

Reactionary and progressive versions of the Tobin tax

A critique of Sony Kapoor's draft report: "The Currency Transaction Tax. Enhancing Financial Stability and Financing Development"

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Sony Kapoor's (2004) draft report "The Currency Transaction Tax. Enhancing Financial Stability and Financing Development" is a well-written piece of advocacy, and in parts quite informative. The report also adds to the literature on the CTT at least in the sense that it emphasizes the significance of releasing central bank reserves for more useful and profitable purposes. "Brazil, for example, has about \$50 billion of foreign exchange reserves that earn an interest income of about \$1 billion every year. At the same time however, Brazil has dollar debts at an interest rate in excess of 13%. So this means that by holding these reserves, Brazil is losing 11% of \$50 billion or \$5.5 billion – more than 1% of its GDP – every year. (*ibid.*, 25)

While making some good and, at times even original points, the draft report is highly problematic in many important regards. It presupposes the validity of orthodox economic theory, even if with some modifications and qualifications. Moreover, the report is addressed, first and foremost, to the New Labour government in the UK and the transnational business community, including representatives of banks and dealers. This sets definite limits to the discourse of the report and tends to make it alien to the aspirations of both global civil society – including the ATTAC movement and other organisations participating in the World Social Forum – and many states.

Kapoor's CTT proposal is about charity. The aim is to get the rich countries, and the UK in particular, to establish a tax on currency transactions, the revenues of which they can use also as ODA (Development Aid), on their own terms and subject to their assessment of the need. The report is uncritical about the current practices of the ODA, assuming that it suffices to give money through the traditional channels of bi- and multilateral aid, i.e. that ODA is the way to eradicate poverty. The report can also be argued to be politically rudimentary, if not naïve, in the sense that it contains no systematic analysis of the legal obstacles to, and political forces opposing, the CTT.

Kapoor's report is not unique in its tendency to make the CTT to accord with the basic tenets of the neoliberal world order. In *Democratising Globalisation. The Leverage of the Tobin Tax* (Patomäki 2001, ch 8), I already warned about the possibility of a reactionary CTT. There are alternatives. The Draft Treaty on Global CTT (Denys & Patomäki 2002) outlines a feasible progressive alternative. According to the Draft Treaty, the CTT is a multilaterally agreed global tax controlled by a democratic body. The tax is set at the sufficiently high level to curb the power of

transnational financial flows. The Treaty on Global CTT has also the potential to act as an “icebreaker” in international law (to use the expression of Denys 2004), by setting an easily realisable example of post-sovereign legal principles that enable efficient re- regulation and taxation in the world economy also in other fields.

1. The Kapoor draft report stresses repeatedly that it puts forward a “mainstream proposal”.

What does it mean to put forward a “mainstream proposal” in the early 21st century, particularly when the proposal is coming from London, from what many regard as a key city in the Lockean heartland of global capitalism? It may be worth reminding that the Pax Britannica of the 19th century was maintained partially by force, but, according to Karl Polanyi (1957/1944, 14), “more frequently it prevailed by the timely pull of a thread in the international monetary network”. The financial system centring in the City of London had become an essential part of the power of London, well beyond the formal boundaries of the British Empire. Something similar has happened with the Pax Americana of the late 20th and early 21st century.

Whereas classical economics was the ideology of the British Empire, neo-classical economics is the ideology of the new empire of globalisation. Neo-classical economics is based on a set of relatively simple assumptions. All economic developments can be analysed in terms of supply and demand in markets. The standard axiom of the orthodox economics is that prices, which are freely determined in open markets, ensure the optimal reconciliation of supply and demand. The technical term to describe this reconciliation is “equilibrium”, which is derived from Newtonian mechanics. The claim is that equilibrium in open, free markets also maximises economic efficiency and overall welfare of society, conceived simply as a sum of atomistic individuals trying to maximise their utility and consumption.

In contrast to the more fundamentalist variations of the orthodox economic theory such as Friedman’s (1953) famous case for freely floating exchange rates, Kapoor’s account of forex markets underlines the possibility that financial markets may, and often do, “overshoot”. The notion of “overshooting” – derived from the equally well-known neoclassical model of Dornbusch (1976) – presupposes that there is a unique equilibrium, which is known. The problem from this point of view is that the forex markets tend to create incentives for traders to occasionally push the price even further from the equilibrium when the price is already below or above the price “justified by economic fundamentals” (Kapoor 2004, 11). The idea seems to be that although financial markets are in general efficient, at times there is a need for regulatory mechanisms to correct destabilising behaviour.

Kapoor is quick to emphasise that “not all speculation is bad” (*ibid.*, 10). He does not explain this far-reaching point in any detail, but it seems to be based on the neo-classical idea that liquidity trading is rational and will therefore enhance the efficiency of the markets, whereas some trading can be characterized as destabilising (or “noise”) in the otherwise efficient markets. Again, the distinction presupposes the notion of the Pareto-efficient equilibrium, against which it is assessed whether trading is rational or destabilising.

