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978-1-107-03661-1 - The Social Foundations of World Trade: Norms,
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THE SOCIAL FOUNDATIONS OF WORLD TRADE

As the former head of the WTO Pascal Lamy has highlighted, world trade traditionally involves state-to-state contracts and is based on an anachronistic “monolocation” production/trade model. It therefore struggles to handle new patterns of trade such as global value chains, which are based on a “multilocation” model. Although it continues to provide world trade on a general level with a powerful heuristic, the traditional “rationalist” approach inevitably leaves certain descriptive and normative blind spots. Descriptively, it fails to explain important ideational factors, such as culture and norms, which can effectively guide the behavior of trading nations with or without material factors such as interests and utilities. Normatively, the innate positivism of the traditional model makes it oblivious to the moral imperatives of the current world trading system, such as development. This book emphatically redresses these blind spots by reconstructing the WTO as a world trade community from a social perspective.

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To my family

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PREFACE

This book is the culmination of what I have tried to convey, explicitly and implicitly, about the world trading system since I began my graduate study in 1996. In a nutshell, this book explores and utilizes a *social* perspective of the WTO and its operation. Here, WTO members are defined as social, rather than rational, actors. The seed of this perspective was sown in my pre-academic career as a trade official. What I witnessed in Geneva could not be explained exclusively by calculation, strategies, and interests. While these factors did loom large, an undeniably real, if not always overt, social dynamic was also present. Even when driven by strategic considerations, WTO members had to know WTO norms to square their positions within the normative framework. Trade officials were obliged to learn all the relevant WTO agreements, decisions, case law, and other practices, even before they established the strategies. Not every move made by WTO members appeared to be out of calculation: in fact, most members seemed to be doing what they were doing because they took the actions for granted in the most unspectacular fashion. They were speaking the WTO language (norms).

Indeed, we can explain the WTO and its operation in a non-rational, non-consequentialist manner.¹ Rather than dismissing rationalism, this alternative – social – framework complements it by offering constructive criticism on the former’s inevitable paradigmatic blind spots. While indubitably beneficial, rationalism might degenerate into scientism if it is not hardened by such criticism. After all, values and ideas are not apologetic epithets, nor should they be equated with simple-mindedness. This book proposes a new optic that spotlights hitherto under-diagnosed problems within the WTO community, such as development failure. From a disciplinary standpoint, this book gathers insights from post-Weberian interpretive sociology, informed by phenomenology, as well as sociology’s recent scholarly reincarnations in the area of International

¹ See, notably, Martha Finnemore, *National Interests in International Society* (1996).

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Relations (IR), such as constructivism. Readers might identify in this book footprints of intellectual legacies pioneered by Edmund Husserl, Max Scheler and Alfred Schutz. In addition, this book is inspired by Anthony Giddens's concept of "structuration,"² which Alexander Wendt applied in the IR field. Thus, this book emphasizes the mutual construction of agency and structure. While the social structure represented by the WTO language shapes WTO members' actions, their *interactions* simultaneously constitute the very structure of the WTO. As Pierre Bourdieu would have noticed, while the gravitational force from the WTO field wields symbolic power over WTO members, it is the very members that often defy such gravity and reconstruct the field.

This book's methodological approach is intentionally eclectic. I introduce diverse theoretical lenses that explain particular social aspects of the WTO operation. While this book features each theory's fortes, it also heeds each theory's inevitable ontological assumptions.³ For example, Chapter 4, which discusses the *intra*-community dynamics, relies mainly on symbolic interactionism, developed by George Herbert Mead and Herbert Blumer, as it focuses on interaction in the form of discourse and the accompanying symbolization via norms *qua* language. In contrast, Chapter 5, addressing the *extra*-community dynamics, draws on structuralism–functionalism, along the intellectual heritage of Émile Durkheim and Niklas Luhmann, as it deals with the WTO's configuration with its environment.

At this juncture, a note of caution is in order. Some observations and arguments from the social science literature cited in this book do not necessarily dovetail with the unique context of the WTO. Indeed, social science literature often focuses on particular organizations or events. Although I am fully attentive to the risk of contextual mismatch, I still take a liberal approach in citation, as if a *bricoleur* would. After all, essential paradigmatic insights from social science that this book aims to draw tend to outweigh the risk of clutter. Nonetheless, I tender my apologies if any of such citation does violence to those original works.

As my profuse references indicate, I am not the first one who has brought a sociological inquiry to the world trade system. Nor do I intend

² Anthony Giddens, *The Constitution of Society: Outline of the Theory of Structuration* (1984).

