has its own supervisory mechanism. And it would be dangerous to suggest that protectionism is somehow allowable, in a world which desperately needs growth, to which the expansion of trade volumes may contribute.
- 3: The representative of the UNDP supports the concerns expressed by the ILO colleague. Notes that the risk is that, unless an initiative is taken at a multilateral level, states may be tempted to resort to unilateral measures. Wouldn't this be a defeat of the UN?
- 4 : The representative of UNCTAD notes that the question raised by the ILO is relevant and important, but it should not lead to impose on developing countries that they comply with standards even rich countries have difficulties meeting. That would be unfair.

## Development Cooperation and Social Innovations

### Unit 10: Development Cooperation: Promises and Pitfalls

This session will be dedicated to understanding the role of development cooperation since the rise of "developmentalism" in the 1960s, epitomized at the time by the contribution of W.W. Rostow. We will study the links between neoliberalism as an ideology (or as a moment in the history of ideas) and the practice of development, as illustrated by the "Washington consensus", thus described in 1990 by John Williamson to refer to the macroeconomic prescriptions imposed on developing countries following the debt crisis of the early 1980s. We will also attempt to map the reaction that followed (the "counter counter-revolution") a generation later, on an intellectual battlefield on which influential figures are Jeffrey Sachs, William Easterly, Paul Collier, Dambisa Moyo, or dissenters such as Erik Reinert, Ha-Joon Chang and Roberto M. Unger. We will dedicate particular attention, in this overview, to the question of property rights, using the work of R.H. Coase and of H. de Soto. Against this background, we will also ask about the role of commitments made in multilateral settings, such as the UN General Assembly, by governments pledging to move towards certain objectives that are identified as a priority and as a basis for joint action.

#### Readings

- William Easterly, "Democratic Accountability in Development: The Double Standard", *Social Research*, vol. 77, No. 4 (Winter 2010), pp. 1075-1104, available [here](#)
- See also the exchange between W. Easterly and Jeffrey Sachs on the effectiveness of aid (William Easterly, « The Aid Debate is Over »; the reply by Sachs, « The Case for Aid », in *Foreign Policy*; and the riposte by Easterly, « The Aid Amnesia », in the same journal)
- Please also examine the page Dambisa Moyo maintains on her best-selling book « Dead Aid », with accompanying videos, including this CBC interview
- Oxfam Research Report: Blended Finance: What it is, how it works, and how it is used <http://policy-practice.oxfam.org.uk/publications/blended-finance-what-it-is-how-it-works-and-how-it-is-used-620186>
- Oxfam Briefing Paper: Private-finance Blending for Development: Risks and opportunities <http://policy-practice.oxfam.org.uk/publications/private-finance-blending-for-development-risks-and-opportunities-620185>

#### Role-playing game: the OCED Development Assistance Committee (DAC) discusses a new guideline

The OECD DAC convenes in Paris to discuss a new guideline, building on the already existing set of guidelines, to focus specifically on how development cooperation strategies could ensure appropriate "blending" with the private sector to ensure that it shall support, not discourage, private investment. Many governments (including the United Kingdom, the United States) see "blending" as an opportunity to exit from development strategies that are unsustainable, based on aid without any perspective for the private sector to take over. However, NGOs fear that development shall be guided not by what populations needs or have a right to, but by investment opportunities, and that countries shall prioritize development aid that serves the interests of their national "champions"; they also fear a lack of accountability that may result from involving the private sector in shaping development priorities. They also note that the private sector is not equipped to

deliver the public goods that are much needed for development efforts to succeed. Some governments (Greece, Italy) share these concerns.

- 1 : representing DFID, the UK development agency
- 2 : representing USAID, the US development agency
- 3 : representing Greece
- 4 : representing Italy

### **Unit 11. The pitfalls of 'cockpit-ism' and the role of national sub-units in Sustainable Development**

Why are we failing to move towards sustainable production and consumption? Might this failure have its source in a poor understanding of the kind of governance that we require? It has been argued that we should operate less top-down, and more bottom-up, building on the strength of communities and on the motivations of local actors. It has also been argued that social innovations originating in the inventivity of these actors, rather than only technical innovations that are designed by experts, should form the basis of a development strategy. Would a decentralized approach, perhaps because it would be better adapted to local contexts, and more empowering, achieve better results?