However, the notion of “efficient equilibrium” is a purely theoretical notion. The equilibrium theorists themselves do not know what an “efficient equilibrium” would designate in the real, concrete world (outside their abstract models). Kapoor gives an example where the US dollar / British pound exchange rate justified by the economic fundamentals is 1.5, the rate is already at 1.6, and then shows how traders may have incentives to push it even higher. However, in the real world “the rate justified by economic fundamentals” cannot be determined in any objective sense.¹ True, there are many relevant things such as the comparative purchase power of different currencies, external balance of countries, and the competitiveness of their firms that can be used in forming various *opinions* about what the rate *should* be. Sometimes these opinions may converge; usually they do not.

The notion “equilibrium” is a piece of fiction that is technically derived from mathematics where it designates whether a system of equations can be solved or not. It is a theoretical abstraction and does not refer to anything in the real economy. Even as a theoretical construction, it seems to be deeply flawed (see Lawson 1997, 86-92; also Addleson 1995). Even if there were a unique Pareto-optimal equilibrium in a given market, neoclassical models would have nothing to say about how to get there. Besides, if an acceptable specification of a market allows for one specification, it typically allows of many. Even if the specification of the market was based on realistic assumptions, any of these equilibria was Pareto-optimal, and there was a clearly specified way of getting there (none of these conditions is usually fulfilled, and probably cannot be fulfilled), the models would say nothing about whether “efficiency” in this narrow sense in the financial markets would actually enhance the efficiency of the economy as a whole.

Kapoor writes: “Our proposal for a CTT is a market-based mechanism which, by changing the incentive structure in the market, helps discourage excessive speculation and encourages traders to give greater importance to economic fundamentals”. Indeed, Kapoor’s proposal is “market-based” in the sense that it presupposes the validity of orthodox economic theory, albeit with some standard modifications and qualifications. Misleadingly, his proposal thus conveys also the idea that once the troublesome incentive structures are revised, financial markets will become Pareto-optimal and maximise the well-being of everyone concerned.

¹ It is worth emphasising that as Kapoor in his illustrative example, also Dornbusch in his well-known model of exchange rates simply *assumes* that what cannot be known, and then builds his analysis on that fictional basis (this is typical of the neoclassical method in general). “The long-run exchange rate is assumed known [...]. We note further that, while expectations formation may appear ad hoc, it will actually be consistent with perfect foresight.” (Dornbusch 1976, 1163) If asked to pinpoint equilibrium or the long-run exchange rate of real currencies in the actual world, economists either evade the question or resort to the notion of purchase power parity. The problem with the latter is that it never corresponds to the actual exchange rates and may, also in the long run, deviate not only systematically but also increasingly from the exchange rates. It is a well-known fact that the price level in less well-off countries tends to get ever lower than in better-off countries and thus dollar-converted values make them look poorer than what they actually are. The difference has been particularly striking in the case of India and China during the last two or three decades.

2. The original CTT proposal was based on rather different and much sounder reasoning.

James Tobin's (1978) original case for the currency transaction tax rests on two main arguments. Firstly, Tobin contested the benefits of the efficiency of forex markets: "Whether the market is 'efficient' in any deeper economic informational sense is very dubious" (*ibid.*, 158-159). For Tobin, who also called himself an Old Keynesian, the decisive factor is the unpredictability and openness of future. In the world of perfectly rational expectations (in artificially closed systems, where predictions would be possible), the anthropomorphic, personified financial "market" would base its expectations on informed estimates of future equilibrium exchange rates. In the real world, however, uncertainty and contradictory expectations prevail. Because financial actors are trading in open systems, they cannot possibly have identical and accurate expectations of the future. In fact, it is precisely because of this uncertainty that while one trader is willing to sell currency X, another thinks it is worth buying at that same particular rate. With homogeneous or "rational" expectations, the values of currencies would be in "equilibrium", at least after a short period of adjustment, and thereafter no trading would take place in forex markets, except by those retail market actors who need currencies for consumption, trade or investments.

Moreover, Tobin argued already in the 1970s, well before the spectacular financial crises that we have seen since then, that "national economies and national governments are not capable of adjusting to massive movements of funds across the foreign exchanges, without real hardship and without significant sacrifice of the objectives of national economic policy with respect to employment, output, and inflation" (Tobin 1978, 154). Given the adverse socio-economic consequences of short-term financial flows, Tobin argued that these flows should be curbed and slowed down. Tobin was mostly concerned about the autonomy of economic policy-makers, stability *per se* was only a secondary concern.

