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Multilateralism Chinese style

Francisco Juan GÓMEZ MARTOS

On 11th December 2019, the multilateral trading system suffered its first major defeat in 25 years since the GATT became the WTO. Since that day, the Appellate Body, a true arbiter of international trade, de facto suspended its activity, not being able to count on the minimum number of judges (three) that would allow it to function. This situation is the result of a systematic blockade by the United States' administration, which vetoed the appointment of new judges once the members of the Board had completed their terms.

China supported some of the proposals of the European Union and other WTO members to improve the efficiency of the Appellate Body, to increase its transparency of the Appellate Body and to address the concerns shared by European economic agents as well as by third countries including United States. But it is not prepared to support the Union's proposal to set up a parallel mechanism, without the United States, to avoid total paralysis of the arbitration mechanism. Multilateralism has been the cornerstone of the international order since the Second World War. However, it is in crisis and some analysts even predict its end. In this context, it is worth considering to what extent multilateralism and bilateralism underpin China's foreign policy and the factual behaviour of its representatives in the organizations that make up the multilateral system of the United Nations and its agencies.

WHAT IS CHINESE MULTILATERALISM?

"There was a time when China also had doubts about economic globalization, and was not sure whether it should join the World Trade Organization. But we came to the conclusion that integration into the global economy is a historical trend. To grow its economy, China must have the courage to swim in the vast ocean of the global market. If one is always afraid of bracing the storm and exploring the new world, he will sooner or later get drowned in the ocean. Therefore, China took a brave step to embrace the global market. We have had our fair share of choking in the water and encountered whirlpools and choppy waves, but we have learned how to swim in this process. It has proved to be

a right strategic choice." (speech by President Xi Jinping, Davos 2017).

To what extent does this statement by the Chinese President, delivered in a speech that was welcomed by the international business community, reflect China's ability and willingness to adapt to economic and trade globalization and to the rules and practices of multilateralism embodied by the World Trade Organization (WTO) and the institutions of the United Nations system?

Is this simply further proof of the self-indulgence and satisfaction with which the leaders of the Chinese Communist Party (CCP) view their country's historical success, due to the effectiveness of its model of economic and political governance, which they themselves have called "*a socialist market economy with Chinese characteristics*"? In this context, we should analyse the facts and China's empirically verifiable behaviour in multilateral organisations, compare them with the statements made by its leaders and try to answer the following questions:

- Is China playing game of multilateralism to the full?
- Will it ensure that it complies with international law and trade rules?
- How has China's governance model worked in key institutions of the globalization process such as the WTO, the United Nations and the International Labour Organization (ILO)?

- Is China a credible and coherent actor in the implementation of international law and the rules and conventions of United Nations agencies?

- Do the facts, and not the propaganda statements, so frequent in the Chinese leaders' political discourse, shed light on the kind of multilateralism and globalization promoted by the CCP, mainly through its One Belt, One Road project?

A MODEL WHICH IS NOT A MODEL

The first question is whether China has created an original development model that allows it to navigate successfully in the turbulent waters of globalization. The answer is no. Pragmatic and wise, Deng Xiaoping decided in 1978 to copy and adapt the economic ideas of Lee Kuan Yew, former Prime Minister of Singapore from 1959 to 1990, following the economic model of other Asian countries (Japan, South Korea, Taiwan). Deng will thus put an end to thirty years of autarchy and his country's isolation, by carefully opening the doors of the Chinese market to foreign products and investments, technology and the know-how of Western companies to modernize the Chinese economy.

In fact, trade multilateralism was able to "live" and develop without China for thirty years, promoting global economic and social prosperity, while China, under the communist and revolutionary regime of the great helmsman Mao Zedong, failed to free itself from underdevelopment and chronic poverty.

It is to a large extent thanks to multilateralism, including the huge opportunities in international markets, especially since the People's Republic of China's accession to the WTO in 2001, that China has been able to launch spectacular economic development. This is based on an export-led growth model, thanks to extremely low labour costs and a huge accumulation of capital subsidised by the State.

