



THE CONSTITUTIONALIZATION OF THE WORLD TRADE ORGANIZATION

Legitimacy, Democracy, and Community
in the International Trading System

Deborah Z. Cass

Constitutionalization Of The World Trade Organization

Thomas Cottier, Panagiotis Delimatsis



Constitutionalization Of The World Trade Organization:

The Constitutionalization of the World Trade Organization Deborah Z. Cass, 2005 This work untangles debates about constitutionalisation and argues that the WTO is not and should not be described as a constitution by the standards of any conventional definition or by the lights of any constitution to which we ought to aspire [The Constitutionalization of the World Trade Organization](#) Deborah Z. Cass, 2005 This is a book about the constitutionalization of the World Trade Organization and the contemporary development of institutional forms and democratic ideas associated with constitutionalism within the world trading system It is about constitutionalization enthusiasts who promote institutions management techniques rights discourse and quasi judicial power to construct a constitution for the WTO It is about constitutional skeptics who fear the effect the phenomenon of constitutionalization is having on the autonomy of states the capacity of the WTO to consider non economic and non free trade goals and democratic processes at the WTO and within the nation state The aim of the study then is to disentangle debates about the various meanings of the term constitution when it used to apply to the World Trade Organization and to reflect upon the significance of those meanings for more general international law conceptions of constitutions Cass argues that the WTO is not and should not be described as a constitution either by the standards of any received account of that term or by the lights of any of the current WTO models Under these definitions serious issues of legitimacy democracy and community are at stake The WTO would lack a proper political structure to balance the work of its judicial bodies it may curtail the ability of states to decide matters of national economic interest it lacks authorization by a coherent political community and it risks an emphasis upon economic goals and pure free trade over other equally important social values Instead Cass argues that what is needed is a constitutionalized WTO which considers the economic development needs of states and takes account of the skewed playing field of international trade and its effect on the economic prospects of developing countries In short trading democracy legitimacy and community and not trading constitutionalization are the biggest challenges facing the WTO [Redesigning the World Trade Organization for the Twenty-first Century](#) Debra P. Steger, 2010-05-06 Two high level commissions the Sutherland report in 2004 and the Warwick Commission report in 2007 addressed the future of the World Trade Organization and made proposals for incremental reform This book goes further it explains why institutional reform of the WTO is needed at this critical juncture in world history and provides innovative practical proposals for modernizing the WTO to enable it to respond to the challenges of the twenty first century Contributors focus on five critical areas transparency decision and rule making procedures internal management structures participation by non governmental organizations and civil society and relationships with regional trade agreements Co published with the International Development Research Centre and the Centre for International Governance Innovation **The Oxford Handbook on The World Trade Organization** Amrita Narlikar, Martin Daunton, Robert M. Stern, 2012-05-31 This handbook provides a holistic understanding of what the World

Trade Organization does how it goes about fulfilling its tasks its achievements and problems and how it might contend with some critical challenges The WTO System Robert Howse, 2007 No one with a serious professional or intellectual interest in the WTO can ignore the essays in this volume many of which have been major flashpoints of controversy and debate in the field such as the attack on the product process distinction and the critique of the constitutional perspective on the WTO to give but two examples Written against the backdrop of the post Seattle legitimacy crisis of the WTO these works consider how the doctrine and method of WTO adjudication have responded especially in sensitive areas such as trade and environment and health and safety regulation **Global Constitutionalism** Aydin Atilgan, 2017-11-27 This book provides insights into the viability of the idea of global constitution Global constitutionalism has emerged as an alternative paradigm for international law However in view of the complex and varied structure of contemporary constitutionalism in reality it is extremely difficult to use constitutional law to provide a new paradigm for international law The book argues that the cultural paradigm can offer functional tools for the global constitutionalism discourse In other words global constitutionalism could be handled in the context of a global constitutional culture instead of a global constitution This would provide a more realistic basis for discussing global constitutionalization of a society as diverse as the international community where a globalized polity and a globalized legal system have not yet been achieved *The Standard of Review in WTO Dispute Settlement* Ross Becroft, 2012-01-01 Applying the proper standard of review has been a vexing issue for WTO panels and Members alike As in national systems the degree to which the reviewing body here the panel defers to the investigating authority is frequently controversial Dr Becroft has provided a thorough analysis of the WTO jurisprudence to date identified the shortcomings of the present approach and offered a thoughtful series of recommendations for formulating a new and better standard of review David A Gantz The University of Arizona US Ross Becroft has produced a solid monograph which adds to the existing literature on the correct standard of review to be applied by a WTO panel Becroft's work is well researched and written and his analysis is straight forward and comprehensive His call for a new standard of review is well thought out creative and feasible Becroft's book is recommended reading for those interested in the workings and decision making in WTO dispute settlement Bryan Mercurio The Chinese University of Hong Kong This is an important book and should be considered to be on the required reading list of anyone professionally involved in dispute settlement at the WTO The standard of review is at the core of the dispute settlement process and Ross Becroft has made a major contribution with his comprehensive and insightful analysis and suggestions for a new standard of review for the future Andrew Stoler Executive Director Institute for International Trade and former WTO Deputy Director General This detailed book critiques how the World Trade Organization scrutinizes domestic measures to determine compliance with the WTO Agreements This scrutiny known as the standard of review is particularly relevant when WTO panels are examining measures involving controversial domestic policy issues The author argues that the current WTO standard of review is inadequate and a flexible standard

