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THE CLARKSON STORY UP UNTIL NOW AND THE UNCERTAIN FUTURE OF THE WTO

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Stephen Clarkson

The following is a contribution in the blog series on the exceptional contribution of Stephen Clarkson to Canada. Stephen Clarkson died in 2016. The substantial work he undertook on Canada and international trade is particularly relevant today as negotiations on NAFTA and other trade agreements occur.

Stephen Clarkson receiving the Order of Canada

Daniel Drache

Daniel Drache was a long-time colleague and friend of Stephen. He is Professor Emeritus of Political Science at York University and former Director

of the Robarts Centre for Canadian Studies. His work focuses on understanding the changing character of the globalisation narrative in its economic, social and cultural dimensions. He has worked extensively on the WTO's failed Doha Round with particular focus on TRIPS and public health, food security and nutrition, and poverty eradication.

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The Clarkson Gaze

The story so far is about the events roiling the global economy and Stephen's unique gaze in the way in which he interpreted them. His inexhaustible appetite for research on North America, globalization, political parties, political leaders and, above all, the power dynamics between Uncle Sam and stick figure Johnny Canuck gave him an over-sized palette.[1] He was focused on big ideas, instinctively drawn to the most important: the continuing relevance of sovereignty and state power at a time of interdependence.

In a way that makes history full of surprises, the story until now is that many governments also share a growing scepticism about the effectiveness of the WTO dispute resolution mechanism, a topic which loomed large in Clarkson's writing and research. In 2014, only seven new cases were filed, a paltry number in a trillion dollar plus commercial world. For the two previous decades, there were 450 cases, the majority were North South and North North. The US, Canada, and the EU were the most litigious, as well as Brazil and India have become "trade warriors" in defence of their core interests. Most other Global South countries had neither the legal culture nor the money to roll the dice in the WTO trade dispute lottery-like system.

In 1994, when the system was brand new, the number of cases averaged about 40 per year, and, since then, with more than 100 new members the trade *gendarme* of the world barely averages a baker's dozen. Where have all disputes gone?

Clarkson was aware that WTO rules are very confrontational and thought-provoking in this regard. The WTO permits states to use protectionist policies not always, but frequentlNumerous experts and scholars believed that globalization had made the world borderless, where people, ideas and commodities all moved across the world with few constraints. Conventional

wisdom argued that the once mighty Westphalian state was so porous that it could no longer defend national values and goals.[2] Many scholars embraced the notion that, in an age of global cultural and economic flows, borders were dysfunctional barriers in need of further dismantling. Stephen did not.

Instead his work was a curious hybrid of seeing the world through the eyes of an increasingly bleak dystopia about Canada's chances of surviving the python-like embrace of market-driven integration. On better days, he became a hard-nosed sceptic about these mega-trade deals when Canada's policy élites were stumbling over each other to ink new ones, first with Uncle Sam, Mexico and then a whole host of other countries including the EU, China, India, Korea and Israel, to name but the most important. He was arguably the best Canadian researcher at documenting and de-constructing this neo-liberal universe, thereby exposing Canada's chronic dependent relationship on the US with less and less policy-space to manoeuvre with each passing decade.[3] In his own words,

"With NAFTA and an emboldened WTO, Canadian programs suddenly found themselves subject to invasive WTO commercial norms and export centric policies that marginalized any need for industrial strategies to diversify and build stronger Canadian industries as a buffer zone against the excesses of resource dependency."

He raged against the Liberal state machine that was always eager to go with the continental flow of power and resources, and he believed that the big red machine of the Liberal Party could be stopped although it was likely not to happen. So, he was a unique figure who had at the very least two voices: a critical observer of the trade governance system and, in moments of lucidity and despair, an advocate of more radical institutional surgery, namely, to sink the investor state dispute settlement provision (ISDS) and, along with it, much of the system of trade governance.