³ See Jonathan A. Turner, "Review Essay: The Theory of Structuration," 91 (1986) *American Journal of Sociology* 967.

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P R E F A C E

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to put the last word on this endeavor. My sincere hope is that this work will, in its own right, illuminate parts of the field worth re-examining.

In reaching this point, this book was touched by so many great minds. Joseph Weiler, my mentor and the main supervisor from my doctoral study, taught me the importance of “thinking about thinking” in an osmotic manner and constructed my academic identity. My other supervisors, Anne-Marie Slaughter and William Alford, who later became my good friends, were always sources of backing and encouragement. I also have to thank John Jackson, José Alvarez and Don Regan, my teachers from my years in Ann Arbor, whose excellent teaching and thoughtful guidance empowered me to continue my academic pursuit in Cambridge, Massachusetts. I am so grateful to Alexander Wendt for his special support in this project. As a stranger in the IR field, in particular constructivism, I benefited greatly from his gracious advice in writing this book. My close friend and colleague, David Gerber, took all the trouble to read the whole manuscript and gave me many critical suggestions, which were instrumental in finishing this book. Ever since I began my academic career in the law school, I have turned to David on a wide range of questions. He has always been considerate and supportive. I am blessed that my office is next to his. Moshe Hirsch and Jeffrey Dunoff not only endorsed my thesis in its early stage, but also offered me a number of valuable suggestions throughout the writing process.

I am also indebted to a number of outstanding scholars from whom I learned so much in various venues and occasions. In deep appreciation, I write down their names here, with sincere apologies to those whom I might impudently omit: Harold Koh, Peter Katzenstein, John Gerard Ruggie, Martha Finnemore, Petros Mavroidis, Ernst-Ulrich Petersmann, Steve Charnovitz, David Gantz, Rob Howse, William Davey, Thomas Cottier, Claire Kelly, Oona Hathaway, John Barceló III, Greg Shaffer, Joel Trachtman, Alan Sykes, Keith Hylton, Tom Ginsberg, Andrew Guzman, Debra Steger, Seung Wha Chang, Joost Pauwelyn, Paul Stephan, Frank Garcia, Larry Helfer, Karen Alter, Richard Steinberg, John McGinnis, Jide Nzelibe, Philip Nichols, Chris Brummer, David Zaring, Rachel Brewster, Anu Bradford, Terry Halliday, Bruce Carruthers, Ian Hurd, Jürgen Kurtz, Susan Frank, Amelia Porges, Mark Wu, Fiona Smith, Julia Qin, Chi Carmody, Lorand Bartels, James Gathii, Padideh Ala’i, Chantal Thomas, Thomas Lee, Andrew Lang, Tomer Broude, Simon Lester, Won-Mog Choi, Dukgeun Ahn, Jaemin Lee, Markus Wagner, Pasha Hsieh, Joe Conti, Jason Yackee, Elizabeth Trujillo, Sonia Rolland, John Ohnesorge, Sida Liu, and Alex Huneeus.

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Parts of this book are based on some of my past publications, such as Sungjoon Cho, “Breaking the Barrier between Regionalism and Multilateralism: A New Perspective on Trade Regionalism,” 42 (2001) *Harvard International Law Journal* 419; Sungjoon Cho, “Linkage of Free Trade and Social Regulation: Moving Beyond the Entropic Dilemma,” 6 (2005) *Chicago Journal of International Law* 625; Sungjoon Cho, “A Quest for WTO’s Legitimacy,” 4 (2005) *World Trade Review* 391; Sungjoon Cho, “From Control to Communication: Science, Philosophy and World Trade Law,” 44 (2011) *Cornell International Law Journal* 249; Sungjoon Cho, “Beyond Rationality: Toward a Sociological Construction of the World Trade Organization,” 52 (2012) *Virginia Journal of International Law* 321; Sungjoon Cho, “Reinventing the Development Wheel of the World Trading System,” 16 (2013) *Journal of International Economic Law* 481; Sungjoon Cho and Claire R. Kelly, “Are World Trading Rules Passé?” 53 (2013) *Virginia Journal of International Law* 623; Sungjoon Cho, “How the World Trade Community Operates: Norms and Discourse,” 13 (2014) *World Trade Review* 685; Sungjoon Cho, “An International Organization’s Identity Crisis,” 34 (2014) *Northwestern Journal of International Law and Business* 359.