While China has benefited greatly from multilateralism, particularly after its accession to

the WTO, its growth gains have been very unevenly distributed among mountain and coastal regions, rural and urban areas and different social segments according to their connections with the centre of power.

Although economic growth has dramatically increased indicators of per capita income and well-being for the entire Chinese population (700 million people have been lifted out of poverty), recent empirical studies confirm that inequality levels remain very high: the richest 10% receive 40% of national income, while the poorest 50% receive only 15% of national income. In terms of wealth, the level of inequality is even higher: the wealth share of the richest 1% represents 30% of household wealth and the richest 10% benefit from 68% of national wealth, compared to 78% in the United States and 55% in France[1].

As a result, the Chinese development model not only significantly increases GDP per capita, which still represents about 20% of that of the United States, but which is quickly catching up with the inequality levels of the American model. In the 1980s and 1990s, the Chinese model also benefited greatly from the unilateral granting of the Most Favoured Nation (MFN) clause by OECD developed economies.

These concessions and the benefits of multilateralism, combined with the efforts of Chinese workers, have had a greater influence on the growth of the Chinese economy than the supposed expertise of its leaders, contrary to what President Xi suggested in his speech.

Moreover, these economic results would not have been as remarkable if Western governments had not erred out of naivety, miscalculation and excessive tolerance for China's systematic failure to meet its commitments to carry out structural reforms so that it would transform into a true market economy.

China assumed and fulfilled some market liberalization commitments in 2001, but its progress towards the full establishment of a market economy

[1] Alvarado, Piketty and others.
WID.world.2016

has not met the expectations of the international community. On the contrary, it has consolidated an economic system of state control, led by a single party, with very strong state intervention in industrial and financial policy, a mercantilist approach to foreign trade and the presence of a powerful state-owned enterprise sector. State intervention in the pricing of goods and services has distorted competition in a large part of the Chinese domestic market.

After eighteen years of participation in the WTO, the Chinese economy continues to be yet considered by its leaders as a developing economy that still needs state subsidies to face international competition.

This effectively feeds into the official Chinese discourse sent to the African continent to highlight the proximity of the Chinese model and to present itself as Africa's ideal partner, China being a developing country like its African brothers. However, it is sufficient to analyse the official statistical data published by international organisations to see that this message does not correspond to reality. While China's comparison with African countries was justified thirty years ago in terms of per capita income and poverty levels, this is no longer the case, given the spectacular and continuous development of the Chinese economy.

In 2017, according to World Bank figures, China's per capita GNI stood at \$8,690, making it a higher middle-income country (higher than South Africa and Brazil and very close to Russia) with a higher income level than that of the 54 African countries, with two exceptions: Seychelles and Mauritius. In conclusion, the Chinese economic model can neither be defined as a market economy nor a developing economy and, consequently, it causes significant distortions of competition in both developed and developing countries.

China is seeking to impose the legitimacy of its model within the international community, but it is clear that it will not succeed until essential reforms are implemented. These reforms should target judicial

independence, the rationalisation and significant reduction of state-owned enterprises, as well as the elimination of the *hukou system* to ensure workers' mobility and an end to the Communist Party's interference in the country's economic and socio-political life.

The trend is quite the opposite, as shown by the guidelines adopted in October 2017 by the 19th Congress of the CCP: the objective is to involve the party in all areas of life from private companies through cells that control the decision-making process, to diplomacy, universities, associations and other representatives of civil society.

Moreover, the international community is concerned about authoritarian excesses and human rights violations. This subject, which is regularly raised during the meetings of Chinese diplomats with the European Commission, seems to fall on deaf ears. The Chinese side rejects any criticism, claiming at all times its inalienable right to manage internal affairs without outside interference.

Thus, the fate of Uighur minorities subjected to the gulag of "re-education" remains dramatic. Civil society is repressed, massively monitored and politically alienated. China's Soft Power suffers a deficit because it is unable to sell its model to international public opinion, despite significant investments in this area and more than 500 Confucius institutes operating worldwide. China is also doing everything possible, including by illegal means, such as economic coercion and corruption of academics in Western universities and think tanks, to counter criticism and promote its interests.