#### **Readings**

- Maarten Hajer et al., 'Beyond Cockpit-ism: Four Insights to Enhance the Transformative Potential of the Sustainable Development Goals', *Sustainability* 2015, 7, 1651-1660; doi:10.3390/su7021651
- Leach, M., J. Rockström, P. Raskin, I. Scoones, A. C. Stirling, A. Smith, J. Thompson, E. Millstone, A. Ely, E. Arond, C. Folke, and P. Olsson, "Transforming innovation for sustainability", *Ecology and Society* 17(2) (2012): 11.
- Consider also the various initiatives building on the « local agenda 21 », a programme of action to ensure cities and local municipalities contribute to the implementation of the 1992 UN Conference on Environment and Development (the Rio « Earth Summit ») (see for instance here), and the role local governments can play in the follow-up to the « Rio+20 » 2012 conference of 2012, as envisaged by the ICLEI Local Governments for Sustainability network

## **Conclusion**

### **Unit 12: Summary**

In his 2011 book titled *The Globalization Paradox. Democracy and the Future of the World Economy*, Dan Rodrik famously presented the world economy as presenting countries with a trilemma : if you opt for deep international economic integration, you must accept that key choices will not be made through democratic processes, unless you recreate a "super-State" at supranational level; you can have both national self-determination and democratic politics only if you renounce creating interdependencies between States, by trade and investment liberalization, such that the State is evicted from its ability to maintain a robust regulatory framework and redistributive policies (implying high levels of taxation for the richest part of the population and for corporations). Or, to put things differently: only lean States can compete successfully in

the global economy; if they are serious about removing obstacles to trade and investment with other States, they should accept that this means, in fact if not in theory, reducing the scope for democratic politics, for any democratic choice in favor of strong regulations and restrictions on investors' ability to flourish shall be immediately sanctioned by a diminished ability to attract capital and to be competitive on global markets. Thus, the more States lower barriers to international trade and investment, the more they are forced to choose -- either to delegate more powers to supranational institutions and thus pool their sovereignty to build a "global democracy" gradually re-creating, at international level, the regulatory functions the State cannot afford to preserve at domestic level, or to abandon the idea of democratic politics altogether and accept that States shall be little else than channels through which, in the name of growth and prosperity, the march of economic globalization can proceed. But is this true? This session will attempt to draw conclusions from the course, by examining the respective merits of the different tools through which fragmentation in global governance can be overcome ; and it will examine how these tools relate to the democratic requirement at domestic level.

## GENERAL BIBLIOGRAPHY

- Wolfgang Benedek, Koen De Feyter, and Fabrizio Marrella, eds., *Economic Globalization and Human Rights*, Cambridge: Cambridge University Press, 2007
- Steve Charnovitz (ed.), *Trade Law and Global Governance*, London: Cameron May, 2002
- Mac Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law*, Oxford and Portland, Oregon: Hart Publishing, 2003
- Olivier De Schutter (ed.), *Transnational Corporations and Human Rights*, Oxford and Portland, Oregon: Hart Publ., 2006
- Olivier De Schutter, Jo Swinnen and Jan Wouters, *Foreign Direct Investment and Human Development. The Law and Economics of International Investment Agreements*, London: Routledge, 2012
- Olivier De Schutter, *Trade in the Service of Sustainable Development. Linking Trade to Labour Rights and Environmental Standards*, Oxford and New York : Hart / Bloomsbury, 2015.
- William Easterly, *The Elusive Quest for Growth. Economists' Adventures and Misadventures in the Tropics*, The MIT Press, Cambridge, MA and London, 2001 (revised paperback ed. 2002)
- Robert Flanagan, *Globalization and Labor Conditions. Working Conditions and Worker Rights in a Global Economy*, Oxford Univ. Press, 2006
- James Harrison, *The Human Rights Impact of the World Trade Organisation*, Hart Publ., Oxford and Portland, Oregon, 2007
- Bob Hepple, *Labour Laws and Global Trade*, Hart Publ., Oxford and Portland, Oregon, 2005
- Sarah Joseph, *Blame it on the WTO? A Human Rights Critique*, Oxford: Oxford University Press, 2011
- C. Kaufmann, *Globalisation and Labour Rights – The Conflict between Core Labour Rights and International Economic Law*, Hart Publishing, 2007
- Adam McBeth, *International Economic Actors and Human Rights*, Oxford: Routledge, 2010
- Jeffrey D. Sachs, *The End of Poverty: Economic Possibilities for Our Time*, Penguin Books, 2006
- Joseph Stiglitz, *Making Globalization Work*, W.W. Norton and Co., New York and London, 2005
- Joseph Stiglitz and Andrew Charlton, *Fair Trade For All. How Trade Can Promote Development*, Oxford Univ. Press, 2007 (revised paperback ed.) (orig. 2005)