

**ECONOMIC INTEGRATION AND GLOBAL GOVERNANCE: WHY SO LITTLE  
SUPRANATIONALISM?**

Miles Kahler  
David A. Lake  
University of California, San Diego  
mkahler@ucsd.edu  
dlake@ucsd.edu

Version 4.0

Contribution to Walter Mattli and Ngaire Woods, editors  
*Explaining Regulatory Change in the Global Economy*

## **ECONOMIC INTEGRATION AND GLOBAL GOVERNANCE: WHY SO LITTLE SUPRANATIONALISM?**

Miles Kahler  
David A. Lake  
University of California, San Diego  
Draft 4.0

Economic models of international governance predict that greater levels of global economic integration are likely to produce changes on two institutional dimensions. The site of governance should shift from the national to the regional and global levels as states pool their decision-making powers. At the same time, delegation to supranational institutions should be favored for managing the governance requirements of a more integrated economic order. Not only should states coordinate their responses to global challenges, the gains from specialized governance and the need for enhanced credibility and dispute resolution should also lead states to transfer authority to supranational agents.

Yet, the record of international economic governance over the past quarter-century of globalization does not support these predictions. Outside the European Union, the functions and delegated authority of global and regional economic institutions have not uniformly increased. Regulatory policies in particular have not generally migrated from national governments to new or expanded supranational institutions. Given the rapid increase in global economic integration -- whether measured by policy liberalization, by trade, capital, and migration flows, or by price convergence -- why is there so little supranationalism?

After describing the puzzling (for economic models) variation in supranationalism across issue-areas, we present a two-step explanation for this “missing”

supranationalism. We argue that, in addition to supranationalism, at least two other modes of international governance exist: hierarchy, in which states transfer regulatory authority to dominant states for certain limited purposes, and networks, in which states, private actors, or both share regulatory authority through coordinated and repeated interaction. Hierarchies and networks serve as functional substitutes for supranational delegation to international institutions.

In a second stage of our explanation, political models of international governance are deployed as substitutes for or supplements to economic models of governance. Economic models predict too much supranationalism and cannot explain variation among these modes of governance. Efficiency is often overwhelmed as a driver in the presence of distributional and institutional conflict, which often characterizes regulatory policies. Drawing on earlier work, political explanations for the apparent “missing” supranationalism are provided, and preliminary conjectures on the politics of choice among alternative governance models are presented.<sup>1</sup> Political models and the conjectures that they inspire also offer explanations for the relative frequency of regulatory capture among these alternative forms of international governance. The likelihood of regulatory capture is determined by both international and national variables. None of the governance modes—supranationalism, hierarchy, or networks—is inherently immune from capture

### **Globalization and Supranationalism: Unexplained Variation**

In contrast to the first era of globalization (before 1914) and the interwar decades of economic turbulence and closure, planning for international economic governance after World War II awarded a far more central role to intergovernmental organizations (IGOs) than had been the case under the League of Nations. The turn toward formal IGOs, however, was not a result of increased economic integration: those institutions,

---

<sup>1</sup> See Kahler and Lake 2003a, 2003b.

whatever their liberalizing goals, were designed during World War II and its aftermath, a low point in international economic integration. As global economic integration increased, particularly after 1980, its effects on these institutions of supranational delegation was far from uniform. One favored prediction had been that such integration, if it did not induce a nationalist backlash, would require substantial increases in the authority of supranational institutions. Although economic integration proceeded at a different pace according to region and issue-area, its advance in key areas of trade, finance, and foreign direct investment could not be questioned. Yet institutional outcomes at the global level were hardly uniform. Globalization produced a marked increase in supranational delegation in the trade regime, a decline in supranationalism in the monetary and financial regimes, and a complete failure to delegate in the rules governing foreign direct investment.

The trade regime has most closely followed the predicted path of increasing authority delegated to global and regional IGOs. The scope of the World Trade Organization (WTO), founded in 1995, was larger than its predecessor, the GATT, encompassing trade in services, as well as behind-the-border policies that had previously been labeled “domestic,” or at least outside the scrutiny of intergovernmental institutions. In particular, regulatory domains, such as intellectual property, health and safety regulations, and technical standards were all brought under the scrutiny of the new organization. For the first time, regulatory policies were brought within the trade regime in their own right and not “as an adjunct to a larger concern about border trade issues.”<sup>2</sup> Competition policy, rules on foreign investment, and labor and environmental standards were promoted as new (and traditionally domestic) spheres for future negotiation; they were already included in regional trade agreements. In each of these cases, new domestic actors were mobilized, distinct from the old exporter and import-

---

<sup>2</sup> Barton et al. 2006, 209.

competing constituencies, and the trade regime integrated new principles and norms to govern these issues.<sup>3</sup> The new authority of the WTO was reflected in a more efficient Dispute Settlement Understanding that reduced the power of national governments to deflect and delay panel reports and in an Appellate Body that could engage in judicial lawmaking.<sup>4</sup>

In the oversight of national financial, monetary, and exchange rate policies—where global economic integration has progressed farther than it has in trade in goods and services—supranationalism has retreated since 1945. The International Monetary Fund (IMF), created with substantial (at least on paper) powers for the oversight of exchanges rates and exchange restrictions on current account transactions, lost much of that formal authority after the breakdown of the fixed parity exchange rate regime in 1971-73 and the Second Amendment to the Articles of Agreement of the IMF that confirmed the new regime. The IMF has been peripheral to exercises in macroeconomic policy coordination among the G7. Although the IMF and the World Bank have assumed a greater role in surveillance of national financial regulation, particularly among emerging market economies, the Bretton Woods organizations are part of a network of regulatory oversight agencies, and they have not been delegated any substantial new powers in the regulatory domain. Recent debate over the IMF's medium-term strategy has revealed support for some increases in delegation to the IMF, particularly in the realm of surveillance.<sup>5</sup> Despite pressure from the United States, members appear to have little enthusiasm for a restoration of an independent IMF role in the oversight of exchange rate adjustment among the major economies.

---

<sup>3</sup> Barton et al. 2006, 94-98, 125-151.

<sup>4</sup> *Ibid.*, 75-87.

<sup>5</sup> The International Monetary and Financial Committee (IMFC) has emphasized greater independence in the surveillance function, greater transparency, and a larger reliance on the Independent Evaluation Office. (*IMF Survey*, 1 May 2006, 118-119).

If supranational delegation has increased in the trade regime and declined in the monetary and financial domain, the international rules governing foreign direct investment, a major driver of globalization, reflect yet another distinct pattern. The old regime of investment protection, maintained through imperial rule and then through sanctions administered by the major powers, began to crumble in the 1970s. In response, the United States and other industrialized countries began to negotiate bilateral investment treaties (BITs), some 153 in the decade from 1977 to 1986. A second inflection upward in BITs occurred in the 1990s, as former socialist economies used these agreements to signal their embrace of capitalism.<sup>6</sup>

This web of bilateral treaties, now totaling more than seventeen hundred, was a less efficient means to the end of investment protection and liberalization than a multilateral investment regime. Negotiations to produce a Multilateral Agreement on Investment (MAI) at the OECD failed in 1998, however, in the face of a concerted campaign by NGOs and weak support from the corporate sector. The Doha round of trade negotiations at the WTO included the relationship between trade and investment as part of its original agenda, but it was dropped in the July 2004 package agreement. The OECD Code of Liberalization of Capital Movements remains the “only multilateral framework in force on international capital flows, including FDI.”<sup>7</sup> The WTO oversees several investment-related codes, in particular, the agreement on Trade-Related Investment Measures (TRIMS) and the General Agreement on Trade in Services (GATS). The degree to which regulatory authority over foreign direct investment has migrated to the global level and has been delegated to IGOs is minimal, however. This leaves the network of BITs as the primary governance structure in this issue-area.

### **Alternative Modes of Global Governance**

---

<sup>6</sup> Vandevelde 1998, 628.

<sup>7</sup> Golub 2003, 89.

This marked variation in supranational governance—variation that could be demonstrated in regulatory regimes as well—is explained in part by the existence of alternative modes of global governance. In the international economic governance, including regulatory regimes, national governance within the boundaries of the territorial state remains dominant. Under anarchy, states act unilaterally in pursuit of their interests and rely upon ad hoc forms of cooperation buttressed by voluntary but self-enforcing international regimes when interacting with others. This is the classic model of international relations portrayed in neorealism or neoliberal institutionalism.<sup>8</sup> When national governance is insufficient, however, many have expected supranationalism to replace it. Two alternative modes of governance at the international level—hierarchies and networks—can substitute for both national governance and supranationalism, however.

Supranationalism shifts political authority from individual states to states acting as a collective body along two independent dimensions. States pool or share sovereignty at the regional or global level by creating a collective unit that can make binding or authoritative decisions for its members. The authority assigned to the collective can vary in extent, covering more or fewer policy domains, and in centralization, especially whether the collective power is subject to checks and balances by other institutions and, importantly, by its member states (the equivalent of different federal arrangements). States can also delegate authority to a supranational agent or IGO. Delegation entails a conditional grant of authority from a state or collective of states to an actor for some specified purpose. Most commonly, states delegate to supranational agents in the forms of investigatory agents (e.g., IAEA) or dispute resolution bodies (e.g., in the WTO), although other forms are possible.<sup>9</sup> These two

---

<sup>8</sup> See Waltz 1979 and Keohane 1984, respectively.

<sup>9</sup> On delegation to IOs, see Hawkins, et al. 2006.

dimensions should be kept analytically separate. A decision to form a collective decision-making unit is not a decision to delegate authority to an agent, or vice versa.<sup>10</sup>

Hierarchy shifts political authority from one or more subordinate states to a dominant state that is empowered to issue binding decisions. The degree of hierarchy varies by the number of policy issues over which a dominant state can legitimately regulate the behavior of its subordinates. Also important are the residual rights of control, or the ability to decide which party has authority over what when they disagree. If the subordinate retains these residual rights of control, the relationship between dominant and subordinate state is more anarchic, and if the dominant state acquires these rights, the relationship is more hierarchic.<sup>11</sup>

In international relations, authority and, in turn, hierarchy rests not on a formal-legal foundation but on an exchange relationship in which the dominant state provides a social order or public goods of value to the subordinates, and subordinates in turn recognize an obligation to comply with rules or resource claims that are necessary for the production of that social order or public goods. In this way, hierarchy forms an equilibrium that is regarded by both sides to the exchange as legitimate or appropriate. For this equilibrium to endure, both the dominant and subordinate states must hold to their sides of the implicit contract – the dominant state must provide the social order or public goods, the subordinates must comply with its legitimate commands. The key contracting difficulty under hierarchy is restraining opportunistic behavior by the dominant state. Having yielded authority, subordinates correctly fear that the dominant state will exploit them or seek to renegotiate the contract in its favor at some future date.<sup>12</sup>

---

<sup>10</sup> Lake and McCubbins 2006.