There is much we can learn from the Clarkson gaze about the tightly-written future and the unpredictable wild swings of global dynamics from global economic integration. With hard Brexit, the election of Trump, the cancellation of the TPP and now the unilateral re-opening of NAFTA, we've entered a different and dangerous age with less stability than ever. US President Trump has become Canada's worst nightmare, attacking Canadian dairy and lumber practices, and demanding fundamental change to the NAFTA agreement. All these projects gave Clarkson a vast canvas and focused his attention on the incompatibility between the requirements of

these trade agreements and the anxieties that citizen experience about job loss, threats to the environment, and growing inequality. He also worried that the rise of powerful 'nixers' in Washington and the corrosive forces of structural adjustment had irreversibly transformed the landscape of international relations from everything that went before.[4]

These tropes are still very much with us today to fix, shrink or sink trade governance.[5] We need to think a lot about fear and anxiety, not only because of the 'mad king' Donald in Washington, but because the pillars of trade multilateralism are no longer coherent, even though they continue to be a force to be reckoned with. We will look at two big picture ideas of his. First, what Stephen identified occurring around us is the emergence of a highly flammable situation. When institutions fail to adapt to novel conditions, frequently like these times contagious, dangerous state policies migrate towards the center right and hard right neo-populist end of the spectrum. Secondly, analytically and intellectually he was absorbed by the deteriorating dynamics of the nixer-fixer crisis-fraught binary many states and social movements adopted in the search for options. This geopolitical positioning inevitably led them and him to radically different solutions about the uncertain future of trade governance.

Paralysis, Fear, and Decay

The growing paralysis triggered by polarized conjunctural politics as well as structural stagnation has its convoluted roots in the architecture and agenda of the WTO, which was oversold to governments as a guarantor and regulator of the world trading system.[6] It promised a level playing-field for all and a development accelerator for the Global South plus new market-access and increased competitiveness for industries on both sides of the global divide.

In the Clarkson view of the world, he saw something dramatically askew. The institutional wheels had fallen off these clichéd policies because trade deals had become an omnibus multipronged policy. In the process export-centric mega-deals went far beyond their original mandate. Instead, they became invasive investor-centric agreements that ubiquitously challenged the state's competence to regulate effectively in the public interest. The predictable result was that governments are facing a backlash and push-back from social movements, non-scripted actors, and highly informed non-governmental organizations.[7]

In a primary sense Clarkson understood that that trade agreements were marketed to largely indifferent and often passive publics because there were no credible alternatives to the widely-subscribed belief that "There is no Alternative" (TINA). Doom and fatalism were the red lines of political discourse that could not be crossed. However, since 2008, (and often before the global financial crisis in the 'Battle for Seattle'), a Niagara of campaigns, street demonstrations and social media mobilization energized publics, particularly in the EU where, in Germany, Belgium and France, grassroots social movements mobilized hundreds of thousands of protesters against the proposed Canada-EU free-trade agreement (CETA).

Still Clarkson's dark pessimism about the unstoppable momentum of third-generation trade deals found itself on the right side of history. The future of many trade and investment deals are in limbo because European public opinion is increasingly suspicious and hostile to trade and investment deals. In 2017, the explosive decision of the Court of Justice of the European Union (CJEU) on the EU's exclusive competence to enter into trade treaties without the approval of national legislatures was dealt a death blow. The Court found that the EU would have to submit ISDS agreements to all 30 national and subnational parties for individual approval.[8] Even critical observers could not have predicted such an outcome. The EU had hoped that the Court would give it exclusive jurisdiction without having to submit a trade treaty for national ratification. Brussel's expectation was to be able to approve these trade and investment routinely. It did not want a re-occurrence of the Walloons casting a veto that held up the entire CETA ratification process, as it had done in 2016. The CJEU ruled against the EU. In shared jurisdictions with an ISDS provision, individual Member States will be required to give their assent.

One part of the Court's decision re-inforced the national authority of Member States, but another extended the principle of transnationality. The ECJ gave the EU a green light to take the ISDS clause out of trade and investment treaties and move it into the institutional hands of an International Investment Court which is still to be established.

Stephen would have savoured and probably savaged this landmark decision because the Court not only shrunk the legal authority of the EU's unilateral power, but it also removed labour, the environment, intellectual property rights, and public procurement as shared competencies that had previously been awarded in an earlier legal judgment. Had these shared competencies

remained, it would have made signing new investment deals almost impossible and extremely arduous to negotiate, let alone ratify.

It is not surprising that the CJEU required Brussels to submit ISDS provisions to national governments. India has already imposed legislative restrictions on access to ISDS, Ecuador has withdrawn from 16 of its investment treaties, and South Africa has begun the process of terminating its investment treaties. In 2012, it passed new legislation that gives exclusivity to domestic remedies. Brazil has never signed into law investment-treaty provisions for privatized arbitration.[9]

All these countries are encouraging alternative dispute resolution outlined in "cooperation and investment facilitation" kinds of agreements. All this "nixing and fixing" of state activity would not have been possible without social media and popular mobilization against governments being sued by powerful corporate interests.