based on the responsibilities that WTO members have retained for themselves under the WTO Agreements is preferable This new standard of review would better reflect the autonomy contemplated for members under the WTO rules and reduce scope for the contention that the WTO overreaching its mandate This work provides a foundation for mediating relations between states and the WTO and similar international organisations It will be of great interest to scholars and practitioners in the fields of law and international relations with an interest in international economic law the WTO or international organisations in general

The WTO Dispute Settlement System Kati Kulovesi, 2011-01-01 Tensions between economic interests and environmental protection have assumed crisis proportions in awareness at every level of society In particular the World Trade Organization has become entangled in controversies related to legitimacy democracy environmental protection and fragmentation of international law fuelling a contentious debate on the use or abuse of environmental norms at the WTO To a greater degree than any comparable treatment this book focuses on the role of the WTO dispute settlement system in addressing trade environment conflicts Highlighting the ways in which environmental issues challenge the legitimacy of WTO jurisprudence it considers such relevant core issues as the following challenges posed to the WTO by so called and linkage and issues such as environmental protection labour and investment to what extent the WTO can apply rules of international law e g environmental ones that are not contained in the WTO agreements and concerns over the Dispute Settlement System s lack of democratic accountability in matters of great public interest The study analyses in detail the role of international environmental law in three key WTO cases namely the Shrimp Turtle Hormones and Biotech disputes This deeply informed and thoughtful book is of special importance for its proposals on how the WTO dispute settlement system can improve its legitimacy while respecting the limits of its mandate It will be welcomed by international trade attorneys environmental lawyers concerned academics and students and government officials in both trade and environmental policy

Public Participation and Legitimacy in the WTO Yves Bonzon, 2014-10-09 Yves Bonzon describes the limits and potential of further formalizing public participation in WTO decision making

The Law and Politics of WTO Waivers Isabel Feichtner, 2011-11-24 Despite being an important legal instrument in the law of the WTO the waiver has hitherto been the subject of little scholarly analysis Isabel Feichtner fills this gap by challenging the conventional view that the WTO s political bodies do not engage in significant law making She systemises the GATT and WTO waiver practice and suggests a typology of waivers as individual exception general exception and rule making instruments She also presents the procedural and substantive legal requirements for the granting of waivers deals with questions of judicial review and interpretation of waiver decisions and clarifies the waiver s potential and limits for addressing the need for flexibility and adaptability in public international law and WTO law in particular By connecting the analysis of waiver competence and waiver practice to the general stability flexibility challenge in public international law the book sheds new light on the WTO international institutions and international law

Reflections on the Constitutionalisation of International Economic Law, 2013-12-09 This

book collects a large number of essays written in honour of Professor Ernst Ulrich Petersmann by his friends colleagues and former students The respective contributions cover the fields of international economic law international constitutional law transnational constitutionalism EU law and human rights The broad thematic scope of this book mirrors the extremely large field of interests of the jubilarian Paying tribute to a particular trait of Professor Petersmann s character who was always both a dogmatic thinker and a curious researcher the authors try to cover both structural issues of law as well as most recent developments in particular in the field of international economic law Construing the constitution of international economic law in both senses of this activity was an aim throughout Professor Petersmann s academic career and this goal stands also at the heart of this book *International Governance in the Wto* Tomer Broude,2004 **The United Nations Charter as the Constitution of the International Community** Bardo Fassbender,2009 The a oeconstitutionalizationa of international law is one of the most intensely debated issues in contemporary international legal doctrine The term is used to describe a number of features which distinguish the present international legal order from a oeclassicala international law in particular its shift from bilateralism to community interest and from an inter state system to a global legal order committed to the well being of the individual person The author of this book belongs to the leading participants of the constitutionalization debate He argues that there indeed exists a constitutional law of the international community that is built on and around the Charter of the United Nations In this book he explains why the Charter has a constitutional quality and what legal consequences arise from that characterization Fragmentation vs the Constitutionalisation of International Law Andrzej Jakubowski,Karolina Wierczyńska,2016-07-01 The current system of international law is experiencing profound transformations Indeed the simultaneous processes of globalization combined with the disintegration of international systems of governance and law making pose complex challenges for legal scholarship The doctrinal response to these challenges has been theorized within two seemingly contradictory discourses in international law fragmentation and constitutionalisation This book takes an innovative approach to international law viewing the processes of the fragmentation and constitutionalisation as being profoundly interconnected and reflective of each other It brings together a select group of contributors including both established and emerging scholars and practitioners in order to explore the ways in which the problems of fragmentation and constitutionalisation are viscerally linked one to the other and thus mutually conditioning and stimulating The book considers the theory and practice of international law looking at the two phenomena in relation to the various fields of international law such as international criminal law cultural heritage law and international environmental law *International Legal Theory* Jeffrey L. Dunoff,Mark A. Pollack,2022-08-04 Over the past decades international affairs have been increasingly legalized International law has dramatically expanded into new fields and taken on new challenges Despite this development there has been little in depth scholarship on what impact these changes have had on the field of international legal theory how it is taught and where it is going This volume investigates the major developments in the field and explores the core assumptions