<sup>11</sup> Lake 1999, forthcoming

<sup>12</sup> Lake forthcoming

Perhaps the best illustration of hierarchy in the contemporary international economy is dollarization, the hardest of exchange rate pegs, in which one country adopts the currency of another as its own.<sup>13</sup> In such cases, the dollarized economy accepts the monetary authority of the country with the dominant currency. It does not participate in decision-making regarding monetary policy in the dominant currency country, and it exercises no influence on that policy. Authority runs in one direction, at least in this domain. The authority relationship, even in this extreme example of monetary hierarchy, is not a permanent transfer. The dollarized country can unwind its adoption of the dominant currency—at considerable cost—and such relationships have ended with some frequency, particularly when political hierarchies have been disrupted.<sup>14</sup> But within that relationship, the subordinate country imports the dominant country's monetary policy as its own.

Networks are enduring or repeated interactions among multiple actors that are typically characterized by reciprocity. Distinguishing networks from alternative forms of governance requires a narrowing of recent descriptions, which define networks as “a pattern of regular and purposive relations among like government units working across the border that divide countries from one another and that demarcate the ‘domestic’ from the ‘international’ sphere.”<sup>15</sup> Podolny and Page distinguish network from either hierarchy or market, defining it as “any collection of actors ( $N \geq 2$ ) that pursue repeated, enduring exchange relations with one another and, at the same time, lack a legitimate organizational authority to arbitrate and resolve disputes that may arise during the exchange.” In contrast to markets or, in our case, national level governance, relations between states in a network are enduring, not ad hoc. Networks are sometimes defined

---

<sup>13</sup> Despite the name, dollarization applies to any such adoption, such as the use of the Euro as a national currency by Montenegro or Kosovo.

<sup>14</sup> On the costs and benefits of dollarization and near-dollarization, Cohen 2004, 123-139.

<sup>15</sup> Slaughter 2004, 14.

as interactions in the absence of any authority, although it is more accurate to think of them as sharing authority between the nodes or constituting authority from the interactions themselves. If supranationalism implies delegation of authority to an IGO, networked governance entails migration of authority to the policy network, but no formal delegation. In contrast to hierarchies, recognized dispute settlement authority and residual rights of control do not reside with any member of the network.<sup>16</sup> If hierarchy in international regulatory governance implies one-way transmission of templates with authority residing in one national government, a networked structure implies reciprocity (even if one member of the network has a more central position or more influence over outcomes than others).<sup>17</sup> Rather, the nodes form a collective of relatively equal units that work together and share information to produce some common end.<sup>18</sup> Networked international governance, then, is based on shared or pooled authority and on repeated, enduring, and reciprocal relationships among actors in different national jurisdictions.

Public-private and private networks were a familiar part of international governance in the decades before 1945. In certain respects, the IGO-dominated institutions after 1945 were created as substitutes for a form of networked governance that was viewed as a bastion of unaccountable power and uncertain membership. Transgovernmental networks did not disappear, however, and increasing economic interdependence produced both renewed reliance on networked governance and a scholarly rediscovery of those networks. Among transgovernmental networks, regulatory networks of executive branch officials have received particular attention.<sup>19</sup> Networked regulatory governance often includes public-private networks or purely private networks

---

<sup>16</sup> Podolny and Page 1998, 59.

<sup>17</sup> Walter Powell and others also add a distinctive ethic or norm that governs network relations, particularly the norm of reciprocity and the consequent accretion of trust among its members. (Powell 1990, 304-305)

<sup>18</sup> Keck and Sikkink 1998. See also Kahler 2006, Lake and Wong 2006, and Eilstrup-Sangiovanni 2006.

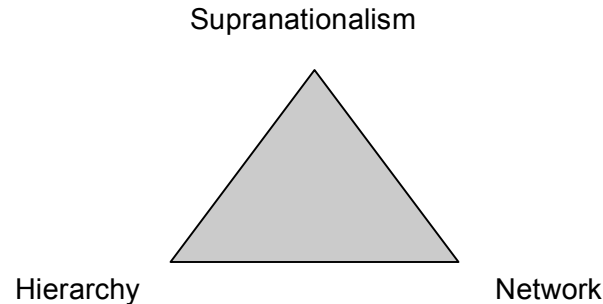
<sup>19</sup> Slaughter 2004, 36-64; Raustiala 2002.

with substantial regulatory authority. Layna Mosley has described three functions that private actors may play in financial governance: sole developers and enforcers of rules, joint developers of rules with public authorities, and enforcers of standards developed by others.<sup>20</sup> Networks of non-governmental organizations have also participated in thwarting regulatory initiatives by other actors (the MAI described above) and in serving as enforcers and developers of regulations in other instances. Of course, not every involvement by government bureaucracies, private organizations, or NGOs is networked governance as defined above. Involvement may concentrate on political action within national jurisdictions, or activities may be ad hoc and limited in time. Rather than engaging in reciprocal, long-term relations, actors may be in a competitive, arms-length relationship with one another. Nor does every network possess supranational authority: many purely informational networks do not exercise authority because national governments resist sharing that authority (and adjusting their regulatory regimes).

These three stylized modes of global governance permit many hybrid forms. International governance structures map on to a triangle with supranationalism, hierarchy, or networks in pure form at each apex (see Figure 1). Observed modes of governance are likely to exist in the interior of the triangle, combining elements of each form but in different proportions. The question, then, is when do we observe different forms at different times and why is there less supranationalism than many have predicted?

---

<sup>20</sup> Mosley 2005, 17.



**Figure 1. Modes of Global Governance**

### **Explaining Global Governance**

Identifying possible alternatives to supranationalism does not explain why these alternatives are sometimes selected. The existence of alternatives is a necessary condition for unraveling the mystery of the missing supranationalism, but it is not alone sufficient. The expectation that supranational governance would replace national governance follows from a reliance on economic models of global governance. These models, we argue, need to be replaced by political models that focus on the preferences of actors and the institutions that condition their behavior and choice of governance structures.

#### **Economic Models of Global Governance**

Economic explanations of global governance largely focus on the migration of authority from the national to the supranational level and are essentially functionalist, explaining the choice of institution on efficiency grounds. Economic explanations hinge on three variables: externalities or spillovers, economies of scale in the production of public goods, and the heterogeneity or homogeneity of national preferences.<sup>21</sup>

Externalities are key to the shift of governance upward in regulatory regimes, as the increased mobility of economic agents threatens to undermine national regulatory policies. The responses of national authorities in turn produce regulatory changes that

<sup>21</sup> These models are reviewed in Martin 2003, Hiscox 2003, Lake and Kahler 2003a and 2003b.

have their own spillovers in other national jurisdictions. Although it is certainly reasonable to assume that national regulatory policies produce more externalities than they did under conditions of lower economic integration, the scope of the externalities must be examined in each sector.

Economies of scale in the production of public goods may also create demand for greater supranational authority. Economic models assume a drive for more efficient outcomes over time: public goods production will take place at its most efficient site. The evidence for such a bias is thin, however, at both the international and national level. (Consider the production of different public goods in a federal system such as the United States.) More significant in considering the migration of regulatory authority from the national to supranational level is possible conflict between externalities and efficient scale in producing the public good of regulation. In many regulatory domains, globalization produces growing cross-border externalities, but the most efficient site for regulation remains national jurisdictions. Supranational regulatory cooperation must then center on the effective coordination and mobilization of national regulatory authorities for cooperative ends rather than the creation of a new supranational regulatory authority.

Tugging against the pressures of externalities and economies of scale in economic models are heterogeneous national preferences over the public goods that might be produced cooperatively at a supranational level. The intuition here is that smaller units of governance (national rather than supranational) will be more likely to produce policies that are closer to the preferences of their citizens.<sup>22</sup> In the case of regulatory policies, greater diversity of preferences within and among national electorates is likely to arrest the movement of authority to higher (regional or global) levels. Such preferences are not exogenous to globalization itself, however, and a key issue, one that pervades the debate over “national capitalisms” and their persistence, is

---

<sup>22</sup> Tiebout 1956; Alesina and Spolaore 2003.

whether economic integration produces more heterogeneity in preferences (particularly between the winners and losers from economic integration) or greater homogeneity through processes of diffusion and competition.<sup>23</sup> Economic models of global governance have relatively little to say about regulatory capture, as defined by Mattli and Woods (this volume).

Economic explanations of international hierarchy or network forms of governance are less well developed. Indeed, supranationalism has been the focus of research in this area, with the European Union being the motivating example, and other governance structures have largely been ignored. As largely functionalist or efficiency-based explanations of governance change, in turn, economic models are not well adapted to explain choices across alternative forms of international governance. Nonetheless, economic explanations of hierarchy would include, in addition to the variables explaining supranationalism above, a focus on levels of asset specificity. Drawing on relational contracting theories of the firm, economic theories would predict that hierarchy is most likely to emerge when there are large gains from successful cooperation but states are asymmetrically dependent on assets specific to particular dyadic relationships.<sup>24</sup> Economic explanations of networks emphasize personal, cultural, or institutional ties between actors that facilitate through reciprocity the making of credible commitments over time and space.<sup>25</sup> Neither of these augmented economic explanations, however, seeks to explain the choice of governance structure from among the array of alternatives.

### **Political models of global governance: conflict, preferences, and institutions**

---

<sup>23</sup> In their description of a key frontier of regulatory oversight, corporate governance, Gourevitch and Shinn (2005), for example, argue that national divergence persists in the face of increased capital and corporate mobility.