CHINESE BULIMIA

While the Chinese model is not original and resembles that of the "Asian tigers", it nevertheless has two characteristics that make it unique: the gigantic size of its domestic market (18% of the world's population) and the degree of State dirigisme and interventionism through a plethora of public enterprises at all territorial levels, controlled by the CCP.

The need to achieve double-digit growth rates and the objective of becoming the world's leading supplier of many products and sectors have led the Chinese authorities to make erroneous economic decisions, which have led to global structural surpluses (steel, cement, aluminium, solar panels, etc.). The policy of encouraging the production of structural surpluses in key sectors of the economy has caused major disruptions in many countries of the international community, which have suffered the social cost of irresponsible Chinese behaviour.

Since the early 2000s, market imbalances and the trade-disrupting effects of the Chinese model in third countries have been evident. The dismantling of the Multifibre Arrangement in the textile sector in 1995 consolidated China's position as a "world factory". China's rise has led to huge overproduction at reduced prices, which has displaced local export products manufactured in many developed and developing third countries (e.g. textiles in Egypt and Latin American countries, steel in the European Union and Latin American countries and solar panels in the European Union).

China has caused significant distortions in international trade, not only flooding markets with low-priced, often low-quality products, and increasing however the purchasing power of middle- and low-income consumers in developed and/or developing countries. China has also "exported unemployment" to third countries, destroying industrial sectors through unfair competition and massive exports of its structural surpluses at prices that is tantamount to dumping. In addition, we should note that China is the source of 84, 5% of all counterfeit and pirated products, seized in 2013 in seven EU countries. (Joint Report of OECD and EUIPO, 2017).

For the past ten years, the Chinese problem has not come from low wages. Since 2010, these have increased by 60% and are causing relocations to the United States, the European Union or other Southeast Asian countries such as Vietnam, Indonesia and Thailand. The strategy of low wages,

industry-state intertwining (e.g. national champions such as *Zaibatsu* in Japan and *Chaebol* in South Korea) and a kind of exchange rate manipulation have also been applied by other Asian countries such as Japan, South Korea and Taiwan.

China's real problem is the distortions that its huge public company sector (SOE) causes on international markets through massive, hidden subsidies. These may well undermine the fragile foundations of the GATT-WTO system designed for market economies of similar size and structural characteristics.

In recent years, the United States has become very concerned about China's technological advances in sectors that are key for the digital economy, national security and the protection of democratic freedoms (such as applications of 5G network technology to the Internet of Things, artificial intelligence, biotechnology, citizen digital control technologies).

The European Union shares this diagnosis, although it disapproves of most of the Trump Administration's methods, which in many cases openly violate the multilateral norms that the United States helped to create. We are now witnessing a new struggle for technological supremacy between the United States and China, even if China's level of technological development has not yet reached that of the most advanced countries.

In brief, the Chinese economic model has undoubtedly produced impressive results in terms of growth and poverty reduction, thanks in particular to some internal reforms of the Chinese market, which are easy to implement and do not pose any risk to the political stability of the regime. The fact that the international community, in particular the United States, underestimated in 2001 the effects of various factors such as China's lack of reciprocity, massive subsidies to state-owned enterprises, China's poor enforcement of intellectual property rights, the absence of an independent judiciary and coercive technology transfer imposed on foreign companies has also contributed decisively to China's growth.

The key question the international community should have asked itself in 2001 was whether the WTO should amend its rules before China's entry to take into account its weight and the contradictions in its economic model, including subsidies to state-owned enterprises, intellectual property and decision-making procedures for imposing sanctions in the event of non-compliance. At the moment, China is already more advanced and far too strong to be forced to turn back.

SECURING INTERESTS, NEGLECTING VALUES

China's international behaviour in the bodies of the UN's general system shows this: it is determined to pursue its trade and geopolitical objectives by circumventing, if necessary, multilateral trade rules and international law. China is pursuing its objectives without hesitation, whatever their impact on third countries, neglecting the founding values of the international multilateral order and showing "*pronounced insensitivity to foreign sensitivities*", to use the words of political scientist Edward Luttwak.