Now, the Court of Justice of the European Union has come out against such clauses unless they are submitted to national ratification procedures. Indeed, in the words of Steven Toope, "the world order is shifting". The WTO will not be "great again" because its relative position in terms of its hard legal power and the political consensus that once made it unchallengeable has dimmed, if not, decayed. What is different is that, with the fragmentation of the global economy, it is also the time – to the surprise of many experts – to negotiate new rules, as we have just seen. For Clarkson he understood that there is no possibility of a new 'grand social bargain' to support new rights for citizens and labour but, at the margins, popular forces seem to have gained the capacity to mobilize despite neoliberalism and the politics of austerity.

WTO Marginalization in its Core Competence

Clarkson will be always remembered as a fierce critic of neoliberal embeddedness of the WTO. Perhaps the fact that Canadian governments had so unreservedly embraced its legal elite culture pushed Clarkson to embrace the rhetoric of the anti-globalization movement. Other developments have also cooled the ardour of many governments to put their faith in the efficacy of the crown jewels of the WTO dispute resolution system to protect them from the gale-like force of global competition. One of Clarkson's persistent themes is that governments have turned away from this mechanism to seek relief for their battered industries from the consequences of structural adjustment triggered by open, highly de-regulated, economies. Increasingly,

many countries have preferred to seek redress for trade grievances before national tribunals rather than bring cases to the world trade court of the WTO.

It is worth reminding ourselves that 80 per cent of the WTO membership has never used the dispute resolution panels because the majority of the WTO do not have the experience, the money, and the confidence in the system that is slow, unpredictable, and very costly, with no positive track record of handling, let alone, addressing within the terms of reference of its legal culture, the non-commercial aspects present in every trade dispute. These include food security, the need for state subsidies, the limitations of the principle of non-discrimination for industrial policy, the creation of fair labour standards, and the legal support for sustainable environmental practices – each a hot button issue of our times. Does not the narrowness of the WTO's legal culture explain why so few Global South countries want to chance addressing more substantive issues through this trade body?

Put another way, there are very few WTO victories for "we the people". One of the most iconic articles on the WTO's legal straitjacket is by Joseph Weiler, [10] entitled *The Rule of Lawyers and the Ethos of Diplomacy*. In it, he warned against the rule of lawyers because the most optimal outcome in most interstate conflicts between governments is the need to find a trade compromise about conflict over a disputed subsidy, stockpiling for food security, incentives to develop local industry rather than an adversarial victory for the strongest state and profit-seeking multinationals.

Weiler predicted that legal principles masquerading as statecraft would eventually erode the underpinnings of its unbalanced legal culture. Weiler's expectation about the growing illegitimacy of the WTO's legal culture in the minds of many is dead accurate and has been one of the central factors in sustaining successful mobilization campaigns against third-generation trade and investment deals.

Growing State Scepticism towards the WTO

y when they experience the volatility of global markets endangering employment and entire industries.[11] The WTO gives states the green light to adopt protectionist policies under very restrictive conditions. Countries file complaints against predatory pricing, subsidy abusers and the nuclear "option-of-all-options", safeguards for reasons of national security to protect the national interest when threatened by global conditions such as

employment loss, import surges or the open-ended category, “unfair advantage” of some kind that governments can use to defend the imposition of tariffs or import duties before a national trade tribunal constituted to litigate such claims.

The Clarkson gaze is an excellent guide to what has happened in the last two decades with respect to countries turning their back on the WTO’s legal crown jewel. It is astonishing to realize that the number of anti-dumping petitions has exploded, totalling more than 4,300 compared with about 400 disputes filed with the WTO.[12] If we are looking for examples of de-stabilization, the contracting out of legal ordering to other authorities, surely, this is it. Countries are turning to their national tribunals and trade courts for short-term relief and can impose tariffs or countervailing duties n order to protect their industries under threat.

In the 1970s, voluntary export restraints were used successfully to protect US interests against Japanese auto imports. This strategy gave the US auto industry breathing space to modernize and upgrade. Of course, trade lawyers and economists rail against anti-dumping as going outside the WTO rules and its jurisdiction. What the experts are opposed to are competing national adjudication bodies which they claim are biased and unreliable. But there are many studies that show that, since these national tribunals largely follow the WTO rules of evidence, norms and practices, their win rate – the test for bias for the home team – are within standards of international practice. This parallel system operates – with all its strengths and weaknesses – quite efficiently to defend the “local” from powerful “global” interests.