<sup>24</sup> Frieden 1994, Lake 1999, Yarbrough and Yarbrough 1992. In cases of symmetrical dependence or “mutual hostages,” no formal governance structure may be needed (states revert to the default structure of national sovereignty).

<sup>25</sup> Greif 2006, Rauch and Casella 2001.

Economic models offer some leverage over trends in the site of international economic and regulatory governance over time. A generalized political model is more promising as an explanation for both the migration of governance sites and the choice among alternative modes of governance.

Such political explanations begin with the premise that the choice of governance structure is the pursuit of politics by other means. That is, actors have no intrinsic preference for one or another governance structure, but struggle to influence the choice of structure so as to maximize their political aims. Since different governance structures favor different policies and political outcomes, actors – including states – with stakes in these alternatives will attempt to influence the selection. The conflict over governance is largely a conflict over policy, once removed. Regulatory capture, in turn, is endogenous to the choice of governance structure. Actors seek to influence the design of governance institutions -- including their permeation by narrow, rent-seeking interests or their responsiveness to broader, “public interest” rationales – so that the institutions produce the policies desired.

Political explanations focus on two sets of variables – preferences and institutions – to explain which governance structure is ultimately selected. Elsewhere, we have developed a set of insights based on a political model for the choice of supranationalism.<sup>26</sup> In this section, we pose a set of conjectures using variations in preferences and institutions to explain the choice between supranational, hierarchic, and network forms of governance. These conjectures are quite tentative and are intended only to structure and simulate further discussion and research. All are based, however, on the assumption that governance institutions reflect the interests of politically powerful

---

<sup>26</sup> Kahler and Lake 2003a, 19-28. In addition to supranationalism, we also considered the devolution of political authority to sub-state units and private transnational actors.

actors as mediated through existing political institutions. Regulatory capture, in this view, is a function of the political equilibrium between competing forces within an issue area.

### *Preferences*

Nearly all policies, and especially regulatory policies, favor some groups or countries over others. There are few “neutral” policies that make everyone better off while making no one worse off. Free trade raises national welfare, but favors exporters over import-competing industries and abundant over scarce factors of production.<sup>27</sup> Industry regulation that limits competition creates rents for producers at the expense of consumers,<sup>28</sup> while environmental regulations raise costs to producers and possibly current consumers (through higher prices) but benefit future generations. Industry standards are among those issues with the fewest distributional implications, yet even here any standard is likely to favor the producers and countries that use that standard and harm those who must convert to it.<sup>29</sup>

Our first conjecture is that the *greater the distributional consequences within or between countries, the more likely states are to favor supranational or hierarchical over network forms of governance*. Our intuition is that divisive issues must be decided by an authoritative actor capable of imposing a solution, whether a collective body or a single state. Networked governance relies on cooperative interaction between equal members and reciprocity as the mechanism of enforcement. They are, therefore, often ill-suited to resolve disputes between members.<sup>30</sup> Conversely, *the smaller the distributional consequences, or the more similar the preferences of the actors, the more likely states will favor networks*. When the issue is more about coordination than collaboration, members may need only focal points or rules of the road that, once established, are

---

<sup>27</sup> Frieden and Rogowski 1996.

<sup>28</sup> Stigler 1971, Peltzman 1976. Richards 1999.

<sup>29</sup> Mattli 2003.

<sup>30</sup> But on the role of power within networks, see Lake and Wong 2006.

largely self-enforcing.<sup>31</sup> In this case, supranational or hierarchic forms of governance are likely to be unnecessary, more costly to set up and maintain, and to carry a higher risk that a collective entity or dominant state will act opportunistically by expanding its authority to additional issues over time. A corollary of these conjectures suggests that networked governance is most likely when regulatory capture—and its distributional consequences—are relatively unchallenged at the national level. As the hold of particular interests is challenged in a given sector, one may expect a shift to either supranational or hierarchical modes of governance.

In turn, *the greater the authority of the dominant state or the greater the legitimacy attached to its leadership in a particular issue area, the more likely a hierarchic governance structure will emerge.* In such cases, subordinate states accept the right of the dominant state to set rules in an issue-area either because of the value assigned to its leadership, its special position or unique needs with regard to the issue, or its normative status. Similarly, *the greater the divergence between the dominant state's preferred policy and the median of a supranational collectivity, to a limit, the more likely hierarchy will emerge.* Here, the dominant state is a preference outlier and will benefit more from its preferred rules rather than those selected by the median state in a supranational collective. It will therefore invest more in actively legitimating and building a coalition in favor of its special role. Nonetheless, even if successful, hierarchy will be fragile precisely because the majority of states prefer an alternative outcome and mistaken estimates by the dominant state of its support are likely to erode its legitimacy in setting the rules for all. Beyond some degree of preference divergence, however, no global governance mechanism will be possible. If preferences vary excessively, cooperation will simply fail. National regulatory regimes will remain the default outcome.

---

<sup>31</sup> Stein 1990.

The *greater the number of those disadvantaged by a policy relative to those that benefit from the policy, or the more diffuse the costs relative to the gains, the more states will favor network forms of governance composed only of winners.* Larger numbers of losers, and especially those for whom the costs of the policy are widely dispersed, will suffer from more acute collective action problems. A smaller number of winners who enjoy more concentrated benefits will have greater incentives to organize and lobby states for preferred policies – and especially the ability to set those policies themselves.<sup>32</sup> Concentrated interests with similar preferences can coordinate effectively through networks. Although they may still require the power of states to impose those policies on the broader group of losers, the winners will seek to maximize their autonomy and control within networks they dominate. This implies that networks are particularly prone to regulatory capture by relatively narrow interest groups that receive concentrated benefits.

*National institutions and the move to international governance*

Existing national institutions condition the choice between national governance and new international modes of governance in at least three ways. First, all institutions contain some policy bias.<sup>33</sup> *The greater the policy bias of a national institution, the more biased will be any new form of global governance created by that institution.* For example, national regulatory agencies that exhibit “capture” by their regulated clients will create international governance that replicates or reinforces that bias. Unless existing rules are modified to engineer a different result or new interests are mobilized, institutional bias will be reproduced. Indeed, the losers from this institutional bias may eventually be purged as their resources and influence steadily diminish.<sup>34</sup> This effect may explain the resilience of national governance, particularly in regulatory regimes. If

---

<sup>32</sup> Stigler 1971, Peltzman 1976.

<sup>33</sup> Rogowski 1999.

<sup>34</sup> Hathaway 1998.

institutions of international governance are created, domestic policy bias does not appear to favor the choice of a particular mode of governance (networks, hierarchy, or supranationalism). Rather, it suggests that patterns of regulatory capture at the domestic level are likely to be reproduced at the global level, with the privileged actors selecting that form of global governance that locks in their control over policy.

Second, national institutions vary in the number of veto players they possess. Veto players are institutionally defined actors who can block a proposal from being enacted.<sup>35</sup> The greater the number of veto players, the less likely is a move away from the status quo. *The more veto players there are, the more likely national governance and ad hoc cooperation remains as the prevailing mode of governance.* Depending on who the veto players are in any institution, certain modes of governance will be more or less likely. If a shift from sovereignty to a form of global governance impedes a veto player's interests, that player will block the change or demand a side payment from groups favoring the change. Nonetheless, it does not appear that veto players will systematically favor (or disfavor) supranationalism, hierarchy or networks.<sup>36</sup>

Finally, national institutions vary in the ability they grant actors to set the agenda or act unilaterally to change the status quo. For instance, executives can sometimes issue orders or enter into agreements without the approval of other branches of government. Even when others can override these actions or fail to implement them, the executive has altered the status quo, presumably in a direction that he favors. Other political actors can also possess agenda-setting power. This is, in essence, Karen Alter's

---

<sup>35</sup> Tsebelis 2002.

<sup>36</sup> The decision rules of international organizations also make states less likely to delegate to an IGO by enhancing the autonomy of the international agent and therefore making state principals wary of delegating greater authority. Change in the decision rules—such as the European Unions shift from consensus voting to qualified majority voting on a widening range of issues—may accelerate delegation. Since many global international organizations still abide by consensus decision rules, a slower pace of delegation to these IGOs should not be surprising. Multilaterals with weighted voting, in which larger shares are awarded to larger shareholders, may be more likely to delegate as a result.

explanation of the role of the European Court of Justice in propelling supranationalism forward in Europe.<sup>37</sup> *The greater the agenda setting power of any actor, the more likely we are to observe a shift away from national governance.* Yet, like the other institutional attributes discussed here, agenda-setting power alone does not appear to favor any particular alternative governance structure. Only with information about the preferences of the agenda-setter can we make predictions about the likelihood of a move toward supranationalism, hierarchy, or networks.

*Institutional characteristics and mode of governance*

Modes of international governance—supranationalism, networks, and hierarchies—display certain institutional characteristics that may be favored or opposed by particular interests. In this regard, modes of governance differ in at least two ways: the credibility that they add to policies and their policymaking decisiveness.

When faced with a time-inconsistency problem or the threat of an exogenous shift in preferences, groups may attempt to lock in or pre-commit to a particular policy. *Countries that lack domestic institutions to make commitments credible will borrow credibility by transferring authority to another state or to a supranational organization.* In the monetary arena, for example, states can gain credibility by fixing their exchange rates or “dollarizing,” both of which create a measure of hierarchy by transferring effective control over monetary policy to the target state. States may also seek credibility by creating a regional monetary system, such as the European Economic and Monetary Union (EMU). Perhaps because policies are emergent properties produced by the actions of the parties themselves, networks appear to confer little credibility.