Last but not least, the need to curb the financial flows is based on a more general suspicion of the effects of highly developed or mature financial markets. In his *General Theory of Employment, Interest and Money*, Keynes (1961/36, 159-160) wrote: "When the capital development of a country becomes a by-product of the activities of a casino, the job is likely to be ill-done. [...] It is usually agreed that casinos should, in the public interest, be inaccessible and expensive. And perhaps the same is true for Stock Exchanges. [...] The introduction of a substantial Government transfer tax on all transactions might prove the most serviceable reform available, with a view to mitigating the predominance of speculation over enterprise in the United States." James Tobin's original proposal for a CTT merely internationalised Keynes' suggestion and applied it to the forex markets.

3. Of course, it may be unwise to use Keynesian reasoning if you want to convince the New Labour government in the UK or the transnational “business community”.

It is obvious that the intention of Kapoor’s report (and that of the UK-based Tobin Tax Network more generally) is to convince the New Labour government in London as well as the transnational business community. The report opens up with quotations from various IMF papers as well as from Paul Volcker, former chairman of the US Federal Reserve. Kapoor seems to assume, quite rightly in my view, that these are probably the kind of authorities the New Labour government would listen to (later Kapoor also draws on the authority of Lawrence Summers, a US Treasury Secretary under President Clinton, as well as the *Economist*, Harvard University etc.). Further, the draft report emphasises that the CTT is “a mainstream idea”:

“Conceptually, the first tier (base rate) CTT is very similar to Security Transaction Taxes, which are taxes levied on the buying and selling of financial securities such as bonds, stocks and property deeds. Countries such as the UK, US and Belgium have existing and well-functioning security transaction taxes in operation. The UK, for instance, makes more than £4 billion annually from the Stamp Duty Reserve Tax.” (Kapoor 2004, 19)

One of the main chapters (no:6) of the report is devoted to the “business case for the CTT”. While many of the arguments are well-taken (financial instability does cost a lot of money to firms engaged in production of goods and non-financial services), this is also indicative of the politics of the report. In accordance with the neoliberal ideology, Kapoor’s report in effect takes banks and corporations as political citizens to whom one should address one’s points when making a political argument.

For students of political rhetorics (the classic treatise is Perelman & Olbrechts-Tyteca 1971), those who make political arguments, position themselves in relation to a particular audience by choosing appropriate points, words and style and by setting also their political aims accordingly. Usually, a given audience shares a number of background assumptions. It is normal that a political speaker or writer takes these pre-agreements for granted and uses them as a basis for making his or her case. In the case of Kapoor’s report, the self-evident background discourse is that of neoclassical economics. Moreover, the report emphasises over and over again that its author is market- and profits-friendly, that the proposal itself is not “radical” but mainstream, and that the CTT is in fact good for business. The style of the report is also purportedly technical. It avoids politicising anything. In other words, the report is written in a style that combines the conventions of the texts produced by financial actors and central bankers, on the one hand, and popular economic magazines such as the *Economist*, on the other.

It is in the sense of its rhetorics that we should understand Kapoor’s insistence on political realism and feasibility. Since the author is talking, first and foremost, to the New Labour government and the transnational business community (including banks active in the forex markets), it seems that the only way he can convince his audience is by taking for granted its background assumptions and conventions.

Thereby, the CTT proposal becomes neoliberal. Clearly, this is likely to alienate many other audiences, also for good reasons. For the most part, the transnational movement for the Tobin tax has been struggling *against* neoliberalism. The CTT has been seen as a step towards an alternative world order and as an important sign of hope that, as the World Social Forum puts it, “another world is possible”. Now, Kapoor is not only making a case for a very particular account of the CTT, he is implicitly also saying that another world is *not* possible. According to Kapoor, it is not “feasible” to talk about other worlds; there is only one possible world. To make any difference to the lives of the poor, he thinks, we should all accept neoliberalism but find more money for fighting global poverty in terms of ODA, i.e. charity. But what exactly is the difference he wants to make? Is it really possible to alleviate poverty and suffering by means of ODA and, also, neoliberal reforms?

4. The ultimate aim of Kapoor’s proposal is to get new funding for the purpose of achieving the Millennium Development Goals.

In September 2000, the UN Millennium Summit adopted the Millennium Declaration (UN 2000). In it, UN member states reaffirm their faith in the UN Charter and also make a commitment to a number of universal development goals. Most importantly, these goals include:

- To halve, by the year 2015, the proportion of the world’s people whose income is less than one dollar a day and the proportion of people who suffer from hunger and, by the same date, to halve the proportion of people who are unable to reach or to afford safe drinking water.
- To ensure that, by the same date, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education.
- By the same date, to have reduced maternal mortality by three quarters, and under-five child mortality by two thirds, of their current rates.
- To have, by then, halted, and begun to reverse, the spread of HIV/AIDS, the scourge of malaria and other major diseases that afflict humanity.
- To provide special assistance to children orphaned by HIV/AIDS.