Three significant examples, amongst others, shed light on China's understanding of multilateralism.

First example: the contradictions in China's behaviour against international law, in particular with regard to the United Nations Convention on the Law of the Sea (UNCLOS). The comparative analysis of China's policy towards the Arctic Ocean and the islands of the South China Sea reveals the inconsistencies and contradictions in Chinese leaders' official discourse.

It is surprising that China presents itself geographically as "a state close to the Arctic, one of the continental states closest to the Arctic Circle", and launches the policy that gives it the place of a major actor in the future of maritime transport in the Arctic: a reliable partner, respectful of international law and solvent for the sustainable use of both maritime routes and the mineral and fishery resources of the Arctic continent.

However, in the case of the South China Sea islands (Paracel, Spratly and Scarborough Shoal), in a dispute between the five South-East Asian claimant countries, China rejects the decision of the International Court of Arbitration established under UNCLOS.

The contradictions were noted in July 2016 by the judges of the International Court of Arbitration established by the Convention to deal with the request made by the Philippines. Indeed, China claims exclusive sovereignty over all islands in the South China Sea (a geographical area with an extension equivalent to the Mediterranean Sea) and based on allegedly historical rights. However, this view is not shared by any other claimant country, nor by the International Court. However, this view is not recognized by any other requesting country, nor by the International Court.

China declares its support for the principle of multilateral, plurilateral or bilateral cooperation in the sustainable development of Arctic resources and cooperates with strong partners (United States, Russia, Canada and Norway). In practice, China rejects plurilateral cooperation with the countries bordering the South China Sea, the vast majority of which are developing countries with low military potential. Basically, China does not want to build a real partnership with the countries bordering the South China Sea, resorting to intimidation or even blackmail.

Also, China is not prepared to register a possible Code of Conduct with the United Nations governing the joint use of economic resources, accepting supervision by this multilateral organization.

In addition, China advocates the preservation of the environment and the biosphere in the Arctic, but at the same time, it is building artificial islets, which seriously alter the ecological balance, as it attempts to militarize and control the maritime and airspace of the South China Sea which, in accordance with UNCLOS, must be an area where freedom of navigation is guaranteed for all countries in the world.

Second example: China's economic status in the WTO as a non-market economy. China is trying to circumvent WTO rules in order to obtain through other bilateral means the condition that this multilateral organisation does not recognise it: market economy status. For this reason, it is using its coercive power or the size of its market to "convince" other weaker trading partners.

Instead of implementing the reforms undertaken in its WTO accession protocol, China has forced its South East Asian (ASEAN) and other developing country trading partners, which would like to have preferential access to its large market, to include in its free trade agreements a specific article in which these countries recognize that China "is a market economy".

It goes without saying that neither industrialised countries nor other emerging countries such as India have granted this status to China and, therefore, apply the price comparison methodology described in paragraph 15 of China's WTO Accession Protocol for the calculation of the dumping margin for Chinese products.

In May 2019, China suffered a historic failure, but this received little coverage in the non-specialist media: the WTO panel examining China's appeal against the European Union for its refusal to recognise China's market economy status was about to rule and publish its final report. According to well-informed sources, the report proved the European Union right and rejected the Chinese request. In other words, eighteen years after acceding to the WTO, this organization of trade multilateralism continues to assert that China is not a market economy.

In order to avoid the negative impact that the publication and dissemination of the report would have had on international public opinion, China decided to suspend the panel's work and freeze the proceedings against the European Union. This is proof of the Chinese authorities' aversion to transparency.

In addition, decisions taken by the 19th CCP Congress in October 2017 confirmed that China is not ready to implement the legal and institutional reforms necessary to obtain market economy status in the near future, as these reforms could jeopardize social and political stability. As a result, China will not give up its economic model and does not intend to assume the foundations of trade multilateralism.