Although both hierarchies and supranational institutions can confer credibility, the choice between the two modes is conditioned by a second credibility dilemma. Dominant countries in hierarchical relationships face a key problem: How do they commit to a

---

<sup>37</sup> Alter 1998.

particular policy and, as noted above, how do they commit not to exploit the authority they acquire over subordinate states? Countries will only fix their exchange rates to the dollar or use it as their primary medium of exchange if they are confident that the dollar is stable in value and can be exchanged for goods and services elsewhere. In turn, they must also be confident that, having fixed to the dollar or dollarized, the United States will not use the leverage it acquires over them to demand additional policy changes or concessions. This is the classic problem of tying the sovereign's hands.<sup>38</sup> Since domestic institutions can provide some check on the capriciousness of even dominant states, *dominant states that lack domestic institutions to make credible commitments or those that have a greater need to establish credibility will favor supranational over hierarchical governance structures*. This suggests, paradoxically, that a large and powerful state may be a strong advocate of supranationalism in order to legitimate its leadership position, much as Germany was a primary advocate of creating the Euro and an autonomous European Central Bank. At the very least, the need for credibility creates a tradeoff for potentially dominant states between the ability to enact their own preferred policies and the credibility that comes from tying their hands in a supranational institution.<sup>39</sup>

Modes of governance also differ in their policy decisiveness. *Hierarchy allows the most decisive action, so long as subordinates regard the proposed action as legitimate*. The dominant state decides, and subordinates fall into line behind its preferred policies. Such hegemonic leadership may appear in crises, whether military (the first Gulf War), humanitarian (Somalia), or economic (the Asian financial crisis), when the United States intervened first and coalition partners followed. Hierarchy is dependent, however, on the policy preferences of dominant and subordinate states; a dominant state can lead only

---

<sup>38</sup> North and Weingast 1989.

<sup>39</sup> Rector 2003.

where its followers want to go. Decisive and arbitrary behavior could well lead to pressure on a relationship founded on a high demand for policy credibility and stability.<sup>40</sup>

Networks may also display decisiveness when new issues arise requiring prompt resolution. If those issues have no established institutional home, networks may be an attractive alternative. Eilstrup-Sangiovanni points to the low start-up costs of networked governance, when compared to the IGO alternative, which may require lengthy negotiations.<sup>41</sup> An *existing* IGO with substantial delegated powers, however, may also be able to provide ready solutions to new problems with speed comparable to transgovernmental network or hierarchy. In such cases, coordinated action in a network may provide a temporary stopgap until an IGO solution can be advanced. The dependability of IGO decisiveness rests on their decision rules: cycling by alternative majorities or veto players able to block action can produce policy stalemate.

*Power distribution and mode of governance*

Although asymmetries in power would appear to predict hierarchical governance and certainly most hierarchies are to be found in such circumstances. A more refined political analysis, foreshadowed above, suggests that powerful states might well choose any of these governance alternatives, depending on the context. Hierarchy serves to curb opportunistic behavior, but only with increased governance costs (the dominant power bears all of those costs in contrast to more distributed costs of supranationalism or networked cooperation). Supranationalism presents potential agency costs, but those may be offset by a major power's independent sources of information (curbing one potential advantage of an IGO agent) and by decision rules that award a dominant role in decision-making to the major power. Finally, networked organization may appear the least attractive to a major power, but the powerful may exercise disproportionate

---

<sup>40</sup> European discontent with its hierarchical security relationship with the United States has usually increased in line with greater U. S. global activism and policy volatility.

<sup>41</sup> Eilstrup-Sangiovanni 2006.

influence in the network, depending on its structure, and national power may be more easily and usefully disguised in a networked structure.

These conjectures suggest implications for regulatory capture, the focus of the introductory essay by Mattli and Woods (this volume). Secure, concentrated interests—those that enjoy regulatory capture at the national level—are most likely to prefer that regulation remain national or that informal, networked governance emerge at the international level. Networks will tend to arise when the cross-national distributional implications of alternative regulatory policies are not large (international agreement is relatively easy), but when networks do emerge they are most likely to be composed of and captured by actors reflecting narrower interests. If their position at the national level is challenged (if distributional conflict in the regulatory arena grows), they may choose to defend their position with a sturdier form of international governance—supranationalism or hierarchy. Each of these entails risks, however, as outlined above.

Supranationalism is typically more transparent and open to political scrutiny than networked governance. Although supranational institutions may be created or adapted to serve the purposes of narrow, rent-seeking interests, supranational institutions appear to be an empty vessel, equally subject to claims by competing interests over time. For example, private financial interests in the United States, who preferred a return to the gold standard or a binational monetary accord with the United Kingdom, initially viewed the International Monetary Fund (IMF) with skepticism or hostility. By the 1980s, however, the IMF was routinely viewed as serving the interests of large, international financial institutions in the major industrialized countries. There does not appear to be any inherent bias for or against regulatory capture in supranationalism relative to hierarchy or networks, although any particular set of supranational institutions may favor one group over another.

If the choice is hierarchy, the preferences reflected in the policies of the dominant power may not perpetually match those of the beleaguered interests. Outcomes under hierarchy will reflect politically powerful interests in the dominant state. The preferences of groups that have captured regulatory policies in the dominant country may coincide or compete with concentrated interests in other countries. If interests in the dominant country are competitors or if that country has regulatory institutions that favor the public interest, then its policy will be biased against interests in the subordinate countries. Setting international policies through hierarchy may be unwise in such cases. The preferences of follower states also matter. The need for followers limits the agenda-setting power of the dominant power. If followers are more extreme in either direction – favoring or opposing narrow interests – the policy of the leader will be tempered in ways necessary to satisfy the interests of its subordinates.

These conjectures, based on a generalized political model of governance, require systematic investigation across regulatory regimes. Their embedded hypotheses regarding capture go some distance toward explaining the regulatory puzzle described earlier: the institutional variation among the trade, financial, and direct investment issue-areas. Trade has long been a site for intense distributional conflict among competing and concentrated interests. The international arena in the 1930s and 1940s became a means for export interests and economic liberalizers to introduce a policy bias toward trade liberalization. The level of distributional conflict within and between countries, however, prevented a networked solution. A weak form of supranationalism, the GATT, was the default solution after the failure of the International Trade Organization to win Congressional approval. In both the GATT and WTO, however, protectionist interests were accommodated; neither organization could be described as captured by export interests or liberalizers, despite their policy bias toward liberalization.

The international governance of foreign direct investment displayed a different pattern. To the degree that national governments chose to coordinate their regulation of foreign direct investment, that coordination took place among the industrialized countries in an organization with little supranational authority that served as the locus of networked cooperation: the Organization for Economic Cooperation and Development (OECD). When the international agenda shifted to more robust constraints on national policy in the interests of international investment, conflict increased, and complaints of capture by multinational corporations forced a retreat to the previous networked forum.

Finally, financial regulation and monetary policy demonstrate the most complex historical variation. The Great Depression unleashed political forces that disrupted the transnational network of central banks and private banks that governed international finance before 1914 and during the 1920s. The domestic political power of finance was in retreat throughout the industrialized world, as central banks were nationalized, capital flows were circumscribed, and national governments claimed new regulatory authority. The banker to the central banks—the Bank for International Settlements—was nearly abolished at the time of the Bretton Woods conference. Nevertheless, the networked alternative persisted, and, as distributional conflict over financial regulation subsided and the industrial world moved toward liberalization of capital flows, networked organization at the BIS reclaimed its central role. It was not the only governance choice in international monetary and financial policy, however. The variety of governance modes that can be found in contemporary international financial regulation makes that issue-area an ideal site for a further survey of governance choices and their effects on regulatory capture.

### **Financial Regulation and the Varieties of Global Governance**

International finance has been the leading edge of globalization in recent decades. Beginning in the early 1980s, when capital markets were liberalized in most

OECD countries, international financial transactions of all kinds have exploded in magnitude. Foreign exchange transactions, international lending, cross-border mergers and acquisitions, and other forms of finance have all grown at unprecedented rates over the last two decades. Although there are still large border effects in international trade, indicating the absence of fully integrated goods markets, and international migration remains tightly controlled by national policies, international capital markets increasingly approximate the “law of one price” that prevails in a single, efficient, and integrated market.<sup>42</sup>

Economic models predict that international financial regulation should take a largely supranational form. Outside Europe, this has not been the case. With capital market liberalization, national governments -- and collective action by those governments through supranational institutions -- have largely retreated from the active regulation of capital flows. Although new supranational institutions endowed with stronger regulatory authority have been suggested in the wake of recurrent financial crises, none of those initiatives have succeeded.<sup>43</sup> The international financial realm is not “ungoverned,” however; global governance has taken hierarchic and networked forms.

### **Regulatory hierarchies: extraterritoriality and “emulation or else”**

Examples of true hierarchy between units in financial regulation are difficult to discern in the contemporary international system: few countries, even small, open economies, are willing to accept the authority of another sovereign in the politically sensitive domain of regulation. At least two variants of hierarchy have been significant in international regulatory policy, however. The first, extraterritoriality, extends back to the era of imperialism, when dominant powers asserted authority over their nationals within

---

<sup>42</sup> International Monetary Fund 2005, 110-123.

<sup>43</sup> Eichengreen 2003.

the territorial jurisdiction of another state. Extraterritoriality in that era was imposed on societies outside the group of “civilized” nations as a type of informal empire. The most notable example was China, where extraterritorial concessions imposed during the nineteenth century were not ended until 1943. Such wholesale imposition is no longer part of international practice, but the growth of modern regulatory states in the twentieth century gave a new incentive for asserting extraterritorial authority outside their boundaries.<sup>44</sup>

Extraterritoriality in the contemporary era is deployed by dominant states as a means of reasserting regulatory control over actors who are escaping from or undermining their national regulatory regimes. Extending the reach of the state into other jurisdictions is a primary means of defending the regulatory state; Tonya Putnam argues that U. S. courts have used extraterritoriality primarily as a defensive weapon to deal with threats to the domestic regulatory order.<sup>45</sup> The classic statement of such regulatory assertion in American judicial history occurred in 1945, only two years after imperial extraterritoriality ended in China. *United States v. Alcoa* promulgated the “effects test” that permitted American legislation to be applied when foreign conduct was intended to and did in fact have an effect on U.S. commerce.<sup>46</sup> Modern regulatory assertions of extraterritoriality are not claims of authority over another polity; rather they are claims of authority over individuals (or other agents, such as corporations) who reside in other sovereign jurisdictions. In effect, the state making the claims is inserting its domestic hierarchy (its regulatory rules) into the domain of another state. The targeted state has three possible responses: to resist those claims, often through “blocking legislation”; to accommodate to the existence of conflicting rules within its jurisdiction; or to harmonize

---

<sup>44</sup> On extraterritoriality and the U.S. constitutional order during the first era of globalization and the contemporary era, see Raustiala 2006.