These are, of course, very important goals. However, the achievement of these goals is open to various interpretations (see Patomäki & Teivainen 2004, text box 2, pp.26-27). For instance, the aim to halve the proportion of people whose income is less than one dollar a day can be measured in terms of purchase power parity (as the UN does) or in constant dollar terms (which would give much less optimistic picture of the situation). ‘One dollar a day’ also means different things in different social contexts. To a relatively self-sufficient farmer one dollar a day may be sufficient for many needs, but in a big city it is much harder to get by without money. Urbanisation and increased commodification implies thus that more money is needed to cover basic needs. Thus people may become poorer while there is development as measured by the UN. Although it is not the case that all Millennium Development Goals are

equally complicated and problematic, any simple quantitative yardstick of development tends to be biased one way or another.

Furthermore, we should also ask whether there are any concrete action plans or proposals to ensure that these development goals will be met in time? The Secretary-General's Report of summer 2002 points out that the UN strategy is based (i) on the Monterrey Conference for Financing for Development and (ii) on the WTO Summit of Doha (UN 2002: III.45). In other words the UN relies, firstly, upon on the basic principle of Monterrey that every country is responsible for its own development and, secondly, on free trade. Quite in line with the prevailing orthodoxy, the main method to finance development is to attract investments of transnational corporations.

As a complement to this economic orthodoxy, there is a plea for charity and belief in automatic technological progress. The Millennium Declaration is also based on the hope that official development aid could be lifted from its all-time low (Ibid.: III.50) and that further development of medical technologies could help to make cheap drugs more easily available also to the poor (Ibid.: III.51.). Indeed, some countries promised to raise the level of development aid. The US – that gives proportionally less development aid than any other OECD country – promised to increase its aid by USD 5 billion. Some other countries followed suit and made similar promises.

The idea of Kapoor's draft report is that the revenues from a CTT could contribute to the charity part of the plan of the Millennium Declaration:

“To achieve [the Millennium Development] goals will require a substantial increase in development spending. Former President of Mexico, Ernesto Zedillo, in his Report of the High Level Panel for Financing for Development, has concluded that additional resources of at least \$50 billion per year will be needed to meet these targets worldwide. This estimate is based on detailed costings in some of the key goal areas by UN bodies such as UNICEF, the World Health Organization and the World Bank. Since overseas development assistance (ODA) flows are presently at the order of \$50 billion annually, to achieve the MDGs effectively means doubling current levels of spending on aid.” (Kapoor 2004, 35)

According to Kapoor, the CTT would be established nationally, country by country. The tax would be collected by national central banks. Following this, at least some of the countries levying the CTT would establish a global MDG fund, either by informal agreement or by concluding a formal treaty. Since giving the revenues to the fund is ultimately a matter of charity, which is by definition voluntary, the countries making the biggest contribution to the fund want obviously “a say in how the money is spent” (*ibid.*, p.36).

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logic of this proposal is not entirely clear, though. What exactly is the connection between the projected CTT and the fund? The tax rate in the OECD countries is characteristically between 40% and 50%. These countries already collect a wide variety of different taxes, including taxes on financial transactions. If they wanted, why would they not give a slice of the already established tax income to a global development fund, without introducing any new taxes? On the other hand, if

the revenues of the CTT remain at the discretion of individual governments, what is the guarantee that the revenues from the would-be CTT will in fact be transferred to the global fund (for instance, in the case of the UK, this extra money could be used as easily to fund the war in Iraq or some other new wars)? Even if the New Labour in the UK were committed to the transferral of the tax revenues to a global fund, which I see with some scepticism, the next conservative government could decide otherwise. The same applies to any country establishing the tax on a national basis.

Leaving these considerations aside for a while, my main point here is that the project of Kapoor/Tobin Tax Network (UK) is to increase ODA with a CTT in order to combat poverty and hunger in the global south. This project may sound noble but involves in fact a lot of unthinking. Firstly, an extra \$50 billion is in fact not that much money (and in Kapoor's vision, only a part of that \$50 billion would in fact come from the extremely low-level CTT; also many other sources would be needed). A small country such as Finland, with a population of about five million (less than 0.1% of the world's population) spends some \$40 billion on social security, health and education annually. Despite this high-level of social spending, inequalities and social problems have been on the rise also in Finland since the early 1990s (after an economic depression that was caused by a combined currency and banking crisis in 1990-91, and the simultaneous collapse of trade with the Soviet Union, Finnish economic policies were turned neoliberal, with the normal effects). If the comparison sounds distant, one may also wonder whether an extra 16 dollars a year to the poorest three billion people of the world would really make a major difference?

