

Exchange Rate Misalignments in the IMF and WTO Law

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My PhD research deals with Exchange rate misalignment in the IMF and WTO Law. This is a very interesting subject because it comprises not only legal perspectives but also some inputs from economics and finance. It also has a high level influence of international politics.

I have always been into international economic law through the lens of the WTO and international trade. Many scholars have told me that the WTO and the IMF are two different international organizations with different practices and perspectives of a so-called *grey zone* between trade and finance or monetary issues.

I had it clear in my research that, somehow, exchange rates would have some role in the exports/imports performance of a country. At this point it is important to highlight that a floating exchange rate system has made things even harder to analyze.

One simple example tells that if a country A has its currency devaluated against country B, it would mean that Country A exporters' goods would be cheaper to sell to that same country B's currency while it would be more expensive for country B export to Country A. The opposite is also true. If Country A has its currency overvalued against country B's currency, it would suggest that Country A exporters' goods would be more expensive to sell to country B while it would be cheaper for country B to export to Country A.

Although that picture could be real, it is far from analyzing the whole picture. I had some doubts about how the IMF and the WTO could work together in this issue because: (i) GATT Article XV:4 states that *contracting parties shall not, by exchange action, frustrate the intent of the provisions in this Agreement, nor, by trade action, the intent of the provisions of the Articles of Agreement of the International Monetary Fund*; and (ii) the IMF Articles of Agreement Article IV.1:(iii) states a different concept by determining that *each Member shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members*.

It does not take a long time to conclude that both provisions deal with correlated issues but in different terms. It would not be out of hand to consider

that both institutions, at some point, touches the case of exchange rate misalignments, albeit with different perspectives and goals.

I have worked with WTO Law for the last five years at least. I have been to Geneva and I have the honor to be supervised by two excellent professors in the field. However, it does not mean at all that I have found answers for all questions regarding the WTO and exchange rates; far from that.

This was the main reason why I decided to go to Georgetown University Law Center. It is located in Washington, D.C., USA. It has an excellent group of professors of international economic law and a very active community in this field. Of course, it is the city where the IMF has its headquarters.

In the end, I wanted to go to get to know two things:

- (i) Discuss a little further the IMF practices on exchange rate misalignments and how the Fund sees its responsibilities and competences;
- (ii) Understand the debate through an American perspective, especially because the US dollar plays a central role in international finance and trade.

I confess it was not easy to get into these. I had the great help of Professor Michael Gadbow who made my goals easier to grasp.

During the first weeks, I had talks with him and other students. They were very profitable discussions. I also attended to some of his classes about money and finance. At this point I could get acquainted to American politics and views about exchange rates. The US Congress debated bills on this issue and included this topic as a central objective in their future trade negotiations.

That was very interesting to my research because the United States and the European Union, in the WTO, have been skeptical about including exchange rates issues into the WTO system, although developing countries such as Brazil have been advocating for more debate about the interactions between trade and exchange rates.

I also had the opportunity to discuss some topics of my thesis with some IMF Staff and to attend to conferences and seminars in which I could get more involved with the IMF practices.

Finally, I joined the Institute for International Economic Law (IIEL) at Georgetown University Law Center. We had weekly meetings about different

issues with different scholars. I was able to discuss my research with the director, who happens to be studying the international finance system.

What have I accomplished in this research abroad opportunity at Georgetown University Law Center?

I can say beyond doubt that for Americans this debate is mainly political and has little to do with the WTO. The US Treasury is very resistant in applying trade standards to exchange rate actions and interventions. For what I could observe, the role of the US dollar is strategic not only for trade but mostly for financial stability purposes. Reducing the scope of exchange rate interventions to a trade matter only would not seem adequate.

Finally, the role of the IMF was debated with economists, IMF Staff Members and other professors. It was possible to come to a conclusion that the floating exchange rate system might have turned very hard to prove, economically, that a country had violated IMF rules by manipulating its currency. Therefore, this time abroad gave another matter to take care of: is it possible to prove that an exchange rate misalignment is deliberately caused by the government or are they just facts of life?

As a conclusion of my stay in Georgetown, I would like to share one conversation I had with a professor there about GATT Article XV:9(a) that, apparently, is used as a safe haven for those who advocate against the discussion of exchange rates and trade under the auspices of the WTO. The provision states that "[Nothing in this Agreement shall preclude] the use by a contracting party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund....". The problem here seems to be how to interpret "in accordance with". GATT Article XV:9 has been depicted as a safe haven for those who believe that the WTO cannot do much about exchange rate misalignments. However, that is only true if the country is "in accordance with" the IMF Articles of Agreement.

What is the meaning of that? Some hypothesis were discussed: (i) the Member is "in accordance with" simply because there is no decision saying it is not; (ii) the Member is "in accordance with" only if the IMF says so, which means that the IMF has to provide some sort of document stating in writing that this is the case or otherwise it is not certain whether the country is "in accordance with" the IMF Articles of Agreement or not. Another question derived from the first one: how should the burden of proof play out in each of the cases?

Apparently, I still have a lot of work to do!