<sup>45</sup> Putnam 2005.

<sup>46</sup> Slaughter and Zaring 1997.

its regulations with the other jurisdiction.<sup>47</sup> The last response indicates that extraterritorial assertions can be used as levers to obtain more permanent regulatory hierarchy (harmonization). In one recent instance, for example, the Trail Smelter case (*Pakootas v. Tech Cominco*), U. S. plaintiffs for the first time have attempted to apply American environmental law against a Canadian firm operating solely in Canada for environmental externalities in the U.S. As Parrish (2005) notes, many in Canada see this as “environmental imperialism,” an effort to force foreign companies to follow U. S. environmental regulations in order to avoid legal liability. Imposition of regulatory standards in this fashion meets the definition of hierarchy, since the citizens of the target country (Canada in this case) would see their own environmental policies undermined, and they would have no influence on the making of the U.S. policies that were applied.

For much of the past half-century, “corporate and government lawyers around the world have often thought of extraterritorial jurisdiction in terms not only of limiting the reach of the regulatory state, but specifically in terms of cabining and limiting U. S. power.”<sup>48</sup> The United States is no longer the sole actor in asserting extraterritorial regulatory claims, however, as the European Union and other industrialized countries have become more active, particularly in competition policy. As Putnam notes, state capacity in extensions of extraterritorial jurisdiction is not based on the usual measures of power. Rather, the “density of ties a state has with the universe of private actors engaged in a regulated issue area” is a prime determinant of state effectiveness in regulation. This “elite club of states (or state-like entities) is increasingly dictating the boundaries of allowable regulatory policies for economically less dominant states across numerous issue areas.”<sup>49</sup> As can be observed in financial regulation, the industrialized countries as a group may construct regulatory hierarchies with those outside their club.

---

<sup>47</sup> Putnam 2005, 32.

<sup>48</sup> Slaughter and Zaring 1997.

<sup>49</sup> Putnam 2005, 30.

Although it is by no means clear that creditor and debtor countries would have identical interests in any event, this imposition of a regulatory apparatus fashioned in the developed countries most likely reflects a degree of capture within the more powerful states. Barry Eichengreen's examination of the debate over hedge fund regulation demonstrates that the preferences of the industrialized countries dominated the ultimate regulatory outcome. Those preferences—for market-based, national regulation—were also very close to the preferences of the hedge fund industry and its investors, concentrated in those same countries.<sup>50</sup>

Regulatory harmonization often takes place by means of emulation, simple imitation by one state of another's regulatory practices. Although emulation may result from processes of learning or diffusion, such imitation may also disguise hierarchical relations in which a dominant power imposes its regulatory policies through the use of incentives or sanctions, what we call "emulation or else." Consider, for example, the Tuna-Dolphin panel decision at the GATT, which mobilized many environmental groups in opposition to further delegation of authority to the global trade institutions. The United States in that instance asserted its ability to exclude products (tuna caught in ways that killed dolphins) from its market that did not meet the requirements of domestic environmental legislation (in this case, the Marine Mammals Protection Act). The GATT panel found against the United States—and created uproar among environmentalists—by determining that the United States was effectively using market access to extend the reach of its environmental regulations. As the panel argued: "if the United States can dictate conservation measures to Mexico as a condition to Mexico's access to the United States market, the GATT will be eviscerated."

The United States is not alone in wielding market access for regulatory ends. The European Union has undertaken similar steps to end the culling of baby seals in Canada

---

<sup>50</sup> Eichengreen 2003.

and to force a ban on leghold traps among fur suppliers outside Europe.<sup>51</sup> Regulatory hierarchy achieved through implicit or explicit sanctions or incentives has been part of the European Union's expansion to the south and east. In negotiations with prospective member states, the *acquis communautaire*, the entire body of legislation of the European Communities and Union, must be accepted before new members can join the European Union. Judith Kelley has described the use of membership conditionality to influence politically sensitive legislation affecting the treatment of ethnic minorities.<sup>52</sup> Other international institutions have used prospective membership in the same fashion, to shape domestic regulation and legislation in directions desired by the existing membership of the organization.

How can regulatory hierarchy be distinguished from emulation based on diffusion, learning, or competition? First, the emulation is consistently in one direction: regulatory adoption is not a process of consensus building by both parties. There may also be little evidence of genuine consultation or negotiation (apart from the timing of the regulatory changes). An implicit or explicit threat of sanctions exists if regulatory harmonization does not take place; positive incentives and technical assistance may also be part of the hierarchical relationship. Finally, one-way emulation is sustained over time: if regulatory rules change in the dominant party, they are highly likely to change in the emulating state as well. In the case of collective membership organizations, of course, hierarchy ends when membership occurs: the new member will have some role, however small, in shaping new decisions on regulatory changes from within the organization.

Hierarchical regulatory harmonization is not always contrary to the interests of the party that adopts the regulations in question. The costs to national autonomy may

---

<sup>51</sup> For a description of trade measures taken in pursuit of regulatory ends, see Vogel 1995, 98-149.

<sup>52</sup> Kelley 2004.

seem high, but, as in the case of dollarization, the adoption of an external regulatory standard may serve long-run economic interests or create a more credible regulatory regime. On the other hand, in addition to autonomy costs, unnecessary harmonization may be imposed in the interests of economic actors resident in the dominant countries. A careful examination of each alternative and the counterfactual outcome (in the absence of hierarchy) is required to assess the effects of regulatory hierarchy.

The United States has used “emulation or else” and extraterritoriality in recent efforts to extend its regulatory reach across national borders. Efforts to control money laundering in other financial jurisdictions were an early and important feature of the U. S. war on drugs. Using the Kerry Amendment to the 1988 Anti-Drug Abuse Act, the United States government could wield access to U.S. financial markets, including the all-important clearing systems, as a threat to enforce its regulatory preferences. This initial use of hierarchy later led to a club-like and networked arrangement among those regulators who came to share U.S. preferences.<sup>53</sup>

In a more recent instance, the United States was able to use a similar threat to reduce financial transfers to the newly elected Hamas government, after its electoral success in the Palestinian Authority (PA). The United States and the European Union had announced in April 2006 that they would halt official payments to the PA, while at the same time permitting aid to the Palestinians to flow through the United Nations and independent organizations.<sup>54</sup> This joint action does not suggest the presence of hierarchy. The United States action also invoked a federal law that makes it a crime to provide funds to terrorist groups. Even though the United States-European Union action permitted aid to flow through other channels, most international banks stopped handling wire transfers to the West Bank or Gaza for fear of legal entanglements with the United

---

<sup>53</sup> Helleiner 2002. See also Simmons 2001.

<sup>54</sup> Steven R. Weisman and Craig S. Smith, U.S. and Europe Halt Aid to Palestinian Government, *The New York Times*, April 8, 2006, Late Edition-Final, A6.

States, hindering the delivery of aid by sympathetic Arab and Muslim countries. As in the case of money laundering, the United States Treasury did not impose the threatened sanction of prosecution. It does maintain, however, “if an organization or individual is facilitating direct fund-raising for Hamas, they open themselves to action by the United States.” As George Abed, governor of the Palestinian Monetary Authority, the PA’s de facto central bank, noted, “No bank wants to risk being cut off from international transactions. This is oxygen for banks. If you are a bank, and you shut yourself out of the United States and Europe, what are you going to do – conduct all your transactions in rupees?”<sup>55</sup> With the split between Fatah in the West Bank and Hamas in Gaza, funds have once again started to flow to the PA, but are still embargoed against Gaza. In both of these cases, the United States exploits its pivotal position in the international financial system to extend its regulatory reach into countries that do not share its policy preferences. Surprisingly, although there was foreign pressure on Washington to facilitate “work arounds” to allow financial aid to flow to the PA, there has been remarkably little outrage over this extension of United States policy through threat of financial sanctions.

In another instance of the extraterritorial reach of American anti-terrorist policies, the United States government was able to use its subpoena power to gain access to the financial records of the Society for Worldwide Interbank Financial Telecommunications (SWIFT), itself a network of member banks, sited in Belgium, that process approximately 80 percent of all financial transfers worldwide. Although SWIFT maintains that its response was not voluntary but occurred only in response to a valid subpoena, since 9/11 it has provided broad access to U. S. agencies to examine transactions that have occurred not only between individuals in the United States and abroad but also those

---

<sup>55</sup> Greg Myre, In New Problem for Palestinians, Banks Reject Transfers, *The New York Times*, May 4, 2006, Late Edition – Final, A3.

that have occurred entirely on foreign soil. Immediately after the terrorist attacks in 2001, in fact, the United States gained access to the entire SWIFT database, although this access was later modified.<sup>56</sup> The revelation of SWIFT's accommodation to U. S. legal demands in 2006 brought a sharp response from Belgium's privacy commission, which accused SWIFT of flouting European data protection rules. The European Central Bank disclaimed SWIFT's actions as beyond its regulatory competence.<sup>57</sup> SWIFT was caught between two regulatory regimes, one American, emphasizing counter-terrorism, and one European, focused on individual privacy. In the end, the U.S. largely won, reaching an accord with the European Union that gave it full access to the data under the proviso that it be retained for only five years.<sup>58</sup>

In a final case, that of the "NatWest three," three British bankers were extradited to the United States for financial fraud as part of the Enron scandal. Although the suspects are British and the "crime," if there was one, occurred entirely in Britain, the three will be tried in the United States because the main evidence is in Houston and the alleged fraud, it is maintained, could not have occurred without the complicity of Enron executives. The three executives were seized under a treaty of expedited extradition that Britain but not the United States has ratified. If the circumstances were reversed, Britain would not have had the same rights to extradite American executives. Moreover, under the treaty, the national court systems are not treated equally. American courts decide whether there is sufficient evidence before requesting extradition from Britain, after which the expedited process comes automatically into play, while American courts also

---

<sup>56</sup> Eric Lichtblau and James Risen, Bank Data Sifted in Secret by U.S. to Block Terror, *The New York Times*, June 23, 2006, Late Edition – Final, A1.