It did not escape Clarkson’s attention that Washington has its own parallel and highly active dispute system accessible to all Americans industries as well as to groups including unions to demand an investigation into allegedly unfair competition.[13] It can impose tariffs, punishing duties and quotas on foreign imports for short-term, medium-term and long-term periods. A large part of the legislation is discretionary and arbitrary. It can give American industries breathing space and restrict foreign competition. Super 301 is an interim measure that cannot reverse the de-industrialization of American jobs and industries, but it can – and does – provide short-term relief to declining American industries and jobs that are at risk![14]

If we want better outcomes to address real dislocation, we require a body akin to the Court of Justice of the European Union or the European Court of Human Rights with a commitment to balance commercial market-based

interests with sovereignty norms and practices that sets the standards for citizen-based rights and obligations. The European Court was set up to rule on individual or state application alleging violations of civil, political and human rights. Individuals can apply directly to it and it is delivered more than 10,000 judgments that require governments to change their laws and administrative practices. Is this the kind of Court needed to replace the creaky outmoded legal culture of the WTO?

The Privatized and Secretive Alternative: ISDS

Clarkson understood as well as anyone why trade governance is so dysfunctional at present. Anti-dumping provides an escape hatch against structural adjustment market forces imposed by the neo-liberal global economy. De-globalization paradoxically strengthens and extends neo-liberal norms and practices – often at the local level. In the Clarkson lexicon it represents a new and different phenomena in the globalization narrative – namely, the ability of global multinationals to challenge the regulatory sovereignty of nations in the public interest.

The investor state dispute settlement mechanism (ISDS) is highly problematical from a public policy point of view because of the very broad grounds that multinationals have to sue governments, including “fair and equitable treatment”, “expropriation of benefits”, “non-discrimination”, and “national treatment”. All these trade-related doctrines impose a heavy burden on governments to demonstrate that foreign multinationals receive “special consideration” in private courts, which is not available to nationally-domiciled companies.

State investor disputes are always about money and inevitably about environmental standards and review, health services, access to generic drugs, industrial policy, and labour standards. The rules favour investors, as they challenge the sovereignty and authority of democratically-elected governments to reduce their ability to legislate and defend the public interest.

According to the UNCTAD monitor, in 2016, there were 62 new ISDS cases filed, a record high. The 10 year average is a steady 45 filings a year – compared to the 12 complaints cases filed at the WTO. In the most recent 12 year period, there were more than 550 new cases worth hundreds of millions and millions of dollars in awards against governments without including the 50 billion USD award against Russia. Not surprisingly, the most frequent

users are from the advanced block of countries. In the Dutch study of Arbitral Awards, multinational corporations are favoured by a ratio of two to one over states in the arbitral win-loss sweepstakes.[15]

These outcomes are critical standard-setters. Most decidedly, they have become a central feature promoting the growth in privatized commercial arbitration. It is safe to conclude that these out-of-public-sight in-camera arbitrations have outpaced and probably outperformed the WTO disputes resolution mechanism body as far as global capital is concerned. The explosive growth in privatized dispute resolution is itself evidence that Clarkson's research led him to the conclusion that free trade agreements are about expanding, protecting and prioritizing investment rights for global finance with its own global dispute resolution mechanism – both characteristically non-transparent and invasive of national sovereignty. Global trade politics reinforced Clarkson's nationalism and made him a strong defender of Canadian sovereignty in a country whose national narrative is weakly and erratically nationalistic. This, too, is part of the story so far in Clarkson's long view of trade politics.

The Fixers-Nixers Binary and Conundrum

What he understood at a deep level is that at one end of a very long spectrum of conflicting ideas were those who accepted the idea that the system can be reformed; hence, the term "the fixers". A second group starts at the other end of the spectrum that the mandate of the WTO needs to get back to trade basics, the so-called "shrink it" alternative policy option. Finally, a lot of radical social movements accept as true that the WTO is too flawed to save, hence, they want "to sink it" and replace it with a different kind of global trade governance organization.