Secondly, despite manifold problems, social spending within most OECD countries is usually more effective in reaching its goals than that of ODA. Apart from outright corruption, a large part of ODA goes to Western bureaucracies and professionals, including many of those working for various NGOs, and to Western corporations that are involved in development projects. A part of ODA also goes to support military-strategic purposes, for instance to sustain strategic alliances in the on-going "war on terror" (that may be meant to be permanent). Only a small proportion of ODA actually reaches the poor and needy in the south. Assuming that this proportion is 10%, extra USD 50 billion to ODA means only less than *two dollars per capita a year* to the poorest three billion people of the world.

Thirdly, and most importantly, ODA is in fact very much part of the power resources of the US and the EU, the Bretton Woods institutions they largely control, and indirectly also the Western banks and corporations. These actors condition aid – as well as bi- and multilateral loans and minor concessions on debt – on compliance with the Western will for instance in the WTO negotiations, and on the adoption of good governance in the recipient countries. Essentially, "good governance" means the acceptance, or further reinforcement, of neoliberal economic policies both domestically and externally; downsizing the state and its military and welfare functions; and replacing many state functions with charity-based NGO activities. Arguably, the price of these changes paid both by the middle class (or what used to be middle class in many countries) and the class of extremely poor is much higher than the few pennies that a selected few of the poorest people may receive as compensation for the absence of global justice and democracy. Indeed, it is not a coincidence that the only clear progress towards achieving the MDGs has taken place in China and in a few other Asian countries; in most other parts of the world, extreme

poverty has been on the rise during the last two decades, and inequalities have been widening in most countries as well as between countries (see ILO 2004, 37-45)

5. The lack of economic realism is worsened by the absence of any analysis of power relations and political conflicts.

Since Kapoor's draft report avoids discussing politics, it also refrains from mentioning any power-relations or conflicts of values, visions and interests. A political analysis of the opposition against the CTT is replaced in Kapoor's report by a conviction that ultimately a harmony of interests prevails. The CTT "is not redistributive, as no one is becoming worse off" (Kapoor 2004, 27).

However, in contrast to the liberal thesis of harmony of interests², it seems clear that global financial markets continuously redistributing wealth from the bottom and middle to the top. Evidence clearly shows that financial markets have aggravated global disparities (see Patomäki 2001, ch 3). Those who have suffered and are suffering the most because of financial crises are the weakest and poorest sectors of the world population, although often also the middle classes have been hit hard. Crises and their aftermath usually lead also to the absorption of wealth in the hands of the few. Moreover, the financial multiplication process, boosted by the processes of extraction of resources from the non-financial sphere to the financial markets, has amplified the concentration of resources in the hands of a relatively small number of collective and individual actors. Global financial markets have been instrumental in creating new "high net worth individuals". Some of the richest people of the early 21st century are fund managers or, in some cases, petty investors turned millionaires. Tax havens and offshore facilities have also been instrumental in making the rich richer and undermining the taxation capabilities of states.

Financial actors have used their direct power to push for neoliberal reforms – in particular privatisation of pensions and social security – conducive to further expansion of financial markets. Although the push for neoliberal reforms from financial actors is obviously not the only explanation of growing inequalities, there are good reasons to believe that the direct power of finance has had a significant effect on these developments since the early 1980s.

Moreover, gradually since the late 1950s and 1960s, the creation of Eurodollar markets and offshore facilities – safeguarded by the institution of state sovereignty – has made it increasingly easy to escape from the rules and regulations of democratic welfare states. Offshore facilities and tax havens have enabled a partial return to the 19th century practices of laissez-faire capitalism. Despite the huge sums involved in drug trafficking, etc., tax evasion, private fraud, financial crime and public embezzlement are in fact bigger problems.

Furthermore, credit rating, social allocation of capital and globalising media form a panoptican system of power and surveillance that promotes and maintains the hegemony of neoliberalism. The geoeconomic gamble of the US – loyally supported by the UK, which is dependent on the position of the City of London and offshore financial markets; and more ambivalently accepted by Japan, which has been

² See Carr (1964/46, 41-62) for a classical critique of this ideology: "[...] the doctrine of the harmony of interests [...] became [...] the ideology of a dominant group concerned to maintain its predominance by asserting the identity of its interests with those of the community as a whole".

squeezed between the US unilateralism and a liquidity trap caused by a financial crisis – is based on this panoptican system of power. The socio-economic effects of the structurally backed hegemony of neoliberalism are sweeping. The demands and claims to privatise, save in social expenditure, cut down taxes, minimise state intervention and deregulate first, then re-regulate in accordance with the US American model (or the wishes of Washington and London) have had effects on the welfare of perhaps most people on the planet.

There have been winners. The US has been able to re-establish its central position in international politics; London has regained its position as the biggest financial centre. The major banks, investments funds and many MNCs have benefited, as have their managers and the related legion of dependent politicians, consultants, economists and journalists. Also, the providers of casinos and tax havens (many of them mere statelets), and the lucky and skilful gamblers in the casino, and, in particular, their rich friends who are now able to avoid taxes, belong to the group of winners. Some countries may have benefited, at least in the short run.