<sup>57</sup> Dan Bilefsky, "Europeans Berate Bank Group and Overseer for U.S. Access to Data," *The New York Times*, 5 October 2006, A11.

<sup>58</sup> James Risen, U.S. Reaches Tentative Deal with Europe on Bank Data, *New York Times*, 2 June 2007.

<http://www.nytimes.com/2007/06/29/washington/29swift.html?ex=1340769600&en=14a25a856f41710d&ei=5090&partner=rssuserland&emc=rss> (accessed July 16, 2007).

decide whether the evidence submitted by Britain in support of a request of extradition is sufficient. In a form of one-way authority, the United States benefits from the ability to prosecute British citizens in ways that Britain does not possess in return. Despite significant protest about this asymmetry within Britain, the three suspects were extradited to the United States in July 2006 and a trial is scheduled for September 2007.<sup>59</sup>

These cases highlight several of the conjectures developed above. First, in all three instances, the distributional consequences of the issue are large but not so large as to scuttle agreement completely. In each instance, the United States benefits from the exercise of its authority and its ability to impose its preferred outcome on other states. But at the same time, this authority is wielded in pursuit of larger public goods, specifically anti-drug trafficking, counter-terrorism, and deterring corporate fraud. Certainly in the cases of the PA and SWIFT, the United States had especially strong preferences, but its disproportionate gains from imposing its preferred policies on others were tempered by broader benefits. U.S. leadership appears to be more palatable when it is not captured by private interests but is exercised in the broader public interest, defined in some of these cases, as the interest of national security.

Second, the United States benefited from its traditional position as the country responsible for managing the international financial system, a role that other countries have accepted and, indeed, consented to through decades of past practice. The United States possesses a measure of legitimacy in regulating international financial transactions that it does not enjoy in other issue-areas. This authority, in turn, rests on the crucial role of American capital markets and American finance in the global

---

<sup>59</sup> "Unintended consequences" and "America's long shadow," *The Economist*, July 15, 2006, pp.12 and 56-57. Tom Fowler, Trial Set for next September in Enron-related case, *Houston Chronicle*, 6 September 2006. <http://www.chron.com/disp/story.mpl/special/enron/4167119.html> (accessed July 16, 2007).

economy, and its generally (but not always) reliable stewardship of international financial markets.

Third, in the PA and SWIFT cases, at least, the United States possessed a measure of extraordinary legitimacy generated by 9/11 and the salience of counter-terrorism. Even though the war in Iraq has generated considerable opposition and undermined American authority, the United States still benefits from considerable sympathy from other countries from the attacks on 9/11. Since it was able to connect both the opposition to Hamas and the extraordinary access to the SWIFT records to counter-terrorism, it benefited from the acquiescence if not active support of other countries.

Finally, in each case, as expected, the key issue that generates controversy is how to ensure that the United States does not abuse its position of authority by destroying the PA, by extending its monitoring of international financial transactions to the selective control of those transactions, or by the unjust extradition of foreign citizens. The credibility problem is how to constrain the United States. The difficulty of solving this problem that has rendered these cases controversial. In truly hierarchic relations with settled conceptions of authority, the rights exercised by the dominant state would not be contested and probably would not generate much press attention. That these cases came to light and generated controversy, even if direct opposition from other countries is relatively muted, suggests that in each case the United States is testing the limits of what other states will accept.

### **Regulatory networks: harmonization behind closed doors**

Network regulation is also difficult to identify within the contemporary international economy. Network regulation is defined by frequent reciprocal interactions between connected parties. By its nature, network regulation may be observationally equivalent to multiple unilateral actions by concerned states. There is no central

authority to command the individual nodes, and each may simply adopt current “best practice” in any given issue area. What characterizes networked governance is not so much the outcome but the process by which shared policies are adopted. States are not driven to a common policy by competitive constraints or some hegemonic set of ideas. Rather, network nodes develop a pattern of cooperation based on trust embedded within deep reciprocal ties.<sup>60</sup> In international finance, the cooperation of central bank and related monetary authorities that has proven central to international stability over the last decades provides good evidence of a regulatory network “at work.”

Central bank cooperation and the public-private network that sustained it date to the first era of globalization before 1914 and deepened during the 1920s.<sup>61</sup> Central banks during this era were quasi-public or private entities in their internal governance structures. The creation of national systems of banking regulation and supervision during the Great Depression and the postwar decades—another facet of the new regulatory state—did not produce a need for central bank cooperation on regulatory issues, given the low level of cross-border financial flows and banking activity. The shock that stirred the central bankers to greater collaboration was a clear example of new cross-border externalities: a series of banking failures in the early 1970s—Franklin National Bank and Herstatt Bank—that stemmed from involvement in the rapidly growing Euromarkets. Banks were slipping away from national regulatory regimes into a new, virtually unregulated financial market, at great peril to themselves and to national financial systems.

The initial response of the central bank regulators was to construct a forum for coordination of international banking supervision, the Basle Committee on Banking

---

<sup>60</sup> Networked governance is similar to but distinct from models of diffusion. See Simmons et al.

<sup>61</sup> Controversy continues over the degree of central bank cooperation before World War I. Although the idea of a central bankers’ “club” originated in the 1920s, domestic political constraints prevented its creation. (Borio and Toniolo 2006, 6-7).

Supervision (BCBS) at the Bank for International Settlements (BIS). The BIS had been created in 1930 to assist with the interwar problem of German reparations; its initial institutional was supranational, aimed at contract enforcement (future payments by Germany) and facilitating collective action by creditors in case of default.<sup>62</sup> With the speedy demise of its reparations role during the Great Depression, the BIS might have become moribund. Instead, during an era of economic nationalism, it reinvented itself (for the first time) as a convenient site for central bankers to maintain their cooperative dialogues. It also developed a research capacity that was highly valued by its central bank clients and a wider economic policy community.<sup>63</sup> It developed into a classic network organization, facilitating policy collaboration among central banks after World War II, first in the liberalization of the postwar European payments system and later, in the 1960s, in defense of the Bretton Woods exchange rate regime. Throughout, the monthly meetings of central bank governors were key, contributing to networked cooperation through the “creation of institutional ties, the provision and dissemination of high-value information, and actual decision making.”<sup>64</sup> In its networking role, the BIS was sustained by its peculiar organizational structure. Not only was there very little delegation of formal supranational powers, it was guaranteed a high degree of independence from national governments by its additional role as a bank, incorporated under Swiss law. Fees for its banking activities on behalf of central bank clients awarded it budgetary autonomy.

At first glance, the BCBS established in the 1970s might appear as a predicted response of supranational delegation in order deal with unwanted externalities. The BIS did not receive any substantial delegated powers as a result of the new cooperation in banking supervision and regulation. The initial understandings in the BCBS were

---

<sup>62</sup> Ibid., 9.

<sup>63</sup> Toniolo 2005, 178-179.

<sup>64</sup> Ibid., 474-475.

designed to extend *national* banking supervision in an agreed fashion to offshore and international financial markets. The BIS is best characterized as a central node in a structure of networked governance in financial regulation. Its networked structure meant that formal membership was seldom an issue; the network could be expanded when needed. The U. S. Federal Reserve, for example, did not become a member of the BIS Board of Directors until 1994, but it was a full member of the network before that time. As financial institutions have become more complex and the boundaries between banks and other institutions have blurred, the network has expanded gradually to include additional central banks, as well as new national financial regulators responsible for banking regulation and supervision.<sup>65</sup> The most recent step in network expansion was the creation of the Financial Stability Forum (FSF), based at the BIS, as a “network of networks” with representation from finance ministries, international financial institutions, and regulatory agencies, as well as central banks.<sup>66</sup>

The activities of the central bank network centered on the BIS were typical of networked governance. The game, as Fratianni and Pattison describe, was “repetitive”: “Repeated face-to-face contacts and loss of reputation are strong deterrents to cheating and actually provide an incentive to respect agreements.”<sup>67</sup> Regulatory cooperation was accomplished through “soft law”: “Setting standards through non-binding agreements reached by national authorities, implemented largely through peer-group pressure within national jurisdictions, possibly after adjustments to the local law, and with the support of market forces, has become the norm for most of the standards. . . .”<sup>68</sup> The wider network, beyond the BIS, is attracted to the service provision of the BIS (as secretariat and

---

<sup>65</sup> Geographical expansion on the part of the BIS included an increasing in shareholding central banks (from 32 in the early 1990s to 55 by 2005) and the opening of representative offices in Latin America and Asia. (Borio and Toniolo 2006, 24).

<sup>66</sup> On the evolution of the BIS and the central banking network, Borio and Toniolo 2006, Fratianni and Pattison 2001.

<sup>67</sup> Fratianni and Pattison 2001, 213.

<sup>68</sup> Borio and Toniolo 2006, 22-23.

research unit) and its reputation for useful and constantly updated expertise. The networked form and vague criteria for membership permitted the BIS to incorporate new participants without diluting the leadership of its decision-making core. At the same time, international authority did reside in key parts of the network. The BCBS became “a rule-making body, whose standards and recommendations are recognized and implemented in legislation on a global scale . . .”<sup>69</sup>

Despite their network characteristics, the BIS and central bank cooperation also contain elements of hierarchy. The initiation and implementation of the Basle Capital Accord of 1988, an unusual instance of regulatory harmonization enacted through the BCBS, provides evidence for both networked and hierarchical governance. The impetus for an agreement on capital adequacy for internationally active banks in the G-10 countries and Luxembourg came originally from the United States Congress, intent on protecting the U. S. financial system from undercapitalized banks in the wake of the Latin American debt crisis. With political pressure to increase capital requirements on American banks, the competitiveness concerns of those banks induced the Federal Reserve to propose an international accord that would level the playing field with other international banks. In the face of resistance from other central banks and their banking sectors to the Federal Reserve’s initiative, the Federal Reserve forged a bilateral agreement with the Bank of England—linking the two dominant financial centers in the world economy—and eventually won approval in Basle for a version of the U. S. -U. K. definition of bank capital.