Of the three options, the first believes it is possible to find a way to put the WTO back together again like a Humpty-Dumpty character. Some kind of fixing could make its trade and organizational architecture less clumsy, more fleet of foot, transparent, accountable and functional. There are technical fixes such as scrapping its "all or nothing rule" that makes consensus among 160 governments with over 70 per cent from the Global South almost impossible. Before members agree on any new trade round with its dozens of committees, all members have to agree unanimously to it. Effectively, this gives the Global South and the BRIC countries a veto over so-called deal breaking proposals coming from the old coalition, composed of the US, the EU and Japan, a fact that did not escape Clarkson's acute grasp of the power

dynamics that kept the organization deadlocked. But institutional paralysis could not prevent fundamental changes to the global trade agenda and the most important was to expand the rights of global capital to hold governments to account.[16]

The Massachusetts Senator Elizabeth Warren calls the highly contentious investor state dispute settlement (ISDS) the "clause everyone should oppose" , a position he heartily endorsed and that plays a large role in Clarkson's concept of international political economy, precisely because it diminishes state sovereignty and it enhances multinational power to beat back the regulatory authority of government. Under the ISDS, corporations have sued the Mexican government for over 200 million USD and Canada for 157 million USD. At present, a U.S. company is suing Canada for another 250 million USD over a moratorium on fracking for natural gas, and another firm – suing for more than 100 million USD over the rejection of a mining permit after a Canadian environmental impact assessment proved the project to be detrimental – won its case.

So, removing the ISDS clause, a source of bitter and prolonged controversy, would be an obvious candidate to drop from trade agreements. The EU and recently Canada have gone on record to support the creation of an International Investment Court to address the growing number of investment conflicts that multinationals face. This, too, is a source of controversy, and it may take years before the Court is established and approved by all 27 parliaments.[17]

The Narrow Ledge of Trade Governance

The fact of the matter is that the WTO, since its establishment, is exclusively a producers' organization for large multinationals and states, not for consumers, not "for the people". This is why it has such a narrow focus and mandate, an institutional feature that Clarkson pushed to the center of his research analysis. What he documented was that, when commercial interests are found to conflict with environmental protection, access to generic drugs, labour standards, or industrial strategy, global commercial interests inevitably carry the day in the WTO's court system with its highly constrained legal culture. Why, for instance, is "fair and equitable" treatment of a private investor given the status of a constitutional right when it only serves the needs of special interest groups? It is this threshold test, among others, that is so central to WTO legal culture that requires resetting. Without it how could the WTO have a fresh start with a different purpose and organizational

architecture around aims such as egalitarianism, development and other socially progressive goals?

If the governance agenda for negotiating a new trade round is limited to only trade issues, the most contentious part of the agenda – intellectual property rights, investment rights, public procurement, access to generic drugs, food security and environmental sustainability require a different solution, one which does not come through the narrow lens of trade. In the Clarksonian gaze, complex policy issues have to be addressed through a different kind of governance body that is equipped to handle the goals and objectives of a broad-based jurisprudence and the right of individuals in all countries to seek redress and transparent arbitration.

It is not a good idea that we think of this new body as setting hard law legislative standards in many areas at the global level. Instead, what is needed is a legal culture of balanced adjudication and arbitration, a European-style court. This is the high standard to consider. The important corollary is that legal cultures are subject to many constraints and the most important is when global standards are low, no global organization can substitute itself for national decision-making bodies.

At present, in a way few predicted the WTO is in relative decline as a global governance body, marginalized by atrophy and growing irrelevance for many nations in the global South. For experts from the advanced industrial countries it is a mistake to think that international institutions are forever, the 'eternal, unchanging guardians' of the world order. The WTO is in a Braudelian "time bubble chamber" unable to adapt to the new set of circumstances after the 2008 financial crisis. Its institutional paralysis, if anything, has deepened in the post-Brexit, post Trump era. The gravitational shift from trade-focused organization to an investment-centric institution has complicated the incredibly difficult task of building a new consensus.

Nor does the WTO have the resources to derail China's well-advanced plans to create a parallel trade and investment global order with 100 or so countries. For the moment, only India and the United States are boycotting the One Belt, One Road (OBOR) and the Asian Infrastructure Investment Bank.(AIIB) To the surprise of few, bilateralism and regionalism are rapidly becoming the twin pillars of the new international order, largely, and surprisingly sponsored by China , through its $2 trillion global infrastructural initiative. And whatever strong doubts you may have about the efficacy of Beijing's leadership, Chinese multilateralism is patiently waiting in the wings

with its alternative institutions. For the moment we have entered a long transition period.