However, the increased power of global finance has meant absolute or relative worsening of life conditions for most people. All traditional measures – output growth, unemployment, interest rates etc. – indicate slackening, if not worsening global conditions. Decade after decade, there has been, globally, less growth and more un- and under-employment of industrial and human capacities (see Freeman 2003; ILO 2004, p.38; Patomäki 2004). Even where there is GDP/capita growth, there seems to be less welfare than before: crime, insecurity and social disintegration tend to absorb most of the apparent growth, except for the very richest.

The standard justification for global “free market” financial markets is that they enable more efficient allocation of capital. Yet it seems that the global financial markets are not primarily about funding long-term investments in production; rather they are about hedging and finding short-term financial gains in forex and bond and equities markets. More implicitly, but at least as importantly, financial markets are also about power and discipline. Global financial markets play a very effective role in disciplining states and other actors to follow neoliberal economic policies.

6. Although some may have an “open mind”, what is really politically possible?

Given this structure of geo-historically constructed interests, dependencies and power relations, the question about political possibilities for realising the CTT in any progressive (or even reactionary) sense is not trivial. Many states and other relevant actors are not only likely to oppose the tax but have consistently done so in the past, especially the US and the UK. Kapoor’s report tries to make a lot out of the fact that “in the UK, the Chancellor of the Exchequer, Gordon Brown, has stated on many occasions that he views the CTT with an “open mind” as a possible means of financing international development” (Kapoor 2004, 37). The implication seems to be, however, that the minds of the other members of the British New Labour government are in fact closed to the idea of the CTT.

Since the first 1999 NIGD-report on the CTT (Patomäki et.al. 1999), I have been arguing for a two-phase model of implementing the CTT that would make it possible for a(ny) grouping of countries to proceed quickly without the consent of every state, including such financial centres as London/UK or New York/US.

In its first phase, the system would consist of the EMU-countries, and a group of other countries, or, alternatively, any bigger group of other countries. The initiative can also come from the South, for instance from Brazil or India. However constituted, this grouping should establish an open agreement – any state can join at any time – and a supranational body orchestrating the tax and collecting the revenues of a small underlying transactions tax (10 basis points); much bigger exchange surcharge; and possibly a relatively high tax, on domestic-currency lending to non-residents (only to non-residents who are not yet within the tax regime).

In the second phase, which should be carried out either when all major financial centres and most other countries have joined the first phase system, a universal and uniform Tobin tax at a still higher rate would be applied. In this phase, however, the bigger exchange surcharge should be retained.

The point of this model is in fact twofold. On the one hand, the only real political possibility is to proceed without the consent of the US and probably also the UK. On the other hand, by proceeding without the US, the UK and other reactionary forces, it is possible to make the tax regime more democratic and just. Once established, the US and the UK would then have to join a democratic system of global governance on terms set by the others. Thus they would not be able to dictate the structures of the new currency transaction tax organisation or its policies.

7. The main problem for the global CTT movement: the window of opportunity for realising the vision of the Draft Treaty may be closing

The idea of drafting a legal Treaty on CTT occurred spontaneously in a debate on the political aspects of the CTT in Vancouver, Canada, in October 2001, at a conference entitled “Taxing Currency Transactions – From Feasibility to Implementation”, organized by the Halifax Initiative. Subsequently, I contacted Professor Lieven A. Denys whose study on whether the CTT is compatible with the Maastricht Treaty of the EU was given to me in Vancouver. We combined some of the ideas I developed in *Democratising Globalisation* and some of the legal ideas Denys had developed in other contexts. Most of the legal framework of the Draft Treaty is based on the EC 6th VAT Directive, which has thus far provided a model also for Central and Eastern European states, Russia, China and many other states. The Draft Treaty was first made public at the World Social Forum, in Porto Alegre, Brazil, in early February 2002.

Now, the currency transaction tax has three main aims:

- (1) To curb foreign exchange markets and thus transnational flows of short-term capital. Thereby the tax will *stabilise* financial markets and increase the economic policy *autonomy* of states. This will increase also economic efficiency and well-being.
- (2) To create *global funds* for preventive and compensatory mechanisms, and more generally, for global common goods.
- (3) To gain *democratic control* over global financial markets and the social forces they have helped to unleash and strengthen.

The draft Treaty incorporates all the main aims of the tax. The tax base is defined as comprehensively as possible. In our proposal the tax rate is set at a modestly high rate (e.g. 0.1%) since the point is also to curb financial flows. The tax itself is modified. A two-tier system of tax, following the well-known Spahn model, confiscates windfall gains from over-speculation through the trigger of a higher tax during times of exchange rate turbulence. The tax is collected on a national basis, and the states will keep part of the revenues, but the tax itself is global in a sense that it and its terms are established by a multilateral treaty. Moreover, the bulk of the OECD countries' revenues will go automatically to a global fund. This fund is not meant to add to ODA. It is a global fund, based on a global tax that can be used for any global common good as defined by the actors participating in the CTT regime.

