

Complex Multilateralism & the World Trade Organization: The future of Global Governance?

Abstract: In the face of a multitude of challenges from a plethora of actors (state, non-state and other international organizations) the WTO is being forced to confront what role the organization is to play in the 21st century. This paper will look at the questions of legitimacy and the organization's responses, and will argue that the centralisation of the WTO within the international system of economic governance is leading to a significant shift in the scope and nature of the WTO itself from a narrowly defined trade focus to a more expansive 'trade and ...' focus through the processes and practices of increasingly complex multilateralism.

Introduction

With the completion of the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations the trading regime shifted significantly into a new era. Along with the original GATT agreement the newly formed World Trade Organization (WTO) also had the General Agreement on Trade in Services (GATS) and Trade Related Aspects of Intellectual Property Rights agreement (TRIPS) to administer, greatly expanding the scope and reach of the organization.

The WTO makes it explicitly clear that its constitutive principles are that the trading system should be freer, without discrimination, predictable, more competitive, and more beneficial for less developed countries. In practice the norms of Most-Favoured-Nation (MFN), National Treatment and Freer trade through negotiation, condition the rules and practices of the multilateral trading system that is the WTO. However, the expansion of the trading regime has brought the organization into the realms of a number of difficult trade and ... considerations, particularly in the area of public health, environmental protection, human rights, and cultural diversity. This expansion has led to concerns of overreach and a legitimacy deficit, and in turn responses to these concerns will have serious concerns for both the WTO and global governance.

The Seattle Ministerial of 1999 is widely identified as a turning point for the World Trade Organization (WTO), and more broadly global economic governance, as the beginning of concerted attention on the legitimacy of the organization and its impact upon the lives of billions of people. This 'crisis of legitimacy' has been highlighted by many, offering a variety of causes

and solutions (Esty, 2002, Elsig, 2007, Bodansky, 1999, Van den Bossche and Alexovicova, 2005, Weinstein and Charnovitz, 2001). Here I am concerned primarily with the legitimacy concerns raised by the expansion of the WTO into overlapping policy domains, particularly in the areas of the environment, labour, culture, and health. This paper operates at a broad level of abstraction asserting that the WTO after just over a decade finds itself a victim of its own success. This 'success' may lead to its expansion, contraction or indeed implosion. In tracing events from the WTO's inception through to the present gridlock in negotiations, we will first examine the legitimacy challenges faced by the organization before moving onto the emergence of an increasingly complex form of multilateralism. This in turn leads to potential shifts in the practice of global governance more broadly towards an increasingly formal inclusion of non-state actors into the modern state-centric system as it is broadly defined.

One of the key aspects of the WTO that captures the imagination of a whole range of interests is the organization's 'teeth', its legally binding dispute settlement mechanism. The completion of the Uruguay Round of the GATT led to the international trading system finally resting on an equal footing with the International Monetary Fund (IMF) and the World Bank with the emergence of the WTO in 1995. Within a few short years, the WTO perhaps could be seen to surpass the Bretton Woods institutions (due in large part to the gravitational pull of its 'teeth' and the lure of market access). With the rapid expansion in membership, as well as the reach and impact of the WTO's rules over the last 12 years, has come increased pressures and strain. Challenges to the legitimacy, accountability and transparency of the organization can be evidenced from a number of perspectives. Given these increasing challenges to the WTO and its impact in a wide range of spheres, it can be argued that broadly, it is the manner in which the WTO sets the principles and mechanisms of its engagement with a wide variety of actors in these realms that will ultimately decide the fate of the organization in the 21st Century. This is both a challenge of procedure and principles. To put it simply it is how the WTO engages and accounts for the concerns of overreach (expansion of the narrow trade agenda to trade and ... concerns) that are central to the future of the WTO and its place in global economic governance that I am most interested in. The answer, I believe, lies in the emergence of complex multilateralism. That is the future of the WTO lies in careful, principled expansion of its reach, both in terms of the scope of its rules and the scope of its inclusiveness of participants, not contraction nor implosion.