Finally, the third example is China's behaviour within the International Labour Organisation (ILO) and its compliance with multilateral rules in the essential area of human rights in the workplace. As it happens, China has not yet ratified the 1966 United Nations International Covenant on Civil and Political Rights or most of the ILO's fundamental conventions, although it was a founding member of this international organization just a century ago (1919).

It is surprising that China has ratified only 26 of the 177 ILO conventions, unlike India and most of China's neighbouring developing countries participating in the OBOR initiative in Central, South and South-East Asia and East Africa. All these countries have ratified more ILO fundamental conventions than China.

Most importantly, it is the symbolic value and social impact of the four fundamental conventions that China has not yet ratified: the Convention on Forced Labour and on the Abolition of Forced Labour, the Convention on Freedom of Association, the Protection of the Right to Organise and the Convention on the Right to Organise and Collective Bargaining. Moreover, China systematically refuses to comply with the recommendations made by the ILO's evaluation and monitoring committees.

It is therefore difficult to imagine how China can project an attractive "social model" throughout the world that can compete globally with the ILO model, promotes respect for human rights at work and is committed to inculcating the universal application of a minimum code of social standards in the workplace.

IS BILATERALISM BAD?

With this provocative title, the 2008 Nobel Prize in Economics, Paul Krugman, published a study^[2] in 1989 in which he demonstrated that multilateral trade agreements increase global well-being to a greater extent than bilateral or regional agreements. Experience in international negotiations confirms this. Where there are significant differences in economic weight between countries, multilateralism is probably the system that best takes into account the interests of the least developed countries (LDCs).

Bilateralism tends to impose the superiority of the strongest. At the multilateral level, the weakest countries can more easily resist the pressure of powerful countries thanks to the technical assistance provided by multilateral agencies from which they can benefit. As a result, they can more effectively defend their interests in the negotiations.

Bilateral negotiations are more demanding because they require similar bargaining power and the same technical capacity of the parties concerned. Therefore, despite its shortcomings, effective trade multilateralism places LDCs in a better negotiating position by ensuring greater transparency.

At the end of the Second World War, the United States led the design and implementation of the existing multilateral trading system, which enabled economic and social progress to be achieved in many, but not all, countries of the world.

Since 2017, the Trump Administration has taken an uncompromising stance against multilateralism, which disregards economic theory, the tangible results of trade liberalization for American companies, their prestige and the Soft Power that the United States has enjoyed over the past seven decades.

By adopting unilateral protectionist measures in all directions, without prior consultation with the countries concerned in the multilateral framework

of the WTO, the trade policy adopted by the Trump administration exposes the international community to the risk of escalating protectionism, with its corollary of economic recession, forgetting the real problems of distortion of competition and asymmetries in the current multilateral trading system caused by China's sudden emergence.

It is clear that the multilateral trading system needs new rules that would take into account the characteristics of the Chinese model and reasonably channel the unfair competition currently practiced by that country.

However, instead of putting pressure on China within the multilateral framework of the WTO to correct the serious distortions to international trade generated by that country, the Trump administration has been trying for months to block the operational functioning of the WTO, preventing the renewal of its Appellate Body members who guarantee the settlement of trade disputes through multilateral and highly professional arbitration, which has proven a good degree of efficiency in almost 600 cases since its creation in 1995.

It is paradoxical that the Trump administration is blocking the functioning of a body that has been successful in defending the interests of the American government and companies. This can only be understood on the basis of the isolationism and traditional mistrust of multilateralism of part of the US political class since much of the 19th century and the first decades of the 20th century.

Moreover, by blocking the functioning of the Appellate Body, the Trump administration is cancelling the most important innovation introduced by the transformation of the former GATT (a simple intergovernmental agreement based on power relations between countries) into a much more operational and supranational international organisation (the WTO), with the power to sanction violations of its rules. In addition, due to legal uncertainty regarding potential conflicts between companies, there is a risk that international trade

[2] Is Bilateralism Bad?
National Bureau of Economic
Research Working Paper
No. 2972; May 1989.

and foreign direct investment will start to decline significantly, with negative consequences for growth and employment.