The Treaty establishes a new democratic organisation, the CTTO (currency transaction tax organization). Although light in terms of bureaucracy, the CTTO has to be capable of learning and self-transformation. The CTTO has to be open to different points of view; react rapidly to unexpected changes; and qualified to assume new tasks if needed. Moreover, there has to be a fair, transparent and accountable process whereby decisions concerning the allocation of funds can be reached. Only an efficient and open democratic organisation can meet these requirements. On the positive side, a CTTO could also stimulate the development of new forms of democratic participation and accountability in global economic governance, by virtue of its exemplary structure and initiatives.

The CTTO will govern the tax and control the global fund. It consists of a Council, a Permanent Secretariat and a Democratic Assembly. Three kinds of actors are recognised as stake-holders: governments; national parliaments; and transnational civic actors and social movements, including not only NGOs but also for instance trade unions. In (qualified) majority decision-making, the weigh of governments and national parliaments depends on the size of the population of their respective countries. Civic actors take part in decision-making in the Democratic Assembly. They can also come from countries that do not belong to the tax regime. (For more details, see Patomäki 2001, 202-5; Patomäki & Denys 2002, Article 19)

In the first phase, although the regime has to be open for all states to join on equitable terms, there is no need for a universal consensus on the need for the Tobin tax. The proposed Treaty shall enter into force following the 30th ratification of the Treaty, or on the date on which the Preparatory Group has established that the Contracting States who have ratified the Treaty account for at least 20% of the global currency markets, whichever is later. That is, a grouping of countries can initiate the system at any time. The only thing that is needed is a state – for instance Belgium, Brazil, India or South Africa – that is willing to convene an international conference for establishing the CTT and a sufficiently large grouping of states interested in participating. The conference could take place as soon as 2006.

The problem is that since the 1980s many of the key systems of global governance have been harnessed to the project of locking-in economic orthodoxy for good. Stephen Gill (1997a) has coined the term “new constitutionalism” to describe this project. New constitutionalism is a political and legal strategy to disconnect economic policies from democratic accountability and will-formation. The aim is to “constitutionalise” the protection of absolute and exclusive private property rights and the freedom of transnational traders and investors. This is achieved through regional and global multilateral institutions such as the EU and NAFTA; the Bretton Woods

institutions; and the WTO. These treaties and institutions are more difficult to revise than many constitutions. Thereby they provide a solid and firm protection against all challenges to orthodoxy. One of the consequences of the neo-constitutional project is the increasing difficulty of establishing the CTT.

There are now two consequent problems that the global CTT campaign must tackle. The first stems from the fact that in order to cover the required 20% of the forex markets, in practice all the EMU-countries must participate in the regime. Since the EU does not have any competence over issues of taxation, it may seem correct to assume that the EMU-countries could join a global treaty one by one, independently of the EU institutions. National parliaments would play a leading role in this process. Once all of the parliaments of the euro-countries have ratified the Treaty, the euro will enter the CTT-regime. However, it now turns out – as pointed out and elaborated by Lieven Denys in the CTT meeting at the European Social Forum in London in October 2004 – that this is in fact not so clear as I used to assume. The second-tier tax of the Spahn model concerns in fact monetary policy which now lies in the hands of the European Central Bank (ECB). To the extent that this implies that some EU decisions must be made, the European Commission is also bound to play a role as well (the Commission continues to have an almost exclusive right to take regulative initiatives within the Union). Last but not least, any decision about taxes requires a unanimous decision by the Council of Ministers, since taxation is not within the community competence.

Why is this a problem? The ECB is very much part of the neo-constitutional (in Gill's sense) architecture of the EU. It is totally insulated from any democratic politics and it is set to follow monetarist (orthodox) monetary policies from here to eternity (see Gill 1997; Teivainen 1997; Patomäki 1997). Predictably, when asked to give an opinion on the Belgian legislation of summer 2004 on the CTT, the ECB not only made all the standard arguments against the tax on pure orthodox economic grounds but also argued that the CTT goes against the absolute freedom of capital as defined both in the Maastricht Treaty and the new constitutional treaty pending ratification. Similarly, the technocratic and mostly unaccountable Commission has defined the common good of the EU in neoliberal terms. Unsurprisingly, the Commission has also already given a negative opinion on the Belgian legislation (this is in principle confidential – the EU bodies are often very secretive). This is well in line with many previous statements by the Commission on the CTT. Moreover, although the new procedures of “enhanced European cooperation” might be of help in providing a way to overcome the unanimity requirement of the European Council, the unanimity rule means, at least in principle, that any member-state will have a veto right over the CTT. You just need a Britain, Luxembourg, Berlusconi's Italy or a hardline neoliberal new member-state from Eastern Europe to shoot the CTT down in the Council.