Legitimacy Explored

At this point it would be prudent to explore the concept of legitimacy and its implications before applying it to the WTO. Hurd reminds us that “legitimacy matters to international institutions and to the nature of the international system as a whole (Hurd, 1999).” Furthermore, if an institution lacks legitimacy, “then their claims to authority are unfounded and they are not entitled to our support (Buchanan and Keohane, 2006)”. Without legitimacy an institution must resort to either coercion or self-interest to maintain authority, neither of which are desirable for obvious reasons, none more so than the costs of maintaining such a situation. Legitimacy permits “actors to coordinate their support for particular institutions by appealing to their common capacity to be moved by *moral reasons*, as distinct from purely strategic or exclusively self-interested reasons (Buchanan and Keohane, 2006).” Buchanan and Keohane extend this argument in asserting “It is important not only that global governance institutions be legitimate, but that they are perceived to be legitimate (Buchanan and Keohane, 2006).” The perception, Buchanan and Keohane argue, is imperative “because, in a democratic era, multilateral institutions will only thrive if they are viewed as legitimate by democratic publics (Buchanan and Keohane, 2006).”

Legitimacy, as I understand and employ it here, is the normative belief by an actor or actors that they should comply with a rule or institution (Hurd, 1999). Legitimacy is commonly taken to mean the right to rule or govern. The concept is “a quality that society ascribes to an actor’s identity, interests, or practices, or to an institution’s norms, rules and principles (Reus-Smit, 2007).” The most important point being that legitimacy is socially ascribed and can only be given, not taken. No action, actor or institution can be depicted as legitimate if it is not recognised socially as being rightful (Reus-Smit, 2007). Legitimacy is about right, not might. Reus-Smit reminds us that “[b]ecause of its inherently social nature, legitimacy should not be conflated with other social values. Politicians, journalists, and scholars frequently use the language of legitimacy interchangeably with the language of rationality, justice, legality, and morality (Reus-Smit, 2007).” Rationality, justice, legality and morality can be seen as practices and principles of an institution or actor, which may give reason to the social support of a legitimacy claim. Legitimacy must also not be conflated with optimal efficacy and efficiency (Buchanan and Keohane, 2006). Efficacy and efficiency may be contributing factors to the legitimacy of an institution or actor, but it may not always be the case that efficacy and efficiency are enough to be recognised as legitimate. Political power is dependent upon, and intimately connected to, legitimacy (Reus-Smit, 2007). Without legitimacy, political power becomes difficult

to maintain without resorting to means of coercion or self-interest, both of which can be very costly and temporary solutions. In short, legitimacy is “a social phenomenon, grounded in intersubjective meanings and values, and constructed through social communication (Reus-Smit, 2007).” Therefore an institution’s legitimacy depends upon both the practices and principles of the institution as well as the broader community within which it is constituted. Furthermore, an international institution establishes its legitimacy “through the rhetorical construction of self-images and the public justification of priorities and practices, and other actors contest or endorse these representations through similar rhetorical processes (Reus-Smit, 2007).” That is to say that not only do the practices and principles of an institution matter, but also how these are represented publicly by the institution and other actors has a great deal of bearing on its legitimacy.

This raises the question as to how an actor, particularly an international organization, commands legitimacy? For Reus-Smit, an international organization would be seen to command legitimacy when its decisions and actions as well as identity and interests are socially sanctioned (Reus-Smit, 2007). That is, when the international community (inclusive principally of sovereign states, but also to a lesser degree other international organizations and non-governmental organizations) view the actions, decisions, identity and interests as appropriate, legitimacy and hence authority are conveyed to the international organization. Furthermore the legitimacy of “the norms, rules, and principles that undergird and license these actions” can also be subject to social sanction (Reus-Smit, 2007). So when an institution can be said to command legitimacy its normative principles are generally seen as fair and deserving of compliance for reasons other than self-interest (Reus-Smit, 2007). This is reinforced by rhetoric as well as practice in the international community.

A Crisis of Legitimacy

Legitimacy is crucial for the WTO, as legitimacy provides for authority, and authority enables a governing body to attain its goals with efficiency and efficacy as “most compliance is unproblematic and only occasional deviance needs to be policed (Hurd, 1999).” For much of the second-half of the last century the world trade regime operated for the most part without any challenges to its legitimacy “derived almost entirely from its perceived efficacy and value as part of the international economic management structure (Esty, 2002).” As we have seen at the beginning of this century, this is no longer the case. Actors both, state and non-state, inside and outside, have serious concerns regarding the WTO and the actions and implications of its

activities and policies. As Daniel Esty argues “Trade is no longer considered to be an obscure policy domain best left to technical experts. Instead, trade issues and initiatives are now a major focus of public attention and discussion across the world (Esty, 2002).” Indeed the days of quiet negotiations behind closed doors under the ‘club-model’ seem to be long gone, regardless of the nostalgia of some of its member states. With this public attention has come repeated and increasing challenges to the WTO’s legitimacy, some of it misplaced, and yet some of it substantive.