Two interpretations of this outcome are possible. Beth Simmons claims that market-based incentives to emulate the United States and the United Kingdom moved the eventual bargain forward and also induced countries outside the G-10 to adopt the capital adequacy standards in some form. Reluctance to be seen by financial markets as

---

<sup>69</sup> De Swaan, cited in Fratianni and Pattison 2001, 206.

under-regulated coupled with network influence in the form of dissemination of the new standards and technical assistance to developing country regulators produced eventual harmonization on the standards preferred by the top financial powers.<sup>70</sup> Ethan Kapstein presents a different picture that includes less networked emulation and more hierarchy: the U.S.-U.K. proposal was accompanied by an implicit threat that international banks failing to meet the new standards would be denied banking applications to operate in the world's largest financial markets. Within the G-10, this "emulation or else" strategy was not purely hierarchical: the Federal Reserve and the Bank of England accepted changes that would ensure adequate implementation of the agreed standards.<sup>71</sup> If the shadow of hierarchy was this apparent within the major industrialized countries, however, one may well ask whether the extension of the capital adequacy standards to banking systems outside the G-10 was not also owed to hierarchical regulatory governance as well as the threat of market sanctions. In this view, the extension of capital adequacy standards more closely resembled the anti-money laundering case described above.<sup>72</sup>

Both the more hierarchical and the less hierarchical explanations for harmonization of capital adequacy standards fit with considerable influence—if not outright capture—by large financial institutions in the United States and the United Kingdom. Their competitive interests were served by this break with the past model of financial collaboration, introducing both more hierarchy and more supranationalism (in the form of agreed international standards), into what had been governance by network.

Despite these changes, the BIS governance structure, particularly among the industrialized countries, continues to approximate a networked form of global governance. This network provides support for the conjectures above. First, banking supervision and capital adequacy requirements produce relatively small distributional

---

<sup>70</sup> Simmons 2001.

<sup>71</sup> Kapstein 1991, 21; Kapstein 1994, 103-128.

<sup>72</sup> Helleiner 2002 makes this comparison.

consequences. Central banks and related monetary authorities have similar preferences for coordinating monetary policies and pursuing financial stability. As Helleiner describes, these are “tight transnational networks of officials who share similar world views.”<sup>73</sup> Private banks, the objects of supervision and capital requirements, are concerned less with the level of capital they must maintain and more with leveling the playing field on which they must compete. Although each state (and its associated banking interests) might prefer looser regulations for itself to gain a competitive advantage, the G-10 countries at the heart of the BIS system all have large domestic financial markets and appropriate concerns over stability. Together, these states also recognize the potentially disastrous consequences of a race to the bottom in banking regulation. Private markets in many cases reinforce the upward regulatory pressure: major banks wish to be seen as regulated by market participants. More a problem of coordination than collaboration, the actors within the network primarily need to establish a focal point on bank capitalization, a mechanism for periodic monitoring of national practice, and a network is sufficient for these purposes.

Second, given the relative autonomy already granted to central banks and other monetary authorities by national governments, a network of like-minded financial actors could be created to exclude other, larger groups (e.g., debtors who favor a higher rate of inflation, financial services institutions that would like to expand into private banking) that suffer from collective action problems and are already prevented by domestic institutions from being veto players in the issue area. Within the restricted group of financial authorities, frequent and collegial interactions could arise that bolster cooperation. Indeed, although central bank cooperation has received attention as a networked governance structure,<sup>74</sup> it may well approximate a “best case” for the emergence of this

---

<sup>73</sup> *Ibid.*, 188.

<sup>74</sup> Slaughter 2004.

particular form not because of any inherent agreement on monetary and financial policies but because opposing interests are either unable to organize effectively or are excluded institutionally from exercising power and influence in this area.<sup>75</sup> The regulatory network centered on the BIS is clearly composed of a narrow set of actors – central banks and other monetary authorities – that might represent capture of regulatory policy at the expense of other groups in their societies. Distributional conflict is not so intense within those societies, however, so as to motivate pressure by competing groups outside the financial sector for a different mode of international governance. If coordination of international financial regulation represents capture, it is relatively uncontested.

Given the relative autonomy of central bankers in the G-10 and their existing statutory power to set capital adequacy requirements for banks in their jurisdictions, financial and monetary authorities within the network do not need to import policy credibility by shifting national authority to a supranational or hierarchical governance structure. Since their hands were already untied to create monetary and financial credibility at the domestic level (and to tie the hands of domestic politicians who might otherwise undermine confidence in the financial system), no higher authority was necessary, and networked governance was reinforced at the international level.

### **Conclusion**

Attention in the media to successive “crises” in global IGOs—the United Nations, the WTO, and the IMF--may suggest that the fate of global governance hinges on their success. Supranationalism is not the only form of global governance, however, even within a single issue-area like international financial regulation. Throughout the global economy, supranationalism plays a less central role than many believe. In the governance of international finance, including financial regulation, supranationalism did not play a central role after 1945: national governance retained its dominance until the

---

<sup>75</sup> See Gowa 1988

opening of financial markets after 1970s. Even today, it is principally the international coordination of national policies that occurs at the global level. Hierarchies and networks are often effective alternatives to supranationalism, in this case and, we suspect, others. Any explanation of supranationalism, therefore, must also explain why not hierarchy or networks (or hybrid forms).

Do any of these forms guarantee international governance that is more representative of a global public interest and less likely to be captured by narrow economic interests? As we have argued, networked governance, despite its many benefits and its recent fashionable status, is the likeliest to incorporate capture by narrower economic interests. Its very strengths, such as informality, fluid membership, and flexibility, can easily be transformed into barriers to wider participation, legal accountability, and public scrutiny. Of course, supranationalism and hierarchy are not absolute barriers to capture, either. Captured national regulatory bureaucracies can transpose their pattern of regulation to a supranational venue: witness the European Union's Common Agricultural Policy. The national policy preferences of a dominant power may also represent domestic regulatory capture, although the narrower the interests represented, the less likely that followers will accept the leader's interpretation of global interests. Finally, contention, scrutiny, and accountability are most likely to move global governance toward representation of a broader set of interests, breaking the hold that old patterns of interest may wield, even at the global level. Instilling each of these institutional alternatives with such avenues toward openness can move them toward a representation of the global public interest.

## REFERENCES

- Alesina, Alberto, and Enrico Spolaore. 2003. *The Size of Nations*. Cambridge, MA: MIT Press.
- Alter, Karen J. 1998. 'Who Are the 'Masters of the Treaty?' European Governments and the European Court of Justice. *International Organization* 52, 1 (Winter): 121-47.
- Barton, John, Judith L. Goldstein, Timothy E. Josling, and Richard H. Steinberg. 2006. *The Evolution of the Trade Regime: Politics, Law, and Economics of the GATT and the WTO*. Princeton: Princeton University Press.
- Bird, Graham and Thomas Willett. 2004. IMF Conditionality, Implementation and the New Political Economy of Ownership. *Comparative Economic Studies*, 46, 3: 523-450.
- Borio, Claudio and Gianni Toniolo. 2006. One Hundred and Thirty Years of Central Bank Cooperation: A BIS Perspective. Monetary and Economic Department, Bank for International Settlements, BIS Working Papers No. 197, February.
- Broz, J. Lawrence. 2002. Political System Transparency and Monetary Commitment Regimes. *International Organization* 56, 4 (Autumn): 861-887.
- Cohen, Benjamin J. 2004. *The Future of Money*. Princeton: Princeton University Press.
- Cooley, Alexander. 2005. *Logics of Hierarchy: The Organization of Empires, States, and Military Occupations*. Ithaca, NY: Cornell University Press.
- Dai, Xinyuan. 2006. The Conditional Nature of Democratic Compliance. *Journal of Conflict Resolution*. 50, 5 (October). 1-24.
- Eichengreen, Barry. 1992. *Golden Fetters: The Gold Standard and the Great Depression, 1919-1939*. New York: Oxford University Press.
- Eichengreen, Barry. 2003. Governing Global Financial Markets: International Responses to Hedge-Fund Problem. In Miles Kahler and David Lake, editors, *Governing a Global Economy: Political Authority in Transition*. Princeton: Princeton University Press, 168-198.
- Eilstrup-Sangiovanni, Mette. 2006. Changing Patterns of Security Provision: From Interstate Cooperation to Transgovernmental Networks. Paper prepared for the Workshop on Networked Politics, University of Toronto, 11-13 May 2006.
- Fearon, James D. 1998. Bargaining, Enforcement, and International Cooperation. *International Organization*, 52, 2 (April): 269-305.
- Florini, Ann. 2003. *The Coming Democracy: New Rules for Running a New World*. Washington, D.C.: Island Press.

- Fратиanni, Michele and John Pattison. 2001. The Bank for International Settlements: An Assessment of its Role in International Monetary and Financial Policy. *Open Economies Review*. 12: 197-222.
- Frieden, Jeffrey A. 1994. International Investment and Colonial Control: A New Interpretation. *International Organization* 48, 4 (Autumn): 559-93.
- Frieden, Jeffrey A. and Ronald Rogowski. 1996. The Impact of the International Economy on National Policies: An Analytical Overview. In Robert O. Keohane and Helen V. Milner, editors, *Internationalization and Domestic Politics*. New York: Cambridge University Press.
- Golub, Stephen S. 2003. Measures of Restrictions on Inward Foreign Direct Investment for OECD Countries. *OECD Economic Studies*, 36, 1: 85-116.
- Goldstein, Judith, Miles Kahler, Robert O. Keohane, and Anne-Marie Slaughter. 2001. *Legalization and World Politics*. Cambridge, MA: MIT Press.
- Gourevitch, Peter A. and James Shinn. 2005. *Political Power and Corporate Control*. Princeton: Princeton University Press.
- Gowa, Joanne. 1988. Public Goods and Political Institutions: Trade and Monetary Policy Processes in the United States. In G. John Ikenberry, David A. Lake, and Michael Mastanduno, *The State and American Foreign Economic Policy*. Ithaca, NY: Cornell University Press.
- Greif, Avner. 2006. *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade*. New York: Cambridge University Press.
- Hathaway, Oona. 1998. Positive Feedback: The Impact of Trade Liberalization on Industry Demands for Protection. *International Organization* 52, 3 (Summer): 575-612.
- Hatton, Timothy J. and Jeffrey G. Williamson. A Dual Policy Paradox: Why Have Trade and Immigration Policies Always Differed in Labor-Scarce Economies? National Bureau of Economic Research Working Paper 11866, December.
- Hawkins, Darren, David A. Lake, Daniel Nielson, and Michael J. Tierney. 2006. States, International Organizations, and Principal-Agent Theory. In Darren Hawkins, David A. Lake, Daniel Nielson, and Michael J. Tierney, editors, *Delegation and Agency in International Organizations*. Cambridge: Cambridge University Press.
- Helleiner, Eric. 2002. The Politics of Global Financial Regulation: Lessons from the Fight Against Money Laundering. In John Eatwell and Lance Taylor, editors, *International Capital Markets: Systems in Transition*. New York: Oxford University Press, 177-204.
- Hiscox, Michael J. 2003. Political Integration and Disintegration in the Global Economy. In Miles Kahler and David A. Lake, editors, *Governance in a Global Economy*. Princeton: Princeton University Press: 60-86.