The second problem caused by neo-constitutionalism is global. Myriam Vander Stichele (2004) has recently claimed that the GATS liberalisation of the financial sector may endanger the introduction of a currency transaction tax. The General Agreement on Trade in Services, GATS, is among the most important WTO agreements. GATS was negotiated without any kind of public discussion during the Uruguay Round (1986-94). GATS entered into force in January 1995. However, in line with the original plan, the substantial negotiations about liberalising trade in services did not begin before 2000.

GATS covers a very wide area of economic activity, from birth (midwifery) to death (funerals). It includes health and education as well as areas from water distribution to satellite communication. GATS is a potentially very far-reaching agreement since its ultimate aim is to ‘liberalise’ most or all of these fields. ‘Liberalisation’ translates into privatisation and commercialisation. For instance, water supply, transportation, schools, universities, hospitals and libraries may have to be sold to profit-maximising private corporations, in practice often Western TNCs. Although the exercise of governmental authority is excluded from GATS, it is possible that even parts of public administration such as police and prison services may have to be privatised and commercialised in the name of free trade in services.

Vander Stichele (*ibid.*, ch 6, pp. 27-28) points out that in the GATS Annex on Financial Services, all states are required to follow “prudential regulatory standards”. Prudential standards, under the GATS definition, do not “distort competition” or “restrict against foreigners”. The South Korean bank reform has already been challenged under the WTO agreement (although not yet in GATS). Vander Stichele argues that if a country, or a grouping of countries, established a CTT, they could be challenged by other members of the GATS agreement on the grounds that the CTT is not a “prudential measure”. Since the CTT applies to all foreign exchange transactions involving a particular currency – independently of the nationality of the dealers – it probably cannot be argued to be discriminatory. However, since by (the orthodox) definition any measure or standard that does not reverse the absolute freedom of market-actors to invest on will or whim without any obstacle or restriction is “distortive of competition”, there is a real danger that the GATS Annex on Financial Services could be used to challenge the CTT, particularly if the CTT is based on any sort of Keynesian or other non-orthodox reasoning. This might also become a further deterrent – and a political argument used – against the CTT.

8. Concluding remarks

The Kapoor draft report stresses repeatedly that it puts forward a “mainstream proposal”. In other words, the proposal is in accordance with the neoliberal world order and the logic of neoclassical economic theory. Tobin’s original CTT proposal was based on rather different and much sounder Keynesian reasoning. Of course, it may seem unwise to use Keynesian reasoning if you want to convince the New Labour government in the UK or the transnational “business community”. This seems, indeed, to be the intention of Kapoor’s report (and that of the UK-based Tobin Tax Network more generally), which critically constrains its vision.

The main moral aim of Kapoor’s CTT proposal is to get new funding for the purpose of achieving the Millennium Development Goals. The H

logic of this proposal is not entirely clear, though. What exactly is the connection between the projected CTT and the fund? Moreover, in the light of evidence, traditional ODA does not seem to provide adequate means to combat poverty and hunger. To the contrary, ODA can also be seen as a power-resource of Western great powers and related international organisations to impose their will in the South. The lack of economic and political realism in Kapoor’s proposal is evident also in the absence of any analysis of power and political conflicts over values, visions and

interests. Global finance has not only had manifold effects of power but has also created winners and losers and is systematically redistributing wealth from the bottom and middle to the top.

An alternative to the traditional forms of international charity is a multilaterally established and democratically controlled global tax. Technically and legally, it is fairly straightforward to establish a global CTT regime along the lines of the Draft Treaty (or any other similar proposal). However, the window of opportunity for realising the vision of the Draft Treaty may already be closing. The transnational project of “new constitutionalism”, designed to disconnect economic policies from democratic accountability and will-formation, has already succeeded in securing the protection of absolute and exclusive private property rights and the freedom of transnational traders and investors both in the EU and through the WTO. As long as the EU is structured around the principles of economic liberalism, and as long as taxation falls outside the community competence, the Europeans must seriously consider whether a return to the original proposal of James Tobin might, after all, be preferable to the two-tier model that can be so easily defeated in the EU institutions. A simple Tobin tax could be approved by national parliaments of the euro-area without the consent of the EU bodies. Globally, the CTT campaigners must sharpen their skills for legal argumentation in order to prepare to the foreseeable challenges in the WTO, particularly in terms of the GATS agreement.

It is increasingly clear that the time for single-issue movements is over. The interconnectedness of EU politics, the development of the WTO and the prospects for progressive financial reforms points towards the importance of wholistic understanding of the issues of world politics. While the CTT is urgently needed and may still be realised in accordance with the Draft Treaty or a modified version of it, the more general task is to open democratic spaces for world politics against the (already partially successful) attempts to lock-in the principles of neoliberalism for good. The CTTO should play an important role in these struggles.

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