When we say that an institution such as the WTO is suffering a crisis of legitimacy, we are talking about a critical turning point where the institution needs to adapt or “suffer a decline in its power to achieve its ends (Eckersley, 2007).” That is a lack of social recognition and therefore authority of the institution to act effectively to achieve its prescribed goals. Eckersley suggests that this adaptation may take one of two paths: material levers such as inducement or coercion, or an attempt to recover the social recognition of being rightful and relevant. We can exclude the use of material levers to resolve a crisis of legitimacy as this does not address the underlying issues, it merely prolongs them {Reus-Smit, 2007 #123; Hurd, 1999 #113}. Such a crisis may be short-lived, acute, or more prolonged, chronic (Reus-Smit, 2007). “Restoring legitimacy effectively means reconstituting the social basis of power, which provides a much more stable and lasting resolution to a legitimacy crisis than the resort to material levers (Eckersley, 2007).” To restore legitimacy an institution must “recalibrate the relationship between its social identity, purposes, and practices, and the prevailing social norms that define the parameters of rightful agency and action; and, second, realign its realm of political action with its social constituency of legitimation (Reus-Smit, 2007).” The institution’s legitimacy will be restored when its practices and principles are once again internalised by, and in harmony with, the international community and the standards, laws, rules and norms present within this community (Hurd, 1999). In order to maintain this legitimacy the institution must ensure that its sphere of action and its “social constituency of legitimation” are “coextensive, or at least approximate one another (Reus-Smit, 2007).” It would appear that in the case of the WTO we have seen a disconnect here, as the trading regime has expanded its sphere of action without adequately addressing the expanded social constituency.

After 50 years of trade negotiations under the GATT that had significantly reduced tariffs, the WTO emerged in 1995 to take the principal role in managing global economic interdependence. The WTO embarked upon ambitious new areas of trade rules that have a much greater impact

on other spheres of human life. The TRIPS, more than any other set the precedence for the expansion and overlap of trade and other policy concerns. Where the GATT's output legitimacy had been taken for granted whilst it served its narrowly focussed goals well, the WTO can no longer rely upon delivering trade liberalization in and for its own sake to garner the requisite input legitimacy from its members and the broader public (Esty, 2002). The concern and impact of WTO rules on human rights, the environment, public health and cultural diversity have contributed significantly to the crisis of legitimacy. "[T]he international trading system has not adapted to a rapidly changing global scene – and now faces a serious legitimacy crisis (Esty, 2002)." This crisis involves not only concern about the way in which the WTO governs world trade, but also normative questions of whether it has the right to do so at all, particularly in relation to the expanded areas of trade.

In a rather circular argument, it can be seen that the allure of the WTO dispute settlement mechanism and greater market access has led to an exponential rise in its membership, as well as an expansion in the areas of trade rules that have in turn led to greater economic integration. This expanding and deepening of the trade regime has subsequently influenced the lives of many in ways never before experienced. The extended reach of the WTO has led to cries of overreach as a result of the organization being no longer solely focussed on trade liberalization but also these other issues and values (Esty, 2002). This has added significant attention and pressure to the organization as those affected begin to seriously question the procedural and normative legitimacy of the WTO. Hence the WTO can be said to be a victim of its own success, and that this success has contributed considerably to its current crisis of legitimacy. Or as Esty argues, derivative legitimacy afforded by the popular sovereignty of unelected officials from far-removed nations is no longer sufficient (Esty, 2002).

Buchanan and Keohane distinguish between two forms of legitimacy for global governance institutions, those being; normative legitimacy – where there is an assertion that the institution has the right to rule, and sociological legitimacy – where it is widely believed that an institution has the right to rule (Buchanan and Keohane, 2006). They contend that most questions of legitimacy in terms of the WTO are normative in nature (Buchanan and Keohane, 2006). This is case for the most part, perhaps with the qualification that there are also a number of legitimacy concerns that are procedural in nature. That is, they are concerned with not whether the institution has or is believed to have the right to rule, but the way in which the institution goes about its rule that is being questioned over its legitimacy or lack there of. This is particularly of

concern to environmentalists in the absence of an adequately endowed global environmental regime or rather the encroachment of the WTO on Multilateral Environmental Agreements.