A Sartrian Dilemma: A World without Dominant Agency

In his last writings Stephen understood instinctively that in a multipolar world we cannot speak of a hegemonic order any longer because the world is so fragmented and fissured. Instead, it is more like a Sartrian moment, *Huis clos: L'enfer, c'est les autres*. But as Clarkson might have asked who exactly are the others?

Isn't it more precise to say that it is ourselves and our dystopian fatigue who are responsible for the new age of high anxiety in some important way? This is the dilemma of our time which preoccupied Stephen Clarkson in his research and teaching. In an era of authoritarianism *versus* democracy, we need to rethink and re-engage with a global order that bears very little relationship with the precise rules and governance practices of global multilateralism. In his dystopian gaze, Clarkson's large, expansive and rich narrative left little room for doubt that for him at least, there is no single scripted or unscripted actor waiting to rescue a deeply troubled global order, today, tomorrow or anytime soon.

[1] Among his many works are: *Uncle Sam and Us: Globalization, Neoconservatism and the Canadian State*, 2002, *Trudeau and our Times* (with Christina McCall),1990 and 1994, *The Big Red Machine: How the Liberal Party Dominates Canadian Politics*, 2005, *Canada and the Reagan Challenge: Crisis in the Canadian-American Relationship, 1985*, *Does North America Exist?: Governing the Continent after NAFTA and 9/11*, 2008, *A Perilous Imbalance: The Globalization of Canadian Law and Governance* (with Stepan Wood), 2010, *Dependent America? How Canada and Mexico Construct US Power* (with Matto Mildenberger), 2011.

[2] Kenichi Ohmae, *A Borderless World: Power and Strategy in the Interlinked Economy*, HarperCollins 1994; Daniel Drache, *Borders Matter: Homeland Security and the Search for North America*, Toronto: Fernwood, 2004.

[3] Clarkson, *Uncle Sam and Us*, note 1 above.

[4] Stephen J. Toope, "In a Darkening World, It's Time Canada Moved beyond Fear", *The Globe and Mail*, 24 May 2016.

[5] Daniel Drache, "The Canada European Free Trade Agreement: Ought we to be Worried?", Transnational Law Institute, King's College, London, 2016.

[6] Dani Rodrik, *The Globalization Paradox: Democracy and the Future of the World Economy,* New York: Norton, 2011

[7] Paul Blyth, *Austerity: The History of a Dangerous Idea*, 2013

[8] International Economic Law Blog, Anthea Roberts, A Turning of the Tide Against ISDS? 19 May 2017. Accessed https://www.ejiltalk.org/a-turning-of-the-tide-against-isds/ ; Arthur Beasley, "EU Singapore ruling charts possible Brexit path", *The Financial Times*, 16 May 2017.

[9] Roberts, op.cit.

[10] Joseph H.H. Weiler, accessible at http://www.jeanmonnetprogram.org/archive/papers/00/000901-01.html

[11] See WTO articles, Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement) and Article XIII. Article 12.

[12] Daniel Drache & Yin Jiyuan, "A Comparative Analysis Of Unfair Trading Suits By China, India, Canada, The United States And The European Union, 1995 to 2011," in Daniel Drache and Lesley A. Jacobs eds. *International Economic Law and Global Governance Crises and Resilience*, Vancouver: UBC Press, forthcoming 2018.

[13] I.M. Destler, *American Trade Politics*, 4th ed. New York:PIIE, 2005.

[14] Toope, note 5 above.

[15] Dutch study of ISDS Awards, accessible at http://investmentpolicyhub.unctad.org/Upload/Documents/treaty-based-isds-cases-brought-under-dutch-iias-an-overview.pdf

[16] Ed Broadbent," Let's make human rights central to a new NAFTA", *Globe and Mail*, May 5, 2017, accessible at https://beta.theglobeandmail.com/opinion/lets-make-human-rights-central-to-a-new-nafta/article34898657/?ref=http://www.theglobeandmail.com&, Dani Rodrik, note 6 above, Rorden Wilkinson, *What's Wrong with the WTO and How to Fix it*, London, Polity, 2014.

[17] Anthea Roberts, IELP, 19 May 2017. https://www.ejiltalk.org/a-turning-of-the-tide-against-isds

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