and concepts analytical tools and key challenges associated with different approaches An outstanding team of legal academics provides an accessible overview of competing theoretical movements and a more in depth understanding of the strengths preoccupations insights and limits of those schools of thought The contributions provide an authoritative account of current thinking about the theoretical foundations of contemporary international law and will serve as an indispensable resource for students scholars and practitioners *Routledge Handbook of Media Law* Monroe E. Price,Stefaan G.

Verhulst,Libby Morgan,2013 Featuring specially commissioned chapters from experts in the field of media and communications law this book provides an authoritative survey of media law from a comparative perspective The handbook does not simply offer a synopsis of the state of affairs in media law jurisprudence rather it provides a better understanding of the forces that generate media rules norms and standards against the background of major transformations in the way information is mediated as a result of democratization economic development cultural change globalization and technological innovation The book addresses a range of issues including Media Law and Evolving Concepts of Democracy Network neutrality and traffic management Public Service Broadcasting in Europe Interception of Communication and Surveillance in Russia State secrets leaks and the media A variety of rule making institutions are considered including administrative and judicial entities within and outside government but also entities such as associations and corporations that generate binding rules The book assesses the emerging role of supranational economic and political groupings as well as non Western models such as China and India where cultural attitudes toward media freedoms are often very different Monroe E Price is Director of the Center for Global Communication Studies at the Annenberg School for the University of Pennsylvania and Joseph and Sadie Danciger Professor of Law and Director of the Howard M Squadron Program in Law Media and Society at the Cardozo School of Law Stefaan Verhulst is Chief of Research at the Markle Foundation Previously he was the co founder and co director with Professor Monroe Price of the Programme in Comparative Media Law and Policy PCMLP at Oxford University as well as senior research fellow at the Centre for Socio Legal Studies Libby Morgan is the Associate Director of the Center for Global Communication Studies at the Annenberg School for the University of Pennsylvania **China and the World**

Trading System Deborah Z. Cass,Brett G. Williams,George Barker,2003-03-06 China the world's sixth largest economy has recently joined the rules based international trading system What are the implications of this accession Leading scholars and practitioners from the US Europe China Australia and Japan argue that China's membership will affect the WTO's decision making dispute resolution and rule based structures It will also spur legal and economic reform have far reaching social political and distributional consequences in China facilitate a new role for China in international geo political affairs and alter the shape structure and content of the international trading system as a whole Of interest to scholars of China as well as trade lawyers and economists **Free Markets and Social Regulation:A Reform Agenda of the Global Trading**

System Toward a New International Economic Law Sungjoon Cho,2003-01-01 Free Markets and Social Regulation A

Reform Agenda of the Global Trading System has a twofold purpose to consider what has so far been accomplished in this vital mission in the field of international economic law and to prescribe some solutions to continuing problems This latter endeavor amounts to a coherent and integrated plan that will enhance the acceptability of free markets to governments traders and other stakeholders alike

The Prospects of International Trade Regulation Thomas Cottier, Panagiotis Delimatsis, 2011-04-14 For a long time the GATT led a life of its own as a self contained regime The evolution from tariff to non tariff barriers brought about increasing overlaps with other regulatory areas WTO rules increasingly interface with other areas of law and policy including environmental protection agricultural policies labour standards investment human rights and regional integration Against this backdrop this book examines fragmentation in international trade regulation across a wide array of regulatory fields To this end it uses a conceptually coherent theoretical framework which is based on the effort to bring about greater coherence among different policy goals and fields and thus to embed the multilateral trading system within the broader framework of international economics law and relations It will appeal to those interested in a forward looking discussion of the most pressing issues of the international trade agenda

Handbook on Global Constitutionalism Anthony F. Lang, Antje Wiener, 2023-11-03 This thoroughly revised Handbook presents an up to date political and philosophical history of global constitutionalism By exploring the constitutional like qualities of international affairs it provides key insight into the evolving world order

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