As the realms covered by the WTO's rules expand it is increasingly coming into contact with communities of interest that transgress nation-state borders. In particular, Environmental and human rights non-governmental organizations (NGOs), trade unions, and other intergovernmental organizations such as the International Labour Organization (ILO) and the United Nations Education Science and Cultural Organization (UNESCO), have seen a need to either respond directly to the policies of the WTO or seek a voice in the WTO's policy and dispute settlement processes themselves. Indeed, as Esty argues "to limit their participation in global politics to electing national representatives who will designate trade ministry officials to represent the nation in a narrowly confined intergovernmental dialogue produces a terribly thin reed of popular sovereignty on which to build the legitimacy of the WTO (Esty, 2002)." With the emergence of the WTO we have seen an expansion beyond the narrow trade in goods focus of the GATT, which has presented challenges to the input legitimacy of the organization that was previously all but ignored in the face of the output legitimacy of the GATT.

It has become very clear that this can no longer be the case. Buchanan argues that today "to be legitimate a global governance institution must possess certain *epistemic* virtues that facilitate the ongoing critical revision of its goals, through interaction with agents and organizations outside the institution (Buchanan and Keohane, 2006)." If the WTO continues to make decisions that privilege economic efficiency over other significant values that are in tension, such as the environment and human rights, the legitimacy and authority derived therein will continue to decline to a crises point, if indeed this has not already been reached (Esty, 2002). Esty takes this argument further proclaiming "The trade community today needs to bend over backwards to recognize the validity of the other policy goals and values that are impinged upon by the trading system (Esty, 2002)." What is needed from the WTO are principles for dealing with these tensions with other policy goals and values that adequately address the concerns of all to a point that the legitimacy and authority of the organization is no longer seen to be approaching or going beyond crisis point. That is, the WTO needs to ensure that its decisions and actions are recognised both internally and externally by a wider array of actors as legitimate. This is an extraordinary challenge for an international governmental organization within the international system. One in which suggests significant reform of both the practices and principles of the organization as a whole.

A much more complex and fluid international system is emerging, with the WTO at the forefront of global governance and economic integration and simultaneously awry with contemporary norms associated with good public policymaking (Esty, 2002). This poses significant challenges, as mentioned above, in terms of addressing both its traditional constituency of nation-states as well as an expanded constituency of other international regimes and non-state actors often with conflicting interests and values. Esty argues that the WTO “needs to re-establish its reputation for efficacy”, make new connections with “publics around the world” and “strengthen the broader institutional structure of checks and balances within which the WTO operates (Esty, 2002).” Specifically, the institution needs to reinvent itself and the way in which it engages with such a broad constituency, integrating into an ever more complex and interdependent system of global governance that impacts upon the way in which people live and want to live. “In this regard, we must find more robust modalities and substantive principles by which to square the economic gains of more efficient markets with other public priorities, such as poverty alleviation, environmental protection, or the promotion of human rights (Esty, 2002).” Such a shift in practice and principle leads to questions of civil society engagement and the problems of addressing such different constituencies, principally state and non-state actors. What appears to be emerging in response, in one form or another, can be described as complex multilateralism. Fully realised this may provide a solution to the current legitimacy dilemmas faced by the WTO.

Complex Multilateralism: the future?

Miles Kahler illustrates that the major post-war global regimes have been governed by “minilateralist” groupings within them (including GATT). Thus, these regimes were not merely controlled by hegemony, thereby avoiding problems of legitimacy. The process of decolonisation placed a strain on these “minilateralist” groupings in the 1960s and 1970s. Nonetheless, in the subsequent, GATT rounds Kahler finds little evidence that states encountered overwhelming difficulties in formulating institutional apparatus that obliged larger numbers of participants while retaining the facility to arrive at decisions (Ruggie, 1992). However Ruggie argues that to comment on “the content of international economic orders and about the regimes that serve them, it is necessary to look at how power and legitimate social purpose become fused to project political authority into the international system(Ruggie, 1992).”

Robert O'Brien, Anne Marie Goetz, Jan Aart Scholte and Marc Williams take the next step in this theoretical evolution and begin to sketch out what they term complex multilateralism (O'Brien et al., 2000). O'Brien et al. observe that the nature of governance and authority in multilateral economic institutions is in transition (O'Brien et al., 2000). This transition is "a movement away from a multilateralism based primarily on the activity of states" towards a more complex multilateralism involving state and non-state actors (O'Brien et al., 2000). For O'Brien *et al.* the practice of multilateralism has become more complicated in accommodating the demands of Global Social Movements, and perhaps the interests of international business. Their aim in putting forward this expanded definition is "to capture real world changes (O'Brien et al., 2000)." To a certain extent their definition accomplishes this, however I contend that this is no more than an important first step in exploring the concept of complex multilateralism.

