

# Contested Global Governance: States, the World Trade Organization, and Global Civil Society

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## Executive Summary

That the multilateral institutions of global governance are currently facing a significant set of challenges, or even a crisis, has by now become a relatively uncontroversial point of departure (Drache and Ostry, 2002; Steger, 2002). This crisis of legitimacy in many accounts centers upon the processes of decision making in multilateral institutions, which remain largely state-driven and shielded from direct input from or accountability to citizens and nongovernmental organizations. The crisis label also refers to widespread concern about the lack of substantive fairness of the policies adopted by these multilateral institutions, which are seen as contributing to the exacerbation of inequalities in the world economy between the richer countries of the North and the poorer countries of the South. While most agree that a crisis is being faced, and even that the crisis involves questions of the perceived legitimacy and accountability on the part of the multilateral economic institutions, there is no consensus on how to respond. Within and between the academic, civil society, and international policy communities one can find a range of formulations of the ‘crisis of legitimacy’, as well as vigorous debates over the most appropriate responses to it.

This Report seeks to critically investigate these debates. How might it be possible to re-imagine the institutions of global governance in a way that addresses the question of legitimacy? Most of these debates point to an expanded role for ‘global civil society, it is important to recognize as well that ‘global civil society’ represents an emerging and still highly indeterminate field. While the Report takes as its starting point both the crisis of global governance and calls for expanded civil society participation, it also recognizes that both of these terms stand upon already contested and unstable conceptual terrain. Further, it argues that each of these terms contain competing understandings of law, and of the sources of legal legitimacy, that are not adequately reflected in current debates. Therefore, the Report calls for a re-imagining and re-articulation of global governance relations as embedded within social and political contexts, and for research that seeks to discover emerging practices of governance through detailed examinations of the shifting relations between states, international economic organizations and civil society actors in particular contexts. In so doing, it draws on ‘constructivist’ approaches in political science, legal pluralism, and the work of reflexive legal sociologists to formulate an alternative way of thinking about the actors and institutions involved in global governance in terms of what it describes as ‘regulatory practices’.

The central chapter of the Report provides a detailed case study of the history of civil society activism surrounding the WTO. The WTO is a key site in which to study the phenomenon of global civil society because it has been

such an important locus of transnational activism over its brief history. For the past decade, a broad range of NGO's have devoted increasing amounts of attention and resources to questions of trade policy and to public education on trade-related issues. Many have identified the 'Battle in Seattle' as a watershed moment for the emergence and identification of a global social movement, whether it is described as the movement against globalization (as the mainstream media usually identifies) or for global social justice and democracy (as participants increasingly self describe). Broad global networks of NGO's and civil society groups that have emerged out of the series of large scale protest events and parallel summits convened since Seattle have raised questions relating to the accountability, democracy and legitimacy of current institutions and practices of global governance, the viability of current governance frameworks, and ways to create spaces and opportunities for states and communities to pursue 'alternative' development strategies.

The Report documents the recent developments that have taken place at the institution, including the creation of a website, the deregulation of many documents, and regular briefings and symposia for civil society groups. It takes the position that there are good reasons why these types of initiatives ought to be encouraged and supported in the future. However, it also raises concerns about the limitations of recent developments and the current direction of that process of engagement – particularly on the formulation of substantive policy – given the persistently 'polarized framework' of trade policy debates. The longstanding divide between trade 'insiders' and 'outsiders' is a substantial obstacle to future progress towards the formulation of new norms, frameworks and approaches to deal with the difficult issues of global trade governance, including the plight of the poorest countries, the pandemic of AIDS, issues of labour standards and environmental protection and a host of others. While the WTO is by no means the only or the primary institution that ought to be addressing these issues, it has come to occupy a prominent place in debates over global governance by virtue of the size of its membership, its expanded agenda, and its robust dispute resolution mechanisms.

The Report argues that it is important to acknowledge the many substantive issues at stake in the governance of international trade that will require hard choices between competing claims, values and constituencies. It takes the position that these issues will hardly be addressed by further incremental developments in the areas of transparency or procedural accountability, such as faster document deregulation or a better accreditation process for NGO's wishing to attend Ministerials. To this end, the final part of the Report attempts, in a somewhat more speculative vein, to approach the difficult question of how future engagement between the WTO and its civil society interlocutors might be re-envisioned so as to lead to substantive changes in how both sides of this debate approach and frame issues of trade governance. It then draws out some insights that this approach might offer for Canadian

citizens, bureaucrats and legislators who are concerned with the role that civil society should and can play in an increasingly plural global legal order. The conclusion reiterates the importance of rejecting overly simplistic 'globalized' understandings of the practices and processes of both 'governance' and 'civil society' and attending more carefully to the complex of emerging regulatory practices that are multiparty, multilayered, and multilateral.