MULTI-EGOISM VERSUS MULTILATERALISM

Incredibly, China continues to officially defend itself as the world's largest developing country, alongside other developing countries, and therefore calls in its WTO reform proposals for the continuation of its special and differential treatment to ensure the inclusiveness of the multilateral trading system.

In May 2019, a month before suspending the panel against the European Union because of the evidence showing it had not obtained market economy status, China published its proposals for WTO reform, stressing that Chinese state-owned companies operating in international markets are the ones suffering discrimination.

However, this alleged "discrimination" by third countries is well-founded because Chinese state-owned enterprises receive a multiplicity of public subsidies that distort competition with third-country companies and act in accordance with Chinese government directives and not market indications.

To "correct" this anomaly and ensure that companies owned by different owners operate in an environment of fair competition, China proposes the following: *"First, during discussions on subsidy disciplines, no special or discriminatory disciplines should be instituted on SOEs (state-owned enterprises) in the name of WTO reform. Second, foreign investment security reviews shall be conducted in an impartial manner and follow such principles as transparency and due process. Non-discriminatory treatment shall be given to like investment by enterprises with different ownership structures"*[3].

Since China has not been recognized as a market economy, it is doing its utmost to defend and impose the "legitimacy" of its model of dirigisme and state-owned enterprises against any possible reform of WTO, which, moreover, has to be approved by

consensus by all parties. China is in no way willing to reform its model or adapt it to the rules of current liberal multilateralism.

Presenting its own proposals, China has made it clear that it will never accept Trilateral (United States, European Union and Japan) reform proposals to adapt the organization's standards to new problems and challenges, many of which are illustrated by China's development model. In fact, it considers that these proposals go against it and will therefore continue its ambitious import substitution programme "Made in China 2025".

China feels comfortable and defends the status quo at the WTO, an organization from which it has benefited so much and which allows it to continue exporting, without any effective control of the subsidies that its state-owned enterprises receive and to selectively condition access to its market on illegal technology transfer practices. This explains why China supports the European and other countries' proposal to unblock the appointment of judges to the WTO Appellate Body.

Since China is not considered a market economy by the WTO and does not systematically comply with transparency rules, it seems logical that it should defend the implementation of ad hoc trade rules that are considerably less stringent than those of liberal democratic countries. Indeed, it is attempting to lower the WTO's trade rule requirements by imposing its own less stringent rules and non-transparent trade practices with third developing countries which are the recipients of loans from its One Belt One Road project. Let us not forget that China needed WTO technical assistance for its customs services until 2012. This dangerous trend seems to be systematic and palpable in some African countries, according to Western diplomats and experts.

If the international community wants to defend the current fragile multilateral trading system,

[3] WT/GC/W/773.

preserve its fundamental principles and modernize its operating rules, only concerted action by the United States, the European Union, the rest of the OECD countries and some emerging economies will be able to force China to reconsider its current behaviour. Unfortunately, the Trump administration's protectionist policy makes this concerted action unlikely.

China does not want to sign or accept international standards in the sectors of the fourth technological revolution. It is significant in this respect that China and Russia have refused to sign the OECD Principles on Artificial Intelligence (AI), which aim to ensure respect for the rule of law, human rights and democratic and democratic values throughout the lifecycle of any AI system.

If China consolidates its technological advantage, the free world multilateralism will suffer the consequences of an arrogant and selfish China. Furthermore, the country will be sure of the superiority of its dirigiste and authoritarian model over the European one that we should defend with more force and relevance.

Time for defending and reforming multilateralism embodied by the UN and the WTO is running out.

President Xi's recent speech, at the 70th anniversary of the CCP leaves no doubt about the intentions of the Chinese leaders: "No force can shake the status of our great homeland, and no force can stop the progress of the Chinese people and the Chinese nation".

Europeans must not lower their guard. We must bear in mind that strengthening multilateralism based on rules and values is a sine qua non for the preservation of peace and of economic and social progress on a global scale.

Francisco Juan GÓMEZ MARTOS

PhD in Political Science, Economist,
former official of the European Union

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