A deeper and broader understanding of complex multilateralism can be achieved by looking at all of the actors involved and the practices and structures that have evolved. Complex multilateralism works as an extension of the state system. In addition to merely extending the range of actors involved in multilateral institutions, a more complete characterization of the practice of complex multilateralism requires taking into account the interaction between these international organizations and regimes, the power relationships between all actors, state, non-state and other international organizations and regimes, as well as the formation of norms, ideas, interests, principles and collective identities.

O'Brien et al. declare that their concept of complex multilateralism is shift away from the conventional understanding of multilateralism as a basic institutional form coordinating relations amongst three or more states. The concept of complex multilateralism that is being advocated here is yet another step beyond these more basic meanings and contends that to some extent the practice of multilateralism has always been more complex than these definitions would allow for. The most obvious example here is the tripartite structure of the International Labour Organization.

O'Brien et al. "identify five central characteristics of complex multilateralism (O'Brien et al., 2000)." These being; varied institutional modification, conflicting motivations and goals, ambiguous results, differential state impact, and finally, a more social agenda. Here we can agree that indeed multilateral institutions are modifying themselves in response to pressure from civil society and questions of legitimacy. The goals of the institutions and the civil society

actors are at odds in terms of policy direction in the most part. The achievements of social movements to effect change at the level of generalised principles have been relatively ineffectual, doing very little to hamper the performance of the institutions. The practice of complex multilateralism does have a varied bearing upon states depending upon the standing of particular states within the international system. Finally, it is not difficult at all to concede that complex multilateralism has broadened the policy agenda to include more social issues. This point, more than that prior, resonates with the argument being made in this paper, as it is through this broadening agenda that we find the concept of complex multilateralism in practice. As we will explore further shortly, the expansion of the reach of the WTO has resulted in a more complex form of multilateralism within the WTO, whether this was intentional or not.

As stated earlier, the efficacy of the WTO's legally binding dispute settlement mechanism has lead to a wide array of conflicts involving trade and other policy interests being settled there. This along with the expanded rules afforded by the WTO's creation has essentially been the catalyst for the much increased social constituency of the WTO, and hence its much more complex constituency of legitimation. Such a constituency leaves no choice but to the practice of complex multilateralism in one guise or another. This expanded sphere of action has meant the inclusion, at least in terms of discourse and at times practice, of other international regimes and non-state actors in areas of trade rules that overlap with free-trade resistant social norms such as environmental protection, labour standards, cultural diversity and public health. In the future the practice of complex multilateralism can only continue to become more interdependent requiring clear principles to be developed by the WTO for addressing trade and other overlapping policy concerns. Esty goes so far as to argue "as the trade agenda intersects with other policy domains such as environmental protection, trade logic and principles cannot be counted upon to reconcile appropriately the competing policy pressures (Esty, 2002)." In what could be termed a stronger form of complex multilateralism, Esty argues that the WTO policymaking process could be enhanced by moving towards greater transparency by engaging with non-governmental interests via open debate to encompass a greater range of views from civil society. Qualifying this by stating that NGOs would not get a vote in decision-making, but that the voice would be beneficial as decision makers would be exposed to a greater range of views, questions, data, analyses, and options (Esty, 2002). Given the overlapping policy realms it would also be important to include other international organisations in the policy areas mentioned above this would include the United Nations Environment Program (UNEP), ILO, UNESCO, and the World Health Organization (WHO). Such engagement would clearly improve

the legitimacy of the WTO to some extent across its broad social constituency. In order for this level of engagement to be realised the WTO would need to develop and incorporate clear and consistent principles into the legal framework of the WTO at the political level. These would need to be considered core principles sharing the same status as its constitutive principles of free trade, non-discrimination, predictability, competitiveness, and more beneficial for less developed countries.

Alternatively, if the WTO were to retreat to its 'core' mission of trade concerns in response to the perceived legitimacy crisis, it would still need to develop guidelines as to how it deals with questions of overlap as its rules and actions invariably impact upon these other realms of policy-making. Thus a need to engage with some form of complex multilateralism still holds, even in a weakened form.

