THE NEW GLOBAL TRADING ORDER

The international institutions that have governed global trade since the end of World War II have lost their effectiveness, and global trade governance is fractured. The need for new institutions is obvious, and yet, few proposals seem to be on offer. The key to understanding the global trading order lies in uncovering the relationship between trade and the State, and how the inner constitution of Statecraft drives the architecture of the global order and requires structural changes as the State traverses successive cycles. The current trade order, focused on the liberalization of trade in goods and services and the management of related issues, is predicated on policies and practices that were the product of a global trading order of the twentieth-century modern nation-states. Today, a new form of the State – the post-modern State – is evolving. In this book, the authors propose a new trade norm – the enablement of global economic opportunity – and a new institution – the Trade Council – to overhaul the global trading order.

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The New Global Trading Order

The Evolving State and the Future of Trade

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Dennis dedicates this book to Barbara, Sarah, and Graham.

Ari dedicates it to his mother, Suzanne Afilalo, and to the memory of his father, Moshe Afilalo.
Contents

Preface \hspace{1cm} page ix

1 Introduction \hspace{1cm} 1

2 The Evolving State \hspace{1cm} 11

3 The Changing Nature of Welfare \hspace{1cm} 41

4 Disaster and Redemption: 1930s and Bretton Woods \hspace{1cm} 67

5 The Transformation of the Bretton Woods World and the Rise of a New Economic Order \hspace{1cm} 81

6 The End of Bretton Woods and the Beginning of a New Global Trading Order \hspace{1cm} 110

7 The Enablement of Global Economic Opportunity \hspace{1cm} 147

8 Trade and Security \hspace{1cm} 186

Notes \hspace{1cm} 209

Bibliography \hspace{1cm} 239

Index \hspace{1cm} 265
Preface

In the winter of 2006, we published an article in the Chicago Journal of International Law with the title “Statecraft, Trade and the Order of States.” In that short piece, we developed an outline of the argument of this book. During the nearly two years that elapsed since completion of that article, we worked on a book-length version of the argument. As we were completing the manuscript during the spring of 2007, The Atlantic Council of the United States published a Policy Paper with the title “Transatlantic Leadership for a New Global Economy.” We were pleasantly surprised to find that the authors of this paper – important personages from the academic, business, and political worlds – validated virtually every aspect of the analysis we had advanced in our article published more than a year earlier. While agreeing with our claims regarding the current state of the institutions of global trade, the solutions advanced by this august body were rather different from our own.

This book is the story of the rise and fall of the institutions of the modern global trading order (the “Bretton Woods Order”). We share the view that the current crisis in the institutions of world trade poses great dangers for global order and must be addressed with deliberate speed. We come to the table with ideas and concrete proposals. We believe that no understanding of the questions posed by global trade can be resolved without at least an in-depth understanding of the reasons these institutions did as well as they did for so long and what has rendered them ineffective. In this book, we answer both of these questions.

In addition to explaining the rise and fall of the Bretton Woods Order, we advance concrete, detailed proposals for a new institution, one that will complement the unfinished work of the WTO. This new institution – the Trade Council – will be smaller, nimbler, regional, and ad hoc. The need for new institutions of trade is obvious to many. What remains elusive is identifying the appropriate type and character of institution needed. We
believe that the answer to this important question lies in the nature of what we identify as “Statecraft” and its relationship to the global trading order.

This book is written for all with an interest in the politics of trade and global order. As you will see, we consider the strategic relations of states to be an integral feature of the understanding of the global trading order. This wider perspective on trade and the problem of global order makes for a richer and more complicated narrative than one usually encounters in discussions of global trade. In our view, this richer narrative yields insights not otherwise available, thereby enriching the discussion and engendering a deeper understanding of the challenges posed by trade and global order in the twenty-first century.

We wish to thank the Dean of Rutgers Camden Law School, Rayman Solomon, for his unstinting support for this project. Through measures large and small, Ray has always been a source of encouragement for this project. We could not have completed our work without his support.

The library staff at Rutgers Camden – especially Lori Rowland and Gloria Chao – have helped us with countless resource requests. Their timely and efficient work has been invaluable.

Our research assistants – Hanna Belopolsky, Justine Kasznica, Lauren Keating, Lori Moore, Juli Schwartz, Carrie Wintersford, and Rachel Weidler – were industrious and dedicated in their efforts on this book. We are grateful to them all.

Fran Brigandi has been the finest secretary we have ever had. Her work on this book has been of immeasurable value. Fran prevented the commission of countless errors and was the keeper of the bibliography from the beginning. Words cannot express our gratitude for her dedication.

The idea for this book was first presented at a conference on global trade at Bar Ilan University in Ramat Gan, Israel. We learned much from that initial presentation, as we did from subsequent presentations at Brooklyn Law School (thanks to Claire Kelly), Boston University School of Law (thanks to Pnina Lahav), and Columbia University Law School.

On the manuscript we have received helpful comments from Stuart Macdonald, Daniela Caruso, Jeff Dunoff, Claire Kelly, Patrick Kelly, and the participants at the Delaware Valley International Law Day and the Rutgers-Camden law faculty seminars.

We especially thank Philip Bobbitt for continuing conversation on the issues of trade and the State. We have learned much from Philip’s work and we are indebted to him for helping us see the big picture on so many issues.

John Berger, our editor at Cambridge University Press, has been a patient and very helpful friend to us. We are indebted to him.
Preface

Dennis especially thanks Barbara, Graham, and Sarah for their support as he worked on this book for what seemed an eternity. Thanks also to Iwan Davies, Head of School of Law at Swansea University, Wales, for providing a supportive environment during the final editing of the manuscript of this book.

Ari is especially indebted to Hanna Belopolsky for going beyond the call of duty in her research assistance. He is deeply grateful to Rafael Lopez-Cambil for sharing his unique insights, derived from an extraordinary life, into today’s world and global markets. His love and thanks go to Inna and Maya for inspiration and empowerment.

The order of the names of the authors bears no relationship to their respective contributions to the project. In every sense of the word, this book is a collaborative effort.

Camden, New Jersey
September 2007