- International Monetary Fund. 2005. *World Economic Outlook: Globalization and External Imbalances*. Washington, D. C.: International Monetary Fund. April.
- Kahler, Miles. 2000. Private Capital, Central Banks, and International Monetary Governance. Paper presented at Political Economy of International Finance Research Group Meeting. Cambridge, MA, 27 October.
- Kahler, Miles. 2006. Political Networks and Collective Action. Paper prepared for the Annual Meeting of the American Political Science Association, Philadelphia, 2006.
- Kahler, Miles and David A. Lake. 2003a. Globalization and Governance. In Miles Kahler and David A. Lake, editors, *Governance in a Global Economy*. Princeton: Princeton University Press: 1-30.
- Kahler, Miles and David A. Lake. 2003b. Globalization and Changing Patterns of Political Authority. In Miles Kahler and David A. Lake, editors, *Governance in a Global Economy*. Princeton: Princeton University Press: 412-438.
- Kapstein, Ethan B. 1994. *Governing the Global Economy: International Finance and the State*. Cambridge, MA: Harvard University Press.
- Kapstein, Ethan B. 1991. *Supervising International Banks: Origins and Implications of the Basle Accord*. Essays in International Finance, No. 185. Department of Economics, Princeton University. December.
- Keck, Margaret E. and Kathryn Sikkink. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics*. Ithaca, NY: Cornell University Press.
- Kelley, Judith. 2004. International Actors on the Domestic Scene: Membership Conditionality and Socialization by International Institutions. *International Organization*, 58, 3 (Summer): 425-457.
- Keohane, Robert O. 1984. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton: Princeton University Press.
- Koremenos, Barbara. 2005. If Only Half of International Agreements Have Dispute Resolution Provisions, Which Half Needs Explaining? Unpublished paper, University of Michigan.
- Lake, David A. 1999. *Entangling Relations: American Foreign Policy in its Century*. Princeton: Princeton University Press.
- Lake, David A. Forthcoming. *Hierarchy in International Relations: Authority, Sovereignty, and the New Structure of World Politics*.
- Lake, David A. and Mathew D. McCubbins. 2006. The Logic of Delegation to International Organizations. In Darren Hawkins, David A. Lake, Daniel Nielson, and Michael J. Tierney, editors, *Delegation and Agency in International Organizations*. Cambridge: Cambridge University Press.

- Lake, David A. and Wendy Wong. 2006. The Politics of Networks: Interests, Power, and Human Rights Norms. Paper prepared for the Workshop on Networked Politics, University of Toronto, 11-13 May 2006.
- Mansfield, Edward D. and Jon C. Pevehouse. 2006a. Democratization and International Organizations. *International Organization* 60, 1 (Winter): 137-167.
- Mansfield, Edward D. and Jon C. Pevehouse. 2006b. Democratization and the Varieties of International Organizations. Paper prepared for the 2006 International Studies Association Conference, San Diego, CA, March 22-25.
- Martin, Lisa L. 2003. The Leverage of Economic Theories: Explaining Governance in an Internationalized Industry. In Miles Kahler and David Lake, editors, *Governance in a Global Economy*. Princeton: Princeton University Press.
- Mattli, Walter. 2003. Public and Private Governance in Setting International Standards. In Miles Kahler and David Lake, editors, *Governance in a Global Economy*. Princeton: Princeton University Press.
- Minnich, Daniel J. 2005. Veto Players, Electoral Incentives, and International Commitments: The Impact of Domestic Institutions on Intergovernmental Organization Membership. *European Journal of Political Research* 44: 295-325.
- Mosley, Layna. 2004. Private Governance for the Public Good? Exploring Private Sector Participation in Global Financial Regulation. Paper prepared for a Festschrift in Honor of Robert O. Keohane Conference at Princeton University, February 2005.
- Murphy, Craig N. 1994. *International Organization and Industrial Change: Global Governance since 1850*. New York: Oxford University Press.
- North, Douglass C. and Barry R. Weingast. 1989. Constitutions and Credible Commitments: The Evolution of the Institutions of Public Choice in 17<sup>th</sup> Century England. *Journal of Economic History* 49: 803-32.
- O'Brien, Robert, Anne Marie Goetz, Jan Aart Scholte, and Marc Williams. 2000. *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements*. Cambridge: Cambridge University Press.
- Parrish, Austen L. 2005. Trail Smelter Déjà vu: Extraterritoriality, International Environmental Law, and the Search for Solutions to Canadian-U.S. Transboundary Water Pollution Disputes. *Boston University Law Review* 363.
- Peltzman, Samuel. 1976. Towards a More General Theory of Regulation. *Journal of Law and Economics* 19: 211-240.
- Podolny, Joel M. and Karen L. Page. 1998. Network Forms of Organization. *Annual Review of Sociology*, 24: 57-76.
- Powell, Walter W. 1990. Neither Market Nor Hierarchy: Network Forms of Organization. *Research in Organizational Behavior*. 12: 295-336.

- Putnam, Tonya. 2005. Back to the Future with Sovereignty: Extraterritorial Regulation as a Source of Rules in Global Governance. Paper prepared for presentation at the American Political Science Association Annual Meeting, September 1-4, 2005, Washington, D. C.
- Rauch, James E. and Alessandra Casella. 2001. *Networks and Markets*. New York: Russell Sage Foundation.
- Raustiala, Kal. 2002. The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law. *Virginia Journal of International Law*, 43, 1 (Fall).
- Raustiala, Kal. 2006. The Evolution of Territoriality: International Relations and American Law. In Miles Kahler and Barbara Walter, editors, *Territoriality and Conflict in an Era of Globalization*. Cambridge: Cambridge University Press: 219-250.
- Rector, Chad. 2003. *Federations and International Relations*. Ph.D. dissertation, University of California, San Diego.
- Rey, Denis and John Barkdull. 2005. Why Do Some Democratic Countries Join More Intergovernmental Organizations Than Others?" *Social Science Quarterly* 86, 2 (June): 386-402.
- Richards, John. 1999. Towards a Positive Theory of International Institutions: Regulating International Aviation. *International Organization* 53, 1 (Winter): 1-37.
- Rogowski, Ronald. 1999. Institutions as Constraints on Strategic Choice. In David A. Lake and Robert Powell, editors, *Strategic Choice and International Relations*. Princeton, NJ: Princeton University Press.
- Scammell, W. M. 1985. The Working of the Gold Standard. In Barry Eichengreen, editor. *The Gold Standard in Theory and History*. New York: Methuen.
- Shanks, C., Jacobson, H.K. and Kaplan, J. H. 1996. Inertia and Change in the Constellation of International Governmental Organizations, 1981-1992. *International Organization* 50(4): 593-627.
- Simmons, Beth A. 2000. International Law and State Behavior: Commitment and Compliance in International Monetary Affairs. *American Political Science Review* 54, 4 (December): 819-35.
- Simmons, Beth. 2001. The International Politics of Harmonization: The Case of Capital Market Regulation. *International Organization*, 55, 3 (Summer): 589-620.
- Slaughter, Anne-Marie. 2004. *A New World Order*. Princeton: Princeton University Press.
- Slaughter, Anne-Marie and David T. Zaring. 1997. Extraterritoriality in a Globalized World. In Teo Keang Sood et al., editors, *Current Issues in International Commercial Litigation* 72.

- Stein, Arthur. 1990. *Why Nations Cooperate: Circumstance and Choice in International Relations*. Ithaca, NY: Cornell University Press.
- Stigler, George J. 1971. The Theory of Economic Regulation. *Bell Journal of Economic and Management Science*, 2: 3-21.
- Tiebout, Charles M. 1956. A Pure Theory of Local Expenditures, *Journal of Political Economy* 64, 5 (October): 416-24.
- Tomz, Michael. 2002. Democratic Default: Domestic Audiences and Compliance with International Agreements. Paper delivered at the 2002 Annual Meeting of the American Political Science Association, Boston, August 29-September 1.
- Toniolo, Gianni. 2005. *Central Bank Cooperation at the Bank for International Settlements, 1930-1973*. Cambridge: Cambridge University Press.
- Tsebelis, George. 2002. *Veto Players: How Political Institutions Work*. Princeton, NJ: Princeton University Press.
- Vandevelde, Kenneth J. 1998. The Political Economy of a Bilateral Investment Treaty. *American Journal of International Law*, 92, 4 (October): 621-641.
- Vogel, David. 1995. *Trading Up: Consumer and Environmental Regulation in a Global Economy*. Cambridge, MA: Harvard University Press.
- Waltz, Kenneth. 1979. *Theory of International Politics*. Reading, MA: Addison-Wesley.
- Weber, Katja. 2000. *Hierarchy Amidst Anarchy: Transaction Costs and Institutional Choice*. Albany: State University of New York Press.
- Williamson, Jeffrey G. and Kevin H. O'Rourke. *Globalization and History*. Cambridge, MA: MIT Press.
- Yarbrough, Beth V. and Robert M. Yarbrough. 1992. *Cooperation and Governance in International Trade: The Strategic Organizational Approach*. Princeton, NJ: Princeton University Press.