This paper comes out of a larger project that specifically examines the WTO's capability to incorporate free-trade resistant social norms within the rules and principles of the Organization. By investigating the contest over the inclusion of core labour standards, environmental protection, cultural diversity, and public health norms, I argue that practices of complex multilateralism (expanding upon the work of O'Brien Et Al, 2000) emerge whereby governance in these areas lies in the contestation and cooperation between the WTO, member-states, other inter-governmental organizations, non-governmental organizations and civil society, and private business interests. A key claim asserted here is that the TRIPS agreement opened up the way for arguments over the inclusion of a wide variety of trade and non-trade related aspects of human activity within the WTO legal framework. In particular the emergence of the multilateral organization with teeth is particularly appealing to issue areas that are attracted to the prospect of enforcing rules where there has been a history of weak recommendations and ineffective regimes. In addition to those areas that are 'forum shopping' there is an equal draw for those who wish to voice their concerns over the impact of the WTO on both trade and non-trade related areas. This increased scope has added to the numerous legitimacy challenges and expanded the social constituency of the WTO beyond simply the concerns of traditional state actors (particularly the tensions between the developed and lesser developed member) to also include the interests and concerns of other intergovernmental organizations and non-state actors to varying degrees and across a plethora of policy areas. To put it simply, without engaging in some form of complex multilateralism the WTO is in danger of imploding under the weight of monumental expectation.

To date the contestation within the WTO over the inclusion of Labour Standards, Public Health, Environmental Protection and Cultural Diversity norms has been an ad hoc approach to the potential additional areas for new rules, practices and principles. The WTO's ad hoc responses to these challenges bears witness to the increasing practices of complex multilateralism as opposed to the practices of unilateralism, bilateralism, plurilateralism and traditional multilateralism.

Conclusion

It is the ability of the WTO to legally enforce its rules and principles that has created a 'gravitational pull' for an ever-expanding range of global issues calling for new areas of multilateral rules. This is not likely to abate without serious repercussions from their inclusion or the strengthening of alternative regimes to provide for the types of outcomes that are being sought. Without the creation of such regimes the WTO faces the prospect of becoming a *de facto* World Government of sorts that must make far-reaching policy decisions in almost any area that comes into contact and tension with the trading regime. In the event of such regimes actually being created there would still be a need to create clear mechanisms for dealing with the inevitable problems of overlap. Such mechanisms must incorporate at the very least a voice for those that the policy will have an impact. The retreat of the WTO back to its primary role of trade liberalization would have significant drawbacks without the strengthening of other regimes and the cooperation of the WTO in dealing with the tensions and overlap in impacts and jurisdiction. The incorporation of Human Rights, Labour Standards and Environmental Protection is highly contentious and receives support and resistance from all angles. It is the allure of the WTO's teeth and frustration with the other regimes gums that give rise to and drive the arguments in support of this option. Many however suggest that given the political practices and trade-oriented focus of the WTO this outcome would be disastrous for these policy concerns in that they would remain subservient to trade issues (Esty, 2002). With the increasing pace of complex multilateralism the standards of legitimacy and mechanisms of accountability must evolve to include more than merely the sanction of nation-states (Buchanan and Keohane, 2006).

A stronger form of complex multilateralism would appear to be heading towards what Slaughter describes as networked governance. For Slaughter such an outcome would see a rejection of a centralized approach to global governance.

National governments and national government officials must remain the primary focus of political loyalty and the primary actors on the global stage. If, however, they are to be actors in national and global policymaking simultaneously, officials would have to be able to think at once in terms of the national and the global interest and to sort out the relative priorities of the two on a case-by-case basis. A national environmental regulator would have to be able to push for a set of global environmental restrictions to her constituents, while at the same time making the case for those restrictions to her constituents. And at times she might have to agree to restrictions that would be considerably tighter than her constituents wanted to get an agreement that advanced the collective interests of all nations (Slaughter, 2004).

We are heading towards Slaughter's networked governance but are a long way from reaching this destination. There are signs that the WTO is striving for the normative and procedural legitimacy in its rules and principles as described by Hurd although the actions of some of its members at times exhibit the traits of coercion and self-interest. In order to move forward the path seems clear and that path is complex multilateralism. The engagement of state, non-state, and other intergovernmental actors in the decision making processes of the organization will go a long way to addressing a crisis of legitimacy and cries of institutional over-reach. The WTO in the 21st century posits a great deal of potential for the future of global governance if it can effectively manage the tensions between the ever-expanding trade regime and the human race that regime is derived to support. The future lies in the ways in which the WTO responds to these governance challenges and in turn this could have certain implications for the very nature of global governance in the 21st Century.

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